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# Federal Register

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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 906

**[Docket No. FV96–906–4FR]**

### Oranges and Grapefruit Grown in the Lower Rio Grande Valley in Texas; Reapportionment of Membership on the Texas Valley Citrus Committee

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

**ACTION:** Final rule.

**SUMMARY:** This final rule reapportions the membership of the 15-member Texas Valley Citrus Committee (committee) established under the Federal marketing order regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. This action provides for more equitable representation between cooperative and independent producers and handlers. This reapportionment reduces the number of cooperative producer member positions from four to two and provides independent producers with those two positions, thus, increasing independent producer membership to seven positions. In addition, the number of cooperative handler member positions will be reduced from two to one, thereby increasing independent handler membership to five positions.

**EFFECTIVE DATE:** April 14, 1997.

**FOR FURTHER INFORMATION CONTACT:** Belinda G. Garza, McAllen Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, 1313 E. Hackberry, McAllen, Texas 78501; telephone: (210) 682–2833, Fax # (210) 682–5942; or Charles L. Rush, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 690–3670, 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 final rule is issued under Marketing Agreement and Order No. 906 (7 CFR part 906), as amended, regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, hereinafter referred to as the ''order.'' This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

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

There are 17 handlers of oranges and grapefruit who are subject to regulation under the order and approximately 2,000 orange and grapefruit producers in the regulated area. Small agricultural service firms, which includes handlers, have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. The majority of handlers and producers of Texas oranges and grapefruit may be classified as small entities.

This final rule reapportions the membership of the committee. This action is administrative in nature and will provide for equitable and balanced representation between cooperative and independent producers and handlers and will not impose additional costs or burdens on producers and handlers.

Therefore, the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities.

Pursuant to § 906.18 of the order, the committee consists of 15 members. Each member has an alternate. Nine of the members are producers and six are handlers. Section 906.122 of the order's rules and regulations provides that the nine producer representatives be allocated so that four members represent cooperative marketing organizations, hereinafter referred to as cooperative producers, and five members represent independent marketing organizations, hereinafter referred to as independent producers. Section 906.122 further provides that the six handler representatives on the committee be allocated so that two members represent cooperative marketing organizations, hereinafter referred to as cooperative handlers, and four represent independent marketing organizations,

hereinafter referred to as independent handlers.

Section 906.19 provides for a three-year term of office for committee members and their alternates. The terms of office of the committee are staggered so that one-third of the terms end every third year. Members and alternates serve in their designated positions during the portion of the term of office for which they are selected or until their respective successors are selected and have qualified.

Section 906.21 of the order authorizes the committee, with the Secretary's approval, to reapportion membership between cooperative producer and handler members and independent producer and handler members as necessary to assure equitable representation on the committee. Such changes are authorized in order to reflect structural changes within the industry and changes in the amount of fruit handled by cooperative handlers in relation to fruit handled by independent handlers.

On August 27, 1996, the committee met to discuss, among other issues, committee representation and to determine whether any changes were warranted to foster more equitable representation. Changes in the Texas citrus industry have resulted in a reduction of the number of cooperative handlers in that industry subsequently resulting in a decrease in the amount of fruit handled by cooperative handlers. According to the committee's records, there were four cooperative organizations operating until 1984, prior to a freeze in the production area. From 1985 to 1995, there were two cooperative organizations handling Texas citrus. Presently, only one cooperative handler remains in operation.

As the number of cooperative handlers has decreased, so has the volume of fresh fruit accounted for by cooperatives. At the time committee membership was last reapportioned in 1969, cooperatives accounted for about 30 percent of fresh fruit shipments and about 45 percent of fruit harvested (which includes processed citrus). The volume of fresh fruit shipments accounted for by cooperatives has declined since that time, particularly after the last two freezes.

The committee is concerned that the cooperative segment of the industry is currently over-represented on the committee and that committee representation no longer reflects the current structure of the industry. The present situation has recently made it difficult to acquire cooperative representation on the committee, which could lead to potential problems in the future.

This final rule changes the composition of the committee by reducing cooperative producer positions on the committee from four to two, and increasing independent producer member positions from five to seven. In addition, cooperative handler representation will be reduced from two member positions to one, and independent handler positions will be increased from four to five. The change will bring committee representation more in line with the Texas citrus industry's current structure. This change was unanimously recommended by the committee at its August 27 meeting.

The committee further recommended that current committee members complete their current terms of office where possible and new members be nominated where applicable to provide for full three-year terms of office for unexpired terms. Presently, the term of office of one of the four cooperative producer members expires on July 31, 1997, and three expire on July 31, 1999. The 1997 position, in addition to one of the 1999 positions, will be relinquished to independent producers. Also, there are presently two cooperative handler members, one of whose terms expires on July 31, 1998, and the other on July 31, 1999. One of those positions will be relinquished to independent handlers. The three terms of office relinquished to the independents will terminate on July 31 of the appropriate term. Determination of which cooperative producer and handler members currently serving unexpired terms will remain in their respective positions will be made by lot at the committee's subsequent nomination meetings.

The Texas citrus industry has historically demonstrated a policy of maintaining equitable representation among cooperative and independent producers and handlers. When the order was promulgated in 1960, two of the nine producer member positions and one of the six handler positions were allocated to cooperative members. In 1969, committee membership was reallocated to the present apportionment to reflect changes in the composition of the industry.

Cooperative producer member positions were increased from two to four and cooperative handler representation was increased from one to two. The changes also provided for a reduction in the number of independent producer and handler positions. Following the two major freezes, only one cooperative handler remains in operation. The committee recommended returning to the order's original apportionment to accommodate the shift in production. Reducing the total number of cooperative positions to three will bring representation closer in line with the proportion of fresh fruit shipments accounted for by the cooperative. Therefore, the committee's recommendation to revert to the committee's original apportionment will be achieved by removing § 906.122, which will result in reallocation of cooperative and independent producers and handlers to that reflected in § 906.18 of the order. Section 906.121, which provides that the production area be considered as one district for purposes of committee representation, will not be affected by this rule.

The proposed rule concerning this action was published in the January 2, 1997, Federal Register (62 FR 55), with a 30-day comment period ending February 3, 1997. No comments were received.

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

List of Subjects in 7 CFR Part 906

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 906 is amended as follows:

## PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

1. The authority citation for 7 CFR part 906 continues to read as follows:

Authority: 7 U.S.C. 601–674.

### § 906.122 [Removed and reserved]

2. Section 906.122 is removed and reserved.

Dated: March 7, 1997.

Robert C. Keeney,

*Director, Fruit and Vegetable Division.*

[FR Doc. 97–6264 Filed 3–12–97; 8:45 am]

BILLING CODE 3410–02–P

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## Grain Inspection, Packers and Stockyards Administration

## 9 CFR Part 201

## Regulations Issued Under the Packers and Stockyards Act

**AGENCY:** Grain Inspection, Packers and Stockyards Administration, USDA.

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains corrections to a final regulation which was published July 10, 1996 (61 FR 36277). The regulation provides for maintenance of a bond equivalent in lieu of a required surety bond by packers, market agencies or dealers.

**DATES:** March 13, 1997.

**FOR FURTHER INFORMATION CONTACT:** Sharon Vassiliades, GIPSA, USDA, 1400 Independence Avenue, SW, Washington, D.C. 20250, (202) 720–1738.

**SUPPLEMENTARY INFORMATION:**

Background

The final regulation that is the subject of this correction revised the introductory paragraph of § 201.27(b) applicable to packers, market agencies, and dealers subject to the Packers and Stockyards Act (7 U.S.C. 181, et seq.) and became effective on August 9, 1996.

Need for Correction

As published, the final regulation inadvertently omitted language which was set forth in the proposed rulemaking published August 21, 1995 (60 FR 43411). Language in the final regulation may be confusing and is in need of clarification.

List of Subjects in 9 CFR Part 201

Bonding, Dealer, Market agency, Packer, Registration.

## PART 201—REGULATIONS UNDER THE PACKERS AND STOCKYARDS ACT

Accordingly, 9 CFR 201.27(b) is corrected by making the following correcting amendment:

1. The authority citation for Part 201 continues to read as follows:

Authority: 7 U.S.C. 204, 228; 7 CFR 2.17(e), 2.56.

2. In § 201.27, paragraph (b) is revised to read as follows:

**§ 201.27 Underwriter: equivalent in lieu of bonds; standard forms.**

* * * * *

(b) Any packer, market agency, or dealer required to maintain a surety bond under these regulations may elect to maintain, in whole or partial substitution for such surety bond, a bond equivalent as provided below. The total amount of any such surety bond, equivalent, or combination thereof, must be the total amount of the surety bond otherwise required under these regulations. Any such bond equivalent must be in the form of:

(1) * * *

* * * * *

Done at Washington, D.C. this 7th day of March 1997.

James R. Baker,

*Administrator, Grain Inspection, Packers and Stockyards Administration.*

[FR Doc. 97–6263 Filed 3–12–97; 8:45 am]

BILLING CODE 3410–EN–P

## SMALL BUSINESS ADMINISTRATION

### 13 CFR Part 107

### Small Business Investment Companies

**AGENCY:** Small Business Administration.

**ACTION:** Final rule.

**SUMMARY:** The Small Business Administration (SBA) is amending Part 107 Section 710 and Part 107 Section 50 of its Small Business Investment Companies (SBIC) regulations by deleting the term ''Smaller Business'' and replacing it with the statutory term ''Smaller Enterprise.'' These revisions to SBA's regulations are in accordance with Section 208 of the Small Business Programs Improvement Act of 1996 (SBPIAct).

**EFFECTIVE DATE:** March 13, 1997.

**FOR FURTHER INFORMATION CONTACT:** Gary M. Jackson, Assistant Administrator for Size Standards, 409 3rd Street, SW., Washington, DC 20416, (202)205–6618.

**SUPPLEMENTARY INFORMATION:** Division D of the Omnibus Consolidated Appropriations Act for Fiscal Year 1997 (Public Law 104–208) is the Small Business Programs Improvement Act of 1996 (SBPIAct), which amended the Small Business Investment Act of 1958 (SBIAct). Title II, Section 208 of the SBPIAct adds Section 103(12) to the SBIAct where it includes and defines the term ''smaller enterprise.'' A ''smaller enterprise'' is a small business, including its affiliates, with net financial worth no greater than $6 million and average net income of no more than $2 million, or that meets the size standards established by SBA in 13 CFR Part 121.

Current regulations at 13 CFR § 107.710 require SBICs to make a certain proportion of their total financings into ''smaller businesses,'' which are defined in § 107.710(a). Section 208 of the SBPIAct, however, established the same size criteria for an entity named ''smaller enterprise'' that SBA has in its regulations for a ''smaller business.'' Therefore, SBA is changing the terminology of its regulations to require SBICs to finance smaller enterprises to be consistent with this legislation.

SBA is issuing a final rule because this constitutes only a change of terminology with no substantive effect upon current regulations. That is, SBA is merely adopting no more than a statutory change to a term. SBA is not modifying or otherwise changing its regulations in any way other than to the extent that the statute directs the Agency to do so.

Compliance With Executive Orders 12612, 12778, and 12866, the Regulatory Flexibility Act (5 U.S.C. 601, et seq.), and the Paperwork Reduction Act (44 U.S.C. Ch. 5)

Under the Regulatory Flexibility Act (RFA), SBA is not required to analyze the impact on small businesses of this revision of its SBIC Program regulations because: the RFA applies to federal rules that require public comment; and this is a final rule, incorporating into the Regulations the Congressionally mandated definition of a smaller enterprise. In any event, SBA does not believe this rule has a significant impact on small businesses, since the size applicable to a ''smaller enterprise'' remains unchanged from that for a ''smaller business'' which definition it replaces, and does not affect other SBA programs.

For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA certifies that this final rule contains no new reporting or recordkeeping requirements. For purposes of Executive Order 12612, SBA certifies that this rule does not have federalism implications warranting the preparation of a Federalism Assessment. For purposes of Executive Order 12778, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in Section 2 of that Order.

List of Subjects in 13 CFR Part 107

Investment companies, Loan Programs—business, reporting and recordkeeping requirements, Small businesses.

## PART 107—[AMENDED]

1. The authority citation for 13 CFR part 107 is revised to read as follows:

Authority: 15 U.S.C. 662 (12).

2. Section 107.50 is amended by removing the definition for ''Smaller Business'' and by adding a new definition in alphabetical order to read as follows:

**§ 107.50 Definition of terms.**

* * * * *

*Smaller Enterprise* has the meaning set forth in § 107.710.

* * * * *

3. Section 107.710 is revised to read as follows:

**§ 107.710 Requirement to Finance Smaller Enterprises.**

Your Portfolio must include Financings to Smaller Enterprises.

(a) *Definition of Smaller Enterprise.* A Smaller Enterprise means any small business concern that:

(1) Together with its Affiliates has a net worth of not more than $6.0 million and average net income after Federal income taxes (excluding any carry-over losses) for the preceding two years no greater than $2.0 million; or

(2) Both together with its Affiliates, and by itself, meets the size standard of § 121.201 of this chapter at the time of Financing for the industry in which it is then primarily engaged.

(b) Phase 1 of Smaller Enterprise Financing requirement. At the close of your first complete fiscal year beginning on or after April 25, 1994, at least 10 percent of the total dollar amount of the Financings you extended since April 25, 1994, must have been in Smaller Enterprises.

(c) Phase 2 of Smaller Enterprise Financing requirement. At the close of each of your next fiscal years, at least 20 percent of the total dollar amount of the Financings you extended since April 25, 1994, must have been invested in Smaller Enterprises.

(d) Financing a change of ownership which results in the creation of a Smaller Enterprises. The Financing of a change of ownership under § 107.750 which results in the creation of a Smaller Enterprise qualifies as a Smaller Enterprise Financing..

(e) Non-compliance with this section. If you have not reached the required percentage of Smaller Enterprise Financings at the end of any fiscal year, then you must be in compliance by the end of the following fiscal year.

Aida Alvarez,

*Administrator.*

[FR Doc. 97–5740 Filed 3–12–97; 8:45 am]

BILLING CODE 8025–01–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 97–NM–23–AD; Amendment 39–9961; AD 97–06–04]**

**RIN 2120–AA64**

## Airworthiness Directives; Boeing Model 757–200 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 757–200 series airplanes. This action requires inspections to detect cracking on the free edge of the tang, if necessary, and of the fastener holes in the lower spar chord; and various follow-on actions. This action also provides for optional terminating action for the requirements of this AD. This amendment is prompted by a report of fatigue cracking in the lower spar chord of two Model 757 series airplanes. The actions specified in this AD are intended to detect and correct such fatigue cracking, which could result in reduced structural integrity of the engine strut.

**DATES:** Effective March 28, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 28, 1997.

Comments for inclusion in the Rules Docket must be received on or before May 12, 1997.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–23–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Todd Martin, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–2781; fax (206) 227–1181.

**SUPPLEMENTARY INFORMATION:** The FAA received a report indicating that fatigue cracking was found in the lower spar chord on two Boeing Model 757–200 series airplanes powered by Rolls Royce engines. On one of these airplanes, the tang of the chord was cracked completely through. The crack had propagated approximately five inches into the vertical flange adjacent to the side skins. On the other airplane, a 0.3-inch crack was found in the tang of the chord. Such fatigue cracking, if not detected and corrected in a timely manner, could result in reduced structural integrity of the engine strut.

An initial analysis conducted by Boeing revealed that the stiffening straps, which were installed on the strut midchords of twelve airplanes during production, were the primary cause of the cracks. Consequently, to prevent cracks in the lower spar chords, the stiffening straps were removed from the midchords in accordance with Boeing Service Bulletin 757–54–0028. However, results of subsequent analysis related to the structural reassessment of the strut structure of the Model 757 revealed that cracks can continue to occur after removal of the stiffening straps. The analysis also revealed that cracks can occur in the same area on struts that are made without stiffening straps.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 757–54–0031, Revision 2, dated December 19, 1996. The service bulletin describes procedures for certain inspections and follow-on actions, which include the following:

*1. Tang Inspection:* The service bulletin describes procedures for an eddy current inspection to detect cracking on the free edge of the tang. For airplanes on which cracking within certain limits is found, the service bulletin describes procedures for removal of the midchord channels, stop-drilling of the cracking, and installation of a repair. The service bulletin recommends that if any cracking is found that is outside specified limits, the lower spar chord must be replaced with a new or serviceable chord; however, the service bulletin does not provide procedures for such replacement.

*2. Initial Bolt Hole Inspection:* The service bulletin also describes procedures for an eddy current inspection (bolt hole inspection) to detect cracking of the two fastener holes in the lower spar chord. For airplanes on which no cracking is found during

the bolt hole inspection, the service bulletin describes procedures for increasing the diameter of the holes by specified dimensions and installing new fasteners.

For airplanes on which cracking is found during this bolt hole inspection, and that cracking can be removed by increasing the diameter of the hole, the service bulletin describes procedures for increasing the diameter of the hole by specified dimensions, and installing new fasteners. For airplanes on which cracking that is within certain limits is found, but which cannot be removed by increasing the diameter of the hole, the service bulletin describes procedures for installation of a repair. Additionally, for airplanes on which cracking that is outside certain limits is found, the service bulletin recommends that the lower spar chord be replaced with a new or serviceable chord. The service bulletin does not specify procedures for such replacement.

*3. Repetitive Bolt Hole Inspections:* The service bulletin recommends that a repetitive bolt hole inspection be accomplished. (The procedures for these inspections are the same as those provided for the first bolt hole inspection.)

Installation of a repair eliminates the need for the inspections described previously.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other Boeing Model 757–200 series airplanes of the same type design, this AD is being issued to detect and correct fatigue cracking of the lower spar chord, and consequent reduced structural integrity of the engine strut.

This AD requires repetitive eddy current inspections to detect cracking on the free edge of the tang; and removal of the midchord channels, stop-drilling of cracking, and installation of a repair; if necessary. For airplanes on which cracking is found that is outside specified limits, this AD requires replacement of the lower spar chord with a new or serviceable chord.

This AD also requires repetitive eddy current inspections (bolt hole inspections) to detect cracking of the two fastener holes in the lower spar chord. For airplanes on which no cracking is found, this AD requires increasing the diameter of the holes by specified dimensions, and installing new fasteners. For airplanes on which cracking is found that can be removed by increasing the diameter of the hole, this AD requires increasing the diameter of the hole by specified dimensions, and installing new fasteners. For airplanes on which cracking is found that is within certain limits, but which cannot be removed by increasing the diameter of the hole, this AD requires installation of a repair. Additionally, for airplanes on which cracking that is outside certain limits is found, this AD requires replacement of the lower spar chord with a new or serviceable chord.

Accomplishment of the bolt hole inspections terminates the eddy current inspections of the free edge of the tang.

This AD also provides for optional terminating action, which, if accomplished, terminates the requirements of the AD.

Replacement of the lower spar chord, if necessary, is required to be accomplished in accordance with a method approved by the FAA. Other actions are required to be accomplished in accordance with the service bulletin described previously.

Interim Action

This AD is considered to be interim action. Boeing currently is developing a Strut Improvement Program for Model 757 series airplanes, which will include installation of a new midchord configuration. The FAA may consider further rulemaking to require accomplishment of that installation.

Differences Between Service Bulletin and This AD

Operators should note that, although the service bulletin referenced in this AD recommends a ''grace period'' of 120 days for accomplishment of the inspections on airplanes that have exceeded certain thresholds, this AD specifies a ''grace period'' of 60 days. The FAA has been advised that a significant number of the affected Model 757 series airplanes have already reached the specified thresholds. In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the manufacturer's recommendation as to an appropriate compliance time, parts availability, and the practical aspect of accomplishing the required inspections within an interval of time that parallels the normal scheduled maintenance for the majority of affected operators.

In light of this, the FAA has determined that, for airplanes that have already reached certain thresholds, a ''grace period'' of 60 days is necessary to ensure that the affected airplanes are inspected in a timely manner and that an acceptable level of safety is maintained. This ''grace period'' is roughly equivalent to 300 flight cycles, which the service bulletin specifies as the number of flight cycles that should not be exceeded before inspection of the free edge of the tang is accomplished on airplanes that have exceeded certain thresholds.

In addition, the FAA has determined that the eddy current inspections of the free edge of the tang must be accomplished on a repetitive basis until the bolt hole inspection is accomplished. (The service bulletin recommends only a one-time inspection of the free edge of the tang.) The FAA finds that these repetitive inspections of the tang must be accomplished in the event an initial inspection of the tang is performed well before the 15,000 flight cycle threshold.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must

submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–23–AD.'' The postcard will be date stamped and returned to the commenter.

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.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

97–06–04 Boeing: Amendment 39–9961. Docket 97–NM–23–AD.

*Applicability:* Model 757–200 series airplanes having line numbers 1 through 736 inclusive, powered by Rolls Royce engines, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been otherwise modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (i) 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 detect and correct fatigue cracking of the lower spar chord, and consequent reduced structural integrity of the engine strut, accomplish the following:

(a) Prior to the accumulation of 15,000 total flight cycles, or within 60 days after the effective date of this AD, whichever occurs later: Perform an eddy current inspection to detect cracking on the free edge of the tang, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 757–54–0031, Revision 2, dated December 19, 1996. Repeat this inspection thereafter at intervals not to exceed 3,000 flight cycles until the inspection required by paragraph (d) of this AD is accomplished.

Note 2: The inspection required by paragraph (a) of this AD need not be performed on airplanes on which the inspection required by paragraph (d) of this AD is performed prior to the compliance time specified in paragraph (a) of this AD.

(b) If any cracking is found during the inspection required by paragraph (a) of this AD, and the cracking is within the limits specified in the service bulletin: Prior to further flight, remove the midchord channels, stop-drill the cracking, and install a repair in accordance with the service bulletin. No further action is required by this AD.

(c) If any cracking is found, and the cracking is outside the limits specified in the service bulletin: Prior to further flight, replace the lower spar chord with a new or serviceable chord in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(d) Perform an eddy current inspection (bolt hole inspection) to detect cracking of the two fastener holes in the lower spar chord, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 757–54–0031, Revision 2, dated December 19, 1996, at the time specified in paragraph (d)(1) and (d)(2) of this AD, as applicable. Accomplishment of this inspection terminates the inspections required by paragraph (a) of this AD.

(1) For airplanes on which the stiffening straps have been removed from the midchord in accordance with Boeing Service Bulletin 757–54–0028 prior to the effective date of this AD: Accomplish the inspection at the time specified in paragraph I.D. of Boeing Service Bulletin 757–54–0031, Revision 2, dated December 19, 1996.

(2) For airplanes other than those identified in paragraph (d)(1) of this AD: Accomplish the inspection prior to the accumulation of 18,000 total flight cycles, or within 60 days after the effective date of this AD, whichever occurs later.

(e) If no cracking is found during the inspection required by paragraph (d) of this AD, prior to further flight, increase the diameter of the holes by the dimensions specified in the Accomplishment Instructions of Boeing Service Bulletin 757–54–0031, Revision 2, dated December 19, 1996, and install new fasteners in accordance with the service bulletin.

(f) If any cracking is found during the inspection required by paragraph (d) of this AD, prior to further flight, accomplish paragraph (f)(1), (f)(2), or (f)(3) of this AD, as applicable, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 757–54–0031, Revision 2, dated December 19, 1996.

(1) If the cracking can be removed by increasing the diameter of the hole in accordance with the service bulletin: Increase the diameter of the hole by the dimensions specified in the Accomplishment Instructions of the service bulletin, and install new fasteners in accordance with the service bulletin.

(2) If the cracking cannot be removed by increasing the diameter of the hole in accordance with the Accomplishment Instructions of the service bulletin, but the cracking is within the limits specified in the service bulletin: Install the repair in accordance with the service bulletin. No further action is required by this AD.

(3) If the cracking is outside the limits specified in the service bulletin: Replace the lower spar chord with a new or serviceable chord in accordance with a method approved by the Manager, Seattle ACO.

(g) Accomplish either paragraph (g)(1) or (g)(2) of this AD, as applicable, in accordance with Boeing Service Bulletin 757–54–0031, Revision 2, dated December 19, 1996.

(1) If any fastener installed as a result of an inspection required by paragraph (d) of this AD has a diameter of 5/8-inch or greater: Install the repair prior to the accumulation of the number of flight cycles specified in the ''Subsequent Inspection Interval'' column of the Threshold Table included in paragraph I.D. of the service bulletin.

(2) If any fastener installed as a result of an inspection required by paragraph (d) of this AD has a diameter of less than 5/8-inch: Repeat the bolt hole inspection required by paragraph (d) of this AD prior to the accumulation of the number of flight cycles specified in the ''Subsequent Inspection Interval'' column of the Threshold Table included in paragraph I.D. of the service bulletin until the repair specified in paragraph (h) of this AD is installed.

(h) Installation of the repair in accordance with the Accomplishment Instructions of Boeing Service Bulletin 757–54–0031, Revision 2, dated December 19, 1996, constitutes terminating action for the requirements of this AD.

(i) 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, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(j) 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.

(k) The actions shall be done in accordance with Boeing Service Bulletin 757–54–0031, Revision 2, dated December 19, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(l) This amendment becomes effective on March 28, 1997.

Issued in Renton, Washington, on March 5, 1997.

Darrell M. Pederson,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 97–6086 Filed 3–12–97; 8:45 am]

**BILLING CODE 4910–13–U**

## 14 CFR Part 39

**[Docket No. 92–CE–25–AD; Amendment 39–9962; AD 97–06–05]**

**RIN 2120–AA64**

## Airworthiness Directives; Avions Pierre Robin Model R2160 Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that applies to Avions Pierre Robin Model R2160 airplanes. This action requires repetitively inspecting the weld area between the strut and the lower plate of the nose landing gear leg for cracks, and replacing the strut when cracks are found. The AD is the result of several reports of cracks in the weld securing the nose wheel steering bottom bracket to the nose landing gear leg on the affected airplanes. The actions specified by this AD are intended to prevent nose landing gear failure caused by cracks in the weld area between the strut and the lower plate of the nose landing gear leg, which could result in loss of control of the airplane during landing operations.

**DATES:** Effective May 16, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 16, 1997.

**ADDRESSES:** Service information that applies to this AD may be obtained from Avions Pierre Robin, 1, Route de Troyes, 21121 Darois France; telephone: 80 35 61 01; facsimile: 80 35 60 80. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92–CE–25–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Mr. Greg Holt, Program Manager, Brussels Aircraft Certification Division, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium; telephone (32 2) 513.2692; facsimile (32 2) 230.6899; or Mr. Roman T. Gabrys, Project Officer, Small Airplane Directorate, Aircraft Certification Office, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6934; facsimile (816) 426–2169.

**SUPPLEMENTARY INFORMATION:**

### Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to Avions Pierre Robin Model R2160 airplanes was published in the Federal Register as a notice of proposed rulemaking (NPRM) on November 13, 1996 (61 FR 58145). The NPRM proposed to require repetitively inspecting the weld area between the strut and the lower plate of the nose landing gear leg for cracks, and replacing the strut when cracks are found. Accomplishment of the proposed inspections as specified in the NPRM would be in accordance with Avions Pierre Robin Service Bulletin (SB) No. 101, Revision 3, dated March 5, 1992.

The NPRM resulted from several reports of cracks in the weld securing the nose wheel steering bottom bracket to the nose landing gear leg on the affected airplanes.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed AD or the FAA's determination of the cost to the public.

### The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

### Differences Between This AD, Service Bulletin, and DGAC AD

Both Avions Pierre Robin SB No. 101, Revision 3, dated March 5, 1992, and DGAC AD 83–206(A)R3, dated March 18, 1992, specify repetitive inspection intervals of 25 hours time-in-service if a crack in the weld area is found that is within a certain limit. The limit is ''if the crack runs along the circumference and is less than 15 mm long max. or/and radial crack is less than 8 mm max.'' This AD does not allow continued flight if any crack is found. FAA policy is to disallow airplane operation when known cracks exist in primary structure, unless the abililty to sustain ultimate load with these cracks is proven. The nose landing gear leg is considered primary structure, and the FAA has not received any analysis to prove that ultimate load can be sustained with cracks in this area.

### Cost Impact

The FAA estimates that 10 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 1 workhour per airplane to accomplish the initial inspection, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $600. This figure does not take into account the number of repetitive inspections each airplane owner/operator will incur over the life of the airplane, or the number of airplanes that could have cracked weld areas and would need the strut replaced. The FAA has no way of determining the number of repetitive inspections each owner/operator would incur over the life of the airplane or the number of nose landing gear leg struts that could need to be replaced because of cracks in the weld area.

### 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 copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 USC 106(g), 40113, 44701.

### § 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

97–06–05 Avions Pierre Robin: Amendment 39–9962; Docket No. 92–CE–25–AD.

*Applicability:* Model R2160 airplanes (all serial numbers), certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 initially within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished, and thereafter as follows, as applicable:

1. If the width of the lower plate of the bottom bracket of the nose landing gear leg is 84 millimeters: at intervals not to exceed 500 hours TIS; or

2. If the width of the lower plate of the bottom bracket of the nose landing gear leg is less than 84 millimeters: at intervals not to exceed 100 hours TIS.

To prevent nose landing gear failure caused by cracks in the weld area between the strut and the lower plate of the nose landing gear leg, which could result in loss of control of the airplane during landing operations, accomplish the following:

(a) Inspect, using dye penetrant methods, the weld area between the strut and the lower plate of the nose landing gear leg for cracks in accordance with Avions Pierre Robin Service Bulletin (SB) No. 101, Revision 3, dated March 5, 1992.

(b) If any crack is found during any inspection required by this AD, prior to further flight, replace the strut with a new or serviceable strut.

(1) If the replacement strut is not new, prior to further flight after installing the strut, accomplish the inspection specified in paragraph (a) of this AD.

(2) Replacing the strut with a new or serviceable strut does not eliminate the repetitive inspection requirement of this AD.

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

(d) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Division, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Division.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Brussels Aircraft Certification Division.

(e) The inspection required by this AD shall be done in accordance with Avions Pierre Robin Service Bulletin No. 101, Revision 3, dated March 5, 1992. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Avions Pierre Robin, 1, Route de Troyes, 21121 Darois France. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment (39–9962) becomes effective on May 16, 1997.

Issued in Kansas City, Missouri, on March 6, 1997.

Michael Gallagher,

*Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 97–6256 Filed 3–12–97; 8:45 am]

**BILLING CODE 4910–13–P**

## 14 CFR Part 39

**[Docket No. 96–CE–11–AD; Amendment 39–9963; AD 97–06–06]**

**RIN 2120–AA64**

## Airworthiness Directives; Raytheon Aircraft Company (Formerly Beech Aircraft Corporation) 90, 99, 100, 200, and 1900 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment supersedes AD 92–27–10, which currently requires inspecting the pilot and copilot chairs to ensure that the locking pins will fully engage in the seat tracks on certain Raytheon Aircraft Company (Raytheon) 90, 99, 100, 200, and 1900 series airplanes (formerly referred to as Beech 90, 99, 100, 200, and 1900 series airplanes), and modifying any chair where the locking pin fails to fully engage or is misaligned. AD 92–27–10 resulted from reports of pilot and copilot chair locking pin malfunctions. Since issuance of that AD, the Federal Aviation Administration (FAA) has determined that additional airplanes should be subject to the pilot and copilot chair locking pin inspection and possible modification, and that the inspection should be accomplished in accordance with revised procedures. This AD retains the inspection and possible modification requirements of AD 92–27–10; incorporates additional airplanes into the applicability over that included in AD 92–27–10; and requires the inspection in accordance with revised service information. The actions specified by this AD are intended to prevent inadvertent movement of the pilot or copilot chair, which could result in loss of control of the airplane if it occurs during a critical flight maneuver.

**DATES:** Effective May 9, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 9, 1997.

**ADDRESSES:** Service information that applies to this AD may be obtained from the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–CE–11–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Mr. Steve Potter, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4124; facsimile (316) 946–4407.

**SUPPLEMENTARY INFORMATION:**

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to Raytheon 90, 99, 100, 200, and 1900 series airplanes (formerly referred to as Beech 90, 99, 100, 200, and 1900 series airplanes) was published in the Federal Register as a notice of proposed rulemaking (NPRM) on June 13, 1996 (61 FR 29994). The NPRM proposed to supersede AD 92–27–10 with a new AD that would (1) retain the requirement of inspecting the pilot and copilot chairs to ensure that the locking pins will fully engage in the seat tracks, and modifying any chair where the locking pin fails to fully engage or is misaligned; (2) incorporate additional airplanes into the applicability over that included in AD 92–27–10; and (3) require the inspection in accordance with Beech SB No. 2444, Revision II, dated May 1995.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 4,971 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 1 workhour per airplane to accomplish the required inspection, and that the average labor rate is approximately $60 an hour. No parts are required to accomplish the proposed action. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $298,260. This figure only takes into account the cost of the inspection and does not take into account the cost of modifying any pilot or copilot seat where the locking mechanism fails to fully engage or is misaligned. If a pilot or copilot seat fails to fully engage or is misaligned, the modification will take approximately 2 workhours per airplane at an average labor rate of $60 per hour ($120 per airplane).

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 copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 USC 106(g), 40113, 44701.

**§ 39.13 [Amended]**

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 92–27–10, Amendment 39–8444 (58 FR 5923, January 25, 1993), and by adding a new AD to read as follows:

97–06–06 Raytheon Aircraft Company (formerly Beech Aircraft Corporation): Amendment 39–9963; Docket No. 96–CE–11–AD. Supersedes AD 92–27–10, Amendment 39–8444.

*Applicability:* The following model and serial number airplanes, certificated in any category:

| Models | Serial Nos. |
|---|---|
| 65–90, 65–A90, B90, C90, and C90A | LJ–1 through LJ–1307. |
| 65–A90–1 (U–21A) | LM–1 through LM–63, LM–67 through LM–69, LM–71 through LM–99, and LM–112 through LM–114. |
| 65–A90–1 (JU–21A) | LM–64, LM–66, and LM–70. |
| 65–A90–1 (RU–21D) | LM–100, LM–102 through LM–106, and LM–116 through LM–124. |
| 65–A90–1 (RU–21H) | LM–101 LM–107, LM–115, LM–125, LM–127, LM–128, LM–129, LM–132, LM–133, LM–136, LM–137, and LM–138. |
| 65–A90–1 (RU–21A) | LM–108 through LM–111. |
| 65–A90–1 (U–21G) | LM–126, LM–130, LM–131, LM–134, LM–135, and LM–139 through LM–141. |
| 65–A90–2 (RU–21B) | LS–1, LS–2, and LS–3. |
| 65–A90–3 (RU–21C) | LT–1 and LT–2. |
| 65–A90–4 (RU–21E) | LU–1, LU–3, LU–4, LU–7, LU–8, and LU–14. |
| 65–A90–4 (RU–21H) | LU–2, LU–5, LU–6, LU–9, LU–10 through LU–13, and LU–15. |
| E90 | LW–1 through LW–347. |

| Models | Serial Nos. |
|---|---|
| H90 (T–44A) | LL–1 through LL–61. |
| F90 | LA–2 through LA–236. |
| 99, 99A, A99A, B99, and C99 | U–1 through U–239. |
| 100 and A100 | B–1 through B–94 and B–100 through B–247. |
| A100 (U–21F) | B–95 through B–99. |
| A100–1 (U–21J) | BB–3, BB–4, and BB–5. |
| B100 | BE–1 through BE–137. |
| 200 and B200 | BB–2 and BB–6 through BB–1440. |
| 200C and B200C | BL–1 through BL–72 and BL–124 through BL–137. |
| 200CT and B200CT | BN–1 through BN–4. |
| 200T and B200T | BT–1 through BT–34. |
| A200 (C–12A, C–12C) | BD–1 through BD–30, and BC–1 through BC–75. |
| A200 (UC–12B) | BJ–1 through BJ–66. |
| A200CT (C–12D) | BP–1, BP–22, and BP–24 through BP–51. |
| A200CT(FWD–12D) | BP–7 through BP–11. |
| A200CT (RC–12D) | GR–1 through GR–13. |
| A200CT (C–12F) | BP–52 through BP–63. |
| A200CT (RC–12G) | FC–1, FC–2, and FC–3. |
| A200CT (RC–12H) | GR–14 through GR–19. |
| A200CT (RC–12K) | FE–1 through FE–23. |
| B200C (C–12F) | BL–73 through BL–112, and BL–118 through BL–123. |
| B200C (UC–12F) | BU–1 through BU–10. |
| B200C (RC–12F) | BU–11. |
| B200C (UC–12M) | BV–1 through BV–10. |
| B200C (RC–12M) | BV–11 and BV–12. |
| B200CT (FWD–12D) | FG–1 and FG–2. |
| B200CT (C–12F) | BP–64 through BP–71. |
| 1900 | UA–1, UA–2, and UA–3. |
| 1900C | UB–1 through UB–74, and UC–1 through UC–174. |
| 1900C (C–12) | UD–1 through UD–6. |
| 1900D | UE–1 through UE–17. |

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 within the next 150 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent inadvertent movement of the pilot or copilot chair, which could result in loss of control of the airplane if it occurs during a critical flight maneuver, accomplish the following:

(a) Inspect the pilot and copilot chairs to assure that the locking pins will fully engage in the seat tracks in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Beech Service Bulletin (SB) No. 2444, Revision II, dated May 1995. Prior to further flight, modify any chair where the locking pin fails to fully engage or is misaligned, in accordance with the maintenance manual as specified in Beech SB No. 2444, Revision II, dated May 1995.

(b) The inspection and possible modification required by paragraph (a) of this AD is still mandatory even if the actions were previously accomplished in accordance with Beech SB No. 2444, dated April 1992, or Beech SB No. 2444, Revision I, dated September 1992.

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO. Alternative methods of compliance approved in accordance with AD 92–27–10 (superseded by this action) are not considered approved as alternative methods of compliance with this AD.

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) The inspection required by this AD shall be done in accordance with Beech Service Bulletin No. 2444, Revision II, dated May 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment (39–9963) supersedes AD 92–27–10, Amendment 39–8444.

(f) This amendment (39–9963) becomes effective on May 9, 1997.

Issued in Kansas City, Missouri, on March 5, 1997.

Michael Gallagher,

*Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 97–6255 Filed 3–12–97; 8:45 am]

**BILLING CODE 4910–13–U**

## 14 CFR Part 71

**[Docket No. 97–ACE–4]**

## Amendment to Class E Airspace, Wahoo, NE

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Direct final rule; request for comments.

**SUMMARY:** This action amends the Class E airspace area at Wahoo Municipal Airport, Wahoo, NE. The Federal Aviation Administration has developed a Standard Instrument Approach Procedure (SIAP) based on the Global Positioning System (GPS) which has made this change necessary. The effect of this rule is to provide additional controlled airspace for aircraft arriving

and departing the Wahoo Municipal Airport.

**DATES:** Effective date: July 17, 1997.

Comment date: Comments must be received on or before April 30, 1997.

**ADDRESSES:** Send comments regarding the rule in triplicate to: Manager, Operations Branch, Air Traffic Division, ACE–530, Federal Aviation Administration, Docket Number 97–ACE–4, 601 East 12th St., Kansas City, MO 64106.

The official docket may be examined in the Office of the Assistant Chief Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

**FOR FURTHER INFORMATION CONTACT:** Kathy Randolph, Air Traffic Division, Operations Branch, ACE–530C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106, telephone: (816) 426–3408.

**SUPPLEMENTARY INFORMATION:** The FAA has developed Standard Instrument Approach Procedures (SIAP) utilizing the Global Positioning System (GPS) at Wahoo Municipal Airport, Wahoo, NE. The amendment to Class E airspace at Wahoo, NE, will provide additional controlled airspace to segregate aircraft operating under Visual Flight Rules (VFR) from aircraft operating under Instrument Flight Rules (IFR) procedures while arriving or departing the airport. The area will be depicted on appropriate aeronautical charts thereby enabling pilots to either circumnavigate the area, continue to operate under VFR to and from the airport, or otherwise comply with IFR procedures. Class E airspace areas extending from 700 feet or more above the surface of the Earth are published in paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the Federal Register indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the Federal Register, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–ACE–4.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

## PART 71—AMENDED

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

* * * * *

ACE NE E5 Wahoo, NE. [Revised]

Wahoo Municipal Airport, NE.
(lat. 41°14′25″ N., long. 96°35′41″ W.)
Wahoo NDB

(lat. 41°14′21″ N., long. 96°35′54″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Wahoo Municipal Airport and within 2.6 miles each side of the 032° bearing from the Wahoo NDB extending from the 6.4-mile radius to 7.4 miles northeast of the airport excluding that portion which lies within the Fremont, NE, Class E5 airspace.

* * * * *

Issued in Kansas City, MO, on February 28, 1997.

Herman J. Lyons, Jr.,

*Manager, Air Traffic Division, Central Region.*

[FR Doc. 97–6397 Filed 3–12–97; 8:45 am]

**BILLING CODE 4910–13–M**

## 14 CFR Part 73

**[Airspace Docket No. 97–AWP–1]**

## Change in Using Agency for Restricted Area R–2513, Hunter-Liggett; California

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action changes the using agency for Restricted Area 2513 (R–2513) from ''Commander, Fort Ord, CA'' to ''Commander, Fort Hunter-Liggett, CA.'' This is an administrative change requested by the Department of the Army. There are no changes to the boundaries, designated altitudes, times of designation, or activities conducted within the restricted area

**EFFECTIVE DATE:** 0901 UTC, May 22, 1997.

**FOR FURTHER INFORMATION CONTACT:** William C. Nelson, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

**SUPPLEMENTARY INFORMATION:**

The Rule

This amendment to part 73 of the Federal Aviation Regulations changes the using agency for R–2513 from ''Commander, Fort Ord, CA'' to ''Commander, Fort Hunter-Liggett, CA.'' This is an administrative change requested by the Department of the Army. There are no changes to the boundaries, designated altitudes, times of designation, or activities conducted within the restricted area. Because this action is a minor technical amendment in which the public is not particularly interested, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Section 73.25 of part 73 of the Federal Aviation Regulations was republished in FAA Order 7400.8D dated July 11, 1996.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This action changes the using agency of the restricted area. There are no changes to the boundaries, designated altitudes, times of designation, or activities conducted within the affected restricted area. Accordingly, this action is not subject to environmental assessments and procedures as set forth in FAA Order 1050.1D, ''Policies and Procedures for Considering Environmental Impacts'' and the National Environmental Policy Act.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

## PART 73—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp. p. 389.

**§ 73.25 [Amended]**

2. Section 73.25 is amended as follows:

R–2513 Hunter-Liggett; CA [Amended]

By removing ''Using agency. Commander, Fort Ord, CA'' and substituting ''Using agency. Commander, Fort Hunter-Liggett, CA.''

Issued in Washington, DC, on March 5, 1997.

Jeff Griffith,

*Program Director for Air Traffic Airspace Management.*

[FR Doc. 97–6400 Filed 3–12–97; 8:45 am]

**BILLING CODE 4910–13–M**

## 14 CFR Parts 91, 93, 121 and 135

**[Docket No. 28537; Amendment Number 93–73 and SFAR No. 50–2]**

**RIN 2120–AF93**

## Special Flight Rules in the Vicinity of the Rocky Mountain National Park; Correction

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule, correction.

**SUMMARY:** This document contains a correction to the final rule published in the Federal Register (61 FR 69302) on December 31, 1996. The final rule is one part of an overall strategy to further reduce the impact of aircraft noise on the park environment and to assist the National Park Service in achieving its statutory mandate, imposed by Public Law 100–91, to provide for the substantial restoration of natural quiet and experience in Grand Canyon National Park.

**EFFECTIVE DATE:** May 1, 1997.

**FOR FURTHER INFORMATION CONTACT:** Neil Saunders, (202–267–8783).

Correction of Publication

In the rule document (FR Doc. 96–33146) on page 69302 in the issue of Tuesday, December 31, 1996, Amendment numbers were inserted incorrectly, and an SFAR number was omitted in the docket line of the heading. Please make the following corrections: On page 69302, column 1, in the heading, the docket line in brackets is corrected to read as set forth above.

Issued in Washington, DC on March 5, 1997.

Donald P. Byrne,

*Assistant Chief Counsel.*

[FR Doc. 97–6396 Filed 3–12–97; 8:45 am]

**BILLING CODE 4910–13–M**

## 14 CFR Parts 91, 93, 121, and 135

**[Docket No. 28537; Amendment Number 93–74, and SFAR No. 50–2]**

**RIN 2120–AF93**

## Special Flight Rules in the Vicinity of Grand Canyon National Park; Correction

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule, request for comments; correction.

**SUMMARY:** This document contains a correction to the final rule published in the Federal Register (62 FR 8862) on

February 26, 1997. The Final rule codifies the provisions of Special Federal Aviation Regulation (SFAR) No. 50–2, Special Flight Rules in the Vicinity of Grand Canyon National Park (GCNP); Modifies the dimensions of the GCNP Special Flight Rules Area establishes new and modifies existing flight-free zones; establishes new and modifies existing flight corridors; establishes reporting requirements for commercial sightseeing companies operating during certain time periods; and limits the number of aircraft that can be used for commercial sightseeing operaitons in the GCNP Special Flight Rules Areas.

**EFFECTIVE DATES:** The effective date of May 1, 1997, for 14 CFR 93.301, 93.305, and 93.307, is delayed until 0901 UTC January 31, 1998. SFAR No. 50–2 is reinstated and amended effective 0901 UTC May 1, 1997. SFAR No. 50–2, Setions 2, 3, 6, 7, and 8 are removed effective 0901 UTC May 1, 1997.

**FOR FURTHER INFORMAITON CONTACT:** Neil Saunders, (202–267–8783).

Correction of Publication

In the rule document (FR Doc. 97–4824) on page 8863 in the issue of Wednesday, February 26, 1997, Amendment nubmers were inserted incorrectly, and an SFAR number was omitted in the docket line of the heading. Please make the following corrections: On page 8862, column 1, in the heading, the docket line in brackets is corrected to read as set forth above.

Issued in Washington, DC on March 5, 1997.

Donald P. Byrne,

*Assistant Chief Counsel.*

[FR Doc. 97–6395 Filed 3–12–97; 8:45 am]

**BILLING CODE 4910–13–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Parts 600 and 601

**[Docket No. 95N–0411]**

**RIN 0910–AA71**

### Elimination of Establishment License Application for Specified Biotechnology and Specified Synthetic Biological Products; Correction

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule; correction.

**SUMMARY:** The Food and Drug Administration (FDA) is correcting a final rule that appeared in the Federal Register of May 14, 1996 (61 FR 24227). The document amended the biologics regulations to eliminate the establishment license application (ELA) requirement for certain biotechnology and synthetic biological products subject to licensing under the Public Health Service Act (PHS Act); exempted these biotechnology and synthetic biological products from certain biologics regulations; and harmonized the requirements applicable to these products with those applicable to similar drug products which are approved under the Federal Food, Drug, and Cosmetic Act (the act). The document referenced certain regulations that were later removed from Title 21 of the Code of Federal Regulations (CFR). This document removes those references to ensure the consistency and accuracy of the CFR.

**EFFECTIVE DATE:** March 13, 1997.

**FOR FURTHER INFORMATION CONTACT:** Sharon A. Carayiannis, Center for Biologics Evaluation and Research (HFM–630), Food and Drug Administration, 1401 Rockville Pike, suite 400S, Rockville, MD 20852–1448, 301–594–3074.

In FR Doc. 96–12144, appearing on page 24227, in the Federal Register of Tuesday, May 14, 1996, the following corrections are made:

1. On page 24230, in the 2d column, in the 4th full paragraph, in the 8th line, remove ''; 601.30 to 601.33;'' and add '', 601.33;'' in their place.

**§ 601.2 [Corrected]**

2. On page 24233, in the 2d column, § 601.2(c)(3) is corrected by removing '', 601.30, 601.31, 601.32''.

Dated: March 6, 1997.

William K. Hubbard,

*Associate Commissioner for Policy Coordination.*

[FR Doc. 97–6359 Filed 3–12–97; 8:45 am]

**BILLING CODE 4160–01–F**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 301

**[TD 8697]**

**RIN 1545–AT91**

### Simplification of Entity Classification Rules; Correction

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Correction to the final regulations.

**SUMMARY:** This document contains corrections to the final regulations (TD 8697) which were published in the Federal Register on Wednesday, December 18, 1996 (61 FR 66584). The final regulations relate to the classification of business organizations.

**EFFECTIVE DATE:** January 1, 1997.

**FOR FURTHER INFORMATION CONTACT:** Mark D. Harris, (202) 622–3050 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

Background

The final regulations that are subject to these corrections are under section 7701 of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 8697) contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (TD 8697) which are the subject of FR Doc. 96–31997 is corrected as follows:

**§ 301.7701–3 [Corrected]**

1. On page 66592, column 1, § 301.7701–3, paragraph (c)(1)(vi), *Example 1*, line 11 from the bottom of the paragraph, the language ''by September 13, 1998. See paragraph'' is corrected to read ''by September 14, 1998. See paragraph''.

2. On page 66592, column 1, § 301.7701–3, paragraph (c)(1)(vi), *Example 1*, line 7 from the bottom of the paragraph, the language ''Form 8832 after September 13, 1998, it will'' is corrected to read ''Form 8832 after September 14, 1998, it will''.

Cynthia E. Grigsby,

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

[FR Doc. 97–6390 Filed 3–12–97; 8:45 am]

**BILLING CODE 4830–01–U**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

**[KS 002–1022; FRL–5707–9]**

### Approval and Promulgation of Implementation Plans—State of Kansas; Correction

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; correction.

**SUMMARY:** The EPA published a document in the October 2, 1996,

Federal Register (61 FR 51366) approving a revision to the Kansas State Implementation Plan (SIP). Material was incorporated by reference (IBR) in 40 CFR Part 52, section 52.870. The subpart heading in the IBR page was incorrectly listed as subpart CC, when it should have been subpart R, the subpart for Kansas. This action corrects that error.

**DATES:** Effective on March 13, 1997.

**FOR FURTHER INFORMATION CONTACT:** Wayne Kaiser at (913) 551–7603.

**SUPPLEMENTARY INFORMATION:** The EPA incorporated by reference a revision to the Kansas SIP in the October 2, 1996, Federal Register. The subpart heading for the Kansas section was incorrect. On page 51368, column 1, the heading is corrected to read ''Subpart R—Kansas.''

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and, is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issuess as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

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

**SUPPLEMENTARY INFORMATION:** The EPA incorporated by reference a revision to the Kansas SIP in the October 2, 1996, Federal Register. The subpart heading for the Kansas section was incorrect. On page 51368, column 1, the heading is corrected to read ''Subpart R—Kansas.''

Dated: February 27, 1997.

U. Gale Hutton,

*Acting Regional Administrator.*

[FR Doc. 97–6306 Filed 3–12–97; 8:45 am]

**BILLING CODE 6560–50–P**

## PANAMA CANAL COMMISSION

### 48 CFR Part 3509

**RIN 3207–AA30**

### Panama Canal Commission Acquisition Regulation; Debarment, Suspension and Ineligibility

**AGENCY:** Panama Canal Commission.

**ACTION:** Final rule.

**SUMMARY:** The Panama Canal Commission (Commission) is making final its interim regulations in Subpart 3509.4 of Title 48, Code of Federal Regulations (CFR), concerning the debarment, suspension and ineligibility of contractors or potential contractors to conform with changes in the Federal Acquisition Regulation (FAR) and to improve the agency's notice and administrative procedures pertaining to debarment, suspension or ineligibility.

**DATES:** Effective beginning March 13, 1997.

**FOR FURTHER INFORMATION CONTACT.** Theodore G. Lucas, Deputy General Counsel, Office of General Counsel, Panama Canal Commission, or Ruth Huff, Assistant to the Secretary for Commission Affairs, Office of the Secretary, Panama Canal Commission, 1825 I Street NW., Suite 1050, Washington, DC 20006-5402 (Telephone: (202) 634–6441; Facsimile: (202) 634–6439).

**SUPPLEMENTARY INFORMATION:** On February 2, 1996, the Commission issued interim regulations in the Federal Register (61 FR 3846), to amend 48 CFR subpart 3509.4 to conform with changes in the Federal Acquisition Regulation (FAR) and to improve the agency's notice and administrative procedures pertaining to debarment, suspension or ineligibility. No comments regarding the interim rules have been received.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, I certify the Commission has been exempted from Executive Order 12866 and, accordingly, the provisions of that directive do not apply to this rule. Even if the Order were applicable, this rule would not have significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. Only a very small percentage of contractors or prospective contractors doing business with the Commission are debarred or suspended.

The agency has additionally determined the Paperwork Reduction Act does not apply because these changes to the PAR do not impose record keeping 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.*

Further, the agency has determined implementation of the rule will have no adverse effect on competition, employment, investment, productivity or innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Finally, the Administrator of the Panama Canal Commission certifies these regulatory changes meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order No. 12778.

List of Subjects in 48 CFR Part 3509

Government procurement.

Accordingly, under the authority of 40 U.S.C. 486(c), the Commission is adopting its interim regulations under 48 CFR subpart 3509.4 as published on February 2, 1996 (61 FR 3846), as a final rule without change.

Dated: March 10, 1997.

John A. Mills,

*Secretary, Panama Canal Commission.*

[FR Doc. 97–6348 Filed 3–12–97; 8:45 am]

**BILLING CODE 3640–04–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 679

**[Docket No. 961126334–7012–02; I.D. 031097A]**

### Fisheries of the Exclusive Economic Zone Off Alaska, Pacific Cod in the Central Regulatory Area of the Gulf of Alaska

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

**ACTION:** Closure.

**SUMMARY:** NMFS is closing directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the allocation of Pacific cod for processing by the inshore component in the Central Regulatory Area.

**EFFECTIVE DATE:** 1200 hrs, Alaska local time (A.l.t.), March 11, 1997, until 2400 hrs, A.l.t., December 31, 1997.

**FOR FURTHER INFORMATION CONTACT:** Thomas Pearson, 907–486–6919.

**SUPPLEMENTARY INFORMATION:** The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The final specification of the allocation of Pacific cod for processing by the inshore component in the Central Regulatory Area of the GOA was established by the Final 1997 Harvest Specifications of Groundfish for the GOA (62 FR 8179, February 24, 1997) as 31,457 metric tons (mt), determined in accordance with § 679.20(a)(6)(iii).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the allocation for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 26,457 mt, and is setting aside the remaining 5,000 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20 (d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 679.20(e) and (f).

Classification

This action is required by 50 CFR 679.20 and is exempt from review under E.O. 12866.

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

Dated: March 10, 1997.

Bruce Morehead,

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 97–6457 Filed 3–11–97; 9:45 am]

BILLING CODE 3510–22–F

## 50 CFR Part 679

**[Docket No. 961126334–7025–02; I.D. 031097B]**

## Fisheries of the Exclusive Economic Zone Off Alaska, Pacific Cod in the Western Regulatory Area of the Gulf of Alaska

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

**ACTION:** Apportionment of reserve; modification of closure.

**SUMMARY:** NMFS is apportioning the reserves of Pacific cod and opening directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component for 24 hours in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to allow for an opportunity to harvest the remaining total allowable catch (TAC) and to account for previous harvest of the TAC in the Western Regulatory Area of the GOA.

**EFFECTIVE DATE:** Opening 1200 hrs, Alaska local time (A.l.t.), March 10, 1997, and closing 1200 hrs, A.l.t., March 11, 1997 until 2400 hrs, December 31, 1997.

**FOR FURTHER INFORMATION CONTACT:** Thomas Pearson, 907–486–6919.

**SUPPLEMENTARY INFORMATION:** The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The initial total allowable catch (TAC) of Pacific cod in the Western Regulatory Area of the GOA was established by the Final 1997 Harvest Specifications of Groundfish for the GOA (62 FR 8179, February 24, 1997) as 19,380 metric tons (mt). Directed fishing for Pacific cod for processing by the inshore component in the Western Regulatory Area of the GOA was closed on March 3, 1997, under § 679.20(a)(6)(iv)(C) and 679.20(d)(1)(iii) in order to prevent exceeding the initial TAC and to provide for amounts anticipated to be needed for incidental catch in other fisheries (62 FR 10222, March 6, 1997).

The reserve of Pacific cod in the Western Regulatory Area of the GOA was created as a management buffer to prevent exceeding the TAC and to provide greater assurance that Pacific cod could be retained as bycatch throughout the fishing year by the Final 1997 Harvest Specifications for Groundfish of the GOA (62 FR 8179, February 24, 1997).

The Administrator, Alaska Region, NMFS, (Regional Administrator), has determined that the initial TAC for Pacific cod in the Western Regulatory Area needs to be supplemented from the Pacific cod reserve for that area in order to continue operations and account for prior harvest. Therefore, in accordance with § 679.20(b)(2), NMFS is apportioning 4,845 mt of Pacific cod from the reserves to the TAC in the Western Regulatory Area of the GOA.

Pursuant to § 679.20(a)(6)(iii) the apportionment of the Pacific cod reserve in the Western Regulatory Area of the GOA is allocated to vessels catching Pacific cod for processing by the inshore and offshore components as 4,361 mt and 484 mt respectively. This action brings the total allocation of the 1997 Pacific cod TAC for vessels catching Pacific cod for processing by the inshore and offshore components to 21,803 mt and 2,422 mt, respectively.

NMFS has determined that as of March 6, 1997, 2,230 mt remain in the directed fishing allowance. Therefore, the Regional Administrator is establishing a new directed fishing allowance of 21,503 mt, and is setting aside the remaining 300 mt as bycatch to support other anticipated groundfish fisheries.

In accordance with § 679.20(d)(1)(i), the Regional Administrator, has determined that the 1997 directed fishing allowance of Pacific cod for processing by the inshore component in the Western Regulatory Area of the GOA has not been reached. Therefore, NMFS is terminating the previous closure and is opening directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Western Regulatory Area of the GOA effective 1200 hrs, A.l.t., March 10, 1997.

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Current information shows the catching capacity of vessels catching Pacific cod for processing by the inshore component has recently averaged 1,400 mt per day, but is highly variable. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Western Regulatory Area in the GOA effective 1200 hrs, A.l.t., March 11, 1997.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 679.20(e) and (f).

Classification

This action is required by 50 CFR 679.20 and is exempt from review under E.O. 12866.

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

Dated: March 10, 1997.

Gary C. Matlock,

*Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 97–6458 Filed 3–11–97; 9:45 am]

**BILLING CODE 3510–22–P**

# Proposed Rules

Federal Register
Vol. 62, No. 49
Thursday, March 13, 1997

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

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 29

**[Docket No. TB–97–01]**

### Tobacco Inspection—Growers Referendum

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

**ACTION:** Notice of referendum.

**SUMMARY:** This document announces that a referendum will be conducted by mail during the period of March 24–28, 1997, for producers of flue-cured tobacco who sell their tobacco at auction in Tabor City and Whiteville, North Carolina, to determine producer approval of the designation of the Tabor City and Whiteville tobacco markets as one consolidated auction market.

**DATES:** The referendum will be held March 24–28, 1997.

**FOR FURTHER INFORMATION CONTACT:** William Coats, Deputy Director, Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, P.O. Box 96456, Washington, D.C. 20090–6456; telephone number (202) 205–0508.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given of a mail referendum on the designation of a consolidated auction market at Tabor City and Whiteville, North Carolina. Tabor City and Whiteville were designated on June 26, 1942, (7 CFR 29.8001) as flue-cured tobacco auction markets under the Tobacco Inspection Act (7 U.S.C. 511 *et seq.*). Under this Act those markets have been receiving mandatory grading services from USDA.

On August 6, 1996, an application was made to the Secretary of Agriculture to consolidate the designated markets of Tabor City and Whiteville, North Carolina. The application, filed by warehouse operators on those markets, was made pursuant to the regulations promulgated under the Tobacco Inspection Act (7 CFR Part 29.1–29.3). On November 6, 1996, a public hearing was held in Tabor City, North Carolina, pursuant to the regulations. A Review Committee, established pursuant to § 29.3(h) of the regulations 7 CFR 29.3(h)), has reviewed and considered the application, the testimony presented at the hearing, the exhibits received in evidence, and other available information. The Committee recommended to the Secretary that the application be granted and the Secretary approved the application on February 19, 1997.

Before a new market can be officially designated, a referendum must be held to determine that a two-thirds majority of producers favor the designation. It is hereby determined that the referendum will be held by mail during the period of March 24–28, 1997. The purpose of the referendum is to determine whether farmers who sold their tobacco on the designated markets at Tabor City and Whiteville are in favor of, or opposed to, the designation of the consolidated market for the 1997 and succeeding crop years. Accordingly, if a two-thirds majority of those tobacco producers voting in the referendum favor this consolidation, a new market will be designated as and will be called Tabor City-Whiteville.

To be eligible to vote in the referendum a tobacco producer must have sold flue-cured tobacco on either the Tabor City or Whiteville, North Carolina, auction markets during the 1996 marketing season. Any farmer who believes he or she is eligible to vote in the referendum but has not received a mail ballot by March 24, 1997, should immediately contact William Coats at (202) 205–0508.

The referendum will be held in accordance with the provisions for referenda of the Tobacco Inspection Act, as amended (7 U.S.C. 511d) and the regulations for such referendum set forth in 7 CFR 29.74.

Dated: March 7, 1997.

Lon Hatamiya,

*Administrator.*

[FR Doc. 97–6265 Filed 3–12–97; 8:45 am]

**BILLING CODE 3410–02–P**

## NATIONAL CREDIT UNION ADMINISTRATION

### 12 CFR Ch. VII

### Interpretive Rulings and Policy Statements (IRPS)

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The NCUA solicits comment on a proposal to revise its existing Interpretive Rulings and Policy Statements (IRPS). This proposal, which is one part of NCUA's Regulatory Review Program, is intended to ease the compliance burden on federally chartered and federally insured credit unions and provide more valuable guidance by updating and simplifying ineffective or outmoded IRPS. Proposed options include the withdrawal of all outdated and nonessential IRPS, the redesignation of IRPS into the NCUA rules, the transference of guidance now provided in the IRPS into NCUA instructional manuals or directives, and the preservation of beneficial IRPS.

**DATES:** Comments must be received on or before May 12, 1997.

**ADDRESSES:** Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax comments to (703) 518–6319. E-mail comments to boardmail@ncua.gov. Please sends comments by one method only.

**FOR FURTHER INFORMATION CONTACT:** Martin ''Sparky'' Conrey, Staff Attorney, or Nicole Sippial Williams, Staff Attorney, Division of Operations, Office of the General Counsel, at the above address or by telephone at (703) 518–6540.

**SUPPLEMENTARY INFORMATION:**

I. Background

Section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 requires each federal financial institution regulatory agency represented by the Federal Financial Institutions Examination Council (FFIEC) to conduct a review of regulations at least once every 10 years to identify outdated or unnecessary

regulatory requirements. The NCUA has made regulatory review a high priority and has already initiated its own Regulatory Review Program. As one part of its ongoing Regulatory Review Program, NCUA performed a preliminary review of the IRPS to determine their current effectiveness. The goal of this part of the Regulatory Review Program is to ease the compliance burden of federally chartered and insured credit unions by revising and eliminating IRPS that do not effectively advance NCUA's regulatory goals and statutory responsibilities. Another objective is to improve clarity and thus better communicate the interpretations and policies of NCUA advanced by the IRPS.

## II. Proposed Regulatory Action

The IRPS are a collection of interpretive rulings and general statements of policy that explain, clarify, and interpret the statutes and rules under which NCUA operates and that set forth NCUA's position on issues affecting federal credit unions. NCUA publishes the IRPS, which date back to 1979, in the Federal Register and provides a copy of them to all federally insured credit unions. Although the rules, regulations, and interpretative positions of NCUA evolved over the years, many of the IRPS remained unchanged since their initial publication. As a result, a number of the IRPS may be either outdated or nonessential and may need to be either removed, revised, or reorganized.

NCUA solicits comments on the potential actions that may be taken with regard to each of the active IRPS. Table 1, below, lays out NCUA's proposal. Table 1 sets forth four columns: (1) IRPS Number (all IRPS that have not been formally withdrawn in the Federal Register are listed); (2) IRPS Subject Heading; (3) Federal Register Citation; and (4) Proposed NCUA Board Action. NCUA uses the following categories to describe the possible action it is contemplating for each currently active IRPS: (1) ''Withdraw''—NCUA suggests formally withdrawing outdated or unnecessary IRPS [those IRPS that have been superseded by other IRPS or NCUA rules are listed as ''Withdrawn; Superseded'' and the controlling IRPS or rule is cited]; (2) ''Redesignate''—NCUA suggests formally redesignating regulatory IRPS into the appropriate CFR section of the NCUA rules; (3) ''Transfer''—NCUA suggests withdrawing the IRPS and informally transferring information from interpretive IRPS into NCUA instructional manuals or agency directives; and (4) ''No Change''—NCUA suggests maintaining these IRPS substantively unchanged, making only format, stylistic, and numeric changes.

Since all federally chartered and federally insured credit unions should have complete sets of the IRPS, and in the interests of printing economy, the IRPS have not been set out in full text. However, copies of the IRPS can be obtained off of NCUA's Website at www.ncua.gov or from the NCUA contacts listed in this notice.

TABLE 1.—NCUA'S PROPOSED ACTIONS FOR REVISING THE IRPS

| IRPS number | IRPS subject heading | Federal Register citation | Proposed action |
|---|---|---|---|
| IRPS No. 79–1 | Statement of Policy Regarding Relationship of Credit Union Service Corporations and Existing Accounting Service Centers. | 44 FR 21762, Apr. 12, 1979 | Withdraw |
| IRPS No. 79–2 | Share Accounts | 44 FR 39382, July 6, 1979 | Withdraw |
| IRPS No. 79–3 | Amortization of Long Term Real Estate Loans | 44 FR 39182, July 5, 1979 | Withdraw |
| IRPS No. 79–4 | Investment Activities | 44 FR 51195, Aug. 31, 1979 | Withdraw |
| IRPS No. 79–5 | Insurance Activities | 44 FR 43711, July 26, 1979 | Withdraw |
| IRPS No. 79–6 | Donations/Contributions | 44 FR 56691, Oct. 2, 1979 | Redesignate |
| IRPS No. 79–7 | Liquidity Reserve | 44 FR 61172, Oct. 24, 1979 | Withdraw |
| IRPS No. 79–8 | Public Observance and Availability of Information Regarding Board Meetings; Interim Sunshine Act Policy Statement. | 44 FR 70709, Dec. 10, 1979 | Superseded by Regs. §§ 791.9–18 |
| IRPS No. 79–9 | Rate of Interest | 44 FR 74799, Dec. 18, 1979 | Withdraw |
| IRPS No. 79–10 | Notice of Proposed Consumer Program | 45 FR 7738, Feb. 4, 1980 | Superseded by IRPS 80–7 |

TABLE 1.—NCUA'S PROPOSED ACTIONS FOR REVISING THE IRPS—Continued

| IRPS number | IRPS subject heading | Federal Register citation | Proposed action |
|---|---|---|---|
| IRPS No. 80–1 | Joint Notice of Statement of Policy on Disclosure of Statutory Enforcement Actions on Behalf of the Agencies Represented on the FFIEC. | 45 FR 6648, Jan. 29, 1980 | Redesignate |
| IRPS No. 80–2 | National Environmental Policy Act | 45 FR 12211, Feb. 25, 1980 | No Change |
| IRPS No. 80–3 | Corporate Central Federal Credit Union | 45 FR 14202, Mar. 5, 1980 | Withdrawn 49 FR 50370, Dec. 28, 1984 |
| IRPS No. 80–4 | Central Liquidity Facility; Policy Regarding Protracted Adjustment Credit | 45 FR 24288, Apr. 9, 1980 | Redesignate |
| IRPS No. 80–5 | Shared and Proprietary Remote Service Units | 45 FR 32290, May 16, 1980 | Withdrawn 47 FR 33950, Aug. 5, 1982 |
| IRPS No. 80–6 | Shared and Proprietary Remote Service Units Programs and Correspondent Credit Unioning Programs. | 45 FR 32292, May 16, 1980 | Withdrawn 47 FR 33950, Aug. 5, 1982 |
| IRPS No. 80–7 | Final Notice of Consumer Program | 45 FR 50260, July 28, 1980 | Withdraw |
| IRPS No. 80–8 | Return of Capital Upon Withdrawal From Membership in CLF | 45 FR 47119, July 14, 1980 | Redesignate |
| IRPS No. 80–9 | Flood Insurance—Use of Map Information Facility | 45 FR 58101, Sept. 2, 1980 | Withdrawn 46 FR 71353, Oct. 28, 1980 |
| IRPS No. 80–10 | When Federal Credit Unions Can Charge More Than 15% Per Annum on Government Insured or Guaranteed Loans. | 45 FR 71353, Oct. 28, 1980 | Withdraw |
| IRPS No. 80–11 | State Chartered Federally Insured Credit Unions as Most Favored Lenders | 45 FR 78625, Nov. 26, 1980 | Superseded by IRPS 81–3 |
| IRPS No. 80–12 | Verification of Member Accounts | 46 FR 9919, Jan. 30, 1981 | Withdraw |
| IRPS No. 81–1 | Definitions—Exclusions From Gross Income In Computing Reserve Requirements | 46 FR 13204, Feb. 20, 1981 | Withdraw |
| IRPS No. 81–2 | Federal Funds | 46 FR 14887, Mar. 3, 1981 | Withdraw |
| IRPS No. 81–3 | State Chartered Federally Insured Credit Unions as ''Most Favored Lenders'' | 46 FR 24153, Apr. 30, 1981 | No Change |
| IRPS No. 81–4 | Developing Government Regulations | 46 FR 29248, June 1, 1981 | Superseded by IRPS 87–2 |
| IRPS No. 81–5 | Proposed Policy Statement Release of Consumer Examination Reports | 46 FR 29575, June 2, 1981 | Withdraw |
| IRPS No. 81–6 | Examination of Independent Credit Union Service Centers | 46 FR 44421, Sept. 4, 1981 | Withdraw |

TABLE 1.—NCUA'S PROPOSED ACTIONS FOR REVISING THE IRPS—Continued

| IRPS number | IRPS subject heading | Federal Register citation | Proposed action |
|---|---|---|---|
| IRPS No. 81–7 | Sale-and-Leaseback Arrangements | 46 FR 46303, Sept. 18, 1981 | Transfer |
| IRPS No. 81–8 | Full and Fair Disclosure Requirements | 47 FR 23685, June 1, 1982 | Withdraw |
| IRPS No. 81–9 | Share, Share Draft and Share Certificate Accounts | 46 FR 57668, Nov. 25, 1981 | Withdraw |
| IRPS No. 82–1 | Membership in Federal Credit Unions | 47 FR 16775, Apr. 20, 1982 | Superseded by IRPS 82–3 |
| IRPS No. 82–2 | Payout Priorities for Involuntary Liquidation of Federally-Insured Credit Unions | 47 FR 18122, Apr. 28, 1982 | Withdrawn 51 FR 43383, Dec. 2, 1986 |
| IRPS No. 82–3 | Membership in Federal Credit Unions | 47 FR 26808, June 22, 1982 | Superseded by IRPS 84–1 |
| IRPS No. 82–4 | Examination for Compliance With State Unclaimed Property Laws | 47 FR 53325, Nov. 26, 1982 | No Change |
| IRPS No. 82–5 | Statutory Lien | 47 FR 57483, Dec. 27, 1982 | Redesignate |
| IRPS No. 82–6 | Corporate Federal Credit Union Chartering Guidelines | 47 FR 43943, Oct. 5, 1982 | Withdraw |
| IRPS No. 83–1 | Truth in Lending; Enforcement Guidelines and Restitution Review Procedures | 48 FR 7159, Feb. 18, 1983 | Redesignate |
| IRPS No. 83–2 | Membership in Federal Credit Unions | 48 FR 22899, May 23, 1983 | Superseded by IRPS 84–1 |
| IRPS No. 83–3 | Federal Credit Union Leasing of Personal Property to Members | 48 FR 52568, Nov. 21, 1983 | Redesignate |
| IRPS No. 84–1 | Membership in Federal Credit Unions | 49 FR 46536, Nov. 27, 1984 | Superseded by IRPS 89–1 |
| IRPS No. 85–1 | Trustees and Custodians of Pension Plans | 50 FR 48176, Nov. 22, 1985 | Redesignate |
| IRPS No. 85–2 | Repurchase Agreements of Depository Institutions with Securities Dealers and Others | 50 FR 48372, Nov. 25, 1985 | No Change |
| IRPS No. 85–3 | Assumption of Real Estate Loans by Nonmembers | 50 FR 51840, Dec. 20, 1985 | Redesignate |
| IRPS No. 86–1 | General Policy on Sharing Confidential Supervisory Information With State Banking and Thrift Regulatory Agencies. | 51 FR 16292, May 2, 1986 | No Change |
| IRPS No. 86–2 | Joint Policy Statement on Basic Financial Services (FFIEC) | 51 FR 42083, Nov. 21, 1986 | No Change |

TABLE 1.—NCUA'S PROPOSED ACTIONS FOR REVISING THE IRPS—Continued

| IRPS number | IRPS subject heading | Federal Register citation | Proposed action |
|---|---|---|---|
| IRPS No. 87–1 | Guidelines For Compliance With Federal Bank Bribery Law | 52 FR 38821, Oct. 19, 1987 | No Change |
| IRPS No. 87–2 | Developing and Reviewing Government Regulations | 52 FR 35231, Sept. 18, 1987 | No Change |
| IRPS No. 88–1 | Policy on Selection of Securities Dealers and Unsuitable Investment Practices | 53 FR 18268, May 23, 1988 | Superseded by IRPS 92–1 |
| IRPS No. 89–1 | Chartering and Field of Membership Policy | 54 FR 31165, July 27, 1989 | Superseded by IRPS 94–1 |
| IRPS No. 92–1 | Supervisory Policy Statement on Securities Activities (FFIEC) | 57 FR 22157, May 27, 1992 | No Change |
| IRPS No. 94–1 | Chartering and Field of Membership Policy | 59 FR 29066, June 3, 1994 | No Change |
| IRPS No. 95–1 | Guidelines for the Supervisory Review Committee | 60 FR 14795, Mar. 20, 1995 | No Change |
| IRPS No. 96–1 | Federal Credit Union Field of Membership and Chartering Policy | 61 FR 11721, Mar. 22, 1996 | No Change |
| IRPS No. 96–2 | Federal Credit Union Field of Membership and Chartering Policy | 61 FR 59305, Nov. 22, 1996 | Withdrawn |

III. Request for Comments

NCUA invites the public to review the IRPS and solicits comment on any issue, concern, or suggestion that the public may have concerning NCUA's proposal to revise and update the IRPS. The questions presented below (numbered consecutively 1 through 8 for ease of reference) are intended to elicit comments on all significant issues. However, the list is not intended to be exclusive. NCUA seeks comments on any and all relevant issues. In commenting, please remember that a comment that includes the reasoning or basis for a proposition will likely be more persuasive than a comment without supporting information. Any IRPS subject to redesignation as a regulation will be separately noticed for public comment at a later date.

Questions

1. Is there a continuing need for each of the IRPS designated as no change?

(a). What financial soundness, economic, supervisory, or other benefits derive from each IRPS?

(b). What financial, compliance, or other burdens has each IRPS imposed on credit unions?

2. Do you agree with the NCUA's proposed action pertaining to each individual IRPS to either withdraw, redesignate, transfer, or maintain that specific IRPS?

(a). Which NCUA Regulation do you believe each IRPS listed for redesignation should be incorporated?

(b). Do you have any other suggestions as to what actions NCUA can take to improve and update the IRPS?

3. Do you foresee any potential problems with NCUA's proposal to incorporate some of the IRPS into either the NCUA Rules and Regulations or into NCUA Directives such as the NCUA Accounting Manual for FCUs, the FCU Supervisory Committee Guidelines, or a NCUA Letter to Credit Unions?

4. Are there any issues of (1) IRPS timing, any desired phase-in, phase-out, or grandfathering of any IRPS withdrawal, redesignation, or transfer, or of (2) IRPS potential placement—which specific regulation or directive should contain the information currently included in an IRPS?

5. Are there any IRPS that you believe need to be substantially reworked or clarified? If so, please provide details.

(a). How would your changes affect the benefits provided by each IRPS?

(b). Would your changes affect the burdens imposed on credit unions?

(c). Along with your comments concerning all the IRPS, what specific changes or revisions, if any, do you feel need to be made to IRPS 83–3, FCU Leasing of Personal Property to Members?

6. Do any of the IRPS overlap or conflict with other federal, state, or local laws or regulations? Are any issues of federalism or preemption raised? If a conflict exists, can NCUA take a less intrusive approach while maintaining the goals of a particular IRPS?

7. What effects, if any, have changes in relevant technology, economic conditions, or business protocols had on any of the IRPS?

8. Do you think that the IRPS NCUA proposes to maintain should be republished in the CFR as an Appendix

to their relevant CFR Part? If not, do you think that the IRPS NCUA proposes to maintain should be renumbered?

By the National Credit Union Board on March 7, 1997.

Becky Baker,

*Secretary to the Board.*

[FR Doc. 97–6381 Filed 3–12–97; 8:45 am]

**BILLING CODE 7535–01–P**

## 12 CFR Chapter VII

## Federal Credit Union Bylaws

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Request for comments.

**SUMMARY:** The NCUA Board proposes to revise and reorganize its Federal Credit Union Bylaws and Federal Credit Union Standard Bylaw Amendments in connection with its Regulation Review Program (Program). This proposal is one component of the Program to update and streamline NCUA regulations, focus regulations on key safety and soundness concerns and agency objectives, and eliminate requirements that impose inefficient and costly regulatory burdens on federally insured credit unions. The purpose of this notice is to solicit comments to help guide the preparation of a proposed rule which would clarify, revise and reorganize existing FCU Bylaws and eliminate bylaws that are obsolete. This notice presents only a general description of the bylaw changes being considered and includes no regulatory text. Comments will again be solicited when a proposed rule is issued with regulatory text.

**DATES:** Comments must be received by May 12, 1997.

**ADDRESSES:** Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax comments to (703) 518–6319. E-mail comments to boardmail@ncua.gov. Please send comments by one method only.

**FOR FURTHER INFORMATION CONTACT:** Mary F. Rupp, Staff Attorney, Office of General Counsel, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428 or telephone: (703) 518–6540.

**SUPPLEMENTARY INFORMATION:**

### Background

Section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI)(12 U.S.C. § 4803(a)) requires the Comptroller of the Currency, the Federal Reserve Board, the Federal Deposit Insurance Corporation and the Office of Thrift Supervision to review their regulations in order to streamline and modify their regulations to improve efficiency, reduce unnecessary costs, eliminate unwarranted constraints on credit availability and to work jointly to make uniform all regulations and guidelines implementing common statutory or supervisory policy. Although not statutorily mandated to engage in the review, the NCUA Board agrees with the policies and goals set forth in the CDRI and has voluntarily set up its own Program.

The goal of the Program is to review all of the NCUA's rules and regulations to eliminate regulatory requirements that impose inefficient and costly regulatory burdens on federally insured credit unions, to eliminate requirements that do not contribute significantly to maintaining safety and soundness, and to revise rules that do not effectively advance the NCUA's other goals and statutory responsibilities. This review process will be ongoing. It began in 1995 with a complete revision of part 741, Requirements for Insurance.[1]

### FCU Bylaws

Section 108 of the FCU Act, 12 U.S.C. 1758, requires the NCUA Board to prepare bylaws which shall be used by all FCUs. Currently, the bylaws are approved by the NCUA Board and published in two manuals, Federal Credit Union Bylaws [2] (FCU Bylaws) and Federal Credit Union Standard Bylaw Amendments and Guidelines [3] (Standard Bylaw Amendments). The manuals are made available to FCUs upon request. The bylaws contained in the two manuals may be adopted by an FCU without approval from NCUA. An FCU must request approval to adopt a bylaw not contained in the manuals (nonstandard bylaw amendment) from its Regional Director. The Regional Director reviews all of the requests. After consulting with the other Regional Directors and the Office of General Counsel, the Regional Director advises the FCU whether its nonstandard bylaw amendment has been approved. As the requests for nonstandard amendments continue to increase, the process has become burdensome for FCUs and NCUA staff.

### Request for Comments

There are several problems associated with the current FCU Bylaws and Standard Bylaw Amendments. Below is a general discussion of some of the problem areas and a request for comment.

1. FCU Bylaws and Standard Bylaw Amendments are not published in the Federal Register or codified in NCUA's Regulations. This is problematic for two reasons. First, the bylaws are not easily accessible to the general public, to the same extent as they would be if they were incorporated into NCUA's Regulations and published in the CFR. Second, a federal court [4] held that NCUA's interpretation of its bylaws is accorded deference only if issued as a regulation. In order to ensure that its bylaws are enforceable, the Board is considering publishing them as a regulation. However, this would limit the Board's flexibility. Notice and comment rulemaking would be required to effect changes. The Board suggests a process where annually a proposal is submitted to the Board to adopt changes to the bylaws. The proposal will be based upon the requests received by the six Regions for bylaw amendments throughout the prior year. Under this model, there would no longer be nonstandard amendments. This may create a hardship for an FCU with unique circumstances. The Board is interested in receiving comments on alternative ways to deal with this issue.

2. Permissible bylaws for FCUs are currently contained in two publications. In order to simplify the selection procedure for FCUs the Board believes that all FCU bylaws should be published in one place, either the regulations or one manual. It is envisioned that the revised bylaws will be more flexible by having more fill in the blanks, so that one bylaw can be modified to suit the needs of FCUs with vastly different operations. In the event alternative bylaws are necessary, they will be published side by side and an FCU will choose the one most suited to its operation.

3. Many of the current FCU Bylaws and Standard Bylaw Amendments are duplicative and outdated. The bylaws have not been thoroughly updated for many years. By eliminating unnecessary bylaws, NCUA hopes to reduce regulatory compliance costs.

Some obvious examples of outdated or duplicative provisions that can be deleted are:

- Article III, Section 3—Delete the 6 month time requirement allowed to pay one share (outdated);

[1] 60 FR 58502 (November 28, 1995).

[2] Revised 12/87.

[3] Revised 10/91.

[4] An unpublished opinion, *Madias* v. *Dearborn FCU*, Civ. Act. No. 96–40043, (E.D. MI, So. Div. 1996).

- Article III, Section 4—Delete the $1 transfer fee (outdated);
- Article IV—Delete the reference to passbook accounts (outdated);
- Article XIII—Delete this section on reserves (duplicative of the regulations); and
- Article XX—Delete this section on operation following an attack on the United States (outdated).

In conjunction with deleting the outdated provisions, NCUA is committed to ensuring that FCUs operate under state-of-the-art corporate governance procedures. Wherever possible, consistent with safety and soundness and fairness to members, we are seeking to move toward greater flexibility. Some of the areas that we have identified for modernization and flexibility are Article V, Meeting of Members; Article VI, Elections; Article VII, Board of Directors; and Article VIII, Board Officers, Management Officials and Executive Committee. Comments on how to modernize these provisions, as well as other areas in need of modernization, are requested.

4. Upon revision of the bylaws, should FCUs be required to adopt the revised FCU Bylaws? The Board is grappling with the issue of whether FCUs should be required to adopt the revised bylaws. On the one hand, the Board believes that consistent bylaws among FCUs is preferable. On the other hand, the Board recognizes that a complete revision of an FCU's bylaws may create a hardship for some FCUs. The Board requests comment on whether all FCUs should be required to adopt the new bylaws and if so, what would be a reasonable time-frame for compliance.

The NCUA Board is seeking comments on all of the above mentioned possible means of simplifying and modernizing the bylaws, including the likely effect of such changes on the FCUs and their members. The Board is also seeking suggestions on any other ways that the bylaws might be streamlined, simplified and clarified. Based upon the comments, the Board will issue a proposed rule with proposed bylaws and another request for comments. Based upon those comments, the Board will issue a final rule.

By the National Credit Union Administration Board on March 7, 1997.

Becky Baker,

*Secretary of the Board.*

[FR Doc. 97–6380 Filed 3–12–97; 8:45 am]

BILLING CODE 7535–01–P

## 12 CFR Parts 701, 712 and 740

## Organization and Operations of Federal Credit Unions; Credit Union Service Organizations; Advertising

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The NCUA is proposing to update, clarify and streamline existing rules concerning credit union service organizations (CUSOs), a common means of outside provision of services to federal credit unions (FCUs) and to credit union members. The intended effect of the proposal is to reduce regulatory burden, maintain safety and soundness, and ensure the continuity and growth of services to FCUs and their members conducted through CUSOs. Related conforming changes are also proposed to amend NCUA's rules on credit union service contract and credit union advertising requirements.

**DATES:** Comments must be received on or before May 12, 1997.

**ADDRESSES:** Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax comments to (703) 518–6319. Post comments on NCUA's electronic bulletin board by dialing (703) 518–6480 or to NCUA's webpage on the Internet at http.www@NCUA.gov. Please send comments by one method only.

**FOR FURTHER INFORMATION CONTACT:** Martin ''Sparky'' Conrey, Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518–6540; or Linda Groth, State Program Officer, Division of Supervision, Office of Examination and Insurance, at the above address or telephone: (703) 518–6360.

**SUPPLEMENTARY INFORMATION:**

I. Background and Discussion

*A. General*

In 1977, Section 107 of the Federal Credit Union Act (12 U.S.C. 1757) was amended to authorize federal credit unions (FCUs) to invest in, and make loans to, CUSOs subject to certain funding limits and other regulatory restrictions. The first CUSO rule was promulgated in 1979; the last major revision of this rule was in 1986. In general, the results of the 1986 revision have been very positive. Nonetheless, over ten years of experience with the regulation indicates that there may be a need for additional simplification, clarification, and improvement.

In particular, NCUA is aware that certain business and legal developments make this a good time to review and update the CUSO rule. NCUA staff researched the relevant regulations, guidance, legal interpretations and reporting requirements of NCUA and the other federal financial institution regulators. In addition, NCUA is conducting a review of its regulations pursuant to the Regulatory Reinvention Initiative of the Vice President's National Performance Review and the NCUA Board's Regulatory Relief Project. The purpose of this notice of proposed rulemaking is to identify and request public comment on reducing regulatory burden and increasing the flexibility and usefulness of CUSOs, while ensuring the safety and soundness of FCUs and the National Credit Union Share Insurance Fund (NCUSIF).

In providing comments upon the proposed rule, commenters are requested to keep in mind the needs of small credit unions, especially community development and low-income designated credit unions and their members. CUSOs provide an ideal means for smaller credit unions to expand the types of products and services offered to their memberships, offer economies of scale, enhance members' lives, and increase hours of service and locations, through automated teller machines (ATMs), service centers, and other CUSO services. CUSOs can result in more favorable penetration rates of potential members through availability of financial services that might not otherwise be available and can result in a transfer of knowledge and expertise from larger, full-service credit unions to smaller, more limited service credit unions, which can have long-term positive implications upon safety and soundness. Lately, NCUA has been concerned over some reports that smaller credit unions have been unable to meet minimum investment or other eligibility requirements in order to partake of CUSO services. For this reason, NCUA is weighing various options to increase smaller credit union utilization of CUSO services. One means might be through informal guidance, such as an NCUA Letter to Credit Unions, regarding smaller credit union participation in CUSOs. Another means might be through informal understandings with the CUSO industry regarding possible incentives to be offered to smaller credit unions, such as a reduction in, or waiver of, ordinary transaction charges, or a lowered minimum investment or deposit amount

in order to obtain CUSO services. For example, NCUA is currently reviewing Interpretive Ruling and Policy Statement (IRPS) No. 79–6, Donations/ Contributions, 44 FR 56691 (October 2, 1979) to determine whether restrictions are necessary upon the donative and charitable activity of FCUs to other credit unions. NCUA might also consider express authority for *de minimis* equity investments in community organizations, such as certain CUSOs, as part of the IRPS 79–6 review. Certainly, NCUA is interested in soliciting comments on these, and other, ideas to increase the availability of CUSO services to small credit unions, their members, and their potential members.

NCUA notes that the proposed corporate credit union rule contains a new section on corporate CUSOs that would apply instead of the provisions of the natural person credit union CUSO rule, as is the case currently. Proposed Rule, 61 FR 28085, 28106 (June 4, 1996). Therefore, while any corporate credit unions are welcome to comment on this proposal, such credit unions should keep in mind the possibility that this rule may not apply to their institutions.

*B. Section-by-Section Analysis*

Proposed Section 701.26(b), Credit Union Service Contracts

NCUA solicits comments on whether current section 701.26(b) of its rules should be removed. That section states that when a vendor service contract requires the advance payment of more than 3 months, such payment is deemed an investment in a CUSO subject to section 701.27 of NCUA's rules. Current business practices of many vendors either require such payments or give a discount to the purchasing credit union for paying in advance. Not all vendors are CUSOs, or lend themselves to having the CUSO rule applied to them. NCUA asks whether section 701.26(b) is outdated, imposes regulatory burdens, and is unnecessary. It is proposed to be removed.

Proposed Part 712

In order to assist readers of the CUSO rule, NCUA proposes to remove current section 701.27 and replace it with a new Part 712, which Part is now unoccupied. Since the rule applies to FCUs, but is of much interest to other parties, such as CUSOs and other CUSO investors, it is hoped that by giving CUSOs their own section of NCUA's Rules and Regulations, the rule will be more prominently featured and better known, resulting in increased compliance and in a reduction of NCUA staff time spent interpreting the regulation to interested parties. Raising the rule to a part also results in more convenient citations with fewer subsections. The most noticeable change in proposed Part 712 is the use of a Plain English question and answer format. Plain English is being promoted within the Federal government as a means to increase regulatory comprehension and compliance for users of regulations. An intended consequence of this format, other than anticipated increased compliance, is a lessening of misunderstandings caused by vague or unclear standard regulatory language, which also results in increased administrative efficiency. This revision and redesignation is done in the spirit of regulatory review, reinvention, and renewal. Comment is requested on the use of the Plain English format, or alternative formats that could be used to achieve the goals of the Plain English movement.

Proposed Section 712.1, What does this part cover?

Proposed section 712.1 condenses existing section 701.27(a), Scope, by eliminating statutory citations and a summary of rule requirements contained elsewhere in the rule. No change in the scope of the rule is intended by the proposed amendment.

The term ''affiliated credit union'' is used to represent the spectrum of credit unions that are eligible to make the services of a CUSO available to their membership within the customer base requirements of the CUSO rule. Under the current rule, ''affiliated credit unions'' are those credit unions that either invest in, or lend to, a particular CUSO. FCUs that are not an ''affiliated credit union'' of a CUSO may allow services of that CUSO to be available to their membership through the group purchasing rule. 12 CFR Part 721. The current arrangement has the effect of making members of non-affiliated credit unions count as nonmembers for purposes of the customer base requirements of the CUSO rule. To correct this anomaly, the proposed revision adds to the definition of ''affiliated credit union'' those credit unions that simply contract with a CUSO for provision of services (something currently done under the group purchasing rule), in addition to investor and lender credit unions of the CUSO. The result of this is not to penalize CUSOs for serving members of credit unions that may be permissibly served under the group purchasing rule. Comments are requested on whether this amendment realizes its goal of permitting CUSO services to continue to be provided to credit union members of credit unions not investing in, or lending to, the CUSO without violating CUSO customer base requirements.

In the interests of Plain English, the term ''affiliated credit union'' is shortened to ''you'' in most of Part 712. When a requirement applies only to affiliated credit unions that have loans to, or investments in, CUSOs (e.g., proposed sections 712.2(a-c), 712.3(a-d), 712.4(a), 712.7, and 712.9) or to affiliated credit unions with a 10% equity interest in a CUSO (e.g., proposed section 712.4(b)), the narrowed application is noted in the adjacent rule language. Therefore, readers should be careful to read the term ''you'' in context of surrounding language. ''You'' does not mean all affiliated credit unions at all times in all places.

Proposed Section 712.2, How much can you invest in, or loan to, CUSOs, and what parties may be involved?

The proposed revision would eliminate existing section 701.27(b), Limits imposed by the FCU Act, as being repetitive of other rule provisions. The statutory provisions of the FCU Act are, and would continue to be under the proposal, completely incorporated into other provisions of the CUSO rule. Provisions concerning funding limitations and CUSO parties, currently in section 701.27(d)(1), would be contained in proposed section 712.2.

Proposed Limits on Funding

The funding limitations contained in proposed section 701.2 (a) and (b) are statutory in nature and required by Sections 107(5)(D) and (7)(I) of the FCU Act. 12 U.S.C. 1757(5)(D) and (7)(I). An FCU cannot invest more than one percent of its paid-in and unimpaired capital and surplus in CUSOs. Nor can an FCU loan more than one percent of its paid-in and unimpaired capital and surplus to CUSOs. Paid-in and unimpaired capital and surplus means shares and undivided earnings.

NCUA staff would like to clarify the scope of covered CUSO investments and loans. In the past, NCUA has deemed all of the following to be either loan or investment equivalents in the context of the CUSO rule: standby letter of credit issued by an FCU to cover a CUSO; sale and leaseback transactions; installment sales and other similar equipment financings; payment of CUSO expenses by FCU, such as subsidies; guarantees of CUSO debt or purchase of CUSO debentures; FCU pledge and guarantee of loans from other entities to the CUSO; and FCU spin-off of assets to CUSOs. All of these loan and investment cash

equivalents are used in determining the actual aggregate cash outlay figure.

For compliance purposes, FCUs should generally use the aggregate cash outlay figure in order to compute the regulatory CUSO investment and loan limits. This number would equal the total amount of FCU funds either invested in, lent to, or available to be lent under a line of credit with the FCU to, the CUSO. If an FCU accounts for its CUSO using the cost method consistent with Generally Accepted Accounting Principles (GAAP) and writes down the investment because of other than temporary impairment, the written down amount becomes the new basis and computes into the new aggregate cash outlay figure.

Calculation of the CUSO funding limits is a separate issue from reporting CUSO investments and loans under GAAP. GAAP requires one of three measurement options—the cost method, equity method, or consolidated financial statements—depending upon the degree of ownership an FCU has in a CUSO. FCU financial reporting of CUSO activity should follow GAAP. The definition of ''paid-in and unimpaired capital and surplus'' is unchanged in the proposal from the current definition in section 701.27(c)(4). The content of the provision regarding parties eligible to be CUSO investors or lenders, proposed section 712.2(c), remains unchanged from the current reference in section 701.27(d)(1).

Proposed Section 712.3, What are the characteristics of, and what requirements apply to, CUSOs?

The proposed revision incorporates existing provisions on Structure, currently section 701.27(d)(2), Customer base, currently section 701.27(d)(4), Accounting procedures and access to information, currently section 701.27(d)(7), and Compliance with other laws, currently section 701.27(e), into new section 712.3.

Proposed Structure

For consistency purposes, NCUA proposes to add the limited liability company (LLC) format to the existing permissible CUSO entity structures in proposed section 712.3(a). Definitions for three new terms are proposed to be added to this paragraph, ''corporation,'' ''limited liability company,'' and ''limited partnership.'' The terms ''corporation'' and ''limited partnership'' are meant to clarify existing NCUA interpretations regarding the current, permissible forms of a CUSO. Corporations are creatures of statute, generally formed by a combination of steps, including the filing of articles of incorporation, the drafting and implementation of bylaws, and being capitalized through the issuance of stock and/or bonds. A limited partnership is also a creature of statute, generally formed by filing with the state a certificate of limited partnership. Many limited partnerships also have a limited partnership agreement which details partnership specifics. Similar to both corporations and limited partnerships, an LLC is a noncorporate business in which all of the member-owners have limited liability and in which members can actively participate in management. Generally, an LLC is created by filing articles of organization with the state. Most LLCs also have an operating agreement, which sets forth the managers' and members' rights and obligations and management specifics. In some states, the LLC format provides investors limited liability equivalent to that of the corporation or limited partnership formats. However, in many states the LLC laws have not yet been tested and upheld in the courts, and state laws are not uniform.

NCUA views the lack of LLC law uniformity among the various states as a problem. States have often relied upon uniform acts to provide consistency and promote comity between the various states. For examples, many states have adopted a form of either the Model Business Corporation Act or the Revised Model Business Corporation Act, and most states have adopted either the Uniform Limited Partnership Act or the Revised Uniform Limited Partnership Act. NCUA has had many years of experience with these uniform laws through CUSOs formed in both the corporate format and limited partnership format. However, unlike the uniform corporation and limited partnership laws, the Uniform Limited Liability Company Act (ULLCA), adopted by the National Conference of Commissioners on Uniform State Laws in 1994, has not been adopted by any states.

Other potential negatives also exist. For example, most states permit any LLC member to withdraw from an LLC at any time and receive the fair market value of his or her membership interest. This can trigger a capital crisis or act as a means for LLC members holding larger interests to control other LLC members to the detriment of the LLC. This potential instability may make it harder for the LLC CUSO to attract working capital and talented employees. In addition, most LLC acts specify that each LLC member is entitled to an equal vote on each LLC matter and that each member has full power and authority to act as an agent of the LLC. Most LLC acts, while permitting LLC economic interests to be freely transferable, permit management (voting and agency rights) to be transferable only with the consent of all other LLC members. These unique strictures of the LLC format may lead to management, operational, and accountability problems not seen in the corporate and limited partnership formats. Also, taxation issues regarding a nonprofit, nontaxable entity's investment in an LLC are unclear. NCUA solicits information regarding the likely taxation of a nonprofit, nontaxable entity's investment as an LLC member. In particular, NCUA is interested in reviewing an Internal Revenue Service (IRS) advance ruling regarding this issue. If one does not currently exist NCUA may suspend a resolution of the LLC issue until such an IRS advance ruling does exist.

It is critical that a CUSO be of a proven format that will insulate FCU investors from liabilities incurred by the CUSO. The proposal limits the availability of the LLC format to those states where an FCU can obtain written legal advice that the state of formation's laws will provide limited liability to the investing FCU equivalent to that of a shareholder in a corporation or as a limited partner in a limited partnership. However, comment is requested on other alternative definitions that would provide equal assurance to NCUA of the limited liability available to LLCs in various states. Attention to issues of ease of examination, administrative application, and enforcement should also be paid.

NCUA notes that CUSOs, as state-chartered entities, are subject to relevant federal, state and local taxes. Being taxable entities, CUSOs may take advantage of appropriate tax options, such as electing cooperative tax status in a proper situation.

However, CUSOs will not be permitted to attempt to evade NCUA's statutory and regulatory requirements. For example, the CUSO rule applies to all levels or tiers of a CUSO's structure. Therefore, any entity in which a CUSO invests will also be treated as a CUSO subject to the CUSO rule. In other words, all tiers of a CUSO are also CUSOs. Also, a CUSO will not be permitted to evade the limited liability insulation of the limited partnership format by forming a corporation CUSO to be a general partner of a limited partnership CUSO. Substance over form will control, and NCUA will collapse such a transaction to its essence deeming it the formation of a general partnership CUSO, which is now, and is proposed to remain, impermissible.

Proposed Customer Base

Proposed section 712.3(b) deletes the cross-reference for the definition of ''affiliated credit union'' to the definitions paragraph that appears in current section 701.27(d)(4). The proposed rule has no separate paragraph for definitions; instead, definitions appear next to their first use in the regulatory text. Otherwise, the content of the proposed section 712.3(b) remains unchanged from current section 701.27(d)(4). NCUA is soliciting comments on whether further guidance should be offered on the definition of ''primarily serves'' in the customer base requirement. In the 1986 final CUSO rule preamble, the Board stated that defining the term as a percentage of business or percentage of customers could prove arbitrary. In the past, NCUA's definition of the term ''primarily serves'' has depended upon several variables, such as: type of business(es) provided; number of affiliated members served; gross or net revenues derived from affiliated members; amount of affiliated members' assets under management; number of policies sold to affiliated members; number of services provided to affiliated members; and availability/access of services to affiliated members. Since CUSO permissible services and activities vary so much by business, and since many CUSOs are engaged in multiple permissible services and activities, coming to a simple standard applicable to all lines of business and all CUSOs is problematic. Still, if a simple, equitable standard could be applied, NCUA may not be adverse to using it. In providing comments, commenters are asked to consider the issues of ease of administrative application and enforcement.

Proposed FCU and CUSO Accounting; Access to Information

Proposed sections 712.3(c) and (d) contain no changes from current sections 701.27(d)(7)(i) and (ii). However, NCUA would like to obtain comment on a few aspects of the current rule. First, NCUA is soliciting comments on whether NCUA examination and supervision authority over CUSOs should be strengthened. Both the Office of Thrift Supervision (OTS), which charters and supervises federal savings associations, and the Office of the Comptroller of the Currency (OCC), which charters and supervises national banks, subject their regulated financial institutions' subsidiaries to examination and supervision ''in the same manner and to the same extent'' as the parent financial institution. 12 CFR 5.34(d)(3)(OCC) and 559.3(o)(OTS). NCUA believes that this approach might be superior to the current approach of a contractual right of review in several ways. It would make it easier for NCUA to react quickly and more directly to situations involving CUSO safety and soundness. It would also enable NCUA to better protect the NCUSIF from potential FCU losses due to CUSO losses. Presently, NCUA's main recourse is through threatened divestments or disposals of CUSO interests and loans. NCUA is also concerned that CUSOs performing critical, core functions for affiliated credit unions,[1] may disastrously affect affiliated credit union services if the CUSOs were to fail, suspend services, or experience another situation resulting in discontinuance of services. For example in instances where member transactions flow through the CUSO, credit unions could be at risk of losing much more than the amount of their CUSO investment or loan. However, NCUA realizes that treating CUSOs as an extension of its affiliated credit unions might also have some drawbacks as well. It would be a factor a court could consider in piercing the corporate veil and finding liability over to a credit union investor or lender. It would be a major change from existing practice, which for the vast majority of CUSOs has worked very well. For these reasons, NCUA is interested in public comment regarding the best scope of review or examination and supervision authority of CUSOs.

Commenters are also asked to address issues concerning a middle ground, such as requiring CUSOs to adhere contractually to any conditions in writing imposed upon their business by the NCUA. Currently, both OTS and OCC may impose conditions in writing upon the subsidiaries of their regulated financial institutions. 12 CFR 5.34(d)(4)(OCC) and 559.1(b)(OTS). Another possibility would be to strengthen the existing audit and reporting requirements further, or to require CUSOs to adopt specified policies, procedures, and other internal safety and soundness controls.

Commenters are also requested to comment on whether NCUA should charge a review or examination fee for conducting CUSO supervision activities. Currently, the OTS may assess a subsidiary examination fee. 12 CFR 559.3(o). More intensive CUSO reviews or examinations would require more specialized examiner training and take time to complete. On average, it currently takes at least one week to finish a CUSO review. If all CUSOs were reviewed on a regular basis, it could add a substantial strain on NCUA's budget and resources. A CUSO examination fee would be one means to ensure that the cost for this program would be borne by CUSOs and not all federally insured and federally charted credit unions, many of which do not utilize CUSO services.

Additionally, commenters are reminded that: CUSOs must follow GAAP for financial reporting purposes; affiliated credit unions must follow GAAP or alternative accepted regulatory accounting practices (RAP). Further, CUSOs must obtain audits consistent with generally accepted auditing standards (GAAS). NCUA interprets GAAP to mean compliance with standards of the Financial Accounting Standards Board (FASB) and related hierarchy, and GAAS to mean auditing standards issued by the American Institute of Certified Public Accountants (AICPA), unless otherwise determined by NCUA.

NCUA recommends that a CPA performing an opinion audit of the financial statements of an FCU that uses a CUSO to process transactions consider the guidance in the AICPA's Statement on Auditing Standards (SAS) No. 70, Reports on the Processing of Transactions by Service Organizations, when planning and performing the audit. SAS No. 70 provides guidance

[1] As a point of beginning, NCUA considers the following a list of such critical, core services and activities: (1) Share-related core services. Data processing of share deposits, withdrawals, and other account transactions; Operations conducting member share transactions for credit unions, including service center branches, remote service operations and ATMs; Provision of share account related clerical, professional, or management services; Share draft and deposit posting, sorting and processing; ACH services; Advertising, brokerage, and other services to procure and retain share accounts; Computation and posting of dividends and other credits and charges; Preparation and mailing of share drafts, statements, notices and similar items; (2) Credit-related core services. Data processing of loan applications, evaluations, extensions, collections, and payments; Making, acquiring, servicing, warehousing or otherwise processing member loans or other extensions of credit for a credit union, including consumer loans, credit card loans, mortgage loans, business loans and loan equivalents, such as leasing and indirect lending programs; Operations conducting lending activity for credit unions, including service center branches, remote service operations, ATMs, and loan production offices; Advertising, brokerage, and other services to procure and retain loans; Advising, structuring, and arranging extensions of credit; Provision of credit analysis services; Provision of credit account related clerical, professional, or management services; and (3) Other related core services. General ledger data processing; Management, development, sale or lease of affiliated credit union fixed assets; Record retention, security and disaster recovery services; Provision of investment advice, counseling, or services; Provision of liquidity management, investment, advisory and consulting services; Development and administration of personnel benefit programs, including life insurance, health insurance, and pension and retirement plans.

when an FCU obtains either or both of the following services from a CUSO: (1) executing transactions and maintaining the related accountability; and (2) recording transactions and processing related data. The AICPA recommends SAS 70 reports be completed in CUSO trust companies that invest and hold assets for FCU employee benefit plans; CUSO mortgage bankers that service mortgages for FCUs; electronic data processing (EDP) service centers that process transactions and related data for FCUs; and other situations in which a CUSO develops, provides and maintains the software used by FCUs. The SAS 70 report on policies and procedures placed in operation and tests of operating effectiveness are crucial in keeping FCUs informed of internal control weaknesses of CUSOs performing core functions of the FCU. NCUA requests comment on this approach.

NCUA also clarifies that the current requirement for a CPA audit means an opinion audit and nothing less. The audit must be an audit of the separate CUSO entity and not simply an audit of the FCU's financial statements prepared on a consolidated basis, unless the CUSO is a wholly-owned CUSO. The reason for this longstanding position is that all credit unions investing in the CUSO need to be aware of any potential risks in their CUSO. This clarification reflects current practice and policy.

Compliance with Other Laws

Proposed section 712.3(e) remains unchanged from current section 701.27(e). NCUA has interpreted this requirement to apply not only to laws applicable to the proper maintenance of either corporate or limited partnership format, such as fee, filing and tax requirements, but also to any other laws applicable to the nature of the CUSO's business. For instance, an insurance agency CUSO must comply with state insurance laws and regulations. Any CUSO that classifies as a franchise would need to follow federal and state franchising laws. Any CUSO service center would need to follow all applicable federal consumer protection laws related to its activities, as well as other relevant laws applicable to FCUs, such as those relating to supervisory committee access (12 CFR 701.12–.13); loans to members (12 CFR 701.21); truth in savings (12 CFR Part 707); advertising (12 CFR Part 740); share insurance (12 CFR Part 745); security program, report of suspicious activity, and bank secrecy act compliance (12 CFR Part 748); records preservation and retention (12 CFR Part 749); and relevant bylaw requirements, such as those relating to the confidentiality of member records (Standard Federal Credit Union Bylaws, NCUA Publication No. 8001).

Proposed Section 712.4, What must you and a CUSO do to maintain separate corporate identities?

The proposed revision retains a version of the legal opinion requirement of current section 701.27(d)(3), and adds a requirement that corporate separateness be maintained between the FCU and the CUSO.

Proposed Separate Corporate Existence

The language used in proposed section 712.4(a)(1–6) is borrowed from the OTS rules applicable to federal savings and loan service corporations. 12 CFR 559.10. NCUA currently recommends such operating practices in the NCUA Examiner's Guide, but believes that codifying these guidelines into a rule will help to publicize the practices, provide clear brightlines for compliance, provide continuing guidance during the life of the CUSO, and not carry the drawbacks of solely relying upon the legal opinion requirement. NCUA is not suggesting that a failure to follow one or more or all of such suggested practices by an FCU and its CUSO should cause a court to ignore the separate corporate existence of the CUSO. Nor is NCUA suggesting that attorney involvement is unwise or unnecessary for FCUs contemplating CUSO involvement. Quite to the contrary, NCUA encourages legal, accounting, tax advisor, and other consultant involvement in matters affecting CUSO investments and loans. Legal opinions are important, but may not be sufficient in and of themselves to achieve safety and soundness and continued corporate separateness. However, by following the proposed requirements, an FCU should be able to avoid potential exposure for CUSO obligations. Comment is requested on this approach.

In addition, NCUA has long interpreted the Act to require as minimum coverage that an FCU's fidelity bond provide coverage for the fraud or dishonesty of all employees, directors, officers, and supervisory and committee members. 12 U.S.C. 1766(h); 12 CFR 701.20(c). Some question has arisen as to whether the directors and employees of a CUSO should be covered by the fidelity bond of the FCU investor or lender of the CUSO. This point of law is currently unsettled. After some initial research, it seems that the insurance industry makes a wide variety of insurance products available to CUSOs that are similar to the FCU fidelity bond in coverage. A basic Commercial Crime Policy can include coverage for employee dishonesty, theft, disappearance and destruction, and depositor's forgery. Similarly, mortgage service CUSOs generally must have a bond meeting secondary mortgage market requirements, such as a Financial Institutions Bond Standard Form No. 15 (Mortgage Bankers Blanket Bond Policy). Likewise, a securities brokerage CUSO often will be a member of the National Association of Securities Dealers (NASD), and will meet NASD bonding requirements through a Financial Institutions Bond Standard Form No. 14 (Security Brokers Blanket Bond). NCUA strongly encourages CUSOs to maintain business insurance adequate to meet the CUSO's needs as determined by each CUSO's board of directors and management. At this time, NCUA does not believe that it is necessary to codify any CUSO bonding or insurance requirements, however, commenters are urged to respond as to whether a CUSO bond or insurance requirement is necessary, and, if so, given the variances in CUSO bond or insurance options available, what the requirement should contain and achieve.

Proposed Legal Opinion

In current section 701.27(d)(3), an FCU must obtain a written legal opinion as to whether the CUSO is established in a manner that will limit the FCU's potential exposure to no more than the amount invested in, or lent to, the CUSO. The legal opinion requirement does not require updating as new services are offered, nor does the legal opinion track management practices at a CUSO that could lead to liability exposure to the affiliated credit union. In addition, some credit union attorneys have questioned the implication that the rule requires lawyers to act as guarantors or sureties of a CUSO's correct formation and continued legal existence. To remedy these weaknesses, NCUA proposes to amend the legal opinion requirement to require that the legal opinion be obtained both when a CUSO is established and whenever the CUSO adds a new permissible activity or service that materially affects the CUSO. A legal opinion would also be required if a CUSO converts from one permissible structure, such as a limited partnership, to another permissible structure, such as a corporation. This is in addition to the requirement that separate corporate existence be maintained between the FCU and CUSO and is designed to reduce the potential liability between an FCU and its CUSO investments. In order to reduce the regulatory burden of obtaining legal

opinions, NCUA proposes that legal opinions will only be required for FCUs owning a 10% or greater equity interest in a CUSO. NCUA roughly estimates that this will reduce the number of legal opinions needed by as much as 80%. Comment is requested on the approach, and also the use of 10% as a material threshold for monitoring potential FCU liability exposure through a legal opinion requirement.

Proposed 712.5, What activities and services are preapproved for CUSOs?

Proposed paragraphs (a)–(o) of section 712.5 reorder and recategorize current sections 701.27(d)(5)(i and ii), permissible services and activities, into a more user friendly format and add services and activities deemed permissible by opinion letter since the 1986 rule revision.

Proposed Permissible Services and Activities

The first sentence of proposed section 712.5 is derived from requirements imposed by the OCC and OTS upon bank and thrift subsidiaries. 12 CFR 5.34(d)(3) and 559.1(b). OCC and OTS reserve the right to limit any bank or thrift subsidiary's activities, or to refuse to permit activities, for supervisory, legal, or safety and soundness reasons. NCUA proposes to apply these same requirements to CUSOs. NCUA sees this amendment as a clarification of existing NCUA practice. Currently, NCUA provides interpretations of the parameters of existing permissible CUSO activities through the issuance of legal opinion letters and Regional and Central Office correspondence. As the proposed amendment provides, these current NCUA pronouncements are based upon supervisory, legal, and safety and soundness grounds. The proposed amendment only puts FCUs and CUSOs on notice that NCUA does have the right to interpret the parameters of permissible CUSO services and activities. If transgressions are discovered after the fact, currently NCUA can work with the credit unions and CUSOs involved to arrive at a mutually satisfactory conclusion. In an extreme case, NCUA can order the affiliated credit union to divest its CUSO investment or dispose of its CUSO loan. NCUA may also already exercise these remedies if the normally permissible CUSO services and activities are improperly, imprudently, or recklessly conducted. Therefore, the proposed amendment adds no new powers to NCUA's supervision of affiliated credit unions' CUSO investments and loans. Comment is requested on the addition of the proposed amendment in this context.

NCUA proposes to rearrange the list of permissible activities and services for ease of understanding and citation, and to reflect changes in CUSO activities and services. Since 1986, NCUA has divided all CUSO activities into two categories: operational and financial. However, many of these services and activities are now a combination of both operational and financial services. The proposed change also reflects a return to the 1978 CUSO rule format of listing services by related categories. The proposed categories of permissible services and activities are as follows: checking and currency services; clerical, professional and management services; consumer mortgage loan origination; electronic transaction services; financial counseling services; fixed asset services; insurance brokerage or agency; leasing; loan support services; real estate brokerage services; record retention, security and disaster recovery services; securities brokerage services; shared credit union branch (service center) services; travel agency services; and trust and trust-related services. The category headings are solely descriptive in nature and not meant to convey authority for additional services and activities beyond the specific services and activities listed.

Eight new services, reflecting current NCUA interpretations of existing services, are proposed to be included in the rule revision. First, in proposed paragraph (a)(3), under checking and currency services, NCUA proposes to add ''money order, savings bonds, travelers checks, and purchase and sale of U.S. Mint commemorative coins services.'' Second, in proposed paragraph (b)(2), under clerical, professional and management services, NCUA proposes to add ''courier services.'' Third, in proposed paragraph (b)(4), also under clerical, professional and management services, NCUA proposes to add ''facsimile transmissions and copying services.'' Fourth, in proposed paragraph (b)(10), also under clerical, professional and management services, NCUA proposes to add ''supervisory committee audits.'' Fifth, in proposed paragraph (d)(5), under electronic transaction services, NCUA proposes to add ''electronic income tax filing.'' Sixth, in proposed paragraph (h)(2), under leasing, NCUA proposes to add ''real estate leasing of excess CUSO property.'' This covers real estate leasing only of premises acquired for CUSO business, and otherwise mainly used in CUSO business, that may later be used for future CUSO expansion. Although ''personal property leasing'' and ''real estate leasing of excess CUSO property'' are listed as the only two permissible leasing services in proposed paragraph (h), fixed asset leasing is also permitted, but retained with the other permissible fixed asset activities in proposed paragraph (f)(1). Seventh, in proposed paragraph (k)(2), under record retention, security, and disaster recovery services, NCUA proposes to add ''disaster recovery services.'' Eighth, in proposed paragraph (k)(3), also under record retention, security and disaster recovery services, NCUA proposes to add ''optical imaging, CD-ROM data storage and retrieval services'' to current ''microfilm and microfiche services.'' NCUA believes that these proposed amendments are self-explanatory, and only codify existing permissible services and activities not currently in the rule itself. Comment is requested on both the content and wording of these proposed amendments. In particular, NCUA would like to use terms that keep abreast of current and future technologies to provide CUSOs with operating and market flexibility in accomplishing permissible CUSO services and activities.

NCUA has also received requests to add consumer loan originations to the list of permissible activities. Historically, NCUA has been opposed to this addition. Unlike consumer mortgage loan origination, which requires a specialized lending staff, must follow strict secondary mortgage market rules, and requires economies of scale in order to be viable, consumer loans are relatively easy to offer and process. In addition, NCUA is apprehensive in granting CUSOs authority to provide consumer loans to the general public, as it may be perceived as a dilution of the common bond by Congress and the public. NCUA is also concerned that if member loans were being made by CUSOs, NCUA would have a duty to examine such loans which would lead to stricter NCUA examination authority over CUSOs. However, due to the requests to add it as an additional service, NCUA would like to request comment on adding consumer loan origination as an additional service. Comments detailing needs, benefits, and drawbacks of offering this service outside of the credit union itself are especially solicited. Comments are also solicited on whether consumer loan origination services would be helpful to small, low-income, or community development credit unions. Commenters should address whether consumer loan services should be permissible only for credit unions of

a certain asset size and how such a class should be defined.

CUSOs, according to the FCU Act, are to provide ''services which are associated with the routine operations of credit unions.'' 12 U.S.C. 1757(7)(I). In addition, CUSOs are to be ''established primarily to serve the needs of its member credit unions, and whose business relates to the daily operations of the credit unions they serve.'' 12 U.S.C. 1757(5)(B). In providing these daily, routine services of need to credit unions, CUSOs must avoid investments in depository financial institutions, insurance companies, trade associations, liquidity facilities, and similar entities. 12 U.S.C. 1757(7)(I). In the past, NCUA has interpreted this statutory authority broadly to encompass most services and activities a credit union can provide to itself and its members through use of express authority, incidental authority, or goodwill authority. NCUA feels this interpretation is supported by the language of the FCU Act, which sets forth a clear boundary of CUSO services, namely, services fulfilling credit union and credit union member needs. Nor did Congress purport to limit CUSO activities by cross-reference to statutory FCU powers or by specifically listing CUSO powers in the statute.

With this discussion in mind, two services currently offered by CUSOs have been denied as proper incidental authorities for other financial institutions. The first is the provision of data processing services to the general public *(Nat. Retailer Corp. of Ariz.* v. *Valley Nat. Bank,* 604 F.2d 32 (9th Cir. 1979) and *Ass'n of Data Processing Service Organizations, Inc.* v. *Federal Home Loan Bank of Cincinnati,* 568 F.2d 478 (6th Cir. 1977)) and the second is the provision of travel related services (*Arnold Tours, Inc.* v. *Camp,* 408 F.2d 1147 (1st Cir. 1969) and *Assn. of Bank Travel Bureaus, Inc.* v. *Bd. of Gov. of Federal Reserve System,* 568 F.2d 549 (7th Cir. 1978)). Although NCUA in the past has permitted these two services as permissible CUSO services on a member goodwill basis, NCUA would like to request public comment, thereby creating an administrative record, on whether NCUA's position is supported by fact and justified as a proper agency interpretation. Goodwill services are those services that would normally be neither express nor incidental, but provide services to members that either cannot be conveniently obtained elsewhere or can be provided within the traditional mission of a credit union. For instance, offering vendor services through the group purchase rule could be termed a goodwill activity. By making goods and products available to members that have been reviewed and endorsed by the credit union, members are assured that the offered products and services are legitimate and helpful. Comments relating to member needs of such services would be helpful to the NCUA Board in determining whether sufficient authority exists for the Board to retain these services as permissible CUSO services. In a similar vein, although NCUA currently does permit real estate brokerage services as a permissible service, NCUA has been troubled by cases involving conflicts and the appearance of conflicts between real estate brokerage CUSOs and the credit unions such CUSOs serve. For similar reasons regarding impairment of appraiser independence and possible conflicts of interest, NCUA has declined to add real estate appraisal activities to the list of permissible activities. Comment is also requested regarding the propriety of maintaining real estate brokerage services as a permissible service in a revised rule. NCUA also requests comments regarding any aspects of any other currently allowable, or potentially allowable, CUSO activity or service.

Proposed 712.6, What activities and services are prohibited for CUSOs?

This proposed section restates the statutory prohibition of 12 U.S.C. 1757(7)(I). NCUA legal opinion letters have opined that trade association affiliates and subsidiaries are eligible to form CUSOs with FCUs; however insurance company affiliates and subsidiaries are not so eligible. NCUA bases this difference upon the composition and purpose of the trade association affiliates and subsidiaries, which derive from and benefit the credit unions themselves, as opposed to insurance companies, which are not composed of, or directly benefit, credit unions.

Proposed 712.7, What must you do to add activities or services that are not preapproved?

Current § 701.27(d)(5)(iii) regarding NCUA approval of other activities and services is unchanged in proposed section 712.7. Though it has never been used since its inclusion in 1986, the provision does provide a means for the permissible activities and services portion of the rule to keep pace with changes in the marketplace and technological advances. The terms ''NCUA Board,'' and ''Secretary of the Board,'' have the meanings ascribed to them in Part 790 of the NCUA Rules and Regulations. 12 CFR Part 790.

Proposed 712.8, What transaction and compensation limits might apply to individuals related to you or a CUSO?

Proposed section 712.8 contains conflict of interest provisions between FCUs and CUSOs.

Proposed Conflict of Interest

Section 701.27(d)(6) currently imposes restrictions between an affiliated credit union and a CUSO. The primary purposes of the conflict of interest section is to prevent insider abuse and self-dealing that could lead to losses at the CUSO, affiliated credit unions, and the NCUSIF. It is the responsibility and fiduciary duty of FCU volunteers and employees to make decisions based on the best interests of the FCU and its members. Motivations of personal financial gain from CUSO activities could present an inherent conflict of interest. Such motivations in various CUSO cases have led to personal gain by FCU officials and resulted in FCU losses, occasionally even resulting in the liquidation or merger of the FCU. In addition, CUSO compensation of FCU volunteers could serve as means to subvert the prohibitions on volunteer official compensation contained in the Act. 12 U.S.C. 1761 and 1761a. Moreover, compensation of shared CUSO/FCU officials might be a factor that a court could evaluate in deciding to pierce the corporate veil to expose an affiliated credit union to liability. For these reasons, therefore, NCUA is committed to maintaining strong conflicts of interest provisions between CUSOs and FCUs. In this vein, NCUA is proposing one change to the current language of the rule. Currently, under section 701.27(d)(6)(i), a CUSO may reimburse an FCU for the services of an FCU official or FCU senior management employee used by a CUSO. The ability of a CUSO to reimburse an FCU for the services of FCU officials in the CUSO was orginally permitted to enable newly formed CUSOs to have low cost help. It is possible that this provision might still be needed, especially in the context of smaller credit unions establishing CUSOs. As stated earlier, NCUA wants to encourage increased smaller credit union involvement with CUSO activities and services. On the other hand, NCUA is concerned that reimbursement issues could affect the corporate separateness of a CUSO and an FCU, as well as the other issues discussed in this paragraph. Therefore, NCUA is proposing the elimination of the reimbursement exemption. Comment is requested on this proposed change, especially regarding any

repercussions upon the ability of smaller credit unions in forming and maintaining CUSOs. Comments are also solicited on any other regulatory improvements that would enable NCUA to better police and contain CUSO/FCU conflicts.

The definitions of ''immediate family member,'' ''official,'' and ''senior management employee'' remain unchanged in the proposal from the current definitions in section 701.27(c)(2, 3, and 5).

Proposed 712.9, When must you begin compliance with the revised rule?

Proposed section 712.9 updates the compliance phase-in period of a final revised CUSO rule.

Proposed Preexisting CUSOs.

Other than a proposed change in the date of this section, from May 27, 1986, to the effective date of any final rule, section 701.27(d)(8) remains mostly unchanged in proposed section 712.9. NCUA has experienced one CUSO activity, ATM services, that often began as a service primarily to credit unions, but with ATM network and switch consolidations, arguably does not meet the CUSO rule ''primarily serves'' customer base requirements. In some of these situations, it is NCUA's understanding that an institution must hold stock in the ATM network or switch in order to participate in the ATM network or switch. NCUA does not want to deny credit union members ATM services due to a rule restriction. Therefore, comment is requested on how best to address this situation. Comment is also requested on whether other CUSO activities and services may also be affected by similar trends, and on possible solutions to such situations.

In 1986, when more extensive amendments were adopted, the Board granted CUSOs and FCUs a one-year phase-in period before the amendments would become effective. However, given the more limited scope of these amendments, the Board is proposing an effective date compliance date. Comments are requested on whether more time would be beneficial to CUSOs and FCUs, and, if so, what length of time should be granted by the Board as a phase-in period.

Proposed Section 740.3(c), Mandatory Requirements with Regard to the Official Sign and its Display

Federally-insured credit unions are not permitted to receive account funds at any teller's station or window where any non-federally insured credit union or institution receives shares or deposits. Credit union service centers and branches servicing more than one credit union where only some of the credit unions are insured by NCUA are exempt from this requirement. However, in a service center context a sign is required immediately above or beside each official NCUA sign stating ''Only the following credit unions serviced by the facility are federally insured by the NCUA _____.'' (the full name of each credit union insured is to follow the word NCUA). The lettering is to be of such size and print to be clearly legible to all members conducting share or deposit transactions. The intent of this requirement was to inform credit union members using a service center that share insurance was dependent upon their credit union and not upon the location of their transactions (the service center).

Since this rule was last revised in 1986, the number of states permitting state-chartered credit unions to have non-federal account insurance has shrunk. Currently, non-federally insured credit unions exist primarily in California (13), Idaho (20), Illinois (54), Indiana (21), Maryland (5), Nevada (8), Ohio (129), Puerto Rico (194), and Washington State (71). In order to reduce the paperwork and compliance burdens on service centers, which service mainly federally-insured credit unions, NCUA is proposing to change this disclosure requirement. The proposal only requires disclosure of *non*-federally insured credit unions serviced at a service center. Since there are an estimated 515 non-federally insured credit unions compared to 11,687 federally-insured credit unions, by reversing the disclosure requirement many service centers should experience a compliance and paperwork burden reduction. This disclosure would also accomplish the intent of the current disclosure of informing the credit union members of whether NCUSIF insurance exists on their credit union accounts. While NCUA is aware of the statutorily-mandated disclosures that nonfederally insured credit unions must give to their members (12 U.S.C. 1831t), NCUA is concerned that some member confusion might still exist which might lead the member of a nonfederally insured credit union to believe that his or her deposits were federally insured by the NCUSIF. NCUA requests comments on the need and adequacy of this proposed change.

## II. Regulatory Procedures

### *A. Regulatory Flexibility Act*

The Regulatory Flexibility Act requires the NCUA to prepare any analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small entities (primarily those under $1 million in assets). The proposed CUSO and service contract rule revisions would reduce existing regulatory burdens. The advertising amendment also reduces existing regulatory burden. Therefore, the NCUA Board has determined and certifies that the proposed amendment, if adopted, will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

### *B. Paperwork Reduction Act*

NCUA has determined that several requirements of this proposal constitute collections of information under the Paperwork Reduction Act. The requirements are that the FCU: (1) Obtain a written agreement from the CUSO, prior to investing in or lending to the organization, that the CUSO will follow GAAP, render financial statements (balance sheet and income statement) at least quarterly and obtain a Certified Public Accountant opinion audit annually and provide copies of such to the FCU, and provide NCUA and its representatives with complete access to any books and records of the CUSO as deemed necessary by NCUA in carrying out its responsibilities under the Act (proposed section 712.3(d)); (2) obtain written legal advice if the FCU's equity interest in a CUSO is greater than 10 percent as to whether the CUSO is established and maintained in a manner that will limit potential exposure to no more than the loss of funds invested in, or lent to, the CUSO (proposed section 712.4(b)); and (3) compose a list of non-federally insured credit unions by a service center and post the list by the official NCUA sign (proposed section 740.3(c)). NCUA has submitted a copy of these proposed sections to the Office of Management and Budget (OMB) for its review. These proposed sections enable NCUA to monitor an FCU's involvement with CUSOs for safety and soundness and to ensure that CUSOs are properly formed and maintained in accordance with applicable state laws.

It is NCUA's view that the time a CUSO spends ensuring compliance with GAAP, compiling quarterly financial statements, and providing NCUA and its representatives with complete access to any books and records of the CUSO are not burdens created by this regulation, but rather are usual and customary practices in the normal operations of a business entity. It is also NCUA's view that the written agreement between the CUSO and the FCU is not a burden created by this regulation, but is usual and customary practice in the normal

operations of a business entity. The paperwork burdens created by these rules are the remaining requirements outlined above.

NCUA estimates that it should take the CUSO an average of 2 hours to research and contract to have a Certified Public Accountant opinion audit each year. Since this requirement applies to all 448 CUSOs, the annual reporting burden would be 896 hours to comply with this requirement. It is expected that it would take 15 minutes for each of the 448 CUSOs to provide copies of the audit to NCUA, resulting in an annual reporting burden of 112 hours. NCUA estimates that 482 FCUs would have to research and obtain written legal advice on the CUSO investment, an activity that is expected to take 1 hour per year, imposing annual reporting burden of 482 hours. Each of the 282 service center locations would need to compose and post a list of the non-federally insured credit unions serviced by that location. The estimated time to perform this at each location is estimated to be 0.5 hour for each, resulting in an annual reporting burden of 141 hours. The total annual burden hours imposed by the proposed rule is 1631 hours.

The Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget (OMB) require that the public be provided an opportunity to comment on information collection requirements, including an agency's estimate of the burden of the collection of information.

The NCUA Board invites comment on: (1) Whether the collection of the information is necessary for the proper performance of the functions of NCUA, including whether the information will have practical utility; (2) the accuracy of NCUA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the Federal Register. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the NCUA Board on the proposed regulations.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, D.C. 20503; Attention: Alex Hunt, Desk Officer for NCUA. Comments must also be sent to NCUA, 1775 Duke Street, Alexandria, VA 22314–3428; Attention: Marijean Brown, Acting Paperwork Reduction Act Coordinator, Telephone No. (703) 518–6410; Fax No. (703) 518–6433; E-Mail Address: MARIJEAN@NCUA.GOV. Comments should be postmarked by May 12, 1997. All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, at NCUA's Central Office, 6th Floor, Law Library, 1775 Duke Street, Alexandria, VA between the hours of 9 a.m. and 1 p.m., Monday through Friday of each week except federal holidays, and by appointment through the Law Librarian at telephone no. (703) 518–6540.

*C. Executive Order 12612*

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. The proposed CUSO regulation applies only to federal credit unions. The proposed advertising rule amendment would apply to all federally insured credit unions, including federally insured, state-chartered credit unions. However, due to the relatively low number of credit union service centers that serve non-federally insured credit unions, NCUA has determined that the proposed rule does not constitute a ''significant regulatory action'' for purposes of the Executive Order. However, NCUA welcomes comment on means and methods to coordinate with the state credit union supervisors regarding achievement of shared goals involving viability, flexibility, parity, conformity and safety and soundness regarding CUSOs and service center advertising of accounts.

List of Subjects

*12 CFR Part 701*

Advertising, Aged, Civil rights, Credit, Credit unions, Fair housing, Individuals with disabilities, Insurance, Marital status discrimination, Mortgages, Religious discrimination, Reporting and recordkeeping requirements, Sex discrimination, Signs and symbols, Surety bonds.

*12 CFR Part 712*

Administrative practice and procedure, Credit, Credit unions, Investments, Reporting and recordkeeping requirements.

*12 CFR Part 740*

Advertising, Bank deposit insurance, Credit unions, Reporting and recordkeeping requirements, Signs and symbols.

By the National Credit Union Administration Board on March 7, 1997.

Becky Baker,

*Secretary of the Board.*

For the reasons set forth in the preamble, it is proposed that 12 CFR chapter VII be amended as follows:

## PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

1. The authority citation for Part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1787, 1789, 1798. Section 701.6 is also authorized by 31 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*; 42 U.S.C. 1861 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

### § 701.26 [Amended]

2. Section 701.26 is amended by removing paragraph (b) and removing the paragraph designation (a).

### § 701.27 [Removed]

3. Section 701.27 is removed.

4. Part 712 is added to read as follows:

## PART 712—CREDIT UNION SERVICE ORGANIZATIONS (CUSOs)

Sec.

712.1 What does this part cover?
712.2 How much can you invest in, or loan to, CUSOs, and what parties may be involved?
712.3 What are the characteristics of, and what requirements apply to, CUSOs?
712.4 What must you and a CUSO do to maintain separate corporate identities?
712.5 What activities and services are preapproved for CUSOs?
712.6 What activities and services are prohibited for CUSOs?
712.7 What must you do to add activities or services that are not preapproved?
712.8 What transaction and compensation limits might apply to individuals related to you or a CUSO?
712.9 When must you begin compliance with this part?

Authority: 12 U.S.C. 1756, 1757(5)(D) and (7)(I), 1766, 1782, 1784, and 1785.

### § 712.1 What does this part cover?

This part establishes when you, an affiliated Federal credit union, can

invest in, and make loans to, CUSOs. This part does not regulate CUSOs directly, but rather establishes conditions of your investments in, and loans to, CUSOs. For purposes of this part, ''affiliated credit unions'' means those Federal credit unions that have either invested in, made loans to, or contracted with, a CUSO.

**§ 712.2 How much can you invest in, or loan to, CUSOs, and what parties may be involved?**

(a) *Investments.* Your total investments in CUSOs must not exceed, in the aggregate, 1% of your paid-in and unimpaired capital and surplus as of your last calendar year-end financial report. For purposes of paragraphs (a) and (b) of this section, ''paid-in and unimpaired capital and surplus'' means shares and undivided earnings.

(b) *Loans.* Your total loans to CUSOs must not exceed, in the aggregate, 1% of your paid-in and unimpaired capital and surplus as of your last calendar year-end financial report.

(c) *Parties.* You may invest in, or loan to, a CUSO by yourself, or with other credit unions or with non-credit union parties.

**§ 712.3 What are the characteristics of, and what requirements apply to, CUSOs?**

(a) *Structure.* You can invest in or loan to a CUSO only if the CUSO is structured as a corporation, limited liability company, or limited partnership. For purposes of this paragraph (a), ''corporation'' means a legally incorporated corporation as established and maintained under relevant state law. For purposes of this paragraph (a), ''limited liability company'' means a legally established limited liability company as established and maintained under relevant state law. For purposes of this paragraph (a), ''limited partnership'' means a legally established limited partnership as established and maintained under relevant state law.

(b) *Customer base.* You can invest in or loan to a CUSO only if the CUSO primarily serves credit unions, your membership or the membership of affiliated credit unions.

(c) *Federal credit union accounting.* You must record your investments in or loans to CUSOs in accord with ''generally accepted accounting principles'' (GAAP).

(d) *CUSO accounting; audits and financial statements; NCUA access to books and records.* You must obtain written agreements from a CUSO, prior to investing in or lending to the organization, that the CUSO will:

(1) Follow GAAP;

(2) Render financial statements (balance sheet and income statement) at least quarterly and obtain a Certified Public Accountant opinion audit annually and provide copies of such to you; and

(3) Provide NCUA and its representatives with complete access to any books and records of the CUSO, as deemed necessary by NCUA in carrying out its responsibilities under the Act.

(e) *Other laws.* A CUSO must comply with applicable Federal, state and local laws.

**§ 712.4 What must you and a CUSO do to maintain separate corporate identities?**

(a) *Corporate separateness.* You and the CUSO must be operated in a manner that demonstrates to the public the separate corporate existence of you and the CUSO. Each must operate so that:

(1) Its respective business transactions, accounts, and records are not intermingled;

(2) Each observes the formalities of its separate corporate procedures;

(3) Each is adequately financed as a separate unit in the light of normal obligations reasonably foreseeable in a business of its size and character;

(4) Each is held out to the public as a separate enterprise;

(5) You do not dominate the CUSO to the extent that the CUSO is treated as a department of you; and

(6) Unless you have guaranteed a loan obtained by the CUSO, all borrowings by theCUSO indicate that you are not liable.

(b) *Legal opinion.* If you have a 10% or greater equity interest in a CUSO, you must obtain written legal advice as to whether the CUSO is established and maintained in a manner that will limit your potential exposure to no more than the loss of funds invested in, or lent to, the CUSO.

**§ 712.5 What activities and services are preapproved for CUSOs?**

NCUA at any time may limit any CUSO activities or services, or refuse to permit any CUSO activities or services, for supervisory, legal, or safety and soundness reasons. Otherwise, you may invest in, loan to, and/or contract with those CUSOs that provide one or more of the following activities and services related to the routine, daily operations of credit unions:

(a) Checking and currency services:

(1) Check cashing;

(2) Coin and currency services; and

(3) Money order, savings bonds, travelers checks, and purchase and sale of U.S. Mint commemorative coins services;

(b) Clerical, professional and management services:

(1) Accounting services;

(2) Courier services;

(3) Credit analysis;

(4) Facsimile transmissions and copying services;

(5) Internal audit for credit unions;

(6) Locator services;

(7) Management and personnel training and support;

(8) Marketing services;

(9) Research services; and

(10) Supervisory committee audits;

(c) Consumer mortgage loan origination;

(d) Electronic transaction services:

(1) Automated teller machine (ATM) services;

(2) Credit card and debit card services;

(3) Data processing;

(4) Electronic fund transfer (EFT) services;

(5) Electronic income tax filing;

(6) Payment item processing; and

(7) Wire transfer services;

(e) Financial counseling services:

(1) Developing and administering Individual Retirement Accounts (IRA), Keogh, deferred compensation and other personnel benefit plans;

(2) Estate planning;

(3) Financial planning and counseling;

(4) Income tax preparation;

(5) Investment counseling; and

(6) Retirement counseling;

(f) Fixed asset services:

(1) Management, development, sale or lease of fixed assets; and

(2) Sale, lease or servicing of computer hardware or software;

(g) Insurance brokerage or agency:

(1) Agency for sale of insurance; and

(2) Provision of vehicle warranty programs;

(h) Leasing:

(1) Personal property; and

(2) Real estate leasing of excess CUSO property;

(i) Loan support services:

(1) Debt collection services;

(2) Loan processing, servicing and sales; and

(3) Sale of repossessed collateral;

(j) Real estate brokerage services;

(k) Record retention, security and disaster recovery services:

(1) Alarm-monitoring and other security services;

(2) Disaster recovery services;

(3) Microfilm, microfiche, optical imaging, CD-ROM data storage and retrieval services;

(4) Provision of forms and supplies; and

(5) Record retention and storage;

(l) Securities brokerage services;

(m) Shared credit union branch (service center) operations;

(n) Travel agency services; and
(o) Trust and trust-related services:
(1) Acting as administrator for prepaid legal service plans;
(2) Acting as trustee, guardian, conservator, estate administrator, or in any other fiduciary capacity; and
(3) Trust services.

**§ 712.6 What activities and services are prohibited for CUSOs?**

CUSOs must not engage in the activities or services of depository financial institutions, insurance companies, trade associations, liquidity facilities, and similar entities.

**§ 712.7 What must you do to add activities or services that are not preapproved?**

In order for you to invest in and/or loan to a CUSO that offers the unpreapproved activity or service, you must first receive NCUA Board approval. Your request for NCUA Board approval of a new activity or service should include a full explanation and complete documentation of the activity or service and how that activity or service is associated with routine credit union operations. Your request should be submitted jointly to your Regional Office and to the Secretary of the Board. Your request will be treated as a petition to amend § 712.5 and NCUA will request public comment or otherwise act on the petition within 60 days after receipt.

**§ 712.8 What transaction and compensation limits might apply to individuals related to you or a CUSO?**

(a) *Officials and senior management employees.* Your officials, senior management employees, and their immediate family members must not receive any salary, commission, investment income, or other income or compensation from a CUSO either directly or indirectly, or from any person being served through the CUSO. This provision does not prohibit your officials or senior management employees from assisting in the operation of a CUSO, provided your officials or senior management employees are not compensated by the CUSO. For purposes of this paragraph (a), ''official'' means your directors or committee members. For purposes of this paragraph (a), ''senior management employee'' means your chief executive officer (typically this individual holds the title of President or Treasurer/Manager), any assistant chief executive officers (e.g. Assistant President, Vice President, or Assistant Treasurer/Manager) and the chief financial officer (Comptroller). For purposes of this paragraph (a), ''immediate family member'' means a spouse or other family members living in the same household.

(b) *Employees.* The prohibition contained in paragraph (a) of this section also applies to your employees not otherwise covered if the employees are directly involved in dealing with the CUSO unless your board of directors determines that your employees' positions do not present a conflict of interest.

(c) *Others.* All transactions with business associates or family members of your officials, senior management employees, and their immediate family members, not specifically prohibited by paragraphs (a) and (b) of this section must be conducted at arm's length and in your interest.

**§ 712.9 When must you begin compliance with this part?**

(a) *Investments.* Your investments in existence prior to [the effective date of the final regulation], must conform with this part not later than [the effective date of the final regulation], unless the Board grants its prior approval to continue such investment for a stated period.

(b) *Loans.* Your loans in existence prior to [the effective date of the final regulation] must conform with this part not later than [the effective date of the final regulation], unless:

(1) The Board grants its prior approval to continue your loan for a stated period; or

(2) Under the terms of its loan agreement you cannot require accelerated repayment without breaching the agreement.

## PART 740—ADVERTISING

5. The authority citation for Part 740 continues to read as follows:

Authority: 12 U.S.C. 1766, 1781, 1789 and 4311.

6. Section 740.3(c) is revised to read as follows:

**§ 740.3 Mandatory requirements with regard to the official sign and its display.**

* * * * *

(c) An insured credit union shall not receive account funds at any teller's station or window where any noninsured credit union or institution receives deposits. Excepted from this prohibition are credit union centers, service centers, or branches servicing more than one credit union where only some of the credit unions are insured by the NCUA. In such instances there must be placed immediately above or beside each official sign another sign stating ''The following credit unions serviced by this facility are not federally insured by the NCUA _____.'' (the full legal name of each credit union and the city and state of its principal office will follow the word NCUA each time it appears). The lettering will be of such size and print to be clearly legible to all members conducting share or share deposit transactions.

* * * * *

[FR Doc. 97–6374 Filed 3–12–97; 8:45 am]
BILLING CODE 7535–01–P

## DEPARTMENT OF TRANSPORTATION

## Office of the Secretary

## 14 CFR Part 243

**[Docket No. OST–97–2198, Notice No. 97–4]**

**RIN 2105–AC62**

## Domestic Passenger Manifest Information

**AGENCY:** Office of the Secretary (OST), DOT.

**ACTION:** Advance notice of proposed rulemaking (ANPRM).

**SUMMARY:** This ANPRM requests information concerning operational and cost issues related to U.S. air carriers collecting basic information (e.g., full name, date of birth and/or social security number, emergency contact and telephone number) from passengers traveling on flights within the United States. This proposal is being issued pursuant to the Aviation Disaster Family Assistance Act of 1996. This law was passed to address the difficulties associated with notification of families in the aftermath of domestic aviation crashes. This proposal is also being issued to fulfill a recommendation contained in the Initial and Final Reports of the White House Commission on Aviation Safety and Security that urges the Department to explore the costs and effects of a comprehensive passenger manifest requirement on the domestic aviation system.

**DATES:** Comments must be received by May 12, 1997.

**ADDRESSES:** Comments on this advance notice of proposed rulemaking should be filed with: Docket Clerk, U.S. Department of Transportation, Room PL–401, Docket No. OST–97–2198, 400 7th Street, SW., Washington, DC 20590. Five copies are requested, but not required.

**FOR FURTHER INFORMATION CONTACT:** Dennis Marvich, Office of International Transportation and Trade, DOT, (202) 366–4398; or, for legal questions, Joanne

Petrie, Office of the General Counsel, DOT, (202) 366–9306.

**SUPPLEMENTARY INFORMATION:** The Department of Transportation is requesting comment on cost and operational issues related to compiling more complete passenger manifests in domestic air transportation.

The Problem

Families and loved ones of the victims of aviation disasters want to know, as quickly as possible, whether their family member was on board the flight. There have, however, been difficulties in the aftermath of past aviation disasters in immediately determining who was on the airplane and in notifying family members. Air carriers usually have on hand records that identify those passengers that actually boarded the aircraft listed by their surnames and first initials, and these records must be matched with associated ticket information in order to compile a verified manifest. The search then begins for additional information to determine the full name of the passengers on the verified manifest, and for information that could identify family contacts. Passenger information that could identify family contacts may not be immediately accessible to the airline if the passenger made his or her reservation through a travel agent (as we understand about 75 percent do). Information from inquiries received by the air carrier from individuals that think that a family member may have been on board the flight is accumulated and used in the search. As sufficient information accumulates, the families of passengers are notified on a rolling basis, and those for whom more information may be available and accessible, such as passengers with frequent flyer accounts, usually would be notified first. All of the procedures leading to family notification outlined above take time. Congress has placed a renewed emphasis on notification and other issues involving the treatment of families of victims of aviation disasters in recent legislation and the White House Commission on Aviation Safety and Security reinforced Congress' concern in its recommendations. The purpose of this advance notice of proposed rulemaking is to gather information to help DOT determine what, if any, regulatory actions it should take to address the problem of quickly notifying the families of victims of domestic aviation disasters.

Statutory Authority

The Aviation Disaster Family Assistance Act of 1996 (Pub. L. 104–264, October 9, 1996) was passed to address the difficulties of the notification of families in the aftermath of domestic aviation crashes. It directs the Secretary to form a task force to, among other things, improve the timeliness of the notification provided by air carriers to the families of passengers involved in an aircraft accident. Further, one section of the Act, codified at 49 USC 41113, requires an air carrier to develop a plan for addressing family needs in the event of a major crash, including providing a list of passengers to the NTSB. This ANPRM will provide information to the task force needed to make the recommendations required in the legislation.

Finally, the Office of the Secretary (OST) has broad regulatory authority to ensure safe and adequate service in aviation. 49 USC 41702 provides that ''[a]n air carrier shall provide safe and adequate interstate air transportation.'' The Office of the Secretary has broad rulemaking powers under 49 USC 40113 to ''take action the Secretary * * * considers necessary to carry out this part, including * * * prescribing regulations, standards, and procedures, and issuing orders.''

The Secretary also has broad authority to prescribe reporting and record-keeping requirements. 49 USC 41708 provides that ''the Secretary may require an air carrier or foreign air carriers to file annual, monthly, periodical, and special reports with the Secretary in the form and the way prescribed by the Secretary.'' 49 USC 41709 further provides that the Secretary shall prescribe the form of records to be kept by an air carrier and that the Secretary may inspect those records at any time. 49 USC 41711 provides that the Secretary ''may inquire into the management of the business of an air carrier and obtain from the air carrier, and a person controlling, controlled by, or under common control with the carrier, information the Secretary decides reasonably is necessary to carry out the inquiry.'' In terms of enforcement, the Secretary has broad authority under 49 USC 46301, 46310 and 46316 to assess appropriate civil and criminal penalties for failure to comply with regulations.

Related DOT Requirements

14 CFR 121.693(e), which is administered by the Federal Aviation Administration (FAA), requires certificated operators of large aircraft to collect passenger names for each scheduled and charter flight. The provision does not, however, require full name of passengers or additional information such as phone number of emergency contact. The provision further states that the aircraft load manifest must include passenger names ''unless such information is maintained by other means'' by the carrier. In most cases, carriers use other means such as the ticket lift. In addition, in recent years, air carriers have begun to routinely check identification for every passenger. There is currently no requirement that airlines record or copy information from this identification into their records.

Regulatory History

*Aviation Disasters Outside the United States*

The problems of passenger identification and family notification after an aviation tragedy that occurred outside the United States first gained widespread attention after the tragic bombing of Pan American Flight 103 over Lockerbie, Scotland on December 21, 1988. The President's Commission on Aviation Security and Terrorism made recommendations concerning passenger manifests in international air travel, part of which Congress enacted as section 203 of Public Law 101–604 (49 USC 44909). This section provides that:

> the Secretary of Transportation shall require all United States air carriers to provide a passenger manifest for any flight to appropriate representatives of the United States Department of State (1) not later than 1 hour after any such carrier is notified of an aviation disaster outside the United States which involves such flight; or (2) if it is not technologically feasible or reasonable to fulfill the requirement of this subsection within 1 hour, then as expeditiously as possible, but not later than 3 hours after such notification.

The statute requires that the passenger manifest information include the full name of each passenger; the passport number of each passenger, if a passport is required for travel; and, the name and telephone number of an emergency contact for each passenger. The statute further notes that the Secretary of Transportation shall consider the necessity and feasibility of requiring United States carriers to collect passenger manifest information as a condition for passenger boarding of any flight subject to the passenger manifest requirements. Finally, the statute provides that the Secretary of Transportation shall consider a requirement for foreign air carriers comparable to that imposed on U.S. air carriers.

DOT published an advance notice of proposed rulemaking (ANPRM) on January 31, 1991 (56 FR 3810) that requested comments on how best to

implement the statutory requirements. During the course of President Bush's ''Regulatory Moratorium and Review'' in 1992, DOT requested comments on its regulatory program and received several additional comments on the passenger manifest information requirement. Many of the comments received in response to the ANPRM and the Regulatory Moratorium and Review indicated that implementing a passenger manifest requirement would be very costly. In light of these and other comments, and the fact that aviation disasters occur so infrequently, DOT continued to examine whether there was a low-cost way to implement a passenger manifest requirement.

When American Airlines Flight 965, which was flying from Miami to Cali, Colombia, crashed near Cali on December 20, 1995, there were significant delays in providing the State Department with a complete passenger manifest. On March 29, 1996, DOT held a public meeting on implementing the statutorily-mandated passenger manifest requirement. The notice announcing the public meeting (61 FR 10706, March 15, 1996) listed ten questions concerning information availability and current notification practices, privacy considerations, similar information requirements, information collection techniques, and costs of collecting passenger manifest information, and formed the focus of the meeting. The meeting was attended by approximately 80 people, and discussion lasted nearly 5 hours and covered a wide variety of topics. At the end of the meeting, it was the consensus that one or more working groups headed by the Air Transport Association would be formed to further explore some of the issues raised.

On September 9, 1996, Vice President Al Gore submitted an initial report to President Clinton from the White House Commission on Aviation Safety and Security. Among the twenty recommendations contained in the report was a recommendation to improve passenger manifests. Recommendation 15 states:

> The Commission believes that Section 203 of the 1990 Aviation Security Improvement Act, which requires airlines to keep a comprehensive passenger manifest for international flights, should be implemented as quickly as possible. While Section 203 does not apply to domestic flights, the Commission urges the Department of Transportation to explore immediately the costs and effects of a similar requirement on the domestic aviation system.

The Final Report of the Congress, issued February 12, 1997, contained the same recommendation.

On September 10, 1996, DOT published a notice of proposed rulemaking (61 FR 47692) that proposed to require that each air carrier and foreign air carrier collect basic information from specified passengers traveling on flight segments to or from the United States. U.S. carriers would collect the information from all passengers and foreign air carriers would only be required to collect the information for U.S. citizens and lawful permanent residents of the United States. The information would include the passenger's full name and passport number and issuing country code, if a passport were required for travel. Carriers would be required to deny boarding to passengers who do not provide this information. In addition, airlines would be required to solicit the name and telephone number of a person or entity to be contacted in case of an aviation disaster. Airlines would be required to make a record of passengers who decline to provide an emergency contact. Passengers who decline to provide emergency contact information would not, however, be denied boarding. In the event of an aviation disaster, the information would be provided to DOT and the Department of State to be used for notification. DOT proposed to allow each airline to develop its own procedures for soliciting, collecting, maintaining and transmitting the information. The notice requested comment on whether passenger date of birth should be collected, either as additional information or as a substitute for required information (e.g. passport number/passport number and issuing country code), and on whether U.S. airlines should be required to collect country of citizenship from passengers on flights where a passport is not required for travel. Were the proposed rule in effect in 1994, about 72 million passenger (one-way) trips on flights to and from the United States would have been covered, and, based on this number of annual passenger trips, DOT estimated in the notice that collecting passenger manifest information, excluding date of birth information, would cost about $28 million to $45 million per year for air carriers, travel agents, and passengers (passengers'' cost is for passengers'' time foregone). One-time costs to reprogram air carrier computer reservations systems (CRSs) and departure control systems (DCSs) were estimated to be about $30.5 million. The cost per passenger one-way trip was estimated to range between about $0.39 and $0.63, and the cost of an enhanced notification of a family under the proposed rule, on a per victim basis, was estimated to range between about $238,000 and $364,000. The comment period for the NPRM closed on November 12, 1996.

Domestic Aviation Disasters

The welfare of families in the aftermath of domestic aviation disasters, such as those that occurred in Charlotte, NC, Aliquippa, PA, and Roselawn, IN, in 1994, and in Miami, FL, in 1996, has been a concern of DOT. Representatives of DOT have visited domestic crash sites, met with family members of victims, and worked with air carriers and with other interested U.S. Government agencies on the issues that arise in the aftermath of an aviation disaster.

The treatment of the families of victims in the aftermath of the ValuJet Flight 592 aviation disaster on May 11, 1996, in which 105 passengers perished, prompted a Congressional hearing on June 13, 1996, before the House Aviation Subcommittee on the ''Treatment of Families of Victims After ValuJet 592''. The hearing dealt with procedures and coordination in the aftermath of the ValuJet aviation disaster in Miami specifically, and domestic aviation disasters generally, including the notification of the families of victims. During the hearing, members of Congress made several points regarding notification of victims'' families of aviation disasters. One said that in the aftermath of a crash three things needed to be known: (1) was a family member on the flight?; (2) was he or she alive?; and (3) could family members get to the site? This Member said that perhaps manifests needed to be within the purview of the U.S. Government and that it seemed that airlines ought to know who is on a flight of any substantial length. Another Member said that many of the same types of problems mentioned in the hearing were explored in detail in the aftermath of the 1988 Pan Am 103 aviation disaster over Lockerbie, Scotland; that a study commission was put together; and that the results of the study commission were contained in the ''Report of the President's Commission on Aviation Security and Terrorism'' and were put into law in the Aviation Security Improvement Act of 1990 (Pub.L. 101–604). This Member said that Public Law 101–604 should be examined to see how it could be adapted to domestic crashes. Later, this Member said that it was understood that there would be costs of having good manifest information on hand, but that the financial burdens must be faced up to by the airlines. A third Member

wanted airlines to work on getting a manifest quickly. One of the family members who testified said that it was distressing to not know who was on the plane, in terms of the suffering of the family members of victims, but also in terms of thinking of the security risks to U.S. borders from not knowing. This family member went on to say that airlines know with certainty the identities of about 75 percent of passengers on international flights, and about 60 percent on domestic flights. This witness said that, as a frequent flyer, the airlines maintain much personal information on the witness, and that if the airlines had incentives to do so, they would be able to access frequent flyer information in the aftermath of crashes.

On July 17, 1996, TWA Flight 800, which was flying from New York to Paris, went down off Long Island, New York. There were 230 passenger fatalities. Local government officials publicly commented on difficulties in determining exactly who was on board the flight and in compiling a complete, verified manifest. (Although this was an international flight, the crash occurred in U.S. territorial waters and, therefore, the Department of State had no specific role in family notification and facilitation for U.S. citizens.)

The TWA Flight 800 accident focused attention on the security aspects of air transportation and dramatized the problems related to prompt notification. After the crash, there were a series of Congressional hearings on the need for increased security on the U.S. domestic and international air systems. On July 25, 1996, President Clinton promised that ''we will require pre-flight inspections for any plane flying to or from the United States—every plane, every cabin, every time.'' The next day the FAA issued the directives to make this happen, and today the FAA and the airlines are doing it.

The White House Commission on Aviation Safety and Security was formed by E.O. 13015 of August 22, 1996, to advise the President on matters involving aviation safety and security, both domestically and internationally. It was directed to recommend to the President a strategy designed to improve aviation safety and security, both domestically and internationally. During the course of deliberations by the White House Commission on Aviation Safety and Security, and in other fora mentioned above, families of past victims of aviation disasters were able to discuss the problems associated with the post-aviation-disaster notification of and continuing communication with the families of victims of aviation disasters.

As mentioned above, Vice President Al Gore transmitted the Initial Report of the White House Commission on Aviation Safety and Security to President Clinton on September 9, 1996. Recommendation 15 of the Initial Report states, in part:

> * * * the Commission urges the Department of Transportation to explore immediately the costs and effects of a similar [passenger manifest] requirement on the domestic aviation system.

The President accepted the recommendations contained in this initial report, and on September 9 issued a Memorandum on the Assistance to Families Affected by Aviation and Other Transportation Disasters to the Secretaries of State, Defense, Health and Human Services, and Transportation, the Attorney General, and the Chairman of the National Transportation Safety Board (NTSB). The Memorandum invests NTSB with the clear responsibility, authority, and capacity to assist families of passengers involved in domestic disasters not determined to be criminal. Pursuant to the recommendation above, the purpose of this ANPRM is to request comment on cost and operational issues related to collecting more complete passenger manifest information in domestic air transportation.

The Aviation Disaster Family Assistance Act of 1996, passed following Congressional hearings on the treatment of families of victims of aviation disasters, requires the Department to submit a report to Congress on the subject. The information the DOT seeks in this ANPRM will allow DOT to analyze the data and submit the required report.

*Overview: Passenger Manifests and the Domestic Air Transportation System*

The United States leads the world in innovations within its domestic air transportation system. It was the first country to introduce widespread deregulation within its domestic air transportation system, and the overall efficiency of the U.S. system is held up as an example to other countries. The efficiency of the U.S. domestic air transportation system results in low fares, which enable more passengers to travel by air, the safest mode of travel. To achieve these results, the U.S. domestic air transportation system has evolved into one that generally requires precise coordination and timing of operations. In this evolved system, air carriers employ often hub-and-spoke networks in which connecting traffic is fed at hub airports either to the originating carrier (on-line service) or to affiliated carriers (intraline service), engage in point-to-point service operations (including shuttle services) that employ fast turnarounds, and (much less frequently) offer services that connect with one or more different airlines (interline service).

The U.S. domestic aviation passenger market was served in 1995 by nine major air carriers, 21 national air carriers, 12 large regional air carriers, and 132 medium regional air carriers. Of the 132 medium regional air carriers, 18 used large aircraft seating over 60 passengers and 114 used small aircraft seating less than 60 passengers. (The latter can, alternatively, be classified as commuters). The air carriers listed above enplaned about 541 million passengers in 1995. In addition to enplanement data, data on passenger origins to destinations on the larger carriers listed above are also available. Such data subsume the fact that a single passenger trip may involve more than one flight segment, and, for 1995, show that about 358.5 million domestic passenger trips took place on the U.S. domestic aviation system. The number of aircraft departures for the carriers identified above in 1995 was about 10.8 million.

To complete the picture of the U.S. domestic aviation system, we estimate that, in addition to the 174 carriers identified above, there were about 3100 charter air taxis operating in the U.S. domestic market in 1995. Data on the operations of these charter air taxis are not systematically kept, however, and are not provided here or included in any of the figures given above.

Economic Considerations

This rulemaking is significant under E.O. 12866 and the Department of Transportation's regulatory policies and procedures because of public and Congressional interest associated with the potential rulemaking action. It is anticipated that an eventual rule will impose costs of more than $100 million per year on air carriers, travel agents, and passengers, and thus will be a major rulemaking. The ANPRM has been reviewed by the Office of Management and Budget under E.O. 12866.

For purposes of this ANPRM, DOT has developed initial estimates of the costs of a domestic passenger manifest information requirement. These estimates were derived by modifying for the present (domestic) case the underlying economic model that was used to estimate the costs of a proposed passenger manifest information requirement on flights to and from the

United States (as mentioned above, the NPRM was published on September 10, 1996 [61 FR 47692]). A copy of the Preliminary Regulatory Evaluation, which goes into detail regarding the methodology used there, is available in DOT Docket OST 95–950.

In the estimates below, no fixed costs are included. None are included primarily in order to avoid possible double counting of fixed costs regarding compliance with international and domestic passenger manifest information requirements. That is, it may be that the modifications to air carrier computer reservation systems (CRSs) and departure control systems (DCSs) that would be required to comply with any DOT final rule regarding international passenger manifest information will also allow many air carriers to comply with a domestic passenger manifest information with few or no additional modifications and costs.

Two sets of estimates will be given for the domestic case. In the first, it is assumed that passenger manifest information is collected from each passenger (either once or twice per round trip) each time that the passenger travels. In the second, this same assumption applies to non-frequent-flyer passengers. For frequent flyers, however, it is assumed that air carriers maintain full passenger manifest information in their files, and that when a frequent flyer travels, the air carrier needs only to confirm the passenger manifest information once per round trip. It is assumed that one-half of all domestic trips are taken by frequent flyers.

In both sets of estimates, it is assumed that passenger manifest information consists of four pieces of information (passenger full name, date of birth or social security number, contact name and contact telephone number). It is assumed that it would take air carriers or travel agents ten seconds to solicit and collect each of the four pieces of information at the time of either reservation or check-in, two seconds to just solicit each piece of information at the time of reservation, and five seconds to verify each piece of information for frequent flyers at the time of reservation. The number of passenger trips based on origin to destination data, 358.5 million, is used in the estimates. In so doing, the implicit assumption is being made that domestic passenger manifest information can be costlessly shared among any carriers that are involved in a single passenger trip.

DOT estimates that for the case (Case 1), where it is assumed that domestic passenger manifest information is collected from each passenger (either once or twice per round trip) each time that the passenger travels, that the total annual recurring costs of a domestic passenger manifest requirement would be between $108.7 and 217.5 million. These costs would break down as follows: air carriers $18.9 to 37.9 million per year, travel agents $13.1 to 26.2 million per year, and passengers (the value of time forgone while providing information) $76.7 to 153.3 million per year. The first year cost (without any fixed cost included) for Case 1 would be $103.8 to 207.6 million. The present value over ten years of the costs for Case 1 would be $701.5 million to 1.4 billion.

DOT estimates that for the case (Case 2), where it is assumed that one-half of all domestic passenger trips are taken by frequent flyers and air carriers maintain full passenger manifest information in their files for frequent flyers and only need to confirm the passenger manifest information once per round trip, that the total annual recurring costs of a domestic passenger manifest requirement would be between $79.1 and $158.2 million. These costs would break down as follows: air carriers $11.3 to 22.6 million per year, travel agents $12.0 to 24.1 million per year, and passengers (the value of time forgone while providing information) $55.8 to 111.5 million per year. The first year cost (without any fixed cost included) for Case 2 would be $75.5 to 151.0 million. The present value over ten years of the costs for Case 1 would be $510.1 million to 1.0 billion.

According to aviation accident statistics available on-line from the National Transportation Safety Board, over the past 10 years there have been 1,156 passenger fatalities on the types of carriers included in the costs above—all domestic air carriers except for on-demand air taxis. Dividing the present value of the costs of a domestic passenger manifest requirement by the number of these fatalities gives the cost, on a per-victim basis, of the enhanced notifications of families that could be expected from implementing a domestic passenger manifest information requirement. For the passenger manifest information requirement in Case 1 above, this figure is $606,800 to $1.2 million. For the passenger manifest information requirement in Case 2 above, this figure is $441,300 to $882,700.

Another perspective on the costs of a domestic passenger manifest information requirement can be provided by dividing the recurring costs of the requirement by the number of annual passenger trips taken, as if passengers would end up paying all the costs of such a requirement. The cost per one-way passenger trip for Case 1 above is $0.30 to 0.61 and for Case 2 it is $0.22 to $0.44. These numbers would double if the calculation were being performed for round trips.

Finally, changes in the amount of time that it is assumed to take to collect passenger manifest information have large implications for the figures given above. The following are sensitivity analyses of Case 1 and Case 2 based on varying the time to solicit and collect each piece of passenger manifest information from 10 to 15 seconds. The time to just solicit each piece of information varies as one-fifth of the amount of time to both solicit and collect it, and the time to confirm frequent flyer information varies as one-half of the time to both solicit and collect it. Headings in the table are the total time to solicit and collect all four pieces of passenger manifest information. The low and high estimates are for situations where passenger manifest information is collected one and two times per round trip, respectively. In Case 2, it is always assumed that frequent flyer information is confirmed only, and that this is done once per round trip.

| Type of cost | Seconds to solicit and collect passenger manifest information | |
|---|---|---|
| | 40 sec. | 60 sec. |
| **Case 1** | | |
| Annual Recurring (low) | $108.7 mil | $163.1 mil. |
| Annual Recurring (high) | 217.5 mil | 326.2 mil. |
| US Air Carriers (low) | 18.9 mil | 28.4 mil. |
| US Air Carriers (high) | 37.9 mil | 56.8 mil. |
| Travel Agents (low) | 13.1 mil | 19.7 mil. |

| Type of cost | Seconds to solicit and collect passenger manifest information | |
|---|---|---|
| | 40 sec. | 60 sec. |
| Travel Agents (high) | 26.2 mil | 39.4 mil. |
| Passeng. time (low) | 76.7 mil | 115.0 mil. |
| Passeng. time (high) | 153.3 mil | 230.0 mil. |
| Per enhanced notification (low) | 606,900 | 910,300. |
| Per enhanced notification (high) | 1,213,700 | 1,820,600. |
| Per one-way trip (low) | 0.30 | 0.46. |
| Per one-way trip (high) | 0.61 | 0.91. |
| **Case 2** | | |
| Annual Recurring (low) | 79.1 mil | 118.6 mil. |
| Annual Recurring (high) | 158.2 mil | 237.2 mil. |
| US Air Carriers (low) | 11.3 mil | 16.9 mil. |
| US Air Carriers (high) | 22.6 mil | 33.9 mil. |
| Travel Agents (low) | 12.0 il | 18.0 mil. |
| Travel Agents (high) | 24.0 mil | 36.1 mil. |
| Passeng. time (low) | 55.8 mil | 83.6 mil. |
| Passeng. time (high) | 111.5 mil | 167.3 mil. |
| Per enhanced notification (low) | 441,300 | 662,000. |
| Per enhanced notification (high) | 882,700 | 1,324,000. |
| Per one-way trip (low) | 0.22 | 0.33. |
| Per one-way trip (high) | 0.44 | 0.66. |

Questions

In this ANPRM, DOT is interested in gathering up-to-date information on how it could implement a domestic passenger manifest information requirement so that U.S. air carriers can achieve the most effective transmission of information after a domestic aviation disaster at a cost that the general public and the aviation community will find reasonable. We would appreciate additional information in the form of answers to the following questions upon which to base our proposal. For clarity, we request commenters to note the question number in their response.

1. Basic Approach

This ANPRM envisions that both certificated and non-certificated (e.g., air taxis) U.S. passenger direct air carriers and indirect air carriers would compile passenger manifest information for all passengers on all domestic flight segments in the United States. The rule would apply to ''air transportation'' as defined in 49 USC 40102, and not to general aviation. Passengers would be defined broadly to include confirmed, ticketed passengers as well as standbys, walk-ups, lap infants, those rerouted from another flight or air carrier, and non-revenue passengers. At this time, we expect that the domestic passenger manifest information would consist of passenger: (1) full name; (2) date of birth (DOB) *or* social security number (SSN); (3) contact name; (4) contact telephone number. Further, we envision the information would be transmitted to the Department of Transportation and the National Transportation Safety Board as soon as possible, but no later than three hours, after the aviation disaster. Please comment on the various elements of this approach. What is the difference in providing the information to DOT and the NTSB in one hour versus three hours?

*2. Information Requirements and the Capacity of Computer Reservations Systems*

Our understanding is that air carriers often only collect passenger last name and first initial for the manifest. By element, or overall for all elements, how long would it take to collect the additional passenger information that is outlined here? What are the practical implications of collecting the information outlined above, in particular DOB and SSN? Are any of the information elements substitutes for each other? Should passengers that refuse to provide domestic passenger manifest information be denied boarding? Were a domestic passenger manifest information requirement to be imposed, where would the information in practice be collected, at the time of reservation or at the time of check-in? Do Computer Reservation Systems (CRSs) have the capacity to hold the information that would be required by a domestic manifest information requirement? In considering the capacity of CRSs, is it more productive to think in terms of domestic passenger enplanements (e.g., 541 million in 1995) or domestic passenger trips based on origins to destinations (e.g., 385.5 million in 1995)?

*3. Frequent Flyer Information and a Domestic Passenger Manifest Information Requirement*

We understand that more extensive passenger information is kept on hand for frequent flyers, and that frequent flyers account for over one-half of all passengers traveling on the domestic operations of some U.S. air carriers. Are any of the information elements outlined above, as a matter of course, kept on hand for frequent flyers today? If so, which ones? Could the information above be added to existing frequent flyer information? Could frequent flyer information be accessed quickly in the aftermath of a domestic aviation disaster and, assuming passenger information similar to that outlined above were kept as part of frequent flyer information, be used to satisfy the requirements of a domestic passenger manifest information requirement?

*4. Privacy Considerations and Fraud Issues*

What privacy issues are raised by a domestic passenger manifest information requirement as outlined above? Will manifest information be subject to subpoena by private litigants and law enforcement agencies? What fraud issues, if any, are raised by implementing the above domestic passenger manifest information requirement? What are the implications for personal privacy that would result if air carriers were required to collect any of the following information from passengers: full name, date of birth, social security number, emergency contact and phone number? What types

of safeguards, if any, should be placed upon the passenger manifest information that is collected by air carriers?

*5. Coverage of Domestic Passenger Manifest Information Requirement and the Differing Implications, if Any, for Different Types of Air Carriers That Would be Covered*

We envision that all U.S. passenger air carriers and charter operators would be covered by a domestic passenger manifest information requirement: scheduled and charter air carriers, as well as air taxis and commuters. Are there categorically differing implications of imposing a domestic passenger manifest information requirement on these different types of carriers that are not taken into account elsewhere within these questions? If so, what are they?

*6. Sharing of Domestic Passenger Manifest Information Within and Among Air Carriers*

As outlined above, we envision that all air carriers would be covered by a domestic passenger manifest information requirement. That is, scheduled and charter air carriers would be covered, as would air taxis and commuters. Moreover, passenger manifest information would be expected to be on hand for passengers journeys from beginning to end. Thus, passenger manifest information for the various legs of a journey could need to be shared internally within one air carrier (e.g. among, perhaps, various air carrier information systems including carrier internal reservations systems and Departure Control Systems [DCSs] and external Computer Reservation Systems [CRSs]), or among more than one carrier for code-share flights and interlined flights. Please specify in detail for each case how such information sharing would be accomplished, and outline any practical difficulties involved in such intra or intercarrier sharing of passenger manifest information? Indicate how such sharing would take place through domestic air carriers' Computer Reservation Systems (CRSs)? Could it be accomplished within existing CRS configurations or would the systems need to be changed and what would the changes consist of (be precise and concise in describing the changes and please present them in layman's language)? If changes would need to be made, please provide an estimate of the work that would be required to modify the CRSs and the cost to do so (break out specifics of any cost figures given).

*7. Implications for Different Types of Air Carrier Operations (Point-to-Point) and the Current Frequency of Flights*

The obvious implication of adding a domestic passenger manifest information requirement is that it would take time to collect passenger information, and that if the information were not collected before a passenger arrived at the airport, there could be implications for existing flight schedules. What effect would implementing a domestic passenger manifest information requirement along the lines outlined above have upon check-in deadlines and minimum connecting times? Domestic air carrier operations can be conceptualized as being either point-to-point or hub-and-spoke, with shuttle operations constituting a high-frequency sub-case of point-to-point operations. How would imposing a passenger manifest information requirement as outlined above affect air shuttle operations where passengers walk up to the flight without prior contact with the air carrier? Some air carriers have structured their operations around very high frequencies of flights that employ very fast airport turnarounds (some in the neighborhood of 20 minutes). How would imposing a passenger manifest information requirement as outlined above affect such air carriers with very high frequencies of flights or those with very fast turnarounds? How would imposing a passenger manifest information requirement as outlined above affect hub-and-spoke air carriers operations and current times for connecting banks of flights? What would be the primary considerations for charter air carriers? How would the information be collected on a charter where the airline operates the flight but the charter operator sells the seats? Which party should be required to produce the manifest in the event of an aviation disaster?

*8. Interactions Between Domestic Positive Baggage Matches and a Domestic Passenger Manifest Information Requirement*

If a positive baggage match system is implemented for U.S. domestic flights, and a domestic passenger manifest information requirement is also implemented, what, if any, interactions could be expected? Similarly, if security profiles are developed on some passengers, what, if any, interactions could be expected? Would implementation of a positive baggage match system, on its own, result in passengers being asked to report earlier to the airport for domestic flights than has been the case in the past? If a positive baggage match system were implemented and a domestic passenger manifest requirement were also implemented, would passengers be asked to report to the airport any earlier than if a positive baggage match system alone were implemented?

*9. Domestic Passengers Manifests and Electronic Tickets*

The use of electronic tickets (''e-tickets'') or ticketless travel is becoming more widespread. It is our understanding that six major U.S. airlines use them. Some carriers offer e-tickets only through direct sales, while others offer them through direct, travel agent, and Internet sales. In e-ticketing, passengers that reserve a flight through a travel agent, on the Internet, or directly with an airline by phone give a credit card number and receive a reservation number in lieu of a paper ticket. At the airport, the passenger tells the ticket counter agent the reservation number, shows identification if asked, receives a boarding pass and gets on board the flight. While identification checks for claiming e-tickets and boarding passes vary, often, if the e-ticket was purchased directly from an airline, the credit card used for the purchase of the e-ticket and a photo ID are required to claim the e-ticket boarding pass; while if the e-ticket was purchased from a travel agent, less stringent identification procedures apply since it is assumed that travel agents know their clients. It would appear, on the face of it, that e-ticketing via the Internet would allow for the facile collection of domestic passenger manifest information since there could be fill-in spaces for full name, date or birth and/or social security number, and contact name and telephone number on the form that the passenger would fill out when requesting the e-ticket. It would appear that the challenges posed by a domestic passenger manifest requirement for e-tickets sold via direct sales and through travel agent would be similar to the challenges posed by a domestic passenger manifest requirement for regular tickets. How, if at all, would imposing a domestic passenger manifest requirement affect e-ticketing? Please describe the differential effects of imposing a domestic passenger manifest requirement on the various modalities of e-ticketing, direct airline, travel agent, and Internet sales.

*10. Implications for High Frequency Corridors, High Frequency Facilities, and Peak Load Capacity*

Certain U.S. air corridors and facilities regularly operate near capacity.

Others do not do so regularly, but do operate near capacity during peak travel days and periods of the year. Are there any special considerations regarding high frequency corridors and high frequency facilities that need to be examined in contemplating a domestic passenger manifest requirement? Please outline these considerations in detail and, if possible, provide concrete examples of the considerations that need to be examined and the projected effects of a domestic passenger manifest requirement. Please include considerations of any needed expansions of facilities. In these types of operations, what flight delays would result if air carriers were required to take the steps outlined in the basic approach? Would there be any other inconvenience to passengers? Would the answers to the above be different in non-high frequency corridors and non-high frequency facilities?

*11. Recurring Costs of a Domestic Passenger Manifest Information Requirement*

What are the elements of recurring costs of implementing a domestic passenger manifest information requirement and who would incur these costs? Please provide estimates of these costs. In breaking out these costs, be as specific as possible. Please also answer the question that follows. If passenger manifest information is collected at the time of reservation from passengers that subsequently cancel their reservations or do not show up for their flights, costs could be incurred to collect passenger manifest information from such passengers, and then, again, for any passengers that eventually take the place of these passengers on the flight. In order that the costs of such canceled reservations and no shows might be incorporated into estimates of the costs of a domestic passenger manifest information requirement, please estimate how many passengers make reservations for every 100 passengers that eventually board a domestic flight.

*12. Fixed Costs of a Domestic Passenger Manifest Information Requirement*

DOT requests comments on the amount of fixed, one-time costs associated with imposing a domestic passenger manifest requirement. We would anticipate that these costs would be primarily the cost of programmers' time (salaries and benefits) for the reprogramming of air carriers' computer reservations systems and departure control systems. There may also be costs for developing intercarrier computer interfaces for the sharing of domestic passenger manifest data, and work on such a collective task, if necessary, might be undertaken by an association of air carriers, such as the Air Transport Association of America, which indicated in 1991 ANPRM comments in response to implementing a passenger manifest information requirement for flights to and from the United States that it would do so. To the extent that work done to prepare air carriers' electronic information systems (CRSs, DCSs, and any others) for a passenger manifest requirement on flights to and from the United States would also serve the purposes of a domestic passenger manifest requirement, these costs should not be double-counted and also attributed to the fixed, one-time cost of implementing a domestic passenger manifest requirement. We ask that commenters provide information in as much detail as possible, as well as all supporting explanations of the source and derivation of the data. Further, would travel agents incur any fixed costs if a passenger manifest requirement as outlined in the ''basic approach'' were implemented?

*13. Integration of Manifest Requirements With Processes for Expedited Positive Identification and Notification*

The Department has learned from its inquiry into the implementation of an international passenger manifest that the resources required to do so can be substantial. There, the information necessary to compile as many as 770,000 manifests annually would need to be collected, whereas, for domestic passengers, as mentioned earlier, the information necessary to compile 10.8 million manifests annually would need to be collected.

The purpose of collecting better manifest information is to remedy past difficulties in this area. The most glaring of these has been the inability of air carriers to rapidly determine in the aftermath of an aviation disaster who was on the flight and respond to the inquiries of families of victims that call-in and seek information on whether or not a family member was on the flight. Assuming that adequate telephone capacity exists and family members can get through to the airline, having an accurate list of the passengers that are on the flight—even without collecting data on emergency contacts—could allow air carriers to respond compassionately to such inquiries. And, as a result of such inquires, family members would identity themselves as such to the air carrier, and thereby add to the stock of other information regarding passengers that the airlines have available to them from internal and other sources.

Another stage of notification involves contacting a family member to inform him or her of the status of a particular passenger. This stage of notification depends on the verification of the status of individual passengers. This stage of notification and surrounding issues, such as the disposition of remains and personal effects, has also been fraught with difficulties in the past.

A broad examination of such issues is the subject of the Aviation Disaster Family Assistance Act of 1996, and, as required there, the Department has established a 23-member Advisory Committee on Assistance to Families in Aviation Disasters. Enhanced notification is one aspect of the overall objective of providing better treatment of families in the aftermath of an aviation disaster, and it, and other issues, will be taken up by the Advisory Committee on Assistance to Families in Aviation Disasters.

The Department needs information about the benefit in making substantial increased investments in obtaining data on those traveling by air and their emergency contacts, thus providing additional data for enhanced notification of the families of victim, if, at the same time, the process of determining and confirming the status of the passengers in the aftermath of an aviation disaster cannot be accelerated beyond some minimum amount of time. The Department must also assure itself that any additional resources put into enhanced notification, or particular aspects of enhanced notification, could not be better directed to other elements of the treatment of families in the aftermath of an aviation disaster. It may be that developing better procedures for accessing the information that air carriers and travel agents routinely collect on passengers could be a substitute for developing new, overlapping information-collection systems that would rarely be used.

Comments are solicited on any and all of the issues raised above. In particular we urge commenters to assess the likely effect on notification of the improvements contained in the Aviation Disaster Family Assistance Act of 1996, and to develop and describe how the notification process could be further improved, if this is felt to be necessary, and to identify the best way to make any such improvements.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the Department has conducted a preliminary analysis of the potential

information collection burdens associated with a domestic manifest requirement. The Department's analysis suggests that if passenger manifiest requirements substantially the same as those proposed for international flights, to be imposed on U.S. domestic flights, the paperwork burdens on the public could be substantial. If air carriers were not to find innovative ways to collect the information, the burden would be large. A perspective on the potential burden can be gained from the following comparison of these burdens from international and domestic manifest requirements with total Department of Transportation information collection burdens on the public as of December 1996:

| Department of Transportation collection burdens | Million hours |
|---|---|
| Total DOT Information Collection Burden (1996) | 65.7 |
| Passenger Manifest Information (Int'l) Proposed Rule | 1.1 to 1.4 |
| Domestic Passenger Manifest Information: | |
| (Assuming a counterpart rule to the Passenger Manifest Information [Int'l] Proposed Rule were imposed): | |
| Case I | 4.3 to 6.8 |
| Case II | 3.2 to 4.9 |

(Note: The burden estimate for a domestic manifest requirement have been extrapolated on the basis of annual costs from those calculated for the Passenger Manifest Information [Int'l] Proposed Rule. They do not take into account any possible advancement in collection systems, which could greatly reduce the paperwork burden.)

The estimates suggest that if both international and domestic passenger manifest paperwork burden estimates are added together, the burden increase relative to current levels imposed by all transportation requirements would be on the order of a low of about 7.6 percent and a high of about 11.0 percent.

(Note: An average of the two cases for a domestic passenger manifest requirement has been used to calculate the high and low figures for a domestic passenger manifest requirement.)

The Department is currently engaged in an effort to meet its share of a government-wide goal, required by the Paperwork Reduction Act of 1995, of achieving government-wide a 25 percent reduction in paperwork by the end of fiscal year 1998. From the standpoint of the Department's efforts to design an Information Simplification Plan consistent with the goals of the Paperwork Reduction Act and the President's program, it is essential that the Department do everything possible to reduce unnecessary duplication and achieve maximum cost effectiveness in information collection activities affecting the public. The implementation of passenger manifest requirements in a cost-effective way will be a top priority of the Department. It is also hoped that public input from this ANPRM will make a substantial contribution to this endeavor.

## Regulatory Flexibility Act

The Regulatory Flexibility Act was enacted by the United States Congress to ensure that small businesses are not disproportionately burdened by rules and regulations promulgated by the Government. If a domestic passenger manifest data collection system were proposed, it might affect air taxi operators, commuter carriers, charter operators, and travel agents. Some of these entities may be ''small entities'' within the meaning of the Regulatory Flexibility Act. We specifically request comments on whether there are additional small entities that might be impacted by such a proposal and whether the impact is likely to be significant within the meaning of the Act.

## Federalism Implications

This rulemaking has no direct impact on the individual states, on the balance of power in their respective governments, or on the burden of responsibilities assigned them by the national government. In accordance with Executive Order 12612, preparation of a Federalism Assessment is, therefore, not required.

## List of Subjects in 14 CFR Part 243

Air carriers, Aircraft, Air taxis, Air transportation, Charter flights, Foreign air carriers, Foreign relations, Reporting and recordkeeping requirements, Security.

Authority: 49 U.S.C. 40101, 40113, 40114, 41708, 41709, 41711, 41702, 46301, 46310, 46316.

Issued in Washington, D.C. on March 7, 1997.

Rodney E. Slater,

*Secretary of Transportation.*

[FR Doc. 97–6394 Filed 3–12–97; 8:45 am]

BILLING CODE 4910–62–P

## FEDERAL MEDIATION AND CONCILIATION SERVICE

## 29 CFR Part 1404

## Arbitration Policy; Roster of Arbitrators, and Procedures for Arbitration Services

**AGENCY:** Federal Mediation and Conciliation Service.

**ACTION:** Proposed rule.

**SUMMARY:** The proposed revision to 29 CFR Part 1404 is being published in order to revise the policies and procedures used by Federal Mediation and Conciliation Service in administering its arbitration program.

The goals of the proposed revision are to more accurately reflect current practice, clarify the role of the Arbitrator Review Board, revise the standards for arbitrator listing on the Roster, and announce certain changes. Among the changes made are:

First, requests for special experience or qualifications, or other special requirements, must be either jointly submitted by the parties, or, if unilaterally submitted, must certify that the other party agrees, or there is no conflict with the applicable contract. This will allow a single party, for example, to request a panel with special expertise, so long as the required assurances are made. Similarly, FMCS will make a direct appointment of an arbitrator based on the assurances of one party.

Second, the Federal Mediation and Conciliation Service, Office of Arbitration Services (OAS) will no longer receive or interpret contract language in regard to furnishing services.

Third, as an alternative to the submission of a panel of arbitrators, FMCS, upon request, will furnish the names and biographical sketches of all listed arbitrators in specified geographical locations. In this case, the

parties may directly appoint and deal with the arbitrator without any further involvement of FMCS.

Finally, the regulations call for an annual listing fee for all arbitrators as well as a fee for all arbitrator list and panel requests of FMCS.

**DATES:** Comments must be received on or before April 15, 1997.

**ADDRESSES:** Interested organizations and individuals are invited to submit written comments to these proposed regulatory changes. Comments should be submitted to Peter L. Regner, Director of Program Services, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427. All written comments will be available for inspection during work hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Mr. Peter L. Regner, Director, Program Services, Federal Mediation and Conciliation Service, 2100 K Street NW., Washington, DC 20427, (202) 606–8181.

**SUPPLEMENTARY INFORMATION:** An analysis of the changes in the proposed revisions follows.

## Subpart A—Arbitration Policy; Administration of Roster, Sections 1404.1–1404.3

*Section 1404.3 Administrative Responsibilities*

(c) This section establishes the Arbitrator Review Board and outlines powers and duties. Paragraph (iv) is new. It provides that the Board may upon request of the Director, review FMCS Arbitration policies and procedures.

## Subpart B—Roster of Arbitrators Admission and Retention, Sections 1404.4–1404.7

*Section 1404.4*

Paragraph (e). This part is unchanged except that the service of issuing lists or panels of arbitrator names will now be subject to a nominal fee. The collection of these fees is needed in order to assure a continuous non-appropriated source of funds to be solely used by FMCS for its internal education, training and professional development initiatives.

Paragraph (f). A provision has been added to reinforce FMCS authority to remove or suspend from its Roster those arbitrators who habitually fail to adhere to the regulations.

*Section 1404.5*

This section outlines the criteria the Arbitrator Review Board will use in recommending to the Director whether or not an individual will be listed on the Roster. This section provides that applicants for listing on the Roster must complete and submit an application. The Office of Arbitration Services will review the application, make the necessary inquiries, and forward the application to the Arbitrator Review Board. The Board will then review the application and make a recommendation to the Director about whether or not to list an applicant on the Roster based on the criteria established in paragraphs (a)(b)(c) of § 1404.5. The Director of FMCS has the authority to make all final decisions about listing on the Roster. This section is substantially unchanged from current regulations.

Paragraph (a) outlines the general criteria that the Arbitrator Review Board will use when considering an applicant. Individuals requesting listing on the Roster must be experienced, competent and acceptable in labor management decision-making roles. This paragraph is changed from the current regulations only to the extent that a statement in the current rules that the applicant have extensive experience in collective bargaining, and that he or she be capable of conducting an orderly hearing, analyze testimony and evidence and prepare a clear and concise award, is deleted. However, subsection (b) now contains similar requirements as outlined immediately below.

Paragraph (b). Proof of Qualifications, is different from the current regulations in that the proposed rule provides that the standards of acceptability, experience and competence in subsection (a) above, are demonstrated by the submission of at least 5 actual arbitration awards, issued by the applicant while serving as an arbitrator of record chosen by the parties to a labor dispute. The Board is also authorized to consider an applicant's bargaining and labor negotiations experience, or experience as a judge or hearing examiner in labor relations issues as a substitute for the awards. This provision is similar to the current regulations § 1404.5(a) (1) and (2). However, the specific requirement of 5 awards is new. It is designed to allow the Board to objectively apply a test of acceptability.

Paragraph (c), Advocacy is substantially the same as the current § 1404.5(c) (1) and (2). The paragraph prohibits advocates, except those who are ''grandfathered'' under the current rules, from being listed on the Roster. All persons who were listed on the Roster as advocates before the date of the ''grandfather'' clause, that is November 17, 1976, may remain listed on the Roster. However, no applicant for listing who is an advocate will be listed on the Roster. A person who was on the Roster before November 17, 1976, and did not divulge his or her advocacy status at the time his or her listing, (emphasis added) may not remain listed on the Roster. This policy is designed to insure that parties receive the names of arbitrators who are, and are seen as truly neutral, except in the case of those individuals listed on the Roster before the prohibition of advocacy as adopted.

The definition of an advocate in (1) is the same as current FMCS policy. It is designed to be as broad as necessary to insure that parties will not have any reason to question the neutrality of a potential arbitrator. The provision prohibits listing on the Roster people who earn money, or any form of compensations, by representing either side in a labor relations matter.

Paragraph (d) establishes the policies and procedures for listing retention and removal of and individual listed on the Roster. it is a clarification of the current policy in § 1404.5(d). It provides that the Director of FMCS shall make all final decisions about an applicant's listing on the Roster. Removal is by the recommendation of the Arbitrator Review Board after notice for violations of the regulations and/or the Code of Professional Responsibility for Arbitrators of Labor Management Disputes as cited in § 1404.4(b). Notice of cancellation will be given by the Board when a Roster member:

(1) No longer meets the criteria for admission. This is the same policy as in the current regulations.

(2) Has become an advocate as defined in 1404.5(c). This is a new provision and a clarification of current FMCS practice of removing from the Roster individuals who become advocates in order to protect the integrity and neutrality of the Roaster.

(3) Has been repeatedly or flagrantly delinquent in submitting awards. This is also the current FMCS rule, and allows the Board to recommend removal of individuals who fail to meet the timely needs of the parties.

(4) Has refused to make reasonable reports as required by FMCS in accordance with Subpart C infra. This is also current FMCS policy and regulation. It is designed to insure that the agency can obtain the necessary information to efficiently operate the program.

(5) Has been the subject of complaints by the parties, and the Board, after inquiry, concludes that reasonable grounds for cancellation has been shown. This is also substantially the same as current FMCS policy and is designed to establish a method for

parties to state their concerns and complaints. Removal under such grounds, however, must be conducted according to the procedures established in this paragraph.

(6) This provides that the Director may remove an individual who is not being selected by the parties in at least 2 percent of the cases per year in which his/her name is submitted to parties for selection. This is to insure that the Roster is composed of individuals who are aceeptable to the parties.

The procedures for removal is left up to the Arbitrator Review Board, so long as the individual proposed to be removed is given 60 days prior notice of the proposed removal and an opportunity to respond. The Board will consider the reasons for the removal and all responses before making a recommendation to the Director. All decisions to remove must be made by the Director. This is designed to insure that individuals will be given an opportunity to present evidence and argument on their behalf before a decision is made to remove.

There is also a new provision which states that the Director of the Office of Arbitration Services (OAS) may suspend—that is not send out an individual's name on any panel or appoint an individual to serve as arbitrator for up to 180 days—if the Director of OAS has determined that someone has violated the aforementioned criteria.

This was established to insure prompt action on the part of FMCS to deal with violations of the regulations and to protect the arbitration process, the Roster and the parties. A suspension is not a determination on the merits of any dispute or controversy, and the suspension may not exceed 180 days. Arbitrators will be notified promptly of a suspension and will be afforded an opportunity to appeal, if they wish to do so, to the Arbitrator Review Board. The Board will make a recommendation to the Director of FMCS, whose decision shall constitute final agency action.

*Section 1404.6*

This is also a new section which provides that an individual listed on the Roster may request that he or she may be put on an inactive status. This means that while they are on such status, their name will not be sent to the parties. This enables a Roster member to request that his or her name not be sent to parties while, for example, they are on an extended vacation. It is designed for the convenience of the person listed on the Roster and the parties.

*Section 1404.7*

This is a new section announcing that FMCS will be charging all arbitrators wishing to be listed on its Roster an annual listing fee. As with the charging for the provision of lists and panels to the parties, the fees collected will assure FMCS of a continuous non-appropriated source of funds for its internal education, training and professional development initiatives.

## Subpart C—Procedures for Arbitration Services, Sections 1404.8–1404.16

*Section 1404.8*

This new provision applies only to Subpart C. The new text incorporates the provision which currently appears at § 1404.6, but points out that while the parties are free to choose arbitration procedures that are acceptable to them, such procedures are subordinate to the provisions of Subpart C. Thus, if either

(a) The parties designate in their agreement that FMCS furnish arbitration services, or

(b) One or more parties request FMCS arbitration services, then all parties are subject to the rules contained in Subpart C. This new language has been added to insure that FMCS has the authority to remedy any abuse of Subpart C rules and enforce compliance with them.

*Section 1404.9*

Paragraph (a) is essentially a repeat of the provision now found at § 1404.10.

Paragraph (b) is essentially a repeat of the provision found at § 1404.10(a). In stating that the issuance of a panel—or a direct appointment—is nothing more than a response to a request, the text adds new language setting that such actions also do not signify the adoption of any position in regard to arbitrability. This additional language aligns the text with the wording that appears at the bottom of FMCS Form R–43, Request for Arbitration Services.

Paragraph (c). This is a new service which will allow parties to receive the names and biographical sketches of arbitrators and deal directly with the arbitrator. This is a cost-savings measure for those parties with frequent need for arbitrators and whose relationship is such that they can select and deal with the arbitrators without FMCS appointment and tracking services.

Paragraph (d). This new provision allows FMCS to refuse to supply arbitration services if the request crates difficult operational problems. For example, if FMCS received a request for 100 panels, it might be refused because of the workload imposed. In such case the OAS might contact the requestor to see if some less burdensome arrangements could be made or if FMCS could design an alternative solution. It also allows FMCS to deny services to parties who abuse the process by habitually failing to pay arbitrator fees or other such actions.

Paragraph (e). This provision changes the text found in § 1404.10 (b) and (d) and replaces those two subsections. While the current language urges parties to use FMCS Form R–43 to make requests for arbitration services, it also allows the use of letters as a substitute. The revised text mandates that only Form R–43 be used and states that a failure to do so may result in the request being returned to the sender. This change to mandatory use of Form R–43 is required because OAS has converted its operations from a manual system to computer system, and the receipt of typed requests on Form R–43 is necessary in order to obtain prompt entry and storage of data. Although approximately 80% of all requests are now received on Form R–43, FMCS will (1) allow for a phase-in period for this new requirement, (2) conduct a campaign of notification and education to make requesters aware of the requirement, and (3) make Form R–43 available in quantity to all labor organizations and employers dealing with FMCS. This change is a product of a lengthy reinvention effort by the staff of OAS. It is their collective opinion that even if this presents a small burden to some of our customers, it will provide a greater benefit to all concerned by streamlining our processing of requests.

Paragraph (f). This is a new provision. It is based on the experience of the OAS, that a significant increase has taken place in incidents involving procedural quarrels between the parties. These clashes concern such matters as (1) whether or not one party or the other has refused to cooperate in striking names from a panel of arbitrators, (2) whether or not the grievance issues have been determined in a previous arbitration award, (3) whether arbitrators on a panel should or should not have special expertise, (4) whether arbitrators should or should not come from a particular geographic area, and (5) whether a local contract or a national contract governs the parties.

The OAS has found itself increasingly entangled in such procedural disputes and therefore has decided on the following changes:

(1) The OAS will no longer receive or review the terms contained in the parties collective bargaining agreements, and will make determinations as to the meaning or effect of such agreements. Accordingly, the second sentence of the text now appearing at § 1404.10(c)—

calling for submissions of contract language—has been deleted. Also, since there is no longer a requirement that a brief statement describing each issue in dispute accompany the request, the first sentence of the current § 1404.10(c) has similarly been deleted, thus negating the entire text of this section.

(2) For unilateral requests—except those asking for a list or standard panel of seven names—the requestor will certify that one of the following conditions applies:

(a) The other party has agreed to the request, or

(b) There is no conflict with the parties collective bargaining agreement.

FMCS Form R–43, Request for Arbitration Services, has been modified to allow requestors to so certify in a simple and convenient way. The OAS will consider all statements as made in good faith and will honor all requests as submitted. A failure to supply the information required in (a) or (b) above disqualifies the request.

While the OAS realizes that a unilateral request, under the conditions set out above, may be subject to abuse by one party or the other, the following policy considerations have let to the adoption of the proposed new language.

As to the issuance of panels.

If the OAS were to require that all requests—except for a standard 7 person panel—be submitted on the basis of mutual consent, the arbitration process would be frustrated by the quarrels of the parties. That is, there would be no agreement, no submission of a request, and recourse would have to be sought through the relatively lengthy procedures of the National Labor Relations Board, the Federal Labor Relations Authority or the courts.

By placing a burden of good faith on the party submitting the unilateral request, and by acting promptly to honor it, the OAS acts to further the arbitration process. Moreover, receiving the OAS panel establishes no obligation on any party to use it, or to arbitrate any issue. The panel simply permits the option of moving further on the path of arbitration.

As to direct direct appointments.

In the case of a unilateral request for appointment of an arbitrator, the result may cause a burden to be placed on a party. That is, a party may be either obliged to appear before an appointed arbitrator to argue that arbitration is not warranted, or risk the result of an ex parte award. While OAS is mindful of this possible result, it has proposed the new procedure for the following reasons.

(i) Reliance by the OAS on contract interpretation, as the basis for a direct appointment, means becoming entangled in the parties' quarrels. One side or the other may dispute the reading of the contract made by the OAS, and thus make OAS interpretation one more obstacle to arbitration.

(ii) Reliance by the OAS, on mutual assent by the parties, as the basis for a direct appointment, again means frustrating the arbitration process. Thus, the quarreling parties will refuse to agree, and a solution will have to be sought through the relatively time consuming procedures of the National Labor Relations Board, the Federal Labor Relations Authority, or the courts.

(iii) By instead placing a burden of good faith on the party making the unilateral request, and simply honoring it, the OAS will promptly place the matter of proper jurisdiction before a neutral decision maker—the arbitrator. If the arbitrator finds that one party or the other has acted improperly in pursuing arbitration, the arbitrator may provide redress in the terms of the remedy awarded, or the arbitrator's finding may be used as the basis for redress before another tribunal.

*Section 1404.10*

This provision follows the language which currently appears a § 1404.11. No significant change has been made.

*Section 1404.11*

This section—made up of four subsections—replaces the current § 1404.12.

Paragraph (a) describes the content of lists and standard panels. It deletes the reference to the parties' contract, as contracts will no longer be reviewed, (ii) deletes the reference to requests by parties for a number of arbitrators different than 7, as joint requests for services other than a standard panel are described in the last sentence of the new text, and (iii) adds the statement that requests for standard panels—made jointly or unilaterally—will be honored without the need for compliance with § 1404.9(f), and (iv) paragraph (a) adds language explaining the new ''list of arbitrators'' service offered by OAS.

Paragraph (b) describes non-standard panels, and states, in conformance with the new policy of FMCS, that unilateral requests for a non-standard panel must comply with the requirement of § 1404.9(f). This subsection serves as a replacement for the language now appearing at § 1404.12(c)(4).

Paragraph (c) This provision describes the assignment OAS case numbers and is essentially the same as that now found at § 1404.12(b).

Paragraph (d) describes the factors involved in selecting names for panels now found at § 1404.12(c). The current statement—that the agreed upon wishes of the parties are paramount—is deleted, as this concept is expressed in subsections (d)(2) and (d)(3) which follow immediately below.

Paragraph (d)(1) is a new provision which explain that unless the parties jointly request otherwise, the site of the dispute serves as the geographical basis for the selection of the arbitrators.

Paragraph (d)(2) is a repeat of the text of § 1404.12(c)(1), with one change. The phrase for valid reasons is omitted because the OAS will not pass judgment on the validity of the reasons given—if any—that persons be included or omitted from panels of arbitrators. This position corresponds to the FMCS policy that its arbitration services constitute a response to a request and nothing more.

Paragraph (d)(3). This language replaces the current text at § 1404.12(c)(3). While the current language prohibits a single party from including or omitting names from a panel, the revised text permits one party to do so, if the conditions as to numbers, and compliance with § 1404.9(f), are met.

Section (e) replaces the language now found at § 1404.12(c)(5). The new text eliminates reference to the terms of agreement in the parties' contract—as the OAS will no longer receive or review such terms—and places a fixed ceiling—of three—on the number of panels which will be successively issued. Under the current language no fixed ceiling is established, and instead the matter is left open ended with consideration to be made on a case by case basis. After the issuance of three panels, FMCS will make a direct appointment.

*Section 1404.12*

This section, consisting of three paragraphs, replaces the current § 1404.13.

Paragraph (a). The current language—in § 1404.13(a)—says that parties should not notify the OAS of their selection of an arbitrator. The new text makes this requirements mandatory and states that the parties must do so. The new text also adds a requirement—not present in the current § 1404.13(c)—that parties must notify the arbitrator as well as OAS if they decide not to proceed to arbitration. As to both of these mandatory provisions there is also new penalty language stating that a consistent failure to comply may led to denial of OAS services. These changes will assist FMCS in implementing these regulation.

The portion of the revised text directing the arbitrator to notify the OAS of his or her selection remains the same, except for (i) the added word stating that the arbitrator must do so promptly, and (ii) the added statement that the arbitrator is expected to communicate with the parties within 14 days of notification of appointment by OAS. This added statement replaces the current § 1404.13(d) which requires the arbitrator to communicate immediately.

This notification to OAS by the arbitrator is only necessary following the selection of a panel by FMCS. It is not necessary or wanted if the parties have elected to work off a list of all aribitrators in their area as described in section 1404.11(a).

Paragraph (c). The current text—found at § 1404.13(b)—is mostly unchanged.

Paragraph (d) describes direct appointments. The revised text removes the phrase referring to the applicable collective bargaining agreement, as such agreements will no longer be considered by the OAS. Once more, if a unilateral request for a direct appointment is made, the unilateral request must comply with § 1404.9(f). In other respects, the revised text is basically the same as the current provisions in § 1404.13(c).

*Section 1404.13*

The revised text is similar to that now found at § 1404.14, except as follows:

(i) The current text says that an arbitrator is expected to conduct all proceedings in conformity with § 1404.4(b). The revised text states that the arbitrator shall do so.

(ii) The current text says that the arbitrator's decision is to be based upon the evidence and testimony presented. The revised text states that the decision shall be so based.

*Section 1404.14*

The revised text is similar to that now found at 1404.15, except as follows:

Paragraph (a),

(i) The current text of § 1404.15(a) says that arbitrators are encouraged to render awards not later than 60 days from the date of the closing of the record. The revised text at § 1404.14(a), states that arbitrators shall make awards no later than 60 days from the same date.

(ii) In the current text, at § 1404.15(a), the date of the closing of the record is described as determined by the arbitrator, unless otherwise agreed upon by the parties or specified by law. The revised text, at § 1404(a), adds to this description by inserting the phrase—or specified by the corrective bargaining agreement.

(iii) The current text as § 1404.15(a) says that the issuance of untimely awards by an arbitrator may lead to his removal from the FMCS roster. The revised text, at § 1404.14(a), removes the word his, thus deleting any reference to whether the arbitrator is male or female.

Paragraph (b). The current text states that an arbitrator should inform the OAS concerning a delay in issuing an award, and in describing the circumstances when the arbitrator should do so, say that this should happen when the aribtrator cannot schedule, hear and determine issues promptly. The revised text changes the phrase ''determine issues'' to ''render decisions,'' as the new phrase is more complete and encompasses within it the inability to determine issues.

*Section 1404.15*

The revised text is similar to that now found at § 1404.1b, except as follows:

Paragraph (a),

(i) The current text requires that fees charges by arbitrators be certified in advance to the Service. The revised text requires only that they be provided in advance.

(ii) The revised text adds two requirements, not contained in the current provisions at § 1404.16(a), as follows:

(A) Arbitrators with dual business addresses shall bill the parties for expenses from the nearest business address to the hearing site. This provision has been added in order to prevent excessive billing charges.

(B) Arbitrators shall submit their schedule of fees to both parties when accepting arbitration appointments. This provision has been added because biographical sketches state only the per diem fee charged by the arbitrator. Other fees involved in the arbitrator's service must therefore be made known to the parties when accepting an appointment.

(C) A reference is once again made to charging arbitrators an annual listing fee.

Paragaph (d). While the current text, at § 1404.16(d), states that the Service will not attempt to resolve any fee dispute, the revised text states that the Service does not resolve such disputes. The language also notifies the public that FMCS will file complaints about excessive charges and that repeated complaints will be forwarded to the Arbitrator Review Board.

*Section 1404.16*

There are no major changes in this section.

Executive Order 12291

This proposed rule is not a ''major rule'' under Executive Order 12291 because it is not likely to result in (1) an annual effect on the economy of $100 million or more (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) a significant decline in productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

*Regulatory Flexibility Act Certification*

The FMCS finds that this proposed rule will have no significant economic impact upon a substantial number of small entities within the meaning of section 3(a) of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 164 (5 U.S.C. 605(g)), and will so certify to the Chief Counsel for Advocacy of the Small Business Administration. This conclusion has been reached because the proposed rule does not, in itself, impose any additional economic requirements upon small entities. Accordingly, no regulatory flexibility analysis is required.

List of Subjects in 29 CFR Part 1404

Administrative practice and procedure, Labor management relations.

For the reasons stated in the preamble, the Federal Mediation and Conciliation Service proposes to revise 29 CFR Part 1404 to read as follows:

## PART 1404—ARBITRATION SERVICES

### Subpart A—Arbitration Policy; Administration of Roster

Sec.
1404.1 Scope and authority.
1404.2 Policy.
1404.3 Administrative responsibilities.

### Subpart B—Roster of Arbitrators; Admission and Retention

1404.4 Roster and status of members.
1404.5 Listing on the roster, criteria for listing and retention.
1401.6 Inactive status.
1401.7 Listing fee.

### Subpart C—Procedures for Arbitration Services

1404.8 Freedom of choice.
1404.9 Procedures for requesting arbitration panels.
1404.10 Arbitrability.
1404.11 Nominations of arbitrators; Standard and non-standard panels.
1404.12 Selection by parties and appointment of arbitrators.
1404.13 Conducts of hearings.
1404.14 Decision and awards.

1404.15 Fees and charges of arbitrators.
1404.16 Reports and biographical sketches.

Authority: 29 U.S.C. 172 and 29 U.S.C. 173 et seq.

## Subpart A—Arbitration Policy; Administration of Roster

### § 1404.1 Scope and authority.

This chapter is issued by the Federal Mediation and Conciliation Service (FMCS) under Title II of the Labor Management Relations Act of 1947 (Public Law 80–101) as amended. It applies to all arbitrators listed on the FMCS Roster of Arbitrators, to all applicants for listing on the Roster, and to all persons or parties seeking to obtain from FMCS either names or panels of names of arbitrators listed on the Roster in connection with disputes which are to be submitted to arbitration or factfinding.

### § 1404.2 Policy.

The labor policy of the United States promotes and encourages the use of voluntary arbitration to resolve disputes over the interpretation or application of collective bargaining agreements. Voluntary arbitration and factfinding are important features of constructive employment relations as alternatives to economic strife.

### § 1401.3 Administrative responsibilities.

(a) *Director.* The Director of FMCS has responsibility for all aspects of FMCS arbitration activities and is the final agency authority on all questions concerning the Roster and FMCS arbitration procedures.

(b) *Office of Arbitration Services.* The Office of Arbitration Services (OAS) maintains a Roster of Arbitrators (the Roster); administers Subpart C of this part (Procedures for Arbitration Services); assists, promotes, and cooperates in the establishment of programs for training and developing new arbitrators; and provides names or panels of names of listed arbitrators to parties requesting them.

(c) *Arbitrator Review Board.* The Arbitrator Review Board shall consist of a chairman and members appointed by the Director who shall serve at the Director's pleasure. The Board shall be composed entirely of full-time officers or employees of the Federal Government and shall establish procedures for carrying out its duties.

(1) *Duties of the Board.* The Board shall:

(i) Review the qualifications of all applicants for listing on the Roster, interpreting and applying the criteria set forth in § 1401.5;

(ii) Review the status of all persons whose continued eligibility for listing on the Roster has been questioned under § 1404.5;

(iii) Recommend to the Director the acceptance or rejection of applicants for listing on the Roster, or the withdrawal of listing on the Roster for any of the reasons set forth in this part;

(iv) At the request of the Director of FMCS, review arbitration policies and procedures, including all regulations and written guidance regarding the use of the FMCS arbitrators, and make recommendations regarding such policies and procedures to the Director.

(2) [Reserved]

## Subpart B—Roster of Arbitrators; Admission and Retention

### § 1404.4 Roster and status of members.

(a) *The Roster.* FMCS shall maintain a Roster of labor arbitrators consisting of persons who meet the criteria for listing contained in § 1404.5 and who remain in good standing.

(b) *Adherence of standards and requirements.* Persons listed on the Roster shall comply with FMCS rules and regulations pertaining to arbitration and with such guidelines and procedures as may be issued by the OAS pursuant to subpart C of this part. Arbitrators shall conform to the ethical standards and procedures set forth in the Code of Professional Responsibility for Arbitrators of Labor Management Disputes, as approved by the National Academy of Arbitrators, Federal Mediation and Conciliation Service, and the American Arbitration Association.

(c) *Status of arbitrators.* Persons who are listed on the Roster and are selected or appointed to hear arbitration matters or to serve as factfinders do not become employees of the Federal Government by virtue of their selection or appointment. Following selection or appointment, the arbitrator's relationship is solely with the parties to the dispute, except that arbitrators are subject to certain reporting requirements and to standards of conduct as set forth in this part.

(d) *Role of FMCS.* FMCS has no power to:

(1) Compel parties to appear before an arbitrator;]

(2) Enforce an agreement to arbitrate;

(3) Compel parties to arbitrate any issue;

(4) Influence, alter, or set aside decisions of arbitrators on the Roster;

(5) Compel, deny, or modify payment of compensation to an arbitrator.

(e) *Nominations and panels.* On request of the parties to an agreement to arbitrate or engage in factfinding, or where arbitration or factfinding may be provided for by statue, OAS, will provide names or panels of names for a nominal fee. Procedures for obtaining these services are outlined in subpart C of this part. Neither the submission of a nomination or panel nor the appointment of an arbitrator constitutes a determination by FMCS that an agreement to arbitrate or enter factfinding proceedings exists; nor does such action constitute a ruling that the matter in controversy is arbitrable under any agreement.

(f) *Rights of persons listed on the Roaster.* No person shall have any right to be listed or to remain listed on the Roster. FMCS retains its authority and responsibility to assure that the needs of the parties using its services are served. To accomplish this purpose, FMCS may establish procedures for the preparation of panels or the appointment of arbitrators or factfinders which include consideration of such factors as background and experience, availability, acceptability, geographical location, and the expressed preferences of the parties. FMCS may also establish procedures for the suspension and removal from the Roster of those arbitrators who fail to adhere to provisions contained in this part.

### § 1404.5 Listing on the Roster; criteria for listing and retention.

Persons seeking to be listed on the Roster must complete and submit an application form which may be obtained from OAS. Upon receipt of an executed application, OAS will review the application, assure that it is complete, make such inquiries as are necessary, and submit the application to the Board. The Board will review the completed application under the criteria in paragraphs (a), (b), and (c) of this section, and will forward to the FMCS Director its recommendation whether or not the applicant meets the criteria for listing on the Roster. The Director shall make all final decisions as to whether an applicant may be listed on the Roster. Each applicant shall be notified in writing of the Director's decision and the reasons therefor.

(a) *General criteria.* Applicants for the Roster will be listed on the Roster upon a determination that they are experienced, competent, and acceptable in decision-making roles in the resolution of labor relations disputes.

(b) *Proof of qualification.* The qualifications for recommending listing on the Roster shall be demonstrated by submission of a least five (5) actual arbitration awards prepared by the applicant while serving as an impartial arbitrator of record chosen by the parties to disputes arising under collective bargaining agreements. The Board may

consider experience in relevant positions in collective bargaining or as a judge or hearing examiner in labor relations controversies as a substitute for such awards.

(c) *Advocacy.* No person who at the time of application is an advocate as defined in paragraph (c)(1) of this section, may be recommended for listing on the Roster by the Board. Except in the case of persons listed on the Roster as advocates before November 17, 1976, any person who did not divulge his or her advocacy at the time of listing, or who has become an advocate while listed on the Roster, shall be recommended for removal by the Board after the fact of advocacy is revealed.

(1) *Definition of advocacy.* An advocate is a person who represents employers, labor organizations, or individuals as an employee, attorney, or consultant, in matters of labor relations, including but not limited to the subjects of union representation and recognition matters, collective bargaining, arbitration, unfair labor practices, equal employment opportunity, and other areas generally recognized as constituting labor relations. The definition includes representatives of employers or employees in individual cases or controversies involving workmen's compensation, occupational health or safety, minimum wage, or other labor standards matters. This definition of advocate also includes a person who is directly associated with an advocate in a business or professional relationship as, for example, partners or employees of a law firm.

(2) [Reserved]

(d) *Duration of listing, retention.* Listing on the Roster shall be by decision of the Director of FMCS based upon the recommendations of the Arbitrator Review Board. The Board may recommend, and the Director may remove, any person listed on the Roster, for violation of this part and/or the Code of Professional Responsibility. Notice of cancellation or suspension shall be given to a person listed on the Roster whenever a Roster member:

(1) No longer meets the criteria for admission;

(2) Has become an advocate as defined in paragraph (c) of this section;

(3) Has been repeatedly or flagrantly delinquent in submitting awards;

(4) Has refused to make reasonable and periodic reports in a timely manner to FMCS, as required in subpart C of this part, concerning activities pertaining to arbitration;

(5) Has been the subject of complaints by parties who use FMCS services, and the Board after appropriate inquiry, concludes that reasonable cause for cancellation has been shown.

(6) Is determined by the Director to be unacceptable to the parties who use FMCS arbitration services; the Director may base a determination of unacceptability on FMCS records which show the number of times the arbitrator's name has been proposed to the parties and the number of times it has been selected.

(e) The Board may, at its discretion, direct an inquiry into the facts of any proposed removal from the Roster. An arbitrator listed on the Roster may only be removed after 60-day notice and an opportunity to submit a response or information showing why the listing should not be canceled. The Board shall recommend to the Director whether to remove an arbitrator from the Roster. All determinations to remove an arbitrator from the Roster shall be made by the Director.

(f) The director of OAS may suspend for a period not to exceed 180 days any person listed on the Roster who has violated any of the criteria in paragraph (d) of this section. Arbitrators shall be promptly notified of a suspension. They may appeal a suspension to the Arbitrator Review Board, which shall make a recommendation to the Director of FMCS. The decision of the Director of FMCS shall constitute the final action of the agency.

### § 1404.6 Inactive status.

A member of the Roster who continues to meet the criteria for listing on the Roster may request that he or she be put in an inactive status on a temporary basis because of ill health, vacation, schedule, etc.

### § 1404.7 Listing fee.

All arbitrators will be required to pay an annual fee for listing on the Roster. The schedule of fees will be published separately.

## Subpart C—Procedures for Arbitration Services

### § 1404.8 Freedom of choice.

Nothing contained in this part should be construed to limit the rights of parties who use FMCS arbitration services to jointly select any arbitrator or arbitration procedure acceptable to them. Once a request is made to OAS, all parties are subject to the procedures contained in this part.

### § 1404.9 Procedures for requesting arbitration panels.

(a) The Office of Arbitration Service (OAS) has been delegated the responsibility for administering all requests for arbitration services. Requests should be addressed to the Federal Mediation and Conciliation Service, Office of Arbitration Services, Washington, DC 20427.

(b) The OAS will refer a panel of arbitrators to the parties upon request. The parties are encouraged to make joint requests. In the event, however, that the request is made by only one party, the OAS will submit a panel of arbitrators. However, the issuance of a panel—pursuant to either a joint or unilateral request—is nothing more than a response to a request. It does not signify the adoption of any position by FMCS regarding the arbitrability of any dispute or the terms of the parties' contract.

(c) As an alternative to a request for a panel of names, OAS will, upon request, submit a list of all arbitrators and their biographical sketches from a specific geographical area. The parties may then select and deal directly with an arbitrator of their choice, with no further involvement by FMCS with the parties or the arbitrator.

(d) The OAS reserves the right to decline to submit a panel or make appointments of arbitrators if the request submitted is overly burdensome or otherwise impracticable. The OAS, in such circumstances, may refer the parties to an FMCS mediator to help in the design of an alternative solution. The OAS may also decline to service any requests from parties with a history of non-payment of arbitrator fees or other behavior which constrains the spirit or operation of the arbitration process.

(e) The parties are required to use the Request for Arbitration Panel Form (R–43), which has been prepared by the OAS and is available in quantity upon request to the Federal Mediation and Conciliation Service, Office of Arbitration Services, Washington, DC 20427, or by calling (202) 606–5111. Requests that do not contain all required information requested on the R–43 in typewritten form may be rejected.

(f)(1) When a request is made by only one party for a service other than the furnishing of a standard list or panel of seven (7) arbitrators, the requestor must certify that one of the following conditions applies:

(i) Both parties agree to the request, or

(ii) There is no conflict with the parties' collective bargaining agreement.

(2) The party making such a request must copy the certification to the other party. The OAS will consider all statements as having been made in good faith and will honor requests as submitted. Absent statements conforming to the requirements of this paragraph, the unilateral request will not be honored.

(g) The OAS will charge a nominal fee for all requests for lists, panels, and other major services. Payments for these services must be received before the service is delivered. A schedule of fees will be published separately.

**§ 1404.10 Arbitrability.**

The OAS will not decide the merits of such a claim by either party that a dispute is not subject to arbitration.

**§ 1404.11 Nominations of arbitrators: Standard and non-standard panels.**

(a) The parties may request a list and biographic sketches of some or all arbitrators in one or more specific geographical areas. If the parties can agree on the selection of an arbitrator, they may appoint their own arbitrator directly without any further case tracking by FMCS. The parties may also request a randomly selected panel containing the names of seven (7) arbitrators accompanied by a biographical sketch for each member of the panel. This sketch states the background, qualification, experience, and per diem fee, as furnished to the OAS by the arbitrator. It also states that other fees may exist, such as cancellation, postponement, rescheduling, or administrative fees, as furnished by the arbitrator, but does not state the amounts of such other fees. Requests for a panel of seven (7) arbitrators, whether joint or unilateral, will be honored without the need for compliance with § 1404.9(f). Joint requests for a panel of other than seven (7) names, a direct appointment of an arbitrator, or other service will also be honored without compliance with § 1404.9(f) so long as the request does not otherwise conflict with the regulations in subpart C of this part.

(b) Unilateral requests for a panel of arbitrators with special qualifications or other than a list of seven (7) arbitrators, must conform to the requirements of § 1404.9(f).

(c) All panels submitted to the parties by the OAS, and all letters issued by the OAS making a direct appointment, will have an assigned FMCS case number. All future communications between the parties and the OAS must refer to this case number.

(d) The OAS will provide a randomly selected panel of arbitrators located in state(s) in proximity to the hearing site. The parties may request arbitrators with specific qualifications or experienced in certain issues or industries. The OAS has no obligation to put an individual on any given panel, or on a minimum number of panels in any fixed period. In general:

(1) The geographical location of arbitrators placed on panels is governed by the site of the dispute as stated on the request received by the OAS.

(2) If at any time both parties request that a name or names be included or omitted from a panel, such name or names will be included or omitted, unless the number of names is excessive.

(3) If a unilateral request is made to omit or include names on a panel, the request shall be honored if it is in compliance with § 1404.9(f), unless the number of names is excessive.

(e) If the parties do not agree on an arbitrator from the first panel, the OAS will furnish a second and third panel to the parties upon joint request. If a second or third panel is requested by only one party, the request will be honored if it conforms with the procedures stated in § 1404.9(f). Requests for a second or third panel should be accompanied by a brief explanation as to why the previous panel(s) was inadequate. If parties are unable to agree on a selection after having received three panels, the OAS will make a direct appointment upon request.

**§ 1404.12 Selection by Parties and appointment of arbitrators.**

(a) After receiving a panel of names, the parties must notify the OAS of their selection of an arbitrator or of the decision not to proceed with arbitration. Upon notification of the selection of an arbitrator, the OAS will make a formal appointment of the arbitrator. The arbitrator, upon notification of appointment, is expected to communicate with the parties within 14 days to arrange for preliminary matters, such as the date and place of hearing. Should an arbitrator be notified directly by the parties that he or she has been selected, the Arbitrator must promptly notify the OAS of the selection and his or her willingness to serve. If the parties settle a case prior to the hearing, parties must inform the arbitrator as well as the OAS. Consistent failure to follow these procedures may lead to a denial of future OAS services.

(b) If the parties request a list of names and biographical sketches rather than a panel, they may choose to appoint and contact an arbitrator directly. In this situation, neither the parties nor the arbitrator is required to furnish any additional information to FMCS.

(c) Where the parties' collective bargaining agreement is silent on the manner of selecting arbitrators, the parties may wish to consider any jointly determined method or one of the following methods for selection of an arbitrator from a panel:

(1) Each party alternately strikes a name from the submitted panel until one remains, or

(2) Each party advises the OAS of its order of preference by numbering each name on the panel and submitting the numbered list in writing to the OAS. The name that has the lowest combined number will be appointed.

(d) The OAS will make a direct appointment of an arbitrator either on joint or unilateral request. If the request is unilateral,it must be accompanied by a statement as provided for in 1404.9(f), certifying that either:

(1) The request is agreed to by both parties, or

(2) The request does not conflict with the applicable contract.

(e) The issuance of a panel of names or a direct appointment in no way signifies a determination on arbitrability or an interpretation of the terms and conditions of the collective bargaining agreement. The resolution of such disputes rests solely with the parties.

**§ 1404.13 Conduct of hearings.**

All proceedings conducted by the arbitrators shall be in conformity with the contractual obligations of the parties. The arbitrator shall comply with § 1404.4(b). The conduct of the arbitration proceeding is under the arbitrator's jurisdiction and control, and the arbitrator's decision shall be based upon the evidence and testimony presented at the hearing or otherwise incorporated in the record of the proceeding. The arbitrator may, unless prohibited by law, proceed in the absence of any party who, after notice, fails to be present or to obtain a postponement. An award rendered in an *ex parte* proceeding of this nature must be based upon evidence presented to the arbitrator.

**§ 1404.14 Decision and awards.**

(a) Arbitrators shall make awards no later than 60 days from the date of the closing of the record as determined by the arbitrator, unless otherwise agreed upon by the parties or specified by the collective bargaining agreement or law. A failure to render timely awards reflects upon the performance of an arbitrator and may lead to removal from the FMCS Roster.

(b) The parties should inform the OAS whenever a decision is unduly delayed. The arbitrator shall notify the OAS if and when the arbitrator:

(1) Cannot schedule, hear, and render decisions promptly, or

(2) Learns a dispute has been settled by the parties prior to the decision.

(c) Within 15 days after an award has been submitted to the parties, the arbitrator shall submit an Arbitrator's Report and Fee Statement (Form R–19) to OAS showing a breakdown of the fee and expense charges so that the OAS may review conformance with stated charges under § 1404.12(a). The Form R–19 is not to be used to invoice the parties.

(d) While the FMCS encourages the publication of arbitration awards, arbitrators should not publicize awards if objected to by one of the parties.

**§ 1404.15 Fees and charges of arbitrators.**

(a) FMCS will charge all arbitrators a fee to be listed on the Roster. All arbitrators listed on the Roster may charge a per diem fee and other predetermined fees for services, if the amount of such fees have been provided in advance to the FMCS. Each arbitrator's maximum per diem fee and the existence of other predetermined fees, if any, are set forth on a biographical sketch which is sent to the parties when panels are submitted. The arbitrator shall not change any fee or add charges without giving at least 30 days' advance written notice to the FMCS. Arbitrators with dual business addresses must bill the parties for expenses from the nearest business address to the hearing site.

(b) In cases involving unusual amounts of time and expenses relative to pre-hearing and post-hearing administration of a particular case, an administrative charge may be made by the arbitrator.

(c) Arbitrators shall submit their schedule of fees to both parties when accepting arbitration appointments. All charges other than those specified in paragraph (a) of this section shall be divulged to and agreement obtained by the arbitrator with the parties immediately after appointment.

(d) The OAS requests that it be notified of any arbitrator's deviation from the policies expressed in this part. While FMCS will not resolve fee disputes, repeated complaints concerning the fees charged by an arbitrator will be brought to the attention of the Arbitration Review Board for further consideration.

**§ 1404.16 Reports and biographical sketches.**

(a) arbitrators listed on the Roster shall executive and return all documents, forms and reports required by FMCS. They shall also keep the OAS informed of changes of address, telephone number, availability, and of any business or other connection or relationship which involves labor-management relations or which creates or gives the appearance of advocacy as defined in § 1404.5(c)(1).

(b) The OAS will provide biographical sketches on each person admitted to the Roster from information supplied by applicants. Arbitrators may request revision of biographical information at later dates to reflect changes in fees, the existence of additional charges, or other relevant data. The OAS reserves the right to decide and approve the format and content of biographical sketches.

Appendix to 29 CFR Part 1404—Arbitration Policy; Schedule of Fees

| | |
|---|---|
| Annual listing fee for all arbitrators | $100 for the first address; $50 for second address. |
| Request for panel of arbitrators | $30 for each panel request (includes subsequent appointment). |
| Diect appointment of an arbitrator when a panel is not used | $20 per appointment. |
| List and biographic sketches of arbitrators in a specific area | $10 per request plus $10 per page. |

John Calhoun Wells,

*Director.*

[FR Doc. 97–6305 Filed 3–12–97; 8:45 am]

**BILLING CODE 6732–01–M**

## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Part 906

**[SPATS No. CO–034–FOR]**

## Colorado Regulatory Program

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Colorado regulatory program (hereinafter, the ''Colorado program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of, in addition to several nonsubstantive editorial revisions, revisions to Colorado's rules pertaining to (1) the applicability of Colorado's rules and language identifying where referenced material may be viewed; (2) definitions; (3) the requirement to repeal any State rule required by a Federal law or rule which is repealed; (4) the operations plan permit application requirements; (5) experimental practices; (6) the right of successive permit renewal; (7) transfer, assignment or sale of permit rights; (8) terms and conditions of an irrevocable letter of credit; (9) performance standards for sedimentation ponds; (10) embankment design for sedimentation ponds; (11) sign and markers for temporary and permanent cessation of operations; (12) availability of records; and (13) a permittee's failure to abate a violation. The amendment is intended to revise the Colorado program to clarify ambiguities and improve operational efficiency.

**DATES:** Written comments must be received by 4:00 p.m., M.D.T., April 14, 1997. If requested, a public hearing on the proposed amendment will be held on April 7, 1997. Requests to present oral testimony at the hearing must be received by 4:00 p.m., M.D.T., on March 28, 1997.

**ADDRESSES:** Written comments should be mailed or hand delivered to James F. Fulton at the address listed below.

Copies of the Colorado program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Denver Field Division.

James F. Fulton, Chief, Denver Field Division, Office of Surface Mining Reclamation and Enforcement, 1999 Broadway, Suite 3320, Denver, Colorado 80202–5733

Michael B. Long, Director, Division of Minerals and Geology, Department of Natural Resources, 1313 Sherman St., Room 215, Denver, Colorado 80203, Telephone: (303) 866–3567

**FOR FURTHER INFORMATION CONTACT:** James F. Fulton, Telephone: (303) 844–1424.

**SUPPLEMENTARY INFORMATION:**

I. Background on the Colorado Program

On December 15, 1980, the Secretary of the Interior conditionally approved

the Colorado program. General background information on the Colorado program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Colorado program can be found in the December 15, 1980, Federal Register (45 FR 82173). Subsequent actions concerning Colorado's program and program amendments can be found at 30 CFR 906.11, 906.15, and 906.16.

## II. Proposed Amendment

By letter dated February 25, 1997, Colorado submitted a proposed amendment (administrative record No. CO–683) to its program pursuant to SMCRA (30 U.S.C. 1201 *et seq.*). Colorado submitted the proposed amendment at its own initiative. Colorado proposed to revise the following provisions of the Colorado Surface Coal Mining Reclamation Act, Colorado Revised Statutes (C.R.S.):

C.R.S. 34–33–1.01 and 1.01(9), concerning applicability of Colorado's rules, to include the statements, respectively, that ''[a] written statement on the basis and purpose of the amendments to these Rules adopted by the Board on December 18, 1996 is hereby incorporated in these Rules by reference pursuant to C.R.S. 1995, 24–4–103(4) and is available at the Office of the Mined Land Reclamation Board'' and ''[a]ll materials [cited in these rules] incorporated by reference are available for inspection at State Publications Depository Libraries, through inter-library loan, and at the Division office located in Room 215, Centennial Building, 1313 Sherman Street, Denver, Colorado 80203. The Division Director can provide further information regarding how the incorporated material may be obtained or examined;''

C.R.S. 34–33–104(4), concerning the definition of ''[a]ctive mining area,'' to remove the parenthetical reference stating ''as used in 4.05.2(7);''

C.R.S. 34–33–1.04(21), concerning definition of ''[c]oal,'' to remove language identifying where material incorporated by reference may be viewed;

C.R.S. 34–33–104(41), concerning the definition of ''[e]mployee,'' to add the parenthetical statement ''regarding employee financial interests in Section 1.10;''

C.R.S. 34–33–1.13, concerning the requirement to repeal any State rule required by a Federal law or rule which is repealed, to require that the repeal of the State rule become effective ninety, rather than sixty, days after publication of the repeal of the Federal rule in the Federal Register;

C.R.S. 34–33–2.05.3(3)(b)(i)(D), concerning the operations plan permit application requirements for mine facilities, to remove a reference to ''design requirements'' where discussing exemptions for existing structures at 2.07.6;

C.R.S. 34–33–2.05.3(3)(c)(ii), concerning the operations plan permit application requirements for mine facilities, to correct the referenced citations to performance standards for roads, conveyors, or road systems;

C.R.S. 34–33–2.06.2(3), concerning experimental practices, to require the approval of the Director of OSM as the authorized representative of the Secretary of the United States Department of Interior;

C.R.S. 34–33–2.06.6(2)(a)(i), concerning requirements for permit applications involving prime farmlands, to delete language identifying where referenced material may be viewed;

C.R.S. 34–33–2.08.5(2)(b)(ii), concerning the right of successive permit renewal, to require that a copy of the newspaper notice to be placed in a local newspaper in accordance with the requirements of 2.07.3(2) with proof of publication made a part of the renewal application not later than 4 weeks after the last date of publication;

C.R.S. 34–33–2.08.6(6), concerning transfer, assignment or sale of permit rights, to require that (1) the Division shall initially notify the appropriate parties of its ''proposed'' decision, (2) if no informal hearing is requested, the Division shall issue and implement the proposed decision as final within 5 days after the close of the 30 day period provided for the filing of a request for a formal hearing, and (3) no permit shall be transferred until the applicant has filed a performance bond with the Division and the Division has approved it;

C.R.S. 34–33–3.02.4(2)(d)(i), concerning terms and conditions of an irrevocable letter of credit, to provide that the letter of credit may be issued by a bank not located in the State of Colorado if the letter is confirmed by a bank located in the State, or if, at the Board's discretion, the letter is determined to be an acceptable letter of credit;

C.R.S. 34–33–4.02.2(2) and 4.30.1(3) and 2(3), concerning signs and markers and cessation of operations, respectively, to (1) notify OSM that it never promulgated previously proposed and approved language requiring the mine identification sign to include the name, address, and telephone number of the Division office where the mining and reclamation permit is filed, and (2) require that as soon as a temporary cessation extends beyond 30 days or when operations have permanently ceased, the operator shall modify the mine identification sign to include the name, address, and telephone number of the Division office where the mining and reclamation permit is filed, until such time as the Division terminates jurisdiction over the surface coal mining operation;

C.R.S 34–33–4.05.6(6)(a), concerning performance standards for sedimentation ponds, to require that a pond meeting the size criteria of 4.05.6(12) be designed to control, at a minimum, the probable maximum precipitation of a 25-year 24-hour event, rather than a 24-hour event;

C.R.S. 34–33–4.05.6(11)(h), concerning embankment design for sedimentation ponds, to correct the referenced citation for size criteria;

C.R.S. 34–33–5.02.4(1), concerning availability of records, to require that (1) all but confidential information be available to the public at the Division office and at a convenient place in the area of mining to which the information pertains until ''the Division has terminated jurisdiction at the surface coal mining operation, pursuant to 3.03.3(1), and (2) after the Division has terminated jurisdiction, copies of all but confidential information will be maintained and available for public review, or provided promptly by mail at the request of interested parties, for at least 5 years after the expiration of the period during which the subject operation is active or is covered by any portion of a reclamation bond, whichever is later; and

C.R.S. 34–33–5.03.3(5), concerning a permittee's failure to abate a violation, to correct the referenced citation for an order to show cause.

## III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Colorado program.

### *1. Written Comments*

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Denver Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

*2. Public Hearing*

Persons wishing to testify at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., M.D.T., on March 28, 1997. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

*3. Public Meeting*

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the administrative record.

IV. Procedural Determinations

*1. Executive Order 12866*

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

*2. Executive Order 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 this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

*3. National Environmental Policy Act*

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

*4. Paperwork Reduction Act*

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

*5. Regulatory Flexibility Act*

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

*6. 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 906

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 5, 1997.

Richard J. Seibel,

*Regional Director, Western Regional Coordinating Center.*

[FR Doc. 97–6352 Filed 3–12–97; 8:45 am]

**BILLING CODE 4310–05–M**

## 30 CFR Part 914

**[SPATS No. IN–128–FOR; Amendment No. 95–6]**

## Indiana Regulatory Program

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

**ACTION:** Proposed rule; public comment period and opportunity for public hearing.

**SUMMARY:** OSM is announcing receipt of a proposed amendment to the Indiana regulatory program (hereinafter the ''Indiana program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to the Indiana rules pertaining to identification of interests, compliance information, and permit conditions. The amendment is intended to revise the Indiana program to be consistent with the corresponding Federal regulations.

**DATES:** Written comments must be received by 4:00 p.m., e.s.t., April 14, 1997. If requested, a public hearing on the proposed amendment will be held on April 7, 1997. Requests to speak at the hearing must be received by 4:00 p.m., e.s.t., on March 28, 1997.

**ADDRESSES:** Written comments and requests to speak at the hearing should be mailed or hand delivered to Charles F. McDaniel, Acting Director, Indianapolis Field Office, at the address listed below.

Copies of the Indiana program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Indianapolis Field Office.

Charles F. McDaniel, Acting Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, Indiana

46204–1521, Telephone: (317) 226–6700.

Indiana Department of Natural Resources, 402 West Washington Street, Room C256, Indianapolis, Indiana 46204, Telephone: (317) 232–1547.

**FOR FURTHER INFORMATION CONTACT:** Charles F. McDaniel, Acting Director, Indianapolis Field Office, Telephone: (317) 226–6700.

**SUPPLEMENTARY INFORMATION:**

I. Background on the Indiana Program

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. Background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the July 26, 1982, Federal Register (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 914.10, 914.15, and 914.16.

II. Description of the Proposed Amendment

By letter dated February 18, 1997 (Administrative Record No. IND–1555), the Indiana Department of Natural Resources (IDNR) submitted a proposed amendment to its program pursuant to SMCRA. Indiana submitted the proposed amendment in response to a letter dated May 11, 1989 (Administrative Record No. IND–0644), that OSM sent to Indiana in accordance with 30 CFR 732.17(c), and at its own initiative. The provisions of the Indiana Administrative Code (IAC) that Indiana proposes to amend are: 310 IAC 12–3–19.1, Surface mining permit applications/identification of interests; 310 IAC 12–3–20, Surface mining permit applications/compliance information; 310 IAC 12–3–57 and 12–3–57.1, Underground mining permit applications/ identification of interests; 310 IAC 12–3–58, Underground Mining permit applications/compliance information; and 310 IAC 12–3–114.5, Review, public participation, and approval or disapproval of permit applications/ permit terms and conditions/ permit conditions.

The full text of the proposed program amendment submitted by Indiana is available for public inspection at the locations listed above under **ADDRESSES**. A brief discussion of the proposed amendment is presented below.

*1. 310 IAC 12–3–19.1 Surface Mining Permit Applications; Identification of Interests*

Section 19.1 specifies the information that must be included in a surface mining permit application for identification of interests. Indiana proposes to restructure this section to comply with formatting guidelines set out by the Indiana Legislative Services Agency by redesignating subsection (a) as an introductory paragraph, redesignating subsection (a)(1) as subsection (a), redesignating subsection (a)(2) as subsection (b), and redesignating subsections (b) through (i) as subsections (c) through (j).

Indiana also proposes to restructure the existing language in redesignated subsections (c) through (i).

*2. 310 IAC 12–3–20 Surface Mining Permit Applications; Compliance Information*

Section 20 specifies the information that must be included in a surface mining permit application concerning permit suspensions or revocations, bond forfeitures, and notices of violation. At subsections (a) and (b), Indiana proposes minor restructuring to comply with formatting guidelines set by the Indiana Legislative Services Agency. Indiana proposes to delete existing subsection (d), to add its substantive provisions to subsection (c), and to restructure the language in subsection (c). Indiana also proposes to redesignate subsection (e) as new subsection (d).

*3. 310 IAC 12–3–57 and 12–3–57.1 Underground Mining Permit Applications; Identification of Interests*

Indiana proposes to repeal 310 IAC 12–3–57 and to add its substantive provisions to 310 IAC 12–3–57.1. Section 57.1 specifies the information that must be included in an underground mining permit application for identification of interests. The language and structure of the existing provisons were revised to make the new rule consistent with Indiana's surface mining permit application requirements for identification of interests at 310 IAC 12–3–19.1.

*4. 310 IAC 12–3–58 Underground Mining Permit Applications; Compliance Information*

Section 58 specifies the information that must be included in an underground mining permit application concerning permit suspensions or revocations, performance bond forfeitures, and notices of violation. At subsections (a) and (b), Indiana proposes minor restructuring to comply with formatting guidelines set by the Indiana Legislative Services Agency.

Indiana proposes to delete the existing language in the introductory paragraph at subsection (c) and to add new language that requires a permit applicant to list all violation notices received within the preceding three years. It requires the applicant to list all outstanding violation notices for any mining operation that is deemed or presumed to be owned or controlled by either the applicant or any person who is deemed or presumed to own or control the applicant. It also requires the applicant to certify that the outstanding notices of violation are in the process of being corrected. Indiana proposes minor changes to the existing language in subsections (c)(1) through (5) to reflect changes that were made in the introductory paragraph.

Indiana also proposes to add a new subsection (d) to require the applicant to update, correct, or indicate that no change has occurred in the information submitted under 310 IAC 12–3–58 after he is notified that his or her application is approved.

*5. 310 IAC 12–3–114.5 Review, Public Participation, and Approval or Disapproval of Permit Terms and Conditions; Permit Conditions*

Indiana proposes to add new section 114.5 to specify the conditions under which a permit is issued. Subsection (a) requires the permittee to conduct surface coal mining and reclamation operations only on those lands that are specifically designated as the permit area and bonded. Subsection (b) requires the permittee to conduct operations only as described in the approved application, except to the extent otherwise directed in the permit. Subsection (c) requires the permittee to comply with the terms and conditions of the permit and all applicable performance standards and requirements of the Indiana program. Subsection (d) requires the permittee to allow authorized representatives of the director of IDNR to have right of entry and to be accompanied by private persons when the inspection is in response to an alleged violation reported by a private person. Subsection (e) requires the permittee to take all possible steps to minimize adverse impacts to the environment or public health and safety resulting from a noncompliance with any term or condition of the permit. Subsection (f) requires the permittee to comply with the requirements of the Indiana program for compliance, modification, or abandonment of existing structures. Subsection (g) requires the operator to pay all reclamation fees. Subsection (h) requires the permittee to submit updates, if any, to the information previously submitted under 310 IAC 12–3–19.1(c) within 30 days after a

cessation order is issued under 310 IAC 12–6–5.

II. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Indiana program.

*Written Comments*

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Indianapolis Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

*Public Hearing*

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., e.s.t., on March 28, 1997. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES.** A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

*Executive Order 12866*

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

*Executive Order 12988*

The Department of the Interior has conducted the reviews required by section 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 counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

*Unfunded Mandates*

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 5, 1997.

Brent Wahlquist,

*Regional Director, Mid-Continent Regional Coordinating Center.*

[FR Doc. 97–6353 Filed 3–12–97; 8:45 am]

BILLING CODE 4310–05–M

# Notices

Federal Register
Vol. 62, No. 49
Thursday, March 13, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Requests

March 7, 1997.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503 and to Department Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, D.C. 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6204 or (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

- Rural Utilities Service

*Title:* Inventory of Work Orders.
*OMB Control Number:* 0572–0284.
*Summary:* Information is collected that allows the borrower to adjust estimates expenditures to reflect actual expenditures for the project.
*Need and Use of the Information:* The information is used to monitor the activities of the borrower to ensure funds are used for stated purposes.
*Description of Respondents:* Business or other for-profit.
*Number of Respondents:* 900.
*Frequency of Responses:* Reporting: On occasion.
*Total Burden Hours:* 12,150.

- Food and Consumer Service

*Title:* Monthly Claim for Reimbursement.
*OMB Control Number:* 0572–New.
*Summary:* Earned reimbursement in the National School Lunch, Breakfast, and Special Milk Programs in based on performance, that is, an assigned rate per meal or half pint served, with cost comparison to free milk and severe need breakfast.
*Need and Use of the Information:* The data collected will be used to compute earned reimbursement.
*Description of Respondents:* State, Local, or Tribal Government.
*Number of Respondents:* 415.
*Frequency of Responses:* Recordkeeping; Reporting: Monthly.
*Total Burden Hours:* 5,764.

- Foreign Agricultural Service

*Title:* Market Access Program.
*OMB Control Number:* 0551–0027.
*Summary:* The primary objective of the Market Access Program is to encourage the development, maintenance and expansion of Commercial export markets for U.S. agricultural products through cost-share assistance to eligible trade organizations that implement a foreign market development program. Financial assistance is made available on a competitive basis.
*Need and Use of the Information:* The Information will be used to manage, plan, evaluate, and account for government resources.
*Description of Respondents:* Not-for-profit institution; Business or other for-profit; State, Local and Tribal Government.
*Number of Respondents:* 70.
*Frequency of Responses:* Recordkeeping; reporting: On occasion; annually.
*Total Burden Hours:* 78,460.

- Forest Service

*Title:* Timber Sale Operating Plans.
*OMB Control Number:* 0596–0086.
*Summary:* The National Forest Management Act requires timber sale operating plans on timber sales that exceed 2 years in length.
*Need and Use of the Information:* The information collected will be used by the agency to determine eligibility for additional contract time. In addition, this information is used to plan the agency timber sale contract administration workload and to meet other contract obligations.
*Description of Respondents:* Business or other for-profit; Federal Government.
*Number of Respondents:* 5,000.
*Frequency of Responses:* Reporting: Annually.
*Total Burden Houses:* 15,000.

Larry Roberson,
*Deputy Departmental Clearance Officer.*
[FR Doc. 97–6363 Filed 3–12–97; 8:45 am]
BILLING CODE 3410–01–M

## Agricultural Marketing Service

**[Docket No. FV97–917–1NC]**

### Notice of Request for Extension of a Currently Approved Information Collection

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

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension to a currently approved information collection for Peaches Grown in California, Marketing Order No. 917.

**DATES:** Comments on this notice must be received by May 12, 1997, to be assured of consideration.

**ADDITIONAL INFORMATION OR COMMENTS:** Contact Kenneth G. Johnson, Marketing Specialist, Marketing Order Administration Branch, Room 2525-S, Fruit and Vegetable Division,

Agricultural Marketing Service, U. S. Department of Agriculture, Post Office Box 96456, Washington, DC 20090–6456, telephone: (202) 720–5127, Fax (202) 720–5698; or Terry Vawter, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California, 93721; telephone: (209) 487–5901.

**SUPPLEMENTARY INFORMATION:**

*Title:* Peaches Grown in California, Marketing Order 917.

*OMB Number:* 0581–0080.

*Expiration Date of Approval:* September 30, 1997.

*Type of Request:* Extension of a currently approved information collection.

*Abstract:* Marketing order programs provide an opportunity for producers of fresh fruits, vegetables and specialty crops, in a specified production area, to work together to solve marketing problems that cannot be solved individually. Order regulations help ensure adequate supplies of high quality product and adequate returns to producers. Under the Agricultural Marketing Agreement Act of 1937 (AMAA), as amended (7 U.S.C. 601–674), industries enter into marketing order programs. The Secretary of Agriculture is authorized to oversee the order operations and issue regulations recommended by a committee of representatives from each commodity industry.

The California peach marketing order program, which has been operating since 1939, authorizes the issuance of grade, size, and maturity regulations, inspection requirements, and marketing and production research including paid advertising. Regulatory provisions apply to peaches shipped within and out of the area of production to any market, except those specifically exempted by the marketing order.

The information collection requirements in this request are essential to carry out the intent of the AMAA, to provide the respondents the type of service they request, and to administer the California peach marketing order program.

The order, and rules and regulations issued thereunder, authorize the Peach Commodity Committee (Committee), the agency responsible for local administration of the order, to require handlers to submit certain information. Much of this information is compiled in aggregate and provided to the industry to assist in marketing decisions.

The Committee has developed forms as a convenience to persons who are required to file information with the Committee needed to carry out the purposes of the Act and the order. These forms require a minimum of information necessary to effectively carry out the requirements of the order, and their use is necessary to fulfill the intent of the Act as expressed in the order.

Peach growers who are nominated by their peers to serve as representatives on the Committee must file nomination forms with the Secretary.

Formal rulemaking amendments to the order must be approved in referenda conducted by the Secretary. Also, the Secretary may conduct a continuance referendum to determine industry support for continuation of the order. Handlers are asked to sign an agreement to indicate their willingness to abide by the provisions of the order whenever the order is amended. These forms are included in this request.

These forms require the minimum information necessary to effectively carry out the requirements of the order, and their use is necessary to fulfill the intent of the AMAA as expressed in the order, and the rules and regulations issued under the order.

The information collected is used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Division regional and headquarters staff, and authorized employees of the Committee. Authorized Committee employees and the industry are the primary users of the information and AMS is the secondary user.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 0.819 hours per response.

*Respondents:* California peach producers and for-profit businesses handling fresh peaches produced in California.

*Estimated Number of Respondents:* 721.

*Estimated Number of Responses per Respondent:* 1.874.

*Estimated Total Annual Burden on Respondents:* 1140 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the functioning of the California peach marketing order program and USDA's oversight of that program; (2) the accuracy of the collection burden estimate and the validity of methodology and assumptions used in estimating the burden on respondents; (3) ways to enhance the quality, utility, and clarity of the information requested; and (4) ways to minimize the burden, including use of automated or electronic technologies.

Comments should reference OMB No. 0581–0080 and Marketing Order No. 917, and be mailed to Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Post Office Box 96456, room 2525–S, Washington, DC 20090–6456. Comments should reference the docket number and page number of this issue of the Federal Register. All comments received will be available for public inspection in the Office of the Docket Clerk during regular USDA business hours at 14th & Independence Avenue SW, Washington, DC, room 2525–S.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: March 7, 1997.

Robert C. Keeney,

*Director, Fruit and Vegetable Division.*

[FR Doc. 97–6266 Filed 3–12–97; 8:45 am]

**BILLING CODE 3410–02–P**

## Food and Consumer Service

### Child Nutrition Programs; Income Eligibility Guidelines

**AGENCY:** Food and Consumer Service, USDA.

**ACTION:** Notice.

**SUMMARY:** This Notice announces the Department's annual adjustments to the Income Eligibility Guidelines to be used in determining eligibility for free and reduced price meals or free milk for the period from July 1, 1997 through June 30, 1998. These guidelines are used by schools, institutions, and centers participating in the National School Lunch Program, School Breakfast Program, Special Milk Program for Children, Child and Adult Care Food Program and Commodity School Program. The annual adjustments are required by section 9 of the National School Lunch Act. The guidelines are intended to direct benefits to those children most in need and are revised annually to account for changes in the Consumer Price Index.

**EFFECTIVE DATE:** July 1, 1997.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert M. Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, FCS, USDA, Alexandria, Virginia 22302, or by phone at (703) 305–2618.

**SUPPLEMENTARY INFORMATION:** This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), no new recordkeeping or reporting requirements have been included that are subject to approval from the Office of Management and Budget.

This action is exempted from review by the Office of Management and Budget under Executive Order 12866.

These programs are listed in the Catalog of Federal Domestic Assistance under No. 10.553, No. 10.555, No. 10.556 and No. 10.558 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V, and the final rule related notice published at 48 FR 29114, June 24, 1983.)

Background

Pursuant to sections 9(b)(1) and 17(c)(4) of the National School Lunch Act (42 U.S.C. 1758(b)(1) and 42 U.S.C. 1766(c)(4)), and sections 3(a)(6) and 4(e)(1)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)(6) and 1773(e)(1)(A)), the Department annually issues the Income Eligibility Guidelines for free and reduced price meals in the National School Lunch Program (7 CFR part 210), School Breakfast Program (7 CFR part 220), Child and Adult Care Food Program (7 CFR part 226), and Commodity School Program (7 CFR part 210), and the guidelines for free milk in the Special Milk Program for Children (7 CFR part 215). These eligibility guidelines are based on the Federal income poverty guidelines and are stated by household size.

The Department requires schools and institutions which charge for meals separately from other fees to serve free meals to all children from any household with income at or below 130 percent of the poverty guidelines. The Department also requires such schools and institutions to serve reduced price meals to all children from any household with income higher than 130 percent of the poverty guidelines, but at or below 185 percent of the poverty guidelines. Schools and institutions participating in the Special Milk Program for Children may, at local option, serve free milk to all children from any household with income at or below 130 percent of the poverty guidelines.

Definition of Income

''Income,'' as the term is used in this Notice, means income before any deductions such as income taxes, Social Security taxes, insurance premiums, charitable contributions and bonds. It includes the following: (1) Monetary compensation for services, including wages, salary, commissions or fees; (2) net income from nonfarm self-employment; (3) net income from farm self-employment; (4) Social Security; (5) dividends or interest on savings or bonds or income from estates or trusts; (6) net rental income; (7) public assistance or welfare payments; (8) unemployment compensation; (9) government civilian employee or military retirement, or pensions or veterans payments; (10) private pensions or annuities; (11) alimony or child support payments; (12) regular contributions from persons not living in the household; (13) net royalties; and (14) other cash income. Other cash income would include cash amounts received or withdrawn from any source including savings, investments, trust accounts and other resources which would be available to pay the price of a child's meal.

''Income,'' as the term is used in this Notice, does not include any income or benefits received under any Federal programs which are excluded from consideration as income by any legislative prohibition. Furthermore, the value of meals or milk to children shall not be considered as income to their households for other benefit programs in accordance with the prohibitions in section 12(e) of the National School Lunch Act and section 11(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1760(e) and 1780(b)).

The Income Eligibility Guidelines

The following are the Income Eligibility Guidelines to be effective from July 1, 1997 through June 30, 1998. The Department's guidelines for free meals and milk and reduced price meals were obtained by multiplying the 1997 Federal income poverty guidelines by *1.30* and *1.85*, respectively, and by rounding the result upward to the next whole dollar. Weekly and monthly guidelines were computed by dividing annual income by 52 and 12, respectively, and by rounding upward to the next whole dollar.

INCOME ELIGIBILITY GUIDELINES

[Effective from July 1, 1997 to June 30, 1998]

| Household size | Federal poverty guidelines | | | Reduced price meals—185% | | | Free meals—130% | | |
|---|---|---|---|---|---|---|---|---|---|
| | Annual | Month | Week | Annual | Month | Week | Annual | Month | Week |
| **48 CONTIGUOUS UNITED STATES, DISTRICT OF COLUMBIA, GUAM AND TERRITORIES** | | | | | | | | | |
| 1 | $7,890 | $658 | $152 | $14,597 | $1,217 | $281 | $10,257 | $855 | $198 |
| 2 | 10,610 | 885 | 205 | 19,629 | 1,636 | 378 | 13,793 | 1,150 | 266 |
| 3 | 13,330 | 1,111 | 257 | 24,661 | 2,056 | 475 | 17,329 | 1,445 | 334 |
| 4 | 16,050 | 1,338 | 309 | 29,693 | 2,475 | 572 | 20,865 | 1,739 | 402 |
| 5 | 18,770 | 1,565 | 361 | 34,725 | 2,894 | 668 | 24,401 | 2,034 | 470 |
| 6 | 21,490 | 1,791 | 414 | 39,757 | 3,314 | 765 | 27,937 | 2,329 | 538 |
| 7 | 24,210 | 2,018 | 466 | 44,789 | 3,733 | 862 | 31,473 | 2,623 | 606 |
| 8 | 26,930 | 2,245 | 518 | 49,821 | 4,152 | 959 | 35,009 | 2,918 | 674 |
| For each add'l family member add | +2,720 | +227 | +53 | +5,032 | +420 | +97 | +3,536 | +295 | +68 |
| **ALASKA** | | | | | | | | | |
| 1 | $9,870 | $823 | $190 | $18,260 | $1,522 | $352 | $12,831 | $1,070 | $247 |
| 2 | 13,270 | 1,106 | 256 | 24,550 | 2,046 | 473 | 17,251 | 1,438 | 332 |
| 3 | 16,670 | 1,390 | 321 | 30,840 | 2,570 | 594 | 21,671 | 1,806 | 417 |
| 4 | 20,070 | 1,673 | 386 | 37,130 | 3,095 | 715 | 26,091 | 2,175 | 502 |
| 5 | 23,470 | 1,956 | 452 | 43,420 | 3,619 | 835 | 30,511 | 2,543 | 587 |
| 6 | 26,870 | 2,240 | 517 | 49,710 | 4,143 | 956 | 34,931 | 2,911 | 672 |
| 7 | 30,270 | 2,523 | 583 | 56,000 | 4,667 | 1,077 | 39,351 | 3,280 | 757 |

INCOME ELIGIBILITY GUIDELINES—Continued

[Effective from July 1, 1997 to June 30, 1998]

| Household size | Federal poverty guidelines | | | Reduced price meals—185% | | | Free meals—130% | | |
|---|---|---|---|---|---|---|---|---|---|
| | Annual | Month | Week | Annual | Month | Week | Annual | Month | Week |
| 8 | 33,670 | 2,806 | 648 | 62,290 | 5,191 | 1,198 | 43,771 | 3,648 | 842 |
| For each add'l family member add | +3,400 | +284 | +66 | +6,290 | +525 | +121 | +4,420 | +369 | +85 |
| **HAWAII** | | | | | | | | | |
| 1 | $9,070 | $756 | $175 | $16,780 | $1,399 | $323 | $11,791 | $983 | $227 |
| 2 | 12,200 | 1,017 | 235 | 22,570 | 1,881 | 435 | 15,860 | 1,322 | 305 |
| 3 | 15,330 | 1,278 | 295 | 28,361 | 2,364 | 546 | 19,929 | 1,661 | 384 |
| 4 | 18,460 | 1,539 | 355 | 34,151 | 2,846 | 657 | 23,998 | 2,000 | 462 |
| 5 | 21,590 | 1,800 | 416 | 39,942 | 3,329 | 769 | 28,067 | 2,339 | 540 |
| 6 | 24,720 | 2,060 | 476 | 45,732 | 3,811 | 880 | 32,136 | 2,678 | 618 |
| 7 | 27,850 | 2,321 | 536 | 51,523 | 4,294 | 991 | 36,205 | 3,018 | 697 |
| 8 | 30,980 | 2,582 | 596 | 57,313 | 4,777 | 1,103 | 40,274 | 3,357 | 775 |
| For each add'l family member add | +3,130 | +261 | +61 | +5,791 | +483 | +112 | +4,069 | +340 | +79 |

Authority: (42 U.S.C. 1758(b)(1))

Dated: February 13, 1997.

William E. Ludwig,

*Administrator.*

[FR Doc. 97–6358 Filed 3–12–97; 8:45 am]

**BILLING CODE 3410–30–P**

## DEPARTMENT OF COMMERCE

## Foreign-Trade Zones Board

**[Docket 57–96]**

### Foreign-Trade Zone 189—Muskegon, Michigan Application for Subzone Status ESCO Company Limited Partnership (Colorformer Chemicals) Muskegon, Mich.; Extension of Public Comment Period

The comment period for the above case, requesting special-purpose subzone status for the colorformer chemicals manufacturing facility of ESCO Company Limited Partnership (ESCO) (jointly owned by Mitsui Toatsu Chemicals and Yamamoto Chemicals (Japan)), in Muskegon, Michigan (61 FR 38137, 7/23/96) is further extended to April 14, 1997, to allow interested parties additional time in which to comment on the proposal.

Comments in writing are invited during this period. Submissions should include 3 copies. Material submitted will be available at: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: March 7, 1997.

John J. Da Ponte, Jr.,

*Executive Secretary.*

[FR Doc. 97–6377 Filed 3–12–97; 8:45 am]

**BILLING CODE 3510–DS–P**

## International Trade Administration

**[A–122–822, A–122–823]**

### Certain Cut-to-Length Carbon Steel Plate and Corrosion-Resistant Carbon Steel Products From Canada: Postponement of Preliminary Results of Reviews

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of postponement of preliminary results of antidumping duty reviews.

**SUMMARY:** The Department of Commerce (''the Department'') is postponing the preliminary results for the third reviews of certain cut-to-length carbon steel plate and certain corrosion-resistant carbon steel products from Canada. These reviews cover the period August 1, 1995 through July 31, 1996.

**EFFECTIVE DATE:** March 13, 1997.

**FOR FURTHER INFORMATION CONTACT:** N. Gerard Zapiain or Jean Kemp at 202–482–3793; Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 (''the Act'') are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Rounds Agreements Act.

Postponement of Preliminary Results

The Department has determined that it is not practicable to issue its preliminary results within the original time limit. (See Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, Enforcement Group III to Robert LaRussa, Acting Assistant Secretary for Import Administration, March 3, 1997). The Department is extending the time limit for completion of the preliminary results until September 2, 1997 in accordance with Section 751(a)(3)(A) of the Act.

The deadline for the final results of these reviews will continue to be 120 days after publication of the preliminary results.

Dated: March 4, 1997.

Joseph A. Spetrini,

*Deputy Assistant Secretary for Enforcement Group III.*

[FR Doc. 97–6337 Filed 3–12–97; 8:45 am]

**BILLING CODE 3510–DS–P**

**[A–570–803]**

### Heavy Forged Hand Tools From the People's Republic of China; Final Results of Antidumping Duty Administrative Reviews

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of final results of antidumping duty administrative reviews.

**SUMMARY:** On November 6, 1996, the Department of Commerce (the Department) published the preliminary

results of its administrative reviews of the antidumping duty orders on heavy forged hand tools (HFHTs) from the People's Republic of China (PRC). The period of review is February 1, 1995 through January 31, 1996.

We gave interested parties an opportunity to comment on our preliminary results. Based upon our analysis of the comments received, we have changed the results from those presented in the preliminary results of review.

**EFFECTIVE DATE:** March 13, 1997.

**FOR FURTHER INFORMATION CONTACT:** Daniel Singer or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–4733.

**SUPPLEMENTARY INFORMATION:**

## Applicable Statute and Regulations

Unless otherwise stated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

## Background

On November 6, 1996, the Department published in the Federal Register the preliminary results of the administrative reviews of the antidumping duty orders on HFHTs from the PRC (61 FR 57384). We received case briefs from petitioner, respondents, and an importer. We received rebuttal briefs from petitioner and respondents. We held a hearing on December 20, 1996. The Department has now completed these administrative reviews in accordance with section 751 of the Act.

## Scope of Review

Imports covered by these reviews are shipments of HFHTs from the PRC comprising the following classes or kinds of merchandise: (1) Hammers and sledges with heads over 1.5 kg (3.33 pounds) (hammers/sledges); (2) bars over 18 inches in length, track tools, and wedges (bars/wedges); (3) picks/mattocks; and (4) axes/adzes.

HFHTs include heads for drilling hammers, sledges, axes, mauls, picks, and mattocks, which may or may not be painted, which may or may not be finished, or which may or may not be imported with handles; assorted bar products and track tools including wrecking bars, digging bars and tampers; and steel wool splitting wedges. HFHTs are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature, and formed to final shape on forging equipment using dies specific to the desired product shape and size. Depending on the product, finishing operations may include shot-blasting, grinding, polishing, and painting, and the insertion of handles for handled products. HFHTs are currently provided for under the following Harmonized Tariff System (HTS) subheadings: 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60. Specifically excluded are hammers and sledges with heads 1.5 kg (3.33 pounds) in weight and under, hoes and rakes, and bars 18 inches in length and under. Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of these orders is dispositive. These reviews cover three exporters of HFHTs from the PRC, Fujian Machinery Import & Export Corporation (FMEC), Shandong Machinery & Equipment Import & Export Corporation (SMC), and Tianjin Machinery & Equipment Import & Export Corporation (TMC). The review period is February 1, 1995 through January 31, 1996.

## Analysis of the Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received case briefs and rebuttal briefs from petitioner and FMEC, SMC, and TMC, and a case brief from Olympia Industrial, Inc. (Olympia), an interested party.

### *Comment 1*

Petitioner argues that, when valuing the steel input as a factor of production in the manufacture of HFHTs, the Department should use Indian steel prices quoted by a consultant familiar with the Indian steel industry and submitted for the record by petitioner, rather than 1992 data from the Monthly Statistics of the Foreign Trade of India (Indian Import Statistics), adjusted for inflation. (Petitioner points out that the Department determined that 1993–1995 data from the Indian Import Statistics was aberrational or unreliable.) Petitioner argues that the production of HFHTs requires special, high quality grades of steel with exacting characteristics in areas such as surface quality, grain structure, and internal strength. If these requirements are not met, petitioner claims, the use of lower grade qualities of steel can result in cracking during the production or use of the HFHT. Petitioner argues that the Indian Import Statistics data for the HTS subheading 7214.50, ''Forged Bars and Rods Containing 0.25% or Greater But Less Than 0.6% of Carbon,'' which the Department used to value steel for the preliminary results, is inadequate because this subheading is too broad and encompasses both merchant quality and special bar quality (SBQ) steel products. As a result, petitioner claims, the average import values are too low and do not accurately reflect the value of the steel used in making HFHTs. Petitioner maintains that the specific price quotations for the grades of steel used in the production of HFHTs provided by a consultant familiar with the Indian steel industry are superior to the Indian Import Statistics or data published by the Steel Authority of India Limited (SAIL), the latter of which was suggested by respondents. Furthermore, petitioner argues that, in situations where import statistics were found to be distortive or aberrational, the Department has used alternatives, such as specific price quotations, citing Furfuryl Alcohol from the PRC; Final Results of Administrative Review, 60 FR 22544, 22548 (May 8, 1995) (Furfuryl Alcohol), and Coumarin from the PRC; Final Results of Antidumping Duty Administrative Review, 59 FR 66895, 66900 (December 28, 1994) (Coumarin).

Respondents argue that the steel price quotes are for a different quality of steel than the steel used in the PRC to produce the subject merchandise.

### *Department's Position*

We disagree with petitioner that we should use its submitted Indian price quotations for valuing steel. There is no evidence on the record supporting petitioner's contention that respondents use SBQ steel for the production of HFHTs. As we explained in the fourth administrative review, our objective is to value the surrogate steel at prices which most closely reflect the type of steel used by the PRC producers. See Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China; Final Results of Antidumping Administrative Review, 61 FR 51272 (October 1, 1996). We verified that the respondents use 1045 carbon steel, which is classified under HTS subheading 7214.50. See Memorandum to the file from Daniel Singer, regarding the verification of Tianjin Machinery Import & Export Corporation (December 19, 1996). The price quotation submitted by petitioner is for an alloy steel with a higher carbon content than

1045 carbon steel. Furthermore, HTS subheading 7214.50 would include both merchant quality and SBQ steel. Unlike in Furfuryl Alcohol and Coumarin, we have not found the Indian Import Statistics to be distortive or aberrational. (See Comment 2.) Therefore, we have continued to value steel using HTS subheading 7214.50 of the Indian Import Statistics.

*Comment 2*

Respondents argue that the steel value the Department used in the preliminary results, 1992 data from the Indian Import Statistics inflated by the wholesale price index (WPI), is not supported by evidence on the record and does not reflect ''the best available evidence'' of the factor values. Respondents maintain that the Department's steel valuation was unreasonable since the value is inconsistent with secondary evidence.

Respondents argue that the steel value used by the Department is higher than the value of steel imported into the United States and into Indonesia under HTS category 7214.50, and European steel wire rod export prices for a similar HTS category. Respondents maintain that changes in the WPI reflect exchange rate changes rather than changes in the value of steel. Respondents argue that, because the value of the Indian rupee decreased since 1992, domestic Indian steel prices should have fallen relative to world steel prices. Respondents assert that the SAIL data on the record of these reviews supports this argument. Respondents argue that the 1992 Indian import value for steel used by the Department in the preliminary results, adjusted for inflation by the WPI, does not accurately reflect this decrease in Indian domestic steel prices.

Respondents also note that the surrogate value of steel scrap used by the Department in these reviews is lower, not higher, than the 1992 value of steel scrap. Respondents argue that the value for steel scrap should be positively correlated to the value for steel, and conclude that this is evidence that the value of Indian steel decreased.

Respondents argue that, in light of the above, the Department should use the price of HTS category 7214.50 steel from the Indian Import Statistics for the current period of review (POR), after excluding aberrational values. Respondents argue that the fact that import quantities were small does not, *ipso facto*, render the prices aberrational or invalid. Respondents argue that prices of 1995 imports into India from Saudi Arabia are not aberrational in comparison with 1992 Indian imports, 1995 Indonesian and U.S. import prices, and European steel wire rod export prices. If the Department determines not to use the price of Indian imports from Saudi Arabia, respondents argue, the Department should consider other surrogate countries, such as Indonesia, or U.S. steel import prices.

Petitioner argues that the alternative factor value sources cited by respondents, including the Indonesian Import Statistics, U.S. import prices, and European wire rod export prices, are largely irrelevant to the price of carbon steel bar in India. In addition, petitioner objects to the use of wire rod export prices for comparison purposes because wire rod is an entirely different product than bar and requires different production methods. Petitioner also questions the respondents' recommendation of steel wire rod prices when they had objected to use of those prices in prior administrative reviews of these orders. Petitioner maintains that, since India and China are highly protected markets, there is no reason to believe that steel prices in either country track such prices in other countries with more open trade policies or a world market price. Petitioner also argues that there is no evidence on the record demonstrating a positive correlation between steel scrap and steel prices, and that evidence would actually reveal otherwise.

Petitioner argues that it is reasonable to inflate the steel value through the use of the WPI because China and India have significant inflationary economies, citing International Financial Statistics, published by the International Monetary Fund, November 1996. Petitioner also states that the use of the WPI is appropriate because it reflects prices paid for inputs at the wholesale level, as well as overall economic activity. Petitioner maintains that, because it is widely recognized that steel prices move with overall economic activity and because the Department has used the WPI as an inflator in the original investigations, in subsequent reviews of these dumping orders, and in other non-market economy (NME) cases, the Department should therefore continue to use the WPI.

Petitioner asserts that the record demonstrates that the Indian Import Statistics, adjusted for inflation and used in the preliminary results of these reviews, are reasonable. The petitioner argues that, since the inflated Indian Import Statistics correspond closely to data submitted by the petitioner on actual steel prices during the POR for the specific type and grade of steel used in manufacturing HFHTs, the inflated import values used in the preliminary results are representative of the actual prices charged in the surrogate country. Therefore, the petitioner requests that, for the final results, the Department use either the Indian steel price quotations it submitted, or the 1992 Indian Import Statistics, adjusted for inflation.

*Department's Position*

We agree with respondents that the steel surrogate value we used in the preliminary results is not the best information by which to value the steel factor. It is our objective to value surrogate steel at prices which most closely reflect the type of steel used by the PRC producer during the POR. As stated in the October 30, 1996 surrogate value memorandum for the preliminary results (Surrogate Value Memorandum, Preliminary Results), the 1995 Indian Import Statistics reflected a small quantity of imports. In the 1994/1995 administrative reviews of these orders, we determined that 1994 Indian Import Statistics were based on a small quantity of imports and that 1993 Indian Import Statistics were aberrational when compared to 1992 Indian and 1993 U.S. import statistics. Therefore, we used the 1992 Indian Import Statistics value, adjusted for inflation, in the preliminary results.

For these final results, we reevaluated the 1995 Indian import data. We determined that the price of 1995 Indian imports from Saudi Arabia was reliable because it is comparable to 1995 U.S. import data, 1995 Indonesian import data, and the inflated 1992 Indian import data we used for the preliminary results. See the Analysis Memorandum for the final results of these reviews, (Analysis Memorandum, Final Results, March 6, 1997). We used the 1995 Indian steel value from Saudi Arabia for HTS category 7214.50 because it is contemporaneous with the POR, and is specific to the grade and chemical composition of the type of steel used by respondents. Because we have changed our source for steel valuation to a source contemporaneous with the POR, the issue of how best to inflate earlier data is moot.

*Comment 3*

Respondents argue that the Department failed to use the most contemporaneous labor rate data. Respondents note that the Department determined a POR labor rate based on 1990 data from the International Labor Organization's Yearbook of Labor Statistics (YLS) and adjusted for inflation using the consumer price index (CPI) reported in International Monetary Fund's International Financial Statistics. Respondents contend that the Department has not shown that indexed

1990 data is the best data available or that the labor rate in India during the POR corresponds to the 1990 rate inflated by the CPI.

Respondents argue that the Department failed to determine whether the daily wage rate for 1990 in the YLS was for 5 or 6 days a week. It is equally possible, even probable, respondents maintain, that the work week includes 5 and one-half days, with the rate being for the full day (or even a work week of five days with more than 8 hours per day). Respondents further state that the Department assumed that an Indian employee works 6 days a week, 52 weeks a year. Respondents maintain that instead of working 4.333 weeks a month (6 days a week every week of the year), it is more accurate to assume a 50 work-week year.

Furthermore, respondents assert that the Department erred in calculating the hourly labor rate. Respondents point out that the Department used data for labor hours worked per week from the IL&T and argue that the IL&T does not explain how the daily wage rate was determined for the YLS. Respondents contend that the IL&T data does not correspond to the POR nor does it correspond to the rates in the YLS. Respondents cite chapter 12 of the YLS as specifically including the number of hours worked per week in manufacturing.

Respondents also assert that the Department failed to adjust labor rates to reflect different levels of labor skills. Respondents state that the workers in the factories have different skill levels and that, to the extent possible, the Department should determine different labor rates to correspond with the different skill levels. Respondents argue that the Department used data for hours worked from Investing, Licensing, and Trading Conditions Abroad (IL&T), published by the Economist Intelligence Unit in November 1994, and could have used the same source to reflect estimates of the rate differentials. Respondents suggest that, absent more contemporaneous data, the Department should use the information contained in Foreign Labor Trends—India (FLTI), published by the American Embassy in New Delhi. The FLTI provides 1992 Indian wage rates for three skill categories: skilled, semi-skilled, and unskilled. If the Department chooses to use the YLS, respondents contend, the Department should determine different skill level wage rates, considering the single YLS rate as the semi-skilled worker rate. Respondents assert that, since the Department has preliminarily determined to use IL&T for hours worked, the IL&T can be used as the ''best evidence available'' of the wage differentials.

*Department's Position*

We disagree with respondents. When labor data contemporaneous with the POR is unavailable, and an inflation index specific to labor is also unavailable, the Department's practice in NME cases is to adjust labor values prior to the period of review using the CPI. See, *e.g.*, Chrome-Plated Lugnuts from the PRC; Final Results of Administrative Review, 61 FR 58518, 58518 (November 15, 1996) (Lug Nuts).

As respondents noted, chapter 12 of the YLS contains the hours worked per week specific to SIC code 381, the category that includes the HFHT industry, and from which we used the daily wage rate. See Analysis Memorandum, Final Results, page 3. For these final results, we have used the hours worked per week in chapter 12 of the YLS rather than in the IL&T because it is more specific to the HFHT industry.

We disagree with the respondents' comments on the days worked per week and the weeks worked per year. The IL&T specifies that factory workers work a six-day week. The YLS specifies the daily wage rate earned and the hours worked per week. Since the number of days worked per week was not specified in the YLS, we have continued to use the six-day work week indicated in the IL&T, along with the daily wage rate and hours worked per week as shown in the YLS, in our calculations of the hourly wage rate. (See Analysis Memorandum, Final Results.) Because we are using the hours worked per week from the YLS, respondents' claim regarding the number of weeks worked per year is moot.

With respect to valuing labor by skill level, although the YLS data is less contemporaneous than the FLTI data submitted by respondents and does not specify labor rates covering different skill levels, the YLS provides labor rates on an industry-specific basis. As in Lug Nuts and Notice of Final Results of Antidumping Duty Administrative Review; Helical Spring Lock Washers from the PRC, 66260 (December 17, 1996), we used SIC code 381 because this category covers the HFHT industry. Because the YLS data does not break out labor rates among skill levels, we applied the same wage rate to each skill level reported by respondents. See page 7 of Surrogate Values Memorandum, Preliminary Results.

*Comment 4*

Respondents argue that the data used by the Department to determine selling, general, and administrative expenses (SG&A), factory overhead, and profit do not comport with the legislative history to Section 773(c) (the NME provision). Respondents cite the Conference Report, Omnibus Trade and Competitiveness Act of 1988, at 591, which states that ''Commerce should seek to use, if possible, data based on production of the same general class or kind of merchandise using similar levels of technology and at similar levels of volume * * *'' as in the NME. Respondents assert that the April 1995 Reserve Bank of India Bulletin (RBI) data for ''Processing and Manufacture: Metals, Chemicals and Products Thereof,'' used by the Department in the preliminary results, encompasses a broader industry spectrum than the same general class or kind of merchandise in these reviews. Respondents argue that the Department has failed to provide a rationale for why the SG&A expenses incurred in the chemical industry in India are similar to SG&A expenses incurred in the Chinese HFHT industry. Respondents suggest that the Department revise its methodology in calculating SG&A, factory overhead, and profit, and use the same basic methodology it used in Helical Spring Lock Washers from the PRC; Notice of Preliminary Results of Antidumping Administrative Review, 61 FR 42000 (August 13, 1996) (Lock Washers 1994/1995), noting that, in Lock Washers 1994/1995, the Department prorated certain expenses. Respondents suggest the elimination of royalty, research and development, and insurance expenses, which they claim the Chinese companies do not incur. Respondents maintain that these changes would change the SG&A, overhead, and profit percentages significantly.

The petitioner argues that the Department should reject the respondents' proposal to eliminate costs such as research and development, royalty, and insurance expenses. The petitioner points to the subjective process of naming account categories in financial statements. Petitioner contends the fact that a particular account on the Indian statements does not exist on the Chinese statements does not necessarily imply that the Chinese companies do not incur these costs. Petitioner asserts that it would be inappropriate to pick and choose among the Indian account titles based simply on what the Chinese companies have chosen to name their accounts. Moreover, petitioner maintains, the removal of these costs from the SG&A calculation will only serve to increase

the profit rate and not alter the end result.

Petitioner argues that the Department should follow Lock Washers 1994/1995 by adding fifty percent of employment cost to the SG&A calculation. Petitioner claims that this was done in prior reviews of HFHTs. However, petitioner contends, the Department should not follow Lock Washers 1994/1995 in its omission of the amount listed as ''other expenses'' in the RBI Bulletin.

*Department's Position*

We disagree with respondents. We note that the RBI data covers both the Indian chemical and metal industries, not solely the chemical industry. Because similar SG&A data specific to the Indian HFHT industry, or the Indian metals industry exclusively, is absent from the record of these reviews, we continue to rely on the RBI data used in the preliminary results.

We also disagree with respondents that we should prorate or eliminate certain expenses from the SG&A calculation. The Department's practice is to use the overall surrogate SG&A expenses to value the SG&A expenses of the NME respondents. Because we do not have detailed knowledge of how and where SG&A expenses are classified by the NME respondents, it would be inappropriate to make item-by-item adjustments to the surrogate SG&A. While the respondents may not incur insurance, research and development, and royalties, there may be other expenses incurred that are not included in the surrogate SG&A calculation. In Lug Nuts, the respondent made a similar argument to eliminate research and development from the surrogate factory overhead calculation, arguing that as a mature industry, it does not incur any research and development expense. We rejected the respondent's argument in that case, stating that while the respondent may not incur research and development expenses, there may be other factory overhead expenses incurred that are not included in the surrogate factory overhead. We have similarly addressed this issue in Lug Nuts and Notice of Final Determination of Sales at Less Than Fair Value; Pure Magnesium and Alloy Magnesium from the Russian Federation, 60 FR 16440 (March 30, 1995). Based on the foregoing, we have not adjusted the surrogate SG&A expenses for claimed differences between respondents and the India surrogate.

We disagree with the petitioner that we should prorate employment costs and add fifty percent of employment costs to the SG&A calculation, as in Lock Washers 1994/1995. As stated in Sulfanilic Acid from the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review, 61 FR 53711 (October 15, 1996), in the absence of any information to the contrary, it is reasonable to assume that the factories involved in these reviews would employ a majority of their workers in production operations, and therefore that most of the employment costs would be applicable to the cost of manufacturing rather than to SG&A expenses. We have continued to include all of the employment costs in the cost of manufacturing. Also, we agree with petitioner that the amount listed as ''other expenses'' should not be omitted. Absent evidence to the contrary, it is reasonable to treat ''other expenses'' as miscellaneous items appropriately included in SG&A. Therefore, we have not adjusted the SG&A expenses used in the preliminary results.

*Comment 5*

The respondents object to the Department's methodology for valuing inland freight, which used the price of inland rail freight as reported in a 1989 cable from the U.S. embassy in India, inflated by the average WPI for the review period. Respondents contend that because this value is dated, is unsupported by secondary data, and is less contemporaneous than other rail freight data on the record, it does not represent the best available information.

As an alternative source for inland rail freight data, respondents argue that the Department should use information contained in Doing Business in India: An Economic Profile, prepared by the Director, Economic Coordination Unit, Ministry of External Affairs of the Government of India. Respondents argue that this data provides a better source for rail freight prices because (1) it is official Indian government data, (2) it is more current than the data used by the Department for the preliminary results, and (3) it provides specific rates on a per-kilometer basis, thus eliminating the need to separately compute rates for distances over 1,000 kilometers.

*Department's Position*

We disagree with respondents. The data in the 1989 Embassy cable, though less contemporaneous than data provided by respondents by one year, provides relative freight rates for various distances. Thus, it more precisely reflects freight charges than the average rate provided by respondents. We therefore have continued to use this data for these final results.

*Comment 6*

Respondents argue that, in calculating weighted-average factor values from the Indian import data, the Department should not disregard prices paid for imports from NME countries. Respondents contend that the practice of excluding such prices is not supported by the Act or the Department's regulations, and distorts the surrogate value. Respondents point out that, in deriving factor values from surrogate country import data, the Department usually rejects three categories of prices: (1) Prices which are aberrational; (2) prices from NME countries; and (3) prices which represent dumped or subsidized prices. In rejecting aberrational prices, respondents maintain that the Department is utilizing its authority to use the ''best available information.'' In rejecting dumped or subsidized prices, respondents state, the Department is relying on the legislative history of the Act, and the fact that dumped prices do not reflect an appropriate value. In the case of NME prices, however, respondents argue that there is no presumption that they are either dumped or subsidized. Thus, respondents argue, the prices of imports from an NME country cannot be excluded automatically.

Petitioner argues that the Department is correct in disregarding prices for imports from NME countries. Petitioner asserts that this is a reasonable methodology, and that the Department should continue to reject import data from NME countries in calculating factor values.

*Department's Position*

We disagree with respondents. To include import data from NME countries in the weighted-average factor values would be contrary to the Department's established policy. Section 771(18) of the Act defines an NME country as ''* * * any foreign country that the [Department] determines does not operate on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise.'' Section 773 (c)(1)(B) states ''* * * the valuation of the factors of production shall be based on the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate * * *.'' Because the purpose of section 773(c) is to find market values, our established policy is to value factor inputs based on prices paid by the manufacturer for inputs purchased from a market

economy source, because those prices reflect commercial reality, while prices paid for inputs from NME manufacturers may not. See Tapered Roller Bearings, and Parts Thereof, Finished and Unfinished from the People's Republic of China; Final Results of Antidumping Duty Administrative Review, 61 FR 65533 (December 13, 1996).

*Comment 7*

Olympia, a U.S. importer of the subject merchandise, requests that the Department assign to it the same antidumping cash deposit rate as the Department assigns to FMEC. Olympia notes that, in previous reviews of these orders, the Department assigned dumping margins based on the exporter, rather than the producer. Furthermore, in the 1994/1995 administrative reviews, the Department assigned separate rates to FMEC and SMC, while all other exporters were assigned the single PRC-wide rate.

Olympia argues that the statute and regulations afford the Department flexibility with respect to the assignment of rates in NME cases, and that the statute does not specify an NME standard for deposit rates. Citing to Section 751(a)(2)(A) of the Act, Olympia argues that the statute merely stipulates that the Department will determine the normal value and export price (or constructed export price) of each entry of the subject merchandise and the dumping margins for each entry. Furthermore, Section 751(a)(2)(C) of the Act provides that the determination of the dumping margins ''shall be the basis for the assessment of countervailing or antidumping duties or entries covered by the determination and for deposits of estimated duties.'' Olympia asserts that the Department's regulations are consistent with the statute by simply providing that the Department will publish the final results of an administrative review, including ''the weighted-average dumping margins, if any * * *,'' citing section 353.22(c)(8) of the Department's Regulations.

Olympia further contends that the Department's proposed regulations clearly indicate the possible application of ''producer-assigned'' rates in NME cases. Olympia cites to the explanatory notes to the Department's proposed regulations (61 FR 7316, February 27, 1996), in which it says, the Department stated it was considering the possible use of separate exporter/producer rates. Olympia further noted that these explanatory notes stated that assessment rates should ''be specific to each importer, because the amount of duties assessed should correspond to the degree of dumping reflected in the price paid by each importer.'' (61 FR 7613.) Olympia acknowledged that the Department did not take a position with respect to producer/importer rates.

Olympia asserts that, even though the Department has followed an exporter-assigned rates methodology, it has recognized the significance of producers in assigning NME rates. Olympia cites to several cases to support this point. The first case is the Final Determination of Sales at Less Than Fair Value; Chrome Plated Lug Nuts from the PRC, 56 FR 46153 (September 10, 1991) (Lug Nuts 1990). Olympia states that there was only one producer and one exporter of lug nuts in the PRC, and the Department assigned the same rate to the exporter as to ''all other manufacturers, producers, and exporters.'' Furthermore, Olympia asserts, the Department recognized that the prices it used were from the PRC exporter to the unrelated U.S. importer, and not between the exporter and producer, and the Department ignored any selling expenses incurred by the exporter. The PRC exporter, Olympia maintains, thus became a non-entity. Olympia claims that the Department has a practice of disregarding the exporter, except with respect to the pricing.

Olympia claims that in Final Determination of Sales at Less Than Fair Value; Helical Spring Lock Washers from the PRC, 58 FR 48833, 48849 (September 20, 1993) (Lock Washers 1992), the Department adopted a *de facto* producer rate. In that case, Olympia states, the respondent, the Hangzhou Spring Washer Plant (HSWP), was both producer and exporter. HSWP also sold lock washers to trading companies for export to the United States. Olympia asserts that the Department assigned the HSWP rate to those trading companies instead of assigning them rates based on the trading company's export prices.

Olympia cites the Notice of Preliminary Determinations of Sales at Less Than Fair Value and Postponement of Final Determinations: Brake Drums and Brake Rotors from the PRC, 61 FR 53190 (October 10, 1996) (Brake Drums), and Notice of Final Determination of Sales at Less Than Fair Value; Certain Cased Pencils from the PRC, 59 FR 55625 (November 8, 1994) (Pencils), where the Department excluded from the antidumping order exports of the subject merchandise sold by specific exporters and manufactured by the producers whose factors of production formed the basis for the *de minimis* and zero margins found in those cases.

Olympia argues that, by assigning FMEC's cash deposit rates to both the producer and the importer of the subject merchandise, the Department will avoid effectively tying the NME producer and U.S. importer to selected exporters because of the rates assigned. Olympia suggests that the Department adopt a parallel producer/importer rate in situations where (1) an importer specifically requests such a rate; (2) the transaction between the producer and importer have been subject to at least one previous review; (3) the producer is not state-controlled; and (4) the producer is not related to the exporter. Olympia maintains that its situation satisfies all these requirements. Furthermore, Olympia argues that employing a specific producer/importer rate (1) promotes accuracy and fairness since the rates are specific to, and reflect actual prices paid by, a particular importer; and (2) avoids unnecessary trade restrictions by allowing an importer the freedom to import directly from the producer.

Petitioner argues that the Department should deny Olympia's request for an exemption from standard antidumping duty deposit rules. Petitioner adds that such exemptions are made only under the most limited circumstances for PRC exporters.

Petitioner states that PRC producers typically export through unrelated trading companies, and, in most cases, the Department establishes a deposit rate for future importation for each trading company. Petitioner claims that the Department has deviated from this principle only in a few unusual cases, such as those cited by Olympia, by applying the dumping margin for a certain producer to imported goods made by that producer. Petitioner argues that the rationale for deviating from the Department's normal practice presented in those cases does not apply to these reviews of HFHTs. Petitioner asserts that the majority of cases cited by Olympia involve PRC producers whose products were assigned a zero dumping margin. Thus, the Department had to assign a specific rate to zero-margin producers to avoid imposing duty deposits on products that had been found not to be dumped. Petitioner asserts that the record in these reviews indicates that all of the HFHT producers have dumping margins, so no such concern applies.

Petitioner points out that in Lug Nuts 1990, since only one factory in the PRC manufactured the subject merchandise, the Department knew that any lug nut exporter would eventually be assigned the margin for the sole producer. Therefore, petitioner argues, it made sense for the Department to apply the producer's dumping margin as the duty deposit rate for all producers in that

case. Petitioner asserts that this rationale does not apply to HFHTs, which are produced by numerous factories in the PRC.

Petitioner asserts that Olympia's request to apply FMEC's dumping margin to all of Olympia's purchases direct from PRC producers is an entirely different situation. Petitioner states that FMEC is a trading company, not a producer, whose dumping margin is based on the producers whose products it bought during the POR. Petitioner maintains that granting Olympia's request would require applying the FMEC dumping margin even to HFHTs made by producers that were not included in the FMEC dumping calculation. Petitioner states that Department practice does not support the application of one producer's dumping margins to the products of another.

Petitioner objects to Olympia's designation of its name as proprietary information. Petitioner states that it is not aware of any Department practice that allows the name of an interested party to be granted proprietary treatment.

*Department's Position*

We disagree with respondents that the same antidumping cash deposit rate for FMEC should be applied to Olympia, and note that it would be administratively infeasible to apply cash deposit rates on an importer-specific basis.

Olympia's reference to the explanatory notes to our proposed regulations, with respect to importer-specific assessment rates, is misplaced. It has long been the Department's practice to assess duties on an importer-specific basis; what Olympia is asking the Department to do here is to establish an importer-specific cash deposit rate.

However, the cases cited by Olympia entail different circumstances than those presented in these administrative reviews for HFHTs. In Lock Washers 1992, a single company, HSWP, was both producer and exporter. We calculated and assigned a single rate based on HSWP's sales to unrelated customers in the United States, and to market-economy trading companies which were based outside the United States, for sales of lock washers exported from the PRC by HSWP and destined for the United States. HSWP's sales of lock washers sold to the first unrelated customer based in the United States were not assigned a separate cash deposit rate. Unlike in Lock Washers 1992, the exporter and producer are not the same in these reviews.

In Lug Nuts 1990, we determined there was one producer and one exporter of lug nuts from the PRC to the United States during the period. Therefore, the calculated rate was based on the sales from the sole exporter and applied to all other producers and exporters who began to ship after the publication of the order. In these reviews, there is more than one exporter of the subject merchandise. In both Brake Drums and Pencils, we found *de minimis* and zero margins for the subject merchandise that was sold by certain exporters and manufactured by specific producers. In order to ensure that merchandise that was sold by those exporters, but manufactured by other producers, would be subject to the antidumping duty order, we applied the exclusion from the order only to the producer whose factors formed the basis of the zero or *de minimis* rate analysis. Exclusion from the order is not an issue in administrative reviews, therefore, Olympia's references to Pencils and Brake Drums do not support its arguments.

There are no factual circumstances in these reviews similar to those in the NME cases cited by Olympia, and we find no reason to assign a specific importer-producer rate for Olympia. We note that Olympia's lack of a specific importer-producer cash deposit rate does not preclude it from purchasing HFHTs directly from the producer, and subsequently requesting a review of that producer's exports.

Final Results of Review

As a result of our review, we have determined that the following margins exist:

| Manufacturer/exporter | Time period | Margin |
|---|---|---|
| Fujian Machinery Import & Export Corporation: | | |
| Axes/Adzes | 2/1/95–1/31/96 | 18.72 |
| Bars/Wedges | 2/1/95–1/31/96 | 36.76 |
| Hammers/Sledges | 2/1/95–1/31/96 | 15.95 |
| Picks/Mattocks | 2/1/95–1/31/96 | 98.77 |
| Shandong Machinery Import & Export Corporation: | | |
| Bars/Wedges | 2/1/95–1/31/96 | 36.66 |
| Hammers/Sledges | 2/1/95–1/31/96 | 3.12 |
| Picks/Mattocks | 2/1/95–1/31/96 | 63.87 |
| Tianjin Machinery Import & Export Corporation: | | |
| Axes/Adzes | 2/1/95–1/31/96 | 2.42 |
| Hammers/Sledges | 2/1/95–1/31/96 | 15.81 |

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and normal value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of reviews for all shipments of HFHTs from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided for by 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies named above which have separate rates (FMEC, SMC, and TMC) will be the rates for those firms as stated above for the classes or kinds of merchandise listed above; (2) for axes/adzes from SMC, which are not covered by these reviews, the cash deposit rate will be the rate established in the most recent review of that class or kind of merchandise in which SMC received a separate rate—that is, the February 1, 1992 through January 31, 1993 reviews; (3) for bars/wedges and picks/mattocks from TMC, which are not covered by these reviews, the cash deposit rate will be the rate established in the most recent review of those classes or kinds of merchandise, *i.e.*, 66.32 percent for bars/wedges and 108.20 percent for picks/mattocks; and (4) the cash deposit rates for non-PRC exporters of the subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. The PRC-wide rates are 44.41 percent for hammers/sledges, 66.32 percent for bars/wedges, 108.2 percent for picks/

mattocks and 21.93 percent for axes/adzes.

This notice serves as a final reminder to importers of their responsibility under section 353.26 of the Department's regulations to file a certificate regarding 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 the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations.

Dated: March 6, 1997.

Robert S. LaRussa,

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 97–6378 Filed 3–12–97; 8:45 am]

**BILLING CODE 3510–DS–P**

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**[A–588–810]**

## Mechanical Transfer Presses From Japan; Final Results of Antidumping Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce

**ACTION:** Notice of final results of antidumping duty administrative review; mechanical transfer presses from Japan

**SUMMARY:** On November 6, 1996, the Department of Commerce (the Department) published the preliminary results of review of the antidumping duty order on mechanical transfer presses (MTPs) from Japan. The review covers three manufacturers/exporters of the subject merchandise to the United States and the period February 1, 1995 through January 31, 1996. We gave interested parties an opportunity to comment on the preliminary results of review. We received comments from petitioners, Verson Division of Allied Products Corp., the United Autoworkers of America, and the United Steelworkers of America (AFL–CIO/CLC) (petitioners). We received rebuttal comments from Aida Engineering, Ltd. (Aida). Based on our analysis, we have changed the final results from those presented in the preliminary results of review. We have determined that sales have not been made below normal value (NV).

**EFFECTIVE DATE:** March 13, 1997.

**FOR FURTHER INFORMATION CONTACT:** Elisabeth Urfer or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–4733.

**SUPPLEMENTARY INFORMATION:**

### Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

### Background

On November 6, 1996, the Department published the preliminary results of the review of the antidumping duty order on MTPs from Japan (61 FR 57387, November 6, 1996). The Department has now completed this administrative review in accordance with section 751 of the Act.

### Scope of Review

Imports covered by this review include MTPs currently classifiable under Harmonized Tariff Schedule (HTS) item numbers 8462.99.0035 and 8466.94.5040. The HTS numbers are provided for convenience and for U.S. Customs purposes. The written description remains dispositive of the scope of the order.

The term ''mechanical transfer presses'' refers to automatic metal-forming machine tools with multiple die stations in which the work piece is moved from station to station by a transfer mechanism designed as an integral part of the press and synchronized with the press action, whether imported as machines or parts suitable for use solely or principally with these machines. These presses may be imported assembled or unassembled. This review does not cover certain parts and accessories, which were determined to be outside the scope of the order. (See ''Final Scope Ruling on Spare and Replacement Parts,'' U.S. Department of Commerce, March 20, 1992; and ''Final Scope Ruling on the Antidumping Duty Order on Mechanical Transfer Presses (MTPs) from Japan: Request by Komatsu, Ltd.,'' U.S. Department of Commerce, October 1, 1996.)

This review covers three manufacturers/exporters of MTPs, and the period February 1, 1995 through January 31, 1996.

### Analysis of the Comments Received

We gave interested parties an opportunity to comment on the preliminary results of review. We received comments from petitioners and rebuttal comments from Aida.

*Comment 1*

Petitioners contend that the Department should exclude below-cost sales from the calculation of constructed value profit (CV profit). Petitioners argue that the Department's decision to include below-cost sales in CV profit is contrary to the statute, the Department's current practice, and the Statement of Administrative Action (SAA) accompanying the URAA. Petitioners note that, in the preliminary results, the Department determined that Aida's home market is viable, but that the particular market situation requires that NV be based on constructed value (CV) due to the many differences in specifications between the various presses, and because no merchandise sold in the home market or to a third country is identical to the merchandise sold to the United States. Petitioners note that, consequently, the Department calculated SG&A and profit based on home market sales of MTPs in accordance with section 773(e)(2)(A) of the Act.

Petitioners state that section 773(e)(2)(A) of the Act requires the Department to add to CV:

> the actual amounts incurred and realized by the specific exporter or producer being examined in the investigation or review of selling, general, and administrative expenses, and for profits, in connection with the production and sale of a foreign like product, in the ordinary course of trade, before consumption in the foreign country, or * * *,

and that section 771(15) of the Act defines the term ''ordinary course of trade'' as excluding sales determined to be below cost under section 773(b)(1) of the Act. Petitioners argue that sales below cost are not in the ordinary

course of trade and must be excluded from CV. Petitioners contend that in the 1994–1995 review the Department determined that sales were not actually disregarded under section 773(b) of the Act, and therefore were not outside the ordinary course of trade, because petitioners had not filed a cost allegation and consequently Commerce had not investigated below-cost sales. Petitioners argue that, from the original less-than-fair value investigation, NV in MTP cases has always been based on CV, and that there was no need for them to file a sales-below-cost allegation, since all the cost information necessary to conduct such an investigation was already before the Department. In addition, petitioners argue, the Department has determined, in CV cases, that a formal cost allegation by petitioners or initiation of a cost investigation by the Department pursuant to section 773(b) of the Act is not required for the Department to have ''reasonable grounds to believe or suspect'' that sales of a foreign like product are made at prices less than the cost of production, and, therefore, are outside the ordinary course of trade.

Petitioners argue that the Department addressed this issue in the investigation of sales at less than fair value of large newspaper printing presses (LNPPs), another CV case involving custom-made, large machines. See Notice of Final Determination of Sales at Less-Than-Fair Value: Large Newspaper Printing Presses from Japan, 61 FR 38139 (July 23, 1996) (LNPPs from Japan). Petitioners argue that, in LNPPs from Japan, the Department determined that, as with MTPs, because of the unique specifications and custom-built nature of this product, the Department would base NV on CV, and would calculate selling, general, and administrative expenses and profit in accordance with section 773(e)(2)(A) of the Act. Petitioners note that in LNPPs from Japan petitioners filed a cost allegation, but the Department did not formally initiate a cost investigation. Petitioners argue that the Department acknowledged the unique cost reporting aspects of CV, stating that it:

> In effect * * * conducted a cost investigation and our analysis revealed evidence that there were home market sales of merchandise within the purview of this investigation which were below-cost. Section 771(15) provides that sales and transactions considered outside the ordinary course of trade include ''among others'' below-cost sales disregarded under Section 773(b)(1). The Department interprets this provision to apply to the exclusion of below-cost sales, even if such sales were not formally disregarded pursuant to Section 773(b)(1) of the Act.

Petitioners argue that LNPPs from Japan is analogous to the present review of MTPs, but contend that the Department reached the opposite conclusion in LNPPs from Japan, and excluded below-cost sales from the CV profit calculation as outside the ordinary course of trade. Petitioners argue that, likewise, in Certain Welded Carbon Steel Pipes and Tubes from Thailand: Final Results of Antidumping Duty Administrative Review, 61 FR 56515 (November 1, 1996) (Pipe and Tube from Thailand), the Department excluded below-cost sales from the calculation of CV profit. Petitioners cite to *Secretary of Agriculture* v. *United States*, 347 U.S. 645, 652–53 (1954) and argue that it is axiomatic that an agency must conform its decisions to its prior practice or explain the reasons for its departure from that prior practice, and that, in this review of MTPs, the Department has failed to explain its departures from its prior practice in LNPPs from Japan and Pipe and Tube from Thailand. Petitioners conclude that, based on the foregoing, for the final results the Department should exclude below-cost sales from the CV profit calculation for Aida.

Petitioners argue that, in the administrative review of MTPs from Japan covering the period February 1, 1994 through January 31, 1995 (1994–1995 review), the Department's final results were also contrary to the statute and Department practice. Petitioners contend that, in the 1994–1995 review, the Department excluded below-cost sales in its profit calculation for its preliminary results, then reversed this preliminary determination, even though the parties had not briefed the issue.

Aida contends that the Department properly included all of Aida's home market sales in calculating CV profit. Aida argues that section 773(e)(2)(A) of the Act provides for the calculation of profit based on:

> the actual amounts * * * realized by the specific exporter or producer being examined in the * * * review * * * for profits, in connection with the production and sale of the foreign like product, in the ordinary course of trade, for consumption in the foreign country.

Aida states that section 771(15)(A) of the Act, which defines the ordinary course of trade, provides that sales disregarded under section 773(b)(1) may be treated as outside the ordinary course of trade; section 773(b)(1), in turn, states that, whenever the Department has reasonable grounds to believe or suspect that sales of the foreign like product have been made below cost, it shall determine whether this is the case and whether certain other conditions have been met. Aida argues that, if the Department resolves these issues in the affirmative, such sales may be disregarded in the determination of NV. Aida notes that section 773(b)(2) states that there are reasonable grounds to believe that below-cost sales were made if (1) An interested party made an allegation of below-cost sales or (2) the Department disregarded as below cost some or all of the exporter's sales in a prior review. Aida states that no below-cost allegation was submitted in this review pursuant to section 353.31(c), the Department did not make any determination of below-cost sales under section 773(b)(1), and no sales were disregarded under section 773(b)(1). Aida also disagrees with petitioners' argument that below-cost sales *per se* are outside the ordinary course of trade. Aida asserts that this is not what the statute says; rather, Aida states, the definition of ordinary course of trade refers specifically to sales disregarded under section 773(b)(1), and a determination to disregard sales under section 773(b)(1) is a statutory prerequisite to excluding below-cost sales from the ordinary course of trade and from the CV profit calculation. Aida argues that section 773(b) is not applicable in the present proceeding, since there was no allegation of sales below cost and home market sales were not considered as the basis for NV. Aida argues that, accordingly, the conditions for treating any sales as outside the ordinary course of trade have not been met.

Aida argues that the Department's inclusion of below-cost sales in the CV profit calculation is not inconsistent with its decisions in LNPPs from Japan and Pipe and Tube from Thailand. Aida argues that, in LNPPs from Japan, the petitioner had filed a timely and proper cost allegation, and the Department conceded that it should have formally addressed the sales-below-cost allegation, but stated that it did not foresee the implications of a formal initiation of a sales-below investigation would have on the CV profit and SG&A calculations. Aida argues that the issue faced by the Department in LNPPs from Japan does not exist here and the Department's decision in LNPPs from Japan is inapplicable. Aida argues that, in Pipe and Tube from Thailand, the Department initiated a below-cost investigation pursuant to section 773(b)(2), and as a result of that investigation disregarded certain home market sales under section 773(b)(1).

Aida further contends that petitioners argument that Aida's sales are outside the ordinary course of trade is not supported by the SAA. Aida notes that,

with regard to section 773(e)(2)(A), cited by petitioner, the SAA states that ''under section 773(e)(2)(A), in most cases, Commerce would use profitable sales as the basis for calculating profit for purposes of constructed value,'' and argues that this statement clearly recognizes that in certain circumstances below-cost sales should be included in the profit calculation. SAA at 170, House Doc. 103–316 at 840. Aida contends that such circumstances exist in this case.

Aida points out that the Department noted in LNPPs from Japan that:

> this being one of the first cases under the new law, we are still developing our practice for computing profit and SG&A in accordance with the new law.

Aida argues that, in this context, and in view of the petitioner's below-cost allegations, the Department stated in LNPPs from Japan that below-cost sales could be excluded ''even if such sales were not formally disregarded pursuant to section 773(b)(1) of the Act.'' Aida contends that the Department apparently relied upon the phrase ''among others'' in section 771(15), which defines ordinary course of trade, as the basis for this statement, and argues that that provision is inapplicable in the present case. Aida contends that in explaining ''among others'' the SAA states:

> Commerce may consider other types of sales or transactions to be outside the ordinary course of trade when such sales have characteristics that are not ordinary as compared to sales or transactions generally made in the same market.

Examples of such sales include ''merchandise produced to unusual product specifications, merchandise sold at aberrational prices, or merchandise sold pursuant to unusual terms of sale.'' SAA at 164, House Doc. 103–316 at 834. Aida argues that there is no evidence in the record that Aida's below-cost sales fell into any such category or otherwise were outside the ordinary course of trade.

Aida contends that, even if the requisite conditions for disregarding home market sales had been met, the Department was within its discretion in not excluding such sales from CV profit. Aida argues that section 773(b)(1) states that, when sales are found to meet the conditions set forth therein, such sales may be disregarded in the determination of NV, but that such sales are not automatically disregarded. Aida further argues that, even if sales are disregarded under section 773(b)(1), the SAA makes clear that they are neither automatically outside the ordinary course of trade nor automatically excluded from CV profit.

Aida argues that there was no reason for the Department to make any determination as to whether any home market sales should be disregarded under section 773(b)(1) since it concluded at the outset of the review that NV should be based on CV. Aida also notes that no allegation of sales below cost was received by the Department. Aida maintains that the Department properly determined that the conditions were not met for treating below-cost home market sales as outside the ordinary course of trade and properly included all home market sales of MTPs in its calculation of CV.

Aida disagrees with petitioners contention that the Department's decision on this point in the 1994–1995 review is contrary to the statute, Department practice, and the SAA. Aida argues that in the 1994–1995 review the Department concluded that there was no basis for excluding below-cost sales from the CV profit calculation because the Department did not receive an allegation that home market sales were made at prices below the cost of production, and did not determine that any home market sales were outside the ordinary course of trade.

*Department's Position:* As both petitioners and Aida note, section 773(e)(2)(A) requires that sales used as the basis of CV profit be made in the ordinary course of trade. Section 771(15) of the Act defines the ordinary course of trade as:

> the conditions or practices which, for a reasonable time prior to the exportation of the subject merchandise, have been normal in the trade under consideration with respect to merchandise of the same class or kind.

Section 771(15) further provides that sales and transactions considered outside the ordinary course of trade include, ''among others,'' below-cost sales disregarded under section 773(b)(1). Section 773(b)(1) directs the Department to disregard sales made at less than the cost of production that have been made within an extended period of time (*i.e.*, normally one year, but not less than six months) in substantial quantities, and at prices which do not permit recovery of all costs within a reasonable period of time.

MTPs are large custom-built capital equipment, where the merchandise produced for each sale is unique. In such cases, the Department often resorts to the use of CV rather than conducting price-to-price comparisons. In this case, the Department determined to go directly to CV because, while the home market was viable, the particular market situation, which requires that the subject merchandise be built to each customer's specifications, did not permit proper price-to price comparisons in either the home market or third countries. See Mechanical Transfer Presses From Japan; Preliminary Results of Antidumping Duty Administrative Review, 61 FR 57387 (November, 6, 1996). As a result, we did not require that Aida provide home market sales data. Neither party has contested the use of CV.

In order to calculate profit pursuant to section 773(e)(2)(A) of the Act, we asked Aida to provide aggregate cost and sales data for its home market sales of MTPs. Aida, however, provided us with a detailed cost build-up, a total cost of production, a comparison sales price, and a resulting loss for certain of its home market sales. Based on this information, the Department had reasonable grounds to believe that home market sales of the foreign like product were made at prices below the cost of production. Because each MTP is custom-built, differs significantly in specifications, and is essentially a discrete model, we performed the cost test on a sale-by-sale basis. The Department found that some home market models were sold at prices below the cost of production in substantial quantities, within an extended period of time, and at prices which do not permit recovery of cost within a reasonable period of time.

We conclude, therefore, that in this review it is appropriate to exclude these sales from the profit calculation as outside the ordinary course of trade, pursuant to section 771(15) of the Act. The fact that technically we did not ''disregard'' such sales in a price-based determination of NV as provided in section 771(15) of the Act, does not prevent the Department from finding these sales to be outside the ordinary course of trade when we have, in effect, conducted a cost test on the sales and found that they have failed. We would have disregarded these sales, pursuant to section 773(b)(1) of the Act, if we were using price-to-price comparisons, and, as a result, we believe it is appropriate to do so here. With respect to petitioner's comments regarding the final results of review for the 1994–1995 period, those results are in litigation before the Court of International Trade, and should properly be addressed in the context of that litigation.

## Final Results of the Review

We determine that the following dumping margins exist:

| Manufacturer/exporter | Time period | Margin (percent) |
|---|---|---|
| Aida Engineering, Ltd. | 2/1/95—1/31/96 | 0.00 |
| Hitachi-Zosen | 2/1/95—1/31/96 | [1] 0.00 |
| Ishikawajima-Harima Heavy Industries, Ltd. | 2/1/95—1/31/96 | [1] 0.00 |

[1] No shipments subject to this review. Rate is from the last segment of the proceeding in which the firm had shipments.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Furthermore, the following deposit rates will be effective upon publication of these final results for all shipments of MTPs from Japan entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: (1) The cash deposit rate for reviewed companies will be the rate established in these final results; (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 the original less-than-fair-value 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) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be the rate established in the investigation of sales at less than fair value, which is 14.51 percent. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice 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 subsequent assessment of double antidumping duties.

Notification to Interested Parties

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 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: March 6, 1997.

Robert S. LaRussa,

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 97–6382 Filed 3–12–97; 8:45 am]

BILLING CODE 3510–DS–P

**[A–570–501]**

## Natural Bristle Paint Brushes and Brush Heads From the People's Republic of China; Final Results of Antidumping Duty Administrative Review

**AGENCY:** International Trade Administration/Import Administration.

**ACTION:** Notice of final results of the antidumping duty administrative review of natural bristle paint brushes and brush heads from the People's Republic of China.

**SUMMARY:** On November 6, 1996, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping order on natural bristle paint brushes and brush heads (paint brushes) from the People's Republic of China (PRC). The review covers the period February 1, 1995 through January 31, 1996.

We gave interested parties an opportunity to comment on our preliminary results. The Department received no comments, and these final results of review remain unchanged from the preliminary results of review.

**EFFECTIVE DATE:** March 13, 1997.

**FOR FURTHER INFORMATION CONTACT:** Elisabeth Urfer or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–4733.

**SUPPLEMENTARY INFORMATION:**

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Background

On November 6, 1996, the Department published the preliminary results of review (61 FR 57389). The Department has now completed this administrative review in accordance with section 751 of the Act.

Scope of Review

Imports covered by this review are shipments of natural bristle paint brushes and brush heads from the PRC. Excluded from the order are paint brushes with a blend of 40 percent natural bristles and 60 percent synthetic filaments. The merchandise under review is currently classifiable under item 9603.40.40.40 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise is dispositive.

This review covers the period February 1, 1995 through January 31, 1996.

Final Results of Review

We gave interested parties an opportunity to comment on the preliminary results. The Department received no comments, and we have not changed the results from the preliminary results.

We determine that the following dumping margins exist:

| Manufacturer/exporter | Time period | Margin (percent) |
|---|---|---|
| Hebei Animal By-Products I/E Corp. | 2/1/95–1/31/96 | [1] 351.92 |
| PRC-Wide Rate | 2/1/95–1/31/96 | 351.92 |

[1] No shipments subject to this review. Rate is from the last relevant segment of the proceeding in which the firm had shipments.

Accordingly, the following deposit requirement will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(1) of the Act: (1) For any company found to merit a separate rate for the final results of this review, the rate will be the company-specific rate for that company established in the final results of this review; (2) for the companies named above which were not found to have separate rates, as well as for all other PRC exporters, the cash deposit rate will be the PRC-wide rate established in the final results of this review; (3) for previously reviewed non-PRC exporters, the cash deposit rate will be the rate established in the most recent segment of the proceeding; and (4) for all other non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Interested Parties

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 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 notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26(b) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675 (a)(1)) and 19 CFR 353.22.

Dated: March 6, 1997.

Robert S. LaRussa,

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 97–6383 Filed 3–12–97; 8:45 am]

**BILLING CODE 3510–DS–P**

**[A–588–842]**

## Initiation of Antidumping Duty Investigation: Needle Bearing Wire From Japan

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** March 13, 1997.

**FOR FURTHER INFORMATION CONTACT:** Beth Graham at (202) 482–4105 or Kristin Mowry at (202) 482–3798, Office of AD/CVD Enforcement I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

Initiation of Investigation

*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 February 14, 1997, the Department of Commerce (''the Department'') received a petition, filed, in proper form, by E.C.D., Inc., of Hillside, New Jersey (''the petitioner''). On February 21 and 24, 1997, E.C.D., Inc., provided supplemental information concerning assertions made in its petition.

In accordance with section 732(b) of the Act, the petitioner alleges that imports of needle bearing wire are being, or are likely to be, sold in the United States at less than their 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 petitioner states that it has standing to file the petition because it is an interested party, as defined in section 771(9)(C) of the Act.

*Scope of the Investigation*

The scope of this investigation consists of 52100 (SAE (Society of American Engineers) standard)) steel needle bearing wire in a diameter range of .047 inches (i.e., 1.19 mm.) up to and including .218 inches (i.e., 5.54 mm.) supplied in coils. All needle bearing wire is generally the same in chemistry and is specifically designed to meet specifications designated by automobile and other manufacturers to be used in engine parts, and brake assemblies. The needle bearing wire imported from Japan, covered by this investigation is classifiable under headings 7229.90.5030 and 7229.90.5050 of the Harmonized Tariff Schedule of the United States (HTS). Although the HTS headings are provided for convenience and customs purposes, our written description of the scope of this investigation 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. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement 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.

A review of the industry support data provided in the petition and other production information readily available to the Department indicates that the petitioner and those expressing support for the petition account for more than 50 percent of the total production of the domestic like product and for more than 50 percent of that produced by companies expressing support for, or opposition to, the petition. The Department received no expressions of opposition to the petition from any interested party. Accordingly, the Department determines that this petition is supported by the domestic industry.

*Export Price and Normal Value*

The petitioner based the export price on quotes for 1997 delivered prices. Petitioner combined the per metric ton prices for needle bearing wire with two different diameters in order to provide an average export price. Petitioner adjusted these prices for the costs of inland freight, insurance, handling fees, ocean freight, brokerage, packaging, and international fees.

Petitioner based normal value on Japanese delivered home market prices. Petitioner combined the prices for needle bearing wire with two different diameters in order to provide a comparable value to the average export price.

We find the petitioner's averaging of the export price and home market prices to be inappropriate because the range of diameters differed in the two markets. Instead, for purposes of this initiation, we have revised the calculation to compare the home market and export prices of needle bearing wire with the closest diameter (*i.e.*, the home market prices of 2.0 mm. diameter wire to the export price of 2.1 mm. diameter wire). We also adjusted the home market price for Japanese inland freight and made arithmetic changes to the export price for certain movement charges. (Our adjustments to the calculations are outlined in a memorandum to the file, dated March 6, 1997.)

Based on comparisons of the export price to normal value, the estimated dumping margin for needle bearing wire from Japan is 40.67 percent.

*Fair Value Comparisons*

Based on the information provided by the petitioner, there is reason to believe that needle bearing wire from Japan is likely to be sold at less than fair value. If it becomes necessary at a later date to consider the petition as a source of facts available under section 776 of the Act, we may further review the margin calculation in the petition.

*Initiation of Investigation*

We have examined the petition on needle bearing wire and have found that it meets the requirements of section 732 of the Act, including the requirements concerning allegations of 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 an antidumping duty investigation to determine whether needle bearing wire from Japan is being, or is likely to be, sold in the United States at less than fair value. Unless extended, we will make our preliminary determination by July 24, 1997.

*Distribution of Copies of the Petition*

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the Government of Japan. We will attempt to provide a copy of the public version of the petition to each exporter of needle bearing wire named in the petition.

*International Trade Commission Notification*

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

*Preliminary Determinations by the ITC*

The ITC will determine by March 31, 1997, whether there is a reasonable indication that imports of needle bearing wire from Japan are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

Dated: March 6, 1997.

Robert S. LaRussa,

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 97–6384 Filed 3–12–97; 8:45 am]

BILLING CODE 3510–DS–P

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**[A–570–825]**

## Sebacic Acid From the People's Republic of China, Extension of Time Limit for Antidumping Duty Administrative Review

**AGENCY:** International Trade Administration/Import Administration/ Department of Commerce.

**ACTION:** Notice of extension of time limit for Antidumping Duty Administrative Review.

**SUMMARY:** The Department of Commerce (the Department) is extending the time limits for its preliminary results in the administrative review of the antidumping order on sebacic acid from the Peoples Republic of China (China). The review covers the period July 1, 1995, through June 30, 1996.

**EFFECTIVE DATE:** March 13, 1997.

**FOR FURTHER INFORMATION CONTACT:** James Rice or Jean Kemp, AD/CVD Enforcement, Group III, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Ave. N.W., Washington, D.C. 20230; telephone: (202) 482–0162.

**SUPPLEMENTARY INFORMATION:** Because it is not practicable to complete this review within the original time limit, the Department is extending the time limit for the completion of the preliminary results to July 31, 1997, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA). (See Memorandum from Joseph A. Spetrini to Robert S. LaRussa on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce).

This extension is in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the URAA (19 U.S.C. 1675(a)(3)(A)).

Dated: February 26, 1997.

Joseph A. Spetrini,

*Deputy Assistant Secretary, Enforcement Group III.*

[FR Doc. 97–6331 Filed 3–12–97; 8:45 am]

BILLING CODE 3510–DS–P

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**[A–588–604, A–588–054]**

## 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; Final Results of Antidumping Duty Administrative Reviews and Termination in Part

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of final results of antidumping duty administrative reviews and termination in part.

**SUMMARY:** On November 6, 1996, the Department of Commerce (the Department) published the preliminary results of its 1994–95 administrative reviews of the antidumping duty order on tapered roller bearings (TRBs) and parts thereof, finished and unfinished, from Japan (A–588–604), and of the finding on TRBs, four inches or less in outside diameter, and components thereof, from Japan (A–588–054). The review of the A–588–054 finding covers one manufacturer/exporter and seven resellers/exporters of the subject merchandise to the United States during the period October 1, 1994, through September 30, 1995. The review of the A–588–604 order covers two manufacturers/exporters, seven resellers/exporters, four firms identified by the petitioner in this case as forging producers, and the period October 1, 1994, through September 30, 1995.

We gave interested parties an opportunity to comment on our

preliminary results. Based upon our analysis of the comments received we have changed the results from those presented in our preliminary results of review.

**EFFECTIVE DATE:** March 13, 1997.

**FOR FURTHER INFORMATION CONTACT:** Valerie Owenby or John Kugelman, Office of AD/CVD Enforcement III, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–0145 or 482–0649, respectively.

**SUPPLEMENTARY INFORMATION:**

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are in reference to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Background

On August 18, 1976, the Treasury Department published in the Federal Register (41 FR 34974) the antidumping finding on TRBs from Japan, and on October 6, 1987, the Department published the antidumping duty order on TRBs from Japan (52 FR 37352). On October 5, 1995 (60 FR 52149), the Department published the notice of ''Opportunity to Request an Administrative Review'' for both TRBs cases. The petitioner, the Timken Company (Timken), and two respondents requested administrative reviews. We initiated the A–588–054 and A–588–604 administrative reviews for the period October 1, 1994, through September 30, 1995, on November 11, 1995 (60 FR 57573). On November 6, 1996, we published in the Federal Register the preliminary results of the 1994–95 administrative reviews of the antidumping duty order and finding on TRBs from Japan *(see, 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; Preliminary Results of Antidumping Duty Administrative Reviews and Termination in Part,* 61 FR 57391 (November 6, 1996) (*1994–95 TRB Prelim*)). We held a hearing for the 1994–95 administrative reviews of both the A–588–054 and A–588–604 TRBs cases on December 20, 1996. The Department has now completed these reviews in accordance with section 751 of the Act, as amended.

Scope of the Review

Imports covered by the A–588–054 finding are sales or entries of TRBs, four inches or less in outside diameter when assembled, including inner race or cone assemblies and outer races or cups, sold either as a unit or separately. This merchandise is classified under the Harmonized Tariff Schedule (HTS) item numbers 8482.20.00 and 8482.99.30.

Imports covered by the A–588–604 order include TRBs and parts thereof, finished and unfinished, which are flange, take-up cartridge, and hanger units incorporating TRBs, and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. Products subject to the A–588–054 finding are not included within the scope of this order, except for those manufactured by NTN Corporation (NTN). This merchandise is currently classifiable under HTS item numbers 8482.99.30, 8483.20.40, 8482.20.20, 8483.20.80, 8482.91.00, 8484.30.80, 8483.90.20, 8483.90.30, and 8483.90.60. These HTS item numbers and those for the A–588–054 finding are provided for convenience and Customs purposes. The written description remains dispositive.

The period for each review is October 1, 1994, through September 30, 1995. The A–588–054 reviews cover TRB sales by one TRB manufacturer/exporter (Koyo Seiko Ltd. (Koyo)), and seven resellers/exporters (Honda Motor Corporation (Honda), Fuji Heavy Industries (Fuji), Kawasaki Heavy Industries (Kawasaki), Yamaha Motor Company Ltd. (Yamaha), Nigata Convertor Co. Ltd. (Nigata), Suzuki Motor Company Ltd. (Suzuki), and Toyosha Company Ltd. (Toyosha)). The reviews of the A–588–604 case cover TRB sales by two manufacturers/exporters (Koyo and NTN), seven resellers/exporters (Honda, Fuji, Yamaha, Kawasaki, Nigata, Suzuki, and Toyosha), and four firms identified by the petitioner as forging producers (Nittetsu Bolten (Nittetsu), Showa Seiko Company Ltd. (Showa), Ichiyanagi Tekko (Ichiyanagi), and Sumikin Seiatsu (Sumiken)).

As explained in our preliminary results of review, we have terminated the A–588–054 review for Honda and Toyosha, and the A–588–604 review for NTN, Koyo, Ichiyanagi, Sumikin, and Toyosha (*see 1994–95 TRB Prelim* at 7392). As also explained in our preliminary results, we have used 47.63 percent in the A–588–054 case and 40.37 percent in the A–588–604 case as total adverse facts available for Yamaha, Kawasaki, Nigata, and Suzuki (*see* id.). In addition, because Fuji, Honda, Showa, and Nittetsu had no shipments in the A–588–604 review, for the reasons explained in our notice of preliminary results, we have not assigned a rate to these firms for these final results (see id.). The period of review (POR) for both cases is October 1, 1994, through September 30, 1995.

Analysis of Comments Received

We received case briefs from Koyo, Fuji, and Timken on December 6, 1996. We received rebuttal briefs from the same three parties on December 13, 1996. In addition, on December 20, 1996, we reopened the record for the A–588–054 review for Koyo in order to receive additional comments from Koyo and Timken concerning Koyo's downward adjustment to its U.S. indirect selling expenses for those imputed interest expenses it incurred when financing antidumping duty cash deposits. We received these additional comments from Koyo on December 27, 1996, and from Timken on January 3, 1997. These comments, as well as those which were contained in all of the case and rebuttal briefs we received, are addressed below in the following order:

1. Adjustments to United States Price
2. Adjustments to Normal Value
3. Cost of Production and Constructed Value
4. Miscellaneous Comments Related to Assessment, Level of Trade, the Arm's-Length Test, and the 20% Difference-in-Merchandise Test
5. Clerical Errors

*1. Adjustments to United States Price*

*Comment 1:* Timken argues that the Department's preliminary results decision to accept Koyo's downward adjustment to its U.S. indirect selling expenses for interest expenses incurred when financing cash deposits is unclear. Timken asserts that the Department did not address issues concerning the exact nature of the calculation, such as (1) how long a respondent may adjust its expenses for a given duty deposit, (2) whether a respondent may deduct for interest on duty deposits for as long as the order exists, (3) whether liquidation and the conversion of the deposits into actual payments terminates the right to claim the adjustment, and, if so, why, (4) whether the fact that a respondent expenses its payments on duty deposits in the year they occur has any bearing on the issue, and (5) if the respondent

is subject to more than one order, whether interest payments on duty deposits on entries subject to some other order may be allocated as an adjustment to expenses for imports under the subject order.

Timken further contends that, as a result, the Department has provided no idea of what information is required from a respondent to justify this adjustment. For example, Timken states, (1) if the Department allows the adjustment only for interest on deposits made during the POR, the record must contain information on what deposits the respondent made during the POR, (2) if the Department allows the adjustment for all deposits previously made, the record must contain the sum of these deposits, (3) if liquidation ends the right to the adjustment, the record must allow the Department to determine which entries have been liquidated and which deposits were converted to actual payments so that such deposits are not included in the sum for which the interest expenses are calculated, and (4) if only interest on deposits made for subject merchandise is allowed, the record must indicate that any importer of merchandise subject to more than one order properly separated its interest claims. Because the Department has failed to address these issues, Timken argues, it is unable to comment on the reasonableness of the Department's policy.

Nevertheless, for the purpose of further discussion, Timken presumes that the Department's apparent policy is to allow interest expenses attributable to deposits on subject merchandise until the entries associated with such deposits have been liquidated, and makes the following arguments:

First, Timken states that, under this approach, the act of liquidation transforms duty deposits from an ongoing burden to the importer in the form of interest payments into actual expenses which can be written off the importer's books. Timken contends that this is contrary to the 1979 legislation, in which Congress changed the antidumping law to require the payment of cash deposits and the payment of interest on underdeposits. Timken claims that it was Congress' intent that no party benefit from any delay in payment and, as a result, it made it clear that actual antidumping duties must be paid at the time of import and that subsequent adjustments for over-or under-payment should be coupled with interest payments to approximate as closely as possible the payment of actual duties at the time of import. Timken contends that by accepting an adjustment for the interest expenses attributable to all cash deposits previous to the POR, the Department, in essence, is treating cash deposits as something other than an actual payment of antidumping duties and is, therefore, acting contrary to the expressed intent of Congress.

Second, Timken argues that, by allowing an adjustment for interest expenses attributable to all previous cash deposits, the Department provides respondents with a mechanism to mask dumping because the adjustment has the effect of reducing the *ad valorem* duty deposit rate over time. As a result, Timken asserts, the Department's policy will encourage respondents to prolong and delay liquidation as long as possible, knowing that as long as liquidation is delayed, they can reduce the margin determined for any ongoing dumping.

Third, Timken argues that Koyo has failed to meet its obligation to document its claimed adjustment. Therefore, Timken asserts, because Koyo has not provided any information to support its adjustment, the Department has limited information to determine whether Koyo's claim is reasonable.

Finally, Timken argues that because the record demonstrates that Koyo expensed this interest on cash deposits, Koyo is claiming an adjustment for interest expenses which it has already written off for accounting purposes. In addition, using information on the record, Timken calculates a figure reflecting the actual amount of duty deposits for which Koyo would have incurred interest and, based on the fact that this figure does not correspond to the total cash deposits Koyo reported in its financial statements, Timken concludes that Koyo's claimed adjustment amount is inaccurate.

Koyo argues that the Department properly excluded those imputed interest expenses Koyo incurred when financing its cash deposits. Koyo asserts that, since the publication of the preliminary results for these TRB reviews, the Department has clearly articulated a policy concerning these interest expenses in the antifriction bearings (AFB) case (*Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et. al.; Final Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews,* 61 FR 66472 (December 17, 1996 ) (*AFBs 93–94*)) and in the Department's September 20, 1996, final remand results pursuant to *Federal-Mogul Corp. and the Torrington Company* v. *United States,* Slip Op. 96–37 (February 13, 1996) (*Federal-Mogul Final Remand Results*)). Koyo states that the Department has explained that the imputed expenses in question are comparable to expenses for legal fees related to antidumping proceedings because they were incurred only because of the antidumping duty order. As a result, these expenses cannot be categorized as selling expenses (*AFBs 93–94* at 66488 and *Federal-Mogul Remand Results* at Comment 5). Koyo argues that this policy is in accordance with section 751(d)(1) of the Act, which directs the Department to deduct from USP only those expenses incurred in the selling of the subject merchandise, and the Statement of Administrative Action (SAA), which states that deposits of estimated antidumping duties are not to be treated as a cost. Koyo asserts that if deposits of antidumping duties are not to be treated as costs, the imputed interest expenses incurred on financing these deposits likewise cannot be considered as a cost.

Koyo further argues that exclusion of these interest expenses is not in conflict with the intent of Congress'' 1979 change in the antidumping duty law. Koyo contends that, since Koyo Corporation of the United States (KCU), Koyo's U.S. subsidiary, has paid deposits at the time of the entry of TRBs, it has in fact felt an immediate financial effect at the time of import, which was precisely what Congress anticipated in passing the 1979 Act.

Koyo also maintains that the Department's policy does not mask dumping, but, rather, neutralizes the impact on the calculation of antidumping margins of having to borrow money to finance cash deposits and ensures that antidumping duties are not artificially inflated. In addition, Koyo contends that the Department's allowance of this adjustment is in accordance with the CAFC's directive that the antidumping statute is intended to be remedial, not punitive, in nature (*Federal Mogul Corp.* v. *United States*, 63 F.3d 1572 (Fed. Cir. 1995)).

Furthermore, Koyo asserts, in the event that the Department has questions concerning its calculation of this adjustment, at this late date in this proceeding, it would be improper for the Department to reject the adjustment altogether, particularly in light of the Department's failure to ask for additional information in its supplemental questionnaire. Rather, Koyo claims, the proper course of action would be for the Department to reopen the record for the purpose of gathering additional information from Koyo on this topic.

Finally, Koyo contends, Timken's suggestion that the adjustment is improper because it was already

expensed confuses the difference between cash deposits and the imputed interest incurred in financing these deposits, and overlooks the fact that this interest expense is a real financial burden which is not affected by the accounting convention of expensing deposits.

*Department's Position:* While we agree with Timken that, in our preliminary results of review, we did not provide a detailed explanation why we allowed Koyo's adjustment for those imputed interest expenses it incurred when financing cash deposits, we disagree that we have failed to articulate a clear policy on this issue. Shortly before the publication of the *1994–95 TRB Prelim*, we explained our policy concerning this adjustment in detail in our September 20, 1996, *Federal-Mogul Final Remand Results*, which were upheld by the CIT on December 12, 1996 in *Federal-Mogul Corp.* v. *United States*, Slip Op. 96–193 (CIT 1996). In addition, since the publication of our preliminary results, we have clarified our position not only in *AFBs 93–94* and *Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof From France, et. al.; Final Results of Antidumping Duty Administrative Review*, 62 FR 2081 (January 15, 1997) (*AFBs 94–95*), but also in our December 17, 1996, final remand results pursuant to *The Timken Company* v. *United States*, Slip Op. 96–86 (May 31, 1996) (*Timken Final Remand Results*). As explained in these determinations, it is reasonable for a respondent to deduct from its reported U.S. indirect selling expenses an amount which reflects those interest expenses it incurred when financing cash deposits. Our decision is based on the fact that the respondent incurred the interest expenses at issue as a result of the need to pay antidumping duty cash deposits. Therefore, we consider these interest expenses to be comparable to expenses for legal fees related to antidumping proceedings in that they were incurred only because of the existence of an antidumping duty order and a respondent's involvement therein (*see, e.g., AFBs 93–94* at 66488, *AFBs 94–95* at 2104, *Federal-Mogul Final Remand Results* at Comment 5, and *Timken Final Remand Results* at 23). In addition, it has been our longstanding policy to not treat expenses related to antidumping proceedings as selling expenses (*see Color Television Receivers From the Republic of Korea; Final Results of Administrative Review of Antidumping Duty Order*, 68 FR 50336). The CIT recognized this line of reasoning in *Daewoo Electronics Co.* v. *United States*, 712 F. Supp. 931 (CIT 1989), when it recognized that legal fees are not selling expenses subject to deduction from United States Price (USP), and concluded that the classification of such expenses as selling expenses subject to deduction from USP would ''create artificial dumping margins and might encourage frivolous claims * * *which would result in increased margins'' (*see id.* at 947).

We consider the interest expenses at issue in these final results of review to be directly comparable. Koyo did not incur these interest expenses in any effort to sell merchandise in the United States. Rather, the expenses were incurred as part of the process attendant to the antidumping duty order. Had the order not existed, Koyo would not need to finance cash deposits, and the expenses would not have been incurred. Section 772(d) of the Act states that ''* * * the price used to establish constructed export price shall also be reduced by the amount of any of the following expenses generally incurred by or for the account of the producer or exporter, or the affiliated seller in the United States in selling the subject merchandise.'' (Emphasis added.) The statute therefore clearly provides that the expenses to be deducted from USP are those borne, directly or indirectly, to sell the subject merchandise in the United States. The interest expenses at issue in these final results, like legal fees, are an expenditure which Koyo actually incurred, but clearly did not incur in selling TRBs to the United States.

In its comments to our preliminary results Timken further suggests that because we did not specifically articulate within our *1994–95 TRB Prelim* our position concerning numerous issues related to a respondent's calculation of the adjustment, it is unable to comment on the reasonableness of our policy. We disagree: not only have we clearly articulated a policy concerning this adjustment, as discussed above, but it is our position that the exact calculation of the adjustment is secondary to the numerous compelling reasons why the adjustment should be allowed. In fact, the CIT has recognized a similar line of reasoning in regard to antidumping legal expenses. In *Zenith Electronics Corp.* v. *United States*, Slip Op. 91–66 (July 29, 1991) (*Zenith*), the CIT stated that it is ''not a question of whether or not legal expenses can be related to the time period of the importation of the merchandise under review. Nor does it relate to the question of whether or not the legal expenses have a tendency to ultimately aid the sale of merchandise in the United States * * *. The fundamental reason for not allowing the use of legal expenses related to antidumping is that the expenses of a party's participation in legal proceedings provided by law should not become an element in the decision of those selfsame proceedings.'' Nevertheless, because Timken has raised, for these final results, issues specific to the calculation of this adjustment, we address the detailed points of Timken's arguments below.

First, we do not agree with Timken that the adjustment should be denied if it is a cumulative adjustment which reflects those interest expenses incurred during the POR for cash deposits made prior to the POR. Rather, we believe the adjustment should be allowed whether a respondent (1) limits its calculation to only those interest expenses incurred on cash deposits made during the period under review, (2) calculates a cumulative adjustment which reflects not only the interest expenses incurred on cash deposits made during the period being reviewed, but also reflects the interest expenses incurred during the POR on cash deposits from previous review periods as well, or, as Koyo has done in the instant review, (3) calculates a cumulative adjustment which reflects only those interest expenses incurred during the POR for cash deposits paid in previous PORs. In its comments Timken argues that, by accepting a cumulative adjustment amount, as a result of the fact that the adjustment will ''eat away'' at a respondent's margin, the Department allows respondents to ''mask'' dumping. Thus, Timken argues, the Department provides respondents with the impetus to delay litigation and liquidation. Timken's argument is, however, based on a results-oriented rationale which overlooks the fundamental reasons for allowing the adjustment, as discussed in detail above, and ignores the fact that the adjustment reflects a genuine expense solely attributable to the antidumping duty order.

As we explained in our *Timken Final Remand Results*, with the exception of cost-of-production (COP) and constructed-value (CV) calculations, it is the Department's practice to recognize an adjustment for imputed expenses (*e.g.*, inventory carrying costs and credit) when the expenses reflect a real cost to the firm, but are difficult to identify or isolate within a respondent's records. For example, in *Television Receivers, Monochrome and Color, From Japan; Final Results of Antidumping Duty Administrative Review*, 56 FR 38417 (August 13, 1991) we explained:

> The Department imputes an interest expense for time in inventory in order to adjust for the opportunity cost of holding the merchandise in inventory. An opportunity cost arises because funds could have been invested in alternative financial arrangements yielding interest * * *. Since the interest expenses associated with time in inventory cannot be isolated from other interest expenses, the Department must impute this expense amount. However, the Department's long-standing policy is to treat the opportunity cost of holding inventory as a real expense.

In other words, we recognize that opportunity costs associated with an activity like holding inventory or extending credit have a real financial impact for the firm (*see, e.g., Fujitsu General Ltd.* v. *United States,* 883 F.Supp 728, 737 (CIT 1995) (where the Department calculated a respondent's imputed interest adjustment to exporter's sales price (ESP) for time in inventory in order to adjust for ''missed opportunity'' costs of maintaining merchandise in inventory and the CIT found that the use of actual inventory periods to calculate imputed interest expense was reasonable and in accordance with law)). Because these costs are not readily identifiable, we allow the claimed adjustment to be imputed. In addition, while a firm may choose to finance its cash deposits by obtaining loans specifically for that purpose, a firm may also choose to divert funds from other corporate activities to pay cash deposits. By diverting funds for the purpose of paying cash deposits, the firm is forgoing the income which could have been earned had it used these funds for any number of other activities. In this way, an opportunity cost arises because the funds could have been invested in alternative financial arrangements yielding interest (*i.e.,* interest-bearing accounts or loans to other parties at interest). Therefore, it is not always the case that interest expenses incurred when financing cash deposits will be easily identified. Rather, when the cash deposits are funded through the diversion of funds from another activity or investment vehicle, the expenses may not be easily traced to a company's books and records or easily isolated from the company's other interest expenses. However, the opportunity costs associated with the diversion nevertheless reflect a real cost to the firm in the same way the opportunity costs of extending credit and holding inventory constitute real costs (*see Timken Final Remand Results* at 26).

Because the monies used to fund cash deposits for a given POR are unavailable until final antidumping duties are assessed for that POR, this opportunity cost will accrue until liquidation. For example, if a respondent pays cash deposits for TRB entries during the October 1, 1988, through September 30, 1989, TRB review period, but antidumping duties are not assessed on entries during this period until November 1, 1992, the financing costs of funding the 1988–89 cash deposits will not only be incurred in the 1988–89 POR, but will be incurred until actual duties are assessed at the time of liquidation in 1992. As a result, an interest expense associated with the 1988–89 cash deposits will be incurred during the 1989–90, 1990–91, and 1991–92 review periods. While a cumulative adjustment amount does affect a respondent's margin, dumping cannot be ''masked'' when an adjustment is made for a genuine expense attributable only to the order itself. In fact, if we fail to allow the adjustment, we risk calculating margins which are overstated due to our failure to take into account the fact that no such expense would have been incurred absent the order. Furthermore, we have no basis for suspecting that a large international corporation with millions of dollars tied up in cash deposits would purposely choose to delay assessment in order to realize a potential decrease in its dumping margin at some indeterminate point in the future.

As also explained earlier, interest expenses incurred when financing cash deposits are incurred solely due to the existence of the antidumping order and, like antidumping legal expenses, these interest expenses cannot be treated as U.S. selling expenses. It is irrelevant whether the expenses relate to cash deposits made during the current POR or a prior POR, as any such expenses are not selling expenses. Just as we do not expect antidumping legal expenses to be limited to those for the period under review, we do not expect interest expenses incurred when funding cash deposits to be limited to only the expenses for cash deposits made during the period under review. For example, legal expenses incurred during one POR may reflect legal fees for antidumping litigation from several previous reviews. Likewise, legal expenses for a given POR will accrue from period to period until all litigation for the period has ended. Therefore, because we conclude that it is reasonable to treat interest on cash deposits in the same way as we treat antidumping legal fees, it is reasonable not to limit the interest expense adjustment to only interest expenses tied to deposits made during the POR.

Timken also argues that we cannot accept a cumulative adjustment amount because to do so would be contrary to the Congressional intent of the 1979 change in the antidumping law. Timken's argument is based on its assumption that cash deposits are actual antidumping duty payments and, by allowing a cumulative adjustment, the Department is treating them as something other than actual payments. The Department has long maintained the position that ''duty deposits are not actual antidumping duties but estimates of future dumping liability'' (*see Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof From France, et. al.; Final Results of Antidumping Duty Administrative Reviews,* 60 FR 10900 (February 28, 1995). We have expressed the identical position in the TRBs cases, stating that ''the cash deposit requirements are estimates of antidumping duties. The actual dumping margins applicable * * * will be reflected in final assessment'' (*see Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Certain Components Thereof From Japan; Final Results of Antidumping Administrative Review,* 55 FR 38720 (September 20, 1990)). Furthermore, the CIT and Court of Appeals for the Federal Circuit (CAFC) have consistently recognized that a distinction exists between cash deposits and actual antidumping duties and that cash deposits are only estimates of final antidumping duties. For example, when ruling on the issue of whether the Department must calculate the cash deposit and antidumping duty rates using an identical methodology, the CAFC stated in *The Torrington Company and Federal-Mogul Corp.* v. *United States,* 44 F. 3d 1572, 1578–79 (Fed. Cir. 1995):

> Section 1675(a)(2) does not require the same methodology of calculation for assessment rates and cash deposits rates * * *. Moreover, Title 19 bases the cash deposits rate on estimated antidumping duties on future entries * * *. Thus, Title 19 requires only cash deposit estimates, not absolute accuracy. This estimate need only be reasonably correct pending the submission of complete information for an actual and accurate assessment * * *. No evidence compels this court to find that deriving cash deposit rates from entered values leads to a more accurate estimation of future duties * * *.'' (Emphasis added)(citations omitted).

Therefore, cash deposits are clearly not payments of actual antidumping duties.

In its comments Timken suggests that, in instances where a respondent is subject to more than one antidumping duty order, the adjustment should be

limited to those interest expenses incurred when financing cash deposits only for the merchandise subject to the order being reviewed. While we generally believe that the adjustment should be limited to only merchandise subject to the order under review, depending upon a respondent's calculation methodology, this issue may be irrelevant, as it was with regard to NTN in *Timken Final Remand Results* (q.v. at 35). Therefore, we believe it is necessary to examine the specifics of each case before it can be determined whether the scope/non-scope distinction is relevant to the adjustment at issue, as we have done in the instant case with regard to Koyo, and as is explained in our response to Comment 2 below.

We also disagree with Timken's contention that we must deny Koyo's downward adjustment because the record demonstrates that Koyo expensed its interest on cash deposits expenses. While the record demonstrates that Koyo expensed its cash deposits, there is no evidence that the interest expenses incurred when financing these cash deposits were also expensed. Furthermore, Koyo is claiming an imputed interest amount because these expenses are not readily identifiable in its records. As a result, there is no identifiable amount of interest for Koyo to expense. In addition, as explained above, these interest expenses reflect a real, ongoing financial burden to Koyo which is neither dissolved nor impacted by Koyo's use of an accounting convention which expenses antidumping cash deposits.

Finally, while we agree with Timken that at the time of the *1994–95 TRB Prelim* the record in this case did not contain detailed information supporting Koyo's calculation of its claimed adjustment, we do not agree that this warrants denial of the adjustment. Prior to these final results we reopened the record for these reviews to allow additional comment on Koyo's calculation of its reported adjustment amount. We did this because our policy concerning this adjustment was in its developmental stages throughout most of these administrative review proceedings. For example, at the time we issued our 1994–95 TRBs questionnaire to Koyo, and throughout the supplemental questionnaire stage of these review proceedings, it was our practice to deny this downward adjustment. Then, as a result of litigation in both the AFBs and TRBs cases, shortly before our *1994–95 TRB Prelim*, we articulated and began to apply a clear policy on this issue of allowing the adjustment. As a result of this change in policy, we allowed Koyo's claimed downward adjustment in our *1994–95 TRB Prelim*. Since we adopted this revised policy prior to the publication of the preliminary results for these reviews, we followed this policy in our preliminary review results. However, this was the first opportunity for the Department and the parties to address the rationale underlying our policy. Due to the changing nature of the policy throughout the course of these review proceedings, this is also the first opportunity for all parties, the Department included, to properly comment on and address the detailed specifics of Koyo's actual adjustment calculation. Thus, while we believe that there are numerous compelling reasons why the adjustment should be granted, to ensure a fair and reasonable application of this policy to these reviews, we determined that it was necessary to reopen the record for these reviews in regard to Koyo's calculation of its reported adjustment. In this way the Department would have the information and argument before us necessary to make a reasonable determination whether to allow Koyo's adjustment. Therefore, on December 20, 1996, we reopened the record and received additional information and comment from Koyo on December 27, 1996, and from Timken on January 3, 1997. These comments, as well as our position on the issues raised, are addressed in Comment 2 below.

*Comment 2:* Koyo argues that not only is its calculation of those imputed interest expenses it incurred when financing antidumping cash deposits based on information derived directly from its financial statements, but its calculation methodology is both conservative and reasonable. Koyo explains that it calculated the imputed interest expense it incurred as a result of having to finance cash deposits rather than use the monies in other interest-yielding financial arrangements by first calculating the total amount of cash deposits it paid for TRBs up to the beginning of the 1994–95 POR. Koyo argues that it derived these cash deposit figures directly from its 1993/94 financial statements, but, because the 1993–94 financial statement included the entire FY 1994, the figures reported in the financial statement included cash deposits paid during the months of October, November, and December of 1994. Because the 1994–95 POR only began on October 1, 1994, Koyo stated that, in order to calculate cash deposits paid only prior to the 1994–95 POR, it deducted from the figure in its financial statement those cash deposits paid from October 1994 through December 1994. Koyo explained that it then multiplied this total cash deposit amount by the KCU borrowing rate in effect during the 1994–95 POR, which it reported in exhibit C–9 of its 1994–95 TRBs questionnaire response. Koyo states that the result, which reflected the imputed interest expenses it incurred during the POR for cash deposits paid prior to the POR, is identical to the figure it deducted from its reported U.S. indirect selling expenses, as indicated in exhibit C–13 of its 1994–95 TRBs questionnaire response.

Timken argues that because there is no evidence that Koyo actually obtained loans in order to finance its antidumping cash deposits, Koyo failed to demonstrate that it actually incurred any interest expenses. Timken asserts that the Department should therefore deny the adjustment in question.

Timken further contends that it is unclear from the record whose opportunity was actually lost. Timken contends that, if Koyo, in accordance with the TRB antidumping duty order raised its U.S. prices in order to finance its cash deposits, it could not have lost any opportunity because its deposits would be paid for by the additional cash flow and, as a result, loans to finance cash deposits would be unnecessary. In addition, Timken asserts that if Koyo Seiko, the Japanese parent company, eased KCU's cash deposit requirements by either lowering transfer prices or reimbursing KCU, KCU would not have lost any opportunity to use the money it deposited. Therefore, Timken concludes, because Koyo has not demonstrated that KCU actually incurred the opportunity costs at issue, the Department should not allow the adjustment.

Timken also maintains that Koyo is not entitled to claim any lost opportunity income based on cash deposits that it will actually owe and which will not be refunded upon liquidation. Timken asserts that it is clear that Koyo will owe antidumping duties on those POR shipments for which it has paid cash deposits. Timken argues that, as a result, some or even all of its cash deposits reflect what will be owed to the U.S. Treasury as antidumping duties. Because these are lawful debts to the U.S. Treasury, Timken asserts, they cannot represent lost opportunity costs. Therefore, Timken states, Koyo's calculation formula is grossly overstated because it fails to take into account that portion of the cash deposits which reflect legal debts.

Timken further contends that Koyo's calculation fails to take into account the

fact that Koyo will owe antidumping duties for the 1974–1979 TRB shipments, periods during which Koyo was not required to make cash deposits. Timken asserts that, to the extent that Koyo enjoyed the opportunity income from these funds that should have otherwise been required as cash deposits during the 1974–79 PORs, Koyo reaped a windfall which it has omitted from its calculation.

Finally, Timken argues that, even though the Department conducted a 1994–95 review for Koyo only in the A–588–054 TRBs case, Koyo nevertheless included within its calculation those interest expenses it allegedly incurred for the A–588–604 TRB shipments as well. Timken therefore asserts that, because TRBs within the scope of the A–588–604 case are non-scope merchandise within the context of the A–588–054 finding, to the extent that the Department allows Koyo's claimed adjustment, it should recalculate Koyo's adjustment to reflect only those interest expenses incurred with regard to cash deposits paid for A–588–054 TRBs.

*Department's Position:* As indicated in Comment 1, we believe that there are numerous reasons why the adjustment at issue should be allowed. However, as also explained in Comment 1, before making a final determination on whether to accept Koyo's adjustment, we determined that it was necessary to gather additional information regarding the details of Koyo's calculation of the adjustment. Based upon our review of the additional comments and information we received, we have determined that Koyo's calculation of its reported adjustment was reasonable and accurate and have allowed the adjustment for the following reasons.

First, we disagree with Timken that, in order to qualify for the adjustment at issue, Koyo must demonstrate that it obtained loans for the sole purpose of financing cash deposits. As explained in detail in our response to Comment 1 above, while a firm may choose to obtain loans specifically for the purpose of financing cash deposits, a firm may also choose to divert funds from other corporate activities to pay cash deposits. By diverting funds for the purpose of paying cash deposits, the firm is forgoing the income which could have been earned had it used these funds for any number of other activities. As a result, an opportunity cost arises because the funds could have been invested in alternative financial arrangements yielding interest. Therefore, because it is not always the case that interest expenses incurred when financing cash deposits will be easily identified, easily traced to a company's books and records, or easily isolated from the company's other interest expenses, we have determined that it is reasonable for the expense to be imputed. It is therefore unnecessary for a respondent to demonstrate that a loan was obtained for the sole purpose of financing cash deposits in order to qualify for the adjustment at issue.

We also disagree with Timken's contention that, because Koyo has failed to demonstrate that KCU actually incurred the opportunity costs at issue, the adjustment should be denied. Timken's argument relies first on the notion that, if KCU raised its U.S. prices in response in response to the TRB antidumping duty order or finding, the additional cash flow would have been sufficient to offset the cash deposits. Thus, Timken concludes that no opportunity cost would be incurred and loans to finance the cash deposits would be unnecessary. The purpose of the antidumping duty statute is to offset the effect of discriminatory pricing between the U.S. and home markets (*see Certain Hot-rolled Lead and Bismuth Carbon Steel Products From the United Kingdom*, 60 FR 4409 (August 24, 1995)). Thus, while there is no statutory requirement that a firm must act to eliminate price discrimination, if it decides to do so, how it does so is within its own discretion. For example, upon the imposition of antidumping duties, a respondent may act to eliminate the price differential by (1) increasing its U.S. prices, (2) lowering its home market prices, or (3) undertaking a combination of the two. If a firm chooses to eliminate the price discrimination solely by lowering its home market prices, there would be no need to increase U.S. prices. A firm may also choose to increase its U.S. prices and lower its home market prices at the same time. Thus, there is no requirement that a firm must raise its U.S. prices. There is also no guarantee that any increase in U.S. price would increase the cash flow in an amount that would offset the respondent's cash deposits. Even if a firm chose to rely solely on an increase in its U.S. prices, such that the increase would eliminate any dumping margins, the fact remains that the company's funds are tied up in cash deposits until liquidation occurs and final duties are assessed and this results in a financing cost to the company that is wholly attributable to application of the antidumping duty order.

Furthermore, by arguing that the Department must ensure that Koyo Seiko did not compensate KCU for the antidumping duty expenses it incurred, Timken is, in effect, simply restating a position it raised in a previous TRB review concerning the issue of duty reimbursement. In *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; Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Finding*, 61 FR 57629 (November 7, 1996) (*TRBs 92–93*), a review conducted in accordance with the law in effect prior to the URAA, Timken argued, and we rejected, the contention that the Department was required to adjust USP for reimbursed duties pursuant to 19 CFR 353.26 of the Department's regulations. We explained that we have consistently held that, absent evidence of reimbursement, we do not have the authority to make such an adjustment (*see TRBs 92–93* at 57637). Furthermore, in *Torrington Company and Federal-Mogul Corp.* v. *United States*, 881 F. Supp. 622, 631 (CIT 1995), the CIT clearly explained that in order for 19 CFR 353.26 to apply, it must be shown that the foreign manufacturer either paid the antidumping duty on behalf of the U.S. importer or reimbursed the U.S. importer and that the regulation does not impose upon the Department an obligation to investigate based on mere allegations. The CIT went on to state that, before the Department is required to commit resources to investigate the transfer of funds and the reimbursement of antidumping duties, the party who requests the investigation must produce some link between the transfer of funds and the reimbursement of antidumping duties (*see id.* at 632). In addition, the CIT pointed out that once an importer has indicated on its certificate at the time of liquidation that it has not been reimbursed for antidumping duties, it is unnecessary for the Department to conduct additional inquiry absent a sufficient allegation of Customs fraud (*see* id.).

Other than the changes in language required by the URAA, section 351.402 (f) of the Department's proposed regulations, with respect to antidumping duties, is unchanged from 19 CFR 353.26, our current regulation. As a result, the rationale upon which we based our determination to not make an adjustment under section 353.26 still applies (*see AFBs 94–95* at 2129). In addition, while we recognize that the issue at hand is not whether we should make an adjustment in accordance with section 351.402(f) of the proposed regulations, our reasons for rejecting Timken's position with regard to that

issue apply in this instance as well. As clearly explained in our response to Comment 1 above, interest expenses incurred when financing cash deposits are due solely to the existence of the antidumping duty order. Thus, like antidumping legal fees, these expenses are antidumping duty-related expenses. Timken provided no link between any of Koyo's intercorporate transfers and the reimbursement of antidumping duties in the earlier stages of this review nor has it done so for these final results. Considering that we have no evidence of the reimbursement of antidumping duties themselves, we clearly have no evidence of the reimbursement cash deposits or of any antidumping duty-related expenses. Therefore, absent this evidence, we are under no obligation to investigate the issue of reimbursement on the basis of mere allegations (*see, e.g., AFBs 94–95* at 2129). As a result, we disagree with Timken that we must ensure that reimbursement has not occurred prior to accepting Koyo's adjustment for those imputed interest expenses it incurred when financing antidumping duty cash deposits.

We also disagree with Timken that, because Koyo's cash deposits reflect legal debts, they cannot result in opportunity costs. Not only does this position overlook the basic fact that interest on cash deposits are incurred solely due to the existence of the antidumping duty order, and, as such, cannot be considered selling expenses and cannot be deducted from USP, but it ignores the fact that it is precisely because Koyo is required to pay cash deposits that the opportunity cost arises in the first place. If Koyo was not legally required to pay cash deposits, it would have the opportunity to use these funds in other financial arrangements. It is only because Koyo is required to pay cash deposits that it forgoes the opportunity to use the funds with which it pays cash deposits in other interest-yielding financial arrangements.

Timken's contention that Koyo incurred interest income during the 1974–79 PORs as a result of not having to pay cash deposits is also without merit. The law in effect pursuant to which the 1974–79 TRBs reviews were conducted did not require cash deposits upon entry (*see* The Tariff Act of 1930, as amended (1978)). Rather, importers were required to post other securities such as bonds. The legal basis for the requirement of cash deposits only came into effect with the introduction in 1978 of section 778 of the law (*see* The Trade Agreements Act of 1979 (*1979 Act*). Because the 1979 Act repeatedly linked the words ''deposit'' and ''cash'' (*see, e.g.,* sections 733(d)(2) and 734 (f)(2)(A)(iii) of the 1979 Act), we interpreted the words ''amounts deposited'' in section 778 to refer only to cash deposits of estimated antidumping duties upon entry and not to other types of securities such as bonds (*see Tapered Roller Bearings Four Inches or Less in Outside Diameter From Japan; Final Results of Antidumping Duty Administrative Review,* 55 FR 22369 (June 1, 1990) (*TRBs 74–79*)). Thus, we concluded that, since a bond is not cash, it does not constitute an amount deposited within the meaning of section 778 of the Act of 1979 (*see TRBs 74–79* at 22370). In addition, there was no provision in the 1979 Act which provided for the immediate conversion for existing antidumping findings from bonds to cash (*see* id.).

Therefore, because the 1974–79 reviews were conducted pursuant to the law in effect prior to the 1979 Act, which did not require cash deposits, the cash deposit requirement is irrelevant to the 1974–79 period. Therefore, Koyo's funds during the 1974–79 reviews cannot be characterized as funds which would have otherwise been required as cash deposits. Thus, Koyo correctly excluded from its adjustment calculation any consideration of that which occurred within the context of the 1974–79 period.

Finally, as we explained in our response to Comment 1 above, depending upon a respondent's U.S. indirect selling expense calculation methodology, the issue of whether the adjustment in question reflects scope and non-scope merchandise may be irrelevant, as it is in the instant case. During the POR Koyo manufactured TRBs which were subject to both the A–588–054 and A–588–604 cases, AFBs subject to the A–588–804 AFBs order, and other merchandise not subject to any antidumping duty order. KCU sold TRBs, AFBs, and other products in the United States. In addition, Koyo Seiko and KCU did not maintain separate financial statements for AFBs, TRBs and other merchandise. Because these financial statements reflect expenses incurred for all sales of all merchandise sold during the POR, Koyo calculated a U.S. indirect selling expense factor reflecting all merchandise, not only TRBs, by dividing the total U.S. indirect selling expenses incurred for all merchandise sold during the POR by the total value of all sales of all merchandise during the POR. However, prior to calculating this ratio, Koyo removed from its total U.S. indirect selling expense amount those expenses reported elsewhere in the response and made other adjustments, which included the adjustment for interest incurred on cash deposits. Because the total U.S. indirect selling expense amount reflected expenses for all sales (both scope and non-scope), the deductions Koyo made from this total expense correctly reflected all sales of all merchandise. However, in regard to its deduction for interest on cash deposits, Koyo only deducted from the total U.S. indirect selling expense amount those interest expenses incurred on TRB cash deposits. Given that Koyo's total U.S. indirect selling expense amount reflected all sales, this was a conservative calculation in that Koyo effectively left in its allocated expense amount those interest expenses incurred on its cash deposits for non-TRB merchandise. Thus, Koyo's inclusion of these expenses within its U.S. indirect selling expense amount results in the overstatement of its U.S. indirect selling expenses and a greater deduction from USP. Timken argues that Koyo's adjustment should be even more limited, suggesting that, because this review was only for the A–588–054 case, interest expenses incurred on cash deposits for A–588–604 TRBs should not be deducted. Given that the expense amount from which Koyo is making its interest on cash deposit adjustment reflects interest expenses related to all antidumping duty orders applicable to all merchandise, Timken's suggested methodology would result in an even greater overstatement of Koyo's U.S. indirect selling expenses than Koyo's current methodology. Therefore, in the instant case, the issue of whether the adjustment must be scope-specific is irrelevant because the indirect selling expense amount Koyo is adjusting reflects all sales of all merchandise and not only scope merchandise. If, however, Koyo calculated and reported scope-specific U.S. indirect selling expenses (those only incurred for the A–588–054 case) prior to making the adjustment for interest on cash deposits, we would have expected Koyo to adjust its scope-specific U.S. indirect selling expenses for those interest expenses incurred on cash deposits for A–588–054 merchandise only.

*Comment 3:* Timken argues that the Department incorrectly based its calculation of profit for Fuji's constructed export price (CEP) sales on Fuji's financial statements rather than on information on the record which would yield a more accurate calculation. Timken contends that, because the COP for a non-producer like Fuji is its acquisition costs, the Department is able to calculate the profit for all of Fuji's CEP sales by using

Fuji's reported acquisition costs as well as Fuji's reported U.S. selling and movement expenses. In addition to providing a sample of how CEP profit for Fuji should be calculated, Timken also states that, because section 772(d)(3) of the Act provides for CEP profit to be calculated using a respondent's reported expenses before using a respondent's financial statements, the Department should alter its calculation of Fuji's CEP profit for its final results of review.

Fuji argues that, while Timken is correct that the new law provides a hierarchy for the Department to determine the proper expenses to be used for calculating CEP profit, Timken overlooks that the SAA clearly indicates that the Department will ''request the information necessary to determine total expenses under the first alternative if Commerce is conducting a cost of production investigation,'' and ''if Commerce is not conducting a cost of production investigation, the respondent may submit the necessary information on a voluntary basis'' (SAA at 155). As a result, Fuji asserts, the Department should only use the first alternative in the statute if there is a cost investigation or if the respondent voluntarily submits the necessary information. Fuji contends that, if these circumstances are not present, the statute explicitly directs the Department to resort to a respondent's financial reports to calculate CEP profit (id.). Thus, Fuji maintains, because Fuji was not subject to a cost investigation during the POR and did not provide the information voluntarily, the Department acted in accordance with section 772 (d)(3) of the Act by using its financial reports to calculate CEP profit.

Furthermore, Fuji contends, Timken's argument implies that Fuji's reported acquisition costs, which it reported for model match purposes, are a surrogate for the detailed expense data requested in a COP investigation. Fuji argues that the Department has repeatedly rejected the notion that a reseller's acquisition costs are equivalent to COP data.

Fuji also rejects Timken's assertion that the Department's use of Fuji's financial reports led to an inaccurate calculation of CEP profit. Fuji maintains that, even though its financial statements incorporate data on other Fuji product lines, this is of no consequence because the SAA recognizes that calculating costs from a larger product line is not distortive (SAA at 155). Finally, Fuji objects to Timken's suggested calculation of Fuji's CEP profit, stating that Timken neglected to include fundamental packing, selling, and movement expenses and committed other errors which serve to undermine the reliability and credibility of Timken's argument.

*Department's Position:* We agree with Fuji. Section 772(d)(3) of the Act requires the Department, in determining CEP, to identify and deduct from the U.S. starting price an amount for profit. The SAA explains that this profit will be calculated by ''multiplying the total profit by the percentage determined by dividing total U.S. expenses by total expenses'' (SAA at 154). Section 772(f), the special rule for determining profit, defines total expenses as ''all expenses in the first of the following categories which applies and which are incurred by or on the behalf of the foreign producer and foreign exporter of the subject merchandise and by or on the behalf of the United States seller affiliated with the producer or exporter with respect to the production or sales of the merchandise; (1) the expenses incurred with respect to the subject merchandise * * * if the expenses were requested by the administering authority for the purpose of establishing NV and CEP; (2) the expenses incurred with respect to the narrowest category of merchandise * * * which includes the subject merchandise; or (3) the expenses incurred with respect to the narrowest category of merchandise sold in all countries which includes the subject merchandise.'' Thus, section 772(f) establishes a hierarchy of methods for calculating total expenses. The SAA clarifies these alternatives, explaining that, under the first alternative, ''Commerce will request the information necessary * * * if Commerce is conducting a COP investigation'' (*see* SAA at 155). If there is no COP information the SAA states that the ''respondent may submit the necessary information on a voluntary basis'' (*see* id.) However, if the information is not collected in the course of a COP investigation or submitted by the respondent voluntarily, the Department will then resort to the second two alternatives. The SAA states that, under the second two alternatives, ''the information will be obtained from financial reports'' (*see* id.). Finally, because section 772(f)(2)(D) of the Act and the SAA instruct the Department to calculate total profit on the same basis as total expenses, the SAA also explains that ''no distortion in the profit allocable to U.S. sales is created if total profit is determined on the basis of a broader product-line than the subject merchandise, because the total expenses are also determined on the basis of the same expanded product line'' (*see* id.).

Because we did not conduct a cost investigation of Fuji in either TRB review of the 1994–95 POR, we determined in our preliminary results that we did not have the information necessary to calculate CEP profit in accordance with the first alternative. As a result, we resorted to Fuji's financial reports for the POR to calculate the CEP profit percentage to be applied to U.S. expenses to calculate the CEP profit amount to be deducted from Fuji's CEP sales. In its arguments Timken suggests that, because Fuji submitted its acquisition costs, the Department has the information necessary to calculate profit under the first alternative. However, the only information we have concerning certain costs, such as general and administrative expenses, is from Fuji's financial statements. Because we do not have all the actual expenses necessary to calculate a CEP profit percentage based on the first of the alternatives, we have based this information on Fuji's financial statements, in accordance with section 772(f) of the Act and the SAA at 155.

*Comment 4:* Koyo argues that the Department incorrectly deducted from USP those indirect selling expenses Koyo incurred in Japan for its U.S. sales (export selling expenses). Koyo contends that the SAA clearly states that, under section 772(d) of the Act, CEP will be reduced by only those expenses and profit associated with economic activities occurring in the United States. Citing to *Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof From France et. al.*, 61 FR 35713 (July 8, 1996) and *Calcium Aluminate Flux from France*, 61 FR 40396 (August 2, 1996), Koyo contends that the Department has interpreted section 772(d) to exclude the deduction of export selling expenses from USP in other administrative review proceedings and should apply the same interpretation in these final results of review as well.

Timken argues that under the law in effect prior to January 1, 1995, the Department made an adjustment for those indirect selling expenses incurred in Japan for Koyo's U.S. sales because these expenses were relevant to the sale of U.S. merchandise. Timken asserts that, because the definition of indirect selling expenses under the new antidumping law has not changed, the Department must continue to make this adjustment to USP. For example, Timken states that the Senate indicated that the category of indirect selling expenses which U.S. prices are adjusted for is to remain the same as under the old law (*Committee on Finance, Committee on Agriculture, Nutrition, and Forestry, Committee on Governmental Affairs, Uruguay Round*

*Agreements Act,* S. Rep. No. 412, 103d Congress. 2d Sess. 65 (1994)). Timken also contends that not only does the SAA support this position, but the Department itself has indicated that in implementing the URAA it will make ''adjustments to constructed export price under section 772(d) of the Act for expenses associated with economic activities in the United States, no matter where incurred'' (*Antidumping Duties; Countervailing Duties, Notice of Proposed Rulemaking and Request for Public Comments,* 61 FR 7308 (February 27, 1996) (*Draft Regulations*)).

*Department's Position:* We agree with Koyo. It is clear from the SAA that under the new statute we should deduct from CEP only those expenses associated with economic activities in the United States. The SAA also indicates that ''constructed export price is now calculated to be, as closely as possible, a price corresponding to an export price between non-affiliated exporters and importers'' (see SAA at 823). Therefore, we have deducted from CEP only those expenses associated with commercial activities in the United States. Our proposed regulations reflect this logic at 351.402(b) (''(t)he Secretary will make adjustments to constructed export price under 772 (d) for expenses associated with commercial activities in the United States, no matter where incurred'').

Timken's reference to the SAA to support the proposition that the new law is not intended to change our practice in this regard is misplaced. Timken cites various provisions of the SAA which state that our practice with respect to ''assumptions'' would not change. The SAA explains that ''assumptions'' are selling expenses of the purchaser for which the foreign seller agrees to pay (*see* SAA at 824). Thus, if the home market producer agrees to pay for the affiliated importer's cost of advertising in the U.S. market the Department would deduct such an expense as an ''assumption.'' It should be noted that assumptions are different than selling expenses incurred in the home market in selling to the affiliated importer, which are not incurred ''on behalf of the buyer'' (*i.e.,* the affiliated importer). Rather, the exporter incurs such expenses on its own behalf, and for its own benefit, in order to complete the sale to the affiliated importer (*see AFBs 94–95* at 2124).

In this case, Koyo's reported selling expenses at issue are not specifically associated directly to commercial activity in the United States, such as the subsidiary's activity of selling the merchandise in the United States. Rather, the expenses at issue were associated directly with the sale between Koyo and its subsidiary and were incurred prior to the commercial activity in the United States. Therefore, because Koyo's reported export selling expenses did not represent commercial activities performed in the United States, we did not deduct these expenses from CEP for these final results.

*Comment 5:* In its response Koyo reported those inventory carrying costs (ICC) it incurred in the United States for its U.S. sales as well as the ICC it incurred in Japan for TRBs sold in the United States. Because the average number of days a TRB spent in inventory in the United States was shorter than the number of days in which KCU, Koyo's U.S. subsidiary, was required to pay Koyo, we set U.S. ICC equal to zero, added the number of days of KCU's payment terms to the number of days Koyo reported for inventory in Japan, and calculated a revised ICC for U.S. sales using this revised number of days in inventory and the home market borrowing rate. This is in accordance with our practice to use the interest rate applicable to the foreign parent's borrowings in calculating U.S. ICC when there is evidence on the record that the foreign parent assumed the financial burden of this imputed expense through delayed payment by the U.S. subsidiary (*see, e.g., Federal-Mogul Final Remand Results* at Comment 1 and *The Timken Company* v. *United States,* 865 F. Supp. 881 (CIT 1994)).

Koyo states that while it agrees in principle with the Department's recalculation of its U.S. ICC, it disagrees with the Department's calculation of the number of days in inventory. Koyo contends that the Department's method assumes that a TRB will be held in inventory in the United States for the same number of days as KCU's payment terms, when, as the record demonstrates, the number of days in inventory in the United States is less than the number of days of KCU's payment terms. Koyo contends that, as a result, the Department's recalculation of its U.S. ICC calculates ICC beyond the period for which TRBs were actually held in inventory in the United States.

*Department's Position:* We agree with the respondent. When recalculating Koyo's ICC for its U.S. sales of TRBs, we incorrectly included within our calculation of the revised number of days in inventory for U.S. merchandise the full number of days of KCU's payment terms to Koyo Seiko, despite the fact that the actual number of days the merchandise spent in inventory in the United States was less than the payment terms. As a result, we agree that our recalculation overstates Koyo's ICC for its U.S. TRBs sales. Therefore, for these final results we have corrected this error by calculating the number of days in inventory for Koyo's U.S. merchandise by adding to the number of days the U.S. merchandise spent in inventory in the home market the actual number of days in inventory in the United States, rather than the number of days reflected by the full payment terms between KCU and Koyo Seiko.

*Comment 6:* Koyo states that, while it does not challenge the Department's splitting of home market TRBs sets, the Department incorrectly calculated CEP and CV profit after it split Koyo's home market TRBs sets into individual cup and cone sales. Koyo asserts that, as a result, the calculation of home market total revenue, total cost of goods sold, total selling expenses, and total movement expenses, includes not only the amount of the expense for home market sets, but the amounts for the individual components of the set as well. Consequently, Koyo claims, all home market elements of the Department's CEP and CV profit calculations are double-counted and Koyo's margin calculation is distorted. Koyo concludes that the Department should correct this error by either performing its set splitting after its calculation of the home market elements for CEP and CV profit, or by identifying within its computer program for Koyo those cups and cones split from home market sets and excluding them from the CEP and CV profit calculations.

*Department's Position:* We agree with Koyo. By performing the set-splitting portion of our analysis prior to our derivation of the home market elements necessary for the calculation of CEP and CV profit, we inadvertently double-counted home market total revenue, total cost of goods sold, total selling expenses, and total movement expenses. We have corrected this error for these final results by performing our derivation of the home market elements for our CEP and CV profit calculation prior to the set-splitting portion of our margin calculation computer program for Koyo.

Adjustments to Normal Value

*Comment 7:* Timken disagrees with Koyo's allocation of those home market expenses it incurred when transporting bearings from its plant to its warehouses (pre-sale freight). Timken contends that, based on its review of Koyo's response, only those bearings that Koyo sold for export and through home market affiliated distributors were shipped to warehouses. Other bearings (*e.g.,* those

sold to home market original equipment manufacturers (OEMs)), appear to have been stored at the warehouse located at Koyo's plant. Timken asserts that, because Koyo's home market pre-sale freight allocation includes the sales of all bearings, Koyo actually allocated its pre-sale freight expenses to home market sales for which the expense was not incurred. As a result, Timken asserts, the Department must re-allocate and re-calculate Koyo's reported home market pre-sale freight expenses to exclude that merchandise which was not shipped from Koyo's plant to one of its warehouses.

Furthermore, Timken argues that, when reallocating this expense, the Department should also ensure that it is allocated equally to all sales for which it was incurred. Timken contends that, because Koyo incurred this expense equally for its domestic and export sales, and because Koyo was unable to report the expense separately for its domestic and export sales, the expense should be reported equally for all of Koyo's home market and U.S. sales. However, Timken asserts, while Koyo calculates the same pre-sale freight allocation ratio for its home market and U.S. sales, Koyo applies the ratio to U.S. transfer prices and home market resale prices. Timken claims that Koyo's calculation of per-unit pre-sale freight expenses for U.S. sales on the basis of transfer prices, rather than resale prices, results in greater expense amounts reported for Koyo's home market sales. Timken states that, because this distorts the commercial reality of the expense and the manner in which it was incurred, the Department should reallocate this expense accordingly.

Koyo maintains that its response to section B of the Department's questionnaire explains that Koyo operates two central warehouses in order to distribute the foreign like product in the home market. Thus, Koyo asserts, Timken's assertion that Koyo did not incur home market pre-sale freight for certain home market sales is based on Timken's failure to read the relevant section of Koyo's response. Furthermore, Koyo asserts, because Koyo Seiko incurred all pre-sale home market freight expenses, Koyo properly allocated the expense on the basis of the total sales value of Koyo Seiko's sales of TRBs. Koyo argues that this is a well-established methodology that the Department has verified and accepted in past TRBs and AFBs reviews, and Timken has provided the Department with no evidence that would compel the Department to reject this methodology at this late stage in the instant proceeding. In addition, Koyo contends that the Department has already resolved this issue in a closely related context. Koyo states that in its *Federal-Mogul Final Remand Results* the Department rejected a very similar argument in which Timken claimed that the ICC incurred by Koyo Seiko in Japan for U.S. sales should have been calculated on the basis of KCU's U.S. resale prices rather than Koyo Seiko's price to KCU (the transfer price). Koyo contends that the same reasoning the Department applied in those final remand results, in which it determined that the relevant sales for the calculation of the ICC expense were Koyo Seiko's sales to KCU, should apply here as well, and the Department should accept Koyo's calculation methodology using the sales from Koyo Seiko to KCU as the basis for its home market pre-sale freight expense allocation.

*Department's Position:* While we agree with Timken that Koyo's questionnaire response does indicate that it did not incur pre-sale freight expenses for certain home market sales, we disagree with Timken that Koyo's allocation of these expenses is otherwise unreasonable. In its response Koyo reported home market pre-sale freight expenses which reflected those expenses it incurred when transporting TRBs destined for sale in both the U.S. and home markets from the home market plant to home market warehouses. While Koyo reported these pre-sale freight expenses for all of its home market and U.S. export sales, its questionnaire response indicates that there are certain home market sales for which Koyo did not incur this expense because the merchandise was not transported from the plant to a warehouse at a location different from the plant. For example, on page 38 of its section B response to our questionnaire, Koyo explains that, prior to sale, not only did it store TRBs at its two home market central warehouses, warehouses at its branch and sales offices, and at the warehouses of its four consolidated distributors, but it also stored certain merchandise at its plant warehouse. In the proprietary explanation following this description on page 38 Koyo again indicates that there are certain types of home market sales for which the merchandise was stored at its plant warehouse. In addition, on page 25 of its section B response, when explaining its post-sale home market freight expenses, Koyo states that it incurred post-sale freight expenses either in shipping merchandise from the plant directly to a customer or when transporting merchandise from a warehouse to a customer. Again, the implication is that there are certain home market sales for which the merchandise is shipped directly from the plant to a customer and, therefore, is not transported to a warehouse at a location different from the plant. Therefore, we agree with Timken that the record demonstrates that there are certain home market sales for which Koyo did not incur home market pre-sale freight expenses.

We have determined, therefore, that for these final results it is necessary to (1) reallocate Koyo's reported home market pre-sale freight expenses such that the total sales value of those home market sales for which the expense was not incurred is excluded from the allocation denominator, and (2) apply the expense only to those home market sales for which the expense was incurred. However, Koyo's response does not enable us to specifically identify within Koyo's home market database those sales for which the expense was not incurred. In light of this, we have determined to rely on facts available to determine those sales for which the expense was not incurred. Based on Koyo's proprietary narrative explanation on page 38 of its response, we have concluded that Koyo most likely did not incur this expense on certain sales to home market OEM customers. While we recognize that it is likely that not all of Koyo's home market OEM sales were exempt from this expense, because we are unable to identify exactly which OEM sales were exempt, we have applied non-adverse facts available and recalculated the expense adjustment by (1) removing from Koyo's reported allocation denominator the total sales value of Koyo's home market OEM sales and (2) applying the recalculated expense adjustment to U.S. sales and only non-OEM home market sales.

However, despite the fact that we have determined for these final results that Koyo's pre-sale freight allocation denominator is overstated and the expense was reported for home market sales for which it was not incurred, we disagree with Timken that Koyo's allocation otherwise fails to reflect the manner in which the expense was actually incurred. In general, when a respondent relies on an expense allocation to calculate its per-unit adjustment amounts, we require that allocation to reflect the manner in which the expense was actually incurred (*see, e.g., TRBs 92–93* at 57635 and *Certain Fresh Cut Flowers From Columbia; Final Results of Antidumping Duty Administrative Reviews,* 61 FR 42848 (August 19, 1996)). In addition, we examine the respondent's allocation methodology to determine if there is

internal consistency between the numerator and denominator and within the methodology as a whole. For example, if an expense is allocated on the basis of total sales value, as is the expense at issue here, the expense amount (the numerator) and the total sales value (the denominator) should reflect the same pool of sales such that the total expense amount reported by the respondent is divided by the total value of the sales for which the expense was actually incurred. Likewise, the allocation ratio should be applied to the same sales price reflected in the denominator. For example, we would not accept the application of an allocation ratio to gross sales price if the denominator was calculated by totaling the value of all sales on the basis of a net price.

In the instant case, Koyo Seiko, the Japanese parent, incurred the pre-sale freight expenses at issue for all merchandise, whether destined for sale to the U.S., third-country, or home market (with the exception of the home market OEM sales described above). Because Koyo does not maintain its records such that it is able to calculate the total expense amount incurred for each market, it was unable to separately calculate the specific pre-sale freight expense attributable to each market. Therefore, Koyo used as its allocation numerator the total expense amount incurred by Koyo Seiko for all merchandise, as derived from Koyo Seiko's sales records.

The sales for which this expense was incurred were Koyo Seiko's sales to all its various customers, which encompassed a mix of affiliated and unaffiliated entities in both the export and home markets. Thus, Koyo calculated its pre-sale freight allocation denominator by totaling the value for all of Koyo Seiko's sales to all its customers, as derived from Koyo Seiko's records. While for these final results we have adjusted this denominator to exclude the total sales value of home market OEM sales, we have nevertheless preserved Koyo's basic allocation methodology for the following reasons:

Because Koyo Seiko's customers encompassed a mix of affiliated and unaffiliated parties in both the home and export markets, Koyo's denominator includes sales values which reflect both transfer and resale prices. Because Koyo Seiko's customer in the United States is KCU, its wholly-owned U.S. affiliate, the U.S. sales transactions relevant to Koyo's allocation are those between Koyo Seiko and KCU. Thus, Koyo correctly included within its denominator the total value of its sales to KCU, which were made at transfer prices. Similarly, in the home and third-country markets Koyo Seiko sold to both affiliated and unaffiliated customers. Therefore, Koyo properly included within its allocation denominator the total value of Koyo Seiko's sales to its home and third-country market customers, some of which were made at resale prices and others of which were at transfer prices. Koyo's methodology therefore not only relies on a numerator and denominator which reflect the same pool of sales, but its denominator is calculated on the basis of the value of those sales for which the reported total expense amount was actually incurred.

When calculating the per-unit expense adjustment amount for each U.S. and home market transaction, Koyo applied its allocation ratio (which was the same for all sales) to the appropriate unit price. For U.S. sales it applied the ratio to the transfer prices Koyo reported between Koyo Seiko and KCU, which were the U.S. prices upon which the expense was incurred and the U.S. sales values reflected in Koyo's allocation denominator. For home market sales, Koyo applied the ratio to either a resale price (for unaffiliated customers) or transfer price (for affiliated customers) because these were the home market prices upon which the expense was incurred and the home market sales values reflected in the allocation denominator.

Timken argues that, in order to properly reflect commercial reality and avoid distortion, Koyo should instead apply its expense ratio to U.S. resale prices, the price of the sale between KCU and the first unaffiliated U.S. customer. However, Timken overlooks the fact that this transaction is not the sale for which the expense was actually incurred. As a result, Timken's proposed methodology would neither reflect the manner in which, nor the sales upon which, Koyo actually incurred the expense. Timken's argument also ignores the fact that Koyo's allocation denominator includes not only U.S. transfer values but home market and third-country transfer values as well. Thus, Timken's assertion that Koyo always calculates the home market expense adjustment on the basis of resale prices is incorrect. Rather, the record demonstrates that, for sales to affiliated home market parties, Koyo calculated the adjustment on the basis of the transfer price between Koyo Seiko and the affiliated home market customer. In addition, rather than argue that all transfer values included in Koyo's denominator should be excluded from the allocation methodology, Timken limits its argument to only U.S. transfer prices and fails to demonstrate why U.S. transfer values are an improper factor in the denominators calculation while home market and third-country transfer values are not.

Finally, the record does not contain, and Timken has not provided, any evidence demonstrating that the transfer prices Koyo reported between Koyo Seiko and KCU are unreliable. Rather, the record indicates that these transfer prices were maintained by KCU, independent of the antidumping proceedings, within the ordinary course of business. Furthermore, we note that antidumping proceedings are only one of the forces applicable to a respondent's transfer pricing practices in that transfer prices are also subject to Internal Revenue Service audits for U.S. tax purposes.

Therefore, based on the above reasons, we do not agree with the petitioner that Koyo's basic allocation methodology is unreasonable. Therefore, for these final results, while we have recalculated Koyo's originally reported allocation ratio to exclude home market OEM sales, we have made no other changes to Koyo's overall allocation methodology.

*Comment 8:* Koyo and Fuji disagree with the Department's preliminary results treatment of their respective home market post-sale-price adjustments (PSPAs) . Koyo argues that the Department's denial of its PSPAs is based on an overly narrow interpretation of *The Timken Company* v. *United States,* 930 F. Supp. 621 (CIT 1996) (*Timken*) and *The Torrington Company* v. *United States,* 818 F. Supp. 1563 (CIT 1993) (*TorringtonI*), *aff'd* 82 F.3d (Fed. Cir. 1996) (*TorringtonII*), which the Department interprets as requiring it to reject home market PSPA adjustments allocated on a customer- and scope-specific basis. Koyo contends that, in Torrington II, rather than prohibit the allocation of direct home market expenses, the CAFC actually confirmed its earlier decision in *Smith Corona Group* v. *United States,* 713 F.2d 1568, 1580 (Fed Cir. 1983) that the Department may treat allocated expenses as direct selling expenses, provided that the allocation does not distort the margin. Koyo further asserts that the URAA and the Department's draft regulations confirm this position. Koyo states that the SAA explains that the Department does not intend to change its current practice of allowing companies to allocate direct expenses when transaction-specific reporting is not feasible, provided that the allocation method does not cause inaccuracies or distortions (SAA at 823–824). Koyo also asserts that, while the Department's draft regulations state a preference for

transaction-specific reporting of direct expenses, it notes that allocated expenses may be treated as direct expenses when transaction-specific reporting is not feasible. Koyo further argues that its allocation of its home market PSPAs is consistent with the CIT's decision in *Federal-Mogul Corp.* v. *United States,* 862 F. Supp. 384 (CIT 1994) that direct selling expenses be allocated only over scope merchandise. Therefore, Koyo concludes, because its home market PSPA allocation methodologies meet the requirements established by the CAFC and the CIT for the treatment of direct expenses, the Department should accept these adjustments in its final results of review.

Fuji disagrees with the Department's denial of its reported home market rebate adjustment. Fuji contends that, while its allocation methodology includes non-scope merchandise, this was necessary because it is the basis upon which the rebates were incurred. In addition, Fuji asserts that, since the same rebate amounts are paid on scope and non-scope merchandise, its use of non-scope merchandise was not only appropriate, but it accurately allocated the rebates to TRBs. Furthermore, Fuji asserts, not only did it report its rebates on a dealer-specific basis, but, while it could have allocated its rebates to TRBs by taking a portion of the rebates paid based on the ratio of TRBs purchased to total parts and accessories purchased by each dealer, as suggested by the CIT in *The Torrington Company* v. *United States,*0 832 F. Supp. 379 (CIT), this methodology results in the same allocation for each dealer as its current methodology.

Fuji also contends that, even if the Department disallows its rebates as a direct adjustment to NV, the Department must nevertheless treat its reported rebates as indirect selling expenses. Fuji claims that the Department routinely treats those home market PSPAs which it denies as direct adjustments to NV as indirect selling expenses, even if the expense allocation includes both scope and non-scope merchandise.

Timken argues that, while Koyo granted its home market PSPA's on a customer and model-specific basis, Koyo nevertheless allocated these adjustments to all sales to a given customer during the POR. Timken asserts that Koyo therefore allocated the expenses to sales for which the adjustments were not actually granted. Timken states that, because neither the statute nor the Department's regulations allow such adjustments, the Department acted properly in denying all of Koyo's home market PSPAs in its preliminary results and should not alter its determination for these final results of review.

Timken also argues that the Department's treatment of Fuji's home market rebates was correct because these rebates were (1) incurred and allocated on the basis of sales of both scope and non-scope merchandise, (2) were not allocated on a transaction-specific basis, and (3) were not granted as a fixed and constant percentage of all sales upon which they were incurred. Timken argues that, not only has the CIT repeatedly held that merchandise which is outside the scope of an antidumping duty order cannot be used in the calculation of antidumping duties (*Torrington Company* v. *United States,* 818 F. Supp. 1563 (CIT 1993) and *Federal-Mogul Corp.* v. *United States,* 918 F. Supp. 386 (CIT 1996)), but the Department has repeatedly rejected adjustments which include non-scope merchandise within their allocations (*TRBs 92–93* and *AFBs 93–94*).

Further, Timken contends that, while Fuji claims that it accurately allocated its rebates to TRBs, Fuji failed to demonstrate that its reported amounts are the actual rebates earned on its home market sales. As a result, Timken asserts, it is not evident that every home market sale to a particular customer for which Fuji reported a rebate adjustment was eligible for, and earned, a rebate. In addition, Timken contends, given that Fuji's rebates were not transaction-specific and included sales of non-scope merchandise, Fuji failed to demonstrate that its rebates were granted at a fixed and constant percentage of all sales such that its allocation to scope merchandise yielded the exact amount of per-unit rebate granted on TRB sales.

Finally, Timken argues that the Department should not, as Fuji suggests, treat Fuji's rebates as indirect selling expenses. Timken maintains that the CAFC definitively held that direct expenses, such as rebates and other price adjustments, which, by their nature, are directly related to particular sales, cannot be treated as indirect selling expenses (*Torrington II* at 1050 and 1051). Timken claims that, because Fuji's rebates are clearly direct expenses, the Department correctly denied this adjustment in its preliminary review results and should not alter its determination for these final review results.

*Department's Position:* For these final results we have accepted claims for discounts, rebates, and other billing adjustments as direct adjustments to price if we determined that the respondent, in reporting these adjustments, acted to the best of its ability and that its reporting methodology was not unreasonably distortive. We did not treat such PSPAs as direct or indirect selling expenses, but rather as direct adjustments necessary to identify the correct starting price. While we prefer respondents to report these adjustments on a transaction-specific basis (or, where a single adjustment was granted for a group of sales, as a fixed and constant percentage of the value of those sales), we recognize that this is not always feasible, particularly given the extremely large volume of transactions involved in these TRBs reviews. It is inappropriate to reject allocations that are not unreasonably distortive in favor of the facts otherwise available if a respondent is unable to report the information in a more specific manner (*see* section 776 of the Act and *AFBs 94–95* at 2090). Accordingly, we have accepted these adjustments when it was not feasible for a respondent to report the adjustment on a more specific basis, provided that the allocation method used by the respondent did not cause unreasonable inaccuracies or distortions.

In applying this standard, we have not rejected an allocation method solely because the allocation includes adjustments granted on non-scope merchandise. However, such allocations may be unacceptable where we have reason to believe that a respondent did not grant such adjustments in proportionate amounts with respect to sales of scope and non-scope merchandise and, thus, may have resulted in unreasonable distortions. We have examined the extent to which non-scope merchandise included within the allocation pool is different from the scope merchandise in terms of value, physical characteristics, and the manner in which it is sold. Significant differences in such areas may increase the likelihood that respondents did not grant price adjustments in proportionate amounts with respect to sales of scope and non-scope merchandise. While we carefully scrutinize any such differences between scope and non-scope sales in terms of their potential for distorting reported per-unit adjustments on the sales involved in our analysis, it would not be reasonable to require respondents to submit specific adjustment data on non-scope merchandise in order to prove that there is no possibility of distortion. Such a requirement would defeat the purpose of permitting the use of reasonable allocations by respondents that have cooperated to the best of their ability (*see AFBs 94–95* at 2091).

Where we find that a company has not acted to the best of its ability in

reporting the adjustment in the most specific and non-distortive manner feasible, we have made an adverse inference in using facts available with respect to the adjustment, pursuant to section 776(b) of the Act. Therefore, we agree with Timken that, when we find a respondent has allocated a home market PSPA in a distortive manner, or if we determine that a respondent has not acted to the best of its ability, we should deny the adjustment rather than treat it as an indirect expense. This is in accordance with the CAFC's decision in *Torrington II* at 1047–51. However, we note that *Torrington II* is of limited additional relevance to the issue at hand because the CAFC did not address the reasonableness of the allocation methods respondents used in reporting the PSPAs in question. Although the CAFC appeared to question whether price adjustments constituted expenses at all (*see Torrington II* at n. 15), it merely held that, assuming the adjustments were expenses, they had to be treated as direct selling expenses rather than indirect selling expenses.

In addition, we have included positive (upward) HM price adjustments (*e.g.*, positive billing adjustments which increase the final sales price) in our analysis. The treatment of positive home market billing adjustments as direct adjustments is appropriate because disallowing such adjustments would provide an incentive to report positive billing adjustments on an unacceptably broad basis in order to reduce NV and margins. That is, if we were to disregard positive billing adjustments, which would be upward adjustments to NV, respondents would have no incentive to report these adjustments in the most specific and non-distortive manner feasible (*see AFBs 94–95* at 2091).

In its response Koyo claimed direct adjustments to home market price for two types of billing adjustments and rebates. Because certain of Koyo's billing adjustments were positive, in accordance with our policy, we automatically made a direct adjustment to Koyo's reported home market gross unit prices for these upward adjustments. Concerning those billing adjustments which were negative (*e.g.*, resulted in a downward adjustment), based on our examination of the record in this review and our verification of Koyo's records in past reviews of the A–588–054 case, we are satisfied that Koyo's records do not allow it to report these billing adjustments on a transaction-specific basis and that Koyo acted to the best of its ability in calculating the reported adjustments on as narrow a basis as its records allowed. Furthermore, because Koyo's allocation was both scope-and customer-specific, we are satisfied that Koyo's reported billing adjustments are reasonably accurate and non-distortive. Therefore, for these final results we have made direct adjustments to home market price for both Koyo's negative and positive billing adjustments.

In contrast to its billing adjustments, Koyo reported its rebates only on a customer-specific basis. While we are satisfied that Koyo acted to the best of its ability in reporting this adjustment insofar as its records did not allow for it to report the adjustment on a more specific basis, its allocation nevertheless included non-scope merchandise. We therefore examined Koyo's allocation to determine if it is was reasonably non-distortive. Our review of the record indicated that the non-scope merchandise included in Koyo's allocation reflected sales of bearings other than TRBs. Not only has our review and analysis of the record given us no reason to believe that Koyo is more likely to grant its rebates on sales of bearings other than TRBs than it is on sales of TRBs, but we note that Koyo is primarily in the business of selling bearings, some of which are within the scope of the TRB orders and others which are not. While we recognize that there are differences in bearings, we have not found that the scope and non-scope bearings included in Koyo's allocation vary significantly in terms of value, physical characteristics, nor the manner in which they are sold such that Koyo's allocation would result in an unreasonably inaccurate or distortive allocation. Thus, we have made a direct adjustment to home market price for Koyo's rebates.

Concerning Fuji's rebates, our review of the record indicates that Fuji granted two different types of rebates, both of which were applicable to sales of all automobile parts (not only TRBs), and both of which were granted to only those dealers meeting the specific requirements of the individual rebate program. In order to derive the rebate amount it reported for each appropriate home market transaction, Fuji calculated dealer-specific allocation ratios by dividing the total rebate paid to a dealer during the POR (for all parts sales) by the total value of all parts sales to the dealer during the POR. Based on our review of the record, we are satisfied that Fuji reported these rebates to the best of its ability insofar as its records allow neither the reporting of invoice-specific rebates nor the identification of those rebates paid to each dealer specifically for TRBs purchases. Furthermore, as explained in the proprietary version of the Department's final results analysis memorandum for Fuji, we are also satisfied that Fuji reported the first of these rebates, ''Rebate 1,'' to the best of its ability in that its records allow neither the reporting of invoice-specific rebates nor the identification of those rebates paid to each dealer specifically for purchases of TRBs. Furthermore, as explained in the proprietary version of the Department's final results analysis memorandum for Fuji, we are also satisfied that Fuji's allocation methodology is not unreasonably distortive or inaccurate.

The same cannot be said for Fuji's other rebate program, ''Rebate 2.'' Fuji reported that it granted these rebates not on the basis of the dealers'' purchases from Fuji but, rather, on the basis of the dealers'' subsequent sales of automotive parts. In reporting ''Rebate 2,'' however, Fuji did not calculate its reported dealer-specific allocation ratios using the dealers' total sales values. Instead, Fuji used the value of *Fuji's* sales to the dealer. The use of this amount in calculating the dealer-specific allocation ratios for ''Rebate 2'' has the effect of overstating the appropriate amount of the rebates granted. In addition, as Fuji based the ''Rebate 2'' program on the total value of the dealers' subsequent sales of TRBs and other automotive parts, Fuji had the data at hand to correctly allocate ''Rebate 2'' on the same basis as originally granted. Therefore, unlike ''Rebate 1,'' we find that Fuji did not act to the best of its ability in reporting ''Rebate 2'' and, further, used an allocation methodology which is unreasonably inaccurate or distortive. Therefore, we have disallowed this adjustment for these final results.

*Comment 9:* Fuji argues that the Department incorrectly treated its reported home market warranty expenses as indirect selling expenses. Fuji contends that not only did it clearly provide the ''direct expense'' nature of its warranties in response to the Department's questionnaire, but the Department's questionnaire itself identifies warranties as a common example of a direct expense.

Timken argues that, rather than treat Fuji's home market warranty expenses as indirect selling expenses, the Department should have denied the adjustment in its entirety. Timken asserts that Fuji's response indicates that Fuji allocated its home market warranty expenses by dividing its total warranty expenses for all replacement parts by the total value of parts and vehicle sales during the POR. In other words, Timken contends, Fuji allocated its home market warranty expenses on

the basis of sales of both scope and non-scope merchandise. Timken maintains that, because the CIT has held that it cannot allow the Department to accept a methodology which allows for the inclusion of warranty expenses on non-scope merchandise in calculating adjustments to NV (*Federal-Mogul Corp.* v. *United States,* 862 F. Supp. 384 (CIT 1994) (*Federal-Mogul II*), the Department must deny Fuji's home market warranty expense adjustment in its final results of review.

*Department's Position:* Similar to our policy concerning PSPAs, we accept claims for home market direct selling expenses as direct adjustments to price if we determine that a respondent reported the expense: (1) on a transaction-specific basis; (2) as a fixed and constant percentage of the value of sales on which it was incurred; or (3) on an allocated basis, provided that it was not feasible for the respondent to report the expense on a more specific basis and the allocation does not cause unreasonable distortions (*i.e.,* was likely to have been granted proportionately on sales of scope and non-scope merchandise). In addition, in accordance with *Torrington II,* we disallow any allocated home market direct selling expenses which do not meet any one of these standards (*see AFBs 94–95* at 2098).

Furthermore, in regard to warranty expenses, the Department has long recognized that it is not possible to tie POR warranty expenses to POR sales, since the warranty expenses can be incurred on pre-POR sales. Likewise, a respondent may not incur warranty expenses on POR sales until a future time period. Therefore, warranty expenses generally cannot be reported on a transaction-specific basis and an allocation is necessary (*see* id.).

In its response Fuji reported its warranty expenses using an allocation because it was unable to tie its POR warranty expenses to POR sales. While we do not object to Fuji's use of an allocation in this instance, we are not satisfied that Fuji's allocation is reasonably non-distortive. Fuji's reported total warranty expenses for the POR include those incurred for all automotive parts, not only TRBs. In addition, Fuji's warranties cover the full replacement of a defective automobile part, including all parts and labor. As a result, the warranty expense amount reported by Fuji includes not only the cost of all replaced automobile parts, but the labor for replacing a large variety of automobile parts as well. Considering the fact that there are numerous automobile parts which are far more expensive and far more labor-intensive to replace than a TRB and, likewise, numerous parts far less expensive and more easily replaced than TRBs, it is highly unlikely that Fuji incurred warranties for TRBs in an amount proportionate to other automobile parts. Therefore, we are not satisfied that Fuji's warranty expense allocation is reasonably non-distortive and we have denied this adjustment for these final results.

*Comment 10:* Timken states that Koyo incorrectly applied its allocation ratios for its home market pre-sale inland freight, post-sale inland freight, credit, and indirect selling expenses to its gross unit prices, rather than to unit prices net of rebates and discounts. Timken contends that Koyo's response demonstrates that the denominator Koyo used to allocate these home market expenses reflected its total home market sales value net of rebates and discounts. However, Timken asserts, rather than apply the allocation ratio it calculated for each expense to a unit price net of discounts and rebates, Koyo instead applied its allocation ratios to its gross home market unit prices. Timken claims that, as a result, Koyo over-allocated the expenses to its home market sales. Timken concludes that the Department should, therefore, recalculate these per-unit expense amounts by applying Koyo's reported allocation ratios to home market unit prices net of discounts and rebates. Timken also states that, even though the Department disallowed Koyo's home market rebate and discount adjustments to NV, the Department may use Koyo's reported discount and rebate amounts as facts available in order to avoid the over-allocation of the expenses at issue while still denying Koyo's rebate and discount adjustments to NV.

Koyo argues that the methodology it used to calculate its home market pre-sale inland freight, post-sale inland freight, credit, and indirect selling expenses is well-established and has been repeatedly verified and accepted by the Department in all past TRBs and AFBs reviews. Koyo asserts that, because the Department has never found any fault with Koyo's methodology in the past, it should again accept the methodology as reasonable for these final review results.

*Department's Position:* We disagree with Timken. While Timken asserts that Koyo has excluded rebates and discounts from the denominators it used in its pre-sale inland freight, post-sale inland freight, credit, and indirect selling expenses allocations, Timken points to no evidence on the record demonstrating this. Furthermore, based on our own re-examination of the record, we have found no evidence that this is the case. Rather, in regard to Koyo's pre-sale inland freight and post-sale inland freight allocations, exhibit B–4 of Koyo's response indicates that the allocation denominators used by Koyo were net only of internal sales between Koyo and its four affiliated home market distributors. There is no evidence that the denominators also excluded rebates and discounts. Likewise, we found no evidence on the record that Koyo excluded rebates and discounts from the customer-specific total sales values it used in its customer-specific credit allocations or the total home market sales value used in its indirect selling expense allocation. Furthermore, while we did not verify these allocations for these reviews, we note that Koyo's allocation methodologies are identical to those which Koyo used in past TRBs reviews which the Department did verify. Based on our review of the record and the fact that we have verified these allocations in past TRBs reviews without discrepancy and have found no evidence in past verifications that Koyo excluded rebates and discounts from the denominators in question (*see, e.g.,* the Department's 1992–93 home market verification report for Koyo dated November 28, 1995), we have no reason to suspect that Koyo misallocated and/or overstated these adjustments in these reviews. Therefore, we have made no changes to Koyo's reported home market pre-sale inland freight, post-sale inland freight, credit, or indirect selling expenses for these final results.

COP and CV

*Comment 11:* Timken states that in the computer program the Department used to determine the preliminary results margin for Koyo, the Department incorrectly excluded sales below cost from the home market database before U.S. and home market models were matched to determine like merchandise. Timken contends that, because this is contrary to the Department's policy to use CV when the NV of the like merchandise fails the cost test, the Department should correct this error for its final review results.

Koyo agrees with Timken that the Department should use CV when a U.S. TRB matches to a foreign like product which has failed the below-cost test.

*Department's Position:* We agree with both the petitioner and Koyo. In our preliminary results computer program for Koyo we inadvertently omitted computer programming language which would result in CV being used for NV in those instances where the U.S. model matched a home market model which

failed the below-cost test. We have corrected this error for these final results of review.

*Comment 12:* Koyo argues that, for the purpose of determining whether any of Koyo's home market sales were below cost, the Department incorrectly compared home market prices net of indirect selling and packing expenses to COPs which included indirect selling expenses and packing. Koyo asserts that, to ensure a fair and balanced comparison, the Department should deduct from COP all indirect selling and packing expenses prior to comparing it to the home market price net of these expenses.

*Department's Position:* We agree with Koyo and have deducted from COP all indirect selling and packing expenses prior to comparing COP to home market prices net of these same expenses.

*Comment 12:* Koyo argues that, when calculating CV, the Department added indirect selling expenses and commissions in a fixed amount rather than applying a factor. Koyo asserts that, in doing so, the Department deducted the exact same amount of indirect selling expenses and commissions in every CV calculation, ignoring the differences in sizes and types of TRBs. Koyo contends that in the most recent AFBs review (AFBs 94–95), the Department calculated CV expense amounts on a transaction-specific basis such that the calculated expense accurately reflected the actual expenses which would have been incurred had the AFBs model been sold in the home market above cost. Koyo contends that the Department should adopt the AFBs approach in these final results not only because it is more accurate, but because it is consistent with the Department's rejection of calculations of average expense amounts when transaction-specific calculations are possible.

*Department's Position:* We agree with Koyo and have made the appropriate changes to our margin calculation computer program for Koyo for these final results.

Miscellaneous Issues Related to Assessment, Level of Trade (LOT), the Arm's-Length Test, and the 20% Difference-in-Merchandise (Difmer) Test

*Comment 13:* Timken states that, because the Department determined that the value added to those TRBs imported by Subaru-Isuzu Automotive (SIA), Fuji's manufacturing U.S. subsidiary, for use in the manufacture of automobiles in the United States substantially exceeded the value of the imported TRBs, in the preliminary results of review for Fuji the Department explained that it would use the weighted-average dumping margins it calculated for sales of identical or similar TRB models sold as replacement parts by Subaru of America (SOA), Fuji's U.S. selling subsidiary, to determine the margin for those TRBs imported by SIA. Timken contends that, while the Department's preliminary results makes it clear that the Department will apply SOA's cash deposit rate to SIA's TRB imports, the Department did not specifically indicate at what rate it would assess antidumping duties on SIA's imports. Timken asserts that, (1) because the value available to Customs' for liquidation purposes is the transfer value between Fuji and SIA, (2) because there is a difference between transfer and resale prices, and (3) because the Department has already calculated an assessment rate for Fuji using the total entered value of SOA's imports in the denominator, the Department should apply this assessment rate to SIA's imports as well.

Fuji argues that, not only is there nothing within section 772(e) of the Act, the statutory provision for merchandise with value added after importation, directing the Department to use the same assessment rate for each importer, but section 351.212(b)(1) of the Department's proposed regulations indicates that assessment rates will be specific to each importer. Therefore, Fuji asserts, the Department is not required to apply the assessment rate it calculated for SOA to SIA's imports. Furthermore, Fuji argues, because SIA is not a reseller of TRBs, as is SOA, there is no reason for one to assume, as Timken does, that SIA's transfer values would be different from its TRB resale prices to unrelated U.S. customers. Indeed, Fuji claims, there is no evidence on the record to support any such conclusion. In addition, Fuji contends, because SIA is not a reseller of TRBs, it would be grossly unfair for the Department to apply SOA's assessment rate, a reseller's assessment rate, to SIA's imports.

Therefore, Fuji asserts, the Department should either use SOA's calculated deposit rate as SIA's assessment rate, or calculate a new assessment rate for SIA. Fuji maintains that, because SIA is not a reseller of TRBs, the use of SOA's cash deposit rate as SIA's assessment rate would ensure an accurate assessment of SIA's TRB imports. Furthermore, Fuji argues, the use of SOA's cash deposit rate as both SIA's cash deposit and assessment rate would be in accordance with the Department's policy to calculate cash deposits rates which correspond as closely as possible to the eventual assessment rate.

If the Department decides not to use SOA's cash deposit rate as SIA's assessment rate, Fuji asserts, the Department should, in the alternative, calculate a separate assessment rate for SIA using only the dumping margins the Department calculated on sales of the identical TRBs imported by SOA. Fuji states that in the preliminary results the Department calculated SOA's cash deposit rate based on all its TRB imports. However, Fuji asserts, SIA only imports two TRB models. Therefore, Fuji concludes, the Department should apply to SIA an assessment rate based only on SOA's sale of the identical two TRB models and not the SOA rate it calculated based on SOA's sales of all TRB models. Fuji maintains that this approach is more consistent with section 772(e) of the Act and results in a more accurate assessment of SIA's imports because it is based only on the margins the Department calculated for the identical TRBs imported by SOA.

*Department's Position:* We disagree with Fuji. Section 772(e) of the new law allows us to determine the CEP of further-processed subject merchandise in a manner that does not require the calculation and subtraction of U.S. value added if the U.S. value added is likely to exceed substantially the value of the imported merchandise (this procedure is identified in the Act as the ''special rule''). The statute further provides that, where there is a sufficient quantity of sales of identical or other subject merchandise sold to unaffiliated persons and the use of such sales is appropriate, the Department shall use the prices of such sales to determine the CEP of the further-processed subject merchandise. If there is not a sufficient quantity of sales of identical or other subject merchandise, or if the use of such sales is inappropriate, the Department may determine CEP of the further-processed subject merchandise on any other reasonable basis.

In accordance with section 772(e), in our questionnaire we request that respondents provide information to demonstrate whether the value added to the subject merchandise in the United States is likely to exceed substantially the value of the subject merchandise. If we determine that it is likely, we will normally not require the respondent to report the detailed further-manufacturing and sales information for its further-manufactured sales. In this way, section 772(e) not only relieves the Department of the burden of the detailed further-manufacturing analysis which would be required to determine the CEP of further-manufactured subject

merchandise where the U.S. value added substantially exceeds the value of the subject merchandise, but it has the additional benefit of eliminating the burden on a respondent to collect and submit the detailed data necessary for the Department to conduct such an analysis.

However, if a respondent's U.S. value added is likely to exceed substantially the value of the subject merchandise and the Department chooses not to perform a detailed further-manufacturing analysis, in accordance with section 772(e) of the Act, we will rely on surrogate prices to determine the dumping margins, if any, for the further-manufactured subject merchandise.

In the instant case, SIA imports TRBs from Fuji for the sole purpose of using the TRBs in the further manufacture of automobiles in the United States, whereas SOA imports TRBs for the sole purpose of reselling the merchandise in the U.S. replacement market. In its response Fuji demonstrated that the value added in the United States to all TRBs imported by SIA is likely to exceed substantially the value of the TRBs. Accordingly, we did not require Fuji to report detailed further manufacturing and sales information for SIA's sales. Therefore, in accordance with section 772(e), we relied on surrogate prices (*i.e.*, those of SOA's sales of identical and other subject merchandise) to determine the dumping margins for SIA's sales.

While Fuji's arguments focus primarily on the manner in which the Department should calculate a separate assessment rate for SIA, this issue and Fuji's assertions are moot in light of the fact that our preference to calculate importer-specific assessment rates is limited to only those instances where the importer is not related to the foreign exporter. This is to prevent one importer from being liable for antidumping duties attributable to margins found on sales to a different importer. In those instances where the importer, or importers, are related to the foreign exporter, we consider the related parties to constitute one corporate entity and consider the use of a manufacturer/exporter-specific assessment rate to be appropriate (*see, e.g., TRBs 92–93* at 57648). In the instant case, because both SOA and SIA are Fuji's affiliated U.S. subsidiaries, we consider all three entities to constitute one corporate entity and, therefore, find no basis for the calculation of SIA or SOA-specific dumping margins, cash deposit rates, or assessment rates. Even if section 772(e) did not apply, we still would not calculate a separate assessment rate for SIA. Rather, because these entities constitute a single corporate entity, the margins we calculate for SIA's sales would have been combined with SOA's in order to calculate an overall Fuji-specific weighted-average margin, cash deposit rate, and assessment rate.

In addition, there is no evidence on the record supporting Fuji's contention that because SIA does not resell TRBs for the replacement market, its selling practices are significantly different from SOA such that SOA's assessment rate is inappropriate. Fuji has provided no information which suggests that the weighted-average dumping margin for SIA's sales would differ significantly from the weighted-average margin we calculated for SOA's sales, nor has Fuji provided any information demonstrating that SIA would sell at resale prices equivalent to the transfer prices it paid Fuji. Rather, the evidence on the record demonstrates that SIA would most likely engage in selling and pricing practices similar to SOA. We therefore have no basis to suspect that the application of SOA's assessment rate to all subject merchandise imported by SOA and SIA would be unreasonable.

*Comment 14:* Fuji argues that because it is a reseller which does not have access to the variable costs of manufacturing (VCOM) and total costs of manufacturing (TCOM) of the TRBs it resells in the U.S. and home markets, it agrees with the Department's use of its acquisition costs as the basis for the 20% difmer test. Fuji contends that in those cases where VCOM and TCOM are available, the Department allows non-identical home market models to be included within the pool of potential home market matches if the difference in the VCOMs between the U.S. and home market models is less than 20 percent of the U.S. model's TCOM. In other words, Fuji states, the Department uses the U.S. model's costs as the benchmark for its comparison. However, Fuji asserts, rather than use the U.S. model's acquisition cost as the benchmark for the 20% difmer test the Department conducted for Fuji, the Department incorrectly used the home market model's acquisition costs as the basis for the 20% difmer comparison.

*Department's Position:* We agree with Fuji. In our margin calculation computer program for Fuji we inadvertently used programming language which incorrectly applied the 20% difmer test. We have corrected this error for these final results.

*Comment 15:* Koyo argues that, in order to ensure a fair comparison between NV and USP, the URAA implemented section 773(a)(7)(A) of the Act, which provides for a LOT adjustment to be made if the respondent demonstrates that different LOTs exist due to a difference in selling activities between LOTs, and that the differences in LOT affect price comparability. Koyo argues that, while the Department correctly recognized that one LOT, a CEP LOT, existed in the United States, and two different LOTs existed in Koyo's home market (an OEM LOT and an after-market (AM) LOT), the Department nevertheless incorrectly concluded that Koyo did not meet the statutory requirements for a LOT adjustment. Koyo states that the Department did not grant Koyo a LOT adjustment because it could not find a LOT in the home market the same as the U.S. CEP LOT, and concluded that it lacked the data necessary to determine whether there was a consistent pattern of price differences between LOTs, based on Koyo's home market sales of TRBs. Koyo contends that this methodology, in which the Department requires a LOT to exist in the home market which is the same as the U.S. CEP LOT in order to determine if a pattern of price differences exists between established home market LOTs, overlooks the fact that there will almost never be a home market LOT equal to the U.S. CEP LOT. As a result, Koyo asserts, in almost every CEP situation, there will be no basis upon which to grant a LOT adjustment. Koyo further argues that in this case, and in virtually every case involving CEP sales thus far, the Department has applied this methodology and has never granted a LOT adjustment in CEP calculations. Koyo contends that this prevents a fair comparison between NV and USP and eviscerates the URAA's entire LOT adjustment provision in CEP cases.

Furthermore, Koyo asserts, the fact that a LOT like the U.S. CEP LOT does not exist in the home market does not mean that the data to determine a consistent pattern of price differences does not exist. Rather, Koyo claims, in the instant case, it provided the Department with exactly the type of data it needs to determine price comparability. Koyo contends that it provided the Department with a home market price, which reflects the price of home market TRBs if they were sold at a home market LOT identical to the U.S. CEP LOT. Koyo states that when this ''constructed normal value'' is compared to the NV of its home market sales, it becomes apparent that a pattern of price differences exists between the home market constructed CEP LOT and the other two home market LOTs. Therefore, Koyo concludes, because it has met the statutory requirement to demonstrate that a pattern of price

differences exists and has met all other statutory requirements for a LOT adjustment, the Department is required to grant Koyo a LOT adjustment.

Timken argues that, in CEP calculations, the only way the Department can determine, in accordance with section 773(a)(7)(A) of the Act, if there is a consistent pattern of price differences between sales at different LOTs in the country in which NV is determined is if one of the home market LOTs is the same as the U.S. CEP LOT. Timken asserts that Koyo's constructed normal values, which Koyo claims reflect the prices that would exist if there was a home market LOT like the U.S. CEP LOT, do not serve as a reliable substitute for the absence of an actual home market CEP LOT. Furthermore, Timken claims that not only is it unclear which of Koyo's constructed normal values is the analog to the U.S. CEP LOT, but Koyo's deduction of indirect selling expenses to derive these constructed normal values is contrary to the underlying premise of a LOT adjustment. Timken states that the whole purpose of a LOT adjustment is to adjust for those price differences which are not reflected in selling expenses. Therefore, Timken maintains, if one does make prices at different LOTs equivalent by adjusting for differences in selling expenses, as Koyo does in this case, there is no need or statutory basis for the additional LOT adjustment.

*Department's Position:* We agree with Timken. We may not base LOT determinations or adjustments upon ''constructed'' or artificial home market levels. Koyo's constructed normal value LOTs are not LOTs at which Koyo actually sold TRBs in the home market during the POR. Furthermore, not only do we rely on actual starting prices in determining whether different LOTs exist, but there is no statutory basis for us to construct LOTs in the home market or elsewhere. Therefore, because Koyo was unable to demonstrate a pattern of consistent price differences between a home market LOT equivalent to its CEP and other home market LOTs, we did not have the information necessary to make a LOT adjustment. However, because Koyo's CEP LOT was less advanced than its HM LOTs, we made a CEP offset adjustment to NV for all our comparisons of Koyo's CEP sales.

*Comment 16:* Fuji argues that the Department's 99.5 percent arm's-length test, in which it calculates home market customer-specific weighted-average affiliated/unaffiliated price ratios and excludes from its margin calculations all sales to a home market customer if its ratio is not greater than 99.5 percent, is too restrictive and inappropriately rejects bona fide sales to affiliated home market customers that are made at the same prices as sales to unaffiliated home market customers. Fuji asserts that, even though it sold from the same price list at the same prices to all home market customers during the POR for any given product during any given month, the Department's arm's-length test nevertheless resulted in the exclusion of a large percentage of its affiliated customer sales from the Department's preliminary margin calculations.

For example, Fuji asserts that the Department's reliance on POR-weighted average prices results in the exclusion of affiliated party sales simply because different quantities may have been purchased by an affiliated party after a monthly price change took effect even though the prices charged to affiliated and unaffiliated customers during any given month were the same. In addition, Fuji contends that even if the same number of units are sold to both the affiliated and unaffiliated customer, all sales to the affiliated customer will fail the test even if a majority of the sales to the affiliated customer during the POR were priced higher than the sales of the identical product to the unaffiliated customer.

Fuji claims that, to avoid these inaccuracies, the Department should adopt a new arm's-length test in which individual transactions to affiliated customers are determined to be at arm's length unless the prices to the affiliated customer deviate from the weighted-average prices to unaffiliated customers by more than two standard deviations. Fuji asserts that this method not only better reflects commercial reality, but it eliminates abnormally high and low priced sales while still ensuring that only those affiliated-customer sales prices which are statistically comparable to unaffiliated-party sales prices are included in the Department's margin calculations.

Fuji further asserts that, if the Department does not adopt this new test, it should at least modify its existing arm's-length test such that it would use the same methodology, but apply it on a monthly, rather than a POR, basis. Fuji explains that if the Department compares the average monthly weighted-average price of a product sold to an affiliated customer to the monthly weighted-average sales prices of the same product to an unaffiliated customer, it would capture the fact that Fuji's monthly average sales prices to affiliated and unaffiliated customers are the same. In this way, Fuji concludes, the Department will avoid the arbitrary results produced by its current test and correctly include within its margin calculations those sales to affiliated home market customers which were clearly at arm's length.

Timken argues that, not only has the CIT ruled on several occasions that the Department's 99.5 percent arm's-length test is reasonable, but Fuji has failed to demonstrate that this test is unreasonable or that it results in distortions of price comparability. Timken concludes that the Department, therefore, should continue to adhere to its established arm's-length test in these final results of review.

*Department's Position:* We agree with Timken. Fuji failed to provide a single example from its own data supporting its assertions. Fuji presents only theoretical examples of why the arm's-length test is distortive and we have no basis upon which to conclude that our test is unreasonable. In addition, our comparison of Fuji's weighted-average net prices to unrelated customers and related customers in the home market clearly demonstrated that Fuji did not always sell to its related and unrelated customers at the identical net prices. Furthermore, not only is our 99.5 percent arm's-length test methodology well established, but the CIT has repeatedly sustained this methodology (*see, e.g., Certain Cut-to-Length Carbon Steel Plate from Sweden; Final Results of Antidumping Duty Administrative Review,* 61 FR 15772 (April 9, 1996), *Usinor Sacilor* v. *United States,* 872 F. Supp. 1000 (CIT 1994) (*Usinor), Micron Technology, Inc.* v. *United States,* 893 F. Supp. 21 (CIT 1995) (*Micron),* and *NTN Bearing Corp. of America, Inc.* v. *United States,* 905 F. Supp. 1083 (CIT 1995)). In addition, in *Usinor,* the CIT specifically stated that ''[g]iven the lack of evidence showing any distortion of price comparability, the court finds the application of Commerce's arm's-length test reasonable.'' Likewise, in *Micron,* because the CIT found that the plaintiff /respondent failed to ''demonstrate that Commerce's customer-based arm's length test inquiry is unreasonable'' and failed to ''point to record evidence which tends to undermine Commerce's conclusion,'' the CIT sustained the 99.5 percent arm's-length test, given the lack of evidence showing a distortion of price comparability. Therefore, for these final results we have not altered our 99.5 percent arm's-length test for Fuji, and have continued to apply the test used in our preliminary results.

Clerical Errors

*Comment 17:* Koyo argues that in the Department's preliminary results computer program for Koyo, the

Department incorrectly adjusted a quantity value which was already net of adjustments. Koyo argues that, to correct this error, the Department should either use the quantity value Koyo reported net of adjustments, or calculate its own net quantity value by deducting the quantity adjustments Koyo reported in its response from the gross quantity value Koyo also reported in its response.

*Department's Position:* We agree with the respondent. In order to correct these errors for these final results we have used the variable which reflects that quantity value which is already net of adjustments.

*Comment 18:* Fuji argues that in its response it explained that the date of sale for its EP sales was the purchase order date and the date of sale for its CEP sales was the invoice date. Fuji also states that, while it reported the invoice and purchase order dates under separate variables, it also reported another sale date variable ''SALEDTU'' which reflected the correct date of sale, whether the reported sale was an EP or CEP sale. Fuji contends that in the Department's preliminary results computer program for Fuji, the Department incorrectly used the invoice date variable for all of Fuji's EP sales. To correct this error, Fuji suggests that the Department simply use the ''SALEDTU'' variable, where appropriate.

Timken argues that the Department's use of the invoice date as the date of sale for Fuji's EP sales is in accordance with its new policy and should not be altered for the final results of review.

*Department's Position:* We agree with Fuji. While Timken is correct that, in recent antidumping reviews of other cases the Department has sent to respondents revised questionnaires which request them to report the invoice date as the date of sale for all sales, it was not our practice to do so at the time we issued our 1994–95 TRBs questionnaires. As a result, we had no intention of requiring the respondents in the 1994–95 TRBs administrative reviews to report their date of sale information in this manner for all sales, and our use of the invoice date as the date of sale for Fuji's EP sales was clearly a clerical error and does not reflect the application of this new practice. Therefore, because we believe it would be both unreasonable and unfair to apply this new practice now, a practice we began to use several months after our receipt of questionnaire responses in the 1994–95 TRBs reviews, and because we have determined that the proper date of sale for Fuji's EP sales was clearly the purchase order date, we have simply corrected our clerical error by using Fuji's reported purchase order date as the date of sale for its EP sales.

Final Results of Review

Based on our review of the arguments presented above, for these final results we have made changes in our margin calculations for Fuji and Koyo. Our preliminary determinations concerning no shipments, the use of total adverse facts available, and the terminations of reviews have remained unchanged for these final results (*see TRBs 94–95 Prelim* at 7392).

As a result of our comparison of CEP and EP to NV, we have determined that margins exist for the period October 1, 1994, through September 30, 1995, as follows:

| Manufacturer/reseller/exporter | Margin (percent) |
|---|---|
| **For the A–588–054 Review** | |
| Koyo Seiko | 21.70 |
| Fuji | 11.48 |
| Kawasaki | 47.63 |
| Yamaha | 47.63 |
| Nigata | 47.63 |
| Suzuki | 47.63 |
| **For the A–588–604 Review** | |
| Fuji | (1) |
| Honda | (1) |
| Kawasaki | 40.37 |
| Yamaha | 40.37 |
| Nigata | 40.37 |
| Suzuki | 40.37 |
| Nittetsu | (1) |
| Showa Seiko | (1) |

[1] No shipments or sales subject to this review. The firm has no rate from any segment of this proceeding.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and NV may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the 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, as provided for by section 751(a)(1) of the Tariff Act:

(1) The cash deposit rates for the reviewed companies will be those rates outlined above;

(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 these reviews, a prior review, or the original less-than-fair-value (LTFV) investigations, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) If neither the exporter nor the manufacturer is a firm covered in these or any previous reviews conducted by the Department, the cash deposit rate for the A–588–054 finding will be 18.07 percent and 36.52 percent for the A–588–604 order (*see Preliminary Results of Antidumping Duty Administrative Reviews; 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 51058 (September 30, 1993)). All U.S. sales by each respondent will be subject to one deposit rate according to the proceeding.

The cash deposit rate has been determined on the basis of the selling price to the first unrelated customer in the United States. For appraisement purposes, where information is available, the Department will use the entered value of the merchandise to determine the assessment rate.

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.

These administrative reviews and this 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: March 6, 1997.

Robert S. LaRussa,

*Acting Assistant Secretary for Import Administration.*

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BILLING CODE 3510–DS–P

## National Oceanic and Atmospheric Administration

**[ID. 020497A]**

## Peer Review Panels; Gulf of Mexico Red Snapper Research

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

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, is accepting nominations from academic institutions, state fishery management agencies, the fishing industry, other interested non-governmental organizations, and the public for membership on three peer review panels. The panels are being convened under section 407(a) of the Magnuson-Stevens Fishery Conservation and Management Act (Act), to review the basis for management of the red snapper stock in the Gulf of Mexico.

Three panels of independent experts will be established to conduct various parts of the review as required by the Act. The Statistics Review Panel will review the accuracy, precision and adequacy of the commercial, recreational and charter boat red snapper catch and effort statistics. The Economics Review Panel will review the costs and benefits analyses conducted in preparation of Amendment 8 to the Reef Fish Fishery Management Plan; this will include a review of all reasonable alternatives to an individual fishing quota program for the red snapper fishery in the Gulf of Mexico. The Science and Management Review Group will review the scientific and management basis for managing the red snapper stock in the Gulf of Mexico. The Science and Management Review Panel will be charged with evaluating the existing scientific information and management measures for red snapper in the Gulf of Mexico *in toto*, and will include the results from the statistics and economic reviews. In addition, this panel will review the results from the 1995 assessment and the independent assessments currently being conducted, the appropriateness of the scientific methods, information, and models used to assess the status and trends of the red snapper stock, and the appropriateness and adequacy of the management measures in the fishery management plan for red snapper for conserving and managing the fishery. Each reviewer will prepare a report of his/her findings and recommendations.

**DATES:** Nominations must be received by close of business on March 28, 1997.

**ADDRESSES:** Nominations along with a listing of background, experience and credentials are to be submitted to the Director, Office of Science and Technology, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** The Director, Office of Science and Technology, at (301) 713–2367.

**SUPPLEMENTARY INFORMATION:** The Act requires the Secretary of Commerce (Secretary) to conduct a thorough and independent evaluation of the scientific and management basis for conserving and managing the red snapper fishery in the Gulf of Mexico. Specifically section 407(a) of the Act requires the Secretary to, ''initiate an independent peer review to evaluate: (A) the accuracy and adequacy of fishery statistics used by the Secretary for the red snapper fishery in the Gulf of Mexico to account for all commercial, recreational, and charter fishing harvests and fishing effort on the stock; (B) the appropriateness of the scientific methods, information, and models used by the Secretary to assess the status and trends of the Gulf of Mexico red snapper stock and as the basis for the fishery management plan for the Gulf of Mexico red snapper fishery; (C) the appropriateness and adequacy of the management measures in the fishery management plan for red snapper in the Gulf of Mexico for conserving and managing the red snapper fishery under this Act; and (D) the costs and benefits of all reasonable alternatives to an individual fishing quota program for the red snapper fishery in the Gulf of Mexico.''

Any person or organization may submit nominations for any of the panels. When submitting nominations, include the submitting person or organization's name and affiliation along with a detailed listing of each nominee's background, experience and credentials. Nominees for any of the review panels must have outstanding scientific or management credentials relevant to the charge to the panel. Nominees may be made from international as well as national scientific bodies, fishery management organizations, academia or similar organizations. Members will be selected by a panel of senior NMFS scientists in consultation with appropriate interested parties.

To avoid conflicts of interest, nominees who have been directly involved in the collection, evaluation and interpretation of information used in the management of the red snapper or shrimp fishery in the Gulf of Mexico or in the management of red the snapper in the Gulf of Mexico during the last 4 years, who may gain financially from the outcome of this review, or whose immediate family, organization or company may gain financially from the outcome of these reviews will not be accepted.

Each review panel will meet one or two times. At least one of these meetings will be for the presentation of information to the panel by scientists, fishery managers, and fishing industry representatives; a second meeting may be necessary to review results of additional analyses, or to discuss findings and recommendations. In addition, the reviewers may caucus by conference call to discuss review plans or the result of particular analyses. Each panel will have five or six members. A NMFS scientist will serve as a facilitator/coordinator for the panels.

### Format of the Reviews

The reviews will require that each panel meets for 5 days. The first 2 days of the reviews will involve scientists from NMFS, fishery management agencies, academia and the fishing industry that have been involved in research or management of red snapper in the Gulf of Mexico or as part of the fishing industry. The final 3 days of the review will be reserved for panel deliberations and preliminary report writing. Following the panel meeting, the panel will work by correspondence. A final report will be prepared by each of the reviewers and submitted to the Director of the Office of Science and Technology. Additional meetings may be necessary to discuss issues arising during preparation of the panel report.

### Statistics Review

The Statistics Review Panel will consider the accuracy and adequacy of fishery statistics for the red snapper fishery in the Gulf of Mexico to account for all commercial, recreational, and charter fishing harvests and fishing effort on the stock. In addition, the Statistics Review Panel will consider the collection of information on bycatch in the shrimp trawl fishery in the Gulf of Mexico and the estimation of total bycatch for the shrimp fishery. The Statistics Review Panel will consider the current data collection programs conducted by NMFS and states which are used in the assessment process including the cooperative commercial fisheries statistics program, the Marine Recreational Fishery Statistics Survey, the headboat sampling program, the observer program which collects

bycatch information for the shrimp fishery, fishery independent surveys and appropriate state sampling programs such as those conducted by Texas Parks and Wildlife. The goal of this review is to examine the fishery information collection programs in the Gulf of Mexico which provide the scientific data for managing the fishery, setting regulations, determining allocations and conducting stock assessments. The report from this review will be part of the information to be considered during the Science and Management Review.

Economics Review

The Economics Review Panel will consider the data which are available to conduct economic inquiries and will review and evaluate the economic analyses which are currently available and which contribute to the understanding of the economic ramifications of alternative management strategies for red snapper. The goal of this review is to examine the analyses conducted in support of establishing and individual transferable quota system for the red snapper fishery and determine whether the analyses were sufficient and whether additional analyses of other alternatives are called for.

Science and Management Review

The Science and Management Review Panel will consider all aspects of the scientific and management basis for managing the red snapper stock in the Gulf of Mexico. The review will consider the appropriateness of the scientific methods, information, and models used to assess the status and trends of the Gulf of Mexico red snapper stock and their usefulness as the basis for the fishery management plan for the Gulf of Mexico red snapper fishery, and the appropriateness and adequacy of the management measures in the fishery management plan for red snapper in the Gulf of Mexico for conserving and managing the red snapper fishery under the Act. The goal of this review is to examine the available scientific data relating to the status of U.S. Gulf of Mexico red snapper and determine the best scientific advice to be derived from it and to determine whether the preferred management options are supported by the scientific advice.

Dated: March 7, 1997.

Charles Karnella,

*Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.*

[FR Doc. 97–6386 Filed 3–12–97; 8:45 am]

**BILLING CODE 3510–22–F**

**[I.D. 030497C]**

## Marine Mammals; California Sea Lion Foraging and Predation on Salmonids

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

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** NMFS announces the availability of an Environmental Assessment (EA) that examines the environmental consequences of preventing California sea lion foraging and predation on salmonids at the Willamette Falls in Oregon. The proposed non-lethal removal of nuisance marine mammals is authorized under the Marine Mammal Protection Act (MMPA).

**DATES:** Comments on the EA must be received by April 14, 1997.

**ADDRESSES:** Comments on the EA should be addressed to William Stelle, Jr., Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115. Copies of the EA may be obtained by writing to this address or by telephoning the contact listed below.

**FOR FURTHER INFORMATION CONTACT:** Joe Scordino, 206–526–6143.

**SUPPLEMENTARY INFORMATION:** Section 109(h)(1)(C) of the MMPA (16 U.S.C. 1361 *et seq*.) provides Federal, state, and local government officials with authority to take marine mammals in the course of their official duties. Under this authority NMFS and Oregon Department of Fish and Wildlife (ODFW) may non-lethally remove California sea lions to prevent them from preying on salmonids at the Willamette Falls fish passage facility in Oregon City, OR.

NMFS has determined that California sea lions at the Willamette Falls are a ''nuisance'' because of the vulnerability of salmonids to predation at this location, and because Willamette Falls are 128 miles (205 km) from the lower Columbia River estuary where California sea lions normally occur. Since 1990, California sea lions have been observed in the lower Willamette River (between the falls and the confluence with the Columbia River) during the winter/spring months from February to May coinciding with the spawning migrations of spring chinook salmon and winter and summer steelhead, and the downstream migration of smolts. ODFW has documented sea lions foraging near the fishway entrances at the Willamette Falls fishway in each of the last 4 years and preying on adult spring chinook salmon and steelhead. In recent years, the spring chinook salmon and winter steelhead populations, which are the only native salmonid populations above the falls, have declined, raising concerns from the public about the potential effects of sea lions foraging on salmonids migrating through the fishway at the Willamette Falls. A preliminary assessment of this situation indicates that a few California sea lions are returning each year to the Falls and that the number of sea lions involved may be increasing.

In response to concerns over the possible impacts of increasing predation on returning salmonids, NMFS and ODFW propose to implement a program of non-lethal removal measures to prevent sea lion predation at the Willamette Falls while continuing to monitor the resource conflict at this site. The National Environmental Policy Act (NEPA) requires that federal agencies conduct an environmental analysis of their actions to determine if the actions may affect the environment. Accordingly, NMFS jointly prepared with ODFW an EA that explores the environmental consequences of three alternatives: (1) No action; (2) Non-lethal removal of California sea lions (proposed action); and, (3) Lethal removal of sea lions foraging at Willamette Falls. The draft EA was prepared in accordance with NEPA and implementing regulations at 40 CFR Parts 1500 through 1508 and NOAA guidelines concerning implementation of NEPA found in NOAA Administrative Order 216–6.

Dated: March 7, 1997.

Hilda Diaz-Soltero,

*Acting Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 97–6385 Filed 3–12–97; 8:45 am]

**BILLING CODE 3510–22–F**

**[I.D. 030597F]**

## Gulf of Mexico Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting of the Mackerel Stock Assessment Panel.

**DATES:** This meeting will begin at 1:00 p.m. on March 31, 1997, and will conclude by 5:00 p.m. on April 4, 1997.

**ADDRESSES:** The meeting will be held at NMFS Southeast Fisheries Science Center, 75 Virginia Beach Drive, Miami, FL.

*Council address*: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

**FOR FURTHER INFORMATION CONTACT:** Dr. Richard L. Leard, Senior Fishery Biologist; telephone: 813–228–2815.

**SUPPLEMENTARY INFORMATION:** The Mackerel Stock Assessment Panel members will meet to review available data on the Gulf migratory group of Spanish mackerel and the Atlantic migratory group of king mackerel. These data will include, but not be limited to, commercial and recreational catches, natural and fishing mortality estimates, and recruitment. The panel will also update the stock assessments completed in 1996 for both the Atlantic and Gulf migratory groups of king and Spanish mackerel. These analyses will be used to determine the condition of the stocks and the levels of acceptable biological catch for the 1997–98 fishing year.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by March 24, 1997.

Dated: March 7, 1997.

Bruce Morehead,

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 97–6387 Filed 3–12–97; 8:45 am]

**BILLING CODE 3510–22–F**

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**[I.D. 030597C]**

## Mid-Atlantic Fishery Management Council; Meetings

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The Mid-Atlantic Fishery Management Council's (Council) Demersal Species Committee and the Atlantic States Marine Fisheries Commission will hold a public meeting.

**DATES:** The meetings will be held on March 19, 1997, from 3:00 p.m. until 5:00 p.m. and on March 20, 1997, from 8:00 a.m. until noon.

**ADDRESSES:** The meetings will be held at the Norfolk Airport Hilton, 1500 North Military Highway, Norfolk, VA; telephone: (800) 422–7474 or (757) 466–8000.

*Council address*: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19901; telephone: (302) 674–2331.

**FOR FURTHER INFORMATION CONTACT:** David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 674–2331

**SUPPLEMENTARY INFORMATION:** The purpose of these meetings is to discuss Amendment 10 rebuilding schedule and the Summer Flounder Fishery Management Plan.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Council (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: March 7, 1997.

Bruce Morehead,

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 97–6250 Filed 3–12–97; 8:45 am]

**BILLING CODE 3510–22–F**

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## Modernization Transition Committee; Meeting

**ACTION:** Notice of public meeting.

**TIME AND DATE:** March 18, 1997 from 8:00 a.m. to 5:00 p.m.

**PLACE:** This meeting will take place at the Red Lion Inn, 400 Industry, Astoria, Oregon.

**STATUS:** The meeting will be open to the public. On March 18, 1997, 9:00 a.m. to 10:00 a.m. and 3:00 p.m. to 3:30 p.m. will be set aside for oral comments or questions from the public. Approximately 50 seats will be available on a first-come first-served basis for the public.

**MATTERS TO BE CONSIDERED:** This meeting will cover: consultation of 85 proposed certification packages, and service level D automation criteria update.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Nicholas Scheller, National Weather Service, Modernization Staff, 1325 East-West Highway, SSMC2, Silver Spring, Maryland 20910. Telephone: (301) 713–0454.

Dated: March 11, 1997.

Nicholas R. Scheller,

*Manager, National Implementation Staff.*

[FR Doc. 97–6484 Filed 3–12–97; 8:45 am]

**BILLING CODE 3510–12–M**

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**[I.D. 030597D]**

## Western Pacific Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Western Pacific Fishery Management Council will hold a meeting of its Bottomfish Task Force.

**DATES:** The meeting will be held on April 1, 1997, from 9:00 a.m. to 5:00 p.m.

**ADDRESSES:** The meeting will be held at the Leiopapa A Kamehameha Bldg. (State Office Tower), 235 South Beretania Street, Room 204, Honolulu, HI 96813; telephone: (808) 522–8220.

*Council address*: Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1405, Honolulu, HI 96813.

**FOR FURTHER INFORMATION CONTACT:** Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

**SUPPLEMENTARY INFORMATION:** The task force will meet to discuss and formulate limited entry alternatives for the Mau Zone bottomfish fishery in the Northwestern Hawaiian Islands and consider other business as required.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to meeting date.

Dated: March 7, 1997.

Bruce Morehead,

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 97–6388 Filed 3–12–97; 8:45 am]

**BILLING CODE 3510–22–F**

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**[I.D. 030797B]**

## Marine Mammals; Permit No. 963 (P532B)

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

**ACTION:** Receipt of application for amendment.

**SUMMARY:** Notice is hereby given that Department of Marine Biology, Texas A&M University, P.O. Box 1675, Galveston, TX 77553 has requested a amendment to permit No. 963.

**DATES:** Written comments must be received on or before April 12, 1997.

**ADDRESSES:** The amendment request and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668.

Written data or views, or requests for a public hearing on this request should be submitted to the Director, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular amendment request would be appropriate.

Concurrent with the publication of this notice in the Federal Register, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

**SUPPLEMENTARY INFORMATION:** The subject amendment to permit no. 963, issued on June 2, 1995 (60 FR 31450) is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR 222.23).

Permit no. 963 authorizes the permit holder to: capture and release up to 40 Steller sea lion pups, 40 adult females and 40 juveniles and inadvertently harass up to 1000 in Alaska water.

The permit holder requests authorization to: increase the number of pups by 20 (10 in each of two locations); and include 8 adult males (4 at each of two locations).

Dated: March 6, 1997.

Ann D. Terbush,

*Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 97–6251 Filed 3–12–97; 8:45 am]

**BILLING CODE 3510–22–F**

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Adjustment of an Import Limit for Certain Wool Textile Products Produced or Manufactured in Mexico

March 7, 1997.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs increasing a limit.

**EFFECTIVE DATE:** March 13, 1997.

**FOR FURTHER INFORMATION CONTACT:** Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6711. For information on embargoes and quota re-openings, call (202) 482–3715.

**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.

The current limit for Category 443 is being increased for carryover.

The restrictions and consultation levels in the October 17, 1996 directive to the Commissioner of Customs do not apply to NAFTA (North American Free Trade Agreement) originating goods, as defined in Annex 300–B, Chapter 4 and Annex 401 of the agreement. In addition, restrictions and consultation levels do not apply to textile and apparel goods that are assembled in Mexico from fabrics wholly formed and cut in the United States and exported from and re-imported into the United States under U.S. tariff item 9802.00.90.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 54986, published on October 23, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of Annex 300(B) of the North America Free Trade Agreement, but are designed to assist only in the implementation of certain of its provisions.

Troy H. Cribb,

*Chairman, Committee for the Implementation of Textile Agreements.*

Committee for the Implementation of Textile Agreements

March 7, 1997.

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 October 17, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Mexico and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997. The levels established in that directive do not apply to NAFTA (North American Free Trade Agreement) originating goods, as defined in Annex 300–B, Chapter 4 and Annex 401 of NAFTA or to goods assembled in Mexico from fabrics wholly formed and cut in the United States and exported from and re-imported into the United States under U.S. tariff item 9802.00.90.

Effective on March 13, 1997, you are directed to increase the limit for Category 443 to 187,290 numbers [1], pursuant to the provisions of the agreement between the Governments of the United States, Mexico and Canada.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of 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. 97–6338 Filed 3–12–97; 8:45 am]

**BILLING CODE 3510–DR–F**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Submission for OMB Review; Comment Request

**ACTION:** Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Title and Associated Form:* Vessel Operation Report, ENG Form 3925, 3925B, and 3925P, OMB Number 0710–0006.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1996.

*Type of Request:* Extension.

*Number of Respondents:* 1,398.

*Responses Per Respondent:* 835.

*Annual Responses:* 195,708.

*Average Burden Per Response:* 41 minutes.

*Annual Burden Hours:* 50,166.

*Needs and Uses:* The Corps of Engineers (COE) uses ENG Forms 3925, 3925B, and 3925P as the basic instruments to collect waterborne commerce statistics. These data constitute the sole source for domestic vessel movements of freight and passengers on U.S. navigable waterways and harbors. The information requested provides the origin, destination, commodity, and tonnage required to perform cost/benefit studies and provide a rationale for allocation of resources related to the COE navigation function. These data are also critical to the enforcement of the Harbor Maintenance Tax authorized under Section 1402 of Public Law 99–662.

*Affected Public:* Business or other for-profit.

*Frequency:* Monthly.

*Respondent's Obligation:* Mandatory.

*OMB Desk Officer:* Mr. Jim Laity.

Written comments and recommendations on the proposed information collection should be sent to Mr. Laity at the Office of Management and Budget, Desk Officer for U.S. Army, COE, Room 10202, New Executive Office Building, Washington, DC 20503.

*DOD Clearance Officer:* Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: March 7, 1997.

Patricia L. Toppings,

*Alternate OSD Federal Register, Liaison Officer, Department of Defense.*

[FR Doc. 97–6243 Filed 3–12–97; 8:45 am]

**BILLING CODE 5000–04–M**

## Meeting of the DOD Advisory Group on Electron Devices

**AGENCY:** Department of Defense, Advisory Group on Electron Devices.

**ACTION:** Notice.

**SUMMARY:** The DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

**DATES:** The meeting will be held at 0900, Wednesday, 9 April 1997.

**ADDRESS:** The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

**FOR FURTHER INFORMATION CONTACT:** Mr. Eliot Cohen, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

**SUPPLEMENTARY INFORMATION:** The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through DDR&E to the Director, Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. 10(d) (1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1994), and that accordingly, this meeting will be closed to the public.

Dated: March 7, 1997.

L.M. Bynum,

*Alternate, OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 97–6244 Filed 3–12–97; 8:45 am]

**BILLING CODE 5000–04–M**

## Office of the Secretary of Defense

## Meeting of the DOD Advisory Group on Electron Devices

**AGENCY:** Department of Defense, Advisory Group on Electron Devices.

**ACTION:** Notice.

**SUMMARY:** Working Group C (Electron-Optics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

**DATES:** The meeting will be held at 0900, Wednesday, 26 March 1997.

**ADDRESSES:** The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

**FOR FURTHER INFORMATION CONTACT:** Elise Rabin, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

**SUPPLEMENTARY INFORMATION:** The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to intiate with industry, universities or in their laboratories. This opto-electronic device area incudes such programs as imaging device, infrared detectors and lasers. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Public Law 92–463, as amended, (5 U.S.C. App. section 10(d) (1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1994), and that accordingly, this meeting will be closed to the public.

Dated: March 7, 1997.

L.M. Bynum,

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 97–6245 Filed 3–12–97; 8:45 am]

**BILLING CODE 5000–04–M**

## Meeting of the DOD Advisory Group on Electron Devices

**AGENCY:** Department of Defense, Advisory Group on Electron Devices.

**ACTION:** Notice.

**SUMMARY:** Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

**DATES:** The meeting will be held at 0900, Thursday, 10 April 1997.

**ADDRESSES:** The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

**FOR FURTHER INFORMATION CONTACT:** Walter Gelnovatch, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

**SUPPLEMENTARY INFORMATION:** The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director Defense Research and Engineering (DDR&E), and through the DDR&E, to the Director Defense Advanced Research Projects

Agency and the Military Departments in planning and managing an effective research and development program in the field of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposes to initiate with industry, universities or in their laboratories. The microelectronics area includes such programs on semiconductor materials, integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. 92–463, as amended (5 U.S.C. App. § 10(d) (1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1994), and that accordingly, this meeting will be closed to the public.

Dated: March 7, 1997.

L.M. Bynum,

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 97–6246 Filed 3–12–97; 8:45 am]

**BILLING CODE 5000–04–M**

## Meeting of the DOD Advisory Group on Electron Devices

**AGENCY:** Department of Defense, Advisory Group on Electron Devices.

**ACTION:** Notice.

**SUMMARY:** Working Group A (Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

**DATES:** The meeting will be held at 0900, Tuesday, 8 April 1997.

**ADDRESSES:** The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

**FOR FURTHER INFORMATION CONTACT:** Joy Baumgarten, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

**SUPPLEMENTARY INFORMATION:** The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency (ARPA) and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave devices, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout.

In accordance with Section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. § 10(d) (1994)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1994), and that accordingly, this meeting will be closed to the public.

Dated: March 7, 1997.

L.M. Bynum,

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 97–6247 Filed 3–12–97; 8:45 am]

**BILLING CODE 5000–04–M**

## Defense Science Board Task Force on Anti-Personnel Landmine Alternatives, Landmine Detection and Demining, and Unexploded Ordnance (UXO) Clearance Operations

**AGENCY:** Notice of advisory committee meetings.

**ACTION:** The Defense Science Board Task Force on Anti-Personnel Landmine Alternatives, Landmine Detection and Demining, and Unexploded Ordnance (UXO) Clearance Operations, Phase I will meet in closed session on March 26–27 and April 23–24, 1997 at Strategic Analysis, Inc., Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will examine US landmine, landmine detection and demining efforts, and alternatives to anti-personnel landmines. It will also examine UXO remediation, active range UXO clearance, and explosive ordnance disposal (EOD) efforts. It will include in this examination, the relationship between the UXO/EOD detection/characterization/clearance and neutralization issues and landmine detection/neutralization issues. In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1994)), it has been determined that these DSB Task Force meetings concern matters listed in 5 U.S.C. § 552(c)(1) (1994), and that accordingly these meetings will be closed to the public.

Dated: March 10, 1997.

Patricia L. Toppings,

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 97–6354 Filed 3–12–97; 8:45 am]

**BILLING CODE 5000–04–M**

## Defense Science Board Task Force on Advanced Modeling and Simulation for Analyzing Combat Concepts in the 21st Century

**ACTION:** Notice of advisory committee meeting.

**SUMMARY:** The Defense Science Board Task Force on Advanced Modeling and Simulation for Analyzing Combat Concepts in the 21st Century will meet in open session on March 20–21, 1997 at the Central Florida Research Park, Orlando, Florida.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense.

Persons interested in further information should call Mr. Dave Bicksler at (703) 527–5410.

Dated: March 10, 1997.

Patricia L. Toppings,

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 97–6355 Filed 3–12–97; 8:45 am]

**BILLING CODE 5000–04–M**

## Department of the Air Force

## Proposed Collection; Comment Request

**AGENCY:** HQ AFSVA/SVOHL, DOD.

**ACTION:** Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Headquarters Air Force Services Agency (HQ AFSVA) announces a proposed format change to the existing Air Force Form 3211, Customer Comments Card, and seeks public comment of the provisions thereof. 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

information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including thorough use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by May 12, 1997.

**ADDRESSES:** Written comments and recommendations on the proposed information collection should be sent to HQ AFSVA, Lodging and Laundry Branch (HQ AFSVA/SVOHL, 10100 Reunion Place, Suite. 401 San Antonio TX 78216–4138, ATTN: Lt Col Deb Kuennen or SMSgt Denise Knebel).

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call HQ AFSVA/SVOHL, at (210) 652–8875 or DSN 487–8875.

*Title, Associated Form, and OMB Number:* Customer Comments, AF Form 3211, OMB Number 0701–XXX.

*Needs and Uses:* Each lodging guest is provided an AF Form 3211. The AF Form 3211 gives each guest the opportunity to comment on facilities and services received. Completion and turn in of the form is optional. The information collection requirement is necessary for Wing leadership to assess the effectiveness of their Lodging program. AF Forms 3211 can be used as background documentation/supporting material for all types of management decisions.

*Affected Public:* AFI 34–246, Air Force Lodging Program specifies who is an authorized guest in Air Force lodging. Some examples of the public include construction contractors and special guests of the Installation Commander.

*Annual Burden Hours:* 16.67.

*Number of Respondents:* 200.

*Responses per Respondent:* 1.

*Average Burden per Response:* 5 minutes.

*Frequency:* On occasion.

**SUPPLEMENTARY INFORMATION:**

Summary of Information Collection

Each guest of Air Force lodging and its contract lodging operations are provided access to AF Forms 3211. AF Forms 3211 give each guest the opportunity to comment on facilities and services received and completion and turn in of the form is optional. The information collection requirement is necessary for Wing leadership to assess the effectiveness of their Lodging program. 3211s are also useful as background documentation/supporting material for all types of management decisions. They are also reviewed by higher headquarters during lodging assistance and Innkeeper Award competitions.

Carolyn A. Lunsford,

*Air Force Federal Register* Liaison Officer.

[FR Doc. 97–6291 Filed 3–12–97; 8:45 am]

**BILLING CODE 3910–01–P**

## Proposed Collection; Comment Request

**AGENCY:** Headquarters Air Force Communications Agency, Global Communications Division (HQ AFCA/SYX).

**ACTION:** Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, HQ AFCA/SYXM (MARS) announces the proposed reinstatement of public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collected on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by May 12, 1997.

**ADDRESSES:** Written comments and recommendations on the proposed information collection should be sent to Headquarters Air Force Communications Agency, Global Communications Division (HQ AFCA/SYX), Military Affiliate Radio System (MARS), ATTN: Mr. Harold Collins, 208 West Losey Street, Room 3065, Scott AFB IL 62265–5234.

**FOR FURTHER INFORMATION CONTACT:** To request more on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call HQ AFCA/SYX (MARS) at (618) 256–3090.

*Title, Associated Form, and OMB Number:* USAF MARS Equipment Request (AF Form 3660).

*Needs and Uses:* The information collection requirement is necessary to issue excess government equipment to MARS affiliates.

*Affected Public:* Amateur Radio Operators who have volunteered their services and support to the US Air Force MARS program.

*Annual Burden Hours:* 167.

*Number of Respondents: 200.*

*Responses per Respondent: 5.*

*Frequency:* On occasion. When an affiliate requests a piece of equipment to support his MARS position.

**SUPPLEMENTARY INFORMATION:**

Summary of Information Collection

The respondents are Amateur Radio Operators who have voluntarily joined USAF MARS to support the MARS mission with their own equipment. However, because of their assigned position they are required to obtain a capability and the Air Force supports these individuals with excess equipment to support these assigned positions. The AF Form 3660 is the justification to obtain excess equipment and is approved/disapproved because of the assigned position.

Carolyn A. Lunsford,

*Air Force Federal Register Liaison Officer.*

[FR Doc. 97–6292 Filed 3–12–97; 8:45 am]

**BILLING CODE 3910–01–P**

## Proposed Collection; Comment Request

**AGENCY:** Headquarters Air Force Communications Agency, Global Communications Division (HQ AFCA/SYX).

**ACTION:** Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, HQ AFCA/SYXM (MARS) announces the proposed reinstatement of public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collected on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by May 12, 1997.

**ADDRESSES:** Written comments and recommendations on the proposed

information collection should be sent to Headquarters Air Force Communications Agency, Global Communications Division (HQ AFCA/SYX), Military Affiliate Radio System (MARS), ATTN: Mr. Harold Collins, 208 West Losey Street, Room 3065, Scott AFB IL 62265–5234.

**FOR FURTHER INFORMATION CONTACT:** To request more on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call HQ AFCA/SYX (MARS), at (618)–256–3090.

*Title, Associated Form, and OMB Number:* MARS Repeater Application and Registration (AF Form 3662).

*Needs and Uses:* The information collected is required to issue repeater licenses for repeaters in support of the MARS mission.

*Affected Public:* Amateur Radio Operators who have volunteered their services to support the US Air Force MARS program and procuring and supporting a repeater. These repeaters require a license prior to transmitting. The information on the AF Form 3662 is required to obtain the license.

*Annual Burden Hours:* 248.

*Number of Respondents:* 124.

*Responses per Respondent:* 1.

*Frequency:* On occasion. When an affiliate requests authorization to operate a repeater on an assign military frequency assignment.

**SUPPLEMENTARY INFORMATION:**

Summary of Information Collection

The respondents are Amateur Radio Operators who have voluntarily joined USAF MARS to support the MARS mission. These individuals request to put repeaters on assigned military frequencies to support MARS missions in their local area. These repeaters are required to be coordinated through Headquarters Air Force Frequency Management Agency (HQ AFFMA). These forms allow the affiliates to submit a request for repeater coordination and approval.

Carolyn A. Lunsford,

*Air Force Federal Register Liaison Officer.*

[FR Doc. 97–6293 Filed 3–12–97; 8:45 am]

**BILLING CODE 3910–01–P**

## HQ USAF Scientific Advisory Board Meeting

The Information Systems & Technology Panel Meeting, relating to the DDR&E Technology Area Review and Assessment (TARA) Team, in support of the HQ USAF Scientific Advisory Board, will meet on March 17–21, 1997 at CECOM, Ft Monmouth, NJ from 8 a.m. to 5 p.m.

The purpose of the meeting is to assess the progress being made toward achieving S&T objectives stated in the Defense S&T Strategy, the Joint Warfighting S&T Plan, and the Defense Technology Area Plans (DTAPs).

The meeting will be closed to the public in accordance with section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Carolyn A. Lunsford,

*Air Force Federal Register Liaison Officer.*

[FR Doc. 97–6289 Filed 3–12–97; 8:45 am]

**BILLING CODE 3910–01–P**

## HQ USAF Scientific Advisory Board Meeting

The Air Platforms Panel Meeting, relating to the DDR&E Technology Area Review and Assessment (TARA) Team, in support of the HQ USAF Scientific Advisory Board, will meet on March 24–28, 1997 at Wright-Patterson AFB OH from 8 a.m. to 5 p.m.

The purpose of the meeting is to assess the progress being made toward achieving S&T objectives stated in the Defense S&T Strategy, the Joint Warfighting S&T Plan, and the Defense Technology Area Plans (DTAPs).

The meeting will be closed to the public in accordance with section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Carolyn A. Lunsford,

*Air Force Federal Register Liaison Officer.*

[FR Doc. 97–6290 Filed 3–12–97; 8:45 am]

**BILLING CODE 3910–01–P**

## HQ USAF Scientific Advisory Board Meeting

The JMASS Ad Hoc Study of the HQ USAF Scientific Advisory Board will meet on April 4, 1997 at Wright-Patterson AFB OH from 8:00 a.m. to 5:00 p.m.

The purpose is to receive an all day demonstration and caucus with the demo of JMASS at the program office for JMASS.

The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Carolyn A. Lunsford,

*Air Force Federal Register Liaison Officer.*

[FR Doc. 97–6298 Filed 3–12–97; 8:45 am]

**BILLING CODE 3910–01–P**

## Department of the Navy

## Intent to Grant Exclusive Patent License; Clever Ideas Co.

**SUMMARY:** The Department of the Navy hereby gives notice of intent to grant to the Clever Ideas Company, a revocable, nonassignable, exclusive license in the United States to practice the Government owned inventions described in U.S. Patent No. 5,495,416 entitled ''Audio Information Apparatus for Providing Position Information,'' issued February 27, 1996 and U.S. Patent No. 5,552,993 entitled ''Audio Information Apparatus for Providing Position Information,'' issued September 3, 1996.

Anyone wishing to object to the grant of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Office of Naval Research, ONR 00CC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660.

**FOR FURTHER INFORMATION CONTACT:** Mr. R.J. Erickson, Staff Patent Attorney, Office of Naval Research, ONR 00CC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660, telephone (703) 696–4001.

Dated: February 20, 1997.

D. E. Koenig, Jr.,

*LCDR, JAGC, USN, Federal Register Liaison Officer.*

[FR Doc. 97–6379 Filed 3–12–97; 8:45 am]

**BILLING CODE 3810–FF–P**

## DEPARTMENT OF EDUCATION

### Office of Special Education and Rehabilitative Services

**[CFDA No.: 84.128U]**

### Special Projects and Demonstrations for Providing Supported Employment Services to Individuals With the Most Severe Disabilities and Technical Assistance Projects—National Scope Project; Notice Extending the Closing Date for Transmittal of Applications for New Awards for Fiscal Year (FY) 1997

*Deadline for Transmittal of Applications:* The deadline date for transmittal of applications is extended from March 14, 1997, to April 11, 1997.

On January 31, 1996, the Secretary published in the Federal Register (62 FR 4745) a notice inviting applications for a cooperative agreement or grant for new awards for fiscal year 1997 under the program for Special Projects and Demonstrations for Providing Supported Employment Services to Individuals with the Most Severe Disabilities and Technical Assistance Projects—National Scope Project.

The purpose of this notice is to extend the deadline date for transmittal of applications. This action is taken to increase the amount of time applicants have to prepare applications.

*Deadline for Intergovernmental Review:* June 10, 1997.

*For Applications Contact:* Joyce R. Jones, U.S. Department of Education, 600 Independence Avenue, Room 3038, Switzer Building, Washington, D.C. 20202–2740; or call the following telephone number: (202) 205–8351.

*For Further Information Contact:* Mary Jane Kane, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3320, Switzer Building, Washington, D.C. 20202–2740. Telephone: (202) 205–8206. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Server (at gopher://gcs.ed.gov); or on the World Wide Web (at http://gcs.ed.gov). However, the official application notice for a discretionary grant competition is the notice published in the Federal Register.

Program Authority: 29 U.S.C. 777a(c).

Dated: March 7, 1997.

Judith E. Heumann,

*Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. 97–6267 Filed 3–12–97; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[FERC Form–580]**

### Proposed Information Collection and Request for Comments

March 10, 1997.

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of proposed information collection and request for comments.

**SUMMARY:** In compliance with the requirements of Section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

**DATES:** Consideration will be given to comments submitted on or before May 12, 1997.

**ADDRESSES:** Copies of the proposed collection of information can be obtained from and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael P. Miller, Information Services Division, ED–12.4, 888 First Street N.E., Washington, D.C. 20426.

**FOR FURTHER INFORMATION CONTACT:** Michael P. Miller may be reached by telephone at (202) 208–1415, by fax at (202) 273–0873, and by e-mail at mmiller@ferc.fed.us.

**SUPPLEMENTARY INFORMATION:** The information collected under the requirements of FERC Form 580, ''Interrogatory on Fuel and Energy Purchase Practices'', Docket No. IN79–6, (OMB No. 1902–0137) is used by the Commission to implement the statutory provisions of the Federal Power Act (FPA). The FPA was amended by the Public Utility Regulatory Policies Act (Pub. L. 95–617) to require the Commission to review ''not less frequently than every two (2) years * * * of practices * * * to ensure efficient use of resources (including economical purchase and use of fuel and electric energy) * * *'' the purpose of this collection of information is to carry out this statutory mandate. The information will also be used to: (1) Evaluate fuel costs in individual rate filings; (2) review fuel costs passed through automatic fuel adjustment clauses, as determined during periodic compliance audits of utility books and records; and (3) to initiate Commission action under Section 205(f)(3) of the FPA. The Commission's regulations require that a determination be made that wholesale rates are just and reasonable. To make this determination, it is necessary to investigate and analyze the different types of costs incurred in providing electric service. One such expense is fuel costs, which accounts for nearly two-thirds of the electric utility's total operating costs.

To allay its concern that utilities lack incentives to minimize fuel costs, Congress directed the Commission to review utility fuel and energy purchase practices to insure that fuel costs are reasonable. To properly assess the effectiveness of utility fuel procurement programs it is necessary to address a wide range of issues that directly impact fuel expenses.

The FERC Form 580 responses are made part of an integrated data base to examine issues raised in contested fuel costs proceedings. Information in the data base is used to make preliminary evaluations of fuel costs in applications for rate increases filed with the Commission. In addition, when fuel costs are contested in formal rate proceedings, the data provide the basis for more detailed analyses of the utility's fuel procurement practices.

*Action:* The Commission is requesting a three-year extension of the current expiration date, with some changes to the existing collection of data. The form is being modified to ask questions concerning fuel tolling, fuel-by-wire, and fuel conversion agreements.

*Burden Statement:* Public reporting burden for this collection is estimated as:

| Number of respondents | Annual number of responses per respondent | Average burden hours per response | Total annual burden hours |
|---|---|---|---|
| (1) | (2) | (3) | (1)×(2)×(3) |
| 129 | .5 | 93.5 | 6,031 |
| Every 2 yrs. 129 | 1.0 | 93.5 | 12,061 |

The estimated total cost to respondents is $301,550, (i.e. 6,031 hours divided by 2,087 hours per year per full time employee multiplied by $104,350 per year per average employee equals $301,550). The cost per respondent is $2,338.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology *e.g.* permitting electronic submission of responses.

Lois D. Cashell,

*Secretary.*

[FR Doc. 97–6365 Filed 3–12–97; 8:45 am]

BILLING CODE 6717–01–M

**[Docket No. RP97–278–000]**

## Alabama-Tennessee Natural Gas Company; Notice of Petition for Waiver of EDI and EDM Standards

March 7, 1997.

Take notice that on March 3, 1997, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee) filed a request to the Commission for waiver of Electronic Data Interchange (EDI) and Electronic Delivery Mechanism (EDM) Standards.

Alabama-Tennessee requests the Commission to grant a temporary waiver of the Gas Industry Standards Board (GISB) datasets in EDI ASC × 12 format that were approved in Order No. 587 and (2) the EDM standards governing the method for transmitting the EDI data sets that were approved in Order No. 587–B.

Any person desiring to be heard or to protest this petition should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 14, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

*Secretary.*

[FR Doc. 97–6285 Filed 3–12–97; 8:45 am]

BILLING CODE 6717–01–M

**[Docket No. CP93–252–002]**

## El Paso Natural Gas Company; Notice of Amendment

March 7, 1997.

Take notice that on February 11, 1997, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso Texas 79978, filed in Docket No. CP93–252–002, an application pursuant to Section 7(c) of the Natural Gas Act to amend its pending application for a certificate of public convenience and necessity filed with the Commission on March 16, 1993 in Docket No. CP93–252–000 (the Samalayuca Lateral Expansion Project) to eliminate mainline facilities, to provide for incremental rate treatment for the costs of the Samalayuca Lateral Expansion Project, and to submit long-term transportation agreements, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, El Paso submitted Transportation Service Agreements (TSAs) between El Paso and two shippers which serves as evidence of binding, long-term firm commitments. El Paso states that Gasoductos de Chihuahua, S. de R.L. de C.V. (Gasoductos) and Pemex Gas y Petroquimica Basica (Pemex) have executed TSAs with El Paso for transportation of up to 168,133 Mcf (172,000 MMBtu) per day and 39,101 Mcf (40,000 MMBtu) per day, respectively, on the Samalayuca Delivery Lateral Line. El Paso indicates that its TSAs with Gasoductos and Pemex will provide for transportation service from a point on El Paso's mainline at its Hueco Compressor Station, where the proposed Samalayuca Delivery Lateral Line will commence, to the International Boundary between the United States and Mexico.

El Paso proposes to eliminate the following facilities included in its original application: (i) compression totalling 28,000 horsepower at the proposed Toyah Lake and Sierra Diablo Compressor Stations; (ii) compression totalling 4,800 horsepower through an uprating and restaging of one turbine unit at the existing Gresham Compressor Station; and (iii) 14.9 miles of 30-inch

O.D. pipeline loop. El Paso states that these modifications will reduce the overall capital cost of the Project from $56.6 million to $15.4 million. El Paso says that the proposed take away capacity of the Samalayuca Delivery Lateral Line will be reduced from 300,000 Mcf per day to 208,000 Mcf (212,000 MMBtu) per day.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 28, 1997, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Lois D. Cashell,

*Secretary*

[FR Doc. 97–6277 Filed 3–12–97; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. CP93–253–002]**

## El Paso Natural Gas Company; Notice of Amendment

March 7, 1997.

Take notice that on March 3, 1997, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP93–253–002, an application to amend the Presidential Permit and Section 3 authorization issued by the Commission in Docket No. CP93–253–000, to modify the border crossing facilities at the International Boundary between United States and Mexico, all as more fully set forth in the amendment which is on file with the Commission and open for public inspection.

Specifically, El Paso requests that the Commission amend the Section 3 authorization and Presidential Permit granted to El Paso on November 29, 1993 in Docket No. CP93–253–000, to increase the 1,000 feet of 24-inch O.D. border crossing pipeline to be constructed across the Rio Grande River by an additional 500 feet. El Paso states that the additional 500 feet of 24-inch O.D. pipeline is needed because El Paso proposes to directionally drill the Rio Grande River border crossing. El Paso states that directionally drilling the Rio Grande River at the International Boundary is economically prudent, environmentally preferable and the best engineering alternative.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before March 28, 1997, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 3 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 a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for El Paso to appear or be represented at the hearing.

Lois D. Cashell,

*Secretary.*

[FR Doc. 97–6278 Filed 3–12–97; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. RP97–279–000]**

## Gasdel Pipeline System, Inc.; Notice of Proposed Changes in FERC Gas Tariff

March 7, 1997.

Take notice that on March 5, 1997, Gasdel Pipeline System, Inc. (Gasdel) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, certain tariff sheets to be effective April 4, 1997.

Gasdel states that the purpose of the filing is to comply with the Federal Energy Regulatory Commission's (Commission) Order No. 582, issued on September 28, 1995 in Docket No. RM95–3–000, and with the Commission's order issued on February 3, 1997 in Docket Nos. RP97–91–000, et al., 78 FERC ¶ 61,099 (1997).

Gasdel requests waiver of the Commission's regulations to the extent necessary to permit the tariff sheets submitted to become effective April 4, 1997.

Gasdel states that copies of the filing are being mailed to its jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

*Secretary.*

[FR Doc. 97–6286 Filed 3–12–97; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. RP96–320–008]**

## Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 1997.

Take notice that on March 5, 1997, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheet, to be effective March 1, 1997:

Third Revised Sheet No. 29

Koch states that this tariff sheet removes from the tariff two expired negotiated rate transactions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E. Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's

regulations. All such protest must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

*Secretary.*

[FR Doc. 97–6282 Filed 3–12–97; 8:45 am]

BILLING CODE 6717–01–M

**[Docket No. CP97–274–000]**

## NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

March 7, 1997.

Take notice that on March 3, 1997, NorAm Gas Transmission Company (NorAm), 525 Milam Street, Shreveport, Louisiana 71151, filed in Docket No. CP97–274–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations (18 CFR 157.205, 157.212) under the Natural Gas Act (NGA) for authorization to construct and operate a delivery tap to Quincy Soybean Corporation (Quincy) located in Phillips County, Arkansas under the authorization of Section 7 of the Natural Gas Act (NGA), for Part 284 transportation services by NorAm, under NorAm's blanket certificate issued in Docket Nos. CP82–384–000 and CP82–384–001, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

NorAm proposes to install a two-inch L-shaped meter station, a four-inch tap, relief valve, electronic flow measurement and 425 feet of 8⅝ nominal piping that will extend from NorAm's Line TM–2 through the Quincy yard to the cogeneration plant in Phillips County, Arkansas. NorAm indicates that the cost of these facilities is $36,274. NorAm asserts that Quincy has contracted for an additional 1,000 MMBtu per day with estimated deliveries of 365,000 MMBtu on an annual basis.

NorAm states that it will transport gas to Quincy and provide service under Rate Schedule FT of NorAm's FERC Gas Tariff. NorAm further states that its tariff does not prohibit the addition of delivery points and that NorAm has sufficient capacity to accomplish the deliveries without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

*Secretary.*

[FR Doc. 97–6281 Filed 3–12–97; 8:45 am]

BILLING CODE 6717–01–M

**[Docket No. RP97–277–000]**

## Richfield Gas Storage System; Notice of Petition for Waiver or Exemption of Certain Order Nos. 587 and 587–B Requirements and Request for Expedited Consideration

March 7, 1997.

Take notice that on March 3, 1997, Richfield Gas Storage System (Richfield), filed a petition pursuant to Rule 207 of the Commission's Rules of Practice and Procedure for Waiver or exemption of the requirements concerning compliance with the Internet server model and the capability to perform Electronic Data Interchange (EDI) transactions in Order Nos. 587 and 587–B, all as more fully set forth in the petition of file with the Commission and open to public inspection.

Richfield states that compliance with the Internet server model and the ability to perform EDI transactions is not necessary on the Richfield system in order to achieve the Commission's goals. Richfield states that the incremental expense of compliance with the Internet server model and the ability to perform EDI transactions is significant to Richfield, and the benefits to Richfield's customers are nonexistent given the nature of the Richfield system. Richfield requests that the commission waive compliance with the Internet server model and the ability to perform EDI transactions while consideration of its petition is pending. Richfield requests expedited consideration.

Any person desiring to be heard or to protest this petition should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before March 14, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

*Secretary.*

[FR Doc. 97–6284 Filed 3–12–97; 8:45 am]

BILLING CODE 6717–01–M

**[Docket No. CP97–273–000]**

## Trunkline Gas Company; Notice of Request Under Blanket Authorization

March 7, 1997.

Take notice that on February 28, 1997, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251–1642, filed in the above docket, a request pursuant to Section 7 of the Natural Gas Act (NGA), as amended, and Sections 157.205 and 157.212(a) of the Commission's Regulations, to operate an existing delivery point and appurtenant facilities in McCracken County, Kentucky, as jurisdictional facilities. Such facilities were originally constructed pursuant to Section 311 of the Natural Gas Policy Act (NGPA) in order to effect transportation to Western Kentucky Gas Company (Western Kentucky), all as more fully set forth in the request which is filed with the Commission and open to public inspection.

Specificlaly, Trunkline proposes to convert the authorization of the subject facilities from NGPA Section 311 to NGA Section 7 in order to use the delivery point for transportation services rendered under Trunkline's blanket certificate. The maximum capacity of the facilities at the delivery point to Western Kentucky is 20 MMcf per day of natural gas.

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. 97–6280 Filed 3–12–97; 8:45 am]

BILLING CODE 6717–01–M

**[Docket No. RP97–254–001]**

## Williams Natural Gas Company; Notice of Filing of Penalty Revenue Report

March 7, 1997.

Take notice that on March 4, 1997, Williams Natural Gas Company (WNG) tendered for filing a revised schedule to its report of penalty revenue collected during Periods of Daily Balancing (PODB), filed February 18, 1997, in Docket No. RP97–254–000.

WNG states that it made a filing on February 18, 1997 to report the amount of penalty revenue collected pursuant to the provisions of Article 9.5 of the General Terms and Conditions of its FERC Gas Tariff during Periods of Daily Balancing (PODB) occurring in January and February, 1996, and the proposed distribution of such revenue. WNG inadavetently omitted Western Resources, Inc. from the Delivery Operator Refund report. A revised Delivery Operator Refund report was filed.

WNG states that a copy of its filing was served on all participants listed on the service list maintained by the Commission in the docket referenced above and on all of WNG's jurisdictional customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before March 14, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

*Secretary.*

[FR Doc. 97–6283 Filed 3–12–97; 8:45 am]

BILIING CODE 6717–01–M

**[Docket No. EG97–35–000, et al.]**

## Aguaytia Energy del Peru S.R. Ltda., et al.; Electric Rate and Corporate Regulation Filings

March 6, 1997.

Take notice that the following filings have been made with the Commission:

1. Aguaytia Energy del Peru S.R. Ltda.

[Docket No. EG–97–35–000]

On February 27, 1997, Aguaytia Energy del Peru S.R. Ltda. (the ''Applicant'') whose address is Av. Camino Real No. 111, Office 904, Ninth Floor, San Isidro, Lima 27, Peru, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

The Applicant states that it will be engaged directly and exclusively in the business of owning an approximately 155–MW (net) gas-fired electric generating facility to be constructed near the city of Aguaytia, Peru, and selling electric energy at wholesale, as that term has been interpreted by the Commission. The Applicant requests a determination that the Applicant is an exempt wholesale generator under Section 32(a)(1) of the Public Utility Holding Company Act of 1935.

*Comment date:* March 25, 1997, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration to those that concern the adequacy or accuracy of the application.

2. South Suburban Citizens Opposed to Polluting Our Environment v. Chewton Glen Energy, Inc.

[Docket Nos. EL97–27–000 and QF92–101–000]

Take notice that on February 5, 1997, South Suburban Citizens Opposed to Polluting Our Environment (SS-Cope) tendered for filing a Petition for Declaratory Order and request for waiver of filing fee. SS-Cope requests that the Commission review the ownership and control structure of the Chewton Glen Energy Ford Heights LLC to determine whether the qualifying facility continues to comply with section 292.206 of the Commission's Regulations.

*Comment date:* March 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Florida Power Corporation

[Docket No. ER96–2757–000]

Take notice that on February 4, 1997, Florida Power Corporation tendered for filing supplemental information to its August 19, 1996, filing in the above-referenced docket.

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Cinergy Services, Inc.

[Docket No. ER97–121–000]

Take notice that on February 24, 1997, Cinergy Services, Inc. tendered for filing an amendment in the above-referenced docket.

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Public Service Electric and Gas Company

[Docket No. ER97–837–001]

Take Notice that on February 27, 1997, Public Service Electric and Gas Company (PSE&G) tendered for filing as part of its FERC electric tariff, Original Volume No. 6, Original Sheets No. 1 and No. 2 to become effective February 16, 1997.

PSE&G asserts that the purpose of this filing is to comply with the Commission's ''Order Conditionally Accepting For Filing Proposed Market-Based Rates'' issued on February 12, 1997 in Docket No. ER97–837–000. Specifically, PSE&G states that its filing addresses purchases of power from affiliates, provides for the separate statement of prices for wholesale generation, transmission and ancillary services and addresses the circumstances under which transmission and ancillary services will be provided under PSE&G's open-access transmission tariff.

PSE&G states that copies of the filing were served on all affected customers, interested state commissions and all parties on the service list.

*Comment date:* March 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. MidAmerican Energy Company

[Docket No. ER97–1251–000]

Take notice that on February 27, 1997, MidAmerican Energy Company (MidAmerican), 106 East Second Street, Davenport, Iowa 52801 tendered for filing an amendment to its initial filing in this docket. The proposed change consists of the following:

1. Substitute Fourth Revised Sheet No. 16, superseding Fourth Revised Sheet No. 16;

2. Substitute Second Revised Sheet Nos. 17 and 18, superseding Second Revised Sheet Nos. 17 and 18;

3. Substitute First Revised Sheet Nos. 19 and 20, superseding First Revised Sheet Nos. 19 and 20; and

4. Substitute Original Sheet No. 21.

MidAmerican states that it is submitting these tariff sheets for the purpose of complying with the requirements set forth in The Cincinnati Gas & Electric Company, 77 FERC 61,172 (1996) and Section 18.0 of MidAmerican's Rate Schedule for Power Sales by separately stating the prices for energy and transmission at on-peak and off-peak rates. MidAmerican states that the amended filing does not state prices for capacity and ancillary services because no sales of capacity or ancillary services were made during the period in regard to transactions under the Rate Schedule for Power Sales.

MidAmerican proposes an effective of October 1, 1996 for the rate schedule change. Accordingly, MidAmerican requests a waiver of the 60-day notice requirement for this filing. MidAmerican states that this date is consistent with the requirements of *Southern Company Services, Inc.*, 75 FERC 61,130 (1996), and the effective date authorized in Docket No. ER96–2459–000.

Copies of the amended filing were served upon MidAmerican's customers under the Rate Schedule for Power Sales and the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

*Comment date:* March 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Wisconsin Public Service Corporation

[Docket No. ER97–1253–000]

Take notice that on February 27, 1997, Wisconsin Public Service Corporation (''WPSC'') tendered for filing an amendment to its original January 16, 1997, filing in this docket. The amendment consists of additional information requested by Commission staff.

*Comment date:* March 19, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Power Marketing Coal Services

[Docket No. ER97–1548–000]

Take notice that on February 26, 1997, Power Marketing Coal Services tendered for filing an amendment in the above-referenced docket.

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. APRA Energy Group

[Docket No. ER97–1643–000]

Take notice that on February 19, 1997, APRA Energy Group Inc. (APRA) petitioned the Commission for acceptance of APRA Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. NewCorp Resources Electric Cooperative Inc.

[Docket No. ER97–1689–000]

Take notice that on February 14, 1997, NewCorp Resources Electric Cooperative, Inc. tendered for filing a Notice of Succession in Ownership or Operation.

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Atlantic City Electric Company

[Docket No. ER97–1777–000]

Take notice that on February 5, 1997, Atlantic City Electric Company (AE) tendered for filing its 4th quarter 1996 summary report of all AE transactions pursuant to the market-based rate power service tariff, made effective by the Commission on April 20, 1996 in Docket No. ER96–1361–000.

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. St. Joseph Light & Power Company

[Docket No. ER97–1801–000]

Take notice that on February 21, 1997, St. Joseph Light & Power Company, tendered for filing five executed Service Agreements under its Open Access Transmission Tariff. The five Form of Service Agreements are with: Aquila Power Corporation, Empire District Electric Co., Minnesota Power & Light Co., Union Electric Co., and Western Resources. The Service Agreements are being filed to implement St. Joseph's Open Access Transmission Tariff.

Copies of the filing were served on Aquila Power Corporation, Empire District Electric Co., Minnesota Power & Light Co., Union Electric Co., and Western Resources.

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Pacific Northwest Generating Cooperative

[Docket No. ER97–1802–000]

Take notice that on February 20, 1997, Pacific Northwest Generating Cooperative (PNGC), filed service agreements for six (6) short-term power sale transactions with Alberta Power. The service agreements incorporated terms and conditions of the Western Systems Power Pool Agreement and the sales were made on price terms conforming to PNGC's Rate Schedule FERC No. 3 (market-based rate schedule).

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Entergy Services, Inc.

[Docket No. ER–97–1803–000]

Take notice that on February 21, 1997, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc. Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement between Entergy Services, as agent for the Entergy Operating Companies, and SONAT Power Marketing, L.P. (SONAT).

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Wisconsin Public Service Corporation

[Docket No. ER97–1804–000]

Take notice that on February 24, 1997, Wisconsin Public Service Corporation (''WPSC''), tendered for filing an executed Transmission Service Agreement between WPSC and Southern Energy Trading and Marketing Inc. The Agreement provides for transmission service under the Open Access Transmission Service Tariff, FERC Original Volume No. 11.

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Wisconsin Public Service Corporation

[Docket No. ER97–1805–000]

Take notice that on February 24, 1997, Wisconsin Public Service Corporation, tendered for filing an executed service agreement with Coral Power, L.L.C. under its CS–1 Coordination Sales Tariff.

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Wisconsin Public Service Corporation

[Docket No. ER97–1806–000]

Take notice that on February 24, 1997, Wisconsin Public Service Corporation, tendered for filing an executed service agreement with Cinergy Services, Inc. under its CS–1 Coordination Sales Tariff.

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Wisconsin Electric Power Company

[Docket No. ER97–1808–000]

Take notice that on February 24, 1997, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing four firm transmission service agreements with Sonat Power Marketing L.P. (Sonat) for daily firm transmission service reservations that took place in January 1997. The power was received from Wisconsin Electric's interface with Commonwealth Edison Company (Mad Gas) and Wisconsin Public Service Corporation (WPS).

Wisconsin Electric requests an effective date of January 9, 1997, for the first two agreements and January 15 and January 29, 1997, for the third and fourth agreement respectively, in order to effectuate the transactions. Wisconsin Electric is authorized to state that Sonat joins in the requested effective date. Wisconsin Electric advises that the executed agreements were not received from Sonat until February 19 and consequently requests waiver of the late filing penalty otherwise applicable to its submittal.

Copies of the filing have been served on Sonat, WPS, Gas, ComEd, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Illinois Power Company

[Docket No. ER97–1809–000]

Take notice that on February 21, 1997, Illinois Power Company (IP), tendered for filing a Service Agreement and Network Operating Agreement under which it will provide Network Integration Service to Soyland Power Cooperative, Inc. Service will be provided in accordance to Ip's Open Access Transmission Tariff on file with the Commission. Illinois Power and Soyland are requesting an effective date as of September 1, 1996.

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Entergy Services, Inc.

[Docket No. ER97–1810–000]

Take notice that on February 21, 1997, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the ''Entergy Operating Companies''), tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement between Entergy Services, as agent for the Entergy Operating Companies, and Central Louisiana Electric Company, Inc. (''CLECO'').

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Entergy Services, Inc.

[Docket No. ER97–1811–000]

Take notice that on February 21, 1997, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement between Entergy Services, as agent for the Entergy Operating Companies, and Virginia Electric and Power Company (VEPCO).

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Entergy Services, Inc.

[Docket No. ER97–1812–000]

Take notice that on February 21, 1997, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement between Entergy Services, as agent for the Entergy Operating Companies, and Southern Energy Trading and Marketing, Inc. (Southern Energy).

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Arizona Public Service Company

[Docket No. ER97–1813–000]

Take notice that on February 21, 1997, Arizona Public Service Company (''APS''), tendered for filing a finalized cost report and updated facilities charge for the Facilities Agreement between APS and Tohono O'odham Utility Authority (TOUA).

A copy of this filing has been served on TOUA.

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. The United Illuminating Company

[Docket No. ER97–1814–000]

Take notice that on February 21, 1997, The United Illuminating Company (''UI''), tendered for filing a Service Agreement, dated January 16, 1997, between UI and the Cinergy Operating Companies (''Cinergy'') for non-firm point-to-point transmission service under UI's Open Access Transmission Tariff, FERC Electric Tariff, Original Volume No. 4, as amended.

UI requests an effective date of January 16, 1997, for the Service Agreement. Copies of the filing were served upon Cinergy Services, Inc., and upon the Connecticut Department of Public Utility Control.

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Ohio Edison Company Pennsylvania Power Company

[Docket No. ER97–1815–000]

Take notice that on February 24, 1997, Ohio Edison Company, tendered for filing on behalf of itself and Pennsylvania Power Company, Service Agreements with Carolina Power & Light and Western Power services, Inc., under Ohio Edison's Power Sales Tariff. This filing is made pursuant to Section 205 of the Federal Power Act.

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Wisconsin Public Service Corporation

[Docket No. ER97–1818–000]

Take notice that on February 24, 1997, Wisconsin Public Service Corporation (''WPSC''), tendered for filing an executed Transmission Service Agreement between WPSC and Electric Clearinghouse, Inc. The Agreement provides for transmission service under the Open Access Transmission service Tariff, FERC Original Volume No. 11.

*Comment date:* March 20, 1997, in accordance with Standard paragraph E at the end of this notice.

27. Wisconsin Public Service Corporation

[Docket No. ER97–1819–000]

Take notice that on February 24, 1997, Wisconsin Public Service Corporation (''WPSC''), tendered for filing an executed Transmission Service Agreement between WPSC and Wisconsin Power & Light Company. The Agreement provides for transmission service under the Open Access Transmission Service Tariff, FERC Original Volume No. 11.

*Comment date:* March 20, 1997, in accordance with Standard paragraph E at the end of this notice.

28. Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma, and Southwestern Electric Power Company

[Docket No. ER97–1820–000]

Take notice that on February 21, 1997, Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company (collectively, the CSW Operating Companies) submitted service agreements under which the CSW Operating Companies will provide transmission service to Williams Energy Services company and Cincinnati Gas & Electric Co. and PSI Energy, Inc. in accordance with the CSW Operating Companies' open access transmission service tariff. The CSW Operating Companies request that the agreements be accepted to become effective on February 22, 1997.

The CSW Operating Companies state that a copy of this filing has been served on Williams Energy Services Company and Cincinnati Gas & Electric Co. and PSI Energy, Inc.

*Comment date:* March 20, 1997, in accordance with Standard paragraph E at the end of this notice.

29. New York State Electric & Gas Corporation

[Docket No. ER97–1821–000]

Take notice that on February 24, 1997, New York State Electric & Gas Corporation (''NYSEG''), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35.12, as an initial rate schedule, an agreement with CPS Utilities (CPS). The agreement provides a mechanism pursuant to which the parties can enter into separately scheduled transactions under which NYSEG will sell to CPS and CPS will purchase from NYSEG either capacity and associated energy or energy only as the parties may mutually agree.

NYSEG requests that the agreement become effective on February 25, 1997, so that the parties may, if mutually agreeable, enter into separately scheduled transactions under the agreement. NYSEG has requested waiver of the notice requirements for good cause shown.

NYSEG served copies of the filing upon the New York State Public Service Commission and CPS.

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. New York State Electric & Gas Corporation

[Docket No. ER97–1822–000]

Take notice that on February 24, 1997, New York State Electric & Gas Corporation (''NYSEG''), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35.12, as an initial rate schedule, an agreement with Dupont Power Marketing, Inc. (''Dupont''). The agreement provides a mechanism pursuant to which the parties can enter into separately scheduled transactions under which NYSEG will sell to Dupont and Dupont will purchase from NYSEG either capacity and associated energy or energy only as the parties may mutually agree.

NYSEG requests that the agreement become effective on February 25, 1997, so that the parties may, if mutually agreeable, enter into separately scheduled transactions under the agreement. NYSEG has requested waiver of the notice requirements for good cause shown.

NYSEG served copies of the filing upon the New York State Public Service Commission and Dupont.

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

31. Central Illinois Public Service Company

[Docket No. ER97–1823–000]

Take notice that on February 21, 1997, Central Illinois Public Service Company (''CIPS''), submitted Service Agreements establishing American Energy Solutions, Inc., City Water, Light & Power and Kentucky Utilities Company as new customers under the terms of CIPS' Coordination Sales Tariff CST–1 (''CST–1 Tariff'') and an executed service agreement with Virginia Electric and Power Company to replace an unexecuted service agreement filed earlier.

CIPS requests an effective date of February 13, 1997, for the three service agreements with new customers and the revised Index of Customers and an effective date of December 31, 1996 for the unexecuted service agreement with Virginia Power. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served upon the four customers and the Illinois Commerce Commission.

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

32. New York State Electric & Gas Corporation

[Docket No. ER97–1824–000]

Take notice that on February 25, 1997, New York State Electric & Gas Corporation (''NYSEG''), tendered for filing proposed changes in its FERC Rate Schedule for Economic Development Power (''EDP'') service to eligible customers, Rate Schedule FERC No. 179. As a result of implementing the revised rates, eligible EDP customers will be afforded a decrease in the cost of the NYSEG component of the EDP portion of their electric bills on an interim basis, subject to recoupment or refund, pending establishment of permanent rates.

NYSEG is filing the information pursuant to § 35.13 of the Commission's Rules of Practices and Procedure, 18 CFR 35.13. NYSEG is requesting an effective date of December 1, 1996, for the tariff changes. Accordingly, NYSEG has requested a waiver of the Commission's notice requirements.

NYSEG has sent a copy of this filing to the following: the New York State Public Service Commission, counsel for the Multiple Intervenors, the New York Power Authority, the New York State Department of Economic Development and EDP Customers.

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

33. Virginia Electric and Power Company

[Docket No. ER97–1825–000]

Take notice that on February 21, 1997, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement between Virginia Electric and Power Company and Equitable Power Services Company under the Power Sales Tariff to Eligible Purchasers dated May 27, 1994, as revised on December 31, 1996. Under the tendered Service Agreements Virginia Power agrees to provide services to Equitable Power Services Company under the rates, terms and conditions of the Power Sales Tariff as agreed by the parties pursuant to the terms of the applicable Service Schedules included in the Power Sales Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

*Secretary.*

[FR Doc. 97–6366 Filed 3–12–97; 8:45 am]

BILLING CODE 6717–01–M

**[Docket No. EG97–37–000, et al.]**

## CNG Kauai, Inc., et al.; Electric Rate and Corporate Regulation Filings

March 7, 1997.

Take notice that the following filings have been made with the Commission:

1. CNG Kauai, Inc.

[Docket No. EG97–37–000]

On February 28, 1997, CNG Kauai, Inc. (CNG Kauai), with its principal office located at One Park Ridge Center, P.O. Box 15746, Pittsburgh, PA 15244–0746, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

CNG Kauai will be a Delaware limited partnership which will own a one percent general partner interest and a ninety-eight percent limited partner interest in Kauai Power Partners, Inc., L.P., a Delaware limited partnership which will own an advanced steam-injected gas turbine electric generating facility in Kauai, Hawaii and will sell energy at wholesale from that facility to Kauai Electric.

*Comment date:* March 27, 1997, in accordance with Standard Paragraph E at the end of this notice. The Commission will limits its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Kauai Power Partners, L.P.

[Docket No. EG97–38–000]

On February 28, 1997, Kauai Power Partners, L.P. (KPP), with its principal office located at One Park Ridge Center, P.O. Box 15746, Pittsburgh, PA 15244–0746, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

KPP will be a Delaware limited partnership which will own an advanced steam-injected gas turbine electric generating facility in Kauai, Hawaii and which will sell energy at wholesale from that facility to Kauai Electric.

*Comment date:* March 27, 1997, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those concern the adequacy or accuracy of the application.

3. Kazak Power Partners Limited

[Docket No. EG97–39–000]

On February 28, 1997, Kazak Power Partners Limited (Applicant), 6th Floor, No. 1 Minster Court, Mincing Lane, London EC3R 7AA, England, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant, formed under the laws of the United Kingdom, is owned by E Prime Projects International, Inc. (which has a 25% interest), Independent Power Corporation PLC (which has a 50% interest), and Samsung Deutschland GmbH (which has a 25% interest). Applicant intends to own or operate, or both own and operate, all or part of the Karaganda Steam Power Station GRES 2. This facility is a 608 MW oil and coal-fired electric generating station consisting of eight generating units, and associated equipment, buildings, and land.

*Comment date:* March 27, 1997, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. E Prime Projects International, Inc.

[Docket No. EG97–40–000]

On February 28, 1997, E Prime Projects International, Inc. (Applicant), 1331 17th Street, Suite 601, Denver, Colorado 80202, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant, a Delaware corporation, is a wholly-owned subsidiary of E Prime, Inc., a Colorado corporation. Applicant owns a 25% interest in Kazak Power Partners Limited. Kazak Power Partners Limited will wholly own the Karaganda Steam Power Station GRES 2. Applicant intends to indirectly through an affiliate own or operate, or both own and operate, all or part of the Karaganda Steam Power Station GRES 2. This facility is a 608 MW oil and coal-fired electric generating station consisting of eight generating units, and associated equipment, buildings, and land.

*Comment date:* March 27, 1997, in accordance with Standard Paragraph E at the end of this notice. The Commission will limits its consideration of comments to those that concern the adequacy or accuracy of the application.

5. E Prime Operating, Inc.

[Docket No. EG97–41–000]

On February 28, 1997, E Prime Operating, Inc. (Applicant), 1331 17th Street, Suite 601, Denver, Colorado 80202, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant, a Delaware corporation, is wholly owned by E Prime Projects International, Inc. Applicant intends to operate all or part of the Karaganda Steam Power Station GRES 2. This facility is a 608 MW oil and coal-fired electric generating station consisting of eight generating units, and associated equipment, buildings, and land.

*Comment date:* March 27, 1997, in accordance with Standard Paragraph E at the end of this notice. The Commission will limits its consideration of comments to those that concern the adequacy or accuracy of the application.

6. PanEnergy Power Services, Inc.

[Docket No. ER95–7–013]

Take notice that on February 7, 1997, PanEnergy Power Services, Inc. tendered for filing its revised FERC Electric Rate Schedule No. 1 in the above-referenced docket.

*Comment date:* March 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Washington Water Power Company

[Docket No. ER97–289–000]

Take notice that on February 24, 1997, Washington Water Power Company tendered for filing an amendment in the above-referenced docket.

*Comment date:* March 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. American Electric Power Service Corporation

[Docket No. ER97–906–000]

Take notice that on February 20, 1997, American Electric Power Service Corporation (AEPSC), submitted for filing with the Commission, an amendment to the AEP Companies' Power Sales Tariff, proposing minor clarifications, made at the request of the Commission's Staff. The Power Sales Tariff has previously been accepted and designated as AEP companies' FERC Electric Tariff First Revised Volume No. 2.

A copy of the filing was served upon all customers and affected State Utility Regulatory Commissions.

*Comment date:* March 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Texas Utilities Electric Company; Texas Utilities Electric Company v. Central Power and Light Company, West Texas Utilities Company, Public Service Company of Oklahoma and Southwestern Electric Power Company

[Docket No. ER97–1056–000]

Take notice that on February 27, 1997, Central Power and Light Company (CPL) and West Texas Utilities Company (WTU) withdrew the December 31, 1996, filing in the above-referenced docket.

CPL and WTU state that copies of the filing were served on Texas Utilities Electric Company, Houston Lighting & Power Company and the Public Utility Commission of Texas.

*Comment date:* March 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Columbia Energy Services Corporation

[Docket No. ER97–1621–000]

Take notice that on February 26, 1997, Columbia Energy Services Corporation (CES) tendered for filing with the Federal Energy Regulatory Commission an amendment to CES's February 10, 1997, filing of Rate Schedule No. 1. The amendment clarifies the relationship between CES and its parent and affiliates.

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Strategic Power Management, Inc.

[Docket No. ER97–1781–000]

Take notice that on February 10, 1997, Strategic Power Management, Inc. tendered for filing a Notice of Name Change stating that Strategic Energy Management, Inc. has changed its name to Strategic Power Management, Inc.

*Comment date:* March 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Black Hills Power and Light Company

[Docket No. ER97–1782–000]

Take notice that on February 4, 1997, Black Hills Power and Light Company tendered for filing a Notice of Cancellation of the supplement to its Executed Form of Service Agreement with Illinova Power Marketing, Inc.

*Comment date:* March 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Pacific Northwest Generating Cooperative

[Docket No. ER97–1802–000]

Take notice that on February 20, 1997, Pacific Northwest Generating Cooperative (PNGC), filed service agreements for six (6) short-term power sale transactions with Alberta Power. The service agreements incorporated terms and conditions of the Western Systems Power Pool Agreement and the sales were made on price terms conforming to PNGC's Rate Schedule FERC No. 3 (market-based rate schedule).

*Comment date:* March 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Peabody POWERTRADE, Inc.

[Docket No. ER97–1826–000]

Take notice that on February 20, 1997, Peabody POWERTRADE, Inc. (Powertrade) filed a request for the cancellation of its FERC Electric Rate Schedule No. 1, to be effective immediately.

*Comment date:* March 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Illinois Power Company

[Docket No. ER97–1827–000]

Take notice that on February 21, 1997, Illinois Power Company (IP) and with Soyland Power Cooperative, Inc.'s (Soyland) statement of concurrence, tendered for filing an Amended and Restated Power Coordination Agreement, Amendment No. 6, between Illinois Power and Soyland Power Cooperative, Inc. Illinois Power and Soyland are requesting an effective date of September 1, 1996.

*Comment date:* March 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Jersey Central Power & Light Company, Metropolitan Edison Company, and Pennsylvania Electric Company

[Docket No. ER97–1828–000]

Take notice that on February 21, 1997, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company, each doing business as and collectively referred to herein as ''GPU Energy'', filed a Service Agreement between GPU Energy and Cenerprise, Inc., (Cenerprise) dated January 23, 1997. This Service Agreement specifies that Cenerprise has agreed to the rates, terms and conditions of the GPU Energy open access transmission tariff filed on July 9, 1996 in Docket No. OA96–114–000.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of January 23, 1997, for the Service Agreement. GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania and Cenerprise.

*Comment date:* March 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER97–1829–000]

Take notice that on February 21, 1997, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company, each doing business as and collectively referred to herein as ''GPU Energy'', filed a Service Agreement between GPU Energy and Vitol Gas & Electric LLC, (Vitol) dated January 23, 1997. This Service Agreement specifies that Vitol has agreed to the rates, terms and conditions of the GPU Energy open access transmission tariff filed on July 9, 1996 in Docket No. OA96–114–000.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of January 23, 1997 for the Service Agreement. GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania and Vitol.

*Comment date:* March 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER97–1830–000]

Take notice that on February 21, 1997, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company, each doing business as and collectively referred to herein as ''GPU Energy'', filed a Service Agreement between GPU Energy and Southern Energy Marketing, Inc., (''Southern'') dated January 23, 1997. This Service Agreement specifies that Southern has agreed to the rates, terms and conditions of the GPU Energy open access transmission tariff filed on July 9, 1996 in Docket No. OA96–114–000.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of January 23, 1997 for the Service Agreement. GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania and Southern.

*Comment date:* March 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER97–1831–000]

Take notice that on February 21, 1997, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company, each doing business as and collectively referred to herein as ''GPU Energy'', filed a Service Agreement between GPU Energy and Virginia Electric and Power Company, (''VEPCO'') dated January 23, 1997. This Service Agreement specifies that VEPCO has agreed to the rates, terms and conditions of the GPU Energy open access transmission tariff filed on July 9, 1996 in Docket No. OA96–114–000.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of January 23, 1997 for the Service Agreement. GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania and VEPCO.

*Comment date:* March 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER97–1832–000]

Take notice that on February 21, 1997, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company, each doing business as and collectively referred to herein as ''GPU Energy'', filed a Service Agreement between GPU Energy and Plum Street Energy Marketing, Inc., (Plum Street) dated January 23, 1997. This Service Agreement specifies that Plum Street has agreed to the rates, terms and conditions of the GPU Energy open access transmission tariff filed on July 9, 1996 in Docket No. OA96–114–000.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of January 23, 1997, for the Service Agreement. GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania and Plum Street.

*Comment date:* March 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER97–1833–000]

Take notice that on February 21, 1997, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company, each doing business as and collectively referred to herein as ''GPU Energy'', filed a Service Agreement between GPU Energy and Niagara Mohawk Power Company, (NiMo) dated January 23, 1997. This Service Agreement specifies that NiMo has agreed to the rates, terms and conditions of the GPU Energy open access transmission tariff filed on July 9, 1996 in Docket No. OA96–114–000.

GPU Energy requests a waiver of the Commission's notice requirements for good cause shown and an effective date of January 23, 1997, for the Service Agreement. GPU Energy has served copies of the filing on regulatory agencies in New Jersey and Pennsylvania and NiMo.

*Comment date:* March 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Wisconsin Electric Power Company

[Docket No. ER97–1834–000]

Take notice that on February 24, 1997, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a firm transmission service agreement with WPS Energy Services Inc. (WPS Energy) for 10 MW for a two week period commencing February 9, 1997. The power is received from Wisconsin Electric's interface with Commonwealth Edison Company (ComEd) and is delivered to Upper Peninsula Power Company (UPPCO).

Wisconsin Electric respectfully requests an effective date of February 9, 1997 in order to effectuate the transaction. Wisconsin Electric is authorized to state that WPS Energy Services joins in the requested effective date.

Copies of the filing have been served on WPS Energy, UPPCO, ComEd, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

*Comment date:* March 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Pacific Gas and Electric Company

[Docket No. ER97–1835–000]

Take notice that on February 21, 1997, Pacific Gas and Electric Company (PG&E), tendered for filing; (1) the fourth Service Agreement under its Open Access Transmission Tariff (PG&E's OAT Tariff) dated January 28, 1997; and (2) a request for termination of the second and third Service Agreements between PG&E and the San Francisco Bay Area Rapid Transit District (BART), dated November 8, 1996 and November 27, 1996 respectively, and the January 28— Service Agreement referred to above.

The Service Agreements were entered into by and between PG&E and BART and entitled ''Service Agreements for Firm Point-to-Point Transmission Service.'' The three Service Agreements were entered into for the purpose of firm point-to-point transmission service for the same 5 MW of power delivered to BART at PG&E's Bayshore Substation. The effective dates of termination are either the requested dates shown below or such other date(s) the Commission deems appropriate for termination.

*Comment date:* March 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. The Detroit Edison Company

[Docket No. OA96–78–002]

Take notice that on February 28, 1997, The Detroit Edison Company (''Detroit Edison'') tendered for filing revised pages of Detroit Edison's Open Access Transmission Tariff. The revisions were filed in accordance with the Commission's order in American Electric Power Service Corp., et al., 78 FERC ¶ 61,070 (1997).

*Comment date:* March 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Niagara Mohawk Power Corporation

[Docket No. OA96–194–001]

Take notice that on February 27, 1997, Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing its compliance report pursuant to the Commission's order issued January 29, 1997. Copies of the filing have been served by Niagara Mohawk upon the other parties to the above-captioned proceeding.

*Comment date:* March 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Ohio Edison Company, Pennsylvania Power Company

[Docket No. OA97–556–000]

Take notice that on February 28, 1997, Ohio Edison Company, on behalf of itself and Pennsylvania Power Company, tendered for filing an amendment to the rate schedules for power sales offered under an its Interchange Agreement with the Allegheny Power System. This amendment was made in compliance with Order No. 888 to unbundle the charges for generation and transmission services for transactions after March 1, 1997. Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Ohio Edison Company

[Docket No. OA97–557–000]

Take notice that on February 28, 1997, Ohio Edison Company tendered for filing an amendment to the provisions for bulk power sales offered under its Interconnection Agreement with Dayton Power & Light Company. This amendment is made in compliance with Order No. 888 to unbundle the charges for generation and transmission services for transactions after March 1, 1997. Copies of the filing have been provided to the Public Utilities Commissions of Ohio and Pennsylvania.

*Comment date:* March 20, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

*Secretary.*

[FR Doc. 97–6364 Filed 3–12–97; 8:45 am]

BILLING CODE 6717–01–P

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**[Docket No. CP96–153–000]**

## Southern Natural Gas Company; Notice of Availability of the Draft Environmental Impact Statement for the Proposed North Alabama Pipeline Project

March 7, 1997.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a Draft Environmental Impact Statement (DEIS) on the natural gas pipeline facilities proposed by Southern Natural Gas Company (Southern) in the above-referenced docket.

The DEIS was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project with the appropriate mitigating measures as recommended, would have limited adverse environmental impact. The DEIS also evaluates alternatives to the proposal, including a system alternative called the Alabama-Tennessee System Alternative that is environmentally preferred; major route alternatives; and route variations, and requests comments on them.

The DEIS addresses the potential environmental effects of the construction and operation of the following facilities:

- about 118.0 miles of new natural gas pipeline (109.5 miles of 16-inch-diameter pipeline and 8.5 miles of 12.75-inch-diameter pipeline);
- about 6,300 horsepower of new compression at two existing compressor stations; and
- two new meter stations, and related facilities.

Facilities required by two local distribution companies are also examined.

The purpose of the proposed facilities would be to transport about 74,850 thousand cubic feet per day of natural gas to five customers in Alabama and Georgia.

Specific Comment Request

The staff has identified and evaluated in detail one system alternative (the Alabama-Tennessee System Alternative), one major route alternative (the Tarrant Alternative), the Triana Variation, and 96 other route variations to the proposed facilities. Of the 97 route variations, the staff has recommended the use of 78 and has not recommended the use of 19 others at this time. Area residents, local or state governments, intervenors, Southern, and other interested parties are asked to provide specific comments on whether these alternatives and variations are reasonable and practicable and environmentally preferable to the proposed facilities. Comments should also address any effect on project timing and related cost/benefits.

Comment Procedures and Public Meeting

Any person wishing to comment on the DEIS may do so. Written comments must be filed on or before April 28, 1997, must reference Docket No. CP96–153–000, and be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426.

We will announce in a future notice, the location and time of at least one public meeting to receive comments on the DEIS.

After these comments are reviewed, any significant new issues are investigated, and modifications are made to the DEIS, a Final Environmental Impact Statement (FEIS) will be published and distributed by the staff. The FEIS will contain the staff's responses to timely comments filed on the DEIS.

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).

Anyone may intervene in this proceeding based on this DEIS. You must file your request to intervene as specified above. You do not need intervenor status to have your comments considered.

The DEIS has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, N.E., Room 2A, Washington, DC 20426, (202) 208–1371.

Copies of the DEIS have been mailed to Federal, state and local agencies, public interest groups, individuals who have requested the DEIS, newspapers, and parties to this proceeding. A limited number of copies of the DEIS are available from the above address.

Lois D. Cashell,

*Secretary.*

[FR Doc. 97–6279 Filed 3–12–97; 8:45 am]

BILLING CODE 6717–01–M

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–5709–1]**

### National Drinking Water Advisory Council; Operator Certification Working Group; Notice of Open Meeting

Under Section 10(a)(2) of Public Law 92–423, ''The Federal Advisory Committee Act,'' notice is hereby given that a meeting of the Operator Certification Working Group of the National Drinking Water Advisory Council established under the Safe Drinking Water Act, as amended (42 U.S.C. S300f *et seq.*), will be held on March 25 and 26, 1997, from 9 a.m. to 5 p.m. at the Washington Hilton Hotel, 1919 Connecticut Avenue, N.W., Washington, D.C. The meeting is open to the public to observe but due to past experience, seating will be limited and will be available on a first come, first served basis.

The purpose of this meeting is to discuss options for how EPA might implement the Operator Certification provisions of the Safe Drinking Water Act Amendments of 1996. The working group members are meeting to gather information and analyze relevant issues and facts. Statements will be taken from the public at this meeting as time allows.

For more information, please contact Kenneth M. Hay, Designated Federal Officer, Operator Certification Working Group, U.S. EPA, Office of Ground Water and Drinking Water (MC: 4606), 401 M Street, S.W., Washington, D.C. 20460. The telephone number is (202) 260–5552 and the e-mail address is hay.ken@epamail.epa.gov.

Dated: March 7, 1997.

Charlene Shaw,

*Designated Federal Officer, National Drinking Water Advisory Council.*

[FR Doc. 97–6391 Filed 3–12–97; 8:45 am]

BILLING CODE 6560–50–M

## FEDERAL COMMUNICATIONS COMMISSION

### Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for new noncommercial, educational FM construction permits:

| Applicant | City/State | File No. | MM Docket No. |
|---|---|---|---|
| A. American Family Association | Marksville, Louisiana | BPED-940214MA | 97-78 |
| B. Educational Radio Foundation of East Texas, Inc | Jena, Louisiana | BPED-940804MA | 97-78 |

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of the issues has been standardized and is set forth in its entirety under the corresponding heading at 51 Fed. Reg. 19347, May 29, 1986. The letters shown before each applicant's name above are used below to signify the issue in question applicable to that particular applicant.

| Issue heading | Applicant(s) |
|---|---|
| 1. 307(b)—Noncommercial Eductional FM. | A, B |
| 2. Ultimate | A, B |

3. If there are any non-standardized issues in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, N.W., Washington, D.C. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037, telephone (202) 857-3800.

Linda B. Blair,

*Chief, Audio Services Division, Mass Media Bureau.*

[FR Doc. 97–6335 Filed 3–12–97; 8:45 am]

BILLING CODE 6712–01–P

### Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for new noncommercial, educational FM construction permits:

| Applicant | City/State | File No. | MM Docket No. |
|---|---|---|---|
| A. Greater Washington Education Telecommunications Association, Inc.. | Leonardtown, Maryland | BPED–930617MD | 97–77 |
| B. Columbia Union College Broadcasting, Inc. | Takoma Park, Maryland | BPED–930723MB | 97–77 |

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of the issues has been standardized and is set forth in its entirety under the corresponding heading at 51 Fed. Reg. 19347, May 29, 1986. The letters shown before each applicant's name above are used below to signify the issue in question applicable to that particular applicant.

| Issue heading | Applicant(s) |
|---|---|
| 1. Financial | A |
| 2. 307 (b)—Noncommercial Educational FM. | A, B |
| 3. Ultimate | A, B |

3. If there are any non-standardized issues in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, N.W., Washington, D.C. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037, telephone (202) 857–3800.

Linda B. Blair,

*Chief, Audio Services Division, Mass Media Bureau.*

[FR Doc. 97–6336 Filed 3–12–97; 8:45 am]

BILLING CODE 6712–01–P

## Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for new noncommercial, educational FM construction permits:

| Applicant | City/State | File No. | MM Docket No. |
|---|---|---|---|
| A. Pataphysical Broadcasting Foundation | San Ardo, California | BPED–940316MB | 97–79 |
| B. Central Coast Educational Broadcasters | King City, California | BPED–940606MB | 97–79 |

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of the issues has been standardized and is set forth in its entirety under the corresponding heading at 51 Fed. Reg. 19347, May 29, 1986. The letters shown before each applicant's name above are used below to signify the issue in question applicable to that particular applicant.

| Issue heading | Applicant(s) |
|---|---|
| 1. Financial | A |
| 2. 307(b)—Noncommercial Educational FM. | A, B |
| 3. Ultimate | A, B |

3. If there are any non-standardized issues in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, N.W., Washington, D.C. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037, telephone (202) 857–3800.

Linda B. Blair,

*Chief, Audio Services Division, Mass Media Bureau.*

[FR Doc. 97–6332 Filed 3–12–97; 8:45 am]

BILLING CODE 6712–01–P

## Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for new noncommercial, educational FM construction permits:

| Applicant | City/State | File No. | MM Docket No. |
|---|---|---|---|
| A. Positive Alternative Radio, Inc | Point Pleasant, West Virginia | BPED–920327MH | 97–76 |
| B. The University of West Virginia Board of Trustees | Huntington, West Virginia | BPED–921023MB | 97–76 |

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of the issues has been standardized and is set forth in its entirety under the corresponding heading at 51 Fed. Reg. 19347, May 29, 1986. The letters shown before each applicant's name above are used below to signify the issue in question applicable to that particular applicant.

| Issue heading | Applicant(s) |
|---|---|
| 1. 307(b)—Noncommercial Educational FM. | A, B |
| 2. Ultimate | A, B |

3. If there are any non-standardized issues in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, N.W., Washington, D.C. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037, telephone (202) 857–3800.

Linda B. Blair,

*Chief, Audio Services Division, Mass Media Bureau.*

[FR Doc. 97–6333 Filed 3–12–97; 8:45 am]

BILLING CODE 6712–01–P

## Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for new noncommercial, educational FM construction permits:

| Applicant | City/State | File No. | MM Docket No. |
|---|---|---|---|
| A. Public Broadcasting of Northwest Ohio | Defiance, Ohio | BPED–950210MB | 97–75 |
| B. Maranatha Christian Broadcasting, Inc. | Howe, Indiana | BPED–950511IE | 97–75 |

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of the issues has been standardized and is set forth in its entirety under the corresponding heading at 51 Fed. Reg. 19347, May 29, 1986. The letters shown before each applicant's name above are used below to signify the issue in question applicable to that particular applicant.

| Issue heading | Applicant(s) |
|---|---|
| 1. Financial | A |
| 2. 307 (b)—Noncommercial Educational FM. | A, B |
| 3. Ultimate | A, B |

3. If there are any non-standardized issues in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, N.W., Washington, D.C. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037, telephone (202) 857–3800.

Linda B. Blair,

*Chief, Audio Services Division, Mass Media Bureau.*

[FR Doc. 97–6334 Filed 3–12–97; 8:45 am]

BILLING CODE 6712–01–P

## Semiannual Report of Payment Accepted From Non-Federal Sources Under 31 U.S.C. 1353 for the Period Beginning April 1, 1996 Ending September 30, 1996, Summary Report

*Reimbursement/In-Kind Payments in Excess of $250*

Total Number of Sponsored Events: 110.

Total Number of Sponsoring Organizations: 89.

Total Number of Different Commissioners/Employees Attending: 93.

*Total Amount of Reimbursement Received:*

| | Check | In kind |
|---|---|---|
| In excess of $250 | $ 50,269.14 | $94,185.69 |
| Under $250 (Detail not included) | 1,255.51 | 1,116.71 |
| Total | 51,524.65 | 95,302.40 |

1. *Agency:* Federal Communications Commission.

2. *Employee: Ralph A. Haller.*

*Government position:* Deputy Chief, Wireless Telecommunications Bureau.

3. *Event:* Annual Technical Conference.

4. *Sponsor of Event:* Association of American Railroads—AAR.

5. *Sponsor Address:* Attn: Hugh B. Henry, 50 F Street, N.W., Washington, D.C. 20001.

6. *Location of Event:* Louisville, Kentucky.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 09/30–10/04/95.

9. *Travel Dates:* 09/30–10/4/95.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $ 71.00 | |
| 2. Hotel Room | | $352.00 |
| 3. Meals | 153.00 | |
| 4. Taxi | 87.00 | |
| | 311.00 | 352.00 |

(b) *Non-Fed Source:* Same as No. 4.

11. *Agency:* Federal Communications Commission.

2. *Employee:* Michele Farquhar.

*Government position:* Chief, Wireless Telecommunications Bureau.

3. *Event:* Communication Liaison Meeting.

4. *Sponsor of Event:* Association of American Railroads—AAR.

5. *Sponsor Address:* Attn: Hugh B. Henry, 50 F Street, N.W., Washington, D.C. 20001.

6. *Location of Event:* Stockton, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 03/21–22/96.

9. *Travel Dates:* 03/20–22/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $359.00 | ..... |
| 2. Hotel Room | 63.72 | ..... |
| 3. Meals | 85.50 | ..... |
| 4. Taxi | 31.00 | ..... |
| | 539.22 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. Employee: Robert H. McNamara.

*Government position:* Chief, Private Wireless Division, Wireless Telecommunications Bureau.

3. *Event:* Communication Liaison Meeting.

4. *Sponsor of Event:* Association of Meeting American Railroads—AAR.

5. *Sponsor Address:* Attn: Hugh B. Henry, 50 F Street, N.W., Washington, D.C. 20001.

6. *Location of Event:* Stockton, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 03/21–22/96.

9. *Travel Dates:* 03/20–22/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $387.00 | ..... |
| 2. Hotel Room | 134.72 | ..... |
| 3. Meals | 104.50 | ..... |
| 4. Taxi | 17.00 | ..... |
| | 634.22 | ..... |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Beverly G. Baker.
*Government position:* Chief, Compliance & Information Bureau.
3. *Event: 43rd Annual ABA Conference.*
4. *Sponsor of Event:* Arizona Broadcasters Association—ABA.
5. *Sponsor Address:* Attn: Art Brooks, ABA Executive Director, 3101 North Central Avenue, Suite 550, Phoenix, AZ 85012–2639.
6. *Location of Event:* Tempe, Arizona.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 11/02–03/95.
9. *Travel Dates:* 11/01–03/95.
10. (a)

| Nature of benefit: | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $397.00 | ..... |
| 2. Hotel Room ... | ..... | 227.82 |
| 3. Meals ..... | 76.50 | ..... |
| 4. Taxi & Telephone ..... | 98.50 | ..... |
| | 572.00 | 227.82 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Blair S. Levin.
*Government position:* Chief of Staff to Chairman Reed Hundt.
3. *Event:* 43rd Annual ABA Conference.
4. *Sponsor of Event:* Arizona Broadcasters Association—ABA.
5. *Sponsor Address:* Attn: Art Brooks, ABA Executive Director, 3101 North Central Avenue, Suite 550, Phoenix, AZ 85012–2639.
6. *Location of Event:* Tempe, Arizona.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 11/02–03/95.
9. *Travel Dates:* 11/01–02/95.
10. (a)

| Nature of Benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $214.54 | ..... |
| 2. Hotel Room ... | ..... | ..... |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi & Parking ..... | 52.00 | ..... |
| | 266.54 | ..... |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Robert L. Baker.
*Government position:* Senior Attorney Advisor, Mass Media Bureau.
3. *Event:* ABA Conference.
4. *Sponsor of Event:* Arizona Broadcasters Association—ABA.
5. *Sponsor Address:* Attn: Mr. Art Brooks, ABA Executive Director, Arizona, 3101 North Central Avenue, Suite 550, Phoenix, AZ 85012–2639.
6. *Location of Event:* Phoenix & Tucson, Arizona.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 05/17–20/96.
9. *Travel Dates:* 05/16–20/96.
10. (a)

| Nature of Benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $328.00 | ..... |
| 2. Hotel Room ... | ..... | $252.00 |
| 3. Meals ..... | 151.00 | ..... |
| 4. Taxi & Parking ..... | 66.00 | ..... |
| | 545.00 | 252.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Richard M. Smith.
*Government position:* Chief, Office of Engineering & Technology.
3. *Event:* 2nd Technical Seminar of Radio and Television.
4. *Sponsor of Event:* Associacao Brasileira de Emissoras de Radio e Televisao—ABERT.
5. *Sponsor Address:* Associacao Brasileira de Emissoras de Radio e Televisao, Mezzanino de Hotel Nacional salas 5 a 8—CEP 70322–900, Brasilia—DF.
6. *Location of Event:* Rio De Janeiro, Brazil.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 08/20–22/95.
9. *Travel Dates:* 08/19–23/95.
10. (a)

| Nature of Benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $1228.95 | ..... |
| 2. Hotel Room ... | ..... | $272.00 |
| 3. Meals ..... | 240.00 | ..... |
| 4. Taxi & Mileage ..... | 36.00 | ..... |
| 5. Departure Tax | 17.00 | ..... |
| | 1521.95 | 272.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Mark A. Corbitt.
*Government position:* Telecommunications Policy Analyst, Office of Plans & Policy.
3. *Event:* Seminar on the 1996 Telecommunications Act.
4. *Sponsor of Event:* American Electronics Association.
5. *Sponsor Address:* Attn: Mr. William T. Archey, 1225 Eye Street, NW., Suite 950, Washington, DC 20005.
6. *Location of Event:* Sacramento, California.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 06/17, 19–20/96.
9. *Travel Dates:* 06/18–20/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $1,034.00 |
| 2. Hotel Room ... | ..... | 142.00 |
| 3. Meals ..... | ..... | 105.00 |
| 4. Taxi & Mileage. | | |
| | ..... | 1,281.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Mary Beth E. Richards.
*Government position:* Deputy Chief, Common Carrier Bureau.
3. *Event:* Eastern Conference and Expo.
4. *Sponsor of Event:* American Public Communications Council Inc.—APCC.
5. *Sponsor Address:* 10306 Eaton Place, Suite 520, Fairfax, VA 22030.
6. *Location of Event:* Nashville, Tennessee.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 10/25–27/95.
9. *Travel Dates:* 10/26–27/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $672.91 |
| 2. Hotel Room ... | ..... | 150.42 |
| 3. Meals ..... | ..... | 101.86 |
| 4. Taxi ..... | $41.00 | ..... |
| | 41.00 | 925.19 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Anna M. Gomez.
*Government position:* Counsel to the Chief, Common Carrier Bureau.

3. *Event:* APCC Western Conference & Expo.
4. *Sponsor of Event:* American Public Communications Council Inc.—APCC.
5. *Sponsor Address:* Attn: Mr. Vincent Sandusky, 10306 Eaton Place, Suite 520, Fairfax, VA 22030.
6. Location of Event: Las Vegas, Nevada.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 04/10–12/96.
9. *Travel Dates:* 04/10–13/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $1,188.10 |
| 2. Hotel Room ... | ..... | 267.00 |
| 3. Meals ..... | ..... | 65.42 |
| 4. Telephone ..... | ..... | 22.62 |
| 5. Taxi & Parking | $50.00 | |
| | 50.00 | 1,543.14 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Michael R. Wack.
*Government position:* Deputy Chief, Policy Division, Wireless Telecommunications Bureau.
3. *Event:* ANMTA Annual Meeting.
4. *Sponsor of Event:* Arizona-New Mexico Telephone Association—ANMTA.
5. *Sponsor Address:* Attn: Ms. Sharon Rooks, P.O. Box 150, Cliff, NM 88028.
6. *Location of Event:* Tucson, Arizona.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 06/04–06/96.
9. *Travel Dates:* 06/05–06/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $771.00 |
| 2. Hotel Room ... | ..... | 85.00 |
| 3. Meals ..... | $52.50 | ..... |
| 4. Transport to & from Airport .... | ..... | 50.00 |
| 5. Taxi ..... | 102.00 | ..... |
| | 154.50 | 906.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Michael J. Marcus.
*Government position:* Associate Chief for Technology, Office of Engineering & Technology.
3. *Event:* Frequency Resources, Development Symposium.
4. *Sponsor of Event:* Association of Radio, Industries & Business—ARIB.
5. *Sponsor Address:* Attn: Masayoshi Wakao, Managing Director, 1–5–16, Toranomon, Minato-ku, Tokyo 105, Japan.
6. *Location of Event:* Tokyo, Japan.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 06/05/96.
9. *Travel Dates:* 05/21–06/07/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $1,416.95 |
| 2. Hotel Room ... | ..... | 805.00 |
| 3. Meals ..... | ..... | |
| 4. Taxi ..... | ..... | |
| | ..... | 2,221.95 |

(b) *Non-Fed Source:* Same as No. 4.
1. Agency: Federal Communications Commission.
2. *Employee:* Gregory J. Vogt.
*Government position:* Deputy Chief, Cable Services Bureau.
3. *Event:* Atlantic Cable Show.
4. *Sponsor of Event:* Atlantic Cable Show.
5. *Sponsor Address:* Slack Inc., 6900 Grove Road, Thorofare, NJ 08086.
6. *Location of Event:* Atlantic City, New Jersey.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 10/10/95.
9. *Travel Dates:* 10/10–11/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $477.00 | $139.60 |
| 2. Hotel Room ... | | |
| 3. Meals ..... | 57.00 | |
| 4. Taxi, Mileage & Parking ..... | 90.00 | |
| | 624.00 | 139.06 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Rosalind Allen.
*Government position:* Deputy Chief, Wireless Telecommunications Bureau.
3. *Event:* Business Strategies for Telecommunications Reform Conference.
4. *Sponsor of Event:* Bellcore.
5. *Sponsor Address:* Attn: Mr. Eliott H. Derk, 6200 Route 53, Lisle, IL 60532–3198.
6. *Location of Event:* San Francisco, California.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 06/12/96.
9. *Travel Dates:* 6/11–13/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $221.00 | ..... |
| 2. Hotel Room ... | 114.00 | ..... |
| 3. Meals ..... | 66.50 | ..... |
| 4. Taxi ..... | 107.00 | ..... |
| 5. Telephone ..... | 37.52 | ..... |
| | 546.02 | ..... |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Richard K. Welch.
*Government position:* Legal Advisor to Commissioner Rachelle B. Chong.
3. *Event:* Switched Digital Video Conference.
4. *Sponsor of Event:* Broadband Technologies.
5. *Sponsor Address:* Attn: Salim A.L. Bhatia, P.O. Box 13737, Research Traingle Park, North Carolina 27709–3737.
6. *Location of Event:* Research Triangle, Park, North Carolina.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 09/19/95.
9. *Travel Dates:* 09/18–19/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $285.00 | ..... |
| 2. Hotel Room ... | ..... | ..... |
| 3. Meals ..... | 51.00 | ..... |
| 4. Taxi ..... | 15.65 | ..... |
| 5. Car Rental ..... | 25.92 | ..... |
| | 377.57 | ..... |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Jonathan D. Levy.
*Government position:* Senior Economist—Office of Plans & Policy.
3. *Event:* Demonstration of Advanced Applications of Wireless Cable Spectrum.
4. *Sponsor of Event:* CAI Wireless Systems Inc.
5. *Sponsor Address:* Attn: Mr. Gerald Stevens-Kittner, 201 Wilson Boulevard, Suite 100, Arlington, VA 22201.
6. *Location of Event:* Rochester, New York.

7. *Employee's Role:* Attendee.
8. *Dates of Event:* 06/27/96.
9. *Travel Dates:* 06/27/96.
10. (a)

| Nature of benefit: | (c) Type & amount of Payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $591.00 |
| 2. Hotel Room ... | ..... | ..... |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi ..... | ..... | ..... |
| | ..... | 591.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Blair S. Levin.
*Government position:* Chief of Staff to Chairman, Reed E. Hundt.
3. *Event:* CBA Summer Convention.
4. *Sponsor of Event:* California Broadcasters Association—CBA.
5. *Sponsor Address:* Attn: Stan Stathem, Executive Director, 1127 11th Street, Suite 730, Sacramento, CA 95814.
6. *Location of Event:* Monterey, California.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 07/15–17/95.
9. *Travel Dates:* 07/14–18/95
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $414.00 | ..... |
| 2. Hotel Room ... | ..... | ..... |
| 3. Meals ..... | 142.00 | ..... |
| 4. Taxi ..... | 48.00 | ..... |
| | 604.00 | ..... |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Charles W. Kelley
*Government position:* Chief, Enforcement Division, Mass Media Bureau.
3. *Event:* Annual Summer Convention & Management Conference.
4. *Sponsor of Event:* Colorado Broadcasters Association—CBA.
5. *Sponsor Address:* Attn: Mr. Douglas R. Wayland, Five Points Media Center, 2900 Welton Street, Suite 320 Denver, CO 80205.
6. *Location of Event:* Vail, Colorado.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 06/13–15/96.
9. *Travel Dates:* 06/13–15/96.
10. (a)

| Nature of benefit: | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $442.00 | ..... |
| 2. Hotel Room ... | ..... | 182.00 |
| 3. Meals ..... | 104.50 | ..... |
| 4. Taxi ..... | ..... | ..... |
| | 546.50 | 182.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* William E. Johnson.
*Government position:* Deputy Chief, Cable Services Bureau.
3. *Event:* Western Show.
4. *Sponsor of Event:* California Cable Television Association—CCTA.
5. *Sponsor Address:* Attn: Jerry Yanowitz, 4341 Piedmont Avenue, PO Box 11080, Oakland, CA 94611.
6. *Location of Event:* Anaheim, California.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 11/29–12/01/95.
9. *Travel Dates:* 11/29–12/01/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $1,418.00 |
| 2. Hotel Room ... | ..... | 376.05 |
| 3. Meals ..... | $85.50 | ..... |
| 4. Taxi ..... | 26.00 | ..... |
| | 111.50 | 1,794.05 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Meredith J. Jones.
*Government position:* Chief, Cable Services Bureau.
3. *Event:* Western Show.
4. *Sponsor of Event:* California Cable Television Association—CCTA.
5. *Sponsor Address:* Attn: Jerry Yanowitz, 4341 Piedmont Avenue, P.O. Box 11080, Oakland, CA 94611.
6. *Location of Event:* Anaheim, California.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 11/29–12/01/95.
9. *Travel Dates:* 11/29–12/03/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $237.00 |
| 2. Hotel Room ... | ..... | 137.04 |
| 3. Meals ..... | $98.50 | ..... |
| 4. Taxi ..... | 61.00 | ..... |
| | 159.50 | 374.04 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Ronald Parver.
*Government position:* Team Manager, Cable Services Bureau.
3. *Event:* Western Show.
4. *Sponsor of Event:* California Cable Television Association—CCTA.
5. *Sponsor Address:* Attn: Jerry Yanowitz, 4341 Piedmont Avenue, P.O. Box 11080, Oakland, CA 94611.
6. *Location of Event:* Anaheim, California.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 11/29–12/01/95.
9. *Travel Dates:* 11/28–11/30/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $1,552.00 |
| 2. Hotel Room ... | ..... | 333.50 |
| 3. Meals ..... | $104.50 | ..... |
| 4. Parking ..... | 84.00 | ..... |
| | 188.50 | 1,914.85 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Michael L. Katz.
*Government position:* Chief Economist, Office of Plan & Policy.
3. *Event:* Western Show.
4. *Sponsor of Event:* California Cable Television Association—CCTA.
5. *Sponsor Address:* Attn: Jerry Yanowitz, 4341 Piedmont Avenue, P.O. Box 11080, Oakland, CA 94611.
6. *Location of Event:* Anaheim, California.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 11/29–12/01/95.
9. *Travel Dates:* 11/28–11/30/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $212.00 |

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 2. Hotel Room ... | ..... | 306.50 |
| 3. Meals ..... | ..... | 114.00 |
| 4. Parking ..... | $17.00 | ..... |
| | 17.00 | 632.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Joseph V. Farrell.
*Government position:* Chief Economist, Office of Plan & Policy.
3. *Event:* Authors Symposium on ''Competition Policy, Intellectual Property Rights, & International Economic Integration Conference.
4. *Sponsor of Event:* Canadian Competition Bureau.
5. *Sponsor Address:* Attn: Nancy Gallini, Dept. of Economics, University of Toronto, 150 St. George Street, Toronto Ontario, Canada M5S 1A1.
6. *Location of Event:* Ottawa, Canada.
7. *Employee's Role:* Discussant.
8. *Dates of Event:* 5/12–13/96.
9. *Travel Dates:* 5/11–13/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $564.00 |
| 2. Hotel Room ... | ..... | 192.00 |
| 3. Meals ..... | ..... | 168.00 |
| 4. Taxi ..... | ..... | ..... |
| | ..... | 924.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Andrew C. Barrett.
*Government position:* Commissioner.
3. *Event:* DBS Conference.
4. *Sponsor of Event:* Carmel Group.
5. *Sponsor Address:* Attn: James A. Schaeffler, P.O. Box 4225, Carmel, CA 93921–4225.
6. *Location of Event:* Woodland Hills, California.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 02/15/96.
9. *Travel Dates:* 02/14–16/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $217.00 | ..... |
| 2. Hotel Room ... | ..... | $95.00 |
| 3. Meals ..... | 76.00 | ..... |
| 4. Taxi ..... | 9.50 | ..... |
| | 302.50 | 95.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Scott B. Harris.
*Government position:* Chief, International Bureau.
3. *Event:* DBS Conference.
4. *Sponsor of Event:* Carmel Group.
5. *Sponsor Address:* Attn: James A. Schaeffler, P.O. Box 4225, Carmel, CA 93921–4225.
6. *Location of Event:* Woodland Hills, California.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 02/15/96.
9. *Travel Dates:* 02/14–16/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $217.00 | ..... |
| 2. Hotel Room ... | ..... | $95.00 |
| 3. Meals ..... | 87.00 | 8.00 |
| 4. Taxi ..... | 59.00 | ..... |
| | 363.50 | 103.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Michael L. Katz.
*Government position:* Chief Economist, Office Plans & Policy.
3. *Event:* Convergence Technology.
4. *Sponsor of Event:* Chilton Communications Group.
5. *Sponsor Address:* Attn: Richard Purcell, 600 S. Cherry Street, Suite 400, Denver, CO 80222.
6. *Location of Event:* Orlando, Florida.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 11/08–09/95.
9. *Travel Dates:* 11/07–08/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $392.00 | ..... |
| 2. Hotel Room ... | ..... | $66.00 |
| 3. Meals ..... | 37.50 | ..... |
| 4. Taxi ..... | 45.00 | ..... |

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| | 474.50 | 66.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* William E. Kennard.
*Government position:* General Counsel.
3. *Event:* Convergence Technology, Conference.
4. *Sponsor of Event:* Chilton Communications Group.
5. *Sponsor Address:* Attn: Richard Purcell, 600 S. Cherry Street, Suite 400, Denver, CO 80222.
6. *Location of Event:* Orlando, Florida.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 11/08–09/95.
9. *Travel Dates:* 11/08–09/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $392.00 | ..... |
| 2. Hotel Room ... | ..... | $155.00 |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi ..... | ..... | ..... |
| | 392.00 | 155.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* William W. Sharkey.
*Government Position:* Economist, Office of Plans & Policy.
3. *Event:* 1st Annual Conference, PURC–IDEI–CIRANO.
4. *Sponsor of Event:* CIRANO.
5. *Sponsor Address:* 2020, Rue University, 25e Etaga, Montreal (Quebec), H3A 2A5.
6. *Location of Event:* Montreal, Canada.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 10/13–14/95.
9. *Travel Dates:* 10/12–15/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $236.97 | |
| 2. Hotel Room ... | ..... | $343.00 |
| 3. Meals ..... | 44.38 | 205.00 |
| 4. Taxi ..... | 68.63 | ..... |
| | 349.98 | 548.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Richard M. Smith.
*Government Position:* Chief, Office of Engineering & Technology.
3. *Event:* Regulatory & Privatization Issues in Telecommunications.
4. *Sponsor of Event:* CONATEL.
5. *Sponsor Address:* Attn: Mr. Arnold Horowitz, Asesor Recursos Humanos, Conatel, VE.
6. *Location of Event:* Caracas, Venezuela.
7. *Employee's Role:* Instructor.
8. *Dates of Event:* 06/17–28/96.
9. *Travel Dates:* 06/15–22/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $510.00 |
| 2. Hotel Room ... | ..... | 1,575.00 |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi ..... | ..... | ..... |
| | ..... | 2,085.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Joseph V. Farrell
*Government Position:* Chief Economist, Office of Plans & Policy.
3. *Event:* CRA's Annual Antitrust Conference.
4. *Sponsor of Event:* Charles River Associates Inc.
5. *Sponsor Address:* Attn: Mr. Stanley M. Besen, 1001 Pennsylvania Avenue, N.W., Suite 750 North, Washington, D.C. 20004–2505.
6. *Location of Event:* Boston, Massachusetts.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 04/25/96.
9. *Travel Dates:* 04/24–25/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $546.50 |
| 2. Hotel Room ... | ..... | 207.33 |
| 3. Meals ..... | ..... | 76.00 |
| 4. Taxi ..... | ..... | ..... |
| | ..... | 829.83 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Meredith J. Jones.
*Government Position:* Chief, Cable Services Bureau.
3. *Event: Forum '96.*
4. *Sponsor of Event:* Cable Television, Public Affairs Association—CTPAA.
5. *Sponsor Address:* Attn: Sally Flynn, 1875 Connecticut Avenue, N.W., Suite 640, Washington, D.C. 20009.
6. *Location of Event:* Orlando, Florida.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 03/04/96.
9. *Travel Dates:* 03/03–04/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $486.00 |
| 2. Hotel Room ... | ..... | 172.05 |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi ..... | $131.67 | ..... |
| | 131.67 | 658.05 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Richard M. Smith.
*Government position:* Chief, Office of Engineering & Technology.
3. *Event:* Society of Broadcast Engineers National Convention.
4. *Sponsor of Event:* Ennes Educational Fund Trust.
5. *Sponsor Address:* Attn: Christopher D. Imlay, Booth, Freret & Imlay, Suite 204, 1233 20th Street, N.W., Washington, D.C. 20036.
6. *Location of Event:* New Orleans, Louisiana.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 09/06–09/95.
9. *Travel Dates:* 9/06–08/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $382.00 | ..... |
| 2. Hotel Room ... | ..... | $115.00 |
| 3. Meals ..... | 76.50 | ..... |
| 4. Taxi, Telephone & Mileage ..... | 44.60 | ..... |
| | 503.10 | 115.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Saul Shapiro.
*Government position:* Assistant Chief for Technology Policy, Mass Media Bureau.
3. *Event:* Annual Digital Audio & Video Workshop.
4. *Sponsor of Event:* Electronic Industries Association—EIA.
5. *Sponsor Address:* Attn: Ms. Maxine Stone, 2500 Wilson Boulevard, Arlington, VA 22201–3834.
6. *Location of Event:* Philadelphia, Pennsylvania.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 10/03–06/95.
9. *Travel Dates:* 10/05–06/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $110.00 | ..... |
| 2. Hotel Room ... | ..... | $89.00 |
| 3. Meals ..... | 42.50 | ..... |
| 4. Taxi ..... | 21.50 | ..... |
| | 174.00 | 89.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* William E. Kennard.
*Government position:* General Counsel.
3. *Event:* FCBA Annual May Seminar.
4. *Sponsor of Event:* Federal Communications Bar Association—FCBA.
5. *Sponsor Address:* Attn: Mr. Jack W. Whitley, Midwest Chapter, 8410 West Bryn Mawr, Suite 1100, Chicago, IL 60631–3486.
6. *Location of Event:* Chicago, Illinois.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 05/14/96.
9. *Travel Dates:* 05/13–14/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $178.91 |
| 2. Hotel Room ... | ..... | ..... |
| 3. Meals ..... | $29.32 | 20.00 |
| 4. Taxi ..... | 29.00 | ..... |
| | 58.32 | 198.91 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Rachelle B. Chong.
*Government position:* Commissioner.
3. *Event:* Annual Seminar.
4. *Sponsor of Event:* Federal Communications Bar Association—FCBA.
5. *Sponsor Address:* Attn: Paula G. Friedman, 1722 Eye Street, N.W., Suite 300, Washington, D.C. 20006.

6. *Location of Event:* Hot Springs, Virginia.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 05/17–19/96.
9. *Travel Dates:* 05/17–19/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $126.00 | ..... |
| 2. Hotel Room ... | ..... | $231.30 |
| 3. Meals ..... | ..... | 52.00 |
| 4. Taxi ..... | ..... | ..... |
| | 126.00 | 283.30 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Regina M. Keeney.
*Government position:* Chief, Common Carrier Bureau.
3. *Event:* Annual Seminar.
4. *Sponsor of Event:* Federal Communications Bar Association—FCBA.
5. *Sponsor Address:* Attn: Paula G. Friedman, 1722 Eye Street, N.W., Suite 300, Washington, D.C. 20006.
6. *Location of Event:* Hot Springs, Virginia.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 05/17–19/96.
9. *Travel Dates:* 05/17–19/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $120.00 | ..... |
| 2. Hotel Room ... | ..... | $462.64 |
| 3. Meals ..... | ..... | 50.00 |
| 4. Taxi ..... | ..... | ..... |
| | 120.00 | 512.64 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Susan Ness.
*Government position:* Commissioner.
3. *Event:* Annual Seminar.
4. *Sponsor of Event:* Federal Communications Bar Association—FCBA.
5. *Sponsor Address:* Attn: Paula G. Friedman, 1722 Eye Street, N.W., Suite 300, Washington, D.C. 20006.
6. *Location of Event:* Hot Springs, Virginia.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 05/17–19/96.
9. *Travel Dates:* 05/17–19/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $132.00 | ..... |
| 2. Hotel Room ... | ..... | $462.64 |
| 3. Meals ..... | ..... | 14.43 |
| 4. Taxi ..... | ..... | ..... |
| | 132.00 | 477.07 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* James H. Quello.
*Government position:* Commissioner.
3. *Event:* Annual Seminar.
4. *Sponsor of Event:* Federal Communications Bar Association—FCBA.
5. *Sponsor Address:* Attn: Paula G. Friedman, 1722 Eye Street, N.W., Suite 300, Washington, D.C. 20006.
6. *Location of Event:* Hot Springs, Virginia.
7. *Employee's Role:* Speaker.
8. *Dates of Event: 05/17–19/96.*
9. *Travel Dates:* 05/17–19/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | ..... |
| 2. Hotel Room ... | ..... | $462.64 |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi ..... | ..... | ..... |
| | ..... | 462.64 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Douglas W. Webbink.
*Government position:* Chief, Policy & Rules Division, Mass Media Bureau.
3. *Event:* Annual Seminar.
4. *Sponsor of Event:* Federal Communications Bar Association—FCBA.
5. *Sponsor Address:* Attn: Paula G. Friedman, 1722 Eye Street, N.W., Suite 300, Washington, D.C. 20006.
6. *Location of Event:* Hot Springs, Virginia.
7. *Employee's Role:* Speaker.
8. *Dates of Event: 05/17–19/96.*
9. *Travel Dates:* 05/17–19/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $124.80 | ..... |
| 2. Hotel Room ... | ..... | $462.64 |
| 3. Meals ..... | 5.00 | 9.61 |
| 4. Incidentals ..... | 6.00 | ..... |
| | 135.80 | 472.25 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Julius Genachowski.
*Government position:* Counsel to Chairman Reed Hundt.
3. *Event:* New Media & Broadcasting.
4. *Sponsor of Event:* Financial Times—FT.
5. *Sponsor Address:* Attn: Sarah Mitchell, Conference Executive, Maple House, 149 Tottenham Court Road, London W1P 9LL, United Kingdom.
6. *Location of Event:* London, England.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 02/26–27/96.
9. *Travel Dates:* 02/22–27/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $3,419.00 |
| 2. Hotel Room ... | ..... | 206.22 |
| 3. Meals ..... | ..... | 39.98 |
| 4. Telephone & Fax ..... | ..... | 38.35 |
| 5. Laundry/Dry Cleaning ..... | ..... | 7.38 |
| | ..... | 3,710.93 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Meredith J. Jones.
*Government position:* Chief, Cable Services Bureau.
3. *Event:* FCTA Annual Convention.
4. *Sponsor of Event:* Florida Cable Telecommunications Association—FCTA.
5. *Sponsor Address:* Ms. Laura L. Wilson, 310 North Monroe Street, Tallahassee, FL 32301.
6. *Location of Event:* Naples, Florida.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 07/08–10/96.
9. *Travel Dates:* 07/08–11/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $335.00 | ..... |
| 2. Hotel Room ... | ..... | $197.16 |
| 3. Meals ..... | 25.50 | ..... |
| 4. Taxi ..... | 13.00 | ..... |
| | 373.50 | 197.16 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* James W. Olson.

*Government position:* Chief, Competition Division, Office of the General Counsel.

3. *Event:* FTA's 89th Annual Convention.

4. *Sponsor of Event:* Florida Telephone Association—FTA.

5. *Sponsor Address:* Attn: Mr. Susan C. Langston, 1311–A Paul Russell Road, Suite 101, P.O. Box 1776, Tallahassee, FL 32302.

6. *Location of Event:* St. Petersburg, Florida.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 06/09–11/96.

9. *Travel Dates:* 06/09–10/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $420.00 |
| 2. Hotel Room ... | ..... | 119.00 |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi ..... | $39.00 | ..... |
| | 39.00 | 539.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* JoAnn Lucanik.

*Government position:* Chief, Financial Analysis & Compliance Division Cable Service Bureau.

3. *Event:* HCTA Annual Convention.

4. *Sponsor of Event:* Hawaii Cable Television Association—HCTA.

5. *Sponsor Address:* Attn: Hardy Hutchinson, P.O. Box 1245, Kailua, HI 96734.

6. *Location of Event:* Honolulu, Hawaii.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 09/20–23/95.

9. *Travel Dates:* 09/20–24/95.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $880.38 | ..... |
| 2. Hotel Room ... | ..... | $600.00 |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi ..... | ..... | ..... |
| 5. Car Rental & Gas ..... | 120.42 | ..... |
| | 1,000.80 | 600.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* David E. Horowitz.

*Government position:* Chief, Legal Branch Mass Media Bureau.

3. *Event:* IBA Fall Conference Broadcasting 2000.

4. *Sponsor of Event:* Indiana Broadcasters Association—IBA.

5. *Sponsor Address:* Attn: Gwen Piening, 11595 North Meridian Street, Suite 300, Carmel, IN 46032.

6. *Location of Event:* Indianapolis, Indiana.

7. *Employee's Role:* Speaker.

8. *Dates of Event: 10/19/95.*

9. *Travel Dates:* 10/18–19/95.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $623.00 |
| 2. Hotel Room ... | ..... | 126.50 |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi & Parking ..... | $62.50 | ..... |
| 5. Telephone ..... | ..... | 5.49 |
| | 62.50 | 754.99 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Anne C. Lucey.

*Government position:* Attorney Advisor, Mass Media Bureau.

3. *Event:* IBA Fall Conference Broadcasting 2000.

4. *Sponsor of Event:* Indiana Broadcasters Association—IBA.

5. *Sponsor Address:* Attn: Gwen Piening, 11595 North Meridian Street, Suite 300, Carmel, IN 46032.

6. *Location of Event:* Indianapolis, Indiana.

7. *Employee's Role:* Panelist.

8. *Dates of Event: 10/19/95.*

9. *Travel Dates:* 10/18–19/95.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $582.00 |
| 2. Hotel Room ... | ..... | 80.00 |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi ..... | $32.00 | ..... |
| | 32.00 | 662.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Dwayne Dowtin.

*Government position:* Telecommunications Analyst, Office of Communications, Business Opportunities.

3. *Event:* ''PCS Strategies '96'' Conference.

4. *Sponsor of Event:* Institute for International Research—IIR.

5. *Sponsor Address:* Attn: Ms. Heidi Wooden, 708 Third Avenue, 4th Floor, new York, NY 10017–4103.

6. *Location of Event:* Atlanta, Georgia.

7. *Employee's Role:* Speaker.

8. *Dates of Event: 02/14–15/96.*

9. *Travel Dates:* 02/13–15/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $557.00 |
| 2. Hotel Room ... | ..... | ..... |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi ..... | ..... | ..... |
| | ..... | 557.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Mark A. Corbitt.

*Government position:* Telecommunications Policy Analyst, Office of Plans & Policy.

3. *Event:* Telcos & The Internet.

4. *Sponsor of Event:* Institute for International Research—IIR.

5. *Sponsor Address:* Attn: Izi Muruben, 6th Floor, 29 Bressenden Place, London SW1E 5DR.

6. *Location of Event:* London, England.

7. *Employee's Role:* Speaker.

8. *Dates of Event: 04/22–24/96.*

9. *Travel Dates:* 02/19–25/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $638.00 |
| 2. Hotel Room ... | ..... | 468.00 |
| 3. Meals ..... | ..... | 270.00 |
| 4. Taxi ..... | ..... | 270.00 |
| | ..... | 1,376.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Robert M. Pepper.

*Government position:* Chief, Office of Plans & Policy.

3. *Event:* Telcoms Regulation.

4. *Sponsor of Event:* Institute for International Research—IIR.

5. *Sponsor Address:* Attn: Rachel Lester, 6th Floor, 29 Bressenden Place, London SW1E 5DR.

6. *Location of Event:* London, England.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/17–19/96.

9. *Travel Dates:* 04/16–20/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $1422.25 |
| 2. Hotel Room ... | ..... | 468.00 |
| 3. Meals ..... | ..... | 270.00 |
| 4. Taxi ..... | ..... | ..... |
| | ..... | 2160.25 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Robert M. Pepper.

*Government Position:* Chief, Office of Plans & Policy.

3. *Event:* Global Spectrum Management & Frequency Allocation Conference.

4. *Sponsor of Event:* Institute for International Research—IIR.

5. *Sponsor Address:* Attn: Mr. Hugh Roberts, 6th Floor, 29 Bressenden Place, London SW1E 5DR.

6. *Location of Event:* London, England.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 05/28–31/96.

9. *Travel Dates:* 05/26–29/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $1576.65 |
| 2. Hotel Room ... | ..... | 468.00 |
| 3. Meals ..... | ..... | 270.00 |
| 4. Taxi ..... | ..... | ..... |
| | ..... | 2314.65 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* James Coltharp.

*Government position:* Chief Economist, Wireless Telecommunications Bureau.

3. *Event:* Communications Symposium.

4. *Sponsor of Event:* Infomart.

5. *Sponsor Address:* Attn: Kami Price, 1950 Stemmons Freeway, Administrative Offices, Room 6038, Dallas, TX 75207–3199.

6. *Location of Event:* Dallas, Texas.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 11/01/95.

9. *Travel Dates:* 11/01/95.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $1000.00 |
| 2. Hotel Room ... | ..... | ..... |
| 3. Meals ..... | ..... | 34.00 |
| 4. Mileage ..... | $4.50 | 25.00 |
| | 4.50 | 1059.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission

2. *Employee:* Kathryn M. Garland.

*Government position:* Consumer Assistance Branch, Wireless Telecommunications Bureau.

3. *Event:* International Wireless Communications Expo.

4. *Sponsor of Event:* Intertec Publishing.

5. *Sponsor Address:* Attn: Mr. Don Bishop, Corporate Offices, 9800 Metcalf Avenue, Overland Park, KS 66212–2215.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 04/25–26/96.

9. *Travel Dates:* 04/22–26/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $247.00 |
| 2. Hotel Room ... | ..... | 240.00 |
| 3. Meals ..... | $170.00 | ..... |
| 4. Taxi & Telephone ..... | 37.54 | ..... |
| 5. Parking, Fax & Mileage ..... | 100.70 | ..... |
| | 308.24 | 487.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission

2. *Employee:* Ralph A. Haller

*Government position:* Deputy Chief, Wireless Telecommunications Bureau.

3. *Event:* International Wireless Communications Expo.

4. *Sponsor of Event:* Intertec Publishing.

5. *Sponsor Address:* Attn: Mr. Don Bishop, Corporate Offices, 9800 Metcalf Avenue, Overland Park, KS 66212–2215.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/25–26/96.

9. *Travel Dates:* 04/20–29/96

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $228.00 | ..... |
| 2. Hotel Room ... | ..... | $240.00 |
| 3. Meals ..... | 161.50 | ..... |
| 4. Taxi & Parking ..... | 72.00 | ..... |
| | 461.50 | 240.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Amy J. Zoslov.

*Government position:* Deputy Chief, Auctions Division, Wireless Telecommunications Bureau.

3. *Event:* International Wireless Communications Expo.

4. *Sponsor of Event:* Intertec Publishing.

5. *Sponsor Address:* Attn: Mr. Don Bishop, Corporate Offices, 9800 Metcalf Avenue, Overland Park, KS 66212–2215

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/25–26/96

9. *Travel Dates:* 04/24–27/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $454.00 |
| 2. Hotel Room ... | ..... | 180.00 |
| 3. Meals ..... | $127.50 | ..... |
| 4. Taxi ..... | 34.00 | ..... |
| | 161.50 | 634.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Blair S. Levin.

*Government position:* Chief of Staff to Chairman Reed E. Hundt.

3. *Event:* INTV Board of Directors Meeting.

4. *Sponsor of Event:* Association of Independent Television Stations Inc.—INTV.

5. *Sponsor Address:* Attn: Mr. James B. Hedlund, 1320 Nineteenth Street, N.W., Suite 300, Washington, D. C. 20036.

6. *Location of Event:* Dallas, Texas.

7. *Employee's Role:* Presentation.

8. *Dates of Event:* 10/09/95.

9. *Travel Dates:* 10/09/95.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $353.00 | ..... |
| 2. Hotel Room ... | ..... | ..... |
| 3. Meals ..... | 25.50 | ..... |
| 4. Taxi ..... | 14.00 | ..... |
| | $392.50 | |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Andrew C. Barrett.

*Government position:* Commissioner.

3. *Event:* INTV/NATPE Convention.

4. *Sponsor of Event:* Association of Independent Television/National Association of Television Program Executives—INTV/NATPE.

5. *Sponsor Address:* 1320 Nineteenth Street, N.W., Suite 300, Washington, D.C. 20036.

6. *Location of Event:* Las Vegas, Nevada

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 01/20–25/96.

9. *Travel Dates:* 01/21–24/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $704.00 |
| 2. Hotel Room ... | ..... | 191.16 |
| 3. Meals ..... | $81.00 | ..... |
| 4. Taxi ..... | 84.50 | ..... |
| | 165.50 | 895.16 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Julius Genachowski.

*Government Position:* Counsel to Chairman Reed H. Hundt.

3. *Event:* INTV/NATPE Convention.

4. *Sponsor of Event:* Association of Independent Television/National Association of Television Program Executives—INTV/NATPE.

5. *Sponsor Address:* 1320 Nineteenth Street, N.W., Suite 300, Washington, D.C. 20036.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Attendee.

8. *Dates of Event:* 01/20–25/96.

9. *Travel Dates:* 01/20–23/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $ | $1,192.00 |
| 2. Hotel Room ... | ..... | 222.00 |
| 3. Meals ..... | 133.00 | ..... |
| 4. Telephone ..... | ..... | 15.27 |
| 5. Taxi ..... | 39.00 | ..... |
| | 172.00 | 1,429.27 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Meredith J. Jones.

*Government position:* Chief, Cable Services Bureau.

3. *Event:* INTV/NATPE Convention.

4. *Sponsor of Event:* Association of Independent Television/National Association of Television Program Executives—INTV/NATPE.

5. *Sponsor Address:* 1320 Nineteenth Street, N.W., Suite 300, Washington, D.C. 20036.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 01/20–25/96.

9. *Travel Dates:* 01/19–23/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $ | $237.50 |
| 2. Hotel Room ... | ..... | 240.40 |
| 3. Meals ..... | 161.50 | ..... |
| 4. Taxi ..... | ..... | ..... |
| | 161.50 | 477.90 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* James W. Olson.

*Government Position:* Chief, Competition Division, General Counsel.

3. *Event:* INTV/NATPE Convention.

4. *Sponsor of Event:* Association of Independent Television/National Association of Television Program Executives—INTV/NATPE.

5. *Sponsor Address:* 1320 Nineteenth Street, N.W., Suite 300, Washington, D.C. 20036.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 01/20–25/96.

9. *Travel Dates:* 01/20–24/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $ | $237.50 |
| 2. Hotel Room ... | ..... | 296.00 |
| 3. Meals ..... | 21.00 | ..... |
| 4. Taxi ..... | 27.00 | ..... |
| | 48.00 | 533.50 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* James H. Quello.

*Government position:* Commissioner.

3. *Event:* INTV/NATPE Convention.

4. *Sponsor of Event:* Association of Independent Television/National Association of Television Program Executives—INTV/NATPE.

5. *Sponsor Address:* 1320 Nineteenth Street, N.W., Suite 300, Washington, D.C. 20036.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 01/20–25/96.

9. *Travel Dates:* 01/20–24/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $ | $211.94 |
| 2. Hotel Room ... | ..... | 370.00 |
| 3. Meals ..... | 103.00 | ..... |
| 4. Taxi ..... | 63.00 | ..... |
| | 166.00 | 581.94 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Robert H. Ratcliffe.

*Government position:* Assistant Chief or Law, Mass Media Bureau.

3. *Event:* INTV/NATPE Convention.

4. *Sponsor of Event:* Association of Independent Television/National Association of Television Program Executives—INTV/NATPE.

5. *Sponsor Address:* 1320 Nineteenth Street, N.W., Suite 300, Washington, D.C. 20036.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 01/20–25/96.

9. *Travel Dates:* 01/20–25/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $ | $483.00 |
| 2. Hotel Room ... | ..... | 222.00 |
| 3. Meals ..... | ..... | 114.00 |
| 4. Taxi ..... | ..... | ..... |
| | ..... | 819.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* David R. Siddall.

*Government position:* Legal Advisor to Commissioner Susan Ness.

3. *Event:* INTV/NATPE Convention.

4. *Sponsor of Event:* Association of Independent Television/National Association of Television Program Executives—INTV/NATPE.

5. *Sponsor Address:* 1320 Nineteenth Street, N.W., Suite 300, Washington, D.C. 20036.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 01/20–25/96.

9. *Travel Dates:* 01/21–24/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $ | $1,130.00 |
| 2. Hotel Room ... | ..... | 148.00 |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi ..... | ..... | ..... |
| | ..... | 1,278.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Lisa B. Smith.

*Government position: Senior Legal Advisor to Commissioner Andrew C. Barrett.*

3. *Event:* INTV/NATPE Convention.

4. *Sponsor of Event:* Association of Independent Television/National Association of Television Program Executives—INTV/NATPE.

5. *Sponsor Address:* 1320 Nineteenth Street, N.W., Suite 300, Washington, D.C. 20036.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 01/20–25/96.

9. *Travel Dates:* 01/20–24/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $ | $234.00 |
| 2. Hotel Room ... | ..... | 298.08 |
| 3. Meals ..... | ..... | 13.50 |
| 4. Fax & Telephone ..... | ..... | 46.00 |
| 5. Taxi ..... | 53.00 | ..... |
| | 53.00 | 591.58 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Roy J. Stewart.

*Government position:* Chief, Mass Media Bureau.

3. *Event:* INTV/NATPE Convention.

4. *Sponsor of Event:* Association of Independent Television/National Association of Television Program Executives—INTV/NATPE.

5. *Sponsor Address:* 1320 Nineteenth Street, N.W., Suite 300, Washington, D.C. 20036.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 01/20–25/96.

9. *Travel Dates:* 01/20–22/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $ | $483.50 |
| 2. Hotel Room ... | ..... | 148.00 |
| 3. Meals ..... | ..... | 95.00 |
| 4. Taxi ..... | ..... | ..... |
| | ..... | 726.50 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Rudolfo M. Baca.

*Government position:* Legal Advisor to Commissioner James H. Quello.

3. *Event:* ITA's 1995 Annual Conference.

4. *Sponsor of Event:* Industrial Telecommunications Association, Inc.—ITA.

5. *Sponsor Address:* Attn: Kimberly A. Sescoe, 1110 North Glebe Road, Suite 500, Arlington, VA 22201.

6. *Location of Event:* Tucson, Arizona.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 10/12–14/95.

9. *Travel Dates:* 10/12–14/95.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $491.00 | ..... |
| 2. Hotel Room ... | ..... | $320.00 |
| 3. Meals ..... | 67.50 | ..... |
| 4. Taxi ..... | 24.00 | ..... |
| | 582.50 | 320.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee: Jane E. Mago.*

*Government position:* Senior Legal Advisor to Commissioner Rachelle B. Chong.

3. *Event:* ITI Board of Directors Meeting.

4. *Sponsor of Event:* ITI.

5. *Sponsor Address:* Attn: Ted Allen Heydinger, Suite 200, 1250 Eye Street, NW., Washington, DC 20005.

6. *Location of Event:* Naples, Florida.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/19/95.

9. *Travel Dates:* 10/18–19/95.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $526.00 | ..... |

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 2. Hotel Room ... | ..... | $229.30 |
| 3. Meals ..... | 51.00 | ..... |
| 4. Mileage & Telephone ..... | 27.90 | ..... |
| | 604.90 | 229.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Meredith J. Jones.
*Government position:* Chief, Cable Services Bureau.
3. *Event:* CABLE/TELCO Conference.
4. *Sponsor of Event:* Kagan Seminars Inc.
5. *Sponsor Address:* Attn: Ms. Donna Shore, 126 Clock Tower Place, Carmel, CA 93923.
6. *Location of Event:* New York, New York.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 03/20/96.
9. *Travel Dates:* 03/20/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $292.00 |
| 2. Hotel Room ... | ..... | ..... |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi ..... | $36.00 | ..... |
| | 36.00 | 292.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* James Coltharp.
*Government position:* Chief Economist, Wireless Telecommunications Bureau.
3. *Event:* TELCOM ACT OF 1996.
4. *Sponsor of Event:* Kagan Seminars Inc.
5. *Sponsor Address:* Attn: Ms. Kristen Roelofs, 126 Clock Tower Place, Carmel, CA 93923.
6. *Location of Event:* New York, New York.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 04/10/96.
9. *Travel Dates:* 04/10/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $304.00 |

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 2. Hotel Room ... | ..... | ..... |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi ..... | $49.70 | ..... |
| | 49.70 | 304.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Karen Brinkmann.
*Government position:* Associate Chief, Wireless Telecommunications Bureau.
3. *Event:* WIRELESS TELECOM VALUES & FINANCE.
4. *Sponsor of Event:* Kagan Seminars Inc.
5. *Sponsor Address:* Attn: Ms. Sharon Armbrust, 126 Clock Tower Place, Carmel, CA 93923.
6. *Location of Event:* New York, New York.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 04/17–18/96.
9. *Travel Dates:* 04/18/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | 304.00 |
| 2. Hotel Room ... | ..... | ..... |
| 3. Meals ..... | 28.50 | ..... |
| 4. Taxi & Parking ..... | 70.50 | ..... |
| | 99.00 | 304.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Thomas P. Stanley.
*Government position:* Chief Economist, Office of Plans & Policy.
3. *Event:* The 1995 Telecom Legislative Matrix for Business, Developments & Consumer Benefits.
4. *Sponsor of Event:* KMB Associates.
5. *Sponsor Address:* Attn: Mike Beilis, 437 3rd Avenue North, Tierra Verde, FL 33715.
6. *Location of Event:* St. Petersburg, Florida.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 10/26–28/95.
9. *Travel Dates:* 10/26–28/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | 356.00 |

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 2. Hotel Room ... | ..... | 114.00 |
| 3. Meals ..... | ..... | 60.00 |
| 4. Taxi ..... | 23.00 | ..... |
| | 23.00 | 530.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* James L. Casserly.
*Government position:* Senior Legal Advisor, Commissioner Susan Ness.
3. *Event:* KMB 17th Invitational Conference.
4. *Sponsor of Event:* KMB Associates.
5. *Sponsor Address:* Attn: Mike Beilis, 437 3rd Avenue North, Tierra Verde, FL 33715.
6. *Location of Event:* St. Petersburg, Florida.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 05/01–04/96.
9. *Travel Dates:* 05/02–04/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | 206.00 |
| 2. Hotel Room ... | ..... | 144.00 |
| 3. Meals ..... | ..... | 78.00 |
| 4. Taxi ..... | ..... | ..... |
| | ..... | 428.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Lisa Gelb.
*Government position:* Attorney, Common Carrier Bureau.
3. *Event:* KMB 17th Invitational Conference.
4. *Sponsor of Event:* KMB Associates.
5. *Sponsor Address:* Attn: Mike Beilis, 437 3rd Avenue North, Tierra Verde, FL 33715.
6. *Location of Event:* St. Petersburg, Florida.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 05/01–04/96.
9. *Travel Dates:* 05/02–04/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | 206.00 |
| 2. Hotel Room ... | ..... | 144.00 |

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 3. Meals | | 52.00 |
| 4. Parking & Telephone | 59.12 | |
| | 59.12 | 402.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Robert M. Pepper.

*Government Position:* Chief, Office Plans & Policy.

3. *Event:* KMB 17th Invitational Conference.

4. *Sponsor of Event:* KMB Associates.

5. *Sponsor Address:* Attn: Mike Beilis, 437 3rd Avenue North, Tierra Verde, FL 33715.

6. *Location of Event:* St. Petersburg, Florida.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 05/01–04/96.

9. *Travel Dates:* 05/02–03/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | | $206.00 |
| 2. Hotel Room | | 250.85 |
| 3. Meals | | 39.00 |
| 4. Parking & Telephone | | |
| | | 495.85 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Roy J. Stewart.

*Government position:* Chief, Mass Media Bureau.

3. *Event:* MAB & MPB Annual Meeting.

4. *Sponsor of Event:* Michigan Association of Broadcasters—MAB.

5. *Sponsor Address:* 819 North Washington Avenue, Lansing, MI 48906.

6. *Location of Event:* Mackinac Island, Michigan.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 08/27–29/95.

9. Travel Dates: 8/27–29/95.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $768.00 | $ |

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 2. Hotel Room | | 106.00 |
| 3. Meals | 76.00 | |
| 4. Parking & Mileage | 30.00 | |
| | 874.00 | 106.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Frank M. Lucia.

*Government position:* Director, Emergency Communications Compliance & Information Bureau.

3. *Event:* Great Lakes Broadcasting Conference & Expo.

4. *Sponsor of Event:* Michigan Association Broadcasters—MAB.

5. *Sponsor Address:* Attn: Chris Suever, 819 North Washington Avenue, Lansing, MI 48906.

6. *Location of Event:* Lansing, Michigan.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 02/27–28/96.

9. *Travel Dates:* 02/27–28/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | | $423.00 |
| 2. Hotel Room | | 107.95 |
| 3. Meals | 45.00 | |
| 4. Telephone, Mileage & Taxi | 15.95 | |
| | 60.95 | 530.95 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. Employee: Anne C. Lucey.

*Government position:* Attorney, Mass Media Bureau.

3. *Event:* Great Lakes Broadcasting Conference & Expo.

4. *Sponsor of Event:* Michigan Association Broadcasters—MAB.

5. *Sponsor Address:* Attn: Chris Suever, 819 North Washington Avenue, Lansing, MI 48906.

6. *Location of Event:* Lansing, Michigan.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 02/27–28/96.

9. *Travel Dates:* 02/26–28/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | | $434.00 |
| 2. Hotel Room | | 114.00 |
| 3. Meals | | |
| 4. Taxi | 10.00 | |
| | 10.00 | 548.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Saul Shapiro.

*Government position:* Assistant Chief, Mass Media Bureau.

3. *Event:* Seminar on U.S./Japan Multimedia.

4. *Sponsor of Event:* Mainichi Newspapers.

5. *Sponsor Address:* Rockefeller Center, 630 Fifth Avenue, Room 2114, New York, NY 10111.

6. *Location of Event:* New York City, New York.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 09/20/95.

9. *Travel Dates:* 9/19–21/95.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $134.00 | |
| 2. Hotel Room | | |
| 3. Meals | 66.50 | |
| 4. Taxi & Parking | 76.00 | |
| | 276.50 | |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Michael L. Katz.

*Government position:* Chief Economist, Office of Plans & Policy.

3. *Event:* 1995 DAVID Developers, Conference.

4. *Sponsor of Event:* Microwave Systems Corporation.

5. *Sponsor Address:* Attn: Andrew Davidson, 1900 N.W. 114th Street, Des Moines, IA 50325–7077.

6. *Location of Event:* San Jose, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 09/26–29/95.

9. *Travel Dates:* 09/26–28/95.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $380.00 | ..... |
| 2. Hotel Room ... | ..... | $114.00 |
| 3. Meals ..... | 95.00 | ..... |
| 4. Taxi ..... | 32.00 | ..... |
| | 507.00 | 114.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Y. Paulette Laden.

*Government position:* Chief Equal Employment Opportunity Branch, Mass Media Bureau.

3. *Event:* MAB Annual Convention.

4. *Sponsor of Event:* Mississippi Association of Broadcasters—MAB.

5. *Sponsor Address:* Attn: Jackie Lett, 15 Northtown Drive, Suite A, Jackson, MS 39211.

6. *Location of Event:* Biloxi, Mississippi.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 06/13–16/96.

9. *Travel Dates:* 06/13–16/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $264.00 | ..... |
| 2. Hotel Room ... | ..... | $219.00 |
| 3. Meals ..... | ..... | 90.00 |
| 4. Taxi ..... | ..... | ..... |
| | 264.00 | 309.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Roy J. Stewart.

*Government position:* Chief, Mass Media Bureau.

3. *Event:* Minnesota Broadcasters Association Convention.

4. *Sponsor of Event:* Minnesota Broadcasters Association—MAB.

5. *Sponsor Address:* 3517 Raleigh Avenue, P.O. Box 16030, St. Louis Park, MN 55416–0030.

6. *Location of Event:* Bemidji, Minnesota.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/05–07/95.

9. *Travel Dates:* 10/05–08/95.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $620.00 | ..... |
| 2. Hotel Room ... | 138.00 | ..... |
| 3. Meals ..... | 75.00 | ..... |
| 4. Taxi ..... | 47.00 | ..... |
| | 880.00 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Robert L. Baker.

*Government position:* Senior Attorney, Mass Media Bureau.

3. *Event:* MBA Annual Convention.

4. *Sponsor of Event:* Missouri Broadcasters Association—MBA.

5. *Sponsor Address:* Attn: Mr. Donald J. Hicks, 1803 Sun Valley Drive, Jefferson City, MO 65109.

6. *Location of Event:* Kansas City, Missouri.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 06/13–15/96.

9. *Travel Dates:* 06/14–16/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $324.00 | ..... |
| 2. Hotel Room ... | ..... | $126.00 |
| 3. Meals ..... | 85.00 | ..... |
| 4. Taxi ..... | 46.20 | ..... |
| | 455.20 | 126.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Scott B. Harris.

*Government position:* Chief, International Bureau.

3. *Event:* Munich Circle Congress.

4. *Sponsor of Event:* Munchner Kreis.

5. *Sponsor Address:* Attn: Mr. Walter Lammle, General Manager, Tal 16, 80331 Munchen, Bavaria, Germany.

6. *Location of Event:* Munich, Germany.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 09/24–26/95.

9. *Travel Dates:* 09/23–28/95.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | ..... |
| 2. Hotel Room ... | ..... | $404.64 |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi ..... | ..... | ..... |
| | ..... | 404.64 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Reed E. Hundt.

*Government position:* Chairman.

3. *Event:* Munich Circle Congress.

4. *Sponsor of Event:* Munchner Kreis.

5. *Sponsor Address:* Attn: Mr. Walter Lammle, General Manager, Tal 16, 80331 Munchen, Bavaria, Germany.

6. *Location of Event:* Munich, Germany.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 09/24–26/95.

9. *Travel Dates:* 09/23–27/95.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $1,120.65 | ..... |
| 2. Hotel Room ... | ..... | $901.40 |
| 3. Meals ..... | 252.50 | 54.93 |
| 4. Taxi & Telephone ..... | 71.99 | ..... |
| | 1,445.14 | 956.34 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Kenneth R. Propp.

*Government position:* Attorney Advisor, International Bureau.

3. *Event:* Munich Circle Congress.

4. *Sponsor of Event:* Munchner Kreis.

5. *Sponsor Address:* Attn: Mr. Walter Lammle, General Manager, Tal 16, 80331 Munchen, Bavaria, Germany.

6. *Location of Event:* Munich, Germany.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 09/24–26/95.

9. *Travel Dates:* 09/23–27/95.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | ..... |
| 2. Hotel Room ... | ..... | $405.59 |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi ..... | ..... | ..... |

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| | ..... | 405.59 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Gordon C. Coffman.
*Government position:* Senior Attorney, Wireless Telecommunications Bureau.
3. *Event:* NASAA Attorney/ Investigator Training.
4. *Sponsor of Event:* North American Securities Administrators Association Inc.—NASAA.
5. *Sponsor Address:* One Massachusetts Avenue, N.W., Suite 301, Washington, D.C. 20001.
6. *Location of Event:* Pittsburgh, Pennsylvania.
7. *Employee's Role:* Instructor.
8. *Dates of Event:* 03/09–12/96.
9. *Travel Dates:* 03/09–10/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $221.00 |
| 2. Hotel Room ... | $75.00 | ..... |
| 3. Meals ..... | 51.00 | ..... |
| 4. Parking ..... | 10.00 | ..... |
| | 136.00 | 221.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Meredith J. Jones.
*Government position:* Chief, Cable Services Bureau.
3. *Event:* NATOA Annual Conference.
4. *Sponsor of Event:* National Association of Telecommunications Officers & Advisors—NATOA.
5. *Sponsor Address:* Attn: Ms. Eileen Huggard, 1200 19th Street, N.W., Suite 300, Washington, D.C. 20036.
6. *Location of Event:* Albuquerque, New Mexico.
7. *Employee's Role:* Attendee.
8. *Dates of Event:* 09/20–23/95.
9. *Travel Dates:* 09/21–25/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $359.00 | ..... |
| 2. Hotel Room ... | 90.00 | ..... |
| 3. Meals ..... | 93.50 | ..... |
| 4. Taxi ..... | 25.00 | ..... |
| | 567.50 | ..... |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Dwayne Dowtin.
*Government position:* Telecommunications Analyst, Office of Communications Business Opportunity.
3. *Event:* NAWI Roadshow.
4. *Sponsor of Event:* North American Wireless—NAWI.
5. *Sponsor Address:* Attn: Gabrielle Sherb, 1919 Gallows Road, Suite 950, Vienna, VA 22182.
6. *Location of Event:* Chicago, Illinois.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 11/03/95.
9. *Travel Dates:* 11/02–03/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $138.00 |
| 2. Hotel Room ... | ..... | 150.00 |
| 3. Meals ..... | $57.00 | ..... |
| 4. Taxi ..... | 76.00 | ..... |
| | 133.00 | 288.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Dwayne Dowtin.
*Government position:* Telecommunications Analyst, Office of Communications Business Opportunity.
3. *Event:* NAWI Roadshow.
4. *Sponsor of Event:* North American Wireless—NAWI.
5. *Sponsor Address:* Attn: Gabrielle Sherb, 1919 Gallows Road, Suite 950, Vienna, VA 22182.
6. *Location of Event:* Las Vegas, Nevada.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 11/01/95.
9. *Travel Dates:* 10/29–11/02/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $472.00 |
| 2. Hotel Room ... | ..... | 150.00 |
| 3. Meals ..... | $161.50 | ..... |
| 4. Taxi & Parking ..... | 143.50 | ..... |
| | 305.00 | 622.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Hugh L. Boyle.
*Government position:* Staff Accountant, Cable Services Bureau.
3. *Event:* 44th Annual Convention & Exposition.
4. *Sponsor of Event:* National Cable Television Association—NCTA.
5. *Sponsor Address:* 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.
6. *Location of Event:* Dallas, Texas.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 05/07–10/95.
9. *Travel Dates:* 05/07–10/95.
10. (a)

| Nature of benefit | (c) Type & Amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $390.00 | ..... |
| 2. Hotel Room ... | 208.50 | ..... |
| 3. Meals ..... | 110.50 | ..... |
| 4. Mileage, Telephone & Taxi | 37.52 | ..... |
| | $746.52 | ..... |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* James Casserly.
*Government position:* Senior Legal Advisor to Commissioner Susan Ness.
3. *Event:* 44th Annual Convention & Exposition.
4. *Sponsor of Event:* National Cable Television Association—NCTA.
5. *Sponsor Address:* 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.
6. *Location of Event:* Dallas, Texas.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 05/07–10/95.
9. *Travel Dates:* 05/07–10/95.
10. (a)

| Nature of benefit | (c) PType & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $390.00 | ..... |
| 2. Hotel Room ... | 207.00 | ..... |

| Nature of benefit | (c) PType & amount of payment | |
|---|---|---|
| | Check | In kind |
| 3. Meals | 102.00 | |
| 4. Taxi & Telephone | 72.14 | |
| | $771.14 | |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Blair S. Levin.
*Government position:* Chief of Staff to Chairman Reed H. Hundt.
3. *Event:* 44th Annual Convention & Exposition.
4. *Sponsor of Event:* National Cable Television Association—NCTA.
5. *Sponsor Address:* 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.
6. *Location of Event:* Dallas, Texas.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 05/07–10/95.
9. *Travel Dates:* 05/08–10/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $390.00 | |
| 2. Hotel Room | 139.00 | |
| 3. Meals | 76.50 | |
| 4. Taxi & Telephone | 9.71 | |
| | $615.21 | |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Joann Lucanik.
*Government position:* Chief, Financial Analysis & Compliance Division, Cable Services Bureau.
3. *Event:* 44th Annual Convention & Exposition.
4. *Sponsor of Event:* National Cable Television Association—NCTA.
5. *Sponsor Address:* 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.
6. *Location of Event:* Dallas, Texas.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 05/07–10/95.
9. *Travel Dates:* 05/08–09/95.
10. (a)

| Nature of benefit | (c) type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $390.00 | |
| 2. Hotel Room | 69.50 | |
| 3. Meals | 68.00 | |
| 4. Taxi | 35.80 | |
| | $563.30 | |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Mary P. McManus.
*Government position:* Legal Advisor to Commissioner Susan Ness.
3. *Event:* 44th Annual Convention & Exposition.
4. *Sponsor of Event:* National Cable Television Association—NCTA.
5. *Sponsor Address:* 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.
6. *Location of Event:* Dallas, Texas.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 05/07–10/95.
9. *Travel Dates:* 05/07–10/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | CHECK | IN kind |
| 1. Roundtrip Transportation | $390.00 | |
| 2. Hotel Room | 208.50 | |
| 3. Meals | 119.00 | |
| 4. Parking & Taxi | 15.00 | |
| | $732.50 | |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Susan Ness.
*Government position:* Commissioner.
3. *Event:* 44th Annual Convention & Exposition.
4. *Sponsor of Event:* National Cable Television Association—NCTA.
5. *Sponsor Address:* 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.
6. *Location of Event:* Dallas, Texas.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 05/07–10/95.
9. *Travel Dates:* 05/07–09/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $390.00 | |
| 2. Hotel Room | 139.00 | |
| 3. Meals | 93.50 | |
| 4. Taxi | 122.40 | |
| | $744.90 | |

[1] These figures were inadvertently omitted in the last report.

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Ronald Parver.
*Government position:* Chief, Technical Services Team, Cable Services Bureau.
3. *Event:* 44th Annual Convention & Exposition.
4. *Sponsor of Event:* National Cable Television Association—NCTA.
5. *Sponsor Address:* 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.
6. *Location of Event:* Dallas, Texas.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 05/07–10/95.
9. *Travel Dates:* 05/07–10/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | CHECK | IN kind |
| 1. Roundtrip Transportation | $390.00 | |
| 2. Hotel Room | 208.50 | |
| 3. Meals | 119.00 | |
| 4. Official Luggage & Taxi | 34.00 | |
| 5. Telephone | 20.79 | |
| | $772.29 | |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Mark Corbitt.
*Government position:* Telecommunications Policy Analyst, Office of Plans & Policy.
3. *Event:* Joint Engineering Committee Meeting.
4. *Sponsor of Event:* National Cable Television Association—NCTA.
5. *Sponsor Address:* 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.
6. *Location of Event:* Orlando, Florida.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 09/18–20/95.
9. *Travel Dates:* 09/15–20/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | CHECK | IN kind |
| 1. Roundtrip Transportation | $398.00 | ..... |
| 2. Hotel Room ... | ..... | ..... |
| 3. Meals ..... | 90.00 | ..... |
| 4. Taxi ..... | 27.00 | ..... |
| 5. Car Rental ..... | 100.00 | ..... |
| | $615.00 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Laurence D. Atlas.

*Government position:* Associate Bureau Chief, Common Carrier Bureau.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/28–05/01/96.

9. *Travel Dates:* 04/29–05/03/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $157.00 | ..... |
| 2. Hotel Room ... | ..... | $153.90 |
| 3. Meals ..... | ..... | 16.19 |
| 4. Taxi & Mileage ..... | 68.00 | 80.00 |
| | 225.00 | 250.09 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Lauren J. Belvin.

*Government position:* Senior Legal Advisor to Commissioner James H. Quello.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.

6. *Location of Event:* Los Angeles, California

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 04/28–05/01/96.

9. *Travel Dates:* 04/29–05/01/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $217.00 | ..... |
| 2. Hotel Room ... | ..... | $307.80 |
| 3. Meals ..... | 104.50 | 23.73 |
| 4. Taxi ..... | 24.00 | ..... |
| 5. Telephone ..... | ..... | 48.31 |
| | 345.50 | 379.84 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Elizabeth W. Beaty.

*Government position:* Assistant Bureau Chief for Government & Public Outreach, Cable Services Bureau.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/28–05/01/96.

9. *Travel Dates:* 04/29–05/01/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $621.00 |
| 2. Hotel Room ... | ..... | 307.80 |
| 3. Meals ..... | $95.00 | ..... |
| 4. Taxi ..... | ..... | ..... |
| | 95.00 | 928.80 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Mary Ellen Burns.

*Government position:* Chief, Consumer Protection Division, Cable Services Bureau.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/28–05/01/96.

9. *Travel Dates:* 04/27–05/01/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $219.00 | ..... |
| 2. Hotel Room ... | ..... | $595.95 |
| 3. Meals ..... | 180.50 | ..... |
| 4. Taxi ..... | 50.50 | ..... |
| | 450.00 | 595.95 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Rachelle B. Chong.

*Government position:* Commissioner.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 04/28–05/01/96.

9. *Travel Dates:* 04/27–04/30/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $217.00 | ..... |
| 2. Hotel Room ... | ..... | $461.70 |
| 3. Meals ..... | 114.00 | 28.40 |
| 4. Taxi ..... | 46.00 | 11.60 |
| | 337.00 | 501.70 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Lawrence R. Clance.

*Government position:* Assistant Bureau Chief for Law Compliance & Information Bureau.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/28–05/01/96.

9. *Travel Dates:* 04/27–05/01/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $298.50 | ..... |
| 2. Hotel Room ... | ..... | $615.60 |
| 3. Meals ..... | 19.00 | 86.08 |
| 4. Taxi ..... | 45.95 | ..... |
| | 363.45 | 701.68 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Joseph V. Farrell.

*Government position:* Chief Economist, Office of Plans & Policy.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., N.W. Washington, D.C. 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/28–05/01/96.

9. *Travel Dates:* 04/29–30/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $151.00 |
| 2. Hotel Room ... | ..... | 97.00 |
| 3. Meals ..... | ..... | 76.00 |
| 4. Taxi ..... | ..... | ..... |
| | ..... | 324.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Daniel Gonzales.

*Government position:* Legal Advisor to Commissioner Rachelle B. Chong.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/28–05/01/96.

9. *Travel Dates:* 04/29–05/01/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $217.00 | ..... |
| 2. Hotel Room ... | ..... | $307.80 |
| 3. Meals ..... | 114.00 | ..... |
| 4. Shipping & Telephone ..... | ..... | 8.04 |
| 5. Parking & Mileage ..... | 49.80 | ..... |
| | 380.80 | 315.84 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Reed E. Hundt.

*Government position:* Chairman.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/28–05/01/96.

9. *Travel Dates:* 04/29–05/02/96.

10. (a).

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $187.00 | $153.90 |
| 2. Hotel Room ... | ..... | ..... |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi ..... | ..... | ..... |
| | 187.00 | 153.90 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Meryl Icove.

*Government position:* Legal Advisor, Cable Services Bureau.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 04/28–05/01/96.

9. Travel Dates: 04/28–05/01/96.

10. (a).

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $114.00 | $212.00 |
| 2. Hotel Room ... | ..... | 307.80 |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi ..... | 60.00 | ..... |
| 5. Telephone ..... | ..... | 7.50 |
| | 174.00 | 527.30 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* William E. Johnson.

*Government Position:* Deputy Chief, Cable Services Bureau.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 04/28–05/01/96.

9. Travel Dates: 04/28–05/01/96.

10. (a).

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $215.00 | $461.70 |
| 2. Hotel Room ... | ..... | ..... |
| 3. Meals ..... | 142.50 | ..... |
| 4. Taxi ..... | ..... | 4.96 |
| | 357.50 | 466.66 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Meredith J. Jones.

*Government position:* Chief, Cable Services Bureau.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 04/28–05/01/96.

9. Travel Dates: 04/27–05/01/96.

10. (a).

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $217.00 | $595.60 |
| 2. Hotel Room ... | ..... | ..... |
| 3. Meals ..... | 180.00 | ..... |
| 4. Taxi ..... | 98.00 | ..... |
| | 495.50 | 595.60 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Regina M. Keeney.

*Government position:* Chief, Common Carrier Bureau.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/28–05/01/96.

9. *Travel Dates:* 04/30–05/01/96.

10. (a).

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $217.00 | $153.90 |
| 2. Hotel Room ... | ..... | ..... |
| 3. Meals ..... | 42.61 | ..... |
| 4. Parking ..... | 35.50 | ..... |
| | 295.11 | 153.90 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* William E. Kennard.

*Government position:* General counsel.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/28–05/01/96.

9. *Travel Dates:* 04/30–05/02/96.

10. (a).

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $217.00 | $153.90 |
| 2. Hotel Room ... | ..... | ..... |
| 3. Meals ..... | ..... | 112.19 |
| 4. Taxi ..... | 96.00 | ..... |
| | 313.00 | 266.09 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Gary M. Laden.

*Government position:* Chief, Policy & Rules Division, Cable Services Bureau.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/28–05/01/96.

9. *Travel Dates:* 04/28–05/01/96.

10. (a).

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $621.00 |
| 2. Hotel Room ... | ..... | 461.70 |
| 3. Meals ..... | $123.50 | ..... |
| 4. Taxi ..... | 36.00 | ..... |
| 5. Telephone ..... | ..... | 150 |
| | 159.50 | 1,084.20 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* John E. Logan.

*Government position:* Deputy Chief, Cable Services Bureau.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/28–05/01/96.

9. *Travel Dates:* 04/28–30/96.

10. (a).

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $217.00 | $307.80 |
| 2. Hotel Room ... | ..... | ..... |
| 3. Meals ..... | 95.00 | 42.19 |
| 4. Telephone ..... | ..... | .75 |
| 5. Parking & Mileage ..... | 22.80 | ..... |
| | 334.80 | 350.74 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* JoAnn Lucanik.

*Government position:* Chief, Financial Analysis & Compliance Division, Cable Services Bureau.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., NW., Washington, DC 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 04/28–05/01/96.

9. *Travel Dates:* 04/28–05/01/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $570.82 |
| 2. Hotel Room ... | ..... | 461.70 |
| 3. Meals ..... | $142.50 | ..... |
| 4. Taxi & Telephone ..... | 77.50 | ..... |
| | 220.00 | 1,032.52 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* A. Richard Metzger.

*Government position:* Deputy Bureau Chief, Common Carrier Bureau.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., NW., Washington, DC 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/28–05/02/96.

9. *Travel Dates:* 04/30–05/01/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $217.00 | ..... |
| 2. Hotel Room ... | ..... | $153.90 |
| 3. Meals ..... | ..... | 16.19 |
| 4. Taxi ..... | ..... | 80.00 |
| | 217.00 | 250.09 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* John T. Nakahata.

*Government position:* Legal Advisor to Chairman Reed E. Hundt.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., NW., Washington, DC 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 04/28–05/02/96.

9. *Travel Dates:* 04/27–05/01/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $217.00 | ..... |
| 2. Hotel Room ... | ..... | $307.90 |
| 3. Meals ..... | 85.50 | 16.07 |
| 4. Parking & Mileage ..... | 30.00 | ..... |
| | 332.50 | 323.97 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Maureen A. O'Connell.

*Government position:* Legal Advisor to Commissioner James H. Quello.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., Washington, DC 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 04/28–05/02/96.

9. *Travel Dates:* 04/29–05/01/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $259.00 | ..... |
| 2. Hotel Room ... | ..... | $307.80 |
| 3. Meals ..... | 104.50 | 23.73 |
| 4. Taxi ..... | 123.00 | ..... |
| 5. Telephone ..... | ..... | 48.31 |
| | 486.50 | 379.84 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Thomas Power.

*Government position:* Assistant Division Chief, Policy & Rules Division, Cable Services Bureau.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., Washington, DC 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/28–05/02/96.

9. *Travel Dates:* 04/26–05/01/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $621.00 |
| 2. Hotel Room ... | ..... | 404.09 |
| 3. Meals ..... | $142.50 | ..... |
| 4. Taxi ..... | ..... | ..... |
| | 142.50 | 1,025.09 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Lisa B. Smith.

*Government position:* Senior Legal Advisor to Commissioner Andrew C. Barrett.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., Washington, DC 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/28–05/02/96.

9. *Travel Dates:* 04/28–05/01/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $217.00 | ..... |
| 2. Hotel Room ... | ..... | $461.70 |
| 3. Meals ..... | ..... | 33.89 |
| 4. Ground Trans. & Telephone .. | ..... | 83.75 |
| 5. Taxi ..... | 60.00 | ..... |
| | 277.00 | 579.34 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Richard M. Smith.

*Government position:* Chief, Office of Engineering & Technology.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., Washington, DC 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/28–05/02/96.

9. *Travel Dates:* 04/28–05/01/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $217.00 | ..... |
| 2. Hotel Room ... | ..... | $540.00 |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi ..... | ..... | ..... |
| | 217.00 | 540.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Suzanne K. Toller.

*Government position:* Legal Advisor to Commissioner Rachelle B. Chong.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., Washington, DC20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/28–05/02/96.

9. *Travel Dates:* 04/25–30/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $217.00 | ..... |
| 2. Hotel Room ... | ..... | $307.80 |
| 3. Meals ..... | 142.50 | ..... |
| 4. Mileage ..... | 48.00 | ..... |
| | 407.50 | 307.80 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* John P. Wong.

*Government position:* Chief, Engineering & Technical Services Division, Cable Services Bureau.

3. *Event:* NCTA 45th Annual Convention & International Exposition.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Decker Anstrom, 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.

6. *Location of Event:* Los Angeles, California.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 04/28–05/02/96.

9. *Travel Dates:* 04/28–05/01/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $217.00 | ..... |
| 2. Hotel Room ... | ..... | $461.70 |
| 3. Meals ..... | 142.50 | ..... |
| 4. Parking & Mileage ..... | 39.20 | ..... |
| | 398.70 | 461.70 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Lawrence B. Clance.

*Government position:* Assistant Bureau Chief, Law Compliance & Information Bureau.

3. *Event:* C.O.S.T. Committee Meeting.

4. *Sponsor of Event:* National Cable Television Association—NCTA.

5. *Sponsor Address:* Attn: Mr. James Allen, 1724 Massachusetts Ave., N.W., Washington, D.C. 20036.

6. *Location of Event:* Newport, Rhode Island.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 07/23/96.

9. *Travel Dates:* 07/22–05/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $305.04 | ..... |
| 2. Hotel Room ... | ..... | $461.70 |
| 3. Meals ..... | 76.00 | 56.00 |
| 4. Telephone ..... | ..... | ..... |
| | 381.04 | 517.70 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Gary M. Laden.

*Government position:* Chief, Policy & Rules Division, Cable Services Bureau.

3. *Event:* NECTA Annual Convention & Exhibition.

4. *Sponsor of Event:* New England Cable Television Association—NECTA.

5. *Sponsor Address:* Attn: Mr. William D. Durand, 100 Grandview Road, Suite 201, Braintree, MA 02184.

6. *Location of Event:* Newport, Rhode Island.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 07/24–27/95.

9. *Travel Dates:* 07/24–26/95.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $330.00 | ..... |
| 2. Hotel Room ... | ..... | $571.20 |
| 3. Meals ..... | 95.00 | ..... |
| 4. Taxi ..... | 12.00 | ..... |
| 5. Telephone | ..... | ..... |
| | 437.00 | 571.20 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Blair S. Levin.

*Government position:* Chief of Staff to Chairman Reed. E. Hundt.

3. *Event:* NECTA Annual Convention & Exhibition.

4. *Sponsor of Event:* New England Cable Television Association—NECTA.

5. *Sponsor Address:* Attn: Mr. William D. Durand, 100 Grandview Road, Suite 201, Braintree, MA 02184.

6. *Location of Event:* Newport, Rhode Island.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 07/24–27/95.

9. *Travel Dates:* 07/24–25/95.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $462.00 | ..... |
| 2. Hotel Room ... | ..... | $196.00 |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi ..... | 91.00 | ..... |
| | 553.00 | 196.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Joann Lucanik.

*Government position:* Chief, Financial Analysis & Compliance Division, Cable Services Bureau.

3. *Event:* NECTA Annual Convention & Exhibition.

4. *Sponsor of Event:* New England Cable Television Association—NECTA.

5. *Sponsor Address:* Attn: Mr. William D. Durand, 100 Grandview Road, Suite 201, Braintree, MA 02184.

6. *Location of Event:* Newport, Rhode Island.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 07/24–27/95.

9. *Travel Dates:* 07/24–26/95.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $198.00 | ..... |
| 2. Hotel Room ... | ..... | $380.80 |
| 3. Meals ..... | 104.50 | ..... |
| 4. Taxi ..... | 10.10 | ..... |
| | 312.60 | 380.80 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Meredith Jones.

*Government position:* Chief, Cable Services Bureau.

3. *Event:* NECTA Annual Convention.

4. *Sponsor of Event:* New England Cable Television Association—NECTA.

5. *Sponsor Address:* Attn: Mr. William D. Durand, 100 Grandview Road, Suite 201, Braintree, MA 02184.

6. *Location of Event:* Newport, Rhode Island.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 07/22–25/96.

9. *Travel Dates:* 07/22–24/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $635.00 | ..... |
| 2. Hotel Room ... | 403.20 | ..... |
| 3. Meals ..... | 95.00 | ..... |
| 4. Taxi ..... | 25.50 | ..... |
| | 1158.70 | ..... |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Charles W. Kelley.

*Government position:* Chief, Enforcement Division, Mass Media Bureau.

3. *Event:* NJBA 50th Anniversary Convention.

4. *Sponsor of Event:* New Jersey Broadcasters Association—NJBA.

5. *Sponsor Address:* Attn: Mr. Philip H. Roberts, 7 Centre Drive, Suite One, Jamesburg, NJ 08831.

6. *Location of Event:* Atlantic City, New Jersey.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 06/03–05/96.

9. *Travel Dates:* 06/03–04/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $80.70 |
| 2. Hotel Room ... | ..... | 124.00 |
| 3. Meals ..... | $66.50 | ..... |
| 4. Incidentals ..... | ..... | ..... |
| | 66.50 | 204.70 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Roy J. Stewart.

*Government position:* Chief, Mass Media Bureau.

3. *Event:* NJBA 50th Anniversary Convention.

4. *Sponsor of Event:* New Jersey Broadcasters Association—NJBA.

5. *Sponsor Address:* Attn: Mr. Philip H. Roberts, 7 Centre Drive, Suite One, Jamesburg, NJ 08831.

6. *Location of Event:* Atlantic City, New Jersey.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 06/03–05/96.

9. *Travel Dates:* 06/03–04/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $80.70 |
| 2. Hotel Room ... | ..... | 124.00 |
| 3. Meals ..... | $66.50 | ..... |
| 4. Taxi ..... | ..... | ..... |
| | 66.50 | 204.70 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Roy J. Stewart.

*Government position:* Chief, Mass Media Bureau.

3. *Event:* NMBA Annual Convention.

4. *Sponsor of Event:* New Mexico Broadcasters Association—NMBA.

5. *Sponsor Address:* Attn: Mr. Milt McConnell, 3232 San Mateo NE, Suite 55, Albuquerque, NM 87110–1924.

6. *Location of Event:* Albuquerque, New Mexico.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 05/02–04/96.

9. *Travel Dates:* 05/02–06/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $289.00 | $210.00 |
| 2. Hotel Room ... | | |
| 3. Meals ..... | 153.00 | |
| 4. Mileage & Parking ..... | 52.00 | |
| | 494.00 | 210.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Leo E. Cirbo.

*Government position:* District Director, Denver Compliance & Information Bureau.

3. *Event:* NMBA Annual Convention.

4. *Sponsor of Event:* New Mexico Broadcasters Association—NMBA.

5. *Sponsor Address:* Attn: Mr. Milt McConnell, 3232 San Mateo NE, Suite 55, Albuquerque, NM 87110–1924.

6. *Location of Event:* Albuquerque, New Mexico.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 05/02–04/96.

9. *Travel Dates:* 05/01–04/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | ..... |
| 2. Hotel Room ... | ..... | $345.00 |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi ..... | ..... | ..... |
| | ..... | 345.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Mark N. Nadel.

*Government position:* Attorney, Common Carrier Bureau.

3. *Event:* NORTEL's Operator Services Forum Exchange '96.

4. *Sponsor of Event:* Northern Telecom—NORTEL.

5. *Sponsor Address:* Attn: Marty Lawler, 97 Humboldt Street, Rochester, NY 14609–7493.

6. *Location of Event:* LaJolla, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/23/96.

9. *Travel Dates:* 04/22–24/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $1,344.00 |
| 2. Hotel Room ... | 142.55 | ..... |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi ..... | 26.00 | ..... |
| | 168.55 | 1,344.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Roy J. Stewart.

*Government position:* Chief, Mass Media Bureau.

3. *Event:* NYSBA Summer Executive Conference.

4. *Sponsor of Event:* New York State Broadcasters Association—NYSBA.

5. *Sponsor Address:* 115 A Great Oaks Blvd., Albany, NY 12203.

6. *Location of Event:* Saratoga Springs, New York.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 07/23–25/95.

9. *Travel Dates:* 7/23–25/95.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $276.00 | ..... |

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 2. Hotel Room ... | 154.00 | ..... |
| 3. Meals ..... | ..... | ..... |
| | [1] 430.00 | ..... |

[1] These figures were inadverently omitted in the last report.

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Roy J. Stewart.
*Government position:* Chief, Mass Media Bureau.
3. *Event:* NYSBA 35th Executive, Conference.
4. *Sponsor of Event:* New York State, Broadcasters, Association—NYSBA.
5. *Sponsor Address:* Attn: Mr. Joseph A. Reilly, 115 A Great Oaks Boulevard, Albany, NY 12203.
6. *Location of Event:* Rye Brook, New York,
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 07/16/96.
9. *Travel Dates:* 7/15–16/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $116.00 | ..... |
| 2. Hotel Room ... | ..... | $104.00 |
| 3. Meals ..... | 57.0 | |
| 4. Taxi & Mileage ..... | 20.20 | ..... |
| | 193.20 | 104.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Robert M. Pepper.
*Government position:* Chief, Office of Plans & Policy.
3. *Event:* OAB Annual Fall Convention.
4. *Sponsor of Event:* Ohio Association of Broadcasters—OAB.
5. *Sponsor Address:* Attn: Dale V. Bring, 88 East Broad Street, Suite 1180, Columbus, OH 43215.
6. *Location of Event:* Columbus, Ohio.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 10/19–21/95.
9. *Travel Dates:* 10/20/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $254.00 | ..... |

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 2. Hotel Room ... | ..... | ..... |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi ..... | 49.00 | ..... |
| | 303.00 | ..... |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Mark A. Corbitt.
*Government position:* Telecommunication Policy Analyst, Office of Plans & Policy.
3. *Event:* ONE ISPCON Conference.
4. *Sponsor of Event:* ONE Inc.
5. *Sponsor Address:* Attn: Mr. Brian Noto, 8500 W. Bowles Avenue, Suite 210, Littleton, CO 80123.
6. *Location of Event:* San Francisco, California.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 04/28–05/01/96.
9. *Travel Dates:* 04/29–05/03/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $1,591.00 |
| 2. Hotel Room ... | ..... | 342.00 |
| 3. Meals ..... | ..... | 133.00 |
| 4. Grd. Transportation ..... | ..... | ..... |
| | ..... | 2,066.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Robert M. Pepper.
*Government Position:* Chief, Office of Plans & Policy.
3. *Event:* International Symposium on Mobile Communications.
4. *Sponsor of Event:* Osaka International Trade Fair Commission.
5. *Sponsor Address:* Attn: Takeshi Otani, Secretariat for the International Symposium on Mobile Communications, c/o Inter Group Corporation, Builco Building 5F, 3–7–3, Nakatsu, Kita-ku, Osaka 531, Japan.
6. *Location of Event:* Osaka City, Japan.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 09/22/95.
9. *Travel Dates:* 09/18–23/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $4,386.95 |
| 2. Hotel Room ... | ..... | 855.00 |
| 3. Meals ..... | $11.50 | 870.00 |
| 4. Taxi ..... | 97.00 | ..... |
| | 108.50 | 5,341.95 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Evan R. Kwerel.
*Government position:* Senior Economist, Office of Plans & Policy.
3. *Event:* FITEL Workshop.
4. *Sponsor of Event:* Rural Telecommunications Investment Fund—FITEL.
5. *Sponsor Address:* Attn: Jose Escaffi Kahatti, C.C. Camino Real Torre, ''El Pilar'' Oficina 1302, San Isidro, Lima 27. Peru.
6. *Location of Event:* Lima, Peru.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 05/22–27/96.
9. *Travel Dates:* 05/25–29/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $1,309.95 |
| 2. Hotel Room ... | ..... | 648.00 |
| 3. Meals ..... | ..... | 360.00 |
| 4. Taxi ..... | ..... | ..... |
| | ..... | 2,317.95 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Richard M. Smith.
*Government position:* Chief, Office of Engineering & Technology.
3. *Event:* PCS '95 Showcase.
4. *Sponsor of Event:* Personal Communications Industry Association—PCIA.
5. *Sponsor Address:* Attn: Mr. Mark J. Golden, 1019 19th Street, N.W., Suite 1100, Washington, D.C. 20036–5105.
6. *Location of Event:* Orlando, Florida.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 09/21–23/95.
9. *Travel Dates:* 09/20–23/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $466.00 | ..... |

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 2. Hotel Room ... | ..... | $304.50 |
| 3. Meals ..... | 105.00 | ..... |
| 4. Taxi ..... | 59.00 | ..... |
| | 630.00 | 304.50 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Martin L. Stern.

*Government position:* Deputy Chief, Competition Division, Office of General Counsel.

3. *Event:* Telcom Act.

4. *Sponsor of Event:* Preston Gates Ellis & Rouvelas Meeds.

5. *Sponsor Address:* Attn: Mr. Greg McCarthy, Suite 500, 1735 New York Avenue, N.W., Washington, D.C. 20006–4759.

6. *Location of Event:* Seattle, Washington.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 04/29/96.

9. *Travel Dates:* 04/28–30/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $1,504.99 |
| 2. Hotel Room ... | ..... | 256.00 |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi ..... | 20.00 | ..... |
| | 20.00 | 1,760.99 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Martin Stern.

*Government position:* Deputy Chief, Competition Division, General Counsel Bureau.

3. *Event:* EMC Global Round Table.

4. *Sponsor of Event:* Prince Waterhouse LLP.

5. *Sponsor Address:* Attn: Ms. Jennifer Taylor, 555 California Street, San Francisco, CA 94104.

6. *Location of Event:* Beverly Hills, California.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 06/11–12/96.

9. *Travel Dates:* 06/11–12/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $1,244.52 |
| 2. Hotel Room ... | ..... | 235.00 |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi ..... | $92.00 | ..... |
| | 92.00 | 1,479.52 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Richard B. Engelman.

*Government position:* Chief, Technical Rules Branch, Office of Engineering & Technology.

3. *Event:* FPLMTS International Seminar.

4. *Sponsor of Event:* Korea Radio Promotion Association—RAPA.

5. *Sponsor Address:* Attn: Dr. Kyu-Jin Wee, Chief, Radio Wave Section, Ministry of Information & Communication, 901 Hogye Anyang 430–082, Republic of Korea.

6. *Location of Event:* Seoul, Korea.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 08/31–09/02/95.

9. *Travel Dates:* 08/30–09/03/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $452.00 | ..... |
| 2. Hotel Room ... | 221.32 | ..... |
| 3. Meals ..... | 211.55 | $105.00 |
| 4. Taxi ..... | ..... | 50.00 |
| 5. Departure Fees ..... | 11.70 | ..... |
| | 896.57 | 155.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Donald H. Gips.

*Government position:* Deputy Chief, Office of Plans & Policy.

3. *Event:* Internet World Conference.

4. *Sponsor of Event:* Sapient Corporation.

5. *Sponsor Address:* Attn: J. Stuart Moore, One Memorial Drive, Cambridge, MA 02142.

6. *Location of Event:* Cambridge, Massachusetts.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 10/30/95.

9. *Travel Dates:* 10/30–31/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $546.50 |
| 2. Hotel Room ... | ..... | 101.00 |
| 3. Meals ..... | ..... | 38.00 |
| 4. Taxi ..... | $53.00 | ..... |
| | 53.00 | 685.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Mark A. Grannis.

*Government position:* Attorney Advisor, International Bureau.

3. *Event:* SBCA's Satellite Show.

4. *Sponsor of Event:* Satellite Broadcasting & Communication, Association—SBCA.

5. *Sponsor Address:* Attn: Andres R. Paul, 225 Reinekers Lane, Suite 600, Alexandria, VA 22314.

6. *Location of Event:* Nashville, Tennessee.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 08/16–19/95.

9. *Travel Dates:* 08/18/95.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $426.00 | ..... |
| 2. Hotel Room ... | ..... | $118.00 |
| 3. Meals ..... | ..... | 12.00 |
| 4. Taxi ..... | ..... | |
| 5. Telephone ..... | ..... | ..... |
| | 426.00 | 130.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Jonathan D. Levy.

*Government position:* Economist, Office of Plans & Policy.

3. *Event:* SBCA's 95 Satellite Show.

4. *Sponsor of Event:* Satellite Broadcasting & Communications Association—SBCA.

5. *Sponsor Address:* Attn: Mr. Andrew R. Paul, 225 Reinekers Lane, Suite 600, Alexandria, VA 22314.

6. *Location of Event:* Nashville, Tennessee.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 08/16–19/95.

9. *Travel Dates:* 08/15/95.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $426.00 | ..... |
| 2. Hotel Room ... | ..... | $354.00 |
| 3. Meals ..... | 105.00 | ..... |
| 4. Taxi ..... | 36.00 | ..... |
| 5. Telephone ..... | 18.80 | ..... |
| | 585.80 | 354.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Roderick K. Porter.

Government position: Deputy Chief, International Bureau.

3. *Event:* SBCA's 95 Satellite Show.

4. *Sponsor of Event:* Satellite Broadcasting & Communications Association—SBCA.

5. *Sponsor Address:* Attn: Mr. Andrew R. Paul, 225 Reinekers Lane, Suite 600, Alexandria, VA 22314.

6. *Location of Event:* Nashville, Tennessee.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 08/16–19/95.

9. *Travel Dates:* 08/15–17/95.

10. (a)

| Nature of benefit: | (c) Type & amount of Payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $357.00 | 236.00 |
| 2. Hotel Room ... | ..... | ..... |
| 3. Meals ..... | ..... | ..... |
| . Taxi ..... | ..... | ..... |
| | 357.00 | 236.00 |

(b) *Non-Fed Sources:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Thomas Tycz.

*Government position:* Chief, Satellite & Radio Communications Division, International Bureau.

3. *Event:* SBCA Trade Show.

4. *Sponsor of Event:* Satellite Broadcasting & Communications Association—SBCA.

5. *Sponsor Address:* Attn: Mr. Andrew R. Paul, 225 Reinekers Lane, Suite 600, Alexandria, VA 22314.

6. *Location of Event:* Las Vegas, Nevada.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 03/04–06/96.

9. *Travel Dates:* 03/04–07/96.

10. (a)

| Nature of benefit: | (c) Type & amount of Payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $114.00 | $382.85 |
| 2. Hotel Room ... | ..... | 248.40 |
| 3. Meals ..... | ..... | ..... |
| 4. Mileage & Taxi ..... | 63.70 | ..... |
| | 177.70 | 631.25 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Y. Paulette Laden.

*Government position:* Chief, Equal Employment Opportunity Branch, Mass Media Bureau.

3. *Event:* 48th Annual SCBA Summer Convention.

4. *Sponsor of Event:* South Carolina Broadcasters Associaton—SCBA.

5. *Sponsor Address:* Attn: Bonnie Hite, University of South Carolina, College of Journalism, Columbia, SC 29208.

6. *Location of Event:* Litchfield Beach, South Carolina.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 07/06–09/95.

9. *Travel Dates:* 07/06–09/95.

10. (a)

| Nature of benefit: | (c) Type & amount of Payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $639.00 | $297.00 |
| 2. Hotel Room ... | ..... | ..... |
| 3. Meals ..... | ..... | 90.00 |
| 4. Taxi ..... | ..... | ..... |
| | 639.00 | 387.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Thomas Power.

*Government position:* Attorney, Cable Services Bureau.

3. *Event:* Eastern Show Annual Convention.

4. *Sponsor of Event:* Southern Cable Television Association—SCTA.

5. *Sponsor Address:* Attn: Ms. Patti Hall, 6175 Barfield Road, Suite 220, Altanta, GA 30328.

6. *Location of Event:* Atlanta, Georgia.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 08/28–30/95.

9. *Travel Dates:* 08/27–29/95.

10. (a)

| Nature of benefit: | (c) Type & amount of Payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $373.00 | $226.00 |
| 2. Hotel Room ... | ..... | ..... |
| 3. Meals ..... | 85.50 | ..... |
| 4. Telephone ..... | 36.19 | ..... |
| | 494.69 | 226.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Lisa B. Smith.

*Government position:* Senior Legal Advisor to Commissioner Andrew C. Barrett.

3. *Event:* Eastern Show Annual Convention.

4. *Sponsor of Event:* Southern Cable Television Association—SCTA.

5. *Sponsor Address:* Attn: Ms. Patti Hall, 6175 Barfield Road, Suite 220, Atlanta, GA 30328.

6. *Location of Event:* Atlanta, Georgia.

7. *Employee's Role:* Panelist.

8. *Dates of Event:* 08/28–30/95.

9. *Travel Dates:* 08/29–30/95.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $415.00 | |
| 2. Hotel Room ... | | $113.00 |
| 3. Meals ..... | 57.00 | |
| 4. Taxi ..... | 102.00 | |
| | 574.00 | 113.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* John P. Wong.
*Government position:* Chief, Engineering & Technical Services Division, Cable Services Bureau.
3. *Event:* Atlantic Cable Show.
4. *Sponsor of Event:* Society Cable Telecommunications Engineers—SCTE.
5. *Sponsor Address:* Attn: Mr. William W. Riker, 669 Exton Commons, Exton, PA 19341–2401.
6. *Location of Event:* Atlantic City, New Jersey.
7. *Employee's Role:* Speaker.
8. *Date of Event:* 10/11/95.
9. *Travel Dates:* 10/10–11/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $138.60 | |
| 2. Hotel Room ... | | $105.00 |
| 3. Meals ..... | 66.50 | |
| 4. Tolls ..... | 14.40 | |
| | 219.50 | 105.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Timothy A. Peterson.
*Government position:* Attorney, Common Carrier Bureau.
3. *Event:* Committee Meeting.
4. *Sponsor of Event:* Southeastern Electric Exchange—SEE.
5. *Sponsor Address:* Attn: Mr. Paul Blount, P.O. Box 2021, Roanoke, VA 24022–2121.
6. *Location of Event:* Atlanta, Georgia.
7. *Employee's Role:* Speaker.
8. *Date of Event:* 09/11/95.
9. *Travel Dates:* 09/08–11/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $415.00 | |
| 2. Hotel Room ... | | $435.00 |
| 3. Meals ..... | | 168.00 |
| 4. Car Rental ..... | 88.99 | |
| | 503.99 | 603.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Roy J. Stewart.
*Government position:* Chief, Mass Media Bureau.
3. *Event:* TAB's 42nd Annual Convention.
4. *Sponsor of Event:* Texas Association of Broadcasters—TAB.
5. *Sponsor Address:* Attn: Ms. Ann Arnold, 1907 N. Lamar, Suite 300, Austin, TX 78705.
6. *Location of Event:* San Antonio, Texas.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 09/30–10/01/95.
9. *Travel Dates:* 09/29–30/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $153.00 | |
| 2. Hotel Room ... | | $258.00 |
| 3. Meals ..... | 59.50 | |
| 4. Taxi & Telephone ..... | 16.89 | |
| | 229.39 | 258.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Frank M. Lucia.
*Government Position:* Acting Chief, Emergency Communications, Compliance & Information Bureau.
3. *Event:* TAB's 42nd Annual Convention.
4. *Sponsor of Event:* Texas Association of Broadcasters—TAB.
5. *Sponsor Address:* Attn: Ms. Ann Arnold, 1907 N. Lamar, Suite 300, Austin, TX 78705.
6. *Location of Event:* San Antonio, Texas.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 09/30–10/01/95.
9. *Travel Dates:* 09/30–10/01/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $286.00 | ..... |
| 2. Hotel Room ... | 77.00 | ..... |
| 3. Meals ..... | 59.50 | ..... |
| 4. Taxi ..... | 20.00 | ..... |
| 5. Mileage & Parking ..... | 43.50 | ..... |
| | 486.00 | ..... |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Joseph V. Farrell.
*Government Position:* Chief Economist, Office of Plans & Policy.
3. *Event:* Dialing The Net Conference.
4. *Sponsor of Event:* Tarifica.
5. *Sponsor Address:* Attn: Mr. Tim Jackson, 419 Seale Street, Palo Alto, CA 940301–3828.
6. *Location of Event:* London, England.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 04/18–19/96.
9. *Travel Dates:* 04/17–22/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $418.00 |
| 2. Hotel Room ... | ..... | 302.00 |
| 3. Meals ..... | ..... | 261.00 |
| 4. Taxi ..... | ..... | ..... |
| | ..... | 981.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Meredith J. Jones.
*Government Position:* Chief, Cable Services.
3. *Event:* Texas Show '96.
4. *Sponsor of Event:* Texas Cable Television Association—TCTA.
5. *Sponsor Address:* Attn: Mr. William D. Arnold, P.O. Box 13518, Austin, TX 78701.
6. *Location of Event:* San Antonio, Texas.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 02/21–23/96.
9. *Travel Dates:* 02/21–22/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $934.46 |

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 2. Hotel Room ... | ..... | 114.00 |
| 3. Meals ..... | $59.50 | ..... |
| 4. Telephone ..... | 30.11 | ..... |
| | 89.61 | 1048.46 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Roy J. Stewart.
*Government Position:* Chief, Mass Media Bureau.
3. *Event:* TAB Convention.
4. *Sponsor of Event:* Tennessee Association Broadcasters—TAB.
5. *Sponsor Address:* Attn: Whit Adamson, P.O. Box 101015, Nashville, TN 37224–1015.
6. *Location of Event:* Nashville, Tennessee.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 10/02/95.
9. *Travel Dates:* 10/01–02/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $305.00 | ..... |
| 2. Hotel Room ... | 60.00 | ..... |
| 3. Meals ..... | 60.00 | ..... |
| 4. Taxi ..... | 34.00 | ..... |
| | 459.00 | ..... |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Elliot Maxwell.
*Government position:* Deputy Chief, Office of Plans & Policy.
3. *Event:* Telecommunications Universal Service Symposium.
4. *Sponsor of Event:* Telecommunications Users Association New Zealand—TUANZ.
5. *Sponsor Address:* Attn: Mr. Grant Forsyth, Ground Floor BSW Plaza, 157 Hurstmere Road, P.O. Box 33–1014, Takapuna Auckland, New Zealand.
6. *Location of Event:* Wellington, New Zealand.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 07/01–03/96.
9. *Travel Dates:* 06/29–07/03/96.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $1548.95 |
| 2. Hotel Room ... | ..... | 369.00 |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi ..... | ..... | ..... |
| | ..... | 1917.95 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* James W. Olson.
*Government position:* Chief, Competition Division, Office of General Counsel.
3. *Event:* Legal Issues Affecting the Media Business—Showcase.
4. *Sponsor of Event:* UIA Congress of London.
5. *Sponsor Address:* Attn: Christopher Jackson, Beaufort House, 15 St. Botolph Street, London EC3A 7EE.
6. *Location of Event:* London, England.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 09/04/95.
9. *Travel Dates:* 9/02–06/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $984.45 | ..... |
| 2. Hotel Room ... | ..... | 312.00 |
| 3. Meals ..... | ..... | ..... |
| 4. Taxi ..... | ..... | ..... |
| | 984.45 | 312.00 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Fatina K. Franklin.
*Government Position:* Chief, Depreciation Rates Branch, Common Carrier Bureau.
3. *Event:* 1995 USTA Capital.
4. *Sponsor of Event:* United States Telephone Association—USTA.
5. *Sponsor Address:* 1401 H Street, N.W., Suite 600, Washington, D.C. 20005.
6. *Location of Event:* Chicago, Illinois.
7. *Employee's Role:* Panelist.
8. *Dates of Event:* 10/19–20/95.
9. *Travel Dates:* 10/19–20/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $122.00 | ..... |
| 2. Hotel Room ... | ..... | 166.61 |
| 3. Meals ..... | 76.00 | ..... |
| 4. Taxi ..... | 67.90 | ..... |
| | 265.90 | 166.61 |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Ira R. Keltz.
*Government position:* Electronics Engineer, Wireless Telecommunications Bureau.
3. *Event:* Seminar on Private Land Mobile Refarming.
4. *Sponsor of Event:* UTC.
5. *Sponsor Address:* Attn: Mr. Jeffrey L. Sheldon, 1140 Connecticut Avenue, N.W., Suite 1140, Washington, D.C. 20036.
6. *Location of Event:* Minneapolis, Minnesota.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 07/30/95.
9. *Travel Dates:* 07/30/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $516.00 | ..... |
| 2. Hotel Room ... | 96.00 | ..... |
| 3. Meals ..... | 51.00 | ..... |
| 4. Taxi ..... | 22.00 | ..... |
| 5. Parking & Mileage ..... | 36.00 | ..... |
| | 721.00 | ..... |

(b) *Non-Fed Source:* Same as No. 4.
1. *Agency:* Federal Communications Commission.
2. *Employee:* Laurence D. Atlas.
*Government position:* Associate Bureau Chief, Wireless Telecommunications Bureau.
3. *Event:* UTC Annual Conference & Exhibition.
4. *Sponsor of Event:* UTC.
5. *Sponsor Address:* Attn: Mr. Coleman J. Kane, 1140 Connecticut Avenue, N.W., Suite 1140, Washington, D.C. 20036.
6. *Location of Event:* Minneapolis, Minnesota.
7. *Employee's Role:* Speaker.
8. *Dates of Event:* 08/04/95.
9. *Travel Dates:* 08/03–04/95.
10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $364.00 | ..... |
| 2. Hotel Room ... | ..... | $127.15 |
| 3. Meals ..... | ..... | 34.00 |
| 4. Taxi ..... | 65.00 | ..... |
| | 429.00 | 161.15 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* James D. Schlicting.

*Government position:* Chief, Competitive Pricing Division, Common Carrier Bureau.

3. *Event:* 1996 VTIA Annual Meeting.

4. *Sponsor of Event:* Virginia Telecommunications Industry Association—VTIA.

5. *Sponsor Address:* Attn: Mr. Ralph L. Frye, 11 South 12th Street, Suite 310, Richmond, VA 23219.

6. *Location of Event:* Hot Springs, Virginia.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 05/15–17/96.

9. *Travel Dates:* 05/16–18/96.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | $130.50 | ..... |
| 2. Hotel Room ... | ..... | $462.64 |
| 3. Meals ..... | ..... | 287.34 |
| 4. Parking ..... | ..... | ..... |
| | 130.50 | 750.00 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* James H. Quello.

*Government position:* Commissioner.

3. *Event:* WEC's Luncheon Program.

4. *Sponsor of Event:* Women's Economic Club—WEC.

5. *Sponsor Address:*Attn: Gerry Barrons, 155 W. Congress, Suite 310, Detroit, MI 48226.

6. *Location of Event:* Detroit, Michigan.

7. *Employee's Role:* Moderator.

8. *Dates of Event:* 03/19/96.

9. *Travel Dates:* 03/16–19/96

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $229.00 |
| 2. Hotel Room ... | ..... | 75.56 |
| 3. Meals ..... | $66.50 | ..... |
| 4. Parking & Taxi ..... | 41.50 | ..... |
| 5. Telephone ..... | 9.79 | ..... |
| | 117.79 | 304.56 |

(b) *Non-Fed Source:* Same as No. 4.

1. *Agency:* Federal Communications Commission.

2. *Employee:* Gerald P. Vaughan.

*Government position:* Associate Bureau Chief, Wireless Telecommunications Bureau.

3. *Event:* Workshop On Spectrum Auctions.

4. *Sponsor of Event:* World Bank.

5. *Sponsor Address:* Attn: Ms. Sandra Vivas, 1776 G Street, N.W., Room 4031, Washington, D.C. 20433.

6. *Location of Event:* Mexico City, Mexico.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 05/22/95.

9. *Travel Dates:* 05/21–23/95

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $631.95 |
| 2. Hotel Room ... | $357.60 | ..... |
| 3. Meals ..... | 173.25 | ..... |
| 4. Mileage, Parking & Taxi ..... | 72.80 | ..... |
| | 603.65 | 631.95 |

(b) *Non-Fed Source:* Same as No. 4

1. *Agency:* Federal Communications Commission.

2. *Employee:* Karen Werge.

*Government position:* Auctions Automation Specialist, Wireless Telecommunications Bureau.

3. *Event:* Workshop On Spectrum Auctions.

4. *Sponsor of Event:* World Bank.

5. *Sponsor Address:* Attn: Ms. Sandra Vivas, 1776 G Street, N.W., Room 4031, Washington, D.C. 20433.

6. *Location of Event:* Mexico City, Mexico.

7. *Employee's Role:* Speaker.

8. *Dates of Event:* 05/22/95.

9. *Travel Dates:* 05/21–23/95.

10. (a)

| Nature of benefit | (c) Type & amount of payment | |
|---|---|---|
| | Check | In kind |
| 1. Roundtrip Transportation | ..... | $631.95 |
| 2. Hotel Room ... | $357.60 | ..... |
| 3. Meals ..... | 173.25 | ..... |
| 4. Mileage ..... | 24.00 | ..... |
| | 554.85 | 631.95 |

(b) *Non-Fed Source:* Same as No. 4.

Federal Communications Commission

William F. Caton,

*Acting Secretary.*

[FR Doc. 97–6173 Filed 3–12–97; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice of a Matter to Be Added To the Agenda for Consideration at an Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the following matter will be added to the ''discussion agenda'' for consideration at the open meeting of the Board of Directors of the Federal Deposit Insurance Corporation scheduled to be held at 10:00 a.m. on Tuesday, March 11, 1997, in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.:

Memorandum and resolution re:
Proposed Rule Regarding Part 369—Prohibition Against Using Interstate Branches Primarily for Deposit Production

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Deputy Executive Secretary of the Corporation, at (202) 898–6757.

Dated: March 10, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

*Deputy Executive Secretary.*

[FR Doc. 97–6459 Filed 3–10–97; 4:56 pm]

**BILLING CODE 6714–01–M**

## AGENCY FEDERAL ELECTION COMMISSION

### Sunshine Act Meeting

*Tuesday, March 18, 1997 at 10:00 a.m.*

**PLACE:** 999 E Street, N.W., Washington, D.C.

**STATUS:** This meeting will be closed to the public.

**ITEMS TO BE DISCUSSED:**

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

* * * * *

*Thursday, March 20, 1997 at 10:00 a.m.*

**PLACE:** 999 E Street, N.W., Washington, D.C. (ninth floor).

**STATUS:** This meeting will be open to the public.

**ITEMS TO BE DISCUSSED:**

Correction and Approval of Minutes.
Independent and Coordinated Expenditures by Party Committees—Notice of Proposed Rulemaking (11 C.F.R. § 100.7, § 100.23, § 104.4, § 109.1, § 110.1, § 110.2, § 110.7, and § 110.11).
Administrative Matters.

**PERSON TO CONTACT FOR INFORMATION:**
Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Marjorie W. Emmons,

*Secretary of the Commission.*

[FR Doc. 97–6472 Filed 3–11–97; 10:47 am]

**BILLING CODE: 6715–01–M**

## FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

### Interagency Policy Statement Regarding Disclosure of Statutory Enforcement Actions

**AGENCIES:** Office of the Comptroller of the Currency (OCC); Board of Governors of the Federal Reserve System (FRB); Federal Deposit Insurance Corporation (FDIC); Office of Thrift Supervision (OTS); National Credit Union Administration (NCUA).

**ACTION:** Withdrawal of statement of policy.

**SUMMARY:** The OCC, FRB, FDIC, OTS and NCUA (the Agencies) are withdrawing their joint statement of policy entitled ''Disclosure of Statutory Enforcement Actions'' (the Statement), set forth at 45 FR 6648 (January 29, 1980), on the ground that it is obsolete.

**EFFECTIVE DATE:** The removal of the Statement of Policy is effective March 13, 1997.

**FOR FURTHER INFORMATION CONTACT:**

*OCC:* Daniel P. Stipano (202/874–4800), Director, Enforcement and Compliance Division, 250 E Street, SW., Washington, DC 20219
*FRB:* Ann Marie Kohlligian (202/452–3528), Senior Counsel, 20th & C Street, NW., Washington, DC 20551
*FDIC:* Andrea Gribble (202/736–3047), Senior Counsel, 550 l7th Street, NW., Washington, DC 20429
*OTS:* Richard C. Stearns (202/906–7966), Deputy Chief Counsel for Enforcement, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552
*NCUA:* John Ianno (703/518–6540), Trial Attorney, 1775 Duke Street, Alexandria, VA 22314–3428.

**SUPPLEMENTARY INFORMATION:** The Statement of Policy set forth the circumstances in which each of the Agencies would disclose to the public information concerning or relating to statutory enforcement proceedings brought against regulated institutions or other persons subject to the Agencies' enforcement authority. The statement has become obsolete. The statement was superseded by Section 913 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), 12 U.S.C. 1818(u) (1989), which took effect on August 9, 1989. Section 913 establishes statutory standards for the public disclosure of enforcement actions by the Agencies.

**AGENCIES ACTION:** The Agencies hereby withdraw the Statement.

Dated at Washington, DC, this 10th day of March, 1997.

Federal Financial Institutions Examination Council

Keith J. Todd,

*Assistant Executive Secretary.*

[FR Doc. 97–6401 Filed 3–12–97; 8:45 am]

**BILLING CODES 6210–01–P, 6720–01–P, 6714–01–P, 4810–33–P, 7535–01–P**

## FEDERAL MARITIME COMMISSION

### Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

J & M International, Inc., 7020 S. Yale, Suite 207, Tulsa, OK 74136–5744
Officers: Joseph D. Fain, President; Tom K. Murray, Vice President
United Shipping Inc., 28 E Jackson Blvd. Suite #1103, Chicago, IL 60604
Officer: Mohamed M. Elafifi, President

Dated: March 7, 1997.

Joseph C. Polking,

*Secretary.*

[FR Doc. 97–6270 Filed 3–12–97; 8:45 am]

**BILLING CODE 6730–01–M**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 27, 1997.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

*1. Lawrence D. and Debra D. Johnson*, both of Carnegie, Oklahoma; to acquire an additional .97 percent, for a total of 25.90 percent, of the voting shares of The Farmers Bancapital Corporation, Carnegie, Oklahoma, and thereby indirectly acquire The Farmers Bank, Carnegie, Oklahoma.

Board of Governors of the Federal Reserve System, March 7, 1997.

Jennifer J. Johnson,

*Deputy Secretary of the Board.*

[FR Doc. 97–6304 Filed 3-12-97; 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. 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 April 7, 1997.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

*1. First Virginia Banks, Inc.*, Falls Church, Virginia to merge with Premier Bankshares Corporation, Bluefield, Virginia, and thereby indirectly acquire Premier Bank, N.A., Tazewell, Virginia; Premier Bank-South, National Association, Wytheville, Virginia; and Premier Bank-Central, N.A., Honaker, Virginia.

In connection with this application, Applicant also has applied to acquire Premier Trust Company, Bluefield, Virginia, and thereby engage in activities that may be performed by a trust company (including activities of a fiduciary, agency, or custodial nature), in the manner authorized by federal or state law, pursuant to § 225.25(b)(3) of the Board's Regulation Y.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

*1. Bando McGlocklin Capital Corporation*, Pewaukee, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Investors Bank, Pewaukee, Wisconsin *a de novo bank*.

In connection with this application, Applicant has also retain to acquire Bando McGlocklin Small Business Lending Company and Bando McGlocklin Investment Corporation, Pewaukee, Wisconsin, and thereby continue to engage in the activities permitted by § 225.25(b)(1) of the Board's Regulation Y.

C. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

*1. Conrad Company*, Minneapolis, Minnesota; to acquire up to 62 percent of voting shares of National Mercantile Bancorp, Los Angeles, California, and thereby indirectly acquire Mercantile National Bank, Los Angeles, California.

D. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105-1579:

*1. Citizens Bancorp*, Corvallis, Oregon; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens Bank, Corvallis, Oregon.

Board of Governors of the Federal Reserve System, March 7, 1997.

Jennifer J. Johnson,

*Deputy Secretary of the Board.*

[FR Doc. 97–6303 Filed 3-12-97; 8:45 am]

BILLING CODE 6210-01-F

## Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

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 March 27, 1997.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

*1. Barnett Banks, Inc.*, Jacksonville, Florida; Crestar Financial Corporation, Richmond, Virginia; First Union Corporation, Charlotte, North Carolina; NationsBank Corporation, Charlotte, North Carolina; Southern National Corporation, Winston-Salem, North Carolina; and Wachovia Corporation, Winston-Salem, North Carolina; to acquire HONOR Technologies, Inc., Maitland, Florida, and thereby engage, directly and indirectly in certain data processing and electronic funds transfer services, pursuant to § 225.25(b)(7) of the Board's Regulation Y. These activities will be conducted throughout the United States and in certain foreign countries.

In connection with this application, HONOR Technologies, Inc., also proposes to acquire 9.1 percent of the voting shares of Card Alert Services, Inc., Arlington, Virginia, and thereby engage in providing debit card securities services, pursuant to § 225.25(b)(7) of the Board's Regulation Y.

B. Federal Reserve Bank of Cleveland (R. Chris Moore, Senior Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

*1. Banc One Corporation*, Columbus, Ohio; to acquire First USA, Inc., Dallas, Texas, and thereby indirectly acquire First USA Bank, Wilmington, Delaware, and thereby engage in issuing and making revolving extensions of credit, pursuant to consumer credit cards and in conducting activities incidental to its credit card business, pursuant to § 225.25(b)(1) of the Board's Regulation Y; First USA Financial Services, Inc., Murray, Utah, and thereby engage in issuing and making extensions of credit, pursuant to commercial credit cards that it issues to business, governmental units, and other entities, pursuant to §§ 225.25(b)(1) and (b)(2) of the Board's Regulation Y; PHH/Paymentech LLC, Dallas, Texas, and thereby engage in a joint venture through Paymentech Fleet Services, Inc., with PHH Vehicle Management Services, Corp, and thereby engage in providing credit card marketing, transaction processing, and other services to organizations that operate fleets of vehicles, including offering a private label credit card that is given to drivers of fleet vehicles for use in paying for services provided by vendors, pursuant to § 225.25(b)(1) of

the Board's Regulation Y; First USA Federal Savings Bank, Wilmington, Delaware, and thereby engage in operating a federally chartered savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y; First USA Merchant Services, Inc., Dallas, Texas, and thereby engage in processing credit and debit card transactions for merchants directly and indirectly through financial institutions and independent sales organizations, pursuant to §§ 225.25(b)(1) and (b)(7) of the Board's Regulation Y; First USA Technology, Inc., Dallas, Texas, and thereby engage in serving as licensor for software provided to merchants in connection with First USA Merchant Services, Inc., and credit and debit card transaction processing activities, pursuant to §§ 225.25(b)(1) and (b)(7) of the Board's Regulation Y; Paymentech New Hampshire, Inc., Salem, New Hampshire, and thereby engage in specialized credit and debit card transaction processing services to direct response merchants and also providing specialized PC-based software used by direct response merchants in connection with the entry of customer card data and card transaction processing, pursuant to §§ 225.25(b)(1) and (b)(7) of the Board's Regulation Y; Gensar Technologies, Inc., Tampa, Florida, and thereby engage in providing certain credit and debit card transaction processing services and equipment for merchants directly and indirectly through financial institutions and independent sales organizations and acting as the licensor of PC-based software designed solely for the processing of financial data, pursuant to §§ 225.25(b)(1) and (b)(7) of the Board's Regulation Y; Merchant Link, Inc., Bethesda, Maryland, and thereby engage in providing specialized help-desk services in connection with the operation of bank card modules of certain integrated hotel, restaurant, and retail financial management systems to support the processing of credit and debit card transactions, pursuant to § 225.25(b)(7) of the Board's Regulation Y; and First Virtual Holdings Incorporated, San Diego, California, and thereby engage in providing secure off-line verification of the identity of the purchaser and seller in a credit card transaction over the Internet, processing such card transactions, operating a shared website for sellers of information products, and other activities relating to the billing, on-line payments, and sale of merchandise over the Internet, pursuant to §§ 225.25(b)(1) and (b)(7) of the Board's Regulation Y.

*2. PNC Bank Corp.*, Pittsburgh, Pennsylvania; to acquire V.F. Partners, L.P., and thereby engage *de novo* through a subsidiary, PNC GPI, Inc., that will acquire certain assets of V.F. Partners, L.P., and act as a general partner of certain limited partnerships now existing or to be established in the future that are exempt from registration as investment companies under the Investment Company Act of 1940 (15 U.S.C. §§ 80a). See *Meridian Bancorp, Inc.*, 80 Fed. Res. Bull. 736 (1994); *Bessemer Group, Inc.*, 82 Fed. Res. Bull. 569 (1996); *Dresdner Bank AG*, 82 Fed. Res. Bull. 850 (1996); *NationsBank Corporation*, 83 Fed. Res. Bull. 148 (1997); *Stichting Priorteit ABN-AMRO/ ChiCorp*, 83 Fed. Res. Bull. 138 (1997).

Board of Governors of the Federal Reserve System, March 7, 1997.

Jennifer J. Johnson,

*Deputy Secretary of the Board.*

[FR Doc. 97–6302 Filed 3-12-97; 8:45 am]

BILLING CODE 6210-01-F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

### Office of Minority Health; Amendment to the Notice of a Cooperative Agreement With Central State University

This notice withdraws in its entirety and supersedes the Notice of a Cooperative Agreement With Central State University as published on Friday, February 7, 1997, in Federal Register, Vol. 62, No. 26, pages 5833–5835.

The Office of Minority Health (OMH) announces that it will enter into a cooperative agreement with Central State University, representing the Minority Male (Min-Male) Consortium, to support a Family and Community Violence Prevention Program.

The purpose of the Family and Community Violence Prevention Program is to positively impact the increasing incidence of violence and abusive behavior in low income, at-risk communities through the mobilization of community partners to address these issues. In order to have an effect on this trend, interventions conducted through partnerships must be directed to the individual, the family and the community as a whole, and must be designed to impact the academic and personal development of those who are at risk.

This cooperative agreement is intended to demonstrate the merit of programs that involve partnerships between community institutions and Family Life Centers to spearhead a community effort to improve the quality of life for all community residents.

Authority

This cooperative agreement is authorized under section 1707(d)(1) of the Public Health Service Act, 42 U.S.C. 300u-6(d)(1).

Availability of Funds

Approximately $4,800,000 (indirect and direct costs) is available in FY 1997 to fund this cooperative agreement. The project is expected to begin on September 30, 1997, for a 12 month budget period within a project period not to exceed 3 years. Continuation awards within the project period will be made on the basis of satisfactory performance and availability of funds. Up to 19 institutions will be selected to receive awards of approximately $200,000 per year to support family and community violence prevention programs. Special consideration will be given to those institutions which currently have Family Life Centers supported by the OMH/Central State University cooperative agreement. These institutions are collectively known as the Minority Male (Min-Male) Consortium.

Background

Assistance will be provided only to Central State University of Wilberforce, Ohio in its management capacity on behalf of the Minority Male (Min-Male) Consortium and the Advisory Board. No other applications are solicited. Central State University is uniquely qualified to administer this cooperative agreement because it has:

1. Developed an infrastructure to manage a multi-faceted demonstration program coordinated among widely dispersed institutions of higher education addressing the issues of family and community violence;

2. In place a management staff with the background and experience to guide, develop and evaluate a multimillion dollar demonstration program;

3. Established a relationship with a network of institutions of higher education actively involved in programs to prevent family and community violence;

4. Demonstrated an ability to bring together individual schools to function as a cohesive unit in addressing common issues and goals;

5. Experience in carrying out a program designed to reduce the incidence of violence and crime; and

6. Demonstrated through past activities its ability to pull together experts in the field of violence

prevention to serve in an advisory capacity to a multi-year project.

Violent and abusive behavior exacts a large toll on the physical and mental health of Americans. According to the *Healthy People 2000 Midcourse Review and 1995 Revisions,* the United States ranks first among industrialized nations in violent death rates, with homicide and suicide claiming more than 50,000 lives each year. An additional 2.2 million people are injured by violent assaults annually. According to this report, morbidity and mortality due to violence show some disturbing trends. Youth are increasingly involved as both perpetrators and victims of violence. In 1992, the homicide rate for young black men exceeded that of young white men by as much as 8 times. Women are frequent targets of both physical and sexual assault, often perpetrated by spouses, ex-spouses, intimate partners, or others known to them. Women with family incomes under $9,999 had the highest rates of violence attributable to an intimate while those with family incomes over $30,000 had the lowest rates.

Blacks are disproportionately represented among both violent crime offenders and victims. While blacks constituted 12 percent of the U.S. population in 1993, in that same year they represented 58 percent of persons arrested for murder, 41 percent arrested for rape, 62 percent arrested for robbery, and 40 percent arrested for aggravated assault (*Bureau of Justice Statistics, 1994*). Arrest data also indicate that violent crime, especially murder, involve intraracial victim-offender relationship patterns. In 1993, 94 percent of black murder victims were killed by black offenders and 84 percent of white murder victims were killed by white offenders (*Department of Justice, 1993*).

According to the National Center on Child Abuse and Neglect, an estimated 2.9 million children were reported as alleged victims of maltreatment in 1994. Of the investigation dispositions, 1.0 million were determined to have been victims of either substantiated or indicated maltreatment. Of these, 53 percent suffered from neglect, 26 percent were physically abused, 14 percent were sexually abused, 3 percent suffered from medical neglect, 5 percent from emotional maltreatment, 15 percent from other types of maltreatment, and 4 percent unknown. About 27 percent were 3 years old or younger, 20 percent were age 4 to 6, 17 percent were 7 to 9, 15 percent were between 10 and 12, and 21 percent were teenagers (13 to 18). Of those cases where states reported race/ethnicity, 56 percent of the victims were white, 26 percent were African American, 9 percent Hispanic, 2 percent Native American, and less than 1 percent Asian/Pacific Islander.

According to the National Committee for Prevention of Child Abuse, abused children have been found to have lower cognitive maturity and more severe behavior problems than children who have not been abused. Abused children are also at increased risk for the extremes of risk-seeking or risk-avoiding behaviors. Maltreated children experience significant problems including poor social skills, aggressiveness and emotional unresponsiveness.

Troublesome and delinquent children are more likely to come from troubled families and neighborhoods. Delinquency is not a problem that appears alone. Delinquent youths are also at higher-than-average risk for drug use, problems in school, dropping out of school, and teenage pregnancy (Elliott, Huizinga, and Menard, 1989; Greenwood, 1993). The recognition that problems in school or early dropout are primary risk factors for juvenile delinquency and drug use have led to the development of a wide range of interventions. Unfortunately, many of these efforts have not been evaluated, and most of those evaluated have produced negligible impacts (Tolan and Guerra, 1994), particularly on later delinquency. When asked, students who have been victims of violence and those at greater risk of being victims are more likely to express concern about relations with their parents. One-fourth of students (25%) say they sometimes wonder if their parents really love them. Minority students are more concerned than white students. One-third of African-American (32%), and Hispanic (34%) students say this statement is true for them as compared with one in five white students (22%).

The 1985 *Report of the Secretary's Task Force on Black and Minority Health* provided a national focus on violence as a leading public health problem in the United States. Since that time, public health strategies to prevent death and disability due to violent and abusive behavior have emerged across the country. The *Healthy People 2000 Midcourse Review and 1995 Revisions* identified the following strategies for addressing violence in communities at high risk: promoting awareness of violence as a public health problem, taking more aggressive steps to counter the high rates of physical abuse and violence against women, offering alternative school and community-based activities for youth, and increasing collaboration and partnerships between State and local public health agencies with mental health and substance abuse programs.

Project Requirements

The cooperative agreement will include substantive involvement of both the recipient and the Federal Government. At a minimum, the following expectations are anticipated:

*Recipient Responsibilities*

(1) Central State University will solicit proposals from four year undergraduate institutions historically identified as providing education primarily to minority students, or having a majority enrollment of minority students for the purpose of carrying out a program to positively impact the increasing incidence of violence and abusive behavior in low income, at-risk communities.

(2) Central State University will provide funding to selected institutions to conduct comprehensive programs of support and education for a defined community. The selected institutions must:

- Establish a Family Life Center (FLC) within a 10 mile radius of the target community to facilitate access to the program's services/activities on a regular basis. The FLC can be located at a site of the undergraduate school, or at a facility of a community institution with which it has established a partnership. The FLC is to be open year round, with activities/services offered at various times (e.g. weekdays, evenings, weekends) to accommodate the target group(s).
- Offer project activities in the areas of Academic Development, Personal Development, Cultural/Recreational Enrichment, and Career Development.
- Offer opportunities for community youth to participate in activities on campus or other appropriate sites, including a summer academic enrichment program of at least 3 weeks in length for middle and high school students.
- Formalize arrangements/ partnerships with appropriate community groups, involving tangible, inkind contributions from each of the collaborating partners.

(3) Central State University will utilize a Management Team to execute the Family and Community Violence Prevention Program.

(4) Central State University will recommend to OMH not less than 25 individuals to serve on a 15 member Advisory Board which will provide guidance and technical advice to the cooperative agreement management

team and the Minority Male (Min-Male) Consortium.

(5) Central State University will convene a meeting with the Advisory Board and the Family Life Center Directors three times a year.

(6) Central State University will monitor the activities of the funded institutions to ensure compliance with the intent of the program.

(7) Central State University will conduct a yearly evaluation of the activities of each of the funded institutions, as well as the overall project.

*OMH Responsibilities*

Substantial programmatic involvement is as follows:

(1) OMH will provide technical assistance and oversight as necessary for the overall design of the Family and Community Violence Prevention Program.

(2) OMH will develop the evaluation criterion for the selection and funding of applications.

(3) OMH will manage the review and selection of applications and ensure the absence of conflict of interest in the review process.

(4) OMH will have final approval of the Advisory Board membership.

(5) OMH will provide assistance to the Management Team on program strategies, direction, evaluation activities, and decisions related to adjustments in funding levels of participating institutions.

(6) OMH will participate in the planning of and attend all of the Advisory Board/Family Life Center Directors meetings.

(7) OMH will participate in site visits to the participating institutions as deemed appropriate by OMH staff.

**WHERE TO OBTAIN ADDITIONAL INFORMATION:** If you are interested in obtaining additional information regarding this project, contact Ms. Cynthia H. Amis, Director, Division of Program Operations, Office of Minority Health, 5515 Security Lane, Suite 1000, Rockville, Maryland 20852, telephone number (301) 594–0769.

The Catalog of Federal Domestic Assistance number is 93.910.

Clay E. Simpson, Jr.,

*Deputy Assistant Secretary for Minority Health.*

[FR Doc. 97–6325 Filed 3–12–97; 8:45 am]

**BILLING CODE 4160–17–M**

## Food and Drug Administration

**[Docket No. 96N–0402]**

## Agency Information Collection Activities; Submission for OMB Review; Comment Request

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Submit written comments on the collection of information by April 14, 1997.

**ADDRESSES:** Submit written comments on the collection of information to Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

**FOR FURTHER INFORMATION CONTACT:** Linda L. Brna, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, rm. 16B–19, Rockville, MD 20857, 301–827–3158.

**SUPPLEMENTARY INFORMATION:** In compliance with section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

Blood Establishment Registration and Product Listing, Form FDA 2830 (21 CFR Part 607) (OMB Control Number 0910–0052)

Under section 510 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360), any person owning or operating an establishment that manufactures, prepares, propagates, compounds, or processes a drug or device must register with the Secretary of Health and Human Services, on or before December 31 of each year, his or her name, place of business and all such establishments, and submit, among other information, a listing of all drug or device products manufactured, prepared, propagated, compounded, or processed by him or her for commercial distribution. In 21 CFR part 607, FDA has issued regulations implementing these requirements for manufacturers of human blood and blood products. Under these regulations, the agency seeks the information required by the act, including the location of the facility, name of the reporting official, type of ownership, type of establishment, and identification of blood and blood products being manufactured. Among other uses, this information assists FDA in its inspections of facilities, and its collection is essential to the overall regulatory scheme designed to ensure the safety of the nation's blood supply. Form FDA 2830, Blood Establishment Registration and Product Listing, is used to collect this information. The likely respondents are blood banks, blood collection facilities, and blood component manufacturing facilities.

FDA estimates the burden of this collection of information as follows: Based upon the past experience of the Center for Biologics Evaluation and Research, Division of Blood Applications, in regulatory blood establishment registration and product listing with new blood banks, the time needed for industry to complete the FDA 2830 is estimated to be 1 hour. For annual re-registration of blood banks, the time needed for industry to complete the FDA 2830 form is estimated to be one-half hour because re-registrants only need to refer to their files or written instructions for a small portion of the information required. Blood banks should be familiar with the regulations and registration requirements to fill out this form.

ESTIMATED ANNUAL REPORTING BURDEN

| Form No. FDA 2830 (21 CFR Part 607) | No. of Respondents | Annual Frequency per Response | Total Annual Responses | Hours per Response | Total Hours |
|---|---|---|---|---|---|
| Initial registration | 300 | 1 | 300 | 1 | 300 |
| Re-registration | 3,000 | 1 | 3,000 | 0.5 | 1,500 |
| Total | 3,300 | | 3,300 | | 1,800 |

There are no capital costs or operating and maintenance costs associated with this collection.

Dated: March 5, 1997

William K. Hubbard,

*Associate Commissioner for Policy Coordination*

[FR Doc. 97–6356 Filed 3–12–97; 8:45 am]

**BILLING CODE 4160–01–F**

**[Docket No. 96N–0192]**

## Agency Information Collection Activities; Submission for OMB Review; Comment Request

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Submit written comments on the collection of information by April 14, 1997.

**ADDRESSES:** Submit written comments on the collection of information to Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attention: Desk Officer for FDA.

**FOR FURTHER INFORMATION CONTACT:** Linda L. Brna, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, rm. 16B–19, Rockville, MD 20857, 301–827–3158.

**SUPPLEMENTARY INFORMATION:** In compliance with section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance:

Application to Market a New Drug, Biologic, or an Antibiotic Drug for Human Use; Use of Form FDA 356h

FDA is the Federal agency charged with the responsibility for determining that drugs, including antibiotic drugs, and biologics are safe and effective. Manufacturers of a drug, biologic, or an antibiotic drug for human use must file applications for FDA approval of the product prior to introducing it into interstate commerce. Statutory authority for the collection of this information is provided by sections 505(a), (b), and (j) and 507 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(a), (b), and (j) and 357) and section 351 of the Public Health Service Act (PHS Act) (42 U.S.C. 262). All manufacturers of new drugs and antibiotics for human use regulated under the act must submit an application for review and approval to the Center for Drug Evaluation and Research (CDER) or the Center for Biologics Evaluation and Research (CBER) prior to marketing a drug or antibiotic in interstate commerce (21 CFR 314.50). All manufacturers of generic drugs, including generic antibiotic drugs for human use, regulated under the act must submit an abbreviated new drug application (ANDA) to CDER or CBER or an abbreviated antibiotic drug application (AADA) to CDER for review and approval prior to marketing a generic drug in interstate commerce (21 CFR 314.94). Most manufacturers of biological products regulated under the PHS Act must submit an establishment license application and a product license application or a biologics license application for review and approval to CBER prior to marketing a biological product in interstate commerce (21 CFR 601.2). Blood and blood components fall within the category of biological products. All establishments collecting and/or preparing blood and blood components for sale or distribution in interstate commerce are subject to the licensing application provisions of section 351 of the PHS Act. Manufacturers of a drug, biologic, or an antibiotic drug for human use are required to file supplemental applications for all important changes to applications previously approved prior to implementing such changes (21 CFR 314.70, 314.71, 314.97, and 601.12).

Form FDA 356h has been revised for CDER-regulated products to include identification of different types of supplemental applications. It has also been modified to include a section for establishment information pertaining to CBER-regulated products and the CBER licensing process.

The information provided by manufacturers with the revised application form is necessary for FDA to carry out its mission of protecting the public health and helping to ensure that drugs, biologics, and antibiotics for human use have been shown to be safe and effective. Form FDA 356h was developed initially as a checklist to assist manufacturers in filing a drug application and has been previously used only by manufacturers of products regulated under the act. The revised form has been harmonized for use by manufacturers of products regulated under the act or under the PHS Act and will be used by industry regulated by both CDER and CBER. The harmonized application form serves primarily as a checklist for firms to gather and submit to the agency studies and data that have been completed. The checklist helps to ensure that the application is complete and contains all the necessary information, so that delays due to lack of information may be eliminated. The form will also provide key information to the agency for efficient handling and distribution to the appropriate staff for review. The revised form will replace a number of different application forms that are now used for these products and is intended to help harmonize the application process.

In the Federal Register of October 1, 1996 (61 FR 51285), the agency requested comments on the proposed collection of information using the harmonized application form. FDA received five responses to the docket, all of which were generally supportive of the harmonized application form. One comment expressed concern that the requirement to select a single supplement type on the form would result in an increased reporting burden. The comment indicated that selection of a single supplement type would require the filing of multiple supplements in order to respond to an agency information request letter containing several diverse issues. The comment may have misunderstood the distinction between a supplement to an approved application and an amendment to a pending application. A response to an agency information request letter is an amendment to a pending application, no matter how many individual subjects are addressed. This is clarified in the instruction sheet for the form.

There were also a number of editorial comments on the form itself. Some of these have resulted in minor modifications to the form. Other editorial comments and requests for clarification are addressed in the instructions for use of the form.

FDA estimates the burden of this collection of information as follows:

| Estimated Annual Reporting Burden | | | | | |
|---|---|---|---|---|---|
| Type of Response[1] | No. of Respondents[2] | Annual Frequency per Response[3] | Total Annual Responses[4] | Hours per Response | Total Hours |
| NDA[5] | 162 | 22.9 | 3,715 | 40 | 148,600 |
| ANDA[6] and AADA[7] | 350 | 18.6 | 6,517 | 40 | 260,680 |
| ELA[8] and PLA[9] | 391 | 4.9 | 1,905 | 40 | 76,200 |
| Total Burden Hours | | | | | 485,480 |

There are no capital costs or operating and maintenance costs associated with this collection.
[1] Includes original applications and their amendments and supplemental applications
[2] Number of sponsors submitting applications during fiscal year (FY) 95
[3] Average number of applications submitted per sponsor
[4] Total applications submitted during FY 95
[5] New Drug Application (includes applications for new antibiotic drugs)
[6] Abbreviated New Drug Application
[7] Abbreviated Antibiotic Drug Application
[8] Establishment License Application
[9] Product License Application

In FY 95, CDER received a total of 10,232 submissions and CBER received 1,905 submissions that would require use of this application form. FDA estimates that 40 hours would be needed for an industry regulatory affairs specialist to fill out the harmonized form, collate the documentation, and submit the application to CDER or CBER.

Dated: March 6, 1997.

William K. Hubbard,

*Associate Commissioner for Policy Coordination.*

[FR Doc. 97–6360 Filed 3–12–97; 8:45 am]

**BILLING CODE 4160–01–F**

**[Docket No. 84N–0102]**

## Cumulative List of Orphan Drug and Biological Designations

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a cumulative list of designated orphan drugs and biologics as of December 31, 1996. FDA has announced the availability of previous lists, which are brought up-to-date monthly, identifying the drugs and biologicals granted orphan-drug designation under the Federal Food, Drug, and Cosmetic Act (the act).

**ADDRESSES:** Copies of the list of current orphan-drug designations and of any future lists are or will be available from the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, and the Office of Orphan Products Development (HF–35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3666.

**FOR FURTHER INFORMATION CONTACT:** Peter L. Vaccari, Office of Orphan Products Development (HF–35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–0983.

**SUPPLEMENTARY INFORMATION:** FDA's Office of Orphan Products Development (OPD) reviews and takes final action on applications submitted by sponsors seeking orphan-drug designation under section 526 of the act (21 U.S.C. 360bb). In accordance with this section of the act, which requires public notification of designations, FDA maintains a list of designated orphan drugs and biologicals. This list is made current on a monthly basis and is available upon request from OPD (contact identified above). At the end of each calendar year, the agency publishes an up-to-date cumulative list of designated orphan drugs and biologicals, including the names of designated compounds, the specific disease or condition for which the compounds are designated, and the sponsors' names and addresses.

The list that is the subject of this notice consists of designated orphan drugs and biologicals through December 31, 1996, and, therefore, brings the April 22, 1996 (61 FR 17708) publication up to date. This list is available on request from FDA's Dockets Management Branch (address above). Those requesting a copy should specify the docket number found in brackets in the heading of this document.

The orphan-drug designation of a drug or biological applies only to the sponsor who requested the designation. Each sponsor interested in developing an orphan drug or biological must apply for orphan-drug designation in order to obtain exclusive marketing rights. Any request for designation must be received by FDA before the submission of a marketing application for the proposed indication for which designation is requested. (See 53 FR 47577, November 23, 1988.) Copies of the regulations (see 57 FR 62076, December 29, 1992) for use in preparing an application for orphan-drug designation may be obtained from OPD (address above).

The names used in the cumulative list for the drug and biological products that have not been approved or licensed for marketing may not be the established or proper names approved by FDA for these products if they are eventually approved or licensed for marketing. Because these products are investigational, some may not have been reviewed for purposes of assigning the most appropriate established proper name.

Dated: March 5, 1997.

William K. Hubbard,

*Associate Commissioner for Policy Coordination.*

[FR Doc. 97–6357 Filed 3–12–97; 8:45 am]

**BILLING CODE 4160–01–F**

**[Docket No. 96N–0283]**

## Agency Information Collection Activities; Announcement of OMB Approval

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that a collection of information regarding Regulations under the Federal Import Milk Act, has been approved by the Office of Management and Budget (OMB), under the Paperwork Reduction

Act of 1995. This document announces the OMB approval number.

**FOR FURTHER INFORMATION CONTACT:** Margaret R. Wolff, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, rm. 16B–19, Rockville, MD 20857, 301–827–1223.

**SUPPLEMENTARY INFORMATION:** In the Federal Register of September 24, 1996 (61 FR 50030), the agency announced that the proposed information collection had been submitted to OMB for review and clearance. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), OMB has approved the information collection and assigned OMB control number 0910–0212. The approval expires on October 31, 1999. Under 5 CFR 1320.5(b), 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.

Dated: March 5, 1997.

William K. Hubbard,

*Associate Commissioner for Policy Coordination.*

[FR Doc. 97–6361 Filed 3–12–97; 8:45 am]

**BILLING CODE 4160–01–F**

## National Institutes of Health

### National Institute of Mental Health; Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute of Mental Health Special Emphasis Panel:

*Agenda/Purpose:* To review and evaluate grant applications.

*Committee Name:* National Institute of Mental Health Special Emphasis Panel.

*Date:* March 17, 1997.

*Time:* 9:30 a.m.

*Place:* Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857.

*Contact Person:* Sheri L. Schwartzback, Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4843.

*Committee Name:* National Institute of Mental Health Special Emphasis Panel.

*Date:* March 25, 1997.

*Time:* 1 p.m.

*Place:* Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857.

*Contact Person:* Jean K. Paddock, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4868.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meetings due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

LaVerne Y. Stringfield,

*Committee Management Officer, National Institutes of Health.*

[FR Doc. 97–6287 Filed 3–12–97; 8:45 am]

**BILLING CODE 4140–01–M**

## Public Health Service

### National Institute of Environmental Health Sciences; Validation and Regulatory Acceptance of Toxicological Test Methods: A Report of the ad hoc Interagency Coordinating Committee on the Validation of Alternative Methods, Now Available

The publication Validation and Regulatory Acceptance of Toxicological Test Methods: A Report of the ad hoc Interagency Coordinating Committee on the Validation of Alternative Methods, NIH Publication 97–3981 is now available and may be obtained as described in this notice.

Background

The National Institutes of Health Revitalization Act of 1993 (Pub. L. 103–43, Section 1301) directed the National Institute of Environmental Health Sciences of the National Institutes of Health (NIEHS/NIH) to ''(a) establish criteria for the validation and regulatory acceptance of alternative testing methods, and (b) recommend a process through which scientifically validated alternative methods can be accepted for regulatory use'' (Appendix F).

In response to these mandates, NIEHS established an ad hoc Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) (the Committee) in 1994 to develop a report recommending criteria and processes for validation and regulatory acceptance of toxicological testing methods that would be useful to Federal agencies and the scientific community. The following Federal regulatory and research agencies and organizations participated in this effort:

Consumer Product Safety Commission
Department of Agriculture
  Agriculture Research Service
  Animal and Plant Health Inspection Service
Department of Defense
Department of Energy
Department of Health and Human Services
  Agency for Toxic Substances and Disease Registry
  Food and Drug Administration
  National Institute for Occupational Safety and Health/CDC
  National Institute of Health
  National Cancer Institute
  National Institute of Environmental Health Sciences
  National Library of Medicine
  Office of Laboratory Animal Research
Department of the Interior
Department of Labor
  Occupational Safety and Health Administration
Department of Transportation
  Research and Special Programs Administration
Environmental Protection Agency

The Committee met initially in September 1994, and then monthly or bimonthly until completion of the report in October 1996. The Committee interpreted its charge as the development of general criteria and processes for the validation and regulatory acceptance of new and revised toxicological test methods.

The specific goals of this Report are to:

- Communicate the criteria and procedures that Federal agencies should employ in considering new and revised test methods,
- Encourage the development of new and revised test methods that will provide for improved assessment of the potential toxicity of agents to human health and other organisms in the environment,
- Provide effective guidance for scientists for the validation and evaluation of new and revised test methods,
- Contribute to the increased likelihood of regulatory acceptance of scientifically valid new and revised test methods,
- Encourage the use of validated and accepted new and revised test methods,
- Encourage, when scientifically feasible, the reduction and refinement of animal use in testing and the replacement of animal methods with non-animal methods or of animal species with phylogenetically lower species.

In developing the initial draft report, the Committee considered information obtained from the following sources: (1) A questionnaire completed by each agency on their criteria and processes for test method validation and acceptance, (2) public comments submitted in response to a Federal Register notice published December 7,

1994, requesting interested individuals and organizations to provide information for consideration by the Committee (Appendix G), (3) presentations from various government scientists, (4) review of pertinent available literature, and (5) comments and suggestions from Federal agencies.

An NTP Workshop on Validation and Regulatory Acceptance of Alternative Test Methods was held on December 11–12, 1995, at the Crystal Gateway Mariott Hotel, Arlington, Virginia. The purpose of the workshop was to review the criteria and processes set forth in the draft report and accept comments and recommendations from workshop registrants and invited panelists, including representatives from industry, academe, public interest groups, and the international community. Written comments were also submitted in response to the Federal Register notice announcing availability of the draft report for public comment.

The draft report was also presented to participants at the Organization for Economic Cooperation and Development (OECD) Workshop on Harmonization of Validation Criteria for Alternative Test Methods held in Stockholm, Sweden, on January 22–24, 1996. Commends and recommendations generated by scientists from the 26 OECD member countries were considered by the Committee. The Committee prepared a revised draft report that was distributed to participating agencies for comment and concurrence prior to publication of the final Report.

Summary of the Report

The report totals 105 pages, and consists of four chapters. Chapter one is an introduction that provides a general overview of the need for toxicological test methods, how they are used, and the driving forces for the development and validation of new methods. Chapter two discusses the concept of validation and the criteria that should be met for a new or revised test method to be considered for regulatory risk assessment purposes. Chapter three discusses the criteria that should be used in considering the acceptability of a test method proposed for regulatory use. It also discusses the processes involved in achieving regulatory acceptance of a test method. A series of recommendations for developing a consistent and efficient process for evaluating new methods for regulatory acceptance is provided. Recommendations address development and validation, regulatory review of new methods, intra- and interagency coordination and harmonization, communication, and international harmonization. Chapter four discusses an implementation plan to facilitate the review and consideration of new test methods proposed for regulatory acceptance.

A standing interagency committee will be established to coordinate the development, validation, acceptance, and national/international harmonization of toxicological test methods. The committee will be designated as the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM), and will replace the ad hoc ICCVAM. The ICCVAM will seek to promote sound toxicological test methods that (1) enhance agencies' ability to assess risks and make decisions, and (2) reduce animal use, refine procedures involving animals to make them less stressful, and replace animals in toxicological tests, where scientifically feasible and practical. The Committee anticipates that this effort will help to better evaluate risks to human and animal health and the environment, reduce costs necessary to establish the safety of agents in commerce, and facilitate international trade.

Obtaining the Report

Retrieval instructions and the anticipated date for availability on the internet can be found at the NTP website: <http://ntp-server.niehs.nih.gov>. To receive a copy of the report, please contact the NTP Liaison and Scientific Review Office, NIEHS, PO Box 12233, MD A3–01, Research Triangle Park, NC 27709, or by FAX to: (919) 541–0295.

For further information about the Report, please contact one of the ICCVAM co-chairs—Dr. William Stokes at NIEHS, PO Box 12233, Research Triangle Park, NC 27709, telephone 919–541–7997, FAX (919) 541–0947, or internet email at stokes@niehs.nih.gov or Dr. Richard Hill at EPA, Mail Code 7101, 401 M Street, SW, Washington, DC 20460, telephone (202) 260–2897, FAX (202) 260–1847, or internet email at hill.richard@epamail.epa.gov.

Dated: March 5, 1997.

Kenneth Olden,

*Director, National Institute of Environmental Health Sciences.*

[FR Doc. 97–6288 Filed 3–12–97; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4123–N–04]**

## Notice of Proposed Information Collection for Public Comments

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments due: May 12, 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: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, S.W., Room 4238, Washington, D.C. 20410–5000.

**FOR FURTHER INFORMATION CONTACT:** Mildred M. Hamman, (202) 708–3642, extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of 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:* Public Housing/ Section 8 Moving to Work (MTW) Demonstration.

*OMB Control Number:* 2577–0217.

*Description of the need for the information and proposed use:* HUD is authorized to select up to 30 Public Housing Agencies that administer the public housing and Section 8 programs to participate in MTW. HUD will select PHAs for MTW through a merit-based process using specified selection criteria. Application requirements will include the submission of a MTW plan, including comments from a public hearing, other public comments, and comments from current and prospective residents, assurances of established reasonable rent policy, compliance with the Housing Quality Standards (HQS) (24 CFR 982.401) for housing assisted under MTW, and other reporting requirements. HUD will use the information for approving/disapproving applicants for participation in MTW.

*Agency form numbers, if applicable:* None.

*Members of affected public:* State or Local Governments, Non-profit institutions (Public Housing Agencies).

*Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* 50 respondents, one-time response, 15 hour average per response, 4400 total reporting burden hours.

*Status of the proposed information collection:* Extension.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 4, 1997.

Kevin Emanuel Marchman,

*Acting Assistant Secretary for Public and Indian Housing.*

[FR Doc. 97–6233 Filed 3–12–97; 8:45 am]

**BILLING CODE 4210–01–M**

**[Docket No. FR–4200–N–39]**

## Notice of Proposed Information Collection for Public Comment

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement descried below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments due: May 12, 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: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, S.W., Room 4238, Washington, DC 20410–5000.

**FOR FURTHER INFORMATION CONTACT:** Mildred M. Hamman, (202) 708–3642, extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of 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:* Campus of Learners Semi-Annual Report.

*OMB Control Number:* 2577–.

*Description of the need for the information and proposed use:* Public Housing Agencies (PHAs) that were designated to participate in the Campus of Learners (COL) program will report semi-annually on the program. The COL program provides residents with education, job training, and employment opportunities involving computer and telecommunications technology through a college campus-style setting. The report will provide HUD with information on the number of families included in COL, Federal dollars supporting COL, number of residents in classes/training and other opportunities made available to residents. The information will enable HUD to ensure that Federal dollars for this program are spent according to the PHA's strategic plan.

*Agency form numbers:* HUD–52350.

*Members of affected public:* PHAs.

*Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:* On a semi-annual basis, 25 respondents, two responses per respondent, 50 total responses, 1800 total burden hours.

*Status of the proposed information collection:* New.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 4, 1997.

Kevin Emanuel Marchman,

*Acting Assistant Secretary for Public and Indian Housing.*

**BILLING CODE 4210–33–M**

# Campus of Learners
# Semi-Annual Report
# Program: _____

**U.S. Department of Housing and Urban Development**
Office of Public and Indian Housing

OMB Approval No. 2577 -0207 (exp. 9/30/96)

See Public Reporting Burden Statement and Instructions on back

| 1. Date of Report: | Reporting Period: (Check one and enter year) ☐ 1a. Jan 1 - Jun 30, 19___ ☐ 1b. Jul 1 - Dec 31, 19___ ☐ 1c. Final | |
|---|---|---|
| 2. Grantee Name & Address: (Include street, suite/room/apt. no., city, state, zip) | 3. Grant Number: | 4. HA Wide? (See Instructions) ☐ Yes ☐ No |
| | 5a. Start Date: | 5b. End Date: |
| | 6. Phone ( ) Ext. | 7. Fax ( ) |

| Program Highlights | Previously Reported | This Period | Cumulative Totals |
|---|---|---|---|
| No. of Residents/Units Under HA | | | |
| No. of Residents/Units Included in COL | | | |
| No. of Families Included in COL | | | |
| No. of Families Under Lease for COL | | | |
| Total No. of Key Partners Involved with COL | | | |
| Educational | | | |
| Telecommunications | | | |
| Non-Telecommunications Businesses | | | |
| Government | | | |
| Religious | | | |
| Amount of Federal Dollars Supporting COL | | | |
| Amount of Non-Federal Dollars Supporting COL | | | |
| Estimated Value of In-Kind Support | | | |
| No. of OnSite TA Visits | | | |
| No. of Residents Trained on Internet | | | |
| Total No. of Residents in Classes/Training | | | |
| Through Educational Institutions | | | |
| On the Job Training | | | |
| Computer/Technology Training | | | |
| Other Skill Development | | | |
| No. of Residents Pursuing College Degrees | | | |
| No. of Residents Employed Through COL | | | |
| No. of Residents Started Business Through COL | | | |
| No. of Families Experiencing 20% or More Rent Increase | | | |
| No. of Families Graduated from Temporary Assistance for Needy Families (TANF) | | | |

List deliverables submitted this Period in accordance with the Statement of Work

Provide a narrative that addresses each of the following:
- How Federal funds have been used to date.
- Goals accomplished and progress in meeting the strategic vision of COL Program.
- Opportunities made available to residents.
- Education and training achievements of residents.
- Involvement and contributions of community-based partners.
- Renovation, construction, and development of COL center.
- Other Program developments.

DRAFT

(Continue on back)

Issues, Comments, Waivers, Additional Remarks:

Under the Campus of Learners (COL) initiative, HUD will designate 5 to 20 sites at which public housing authorities (PHAs) prepare creative strategic plans to provide residents with education, job training, and employment opportunities involving computer and telecommunications technology through a college campus-style setting.

This initiative is designed to transform public housing into safe and livable communities where families undertake training in new telecommunications and computer technology and partake in education opportunities and job training initiatives with local businesses.

Responses to this collection of information are voluntary.

The information requested does not lend itself to confidentiality.

**Public reporting burden** for this collection of information is estimated to average 36 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 Reports Management Officer, Paperwork Reduction Project (2577-0207), Office of Information Technology, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600. This agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless that collection displays a valid OMB control number.

**Do not send this form to the above address.**

**Freedom of Information Act:** Semi-Annual reports submitted are subject to disclosure under the Freedom of Information Act (FOIA). To assist HUD in determining whether to release information contained in the report in the event a FOIA request is received, the recipient may, through clear earmarking or otherwise, indicate those portions of its report that it believes should not be disclosed. The recipient's views will be used solely to aid HUD in preparing its response to a FOIA request; HUD is required by the FOIA to make an independent evaluation of the information. HUD suggests that the recipient provide as basis, when possible, for its belief that confidential treatment is appropriate; general assertions or blanket requests for confidentiality, without more information, are of limited value to HUD in making determinations concerning the release of information under FOIA. HUD is required to segregate disclosable information from non-disclosable items, so an applicant should be careful to identify each portion of the application for which confidential treatment is requested. HUD emphasizes that the presence or absence of comments or earmarking regarding confidential information will have no bearing on the evaluation of reports submitted in response to this solicitation.

[FR Doc. 97–6235 Filed 3–12–97; 8:45 am]
BILLING CODE 4210–33–C

**[Docket No. FR–4200–N–33]**

## Notice of Proposed Information Collection for Public Comment

**AGENCY:** Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments due: May 12, 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: Oliver Walker, Housing, Department of Housing & Urban Development, 451—7th Street, SW, Room 9116, Washington, DC 20410.

**FOR FURTHER INFORMATION CONTACT:** Rick Young, Telephone number (202) 708–3776 (this is not a toll-free number) for copies of the proposed forms and other available documents.

**SUPPLEMENTARY INFORMATION:** The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

*Title of Proposal:* Previous Participation Certificate.

*OMB Control Number:* 2502–0118.

*Description of the need for the information and proposed use:*

*Agency form numbers:* Form HUD–2530, FmHA 1944–37 (REV. 4).

*Members of affected public:* Principals: individuals/organizations as defined in CFR Part 24 Section 200.218.

An estimation of the total numbers of hours needed to prepare the information collection is 2,150, the number of respondents is 4,300, frequency of response is occasionally, and the hours of response is ½ hr.

*Status of the proposed information collection:* Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 4, 1997.

Nicolas P. Retsinas,

*Assistant Secretary for Housing-Federal Housing Commissioner.*

[FR Doc. 97–6239 Filed 3–12–97; 8:45 am]
BILLING CODE 4210–27–M

**[Docket No. FR–4200–N–38]**

## Submission for OMB Review: Comment Request

**AGENCY:** Office of Administration, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments due date: April 14, 1997.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: March 3, 1997.

David S. Cristy,

*Acting Director, Information Resources Management Policy and Management Division.*

Notice of Submission of Proposed Information Collection to OMB

*Title of Proposal:* Measuring Quality of Life, Health, and Well-Being in Different Housing Environments.

*Office:* Policy Development and Research.

*OMB Approval Number:* None.

*Description of the Need for the Information and its Proposed Use:* With the reinvention of the Department of Housing and Urban Development and the restructuring of many HUD programs, it has become increasingly important to understand why certain housing developments ''work'' and others do not. This information collection will be used to survey the quality of life, health, and well-being in different housing environments. HUD will use the data to identify the indicators and measures that would be best used for comparison of cross-program and cross-border (Canada). The survey is being conducted by HUD and the Canada Mortgage and Housing Corporation.

*Form Number:* None.

*Respondents:* Individuals or Households.

*Frequency of Submission:* One-Time.

*Reporting Burden:*

| | Number of respondents | × | Frequency of response | × | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|---|
| Survey | 600 | | 1 | | .78 | | 468 |

*Total Estimated Burden Hours:* 468.

*Status:* New.

*Contact:* Todd Richardson, HUD, (313) 226–6896, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

[FR Doc. 97–6232 Filed 3–12–97; 8:45 am]

BILLING CODE 4210–01–M

**[Docket No. FR–4200–N–37]**

## Submissions for OMB Review: Comment Request

**AGENCY:** Office of Administration, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments due date: April 14, 1997.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: March 3, 1997.

David S. Cristy,

*Acting Director, Information Resources Management Policy and Management Division.*

Notice of Submission of Proposed Information Collection to OMB

*Title of Proposal:* A Survey of Rents, Vacancies, and Amenities in Multifamily Projects in Michigan.

*Office:* Policy Development and Research.

*OMB Approval Number:* None.

*Description of the Need For the Information and Its Proposed Use:* The Department of Housing and Urban Development's Office of Housing, Office of Policy Development and Research, and Michigan State Office will conduct a mail survey of all managers of multifamily housing developments in the State of Michigan. The purpose of the survey is to assess true market rents at small levels of geography; to ensure that Section 8 contracts are consistent with local market rents; and to allow HUD's valuation and market analysis staff to make a faster determination on whether or not HUD should insure the mortgage for a proposed project.

*Form Number:* None.

*Respondents:* Business of Other For-Profit.

*Frequency of Submission:* Annually.

*Reporting Burden:*

| | Number of respondents | × | Frequency of response | × | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|---|
| Survey | 3,500 | | 1 | | .25 | | 875 |

*Total Estimated Burden Hours:* 875.

*Status:* New.

*Contact:* Todd Richardson, HUD, (313) 226–6896; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: March 3, 1997.

David S. Cristy,

*Acting Director, Information Resources Management Policy and Management Division.*

[FR Doc. 97–6236 Filed 3–12–97; 8:45 am]

BILLING CODE 4210–01–M

**[Docket No. FR–4200–N–36]**

## Submission for OMB Review: Comment Request

**AGENCY:** Office of Administration, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments due date: April 14, 1997.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Kay F. Weaver, Reports Management Officer, Department of Housing and

Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: March 3, 1997.

David S. Cristy,

*Acting Director, Information Resources Management Policy and Management Division.*

Notice of Submission of Proposed Information Collection to OMB

*Title of Proposal:* John Heinz Neighborhood Development Program.

*Office:* Community Planning and Development.

*OMB Approval Number:* 2506–0158.

*Description of the Need for the Information and its Proposed Use:* The information collection is essential so that HUD may determine the eligibility, qualifications, and capability of applicants to provide technical assistance to nonprofit neighborhood-based development organizations. HUD will review the information provided by the grantees on a quarterly basis to determine if they are complying with the requirements under the John Heinz Neighborhood Development Program.

*Form Number:* None.

*Respondents:* Business or Other For-Profit and Not-For-Profit Institutions.

*Frequency of Submission:* Quarterly.

*Reporting Burden:*

| | Number of respondents | × | Frequency of response | × | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|---|
| Progress Reports | 100 | | 4 | | 42 | | 16,800 |

*Total Estimated Burden Hours:* 16,800.

*Status:* Reinstatement, with changes.

*Contact:* Ophelia H. Wilson, HUD, (202) 708–2186; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

[FR Doc. 97–6237 Filed 3–12–97; 8:45 am]

**BILLING CODE 4210–01–M**

**[Docket No. FR–4200–N–35]**

## Submission for OMB Review: Comment Request

**AGENCY:** Office of Administration, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**DATES:** Comments due date: April 14, 1997.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The Title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: March 3, 1997.

David S. Cristy,

*Acting Director, Information Resources Management Policy and Management Division.*

Notice of Submission of Proposed Information Collection to OMB

*Title of Proposal:* Single Family Premium Collection Subsystem.

*Office:* Housing.

*OMB Approval Number:* 2502–0423.

*Description of the Need for the Information and its Proposed Use:* The new Single Family Premium Collection Subsystem (SFPCS) replaces the A83 One-Time Premium Collection System. Form HUD–27001, Transmittal of Upfront Mortgage Insurance Premium, is now obsolete. The information will be submitted electronically. SFPCS will strengthen HUD's ability to manage and process single family mortgage insurance premium collections and corrections for the majority of insured single family mortgages.

*Form Number:* None.

*Respondents:* Business or Other For-Profit. *Frequency of Submission:* On Occasion. *Reporting Burden:*

| | Number of respondents | × | Frequency of responses | × | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|---|
| Information Collection | 3,378 | | 238 | | .05 | | 40,200 |

*Total Estimated Burden Hours:* 40,200.

*Status:* Extension, with changes.

*Contact:* Silas C. Vaughn, Jr., HUD, (202) 708–2438; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

[FR Doc. 97–6238 Filed 3–12–97; 8:45 am]

BILLING CODE 4210–01–M

**[Docket No. FR–3918–N–09]**

## Privacy Act; Proposed Amendment to a System of Records

**AGENCY:** Office of the Assistant Secretary for Administration, HUD.

**ACTION:** Notification of a proposed amendment to an existing system of records.

**SUMMARY:** The Department is giving notice that it intends to amend the following Privacy Act system of records: HUD/H–11, Tenant Housing Assistance and Contract Verification Data.

**EFFECTIVE DATE:** This amendment shall become effective without further notice in 30 calendar days (April 14, 1997), unless comments are received on or before that date which would result in a contrary determination.

**ADDRESSES:** Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

**FOR FURTHER INFORMATION CONTACT:** Jeanette Smith, Privacy Act Officer, Telephone Number (202) 708–2374. (This is not a tool-free number.)

**SUPPLEMENTARY INFORMATION:** HUD–11 contains a record for each individual receiving housing assistance from HUD under one of the following programs: Section 8, Public/Indian Housing, Section 236 (including Section 236 RAP), Rent Supplement, Section 221(d) 3 BMIR, Section 811, and Section 202. Also included are records for owners, HAs and Contract Administrators who receive payments for the assisted housing programs mentioned above. The information contained in this system of records is used by the Department to: Monitor compliance with statutory and regulatory requirements; provide information for program evaluation; perform statistics analyses; identify current recipients for the purposes of detecting error, fraud and overpayment of assistance; and to forecast budgetary needs. This amendment is being made to add two new routine use disclosures (numbers 8 and 9) to allow for the release of information to policy analysts or researchers for the performance of research and statistical activities on housing and community development issues. Routine use number 1 is revised to include a reference to the Tenant Eligibility Verification Files which are used when computer matching is involved. Also, a routine use disclosure is revised to expand the disclosure entities to include individuals under contract as well as cooperative agreement or grant (number 2). Additionally, routine use number 2 has been revised to include language providing for processing certifications/recertifications and for other research and statistical purposes not otherwise prohibited by law or regulation.

The revised routine uses paragraph is published in its entirety below. Previously, the system and a prefatory statement containing the general routine uses applicable to all HUD systems of records was published in the Federal Register Privacy Act Issuances, 1995 Compilation.''

A report of the Department's intention to add two new routine use disclosures and to revise 2 existing routine uses has been submitted to the Office of Management and Budget (OMB), the Senate Committee on Governmental Affairs, and the House Committee on Government Reform and Oversight pursuant to paragraph 4 of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' February 8, 1996.

Authority: 5 U.S.C. 552a, 88 Stat. 1896; sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Issued at Washington, DC, March 4, 1997.

Steven M. Yohai,

*Chief, Information Officer.*

**HUD/H–11**

**SYSTEM NAME:**

Tenant Housing Assistance and Contract Verification Data.

* * * * *

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:**

See routine uses paragraph in prefatory statement. Other routine uses include:

1. To Federal, State, and local agencies to verify the accuracy and completeness of data, to verify eligibility or continued eligibility in HUD's rental assistance programs, and to aid in identifying tenant errors, fraud and abuse. When this involves computer matching, the matching is conducted using HUD/PIH–1, the Tenant Eligibility Verification Files;

2. Individuals under contract, cooperative agreement or grant, to HUD or under contract, cooperative agreement or grant to another agency with funds provided by HUD—for the performance of research and statistical activities directly related to the management of HUD's rental assistance programs, to support quality control for tenant eligibility efforts requiring a random sampling of tenant files to determine the extent of administrative errors in making rent calculations, eligibility determinations, etc., for processing certifications/recertifications, and for other research and statistical purposes not otherwise prohibited by law or regulation;

3. Housing Authorities, (HAs)—to verify the accuracy and completeness of tenant data used in determining eligibility and continued eligibility and the amount of housing assistance received;

4. Private Owners of assisted housing—to verify the accuracy and completeness of applicant and tenant data used in determining eligibility and continued eligibility and the amount of assistance received;

5. To HAs, owners/management agents and contract administrators—to identify and resolve discrepancies in tenant data;

6. To the Internal Revenue Service—to report income using IRS Form 1099;

7. To Social Security Administration and Immigration and Naturalization Service—to verify alien status and continued eligibility in HUD's rental assistance programs;

8. To researchers affiliated with academic institutions, with not-for-profit organizations, or with Federal, state or local governments, or to policy researchers—in the form of user—defined microdata files, without individual identifiers—name, address, date of birth, and Social Security Number—for the performance of research and statistical activities on housing and community development issues. Even though no individual identifiers will be included in the data files, patterns in the data may result in identification of some individual tenants. Researchers receiving these files may not use them in whole or in part in making any determination about an identifiable individual, nor may they release the data to others in a form that can identify individual tenants. Records will be released under this paragraph only with approval of the Assistant Secretary for Policy Development and Research;

9. To State/County welfare, social service, or employment agencies for the purpose of matching assisted housing tenant records to employment, education and other data which would be transmitted to the HUD Office of Policy Development and Research for statistical analyses of the resource requirements of welfare reform. The assisted housing tenant records released under this paragraph may not be used by the State/County agencies to make decisions concerning the rights, benefits, or privileges of specific individuals.

[FR Doc. 97–6234 Filed 3–12–97; 8:45 am]

BILLING CODE 4210–01–M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Proposed Information Collection to Be Submitted to the Office of Management and Budget (OMB) for Extension Approval

**ACTION:** Notice.

**SUMMARY:** The information collection requirements listed below will be submitted to OMB for extension approval under the provisions of the Paperwork Reduction Act of 1995. Copies of specific information collection requirements, related forms, and explanatory material may be obtained by contacting the Fish and Wildlife Service (Service) Information Collection Clearance Officer at the address and/or phone numbers listed below.

**DATES:** Comments must be submitted on or before May 12, 1997.

**ADDRESSES:** Comments and suggestions on specific requirements should be sent to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 224–ARLSQ; 1849 C Street, NW., Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Phyllis H. Cook, Service Information Collection Clearance Officer at 703/358–1943; 703/358–2269 (fax).

**SUPPLEMENTARY INFORMATION:** The Service proposes to submit the following information collection requirements to OMB for review and extension approval under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Under the present clearance, all permit requirements were contained in one submission and they were assigned OMB Approval 1018–0022, the Federal Fish and Wildlife License/Permit Application and Related Reports, Service Form No. 3–200. In an attempt to make the application process and the comment process more ''user friendly,'' similar types of permits have been grouped together and numbered. The application to apply for Service permits issued under Subchapter B of Title 50 of the Code of Federal Regulations (CFR) will still require completion of the 3–200 form. In addition to the permit application, attachments are often necessary to provide additional information required for specific types of permits, and have been assigned numbers also.

The information collected on the permit application and attachments will be used by the Service to review permit applications and allow the Service to make decisions, according to criteria established in various Federal wildlife conservation statutes and regulations, on the issuance, suspension, revocation or denial of permits. The frequency of response for the following types of permit applications/licenses is on occasion, and all have been currently assigned OMB Control Number 1018–0022, unless otherwise noted.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs the potential persons who are to respond to such collections that they are not required to respond to the collection of information unless it displays a currently valid OMB control number.

1. Title: *Import of Sport-hunted Trophies of Southern African Leopard and African Elephant.*

*Service form number:* 3–200.19.

*Description and use:* To evaluate whether a Convention on International Trade in Endangered Species (CITES) permit can be issued to allow the import of sport-hunted African leopard or African elephant for personal use.

*Decription of respondents:* Individuals and households; or taxidermist (business) acting on behalf of an individual.

*Number of respondents:* 1,000.

*Estimated completion time:* 20 minutes.

*Total annual burden:* 333 hours.

2. Title: *Import of Sport-hunted Trophies under the Endangered Species Act (ESA) or ESA/Appendix I of CITES* (excludes southern African leopard and African elephant).

*Service form number* 3–200.20.

*Description and use:* To evaluate whether an ESA import permit or an ESA/CITES import permit can be issued to allow the import of sport-hunted trophy of an ESA or ESA/CITES protected species for personal use.

*Description of respondents:* Individuals and households.

*Number or respondents:* 50.

*Estimated completion time:* 1 hour.

*Total annual burden:* 50 hours.

3. Title: *Import of Sport-hunted Argali Trophies.*

*Service form number:* 3–200.21.

*Description and use:* To evaluate whether an ESA import permit can be issued to allow the import of a sport-hunted argali trophy from Mongolia, Kyrgystan, and Tajikistan for personal use.

*Description of respondents:* Individuals or households.

*Number of respondents:* 30.

*Estimated completion time:* .75 hours (45 minutes).

*Total annual burden:* 22.5.

4. Title: *Import of Sport-hunted Bontebok Trophies.*

*Service form number:* 3–200.22.

*Description and use:* To evaluate whether an ESA import permit can be issued to allow the import of sport-hunted bontebok trophy taken from registered ranches in South Africa for personal use.

*Description of respondents:* Individuals or household.

*Number of respondents:* 60.

*Estimated completion time:* .333 hours (20 minutes).

*Total annual burden:* 20 hours.

Title: *Export of Pre-Convention, Pre-Act of Antique Animal Products.*

*Service form number:* 3–200.23.

*Description and use:* To evaluate whether specimens (animal products) qualify as an antique, as pre-convention under CITES, or as pre-act under the ESA or the Marine Mammal Protection Act (MMPA), and whether a pre-convention certificate can be issued to export animal products from the United States.

*Description of respondents:* Individuals and households; business or other for-profit; not-for-profit institutions; State, local or Tribal government; Federal Government.

*Number of respondents:* 400.

*Estimated completion time:* 40 minutes.

*Total annual burden:* 267 hours.

6. Title: *Export of Live Animals (except raptors) Captive Born in the United States under CITES.*

*Service form number:* 3–200.24.

*Description and use:* To evaluate whether a CITES export permit or captive-bred certificate can be issued to export U.S. born or hatched specimens from the United States.

*Description of respondents:* Individuals and households; business or other for-profit; not for-profit institutions; state, local or tribal government; federal government.

*Number of respondents:* 800.

*Estimated completion time:* 40 minutes.

*Total annual burden:* 533 hours.

7. Title: *Export of Raptors.*

*Service form number:* 2–200.25.

*Description and use:* To evaluate whether a CITES and Migratory Bird Treaty Act export permit can be issued to export raptors from the United States.

*Description of respondents:* Individuals and households; not-for-profit institution.

*Number of respondents:* 80.

*Estimated completion time:* 2 hours.

*Total annual burden:* 160 hours.

8. Title: *Export/Re-export/Pre-Convention of Animals Under CITES.*

*Service form number:* 3–200.27.

*Description and use:* To evaluate whether a CITES export permit or re-export certificate can be issued to export specimens of CITES listed species (except for raptors) from the United States.

This form was developed for applicants exporting pets that require CITES permit or for those applicants who are not sure what type of CITES permit they should apply for.

*Description of respondents:* Individuals or households; business or other for-profit; not-for-profit institutions; State, local or tribal government; federal government.

*Number of respondents;* 800.

*Estimated completion time:* 666 hours (40 minutes).

*Total annual burden:* 533 hours.

9. *Export/Re-export of Trophies by Taxidermists Under CITES.*

*Service form number:* 3–200.28.

*Description and use:* To evaluate whether a CITES export permit or re-export certificate can be issued to export specimens of CITES listed species (except for raptors) from the United States. This form is designed for use by taxidermists who deal with a smaller ranges of species and do not export live specimens.

*Description of respondents:* Business or other for-profit; individuals with taxidermy as a hobby.

*Number of respondents:* 150.

*Estimated completion time:* .5 hours (30 minutes).

*Total annual burden:* 75 hours.

10. Title: *Export/Re-export of Samples Collected from CITES and/or ESA-listed Wildlife.*

*Service form number:* 3–200.29.

*Description and use:* To evaluate whether a CITES export permit or re-export certificate can be issued to export tissue samples from specimens of CITES listed species from the United States.

*Description of respondents:* Business or other for-profit; not-for-profit institution.

*Number of respondents:* 80.

*Estimated completion time:* 1 hour.

*Total annual burden:* 80 hours.

11. Title: *Circuses and Traveling Animal Exhibitions.*

*Services form number:* 3–200.30.

*Description and use:* To evaluate whether a CITES pre-Convention certificate, export permit or captive-bred certificate and/or an ESA export/re-import can be issued for a circus or live animal act to export CITES or ESA listed species as part of a traveling animal exhibition.

*Description of respondents:* Business or other for-profit.

*Number of respondents:* 100.

*Estimated completion time:* 1 hour.

*Total annual burden:* 100 hours.

12. Title: *Import of Appendix-I Animals Under CITES.*

*Service form number:* 3–200.31.

*Description and use:* To evaluate whether a CITES import permit can be issued to allow the import of a specimen of an Appendix I CITES listed species for non-commercial purposes.

*Description of respondents:* Individuals or households; business or other for-profit; not-for-profit institutions; State, local or Tribal government; federal government.

*Number of respondents:* 40.

*Estimated completion time:* 1 hour.

*Total annual burden:* 40 hours.

13. Title: *Export/Re-export/Pre-Convention Plants under CITES.*

*Service form number:* 3–200.32.

*Description and use:* To evaluate whether a CITES export permit or re-export certificate can be issued to allow the export of a specimen of a CITES listed plant species from the United States. This application form was developed for export of plants that do not qualify as artificially propagated or for use by applicants who are unsure of which type of CITES plant export permit they should apply for.

*Description of respondents:* Individuals or households; business or other for-profit; not-for-profit institutions; state, local or tribal government; federal government.

*Number of respondents:* 40.

*Estimated completion time:* 1 hour.

*Total annual burden:* 40 hours.

14. Title: *Certificate for Artificially Propagated Plants.*

*Service form number:* 3–200.33.

*Description and use:* To evaluate whether a CITES certificate of artificially propagation can be issued to allow the export of specimens CITES listed plant species from the United States.

*Description of respondents:* Individuals or households; business or other for-profit; not-for-profit institutions; state, local or tribal government; federal government.

*Number of respondents:* 48.

*Estimated completion time:* 2 hours.

*Total annual burden:* 96 hours.

15. Title: *Export of American Ginseng under CITES.*

*Service form number:* 3–200.34.

*Description and use:* To evaluate whether a CITES export permit can be issued to export either cultivated or wild ginseng from the United States.

*Description of respondents:* Individuals or households; business or other for-profit; not-for-profit institutions; farms; state, local, or tribal government; federal government.

*Number of respondents:* 80.

*Estimated completion time:* .333 hours (20 minutes).

*Total annual burden:* 26 hours.

16. Title *Import of Appendix-I Plants Under CITES.*

*Service form number:* 3–200.35.

*Description and use:* To evaluate whether a CITES import permit can be issued to allow the import specimens of CITES Appendix I plant species for non-commercial purposes.

*Description of respondents:* Individuals or households; business or other for-profit; not-for profit institutions; state, local, or tribal government; federal government.

*Number of respondents:* 2.

*Estimated completion time:* 1 hour.

*Total annual burden:* 2 hours.

17. Title: *Export or Import of Plants under ESA or ESA CITES or Interstate Commerce of Non-native ESA Plants.*

*Service form number:* 3–200.36.

*Description and use:* To evaluate whether an ESA or ESA/CITES export permit can be issued to allow the export of ESA or ESA/CITES protected plants.

*Description of respondents:* Individuals or households; farms; business or other for-profit; not-for-profit institutions; state, local or tribal government; federal government

*Number of respondents:* 2.

*Estimeated completion time:* 1 hour.

*Total annual burden:* 2 hours.

18. Title: *Export or Import of Animals under ESA or ESA/CITES or Interstate Commerce of Non-native ESA Animals.*

*Service form number:* 3–200.37.

*Description and use:* To evaluate whether a permit can be issued to import or export an ESA or ESA/CITES species for interstate commerce of a non-native ESA protected species. This application can be used for both live and dead specimens.

*Description of respondents:* Individuals or households; farms; business or other for-profit; not-for-profit institutions; state, local, or tribal government; federal government.

*Number of respondents:* 60.

*Estimated completion time:* 2 hours.

*Total annual burden:* 120 hours.

19. Title: *Import or Samples Collected from CITES Appendix-I and/or ESA-listed Wildlife.*

*Service form number:* 3–200.38.

*Description and use:* To evaluate whether a permit can be issued to import tissue samples of ESA or ESA and CITES Appendix I species.

*Decription of respondents:* Individuals or households; business or other for-profit; not-for-profit institutions; state, local or tribal government; federal government.

*Number of respondents:* 30.

*Estimated completion time:* 1 hour.

*Total annual burden:* 30 hours.

20. Title: *Certificate of Scientific Exchange under CITES.*

*Service form number:* 3–200.39.

*Description and use:* To evaluate whether a CITES certificate of scientific exchange can be issued to an institution in order to exchange, on non-commercial loan, CITES specimens that are accessioned/catalogued in scientific institutions that are registered with the CITES Secretariat. Issuance of this certificate includes registration with the CITES Secretariat.

*Description of respondents:* Business or other for-profit; not-for-profit institution.

*Number of respondents:* 30.

*Estimated completion time:* 1 hour.

*Total annual burden:* 30 hours.

21. Title: *Export and Re-import of Museum Specimens under the ESA.*

*Service form number:* 3–200.40.

*Description and use:* To evaluate whether an ESA permit can be issued to export and re-import non-living museum specimens for the purpose of enhancing the survival of the species.

*Description of respondents:* Business or other for-profit; non-for-profit institutions.

*Number of respondents:* 10.

*Estimated completion time:* 1 hour.

*Total annual burden:* 10 hours.

22. Title: *Captive-bred Wildlife Registration.*

*Service form number:* 3–200.41.

*Description and use:* to evaluate whether a facility can become registered to engage in take, export, re-import and interstate commerce of non-native species protected by the ESA for the enhancement of the species through captive-breeding.

Note: There is an annual reporting requirement of this registration.

*Service form number:* 3–200.41a.

*Estimated completion time:* 3 hours (3–200.41) 2 hours (3–200.41a).

*Decription of respondents:* Individuals or households; business or other for-profit; not-for-profit institutions; state, local, or tribal government; federal government.

*Number of respondents:* 100.

*Estimated completion time:* 3 hours.

*Total annual burden:* 500 hours (including 200 hours record keeping requirements for the annual report).

23. Title: *Import/Transport of Injuries Wildlife.*

*Service form number:* 3–200.42.

*Description and use:* To evaluation whether a permit can be issued to import and/or transport an injurious wildlife species of zoological, educational, medical or scientific purposes as regulated by the Lacey Act.

*Description of respondents:* Individuals or households; business or other for-profit; not-for-profit istitutions; state, local, or tribal government; federal government.

*Number of respondents:* 100.

*Estimated completion time:* 3 hours.

*Total annual burden:* 300 hours.

24. Title: *Take/Import/Transport of Marine Mammals.*

*Service form number:* 3–200.42.

*Description and use:* To evaluate whether a permit can be issued to take, import and/or transport a marine mammal species protected by the MMPA and under the jurisdiction of the Service.

Note: This permit requires the permittee to file an annual report. There is not a specific form that is required, but the information that must be submitted is outlined on the permit itself. The estimated completion time is 1 hour.

*Description of respondents:* Individuals and households; business or other for-profit; not-for-profit institutions; state local, or tribal government; federal government.

*Number of respondents:* 30.

*Estimated completion time:* 2 hours.

*Total annual burden:* 90 hours (including 30 hours record keeping requirements).

25. Title: *Registration of an Agent or Tannery.*

*Service form number:* 3–200.44 and 3–200.44a.

*Description and use:* To evaluate whether a person or business can be come registered as an agency or tannery under the MMPA to act as an agent to possess and process marine mammal products for Indians, Aleuts, or Eskimos.

Note: There is an annual reporting requirement for this permit (3–200.44a) that requires an average of 1 hour to complete.

*Description of respondents:* Individuals and households; business or other for-profit

*Number of respondents:* 10.

*Estimated completion time:* .5 hours (30 minutes).

*Total annual burden:* 150 hours (including 100 hours for annual report).

26. Title: *Import of Sport-hunted Trophies of Polar Bear.*

*Service form number(s):* 3–200.45.

*Description and use:* To evaluate whether a person can be issued a permit to import a sport-hunted polar bear trophy taken in Canada for personal use.

*Number of respondents:* 100,.

*Estimated completion time:* .5 hours (30 minutes).

*Total annual burden:* 50 hours.

27. Title: *Import Pet Birds.*

*Service form number:* 3–200.46.

*OMB Approval Number:* 1018–0084.
*Description and use:* To evaluate whether an import permit can be issued to a person to import pet bird(s) under the Wild Bird Conservation Act (WBCA).
*Description of respondents:* Individuals or households.
*Number of respondents:* 500.
*Estimated completion time:* 30 minutes.
*Total annual burden:* 250 hours.

28. Title: *Import of Birds for Scientific Research or Zoological Breeding Display.*
*Service form number:* 3–200.47.
*OMB Approval Number:* 1018–0084.
*Description and use:* To evaluate whether an import permit can be issued to allow the import of birds under the WBCA approved cooperative breeding program. The applicant must first have a cooperative breeding program approved (using form 3–200.49) prior to applying for this permit.
*Description of respondents:* Individuals or households; business or other for-profit; not-for-profit institutions; state, local, or tribal government; federal government.
*Number of respondents:* 100.
*Estimated completion time:* 2 hours.
*Total annual burden:* 200 hours.

29. Title: *Import of Birds under an Apprived Cooperative Breeding Program.*
*Service form number:* 3–200.48.
*OMB Approved Number:* 1018–0084.
*Description and use:* To evaluate whether an import permit can be issued to allow import of birds under a WBCA approved cooperaitve breeding program. The applicant must first have a cooperaitve breeding program approved (using form 3–200.49) prior to applicaiton.
*Description of respondents:* Individuals or households; business or other for-profit; not-for-profit institutions.
*Number of respondents:* 100.
*Estimated completion time:* 1 hour.
*Total annual burden:* 100 hours.

30. title: *Approval under a Cooperative Breeding Program.*
*Service form number:* 3–200.49
*OMB Approved Number:* 1018–0084.
*Description and use:* To evaluate whether a cooperative breeding program can be approved for the import of birds as regulated by the WBCA.
*Description of respondents:* Individuals or households; business or other for-profit; not-for-profit institutions; state, local, or tribal government; federal government.
*Number of respondents:* 100.
*Estimated completion time:* 3 hours.
*Total annual burden:* 300 hours.

31. Title: *Reissuance of CITIES Permit/Certificate of Renewal of Fish and Wildlife Permits or Registrations.*
*Service form number:* 3–200.52
*Description and use:* Necessary for applicants to apply for reissuance or renewal of previously issued permits, certificates or registrations.
*Description of respondents:* Individuals or households; business or other for-profit; not-for-profit institutions; state, local, or tribal government; federa government.
*Number of respondents:* 200.
*Estimated completion time:* .25 hours (15 minutes).
*Total annual burden:* 50 hours.

32. Title: *Export Re-export of Marine Mammals under CITIES.*
*Service form number:* 3–200.53
*Description and use:* To evaluate whether a CITIES export permit or re-export certificate can be issued to allow the export or re-export of marine mammals protected under the MMPA.
*Description of respondents:* Individuals or households; business or other for-profit; not-for-profit institutions; state, local, or tribal government; federal government.
*Number of respondents:* 20.
*Estimated completion time:* 2 hours.
*Total annual burden:* 40 hours.

Dated March 3, 1997.
Marshall P. Jones, Jr.,
*Assistant Director—International Affairs.*
[FR Doc. 97–6268 Filed 3–12–97; 8:45 am]
BILLING CODE 4310–55–M

## Fish and Wildlife Service

### Proposed Information Collection To Be Submitted to the Office of Management and Budget (OMB) for Extension Approval

**SUMMARY:** The proposed collections of information listed below will be submitted to the OMB for extension approval under the provisions of the Paperwork Reduction Act of 1995. Copies of specific information collection requirements, related forms and explanatory material may be obtained by contacting the Service Information Collection Clearance Officer at the address and/or phone numbers listed below.

**DATES:** Comments must be submitted on or before May 12, 1997.

**ADDRESSES:** Comments and suggestions on specific requirements should be sent to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 224–ARLSQ; 1849 C Street, NW., Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Phyllis H. Cook, Service Information Collection Clearance Officer, 703/358–1943; 703/358–2269 (fax).

**SUPPLEMENTARY INFORMATION:** The Service proposes to submit the following information collection clearance requirements to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are invited on (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden, including whether the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information 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.

Under the present clearance, the Service submitted the following requirements in one submission, and they were assigned OMB Approval Number 1018–0022, the Federal Fish and Wildlife License/Permit Application and related reports, Service form number 3–200. In an attempt to facilitate the comment process, and to make the application process more ''user friendly,'' similar types of permits have been grouped together and numbered. The application to apply for Service permits issued under subchapter B of Title 50 of the Code of Federal Regulations (CFR), will still require completion of the 3–200 form. In addition to the permit application, attachments are often necessary to provide additional information required for each specific type of permit and these attachments have been assigned numbers, e.g., 3–200.2.

The information on the application form will be used by the Service to review permit applications and allow the Service to make decisions, according to criteria established in various Federal wildlife conservation statues and regulations, on the issuance, suspension, revocation or denial of permits. The frequency of response for the following types of permit applications/licenses is on occasion, and all have been currently assigned OMB Approval Number 1018–0022, unless otherwise noted.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB

approval number and the agency informs the potential persons who are to respond to such collections that they are not required to respond to the collection of information unless it displays a currently valid OMB approval number.

*1. Title:* Permits to Import/Export Migratory Birds.

*Service form number:* 3–200.6

*Description and use:* Used by the Service to determine whether or not an applicant is qualified to posses and use an import/export permit with respect to migratory birds. The information is also used as an enforcement and management aid in regulating the possession, transportation, and sale of lawfully acquired and mounted migratory birds and their parts, nests, or eggs.

*Description of respondents:* Individuals and households; business or other for-profit; not-for-profit institutions; and local, State or Federal government.

*Number of respondents:* 93.

*Estimated completion time:* 30 minutes.

*Total annual burden:* 465 hours.

*2. Title:* Scientific Collecting Permits.

*Service form number:* 3–200.7.

*Description and use:* Used will be used by the Service to determine if a permit should be issued to an individual. Additional information is required beyond completion of the standard application form to determine whether there is a *bona fide* scientific or educational need for the issuance of scientific collecting permit.

*Description of respondents:* Individuals and households; individuals acting on behalf of an educational or scientific institution and/or agency.

*Number of respondents:* 310.

*Estimated completion time:* 2 hours.

*Total annual burden:* 620 hours.

*3. Title:* Taxidermist Permits.

*Service form number:* 3–200.8.

*Description and use:* Used to determine whether an applicant is qualified to engage in taxidermy with respect to migratory birds in a specific State, particularly if that State requires a permit. The information is also used as a enforcement and management aid in regulation the possession, transportation, and sale of lawfully acquired and mounted migratory birds and their parts, nest, or eggs.

*Description of respondents:* Individuals or households.

*Number of respondents:* 2,286.

*Estimated completion time:* .25 hours (15 minutes).

*Total annual burden:* 572 hours.

*4. Title:* Waterfowl Sale and Disposal Permits.

*Service form number:* 3–200.9.

*Description and use:* Used by the Service to ensure compliance with the Migratory Bird Treaty Act (MBTA) regulations that prohibit the sale, purchase, or barter of migratory waterfowl. The information collected from persons wishing to sell captive-reared migratory waterfowl is the minimum necessary that still allows the Service to fulfill the mandate of protecting waterfowl populations form illegal commercial exploitation. This information also enables the Service to determine if an applicant with any State laws requiring a person to obtain a game breeder's license prior to conducting commercial sale activities. Once the permit is issued, the permittee is require to keep accurate records of activities conducted within the authority of the permit. This information is also used as an enforcement and management aid in regulating the take, transportation, and possession of wild migratory waterfowl, and sale, trade, or other transfer of captive-reared properly marked waterfowl.

*Description of respondents:* Individuals or households; Individuals acting on behalf of not-for-profit institutions such as zoos.

*Number of respondents:* 704.

*Estimated completion time:* 30 minutes.

*Total annual burden:* 352 hours.

*5. Title:* Special Purpose Permits.

*Service form number:* 3–200.10.

*Description and use:* Used by the Service to determine whether there is a *bona fide* scientific, educational, rehabilitation or other need or benefit to wildlife for the issuance of a special purpose permit. In addition, the year end report of the collecting activities conducted by permittee is necessary to ensure compliance with permit conditions, and to identify inactive permit holders who are no longer collecting migratory birds. This information is also used as an enforcement and management aid in regulating the taking, transportation, and possession of migratory birds, for scientific research or educational purposes.

*Description of respondents:* Individuals and households; not-for-profit institutions; and local, state, federal governments.

*Number of respondents:* 2,753.

*Estimated completion time:* 2.5 hours (2 hours and 15 minutes).

*Total annual burden:* 6,883.

*6. Title:* Falconry Permits.

*Service form number:* 3–200.11.

*Description and use:* Used by the Service to determine if a falconry permit should be issued to an individual. This information is also used by the Service to determine if a falconry permit should be issued to an individual. This information is also used by the Service as an enforcement and management aid in regulating the taking, transportation, and possession of wild migratory birds, and the sale, trade, or transfer of certain captive-bred migratory birds. A copy of the applicant's State falconry permit is needed by the Service to ensure that the applicant has complied with the Federal regulation regulation requiring the prior issuance of a State falconry permit as a pre-requisite for the issuance of a Federal falconry permit.

In addition, permittee as required to prepare and submit a Service form 3–186A documenting the acquisition and disposition of each bird. This information is needed by the Service to monitor the take, possession, purchase, sale, and other acquisition or disposition raptors to prevent the illegal possession by unauthorized persons and the illegal taking of birds from the wild. One copy of the form is retained by the seller and another copy is kept by the purchaser to document the legal transaction. The use of this form precludes the need for an annual report that was previously required.

*Description of respondents:* Individuals and households.

*Number of respondents:* 1,964.

*Estimated completion time:* .083 hours (5 minutes) per application; 083 hours (5 minutes) per report (form 3–185A).

*Total annual burden: 163 hours (application); 163 hours (form 3–186A).*

*7. Title:* Raptor Propagation Permits.

*Service form number:* 3–200.13.

*Description and use:* Used by the Service to determine whether or not an applicant is qualified to conduct raptor propagation in a specific State, particularly if that State requires a permit. The information is also used as an enforcement and management aid in regulating the possession, transportation, and sale of lawfully acquired migratory birds and their parts, nests, or eggs. In addition, permittee are required to complete a form 3–186A as described above.

*Description of respondents:* Individuals and households; not-for-profit institutions (specifically, zoos).

*Number of respondents:* 143.

*Estimated completion time:* 1.5.

*Total annual burden:* 215 hours.

8. Depredation Permits.

*Service form number:* 3–200.13.

*Description and use:* Used by the Service in conducting investigations to ascertain the degree of damage to crops and/or property and determine the most suitable methods of reducing present and abating subsequent damage.

*Description of respondents:* Individuals and households; business or other for-profit; not-for-profit-institutions; farms; federal government; State, local or tribal government.

*Number of respondents:* 1,406.

*Estimated completion time:* 15 minutes.

*Total annual burden:* 352 hours.

*9. Title(s) and Service form numbers:* Eagle Permits.

(1) Eagle Permits for Scientific Collection or Exhibition, form number 3–200.14; (2) Eagle Permits for Native American Religious Purposes, form number 3–200.15; (3) Eagle permits for Depredating Golden or Bald Eagles, form number 3–200.16; (4) Eagle Permits for the use or Depredating Gold or Bald Eagles for Falconry, form number 3–200.17; (5) Permits to Take Inactive Golden Eagle Nests, form number 3–200.18.

*Description and use:* Used by the Service to determine whether an applicant qualifies for a permit to take, possess, or transport a bald or golden eagle or their parts, nests, or eggs, if there is a *bona fide* need, and if issuance of the permit is compatible with conservation measures protecting national eagle populations.

*Description of respondents:* Individuals and households; businesses or other for-profit; not-for-profit institution; farms, Federal government; State, local or Tribal government.

*Number of respondents:* 3–200.14 (156); 3–200.15 (756); 3–200.16 (11); 3–200.17 (10); 3–200.18 (10).

*Estimated completion time(s): 3–200. 14 (30 minutes); 3–200.15 (5 minutes); 3–200.16 (30 minutes); 3–200.17 (25 minutes); 3–200.18 (30 minutes).*

*Total annual burden:* 77.5 hours.

Dated: March 3, 1997.

Robert G. Streeter,

*Assistant Director—Refuges and Wildlife.*

[FR Doc. 97–6369 Filed 3–12–97; 8:45 am]

**BILLING CODE 4310–55–M**

## Endangered and Threatened Species Permit Application

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of application.

The following applicant has 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–826077

*Applicant:* Wayne P. Steffens, Superior, Wisconsin.

The applicant requests a permit to take (capture and release; and take voucher specimens) Hines Emerald Dragonflies (*Somatochlora hineana*) throughout the Upper Peninsula of Michigan. Proposed activities are for documentation of presence/absence of the species and habitat monitoring for the purpose of survival and enhancement of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Division of Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office on or before April 14, 1997: U.S. Fish and Wildlife Service, Division of Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/725–3536 x250); FAX: (612/725–3526).

Dated: March 4, 1997.

John A. Blankenship,

*Assistant Regional Director, IL, IN, MO (Ecological Services), Region 3, Fort Snelling, Minnesota.*

[FR Doc. 97–6339 Filed 3–12–97; 8:45 am]

**BILLING CODE 4310–55–P**

## Bureau of Land Management

**[CA–067–7122–6606]; CACA–35511**

## Imperial Project; Draft Environmental Impact Statement Availability; Correction; Reopening of Comment Period

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Correction.

**SUMMARY:** In the Federal Register of November 1, 1996 (Vol. 61, p. 56567), a notice was published [FR Doc. 96–27519]. This amends that notice. Because of expressed interest, the comment period, which previously ended on December 31, 1996, is reopened until March 24, 1997.

**ADDRESSES:** Written comments should be addressed to Bureau of Land Management, El Centro Resource Area, 1661 South 4th Street, El Centro, CA 92243, Attention: Keith Shone.

**FOR FURTHER INFORMATION CONTACT:** Keith Shone (619) 337–4412 or Tom Zale (619) 337–4420.

Dated: February 28, 1997.

Terry A. Reed,

*Area Manager.*

[FR Doc. 97–6367 Filed 3–12–97; 8:45 am]

**BILLING CODE 4310–40–P**

**[AZ–910–0777–61–241A]**

## State of Arizona Resource Advisory Council Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Arizona Resource Advisory Council meeting, notice of meeting.

**SUMMARY:** This notice announces a meeting and tour of the Arizona Resource Advisory Council. The meeting will be held April 10, 1997, beginning at 1:00 p.m. at the Fire Station in Sonoita, Arizona. The Station is at the crossroads of Highway 83 and 82. The agenda items to be covered at the business meeting include review of previous meeting minutes; BLM State Director's Update on legislation, regulations and statewide planning efforts; Update on the Record of Decision of the Statewide Plan Amendment for Arizona Standards for Rangeland Health and Guidelines for Grazing Management; and Reports by the Recreation and Public Relations Working Groups; Reports from RAC members; RAC Discussion on future meeting dates and locations. A public comment period will take place at 4:00 p.m. April 10, 1997 for any interested publics who wish to address the Council. Following the meeting, the BLM and the RAC will host an informal Open House at the same location from 5:00 p.m. to 6:00 p.m. On April 11, 1997, the RAC will tour the Empire-Cienega Resource Conservation Area and discuss the ongoing planning efforts with the Sonoita Valley Planning Partnership. The tour will start at 8:30 a.m. from the Empire Ranch House and will conclude at 2:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Deborah Stevens or Ken Mahoney Bureau of Land Management, Arizona State Office, 222 North Central Avenue, Phoenix, Arizona 85004–2203, (602) 417–9512.

Joanie Losacco,

*Deputy State Director, External Affairs.*

[FR Doc. 97–6326 Filed 3–12–97; 8:45 am]

**BILLING CODE 4310–32–M**

**[NM–070–1430–01; NMNM96447]**

## Notice of Realty Action Recreation and Public Purpose (R&PP) Act Classification, New Mexico

**AGENCY:** Bureau of Land Management (BLM), Interior.

**ACTION:** Notice of R&PP lease/patent of public land in San Juan County, New Mexico.

**SUMMARY:** The following described public land is determined suitable for classification for leasing and patenting to the City of Farmington, Farmington, New Mexico under the provisions of the R&PP Act, as amended (43 U.S.C. 869 et seq.). The City of Farmington proposes to use the land for a neighborhood park and storm water detention pond.

New Mexico Principal Meridian

T. 30 N., R. 12 W.,
Sec. 19, SW1/4SW1/4NE1/4.
Containing 10 acres, more or less.

**COMMENT DATES:** On or before April 28, 1997 interested parties may submit comments regarding the proposed classification for leasing/conveyance of the lands at the following address. Adverse comments will be reviewed by the Bureau of Land Management, Farmington District Manager, 1235 LaPlata Highway, Suite A, Farmington, NM 87401, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action becomes the final determination of the Department of the Interior and effective May 12, 1997.

**FURTHER INFORMATION:** Information related to this action, including the environmental assessment, is available for review at the BLM District Office, Farmington, NM.

**SUPPLEMENTARY INFORMATION:** Publication of this notice segregates the public land described above from all other forms of appropriation under the public land laws, including the general mining laws, except for leasing and conveyance under the R&PP Act and leasing under the mineral leasing laws for a period of two (2) years from date of this publication in the Federal Register. The segregative affect will terminate upon issuance of the lease/patent to City of Farmington, or two (2) years from the date of this publication, whichever occurs first.

The lease, when issued, will be subject to the following terms:

1. Provisions of the R&PP Act and to all applicable regulations of the Secretary of the Interior.

2. Provisions of the Resource Conservation and Recovery Act of 1976 (RCRA) as amended, 42 U.S.C. 6901–6987 and the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) as amended, 42 U.S.C. 9601 and all applicable regulations.

3. Provisions of Title VI of the Civil Rights Act of 1964.

4. Provisions that the lease be operated in compliance with the approved Development Plan.

The patent, when issued, will be subject to the following terms:

1. Reservation to the United States of a right-of-way for ditches and canals in accordance with 43 U.S.C. 945.

2. Reservation to the United States of all minerals.

3. All valid existing rights, e.g. rights-of-way and leases of record.

4. Provisions that if the patentee or its successor attempts to transfer title to or control over the land to another or the land is devoted to a use other than that for which the land was conveyed, without the consent of the Secretary of the Interior or his delegate, or prohibits or restricts, directly or indirectly, or permits it agents, employees, contractors, or subcontractors, including without limitation, lessees, sublessees and permittees), to prohibit or restrict, directly or indirectly, the use of any part of the patented lands or any of the facilities whereon by any person because of such person's race, creed, color, or national origin, title shall revert to the United States.

The lands are not needed for Federal purposes. Leasing and later patenting is consistent with current policies and land use planning. The estimated time of lease issuance is May 15, 1997, with patent issued when substantial development takes place. The proposal serves the public interest by providing a park and flood control pond.

Dated: March 7, 1997.

Joel E. Farrell,

*Assistant District Manager for Lands and Renewable Resources.*

[FR Doc. 97–6327 Filed 3–12–97; 8:45 am]

**BILLING CODE 4310–FB–P**

**[ES–020–1610–00; FL–ES–BLM–092370–LB]**

## Intent To Amend Florida Resource Management Plan; Polk County, FL

**AGENCY:** Bureau of Land Management, Jackson District, Mississippi.

**ACTION:** Notice of intent to prepare plan amendment.

**SUMMARY:** The Bureau of Land Management (BLM), Jackson District, Mississippi, is initiating the preparation of a Plan Amendment and Environmental Analysis (EA). The amendment is in response to inquiries as to the use of a tract of public land in Polk County, Florida. This tract was not identified as public domain land during preparation of the Florida Resource Management Plan (RMP), which was approved in 1995. A plan amendment is needed to determine the future disposition and management of the tract. The Code of Federal Regulations, title 43, subpart 1600, will be followed for this planning effort. The public is invited to express their comments on the proposal to amend the RMP.

**EFFECTIVE DATE:** Comments relating to the identification of issues and planning criteria for the amendment will be accepted until May 1, 1997.

**ADDRESSES:** Comments should be sent to Bruce Dawson, District Manager, Jackson District Office, 411 Briarwood Drive, Suite 404, Jackson, Mississippi 39206.

**SUPPLEMENTARY INFORMATION:** The planning area involves public domain lands located within Polk County, FL, described as:

Tallahassee Meridian

T. 28 S., R. 28 E.
Sec. 10, Lot 2.
The area described contains 22.27 acres.

The public is invited to participate in the planning process, beginning with identification of issues and planning criteria. Planning criteria include applicable laws, regulations, and policies. Additional criteria will be developed if identified through public participation activities. Public participation activities during the planning process will include consultation with county and state governmental entities. The plan amendment and EA will be prepared by an interdisciplinary team.

Complete records of the planning amendment process will be available for public review at the Jackson District Office at the address above.

Bruce Dawson,

*District Manager.*

[FR Doc. 97–6254 Filed 3–12–97; 8:45 am]

**BILLING CODE 4310–GJ–M**

**[ES–960–9800–12] ES–48649, Group 88, Arkansas]**

## Notice of Filing of Plat of Survey; Arkansas

The plat of the dependent resurvey of the north, south and east boundaries, and the subdivisional lines of Township 2 South, Range 24 West, Fifth Principal Meridian, Arkansas, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on April 21, 1997.

The survey was requested by the U.S. Forest Service.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., April 21, 1997.

Copies of the plat will be made available upon request and prepayment of the reproduction fee of $2.75 per copy.

Dated: March 5, 1997.

Stephen G. Kopach,

*Chief Cadastral Surveyor.*

[FR Doc. 97–6269 Filed 3–12–97; 8:45 am]

BILLING CODE 4310–GJ–M

**[ID–957–1420–00]**

### Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m. March 5, 1997.

The plat representing the dependent resurvey of portions of the north boundary, subdivisional lines, and of the subdivision of section 5, and the survey of lots 12 and 15 in section 5, T. 32 N., R. 4 E., Boise Meridian, Idaho, Group 969, was accepted, March 5, 1997.

This survey was executed to meet certain administrative needs of the Bureau of Land Management. All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho, 83709–1657.

Dated: March 5, 1997.

Duane E. Olsen,

*Chief Cadastral Surveyor for Idaho.*

[FR Doc. 97–6376 Filed 3–12–97; 8:45 am]

BILLING CODE 4310–GG–M

## Bureau of Reclamation

### Conservation Advisory Group, Yakima River Basin Water Enhancement Project, Yakima, Washington

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Notice of meetings.

**SUMMARY:** As required by the Federal Advisory Committee Act, notice is hereby given that the Conservation Advisory Group, Yakima River Basin Water Enhancement Project, Yakima, Washington, established by the Secretary of the Interior, will hold public meetings. The purpose of the Conservation Advisory Group is to provide technical advice and counsel to the Secretary and the State on the structure, implementation, and oversight of the Yakima River Basin Water Conservation Program.

**DATES:** Meetings will be held:

- February 12 and 13, 1997, at the Bureau of Reclamation, 1917 Marsh Road, Yakima, Washington, 9 a.m. to 4 p.m.
- March 12 and 13, 1997, at the Bureau of Reclamation, 1917 Marsh Road, Yakima, Washington, 9 a.m.–4 p.m.
- April 17, 18, and 30, 1997, at the Bureau of Reclamation, 1917 Marsh Road, Yakima, Washington, 9 a.m.–4 p.m.

**FOR FURTHER INFORMATION CONTACT:** Walt Fite, Program Manager, Yakima River Water Enhancement Project, P.O. Box 1749, Yakima, Washington 98907; (509) 575–5848 extension 267.

**SUPPLEMENTARY INFORMATION:** The Basin Conservation Program is structured to provide economic incentives with cooperative Federal, State, and local funding to stimulate the identification and implementation of structural and nonstructural cost-effective water conservation measures in the Yakima River basin. Improvements in the efficiency of water delivery and use will result in improved streamflows for fish and wildlife and improve the reliability of water supplies for irrigation.

Dated: January 28, 1997.

James V. Cole,

*Manager, Upper Columbia Area Office.*

[FR Doc. 97–6368 Filed 3–12–97; 8:45 am]

BILLING CODE 4310–94–M

## DEPARTMENT OF JUSTICE

### Notice of Loging of Consent Decree Pursuant to the Resource Conservation and Recovery Act

Notice is hereby given that a consent decree that addresses claims in two Federal Court cases—*United States* v. *Bethlehem Steel Corporation*, Civ. Act. No. JFM–97–559 (D.Md.) and *Maryland* v. *Bethlehem Steel Corporation*, Civ. Act. No. JFM–97–558 (D.Md.)—was lodged on February 25, 1997.

The proposed decree resolves the claims of the United States under section 3008(h) of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6928, for performance of studies and other activities to investigate environmental contamination at the Bethlehem Steel plant at Sparrows Point, Maryland. The decree also addresses claims brought by the State of Maryland and the Maryland Department of the Environment under RCRA and State laws relating to air pollution and solid waste disposal. The decree obligates Bethlehem to pay a civil penalty of $350,000 to Maryland and, *inter alia*, to (a) perform a comprehensive investigation of contamination at the facility; (b) propose a plan for cleanup; (c) take prompt action to address conditions that pose a threat to human health or the environment; (d) reduce emission of particulate matter into the air; (e) recycle large quantities of waste and thereby reduce toxic emissions from the plant; and (f) improve management of its solid waste landfills. The United States and the State retain their legal authority to require Bethlehem to carry out the plan for ultimate cleanup of the facility.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Bethlehem Steel Corporation*, DOJ Ref. # 90–7–1–830.

The proposed consent decree may be examined at the United States Department of Justice, Environment and Natural Resources Division, Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $22.75 (25 cents per page reproduction costs), payable to the Consent Decree Library. Attachments to the proposed consent decree can be obtained for additional amount.

Joel M. Gross,

*Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 97–6272 Filed 3–12–97; 8:45 am]

BILLING CODE 4410–15–M

### Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 to 9675

Notice is hereby given that a proposed consent decree modification in *United*

*States* v. *Blocksom, Inc.,* Civil Action No. 3:97CV0146RM, was lodged on February 27, 1997 with the United States District Court for the Northern District of Indiana, South Bend Division. The proposed consent decree resolves the United States' claims against one settling defendant for unreimbursed past costs incurred in connection with the Waste, Inc. Superfund Site located in Michigan City, Indiana in return for a total payment of $50,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC. 20530, and should refer to *United States* v. *Blocksom, Inc.,* DOJ Ref. # 90–11–3–1376.

The proposed consent decree my be examined at the office of the United States Attorney, 204 South Main Street, M01 Federal Building, South Bend, Indiana 44601; the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC. 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $5.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

*Chief, Environment and Natural Resources Division.*

[FR Doc. 97–6273 Filed 3–12–97; 8:45 am]

BILLING CODE 4410–15–M

## Notice of Lodging of Consent Decree and Second Order Modifying Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, and 42 U.S.C. 9622(d), notice is hereby given that a proposed consent decree in *United States* versus *Renora, Inc., et al.,* Civ. No. 86–3462 (AMW) was lodged on February 26, 1997 in the United States District Court for the District of New Jersey and that a proposed consent decree amendment in *United States and State of New Jersey* v. *Alcan Aluminum Corp., et al.,* Civ. Nos. 88–4646/88–4670 (NHP) was lodged on February 11, 1997 in the United States District Court for the District of New Jersey.

The consent decree and second order modifying consent decree both address the hazardous waste contamination at the Renora Superfund Site in Edison, New Jersey. The consent decree provides for the United States to receive at least $294,000 in reimbursement of response costs incurred and to be incurred by EPA at the Site. The second order modifying consent decree provides for a group of parties to implement the remedial action selected by the Environmental Protection Agency in the Record of Decision for the Site dated September 29, 1987, as amended by EPA's ROD Amendment for the Site dated September 30, 1994.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree and proposed second order modifying consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Renora, Inc., et al.* and *United States and State of New Jersey* v. *Alcan Aluminum Corp., et al.,* DOJ Ref. Nos. 90–11–3–113 & 113A.

The proposed settlement may be examined at the Office of the United States Attorney, 970 Broad Street, Newark, New Jersey; the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, New York; and the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC. 20005, (202) 624–0892. A copy of the proposed consent decree and proposed second order modifying consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, DC. 20005. In requesting a copy please refer to the referenced case and enclose a check made payable to the Consent Decree Library in the amount of $10.25 (25 cents per page reproduction costs).

Joel M. Gross,

*Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 97–6274 Filed 3–12–97; 8:45 am]

BILLING CODE 4410–15–M

## Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on March 4, 1997, a proposed Consent Decree in *United States* v. *City of Richmond, Indiana* Civil Action No. IP 93–1112–C96–C–0275–S, was lodged with the United States District Court for the Southern District of Indiana. This consent decree represents a settlement of the United States' claims under the Clean Air Act, 42 U.S.C. 7401 *et. seq.*, and the particulate matter regulations of the Indiana State Implementation Plan against the City of Richmond, Indiana, doing business as Richmond Power & Light (''RPL''). The claims relate to RPL's exceedances of particulate matter emission limits imposed by the State Implementation Plan on RPL's Whitewater Valley electric generating station (the ''Whitewater Plant''), located at 2000 U.S. Highway 27 South in the City of Richmond, Wayne County, Indiana.

Under the proposed decree, RPL agrees to conduct stack tests annually at the Whitewater Plant and to pay $200,000 (plus accrued interest from January 1, 1996) to resolve the injunctive relief and civil-penalty claims alleged in the complaint and occurring prior to the lodging of the proposed decree.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Chief, Environmental Enforcement Section, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *City of Richmond, Indiana,* D.J. Ref. 90–5–2–1–1869.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Southern District of Indiana, U.S. Courthouse 5th Floor, 46 East Ohio Street, Indianapolis, Indiana; at the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Street, Chicago, Illinois, 60604–3590, and at the Consent Decree Library, 1120 G Street, NW, 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 4th Floor, Washington, DC 20005. In requesting a copy, please enclose a check in the amount of $3.75

(25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel Gross,

*Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 97–6276 Filed 3–12–97; 8:45 am]

BILLING CODE 4410–15–M

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**[AAG/A Order No. 131–97]**

## Privacy Act of 1974; Privacy Act Systems of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and Office of Management and Budget Circular No. A–130, Department components have reviewed their Privacy Act systems of records to identify any minor changes that will clarify and/or more accurately describe their systems of records. As a result, both the Executive Office for Immigration Review and the Immigration and Naturalization Service (INS) are proposing changes to their appendices of principal office addresses. In addition, INS proposes to change the name of the ''Fee and Application Receipt and Entry System'' to ''Computer Linked Application Information Management System.'' Finally, INS is adding as a new system location an enrollment center for accepting registrations to pass through a preregistered access lane at the INS checkpoint in San Clemente, California which is under the jurisdiction of the INS San Diego Sector Headquarters Office.

For public convenience, all changes have been italicized and a table of contents precedes the republication below. Any comments may be addressed to Patricia E. Neely, Program Analyst, Information Management and Security Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (Room 850, WCTR Building).

Dated: February 28, 1997.

Stephen R. Colgate,

*Assistant Attorney General for Administration.*

Table of Contents

*Immigration and Naturalization Service:*

Global Enrollment System (GES), Justice/INS–017

INS Appendix: List of Principal Offices of the Immigration and Naturalization Service, Justice/INS–999

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*Executive Office for Immigration Review*

Appendix to Executive Office for Immigration Review Systems of Records

### JUSTICE/INS–017

**SYSTEM NAME:**

Global Enrollment System (GES)

**SYSTEM LOCATION:**

Land border ports of entry and airports inspection facilities under the District Offices of the Immigration and Naturalization Service (INS) in the United States as detailed in JUSTICE/INS–999*; and the Preregistered Access Lane (PAL) and enrollment center for the (INS) checkpoint in San Clemente, California under the INS San Diego Sector Headquarters Office.*

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

United States citizens and lawful permanent residents of the United States as determined eligible by the Commissioner of the INS who apply to use any form of automated or other expedited inspection for verifying eligibility to cross the borders into the United States*, or to register to pass through the PAL at the INS checkpoint in San Clemente, Calfornia.*

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The system will contain application data such as full name, place and date of birth, sex, addresses, telephone numbers, country of citizenship, alien registration number (if applicable), biometric data, driver's license number and issuing state or province, the make, model, color, year, license number and license issuing state or province of the applicant's vehicle, the name and address of the vehicle's registered owners if different from the applicant, and the amount of fee paid. The application will also include such information as the frequency of border crossings, and the most frequent reason for crossing the border, together with an indication from the individuals as to whether he or she has been *arrested or* convicted of any violations of law. In addition, the file may contain a brief notation indicating that (1) through an independent check of other law enforcement agency systems, INS determined that the applicant had been convicted of a specific violation(s) of law (a finding which could prompt denial of the application) or (2) through a random inspection, INS identified a specific violation(s) of law which provided cause to remove the individual from the program. Finally, the file will contain letters to the applicants indicating the disposition of their applications.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

8 U.S.C. 1101, 1103, 1201, 1304, and 1356 (Pub. L. No. 101–515, *103–121, 103–217*).

**PURPOSE(S):**

Information in this system is used to adjudicate applications *(1)* to enter the United States by any available form of automated or other expedited inspection, including that offered to travelers arriving in the United States via dedicated commuter lanes, to pedestrians and vehicles arriving at remote ports of entry, to pedestrians and vehicles arriving at other lands borders, and to air travelers*; and (2) to pass through the PAL at the INS checkpoint in San Clemente, CA*. Alternative methods of inspection have been established to reduce delays by allowing low-risk frequent border crossers *and users of the San Clemente checkpoint* who have been pre-screened and pre-authorized, to enter the United States subject only to some form of automated inspection and random inspections.

**ROUTINE USERS OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Relevant information contained in this system of records may be disclosed to the following:

A. To Federal, State, and local government agencies, foreign governments, individuals, and organizations during the course of investigation in the processing of a matter or a proceeding within the purview of the immigration and nationality laws, to elicit information required by the INS to carry out its functions and statutory mandates.

B. Where there is an indication of a violation or potential violation of law (whether civil, criminal or regulatory in nature), to the appropriate agency (whether Federal, State, local or foreign), charged with the responsibility of investigating or prosecuting such violations or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

C. Where there is an indication of a violation or potential violation of the law of another nation (whether civil, criminal or regulatory in nature), to the appropriate foreign government agency charged with the responsibility of investigating or prosecuting such violations or with enforcing or implementing such laws, and to international organizations engaged in the collection and dissemination of intelligence concerning criminal activity.

D. To a Member of Congress or staff acting upon the Member's behalf when

the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

E. To the General Services Administration and the National Archives and Records Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

These records are stored in manila folders and on hard disk and diskette.

**RETRIEVABILITY:**

These records are retrieved by name, address, and/or vehicle license number.

**SAFEGUARDS:**

INS offices are located in building under guard and access to the premises is by official identification. Personal computers are accessed by user identification and password levels to assure that accessibility is limited to persons having a need-to-know. Similarly, paper records are protected from unauthorized access in locked files.

**RETENTION AND DISPOSAL:**

(a) Destroy all records three years after the dedicated commuter lane permit expires or three years after the denial of an application or removal of an individual from the program. (b) Litigation records will be destroyed three years after resolution or court decision. At the end of the three years, automated records will be erased, and paper records will be destroyed by shredding.

**SYSTEM MANAGER(S) AND ADDRESS:**

Assistant Commissioner, Inspections, 425 I Street, NW, Washington, DC 20536.

**NOTIFICATION PROCEDURE:**

Address your inquiries to the Port Director *or Border Patrol Chief* (if known) or to the system manager identified above.

**RECORDS ACCESS PROCEDURES:**

Make all requests for access in writing to the Freedom of Information Act/Privacy Act (FOIA/PA) Officer at the nearest INS Officer, or in the INS office maintaining the desired records (if known) by using the List of JUSTICE/INS–999, published in the Federal Register. Clearly mark the envelope and letter ''Privacy Act Request.'' Provide the A-file number and/or the full name and date of birth, with a notarized signature of the individual who is the subject of the records, and a return address.

**CONTESTING RECORD PROCEDURE:**

Direct all requests to contest or amend information in the record to the FOIA/PA Officer at one of the addresses identified above. State clearly and concisely the information being contested, the reason for contesting it, and the proposed amendment thereof. Clearly mark the envelope and letter ''Privacy Act Request.'' Provide the A-file number and/or the full name and date of birth, with a notarized signature of the individual who is subject of the records, and a return address.

**RECORD SOURCE CATEGORIES:**

The primary source of information is the application. Other law enforcement records systems may be used as sources.

**SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

## JUSTICE/INS–013

**SYSTEM NAME:**

*Computer Linked Application Information Management System (CLAIMS).*

**SYSTEM LOCATION:**

Immigration and Naturalization Service (INS) Headquarters, Regional Service Centers, District Offices and sub-offices as detailed in Justice/INS–999.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals who have filed applications or petitions for benefits under the Immigration and Nationality Act, as amended, and/or who have submitted fee payments with such applications or petitions; individuals who have paid fees for access to records under the Freedom of Information/Privacy Acts (FOIA/PA); individuals who have posted a bond and related fees with INS; and individuals who have refunded money to INS.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Information while identifies individuals named above, e.g., name and address, date of birth, and alien registration number. Records in the system may also include such information as date documents were filed or received in INS, status, location of record, FOIA/PA or other control number when applicable, fee receipt data, and posted bond data.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

8 U.S.C. 1103; 8 U.S.C. 1363; and 31 U.S.C. 3512.

**PURPOSE:**

This system will enable INS to determine the status of pending applications and petitions for benefits; to account for and control the receipt and disposition of any fees or refunds collected, including those which accompany applications, petitions, posted bonds, and FOIA/PA requests; and to locate related files and respond to inquiries about these records.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

No external disclosure will be made from this system. The system will be used by employees as indicated under ''Purpose of the System.''

**POLICIES AND PRACTICES FOR STORING RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Information is stored on magnetic disks and tape.

**RETRIEVABILITY:**

Records may be retrieved by name of the individuals covered by the system; and by fee receipt number.

**SAFEGUARDS:**

Records are safeguarded in accordance with Department of Justice rules and procedures. INS offices are located in buildings under security guard, and access to premises is by official identification. Offices are locked during non-duty hours. Access to this system is obtained through remote terminals which require the use of restricted passwords and a user ID.

**RETENTION AND DISPOSAL:**

Records are archived off-line for an indefinite period one year after the final action. A disposition schedule for archived records is pending.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Service Center Operation, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536.

**NOTIFICATION PROCEDURE:**

Inquiries should be addressed to the system manager.

**RECORD ACCESS PROCEDURE:**

Make all requests for access in writing to the FOIA/PA Officer at any INS office. Clearly mark the envelope and letter ''Privacy Act Request.'' Depending on the type of record, provide the name and date of birth of the applicant, name of petitioner or FOIA/PA requester, alien registration number of beneficiary and receipt number to assist in locating

and/or verifying the identify of the record. For your convenience, INS Form G–639, Freedom of Information Act Privacy Act Request, may be obtained from the nearest INS office and used to submit a request.

**CONTESTING RECORDS PROCEDURE:**

Direct all requests to contest or amend information to the FOIA/PA Officer at any INS office. State clearly and concisely the information being contested, the reason for contesting it, and the proposed amendment thereof. Clearly mark the envelope ''Privacy Act Amendment Request.'' The record must be identified in the same manner as described for making a request for access.

**RECORD SOURCE CATEGORIES:**

Information contained in this system of records is obtained from the individuals covered by the system.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

**JUSTICE/INS–999**

**SYSTEM NAME:**

INS Appendix: List of principal offices of the Immigration and Naturalization Service.

Headquarters: Immigration and Naturalization Service; 425 ''I'' Street NW., Washington, DC 20536.

Regional Offices: Eastern Regional Office, 70 Kimball Avenue South, Burlington, VT 05403–6813.

Central Regional Office, Fort Snelling Fed. Bldg., Room 400, Twin Cities, MN 55111–4007.

Western Regional Office, *P.O. Box 30080,* Laguna Niguel, CA 92607–0080.

Regional Service Centers: Eastern Service Center, 75 Lower Welden Street, St. Albans, VT 05479–001.

Northern Service Center, 850 S Street, Lincoln, NE 68508–1619.

Southern Service Center, P.O. Box 152122, Irving, TX 75015–0212.

Western Service Center, Post Office Box 30040, Laguna Niguel, CA 92607–0040.

Administrative Center: Eastern Administrative Center, 70 Kimball Avenue, Burlington, VT 05403–6813.

Southern Administrative Center, 7701 North Stemmons Freeway, Dallas, TX 75247–998.

Northern Administrative Center, Fort Snelling Fed. Bldg., Room 480, Twin Cities, MN 55111.

Western Administrative Center, 24000 Avila Road, Laguna Niguel, CA 92677–8080.

District Offices in the United States:

Anchorage District Office, Michaelis Building, *Suite 102,* 620 East 10th Avenue, Anchorage, AK *99501–3708.*

Atlanta District Office, 77 Forsyth Street, SW., *Room 284,* Atlanta, GA 30303.

Baltimore District Office, Equitable Bank Center, 12th Floor, Tower One, 100 South Charles Street, Baltimore, MD 21210.

Boston District Office, JFK Federal Building, Government Center, Boston, MA 02203.

Buffalo District Office, 68 Court Street, Buffalo, NY 14202.

Chicage District Office, 10 West Jackson Boulevard, Second Floor, Chicago, IL 60604.

Cleveland District Office, Anthony J. Celebreze, Federal Office Building, 1240 East 9th Street, Room 1917, Cleveland, OH 44199.

Dallas District Office, 8101 North Stemmons Freeway, Dallas, TX 75247.

Denver District Office, 4730 Paris Street, Albrook Center, Denver, CO 80239–2804.

Detroit District Office Federal Building, 333 Mt. Elliott St., Detroit, MI 48207.

El Paso District Office, *1545 Hawkins Blvd., Suite 170, El Paso, TX 79925.*

Harlingen District Office, 2102 Teege Road, Harlingen, TX 78550.

Helene District Office Federal Building, Room 512, 301 South Park, Drawer 10036, Helene, MT 59626.

Honolulu District Office, 595 Ala Moana Boulevard, Honolulu, HI 96813.

Houston District Office, 509 North Belt, Houston, TX 77060.

Kansas District Office, 9747 N. Connant Avenue, Kansas City, MO.

Los Angeles District Office, 300 North Los Angeles Street, Los Angeles, CA 90012.

Miami District Office, 7880 Biscayne Boulevard, Miami, FL 33138.

Newark District Office Federal Building, 970 Broad Street, Newark, NJ 07102.

New Orleans District Office Postal Services Bldg., Room T–8005, 701 Loyola Ave., New Orleans, LA 70113.

New York District Office, 26 Federal Plaza, New York, NY 10278.

Omaha District Office, 3736 South 132nd Street, Omaha, NE 68144.

Philadelphia District Office, 1600 Callowhill Street, Philadelphia, PA 19130.

Phoenix District Office, 2035 North Central Avenue, Phoenix, AZ 85004.

Portland Maine District Office, 739 Warren Avenue, Portland, ME 04103.

Portland Oregon District Office, Federal Office Building, 511 NW., Broadway, Portland, OR 97209.

San Antonio District Office, *8940 Four Winds, San Antonio, TX 78239.*

San Diego District Office, 880 Front Street, *San Diego,* 92188.

San Francisco District Office, 630 Sansome Street, Appraisers Building, San Francisco, CA 94111.

San Juan District Office, PO Box 365068, San Juan, PR 00936–5068.

Seattle District Office, 815 Airport Way South, Seattle, WA 98134.

St. Paul District Office, 2901 Metro Drive, Suite 100 Bloomington, MN 55425.

Washington, DC District Office, 4420 North Fairfax Drive, Arlington, VA 22203.

Suboffices (Files Control Offices) in the United States:

Agana Office, Pacific News Building, *Room 801, 238 Archbishop Flores* Street, Agana, GU 96910.

Albany Office, James T. Foley Federal Courthouse, 445 Broadway, Room 220, Albany, NY 12207.

Charlotte Office, 6 Woodlawn Green, Suite 138, Charlotte, NC 28217.

Charlotte Amalie Office, Federal District Court Bldg., PO Box 610, Charlotte Amalie, St. Thomas, VI 00801.

Cincinnati Office, J.W. Peck Federal Building, 550 Main Street, Room 8525, Cincinnati, OH 45202.

El Paso Intelligence Center, SSG Sims Street, Building 11339, El Paso, TX 79918–5100.

Hartford Office, Ribicoff Building, 450 Main Street, Hartford, CT 06103–3060.

Indianapolis Office, Gateway Plaza, 950 North Meridian, Suite 400, Indianapolis, IN 46204.

Las Vegas Office, *3373 Pepper Lane, Las Vegas, NV 89120–2739.*

Memphis Office, 245 Wagner Place, Suite 250, Memphis, TN 38103–3800.

Milwaukee Office Federal Building, Room 186, 517 East Wisconsin Avenue, Milwaukee, WI 53202.

Norfolk Office, Norfolk Federal Building, 200 Granby Mall, Room 439, Norfolk, VA 23510.

Pittsburg Office, 314 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

Providence Office, Federal Building U.S. Post Office, Exchange Terrace, Providence, RI 02903.

Reno Office, 1351 Corporate Blvd., Reno, NV 89502.

St. Albans Office, PO Box 328, St. Albans, VT 05478.

St. Louis Office, R.A. Young Federal Building, 1222 Spruce Street, Room 1.100, St. Louis, MO 63101–2815.

Salt Lake City Office, 230 West 400 South Street, Salt Lake City, UT 84101.

Spokane Office, U.S. Courthouse Building, Room 691, Spokane, WA 99201.

Border Patrol Sector Headquarters:

Blaine Sector Headquarters, 1590 ''H'' Street, PO *Box 3529, Blaine, WA 98231* Blaine, WA 98230.

Buffalo Sector Headquarters, 231 Grand Island Boulevard, Tonawanda, NY 14150.

Del Rio Sector Headquarters, Qualia Drive, PO Box 2020, Del Rio, TX 78840.

Detroit Sector Headquarters, PO Box 32639, Detroit, MI 48232.

El Centro Sector Headquarters, 1111 North Imperial Avenue, El Centro, CA 92243.

El Paso Sector Headquarters, PO Box 9578, El Paso, TX 79986.

Grand Forks Sector Headquarters, 2320 South Washington Street, Grand Forks, ND 58201.

Harve Sector Headquarters, 2605 5th Avenue, SE, Harve, MT 59501.

Houlton Sector Headquarters, Rt. 1 Calais Rd., PO Box 706, Houlton, ME 04730.

Laredo Sector Headquarters, *PO Box 207,* W. Del Mar Boulevard, Laredo, TX 78041.

Livermore Sector Headquarters, 6102 9th St., Dublin, CA 94268.

Marfa Sector Headquarters, *PO Box ''I'',* 300 Madrid Street, Marfa, TX 79843.

Mayaguez Sector Headquarters, Box 467, Ramey, PR 00604.

McAllan Sector Headquarters, *PO Box 1179,* 2301 South Main Street, McAllen, TX 78503.

Miami Sector Headquarters, *PO Box 8909,* 7201 Pembroke Rd., Pembroke Pines, FL 33023.

New Orleans Sector Headquarters, *PO Box 6218,* 3819 Patterson Drive, New Orleans, LA 70114.

San Diego Sector Headquarters 3752 Beyer Blvd., San *Ysidro* CA 92073.

Spokane *Sector* Headquarters, North 10710 Newport Highway, Spokane, WA 99218.

Swanton Sector Headquarters, Grand Avenue, Swanton, VT 05488.

Tucson Sector Headquarters, 1970 West Ajo Way, Tucson, AZ 85713.

Yuma Sector Headquarters, 350 First Street, *Box 2708* Yuma, AZ 85364.

Border Patrol Academy:

DOJ/INS (FLETC) Artesia, 1300 West Richey Avenue, Artesia, NM 88210.

Officer Development and Training Facility, Building 64 FLETC Glynco, GA 31524.

District Offices in Foreign Countries:

Bangkok District Office, U.S. Immigration and Naturalization Service, c/o American Embassy, Box 12, APO San Francisco, CA 96346.

Mexico District Office, U.S. Immigration and Naturalization Service, c/o American Embassy, Room 118, PO Box 3087, Laredo, TX 78044.

Rome District Office, U.S. Immigration and Naturalization Service, c/o American Embassy, APO New York, NY 09794.

Suboffices (Files Control Offices) in Foreign Countries:

Athens Office, U.S. Immigration and Naturalization Service, c/o American Embassy, Athens, Greece, PSC 108 Box 25 APO AE 09842.

Frankfurt Office, U.S. Immigration and Naturalization Service, American Consulate General, Frankfurt, Unit 25401 APO AE 09213.

Guadalajara Office, U.S. Immigration and Naturalization Service, Box 3088, Guadalajara Laredo, TX 70844–3088.

Hong Kong Office, U.S. Immigration and Naturalization Service, c/o American Consulate General, Hong Kong, PSC 464, Box 30, FPO AP 96522–0002.

London Office, U.S. Immigration and Naturalization Service, c/o American Embassy, London, England, PSC 801, Box 06, FPO AE 09498–4006.

Mexico Office, U.S. Immigration and Naturalization Service, c/o American Embassy, Mexico City, Mexico, PO Box 3087, Room 118, Laredo, TX 78044.

Monterrey Office, U.S. Immigration and Naturalization Service, c/o American Consulate, PO Box 3098, Laredo, TX 78044–3098.

Moscow Office, U.S. Immigration and Naturalization Service, c/o American Embassy, Moscow, USSR, PSC 77, APO AE 09721.

Nairobi Office, U.S. Immigration and Naturalization Service, c/o American Embassy, Nairobi, Kenya Unit 64100, Box 21, APO AE 09831–4100.

New Delhi Office, U.S. Immigration and Naturalization Service, c/o American Embassy, New Delhi, India, Department of State, Washington, DC 20521–9000.

Rome Office, U.S. Immigration and Naturalization Service, c/o American Embassy, Rome, Italy, PSC 59, APO AE 09624.

Seoul, Korea Office, U.S. Immigration and Naturalization Service, c/o American Embassy, Seoul, Korea Unit 15550, APO AP 96205–0001.

Shannon Office, U.S. Immigration and Naturalization Service, c/o AER–RIANTA, Attn: Port Director, Shannon Airport, Shannon, Co, Clare, Ireland.

Singapore Office, U.S. Immigration and Naturalization Service, c/o American Embassy, Singapore, FPO AP 96534.

Tijuana Office, U.S. Immigration and Naturalization Service, c/o American Consulate General, Tijuana, PO Box 439039, San Diego, CA 92143–9039.

Vienna Office, U.S. Immigration and Naturalization Service, c/o American Embassy, Vienna, Austria Unit 27937, Box 21, APO AE 09222.

**JUSTICE/EOIR–999**

**SYSTEM NAME:**

Appendix to Executive Office for Immigration Review System of Records.

EOIR field offices are located as follows:

Executive Office for Immigration Review, Immigration Court, 901 N. Stuart Street, Room 1300, Arlington, VA 22203.

Executive Office for Immigration Review, Immigration Court, *101 Marietta Street, Suite 2702,* Atlanta, GA 30303.

Executive Office for Immigration Review, Immigration Court, U.S. Appraisers Bldg., 103 South Gay Street, Room 702, Baltimore, MD 21202.

Executive Office for Immigration Review, Immigration Court, JFK Federal Building, 15 New Sudbury Street, Room 320, Boston, MA 02203.

*Executive Office for Immigration Review, Immigration Court, 515 11th Street West, Bldg. A, Room 300, Bradenton, FL 34205*

Executive Office for Immigration Review, Immigration Court, 130 Delaware Avenue, Suite 410, Buffalo, NY 14202.

Executive Office for Immigration Review, Immigration Court, Federal Building, Room 646, 536 South Clark Street, Chicago, IL 60605–1521.

Executive Office for Immigration Review, Immigration Court, Main Tower, Suite 700, 1200 Main Street, Dallas, TX 75202.

Executive Office for Immigration Review, Immigration Court, Byron G. Rogers Federal Building, 1961 Stout Street, Room 1403, Denver, CO 80294.

*Executive Office for Immigration Review, Immigration Court, Brewery Park II, 1155 Brewery Park Blvd., Suite 450, Detroit, MI 48207*

Executive Office for Immigration Review, Immigration Court, 1115 N. Imperial Avenue, 1st Floor, El Centro, CA 92243.

Executive Office for Immigration Review, Immigration Court, 1545 Hawkins Blvd., Suite 205, El Paso, TX 79925.

Federal Detention Center, 1705 East Hanna Road, Suite 366, Eloy, AZ 85231.

Executive Office for Immigration Review, Immigration Court, 3260 North Pinal Parkway Avenue, Florence, AZ 85232.

Executive Office for Immigration Review, Immigration Court, GSA Center, 651 Federal Drive, Suite 111–14, Guaynabo, PR 00965.

Executive Office for Immigration Review, Immigration Court,

Immigration Court, 201 East Jackson St., Harlingen, TX 78550.
*Executive Office for Immigration Review, Immigration Court, AA Ribicoff Bldg & Courthouse, 450 Main St., Room 509, Hartford, CT 06103.*
Executive Office for Immigration Review, Immigration Court, 2320 La Branch Street, Room 2235, Houston, TX 77004.
Houston Service Processing Center, 15850 Export Plaza Drive, Houston, TX 77032
*Executive Office for Immigration Review, Immigration Court, 2409 LaBrucherie Rd, Imperial, CA 92251*
Laredo Contract Facility, Route 4, PO Box 125A, Laredo, TX 78041.
Laredo Service Processing Center, PO Box 440110, Laredo, TX 78044–0110.
*Executive Office for Immigration Review, Immigration Court, Alan Bible Federal Bldg., 600 Las Vegas Blvd., South, Room 410, Las Vegas, NV 89101*
Executive Office for Immigration Review, Immigration Court, 300 N. Los Angeles Street, Room 2001, Los Angeles, CA 90012.
Port Isabel Service Processing Center, Route 3, Box 341, Building 37, Los Fresnos, TX 78566.
Executive Office for Immigration Review, Immigration Court, 155 S. Miami Avenue, Room 800, Miami, FL 33130.
Krome North Service Processing Center, 18201 SW. 12th Street, Miami, FL 33194.
Ulster Correctional Facility, Berme Road, PO Box 800, Napanoch, NY 12458.
Executive Office for Immigration Review, Immigration Court, *970 Broad Street, Room 1135*, Newark, NJ 07102.
Executive Office for Immigration Review, Immigration Court, 26 Federal Plaza, *Room 10–1000,* New York, NY 10278.
Executive Office for Immigration Review, Immigration Court, 201 Varick Street, *Room 1140,* New York, NY 10014.
Federal Deportation Center, Immigration Court, 1900 East Whately Rd., Oakdale, LA 71463.
*Executive Office for Immigration Review, Immigration Court, 1600 Callowhill St., Room 530, Philadelphia, PA 19130.*
Executive Office for Immigration Review, Immigration Court, Federal Building, 230 North First Avenue, Room 3114, Phoenix, AZ 85025.
Executive Office for Immigration Review, Immigration Court, U.S. Post Office/Courthouse Building, 615 E. Houston Street, Room 598, San Antonio, TX 78205–2040.
Executive Office for Immigration Review, Immigration Court, 401 West A Street, Suite 800, San Diego, CA 92101–7904.
Executive Office for Immigration Review, Immigration Court, 550 Kearny Street, Suite 800, San Francisco, CA 94108.
INS San Pedro Service Processing Center, 2001 Seaside Avenue, Room 136, San Pedro, CA 90731.
Executive Office for Immigration Review, Immigration Court, Key Tower Building, *Suite 2500,* 1000 Second Avenue, Seattle, WA 98104.

**JUSTICE/EOIR—999**

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Executive Office for Immigration Review, Immigration Court, Main Tower, Suite 700, 1200 Main Street, Dallas, TX 75202.
Executive Office for Immigration Review, Immigration Court, Byron G. Rogers Federal Building, 1961 Stout Street, Room 1403, Denver, CO 80294.
Executive Office of Immigration Review, Immigration Court, Brewery Park II, 1155 Brewery Park Blvd., Suite 450, Detroit, MI 48207.
Executive Office for Immigration Review, Immigration Court, 1115 N. Imperial Avenue, 1st Floor, El Centro, CA 92243.
Executive Office for Immigration Review, Immigration Court, 1545 Hawkins Blvd., Suite 205, El Paso, TX 79925.
Federal Detention Center, 1705 East Hanna Road, Suite 366, Eloy, AZ 85231.
Executive Office for Immigration Review, Immigration Court, 3260 North Pinal Parkway Avenue, Florence, AZ 85232.
Executive Office for Immigration Review, Immigration Court, GSA Center, 651 Federal Drive, Suite 111–14, Guaynabo, PR 00965.
Executive Office for Immigration Review, Immigration Court, 201 East Jackson St., Harlington, TX 78550.
*Executive Office for Immigration Review, Immigration Court, AA Ribicoff Bldg & Courthouse, 450 Main St., Room 509, Hartford, CT 06103.*
Executive Office for Immigration Review, Immigration Court, 2320 La Branch Street, Room 2235, Houston, TX 77004.
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*Executive Office for Immigration Review, Immigration Court, 2409 LaBrucherie Rd, Imperial, CA 92251.*
Laredo Contract Facility, Route 4, P.O. Box 125A, Laredo, TX 78041.
Laredo Service Processing Center, P.O. Box 440110, Laredo, TX 78044–0110.
*Executive Office for Immigration Review, Immigration Court, Alan Bible Federal Bldg., 600 Las Vegas Blvd., South, Room 410, Las Vegas, NV 89101.*
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Executive Office for Immigration Review, Immigration Court, 550 Kearny Street, Suite 800, San Francisco, CA 94108.
INS San Pedro Service Processing Center, 2001 Seaside Avenue, Room 136, San Pedro, CA 90731.
Executive Office for Immigration Review, Immigration Court, Key Tower Building, *Suite 2500*, 1000 Second Avenue, Seattle, WA 98104.

[FR Doc. 97–6271 Filed 3–12–97; 8:45 am]
**BILLING CODE 4410–10–M**

## Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—BHP Petroleum—Study of Dual 10,000 psi Subsea TFL Completion Technology

Notice is hereby given that, on March 12, 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''), BHP Petroleum Inc. 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: BHP Petroleum (Americas) Inc., Houston, TX; BP Exploration & Oil Inc., Houston, TX; Chevron Petroleum Technology Company, San Ramon, CA; and Exxon Production Research Company, Houston, TX. The nature and objectives of the joint venture are to perform preliminary engineering regarding the subsurface part of 10,000 psi Dual Subsea TFL Completion technology and to obtain more information about the feasibility, cost, and risks of the technology.

Constance K. Robinson,
*Director of Operations, Antitrust Division.*
[FR Doc. 97–6275 Filed 3–12–97; 8:45 am]
**BILLING CODE 4410–11–M**

## DEPARTMENT OF LABOR

## Office of the Secretary

### Bureau of International Labor Affairs; U.S. National Administrative Office; North American Agreement on Labor Cooperation; Hearing on Submission #9602

**AGENCY:** Office of the Secretary, Labor.
**ACTION:** Notice of hearing.

**SUMMARY:** The purpose of this notice is to announce a hearing, open to the public, on Submission #9602

Submission #9602, filed with the U.S. National Administrative Office (NAO) by the Communications Workers of America (CWA), the Union of Telephone Workers of Mexico (STRM), and the Federation of Unions of Goods and Services Companies (FESEBS) involves labor law matters in Mexico and was accepted for review by the NAO on December 10, 1996. Notice of acceptance for review was published in the Federal Register on December 13, 1996.

Article 16(3) of the North American Agreement on Labor Cooperation (NAALC) provides for the review of labor law matters in Canada and Mexico by the NAO in accordance with U.S. domestic procedures. Revised procedural guidelines pertaining to the submission, review, and reporting process utilized by the Office were published in the Federal Register on April 7, 1994 (59 FR 16660). The guidelines provide for a hearing as part of the review.

**DATES:** The hearing will be held on April 17, 1997, commencing at 9:00 a.m. Persons desiring to present oral testimony at the hearing must submit a request in writing, along with a written statement or brief describing the information to be presented or position to be taken.

**ADDRESSES:** The hearing will be held in Tucson, Arizona, at a location to be announced. Written statements or briefs and requests to present oral testimony may be mailed or hand delivered to the U.S. National Administrative Office, Department of Labor, 200 Constitution Avenue, N.W., Room C–4327, Washington, D.C. 20210. Requests to present oral testimony and written statements or briefs must be received by the NAO no later than close of business, April 4, 1997.

**FOR FURTHER INFORMATION CONTACT:** Irasema T. Garza, Secretary, U.S. National Administrative Office, Department of Labor, 200 Constitution Avenue, N.W., Room C–4327, Washington, D.C. 20210. Telephone: (202) 501–6653 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

I. Nature and Conduct of Hearing

As set out in the notice published in the Federal Register on December 13, 1996, the objective of the NAO's review of the submission is to gather information to better understand and publicly report on the Government of Mexico's promotion of compliance with, and effective enforcement of, its labor law through appropriate government action as set out in Article 3 of the NAALC, and on the steps the government of Mexico has taken to ensure that its administrative, quasi-judicial and labor tribunal proceedings for the enforcement of its labor law are fair, equitable and transparent, in accordance with Article 5 of the NAALC.

The hearing will be conducted by the Secretary of the NAO or the Secretary's designee. It will be open to the public. All proceedings will be conducted in English, with simultaneous translation in English and Spanish provided. The public files for the submission, including written statements, briefs, and requests to present oral testimony, will be made a part of the appropriate hearing record. The public files will also be available for inspection at the NAO prior to the hearing.

The hearing will be transcribed. A transcript of the proceedings will be made available for inspection, as provided for in Section E of the procedural guidelines, or may be purchased from the reporting company.

Disabled persons should contact the Secretary of the NAO no later than April 4, 1997, if special accommodations are needed.

II. Written Statements or Briefs and Requests to Present Oral Testimony

Written statements or briefs shall provide a discussion of the information to be presented or position taken and shall be legibly typed or printed. Requests to present oral testimony shall include the name, address, and telephone number of the witness, the organization represented, if any, and any other information pertinent to the request. Five copies of a statement or brief and a single copy of a request to

present oral testimony shall be submitted to the NAO at the time of filing.

No request to present oral testimony will be considered unless accompanied by a written statement or brief. A request to present oral testimony may be denied if the written statement or brief suggests that the information sought to be provided is unrelated to the review of the submission or for other appropriate reasons. The NAO will notify each requester of the disposition of the request to present oral testimony.

In presenting testimony, the witness should summarize the written statement or brief, may supplement the written statement or brief with relevant information, and should be prepared to answer questions from the Secretary of the NAO or the Secretary's designee. Oral testimony will ordinarily be limited to a ten minute presentation, not including the time for questions. Persons desiring more than ten minutes for their presentation should so state in the request, setting out reasons why additional time is necessary.

The requirements relating to the submission of written statements on briefs and requests to present oral testimony may be waived by the Secretary of the NAO for reasons of equity and public interest.

Signed At Washington, D.C. on March 13, 1997.

Irasema T. Garza,

*Secretary, U.S. National Administrative Office.*

[FR Doc. 97–6224 Filed 3–12–97; 8:45 am]

**BILLING CODE 4510–28–M**

## Mine Safety and Health Administration

### Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Clark Elkhorn Mining Company

[Docket No. M–96–204–C]

Clark Elkhorn Mining Company, P.O. Box 2805, Pikeville, Kentucky 41502 has filed a petition to modify the application of 30 CFR 75.308 (boreholes in advance of mining) to its Ratliff Mine No. 111 (I.D. No. 15–17776) located in Pike County, Kentucky. The petitioner requests a waiver of the mandatory standard to allow borehole drilling at distances greater than 50 feet from the Hopkins Creek Coal Company's Mine No. 1 (I.D. No. 15–11602). The petitioner states that application of the standard would result in a diminution of safety to the miners. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

2. Brookside Coal Company

[Docket No. M–96–205–C]

Brookside Coal Company, Box 64, Spring Glen, Pennsylvania 17978 has filed a petition to modify the application of 30 CFR 75.1200 (d) & (i) (mine maps) to its Diamond Slope (I.D. No. 36–08456) located in Schuylkill County, Pennsylvania. The petitioner proposes to use cross-sections instead of contour lines through the intake slope, at locations of rock tunnel connections between veins, and at 1,000-foot intervals of advance from the intake slope and to limit the required mapping of the mine workings above and below to those present within 100 feet of the veins being mined except when veins are interconnected to other veins beyond the 100-foot limit through rock tunnels. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

3. Brookside Coal Company

[Docket No. M–96–206–C]

Brookside Coal Company, Box 64, Spring Glen, Pennsylvania 17978 has filed a petition to modify the application of 30 CFR 75.360 (preshift examination) to its Diamond Slope (I.D. No. 36–08456) located in Schuylkill County, Pennsylvania. The petitioner proposes to visually examine each seal for physical damage from the slope gunboat during the preshift examination after an air quantity reading is taken inby the intake portal and to test for the quantity and quality of air at the intake air split locations off the slope in the gangway portion of the workings. The petitioner proposes to physically examine the entire length of the slope once a month. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

4. Brookside Coal Company

[Docket No. M–96–207–C]

Brookside Coal Company, Box 64, Spring Glen, Pennsylvania 17978 has filed a petition to modify the application of 30 CFR 75.364(b)(1), (4) and (5) (weekly examination) to its Diamond Slope (I.D. No. 36–08456) located in Schuylkill County, Pennsylvania. Due to hazardous conditions and roof falls, certain areas of the intake haulage slope and primary escapeway cannot be traveled safely. The petitioner proposes to examine the areas from the gunboat/slope car with an alternative air quality evaluation at the section's intake level, and travel and throughly examine these areas for hazardous conditions once a month. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

5. Brookside Coal Company

[Docket No. M–96–208–C]

Brookside Coal Company, Box 64, Spring Glen, Pennsylvania 17978 has filed a petition to modify the application of 30 CFR 75.1002–1 (location of other electrical equipment; requirements for permissibility) to its Diamond Slope (I.D. No. 36–08456) located in Schuylkill County, Pennsylvania. The petitioner requests a modification of the standard to permit use of non-permissible electric equipment within 150 feet of the pillar line due in part to the method of mining used in pitching anthracite mines. As an alternative, the petitioner proposes to evaluate the mine air quality for methane on an hourly basis during operation and record one of the gas test results in the on-shift examination record. The petitioner also proposes to suspend equipment operation anytime the methane concentration at the equipment reaches 0.5 percent or when found during a preshift examination. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

6. Brookside Coal Company

[Docket No. M–96–209–C]

Brookside Coal Company, Box 64, Spring Glen, Pennsylvania 17978 has filed a petition to modify the application of 30 CFR 75.1100 (quantity and location of firefighting equipment) to its Diamond Slope (I.D. No. 36–08456) located in Schuylkill County, Pennsylvania. The petitioner proposes to use only portable fire extinguishers to replace existing requirements where rock dust, water cars, and other water storage are not practical. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

7. Brookside Coal Company

[Docket No. M–96–210–C]

Brookside Coal Company, Box 64, Spring Glen, Pennsylvania 17978 has filed a petition to modify the

application of 30 CFR 75.1201–1(a) (temporary notations, revisions, and supplements) to its Diamond Slope (I.D. No. 36–08456) located in Schuylkill County, Pennsylvania. The petitioner proposes to revise and supplement mine maps annually instead of every 6 months, as required, and to update maps daily by hand notations. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

8. Brookside Coal Company

[Docket No. M–96–211–C]

Brookside Coal Company, Box 64, Spring Glen, Pennsylvania 17978 has filed a petition to modify the application of 30 CFR 75.335 (construction of seals) to its Diamond Slope (I.D. No. 36–08456) located in Schuylkill County, Pennsylvania. The petitioner requests a modification of the standard to permit alternative methods of construction of seals using wooden materials of moderate size and weight due to the difficulty in accessing previously driven headings and breasts containing inaccessible abandoned workings; to accept a design criteria in the 10 psi range; and to permit the water trap to be installed in the gangway seal and sampling tube in the monkey seal for seals installed in pairs. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

9. Consolidation Coal Company

[Docket No. M–97–01–C]

Consolidation Coal Company, Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Shoemaker Mine (I.D. No. 46–01436) located in Marshall County, West Virginia. The petitioner proposes to use high-voltage (4,160 volt) cables inby the last open crosscut. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

10. Eastern Associated Coal Corporation

[Docket No. M–97–02–C]

Eastern Associated Coal Corporation, 800 Laidley Tower, P.O. Box 1233, Charleston, West Virginia 25324 has filed a petition to modify the application of 30 CFR 75.364 (weekly examination) to its Federal No. 2 Mine (I.D. No. 46–01456) located in Monongalia County, West Virginia. The petitioner requests amendments to its previously granted petition for modification (Docket No. M–92–120–C) which was filed to allow checkpoints instead of examining portions of the mine that were inaccessible due to adverse roof conditions. The petitioner states that a portion of the mine has been sealed thus eliminating the need for certain checkpoints; that checkpoints 3, 4, 7, and 8 are now behind seals and therefore are no longer necessary; and that checkpoints 5 and 6 that were used to evaluate a return air course from 2 West Mains will be eliminated due to rehabilitation and ventilation changes in the seal project which is now being examined as required. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

11. CONSOL of Kentucky, Inc.

[Docket No. M–97–03–C]

CONSOL of Kentucky, Inc., Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75.1101 (water sprinkler systems; arrangement of sprinklers) to its Jones Fork 13A–H4 Mine (I.D. No. 15–17885) located in Knott County, Kentucky. The petitioner proposes to use a single overhead pipe system with 1/2-inch orifice automatic sprinklers located on 10-foot centers, to cover 50 feet of fire-resistant belt or 150 feet of non-fire resistant belt, with actuation temperatures between 200 and 230 degrees Fahrenheit and with water pressure equal to or greater than 10 psi; and to have the sprinklers located not more than 10 feet apart so that the discharge of water will extend over the belt drive, belt take-up, electrical control, and gear reducing unit. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

12. Marrowbone Development Company

[Docket No. M–97–04–C]

Marrowbone Development Company, P.O. Box 119, Naugatuck, West Virginia 25685 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Big Branch Mine (I.D. No. 46–05978) located in Mingo County, West Virginia. The petitioner proposes to use (2,300 volt) a.c. electricity to power continuous mining equipment. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

13. Powderhorn Coal Company

[Docket No. M–97–05–C]

Powderhorn Coal Company, 701 Market Street, Suite 700, St. Louis, Missouri 63101–1826 has filed a petition to modify the application of 30 CFR 75.350 (air courses and belt haulage entries) to its Roadside Mine (I.D. No. 05–03012) located in Mesa County, Colorado. The petitioner requests a modification of the standard to permit the use of belt air to ventilate active working places. The petitioner proposes to install a low-level carbon monoxide detection system as an early warning fire detection system in all belt entries used as intake air courses. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

14. Philippi Development, Inc.

[Docket No. M–97–06–C]

Philippi Development, Inc., Route 3 Box 146, Philippi, West Virginia 26416 has filed a petition to modify the application of 30 CFR 75.364(b)(2) (weekly examination) to its Sentinel Mine (I.D. No. 46–04168) located in Barbour County, West Virginia. The petitioner proposes to establish an inlet evaluation point along with an outlet evaluation point at which every seven days a certified person would measure methane and oxygen concentrations, air quantity, make tests to determine if the air is moving in its proper direction and record the results in a book provided on the surface. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

15. Laurel Coal Company

[Docket No. M–97–07–C and M–97–08–C]

Laurel Coal Company, P.O. Box 780, Danville, West Virginia 25053 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its 7A Mine (I.D. No. 46–08566), and its Coalburg 9A Mine (I.D. No. 46–08002) both located in Logan County, West Virginia. The petitioner proposes to replace a padlock on battery plug connectors on mobile battery-powered machines with a threaded ring and a spring loaded device to prevent the plug connector from accidently disengaging while under load. The petitioner asserts that

the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

16. K & L Coal Company

[Docket No. M–97–09–C]

K & L Coal Company, Box 266, R.D. #1, Shamokin, Pennsylvania 17872 has filed a petition to modify the application of 30 CFR 75.1100–2 (quantity and location of firefighting equipment) to its No. 10 Slope (I.D. No. 36–06649) located in Northumberland County, Pennsylvania. The petitioner proposes to use only portable fire extinguishers to replace existing requirements where rock dust, water cars, and other water storage are not practical. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

17. White Oak Mining & Construction Company, Inc.

[Docket No. M–97–10–C]

White Oak Mining & Construction Company, Inc., Scofield P.O. Box 60, Helper, Utah 84526 has filed a petition to modify the application of 30 CFR 75.362(d)(2) (on-shift examination) to its White Oak No. 2 Mine (I.D. No. 42–01280) located in Carbon County, Utah. The petitioner proposes to make tests for methane at least two rows of roof bolts outby the last complete row of permanent supports. The petitioner states that application of the standard would result in a diminution of safety to the miners. In addition, the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

18. Consol Pennsylvania Coal Company

[Docket No. M–97–11–C]

Consol Pennsylvania Coal Company, Consol Plaza, 1800 Washington Road, Pittsburgh, Pennsylvania 15241–1421 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Bailey Mine (I.D. No. 36–07230) located in Greene County, Pennsylvania. The petitioner requests a modification of the standard to permit the maximum lengths of the loading machine, roof bolter, and section ventilation fan trailing cables supplying equipment from 480-volt alternating current systems to be increased to 800 feet. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

19. Paramont Coal Corporation

[Docket No. M–97–12–C]

Paramont Coal Corporation, P.O. Box 7, Dante, Virginia 24237 has filed a petition to modify the application of 30 CFR 77.214(a) (refuse piles; general) to its Deep Mine 24 (I.D. No. 44–06802) located in Wise County, Virginia. The petitioner proposes to backfill the existing highwall with scalp rock in an area containing abandoned mine openings. The petitioner has outlined in this petition specific methods to be used for sealing the mine openings. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

20. Cannelton Industries, Inc.

[Docket No. M–97–13–C]

Cannelton Industries, Inc., One Oxford Centre, 301 Grant Street, 20th Floor, Pittsburgh, Pennsylvania 15219–1410 has filed a petition to modify the application of 30 CFR 75.362(d)(2) (on-shift examinations) to its Mine No. 145 (I.D. No. 46–08592) located in Kanawha County, West Virginia. The petitioner proposes to take methane tests at the face from under permanent roof support, or when such test is not appropriate because the last row of permanent support is sufficiently back from the face, using a probe with a maximum extension of 20 feet in working places before a continuous miner is taken in the place or energized; to take methane tests at the next to last row of permanent roof supports every two minutes and use a 20 foot probe to check for methane and if the methane is less than 1.0 percent mining will begin again, and if the methane is not less than 1.0 percent, adjustments in ventilation would be made until it is reduced below 1.0 percent in working places where continuous miners are operating. The petitioner states that application of the standard would result in a diminution of safety to the miners. In addition, the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

21. Genwal Resources, Inc.

[Docket No. M–97–14–C]

Genwal Resources, Inc., P.O. Box 1420, 195 North 100 West, Huntington, Utah 84528 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Crandall Canyon Mine (I.D. No. 42–01715) located in Emery County, Utah. The petitioner proposes to use high-voltage (2400 volts) operated equipment inby the last open crosscut at the working longwall sections. The petitioner states that application of the standard would result in diminution of safety to the miners. In addition, the petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

22. Mettiki Coal Corporation

[Docket No. M–97–15–C]

Mettiki Coal Corporation, 293 Table Rock Road, Oakland, Maryland 21550 has filed a petition to modify the application of 30 CFR 75.352 (return air courses) to its Mettiki Mine (I.D. No. 18–00621) located in Garrett County, Maryland. The petitioner requests a modification of the standard to permit two-entry development of the headgate for the No. 25 Longwall panel; and to permit belt entries to be used for ventilation purposes, using specific requirements outlined in granted petition 30 CFR 75.326 (now 30 CFR 75.350) Docket No. M–90–41–C, while developing the two-entry system. The petitioner proposes to install low-level carbon monoxide sensors as an early warning fire-detection system in the intake escapeway entry and in the belt entry at specific locations outlined in this petition. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

23. Cyprus Cumberland Resources Corporation

[Docket No. M–97–16–C]

Cyprus Cumberland Resources Corporation, One Oxford Centre, 301 Grant Street, 20th Floor, Pittsburgh, Pennsylvania 15219–1410 has filed a petition to modify the application of 30 CFR 75.312 (c) & (d) (main mine fans examinations and records) to its Cumberland Mine (I.D. No. 36–05018) located in Greene County, Pennsylvania. The petitioner requests a modification to permit persons other than those specified in the mandatory standard to enter and work underground on the shift that monthly fan examinations are being conducted and notify all persons prior to the start of the shift that fan examinations are going to be made and give them access to the mine communications system; and to have the person conducting the inspection contact the anchorman on the surface

and inform him that fan tests are about to begin at each fan location. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

24. The Rosebud Mining Company LLC

[Docket No. M–97–01–M]

The Rosebud Mining Company LLC, P.O. Box, Winnemucca, Nevada 89446 has filed a petition to modify the application of 30 CFR 57.9300(a) (berms or guardrails) to its Rosebud Unit Mine (I.D. No. 26–02241) located in Humboldt County, Nevada. The petitioner proposes to place posts along the edges of the roadway in order to better delineate the edge of the road. The petitioner states that installation of berms would reduce the amount of roadway and diminish safety by increasing the possibility of accidental collisions. The petitioner states that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 14, 1997. Copies of these petitions are available for inspection at that address.

Dated: March 6, 1997.

Patricia W. Silvey,

*Director, Office of Standards, Regulations, and Variances.*

[FR Doc. 97–6372 Filed 3–12–97; 8:45 am]

**BILLING CODE 4510–43–P**

## Occupational Safety and Health Administration

## Proposed Information Collection Request Submitted for Public Comment and Recommendations; Reporting of Fatality or Multiple Hospitalization Incidents (1218–0007)

**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 (PRA 95) (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 impact of collection requirements on respondents can be properly assessed. Currently, the Occupational Safety and Health Administration (OSHA) is soliciting comments concerning the proposed extension of approval for the paperwork requirements of 29 CFR 1904.8, Reporting of Fatality or Multiple Hospitalization Incidents.

**DATES:** Written comments must be submitted on or before May 12, 1997.

Written comments should:

- 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:** Comments are to be submitted to the Docket Office, Docket No. ICR–97–6, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202) 219–7894. Written comments limited to 10 pages or less in length may also be transmitted by facsimile to (202) 219–5046.

**FOR FURTHER INFORMATION CONTACT:** Bonnie Friedman, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3647, 200 Constitution Avenue, NW, Washington, DC 20210, telephone: (202) 219–8148. Copies of the reference information collection request are available for inspection and copying in the Docket Office and will be mailed immediately to persons who request copies by telephoning Vivian Allen at (202) 219–8076. For electronic copies, contact OSHA's WebPage on Internet at http://www.osha.gov/.

**SUPPLEMENTARY INFORMATION:**

I. Background

OSHA promulgated regulation 29 CFR 1904.8 which currently requires employers to report work related fatalities and/or incidents involving the in-patient hospitalization of three or more employees to OSHA within 8 hours of learning of the incident. OSHA investigates such incidents in order to provide the Agency with information on the causes of employment fatalities, injuries and illnesses to identify and require correction of serious hazards and to prevent the occurrence of such incidents in the future. Such information can also be a source of support for new and revised safety and health standards. Investigators will determine whether there was a violation of OSHA standards, and, if so, whether the violation may have contributed to the incident. In addition, the Agency determines whether OSHA standards adequately cover the hazards which led to the incident. Therefore, such investigations must be prompt and thorough if they are to provide valid, useful information and achieve their intended purposes.

OSHA currently has approval from The Office of Management and Budget (OMB) for information collection requirements contained in 29 CFR 1904.8. That approval will expire on May 31, 1997, unless OSHA applies for an extension of the OMB approval. This notices initiates the process for OSHA to request an extension of the current OMB approval. This notice also solicits public comment on OSHA's existing paperwork burden estimates from those interested parties and to seek public response to several questions related to the development of OSHA's estimation. Interested parties are requested to review OSHA's estimates, which are based upon the most current data available, and to comment on their accuracy or appropriateness in today's workplace situation.

II. Current Actions

This notice requests an extension of the current OMB approval of the paperwork requirements in 29 CFR 1904.8, Reporting of Fatality or Multiple Hospitalization Incidents.

*Type of Review:* Extension of currently approved collection.

*Agency:* U.S. Department of Labor, Occupational Safety and Health Administration.

*Title:* Reporting of Fatality or Multiple Hospitalization Incidents.

*OMB Number:* 1218–0007.

*Agency Number:* Docket No. ICR–97–6.

*Frequency:* On occasion.

*Affected Public:* Business or other for-profit; Farms; Non-profit institutions; Small businesses or organizations.

*Number or respondents:* 6,349.

*Estimated Time Per Respondent:* 0.25 hours.

*Total Estimated Cost:* $47,610.

*Total Burden Hours:* 1,587.

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 will also become a matter of public record.

Dated: March 6, 1997.

Joseph DuBois,

*Director, Division of Data Analysis, OSHA Office of Statistics.*

[FR Doc. 97–6150 Filed 3–12–97; 8:45 am]

**BILLING CODE 4510–26–M**

## Pension and Welfare Benefits Administration

**RIN 1210 AA57**

## Notice and Request for Comments on Annual Reporting Enforcement Policy

**AGENCY:** Pension and Welfare Benefits Administration, Department of Labor.

**ACTION:** Notice and request for comments.

**SUMMARY:** The purpose of this notice is to invite public comment on the Department of Labor's adoption of an annual reporting enforcement policy pursuant to which the Department would not reject the annual report of a multiemployer welfare benefit plan solely because the accountant's opinion accompanying the report is ''qualified'' or ''adverse'' due to a failure to account and report for post-retirement benefit obligations in accordance with the financial statement disclosure requirements of the American Institute of Certified Public Accountants (AICPA) Statement of Position 92–6 (SOP 92–6).

**DATES:** Written comments should be received on or before May 12, 1997 to be assured of consideration.

**ADDRESSES:** Written comments should be directed to: Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, Room N–5669, U.S. Department of Labor, 200 Constitution Ave., N.W., Washington, DC 20210. Attention: Reporting Enforcement Policy. All submissions will be open to public inspection at the Public Documents Room, Pension and Welfare Benefits Administration, Room N–5638, 200 Constitution Ave., N.W., Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:** Eric A. Raps, Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor, Washington D.C. 20210, (202) 219–8515 (not a toll free number).

**SUPPLEMENTARY INFORMATION:**

A. Background

In general, the administrator of an employee benefit plan with 100 or more participants at the beginning of a plan year is required under Title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA), and the Department's regulations issued thereunder, to file a Form 5500 and to include as part of that report the opinion of an independent qualified public accountant.[1] The requirements governing the content of the opinion and report of the independent qualified public accountant are set forth in ERISA section 103(a)(3)(A) and 29 CFR 2520.103–1(b)(5).

ERISA section 104(a)(4) permits the Department to reject an annual report if it determines that there is a material qualification by an accountant contained in the opinion required to be submitted pursuant to section 103(a)(3)(A). If the Department rejects a filing under section 104(a)(4), and the administrator fails to submit a satisfactory filing within 45 days, the Department may, among other things, assess a civil penalty of up to a $1,000 a day against the administrator for failing or refusing to file an annual report.[2]

The Department has received a number of inquiries from multiemployer plan administrators, trustees, benefit consultants, and accountants concerning whether a Form 5500 filed by an administrator of a multiemployer plan [3] that provides for post-retirement welfare benefits would be rejected by the Department solely because the independent qualified public accountant's opinion accompanying such report is ''qualified'' or ''adverse'' due to a failure to account and report for post-retirement welfare benefit obligations in accordance with the financial statement disclosure requirements of SOP 92–6.[4] Post-retirement welfare benefits would include, for example, health and medical benefits for eligible retirees provided under a welfare benefit plan. In general, compliance with SOP 92–6 is required for financial statements of employee welfare benefit plans to be prepared in accordance with generally accepted accounting principles (GAAP). Among other things, SOP 92–6 amends the welfare plan financial statement disclosure requirements in the AICPA's Audit and Accounting Guide, ''Audits of Employee Benefit Plans,'' to require welfare plans to account for and report post-retirement benefit obligations.[5]

The inquiries from multiemployer plan representatives generally questioned the usefulness of the post-retirement benefit obligation disclosure required under SOP 92–6 to multiemployer plan trustees or participants and beneficiaries. The inquiries also indicated that accounting and reporting for post-retirement obligations in accordance with the financial statement disclosure requirements of SOP 92–6 would result in substantial increases in both administrative burdens and costs to affected multiemployer plans.

The Department is considering whether the proposed annual reporting enforcement policy, as described below, should be adopted. In view of the fact that the AICPA made the SOP 92–6 guidelines applicable to multiemployer plans for plan years beginning after December 15, 1995, and the fact that the Department heretofore had not provided guidance on the issue, the Department decided that while this proposal is pending it would not reject annual reports of multiemployer plans filed for the 1996 and 1997 plan years solely because the accountant's opinion accompanying such report is ''qualified'' or ''adverse'' due to a failure to account and report for post-retirement welfare benefit obligations in accordance with SOP 92–6.

B. Proposed Annual Reporting Enforcement Policy

Pursuant to section 103(a)(3)(A), the independent qualified public accountant engaged on behalf of

[1] See ERISA §§ 101(b)(4) and 103, and 29 CFR 2520.103–1.

[2] See ERISA §§ 104(a)(5) and 502(c)(2), and 29 CFR 2560.502c-2.

[3] ERISA § 3(37)(A) defines ''multiemployer plan'' to mean a ''plan—(i) to which more than one employer is required to contribute, (ii) which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer, and (iii) which satisfies such other requirements as the Secretary [of Labor] may prescribe by regulation.''

[4] SOP 92–6, ''Accounting and Reporting by Health and Welfare Benefit Plans'', was issued by the AICPA on August 3, 1992. SOP 92–6 is effective for audits of financial statements of single employer plans with more than 500 participants for plan years beginning after December 15, 1992 and for single employer plans with no more than 500 participants for plan years beginning after December 15, 1994. SOP 92–6 is effective for audits of financial statements of multiemployer plans for plan years beginning after December 15, 1995.

[5] See paragraphs 36–49 of SOP 92–6.

participants and beneficiaries is required to conduct ''an examination of any financial statements of the plan, and of other books and records of the plan, as the accountant may deem necessary to enable the accountant to form an opinion as to whether the financial statements and schedules * * * are presented fairly in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.'' The Department has taken the position that section 103(a)(3)(A) does not require plans to maintain their statements, books and records in accordance with GAAP.[6] However, for purposes of compliance with ERISA's annual reporting requirements, the notes to the financial statements must describe, among other things, the accounting principles and practices reflected in the financial statements and, if applicable, variances from GAAP.[7] Accordingly, an accountant's opinion that notes variances from GAAP would not for that reason alone be unacceptable to the Department.

With regard to accounting and reporting for post-retirement welfare benefit obligations in accordance with the financial statement disclosure requirements of SOP 92–6, in particular, the Department notes that there is nothing in Title I of ERISA, the Department's regulations issued thereunder, or the Form 5500, including instructions thereto, that specifically requires an accounting or reporting by welfare benefit plans for post-retirement welfare benefit obligations.[8] The Department also notes that, unlike pension benefit plans, ERISA does not impose minimum funding requirements on welfare benefit plans.

In view of the foregoing, the Department is proposing to adopt an annual reporting enforcement policy pursuant to which the Department will not reject the Form 5500 Annual Return/Report of a multiemployer plan, within the meaning of ERISA section 3(37), solely because the accountant's opinion accompanying such report is ''qualified'' or ''adverse'' due to a failure to account and report for post-retirement welfare benefit obligations in accordance with the financial statement disclosure requirements of SOP 92–6. Such variance with GAAP, however, would, in accordance with 29 CFR 2520.103–(b)(3), be required to be set forth in the notes to the financial statements included as part of the Annual Return/Report.

This proposed enforcement policy would extend only to multiemployer welfare plans subject to the financial statement disclosure requirements of SOP 92–6 because only multiemployer plans formally requested relief citing a substantial increase in their administrative burdens and costs that would result from being forced to comply with SOP 92–6. The enforcement policy, therefore, if adopted as proposed, will treat multiemployer plans differently than single employer plans. The Department is interested in receiving comments on this issue.

While the Department is proposing not to reject Annual Return/Reports of multiemployer plans solely because of a failure to account and report for post-retirement welfare benefit obligations in accordance with the financial statement disclosure requirements of SOP 92–6, the Department nonetheless believes that administrators of such plans must determine, taking into account their particular plan, benefit commitments thereunder, and compliance cost, to what extent evaluation of post-retirement welfare benefit obligations may provide information necessary to the discharge of the plan fiduciaries' duties under ERISA.

This enforcement policy would, on adoption, remain in effect until amended or revoked by a document published in the Federal Register.

C. Public Comment

In considering whether to adopt the above described proposed annual reporting enforcement policy, the Department is inviting interested persons to submit comments, data, information, and views that they believe may be relevant to the Department's determination to implement the enforcement policy. The Department specifically invites interested persons to provide comments, data, information and views concerning the following:

1. Whether, and to what extent, accounting and reporting of post-retirement welfare benefit obligations in accordance with SOP 92–6 would produce useful information for fiduciaries, participants and beneficiaries of affected plans that would be unavailable if the proposed policy were adopted. Comments should specify how the SOP 92–6 information would be either useful or not useful to satisfy any responsibility or exercise any right under ERISA or the plan.

2. How the proposed policy, if adopted, would affect the quality of accountant's examinations, required under ERISA section 103(a)(3)(A), of multiemployer plans' financial statements, books and records.

3. Estimates of any increased administrative, information collection, and recordkeeping costs or burden hours for multiemployer plans attributable to compliance with SOP 92–6 that would be avoided if the proposed enforcement policy is adopted. Cost and burden hour estimates should be specific and distinguish between initial/start-up costs or burdens and any recurring annual costs or burdens. Estimates should also include a description of the administrative, information collection, and recordkeeping services or activities. Variables affecting the estimates, such as size of the plan, demographic characteristics, existing recordkeeping systems, etc., should be noted.

4. Estimates of any increased accounting and actuarial costs for multiemployer welfare benefit plans attributable to compliance with SOP 92–6 that would be avoided if the proposed enforcement policy is adopted. Cost estimates should be specific and distinguish between initial/start-up costs and any recurring annual costs. Estimates should also include a description of the accounting and actuarial services or activities. Variables affecting the estimates, such as size of the plan, demographic characteristics, existing recordkeeping systems, etc., should be noted.

5. Whether availability of the proposed enforcement policy should be conditioned on the multiemployer welfare benefit plan including an ''Additional Explanation'' section in its summary annual report pursuant to 29 CFR 2520.104b–10(d)(2) explaining that the accountant's opinion accompanying its annual report is ''qualified'' or ''adverse'' due to a failure to account and report for post-retirement welfare benefit obligations in accordance with the financial statement disclosure requirements of SOP 92–6.

6. The Department notes that the proposed enforcement policy extends only to multiemployer plans, and, therefore, if adopted as proposed, will treat multiemployer plans differently than single employer plans. We request comments on this issue.

Executive Order 12866 Statement

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), it must be determined whether a departmental

[6] See Advisory Opinion No. 84–45A (November 16, 1984).

[7] See 29 CFR 2520.103–1(b)(3).

[8] For annual reporting purposes, ''benefit claims'' and other payables, reported as plan liabilities on the Form 5500, are generally limited, in the case of noncash basis welfare plans, to amounts processed and approved for payment by the plan. See items 31g–31k of the 1996 Form 5500. The enforcement policy described in this Release does not change these requirements.

action is ''significant'' and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the Order defines a ''significant regulatory action'' as an action that is likely to result in a rule (1) having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of the Executive Order, the proposed action that is the subject of this notice has been determined to be ''significant'' under category (4), supra, and, therefore, has been reviewed by OMB.

Paperwork Reduction Act

The notice issued here is not subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) because it contains no ''collection of information'' as defined in 44 U.S.C. 3502(3).

Signed at Washington D.C., this 6th day of March 1997.

Olena Berg,

*Assistant Secretary, Pension and Welfare Benefits Administration U.S. Department of Labor.*

[FR Doc. 97–6153 Filed 3–12–97; 8:45 am]

**BILLING CODE 4510–29–P**

## LIBRARY OF CONGRESS

### Copyright Office

**[Docket No. 96–3 CARP SRA]**

### Rate Adjustment for the Satellite Carrier Compulsory License

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Announcement of the schedule for the proceeding.

**SUMMARY:** The Copyright Office of the Library of Congress is announcing the schedule for the 180 day arbitration period for the adjustment of the royalty rates for the satellite carrier compulsory license, as required by the regulations governing this proceeding.

**EFFECTIVE DATE:** March 13, 1997.

**ADDRESSES:** All hearings and meetings for the rate adjustment of the royalty fees for the satellite compulsory license shall take place in the James Madison Building, Room 414, First and Independence Avenue, S.E., Washington, D.C. 20540.

**FOR FURTHER INFORMATION CONTACT:** Nanette Petruzzelli, Acting General Counsel, or Tanya Sandros, Attorney Advisor, at: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

**SUPPLEMENTARY INFORMATION:** Section 251.11(b) of the regulations governing the Copyright Arbitration Royalty Panels, 37 CFR subchapter B, provides that:

> At the beginning of each proceeding, the CARP shall develop the original schedule of the proceeding which shall be published in the Federal Register at least seven calendar days in advance of the first meeting. Such announcement shall state the times, dates, and places of the meetings, the testimony to be heard, whether any of the meetings, or any portion of a meeting, is to be closed, and if so, which ones, and the name and telephone number of the person to contact for further information.

This notice fulfills those requirements of § 251.11(b) for the proceeding to adjust the royalty fees for the satellite compulsory license.

By notice dated June 11, 1996, the Library announced the precontroversy discovery period for this docket and requested interested parties to file Notices of Intent to Participate. 61 FR 29573 (June 11, 1996). Subsequently, the Library adjusted the schedule, and informed the participating parties that the 180-day arbitration period would begin on March 3, 1997. Order in Docket No. 96–3 CARP SRA (October 29, 1996). On February 28, 1997, the Office published a notice announcing the initiation of the 180 day period for this proceeding. 62 FR 9212 (February 28, 1997). The 180 day period commenced on March 3, 1997, and will end on August 29, 1997.

On March 4, 1997, the first Tuesday immediately following the initiation of the proceeding, the parties to this proceeding met with the arbitrators for the purpose of setting a schedule for this proceeding. At that meeting, the parties and the arbitrators agreed to the following schedule:

| Presentation of direct cases | Dates |
|---|---|
| Copyright Owners ..... | March 13–March 14, 1997.<br>March 17–March 20, 1997.<br>March 24–March 25, 1997. |
| Satellite Carriers ..... | April 7–April 10, 1997. |
| ASkyB ..... | April 15–April 17, 1997. |
| Close of 180 day period. | August 29, 1997. |

The regulations require that the Copyright Office publish the original schedule for the CARP proceeding in the Federal Register at least seven calendar days in advance of the first meeting. 37 CFR 251.11(b). Pursuant to 37 CFR 251.11(d), however, the arbitrators voted to publish the schedule on shorter notice than the required seven days in order to maximize the allotted time to hear the evidence and write their report. The results of the vote on the question, whether the requirement for a seven calendar notice should be waived, are:

The Hon. Lewis Hall Griffith, Chairperson—Yes
The Hon. John W. Cooley—Yes
The Hon. Jeffrey S. Gulin—Yes

At this time, the parties have not moved to close any portion of the proceeding to the public. Further refinements to the schedule will be announced in open meetings and issued as orders to the parties participating in the proceeding. All changes will be noted in the docket file of the proceeding, as required by the Copyright Office regulations governing the administration of CARP proceedings. 37 CFR 251.11(c).

Dated: March 7, 1997.

Marybeth Peters,

*Register of Copyrights.*

[FR Doc. 97–6328 Filed 3–12–97; 8:45 am]

**BILLING CODE 1410–33–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–413 and 50–414]**

### Duke Power Company, et al.; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–35

and NPF–52 issued to Duke Power Company, et al. (the licensee), for operation of the Catawba Nuclear Station, Units 1 and 2, located in York County, South Carolina.

The proposed amendments would revise Section 3/4.7.1.6 of the Technical Specifications, and Section 15.6.3 of the Updated Final Safety Analysis Report to require four instead of three steam generator pressure operated relief valves (PORVs) operable, and allowing credit for local operation of the PORVs.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendments request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

This proposed change has been evaluated against the standards in 10 CFR 50.92 and has been determined to involve no significant hazards, in that operation of the facility in accordance with the proposed amendment would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated:

The proposed Technical Specification amendment ensures that the consequences of a postulated SGTR [steam generator tube rupture] accident are enveloped by current analyses. The proposed Technical Specification amendment, together with credit for local manual operation of one S/G [steam generator] PORV [power-operated relief valve], will ensure that adequate margin to overfill exists for the SGTR accident. Furthermore, with administrative controls currently in place regarding reactor coolant specific activity, this requirement ensures that offsite doses following the SGTR accident remain within the dose analysis of record. These administrative controls are expected to be lifted with the completion of dose analyses based on more detailed input in place of the conservative assumptions made to support the restrictions. The requirement to maintain all four S/G PORVs operable is more restrictive than the current requirement, and therefore does not adversely affect the consequences of any analyzed accident.

The accident in which the S/G PORVs are considered to be accident initiators is discussed in Section 15.1.4 of the Catawba UFSAR [Updated Final Safety Analysis Report]. Considering the number, design features and reliability of steam dump to condenser valves (nine), atmospheric dump valves (nine), S/G Code Safety Valves (twenty), and S/G PORVs (four), the requirement to maintain all four S/G PORVs operable does not significantly increase the probability of inadvertent opening of steam dump valve as analyzed in Section 15.1.4 of the Catawba UFSAR. As reported in Section 15.1.4 of the Catawba UFSAR, inadvertent opening of a[n] S/G PORV is enveloped by the consequences of a postulated Main Steam Line Break. The requirement to maintain all four S/G PORVs operable does not in any way change this.

(2) Create the possibility of a new or different kind of accident from any previously evaluated:

No new accident types have been identified for the S/G PORVs or any SSCs [systems, structures, and components] associated with or connected to the S/G PORVs. With respect to the types of accidents that should be considered, the Standard Review Plan and the Catawba UFSAR are considered to be complete for Catawba Nuclear Station.

(3) Involve a significant reduction in the margin of safety:

Margin of safety is related to confidence in fission product barriers. The proposed Technical Specification amendment, along with credit for local manual operation of one S/G PORV, will ensure that there is adequate margin of overfill. Therefore, the steam lines, S/G PORVs and the code safety relief valves will not be degraded following a design basis SGTR. This amendment will also ensure that steaming of the ruptured S/G is not necessary to effect plant cooldown after a postulated SGTR. Along with administrative controls currently in place regarding reactor coolant specific activity, this requirement ensures that offsite doses following SGTR remain within values of the dose analysis of record. These administrative controls are expected to be lifted with the completion of dose analyses based on more detailed input in place of the conservative assumptions made to support the restrictions. In summary, this proposed amendment does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the Federal Register a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 14, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the York County Library, 138 East Black Street, Rock Hill, South Carolina.

If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board,

designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Herbert N. Berkow: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 7, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the York County Library, 138 East Black Street, Rock Hill, South Carolina.

Dated at Rockville, Maryland, this 10th day of March 1997.

For the Nuclear Regulatory Commission.

Peter S. Tam,

*Senior Project Manager Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.*

[FR Doc. 97–6343 Filed 3–12–97; 8:45 am]

BILLING CODE 7590–01–P

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**[Docket No. 50–461–OLA, ASLBP No. 97–725–01–OLA]**

## Illinois Power Co., Soyland Power Cooperative; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the Federal Register, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Southwestern Electric Cooperative, Inc., Illinois Power Company, Soyland Power Cooperative

This Board is being established pursuant to a notice published by the Commission on January 29, 1997, in the Federal Register Z (60 FR 45180). The notice issued by the NRC staff regards a proposed transfer of a facility operating license held by Soyland Power Cooperative to Illinois Power Company. The petitioner, Southwestern Electric Cooperative, Inc., seeks to intervene and requests a hearing.

The Board is comprised of the following administrative judges:

G. Paul Bollwerk III, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Peter B. Bloch, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Thomas D. Murphy, Atomic Safety and Licensing Board Panel, U.S. Nuclear

Regulatory Commission, Washington, DC 20555

All correspondence, documents and other materials shall be filed with the Judges in accordance with 10 CFR 2.701.

Issued at Rockville, MD, this 7th day of March 1997.

B. Paul Cotter, Jr.,

*Chief Administrative Judge, Atomic Safety and Licensing Board Panel.*

[FR Doc. 97–6340 Filed 3–12–97; 8:45 am]

**BILLING CODE 7590–01–M**

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**[Docket No. 50–344]**

## Portland General Electric Company (Trojan Nuclear Plant); Order Approving Application Regarding the Planned Merger of Portland General Corporation, the Parent Holding Company for Portland General Electric, With Enron Corporation

I

Portland General Electric Company (PGE or the licensee) owns a 67.5-percent interest in the Trojan Nuclear Plant (TNP) located on the west bank of the Columbia River in Columbia County, Oregon. PGE holds Facility Operating License No. NPF–1 issued by the U.S. Nuclear Regulatory Commission (NRC) pursuant to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR Part 50) on November 21, 1975. Under this license, PGE has the authority to possess and maintain but not operate TNP. PGE is currently a wholly owned subsidiary of Portland General Corporation (PGC).

II

By letter dated August 20, 1996, as supplemented by letters dated October 16, 1996, and October 30, 1996, PGE informed the Commission that PGE's parent company, PGC, has agreed to a merger with Enron Corporation (Enron), subject to certain conditions. Those conditions include approval by the shareholders of the companies and obtaining appropriate governmental approvals which do not impose terms or conditions that would be reasonably likely to have an adverse effect on PGE or Enron.

In the August 20, 1996, submittal, as supplemented by letters dated October 16, 1996, and October 30, 1996, PGE requested the Commission's consent to the planned merger to the extent necessary under Sections 81, 101, and 184 of the Atomic Energy Act, and under 10 CFR 50.80 and 10 CFR 30.34. Notice of this application was published in the Federal Register on January 16, 1997 (62 FR 2399). Under the agreement and plan of merger, the businesses of Enron and PGC would be combined by means of the reincorporation of Enron as an Oregon corporation through the merger of Enron with and into a wholly owned Enron subsidiary (hereinafter referred to as the ''Merger Company''), and the merger of PGC into the Merger Company. The shareholders of Enron will become shareholders of the Merger Company, and likewise the shareholders of PGC will become shareholders of the Merger Company on a one-for-one basis. The Merger Company will be known as Enron. PGE will continue to be headquartered in Portland, Oregon and senior management will remain in place. The merger will not affect PGE's status as a regulated public utility in the State of Oregon. After the merger, PGE will continue to be the NRC licensee for TNP and no direct transfer of the operating license or interests in the unit will result from the merger. Direct control of the possession-only license for TNP now held by PGE and its co-owners will remain with PGE and the same co-owners, and will not be affected by the planned merger.

Under 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information submitted in the letter of August 20, 1996, and supplemental letters dated October 16, 1996, and October 30, 1996, and other information before the Commission, the NRC staff has determined that the proposed merger will not affect the qualifications of PGE as holder of the license, and that the transfer of control of the license for TNP, to the extent effected by the merger, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth herein. These findings are supported by a safety evaluation dated March 6, 1997.

An Environmental Assessment and Finding of No Significant Impact was published in the Federal Register on March 5, 1997 (62 FR 10094).

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC 2201(b), 2201(i), 2201(o) and 2234, and 10 CFR 50.80, *it is hereby ordered* that the Commission approves the application regarding the merger agreement between PGC and Enron subject to the following: (1) PGE shall continue to fund its decommissioning trust funds in accordance with the schedule stated in the licensee's Post-Shutdown Decommissioning Activities Report (PSDAR), and (2) PGE will provide the Director, NRR, with at least 60 days prior notice of a transfer (excluding grants of security interests or liens), from PGE to its parent or to any other affiliated company, of facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding 10 percent of PGE's consolidated net utility plant, as recorded on PGE's books of account; provided, however, this condition (2) shall not apply once (a) PGE has completed all major decommissioning activities, as that term is defined in 10 CFR 50.2, or (b) PGE's external decommissioning trust fund has been funded in an amount sufficient to pay PGE's share of site radiological decommissioning costs as estimated in the PSDAR. Any such notice to the Director, NRR, shall be exempt from public disclosure to the extent permitted by the NRC's regulations implementing the Freedom of Information Act. In addition, should the merger between PGC and Enron not be consummated by December 31, 1997, this Order shall become null and void, provided, however, an application and for good cause shown, such date may be extended.

This Order is effective upon issuance.

IV

By April 14, 1997, any person adversely affected by this Order may file a request for a hearing with respect to issuance of the Order. Any person requesting a hearing shall set forth with particularity how that interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is to be held, the Commission will issue an order designating the time and place of such hearing.

The issue to be considered at any such hearing shall be whether this Order should be sustained.

Any request for a hearing must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch, or may be delivered to 11555 Rockville Pike, Rockville, Maryland between 7:45 am and 4:15 pm Federal workdays, by the above date. Copies should be also sent to the Office of the General Counsel and to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mr. Douglas R. Nichols, Esq., Assistant General Counsel PGE, 121 S.W. Salmon

Street, Suite 1300, Portland, Oregon 97204.

For further details with respect to this Order, see PGE's application dated August 20, 1996, and supplemental letters dated October 16, 1996, and October 30, 1996, which are available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, N.W., Washington, D.C., and at the TNP local public document room located at the Branford Price Millar Library, Portland State University, Portland, Oregon 97207.

Dated at Rockville, Maryland, this 6th day of March 1997.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 97–6344 Filed 3–12–97; 8:45 am]

**BILLING CODE 7590–01–P**

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**[Docket NO. 50–72]**

## Environmental Assessment and Finding of No Significant Impact Regarding Termination of Amended Facility Operating License No. R–25 University of Utah AGN–201 Research Reactor

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an Order terminating Amended Facility Operating License No. R–25 for the University of Utah (the licensee) AGN–201 Research Reactor (AGN–201) located on the licensee's campus in Salt Lake City, Utah, in accordance with the application dated July 17, 1990, as supplemented on July 18, 1990, June 12, 1991, April 13, 1994, and March 17 and 22, 1995, and February 6, 1996.

Environmental Assessment

*Identification of Proposed Action*

By application dated July 17, 1990, as supplemented on July 18, 1990, and June 12, 1991, the licensee requested authorization to dismantle the AGN–201 and dispose of its component parts in accordance with the proposed decommissioning plan. The application of July 17, 1990, also requested authorization to terminate Amended Facility Operating License No. R–25. Following an ''Order Authorizing Dismantling of Facility and Disposition of Component Parts,'' dated August 1, 1991, (56 FR 37733), the licensee completed the dismantlement and submitted a final survey report dated April 13, 1994, as supplemented on March 17 and 22, 1995, and February 6, 1996. Representatives of the Oak Ridge Institute for Science and Education (ORISE), under contract to NRC, conducted a survey of the reactor on April 9, 1996. The survey is documented in an ORISE report, ''Radiological Survey of the University of Utah AGN–201M Research Reactor, Salt Lake City, Utah,'' dated June 1996. In a memorandum dated July 15, 1996, NRC Region IV found that the ORISE report findings support the data developed in the licensee's final survey report.

Because the AGN–201 is in the same room as the TRIGA Research Reactor (Docket No. 50–407, Facility Operating License No. R–126) that the University continues to operate, the Reactor Room of the Merrill Engineering Building will continue to be subject to the terms of the TRIGA license. There is no site being released for unrestricted use by this action. Only the remaining reactor component parts possessed under Amended Facility Operating License No. R–25 are being released for unrestricted use by this license termination. The Reactor Room will be considered for release by NRC as part of the request to terminate the TRIGA license at some time in the future. Because the site will continue to be used under a NRC license and will be surveyed in the future, and because application of the regulation is not necessary to achieve the underlying purpose of the rule, the NRC, in a separate action, is considering granting, upon its own initiative, a specific exemption in accordance with 10 CFR 50.12 to the part of the requirements of 10 CFR 50.82(b)(6)(ii) that requires a terminal radiation survey and associated documentation to demonstrate that the site is suitable for release as a condition for license termination.

*The Need for Proposed Action*

In order to release the remaining reactor components for unrestricted use, Amended Facility Operating License No. R–25 must be terminated.

*Environmental Impact of License Termination*

The licensee indicates that the residual contamination and dose exposures comply with the criteria of Regulatory Guide 1.86, Table 1, which establish acceptable residual surface contamination levels, and the exposure limit, established by the NRC staff, of less than 5 micro rem/hr above background at 1 meter. These measurements have been verified by the NRC staff. The NRC finds that since these criteria have been met, there is no significant impact on the environment and the reactor components can be released for unrestricted use and the license terminated. Because the site will continue to be subject to an NRC license, terminating Operating License No. R–25 will have no effect on the status of the site and thus, has no significant impact on the environment.

*Alternatives to the Proposed Action*

As an alternative to the proposed action, the staff considered denying the proposed action. Denying the application for license termination would result in no change in current environmental impacts and would deny release of the remaining reactor components for unrestricted use and require continuance of the facility license. The environmental impacts of the proposed action and of the alternative action are similar. Since the contaminated and activated reactor and component parts have been dismantled and disposed of in accordance with NRC regulations and guidelines, there is no alternative with less environmental impact than the termination of Amended Facility Operating License No. R–25.

*Agencies and Persons Consulted*

The staff consulted with personnel from ORISE (an NRC contractor), who conducted the confirmatory survey for the AGN–201. The staff also consulted with the Utah State official regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

The NRC has determined not to prepare an environmental impact statement for the proposed action. On the basis of the foregoing environmental assessment, the NRC has concluded that the issuance of the Order will have no significant effect on the quality of the human environment.

For further details with respect to this proposed action, see the application for termination of Amended Facility Operating License No. R–25, dated July 17, 1990, as supplemented. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, N.W., Washington, D.C. 20037.

Dated at Rockville, Maryland, this 6th day of March 1997.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

*Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 97–6341 Filed 3–12–97; 8:45 am]

**BILLING CODE 7590–01–P**

**[Docket No. 50–72]**

## Enviromental Assessment and Finding of No Significant Impact Regarding Issuance of a Specific Exemption to the Requirements of 10 CFR 50.82(b)(6)(ii) University of Utah AGN–201 Research Reactor

The U.S. Nuclear Regulatory Commission (NRC) is considering granting, upon its own initiative, a specific exemption in accordance with 10 CFR 50.12 to the part of the requirements of 10 CFR 50.82(b)(6)(ii) that requires a terminal radiation survey and associated documentation to demonstrate that the site is suitable for release as a condition of license termination for Amended Facility Operating License No. R–25 for the University of Utah (the licensee) AGN–201 Research Reactor (AGN–201) located on the licensee's campus in Salt Lake City, Utah.

Environmental Assessment

*Identification of Proposed Action*

By application dated July 17, 1990, as supplemented on July 18, 1990, and June 12, 1991, the licensee requested authorization to dismantle the AGN–201, dispose of its component parts in accordance with the proposed decommissioning plan, and terminate Amended Facility Operating License No. R–25. Following an ''Order Authorizing Dismantling of Facility and Disposition of Component Parts,'' dated August 1, 1991, (56 FR 37733), the licensee completed the dismantlement and submitted a final survey report dated April 13, 1994, as supplemented on March 17 and 22, 1995, and February 6, 1996. Representatives of the Oak Ridge Institute for Science and Education (ORISE), under contract to NRC, conducted a survey of the reactor on April 9, 1996. The survey is documented in an ORISE report, ''Radiological Survey of the University of Utah AGN–201M Research Reactor, Salt Lake City, Utah,'' dated June 1996. In a memorandum dated July 15, 1996, NRC Region IV found that the ORISE report findings support the data developed in the licensee's final survey report.

Because the AGN–201 is in the same room as the TRIGA Research Reactor (Docket No. 50–407, Facility Operating License No. R–126) that the University continues to operate, the Reactor Room of the Merrill Engineering Building will continue to be subject to the terms of the TRIGA license. The Reactor Room will be considered for release by NRC as part of the request to terminate the TRIGA license at some time in the future. Because the site will continue to be used under a NRC license and will be surveyed in the future, and because application of the regulation is not necessary to achieve the underlying purpose of the rule, the NRC is considering granting, upon its own initiative, a specific exemption in accordance with 10 CFR 50.12 to the part of the requirements of 10 CFR 50.82(b)(6)(ii) that requires a terminal radiation survey and associated documentation to demonstrate that the site is suitable for release as a condition for license termination.

*The Need for Proposed Action*

The exemption is needed for termination of Amended Facility Operating License No. R–25.

*Environmental Impact of Granting of Exemption*

The licensee indicates that the residual contamination and dose exposures comply with the criteria of Regulatory Guide 1.86, Table 1, which establish acceptable residual surface contamination levels, and the exposure limit, established by the NRC staff, of less than 5 micro rem/hr above background at 1 meter. These measurements have been verified by the NRC staff. The NRC finds that since these criteria have been met, there is no significant impact on the environment and the reactor components can be released for unrestricted use and the license terminated. Because the site will continue to be used under an NRC license, granting the exemption will have no effect on the status of the site and, thus, no significant impact on the environment.

*Alternatives to the Proposed Action*

As an alternative to the proposed action, the staff considered denying the proposed action. Not granting the exemption would result in no change in current environmental impacts and would require continuance of the Amended Facility Operating License No. R–25. The environmental impacts of the proposed action and of the alternative action are similar. Since the contaminated and activated reactor and component parts already have been dismantled and disposed of in accordance with NRC regulations and guidelines, there is no alternative with less environmental impact than the granting of the exemption and termination of Amended Facility Operating License No. R–25.

*Agencies and Persons Consulted*

The staff consulted with personnel from ORISE (an NRC contractor), who conducted the confirmatory survey for the AGN–201. The staff also consulted with the Utah State official regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

The NRC has determined not to prepare an environmental impact statement for the proposed action. On the basis of the foregoing environmental assessment, the NRC has concluded that the granting of the exemption will have no significant effect on the quality of the human environment.

For further details with respect to this proposed action, see the application for termination of Amended Facility Operating License No. R–25, dated July 17, 1990, as supplemented. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC. 20037.

Dated at Rockville, Maryland, this 6th day of March 1997.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

*Director, Non-Power Reactors and Decommissioning Project Directorate Division of Reactor Program Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 97–6347 Filed 3–12–97; 8:45 am]

BILLING CODE 7590–01–P

## Notice of Availability of Memorandum of Understanding Between the Nuclear Regulatory Commission and the Department of Energy Concerning Agency Cooperation on Projects and Activities

**SUMMARY:** On January 15, 1997, the Nuclear Regulatory Commission (NRC) and the Department of Energy (DOE) signed a Memorandum of Understanding (MOU) to provide a basis for agency cooperation on significant projects and activities. The MOU establishes cooperative long-range planning, and encourages the development of specific MOUs to support NRC involvement when a joint effort on a project or activity is desirable.

**FOR FURTHER INFORMATION CONTACT:** Amy L. Bryce, Special Projects Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 415–5848.

**SUPPLEMENTARY INFORMATION:**

Memorandum of Understanding Between the Department of Energy and the Nuclear Regulatory Commission

*Cooperation in Support of Significant Projects and Activities*

I. Introduction

The Department of Energy (DOE) and the Nuclear Regulatory Commission (NRC) in recognition of a mutual commitment to protect public health and safety, common defense and security, and the environment have developed this Memorandum of Understanding (MOU) to establish a framework for carrying out significant projects and activities where joint cooperation between DOE and NRC is desirable.

II. Authority

The Atomic Energy Act of 1954, as amended, including but not limited to Sections 31, 33, 91, and 161(I); the Energy Reorganization Act of 1974, including Sections 104, and Section 301(a) of the Department of Energy Organization Act of 1977 authorize DOE to engage in various activities involving nuclear materials and facilities. Sections 53, 57, 62, 63, 81, 103, 104, and 161(b), of the Atomic Energy Act of 1954, as amended, and Section 201(f) of the Energy Reorganization Act of 1974 authorize NRC to license and establish by rule, regulation, or order, standards, and instructions to govern the possession and use of special nuclear material, source material, or byproduct material and the construction and operation of certain facilities to protect health or to minimize danger to life or property, or to promote the common defense and security. This agreement is designed to supplement the February 24, 1978 DOE/NRC MOU. The DOE/NRC MOU of February 24, 1978, establishes an overall management policy regarding interagency relationships in the conduct of research programs and related areas and includes within its scope those guidelines governing DOE work performed by NRC.

III. Purpose

The purpose of this MOU is to provide the basis for DOE and NRC to cooperate on significant projects and activities of mutual interest.

This MOU does not address DOE/NRC interaction with respect to those DOE facilities which by statute are required to be licensed or otherwise regulated by NRC under the Energy Reorganization Act of 1974, the Nuclear Waste Policy Act or other applicable law, or with respect to material and facilities within the responsibility of the DOE Office of Naval Reactors.

IV. Agreements Between Parties

A. General

1. DOE and NRC will cooperate in the timely and orderly completion of projects and activities undertaken pursuant to this MOU with due regard for public health and safety, protection of the environment, and common defense and security. Essential to complying with the spirit of this MOU is maintaining a relationship between the agencies marked by open and candid communications at all levels.

2. Toward these goals, DOE and NRC will explore together the development of specific MOUs to support NRC involvement in projects and activities in areas where joint cooperation is desirable, such as the efforts covered by the DOE/NRC MOU on tritium production dated May 22, 1996.

B. Planning

1. DOE and NRC will cooperate in long-range planning to ensure that both agencies are cognizant of the funding, resource, and timing requirements for these special projects and activities. Consultations and information exchanges between the DOE and NRC on long-range planning activities, operating experience or research results, briefings of advisory committees, and other normal functions are generally not subject to reimbursement.

2. DOE and NRC will inform each other and the Office of Management and Budget of activities that will require significant participation of both. Specific activities related to public health and safety, protection of the environment, and common defense and security for which DOE requests NRC involvement will require significant advance notification to allow NRC to seek appropriate resources in NRC's budget requests. DOE will provide NRC the necessary information required to support such budget requests. NRC generally will not participate in projects and activities pertaining to DOE's responsibilities unless Congress appropriates resources to NRC for such activities. Exceptions will be considered by NRC on a case-by-case basis and only if DOE reimburses NRC for its full agency cost.

3. This MOU shall not be used to obligate or commit funds or be used as the basis for the transfer of funds.

C. Interagency Interfaces

1. Matters of policy coordination, interpretation of established policy and implementation oversight are the responsibility of the Under Secretary for DOE and the Executive Director for Operations of the NRC. Functional responsibilities shall be assigned by each agency as necessary to fulfill the provisions of this MOU and any specific MOUs entered into by DOE and NRC. The DOE Assistant Secretary for Environment, Safety and Health and the Executive Director for Operations of the NRC will be the initial points of contact for communication relating to carrying out the provisions of this MOU.

2. The day-to-day activities performed in accordance with this MOU are the responsibility of the designated DOE representative, in coordination with the designated NRC representative. Every attempt shall be made to address topics and issues at the project level. If they cannot be resolved at the project level, they will be raised through each agency's management chain, as necessary and appropriate.

D. Information Management and Independent Technical Oversight

1. Each agency recognizes that it is responsible for the identification, protection, control, and accounting of information used or otherwise furnished in connection with this MOU in accordance with its established procedures. This information consists of classified, proprietary, and procurement-sensitive information; Safeguards Information; and Unclassified Controlled Nuclear Information (UCNI) as described by Section 148 of the Atomic Energy Act of 1954, as amended.

2. NRC agrees to use available DOE information and reports and to comply with DOE administrative requirements for handling such information. DOE will provide NRC such additional information as NRC may require to identify issues related to public health and safety, protection of the environment, and common defense and security which may be necessitated by the project or activity. NRC will determine whether to establish a public docket for particular joint projects on a case-by-case basis.

3. DOE and NRC recognize the importance of providing timely and accurate information to the public regarding projects, activities, and regulatory decisions that may affect public health and safety, and protection of the environment. Meetings between DOE and NRC staff in connection with project activities that pertain to specific regulatory decisions or actions shall be governed by NRC's policy on open meetings (59 FR 48340, September 20, 1994).

4. Committees, such as the Advisory Committee on Reactor Safeguards and

the Advisory Committee on Nuclear Waste for NRC and the Defense Nuclear Facilities Safety Board for DOE, provide independent technical advice concerning facilities, safety studies, and related matters. As appropriate, DOE and NRC agree to support these types of independent reviews by providing readily available information or designating representatives to attend briefings related to their respective areas of responsibilities.

V. Other Provisions

1. Nothing in this MOU shall limit the rights or ability of either agency to exercise its authority independently with regard to matters that are the subject of this MOU.

2. Nothing in this MOU shall be deemed to establish any right nor provide a basis for any action, either legal or equitable, by any person or class of persons challenging a government action or a failure to act.

3. This MOU is not entered into for purposes of addressing issues related to possible changes in the scope of either party's authority to regulate nuclear materials and facilities.

4. This MOU may be further implemented by supplementary agreements in which authorized representatives of DOE and NRC may amplify or modify the policy or provisions in this MOU or any of its supplements, provided that any material modifications of the provisions or any of its supplements shall be subject to the approval of the authorized signatories of this MOU or their designated representatives.

5. This MOU shall be effective upon signature of the Secretary of Energy and the Chairman of the NRC and will remain in effect until terminated by mutual agreement or by the written notice of either party submitted six months in advance of termination. Amendments or modifications to this MOU may be made upon the written agreement of the parties.

6. In developing specific MOUs for particular projects and activities, the parties shall consider what provisions should be made for the handling of whistleblower issues or other citizen complaints.

Hazel R. O'Leary,

*Secretary, U.S. Department of Energy.*

Shirley A. Jackson,

Chairman, U.S. Nuclear Regulatory Commission.

This Memorandum of Understanding was signed by the Chairman of the Nuclear Regulatory Commission and the Secretary of Energy on January 15, 1997.

Dated at Rockville, Maryland, this 5 day of March 1997.

For the Nuclear Regulatory Commission.

Robert C. Pierson,

*Chief, Special Projects Branch, Division of Fuel Cycle Safety and Safeguards, NMSS.*

[FR Doc. 97–6345 Filed 3–12–97; 8:45 am]

BILLING CODE 7590–01–P

**[Docket Nos. 70–7001 and 70–7002]**

## Notice of Transition of Regulatory Authority Over the U.S. Enrichment Corporation Gaseous Diffusion Plants

The U.S. Nuclear Regulatory Commission assumed regulatory jurisdiction, from the U.S. Department of Energy (DOE), over the United States Enrichment Corporation (USEC) gaseous diffusion plants (GDPs) located in Paducah, Kentucky, and Piketon, Ohio, at 12:01 a.m. on March 3, 1997.

The President signed H.R. 776, the Energy Policy Act of 1992 (the Act), into law on October 24, 1992. The Act amended the Atomic Energy Act of 1954, to establish a new government corporation, USEC, for the purpose of operating the uranium enrichment enterprise owned and previously operated by DOE. The Act provided that NRC would promulgate standards that apply to USEC's operation of its GDPs, to protect public health and safety from radiological hazards, and to provide for the common defense and security. The Act directed NRC to establish and implement a certification process under which NRC would certify the GDPs for compliance with these standards. DOE agreed to retain nuclear safety, safeguards, and security oversight of the GDPs until NRC finished its certification process.

On September 16, 1996, the Director, Office of Nuclear Material Safety and Safeguards (Director) signed the initial certification decision. Notice of this decision appeared in the Federal Register (61 FR 49360) on September 19, 1996. The Director signed the final Certificates of Compliance for the GDPs on November 26, 1996. The Certificates of Compliance provided for a transition period before NRC's assuming regulatory authority, to allow USEC to complete necessary procedure revision and training on the NRC-approved application. DOE continued regulatory oversight during this transition period. The transition period ended at midnight on March 2, 1997. NRC assumed regulatory oversight at the GDPs at 12:01 a.m. (local time) on March 3, 1997.

NRC has not assumed regulatory jurisdiction over the entire Paducah and Portsmouth reservations. DOE retains regulatory jurisdiction over those portions of both sites that have activities unrelated to the enrichment process and that are not leased by USEC. Examples of activities for which DOE retains responsibility are environmental restoration activities, cylinder storage yards that contain depleted $UF_6$ generated before July 1993, and activities related to highly enriched uranium.

All correspondence related to the GDPs, except for proprietary and classified information, is available for public inspection and copying at the Commission Public Document Room, 2120 L Street, NW., Washington, DC 20555 it is also available at the Local Public Document Rooms, under Docket No. 70–7001, at the Paducah Public Library, 555 Washington Street, Paducah, Kentucky 42003; and under Docket No. 70–7002, at the Portsmouth Public Library, 1220 Gallia Street, Portsmouth, Ohio 45662.

Dated at Rockville, Maryland, this 3rd day of March 1997.

For the Nuclear Regulatory Commission.

Carl J. Paperiello,

*Director, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 97–6346 Filed 3–12–97; 8:45 am]

BILLING CODE 7590–01–P

## POSTAL RATE COMMISSION

**[Order No. 1162; Docket No. A97–14]**

## Spottswood, Virginia 24475 (Regina Kesterson, Petitioner); Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued March 10, 1997.

Before Commissioners: Edward J. Gleiman, Chairman; H. Edward Quick, Jr., Vice-Chairman; George W. Haley; W.H. ''Trey'' LeBlanc III.

*Docket Number:* A97–14.

*Name of Affected Post Office:* Spottswood, Virginia 24475.

*Name(s) of Petitioner(s):* Regina Kesterson.

*Type of Determination:* Closing.

*Date of filing of Appeal Papers:* March 3, 1997.

*Categories of issues apparently raised:*

1. Effect on the community (39 U.S.C. 404(b)(2)(A)).
2. Effect on postal services (39 U.S.C. 404(b)(2)(C)).

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the

Commission may find that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. 404 (b)(5)). In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioners. The Postal Service may incorporate by reference in its briefs or motions, any arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioners or the Postal Service for more information.

*The Commission orders:*

(a) The Postal Service shall file the record in this appeal by March 18, 1997.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the Federal Register.

By the Commission.

Margaret P. Crenshaw,

*Secretary.*

Appendix

March 3, 1997—Filing of Appeal letter

March 10, 1997—Commission Notice and Order of Filing of Appeal

March 28, 1997—Last day of filing of petitions to intervene (see 39 CFR 3001.111(b))

April 7, 1997—Petitioner's Participant Statement or Initial Brief (see 39 CFR 3001.115(a) and (b))

April 28, 1997—Postal Service's Answering Brief (*see* 39 CFR 3001.115(c))

May 13, 1997—Petitioner's Reply Brief should Petitioner choose to file one (*see* 39 CFR 3001.115(d))

May 20, 1997—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings (see 39 CFR 3001.116)

July 1, 1997—Expiration of the Commission's 120-day decisional schedule (*see* 39 U.S.C. 404(b)(5))

[FR Doc. 97–6350 Filed 3–12–97; 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:* Application and Claim for RUIA Benefits Due at Death.

(2) *Form(s) submitted:* UI–63.

(3) *OMB Number:* 3220–0055.

(4) *Expiration date of current OMB clearance:* 4/30/97.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 200.

(8) *Total annual responses:* 200.

(9) *Total annual reporting hours:* 23.

(10) *Collection description:* The collection obtains the information needed by the Railroad Retirement Board to pay, under section 2(g) of the Railroad Unemployment Insurance Act, benefits under that Act accrued, but not paid because of the death of the employee.

*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, DC 20503.

Chuck Mierzwa,

*Clearance Officer.*

[FR Doc. 97–6294 Filed 3–12–97; 8:45 am]

**BILLING CODE 7905–01–M**

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Economic Injury Disaster Loan Area #9389]**

### Declaration of Disaster Loan Area Minnesota

Kandiyohi, Lincoln, Murray, and Stevens Counties and the contiguous Counties of Big Stone, Chippewa, Cottonwood, Douglas, Grant, Jackson, Lyon, Meeker, Nobles, Pipestone, Pope, Redwood, Renville, Rock, Stearns, Swift, Traverse and Yellow Medicine in the State of Minnesota constitute an economic injury disaster loan area as a result of severe winter storms and blizzard conditions during the period beginning November 1996 through January 1997. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance for this disaster until the close of business on December 4, 1997 at the address listed below: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308, or other locally announced locations. The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent. Any contiguous counties not listed herein have been covered under a separate declaration for the same occurrence.

The economic injury number assigned to this disaster is 938900.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: March 4, 1997.

Ginger Lew,

*Acting Administrator.*

[FR Doc. 97–6253 Filed 3–12–97; 8:45 am]

**BILLING CODE 8025–01–P**

## SOCIAL SECURITY ADMINISTRATION

### Privacy Act of 1974; Report of New Routine Use

**AGENCY:** Social Security Administration (SSA).

**ACTION:** New routine use.

**SUMMARY:** In accordance with the Privacy Act (5 U.S.C. 552a(e)(4) and (11)), we are issuing public notice of our intent to establish a new routine use applicable to the Earnings Recording and Self-Employment Income System, SSA/OSR, 09–60–0059. (For convenience, we will refer to this system of records as the Master Earnings File.) The proposed new routine use will allow SSA to disclose quarters of coverage to Federal, State, and local entities for use in their administration of sections 402, 412, 421 and 435 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193.

We invite public comment on this publication.

**DATES:** We filed a report of an altered system of records—new routine use with the Chairman, Committee on Government Reform and Oversight of the House of Representatives; the Chairman, Committee on Governmental

Affairs of the Senate; and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget on February 28, 1997. The routine use will become effective as proposed, without further notice April 22, 1997, unless we receive comments on or before that date that result in a contrary determination.

**ADDRESSES:** Interested individuals may comment on this publication by writing to the SSA Privacy Officer, Social Security Administration, Room 3–A–6 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235. Comments may be faxed to (410) 966–0869. All comments received will be available for public inspection at that address.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Walker, Social Insurance Specialist, Office of Disclosure Policy, Social Security Administration, 3–C–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 410–965–8525.

**SUPPLEMENTARY INFORMATION:**

A. Discussion of Proposed Routine Use

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 included provisions regarding eliminating payment of benefits under certain specified Federal and State programs to qualified aliens. Section 431 of Public Law 104–193 states that 'qualified alien' means an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is:

(1) An alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act (INA),

(2) An alien who is granted asylum under section 208 of the INA;

(3) A refugee who is admitted to the United States under section 207 of the INA,

(4) An alien who is paroled into the United States under section 212(d)(5) of the INA for a period of at least 1 year,

(5) An alien whose deportation is being withheld under section 243(h) of the INA, or

(6) An alien who is granted conditional entry pursuant to section 203(a)(7) of the INA as in effect prior to April 1, 1980.

Section 402(a) of Pub. L. 104–193 provides that, with several exceptions, a qualified alien is not eligible for any specified Federal program, which section 402 defines as (A) the supplemental security income program under title XVI of the Social Security Act, including supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act and payments pursuant to an agreement entered into under section 212(b) of Public Law 93–66; and (B) the food stamp program as defined in section 3(h) of the Food Stamp Act of 1977.

Similarly, section 402(b) of Pub. L. 104–193 provides that a State is authorized to determine the eligibility of an alien who is a qualified alien for any designated Federal program defined as (A) Temporary Assistance to Needy Families (the program of block grants to States for temporary assistance for needy families under part A of title IV of the Social Security Act), (B) Social Services Block Grant (the program of block grants to States for social services under title XX of the Social Security Act), and (C) Medicaid (a State plan approved under title XIX of the Social Security Act, other than medical assistance described in section 401(b)(1)(A)).

Additionally, section 412 of Pub. L. 104–193 provides that a State is authorized to determine the eligibility for any State public benefits of an alien who is a qualified alien, as defined at section 431, a nonimmigrant under the INA, or an alien who is paroled into the United States under section 212(d)(5) of such Act for less than one year.

However, sections 402, 412 and 421 of Pub. L. 104–193 provide exceptions for certain refugees and asylees, certain permanent resident aliens, and certain veterans. Section 411 of this Act provides certain exceptions to the above listed State or local benefits.

Pub. L. 104–193 provides that if the alien has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act, he or she may be eligible for benefits listed in sections 402 and 412. The alien may also receive credit for (1) all of the qualifying quarters of coverage as defined under title II of the Social Security Act worked by a parent of such alien while the alien was under age 18, and (2) all of the qualifying quarters worked by a spouse of such alien during their marriage and the alien remains married to such spouse or such spouse is deceased.

The Social Security Administration is the primary repository of income information (including quarters of coverage information) for everyone working in covered employment in the United States. Federal and State agencies must have quarters of coverage information in order to determine qualifying quarters and to adjudicate claims for eligibility for the benefits programs covered by sections 402 and 412 of Pub. L. 104–193. We therefore are proposing to add a routine use to the Master Earnings File system of records allowing disclosure of quarters of coverage information to Federal and State agencies administering sections 402, 412 and 421 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The routine use will read that disclosures will be made:

''to Federal, State, and local agencies for administration of sections 402, 412, 421 and/or 435 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193. SSA will disclose information regarding quarters of coverage (non-tax return information) earned by the alien applicant as well as quarters of coverage earned by his/her parents while the alien was under age 18 and/or his/her spouse during the marriage (if the alien remains married to such spouse or the marriage ended with the death of the spouse) to a Federal, State, or local requesting agency for their sole use in determining eligibility for programs or benefits programs covered by sections 402 and 412 of Pub. L. 104–193.''

A notice of the Master Earnings File system, to which the routine use will apply, was last published in the Federal Register at 60 FR 52948, October 11, 1995.

B. Compatibility of Proposed Routine Use

We are proposing the changes discussed above in accordance with the Privacy Act (5 U.S.C. 552a (a)(7), (b)(3), (e)(4) and (e)(11)) and our disclosure regulation (20 CFR part 401).

The Privacy Act permits us to disclose information about individuals without their consent for a routine use, i.e., where the information will be used for a purpose that is compatible with the purpose for which we collected the information. Consistent with the Privacy Act, under 20 CFR 401.310 we may disclose information under a routine use for administering our programs, or for administering similar programs of other agencies. SSA collects and maintains earnings data along with quarters of coverage information in the Master Earnings File system in order to qualify individuals for certain benefit programs administered by SSA and to compute accurate benefit payments to those individuals. Other Federal, State, or local agencies use such information for similar purposes in programs similar to SSA's programs. Disclosing quarters of coverage information to such Federal, State, or local agencies will support the effective and efficient administration of various assistance programs by those agencies. Therefore, we find that disclosing quarters of coverage information to Federal, State, or local agencies for the purpose of administering sections 402, 412, 421 and 435 of the Personal Responsibility

and Work Opportunity Reconciliation Act of 1996 serves purposes that are compatible with purposes for which SSA collects the information and meets the criteria of the Privacy Act and the regulation for establishment of a routine use.

C. Effect of the Proposal on Individual Rights

As discussed above, the proposed revised routine use will permit SSA to disclose quarters of coverage information to Federal, State, or local agencies for the purpose of administering certain income-maintenance and health-maintenance programs, where such use is authorized by Federal statute. Disclosure will assist Federal, State, or local agencies in determining eligibility for income-maintenance and health-maintenance programs. While disclosure will have some impact on the privacy of individuals (for example, disclosures will be made regarding the work records of related third parties, i.e., parents and spouses), Federal, State, or local agencies will be better able to adjudicate entitlement to section 402, 412, 421 and 435 programs or benefits. Such disclosures will only be made where authorized by Federal statute. SSA will follow all statutory and regulatory requirements for disclosure. Thus, we do not anticipate that the disclosure will have any unwarranted effect on the privacy or other rights of individuals.

Dated: February 28, 1997.

Shirley S. Chater,

*Commissioner of Social Security.*

[FR Doc. 97–6241 Filed 3–12–97; 8:45 am]

BILLING CODE 4190–29–P

## OFFICE OF SPECIAL COUNSEL

### Proposed Information Collection Activities; Comment Request

**AGENCY:** Office of Special Counsel.

**ACTION:** Notice.

**SUMMARY:** The U.S. Office of Special Counsel (OSC), in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), has applied to the Office of Management and Budget (OMB) for an emergency approval to reinstate two previously approved information collections, consisting of forms and related regulations at 5 CFR part 1800. Also, OSC is providing an opportunity for public comment in anticipation of its request to OMB for regular approval of the two forms. Federal employees, other Federal agencies, and the general public are invited to comment on OSC's information collection activities regarding possible prohibited personnel practices and other prohibited activity and whistleblower disclosures.

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

Send written comments regarding the emergency approval of the information collections to the Desk Officer, OMB, 3255–0002, OIRA, Washington, DC 20503. OMB should receive comments by March 13, 1997.

Send written comments regarding the request for regular approval of the information collections and requests for copies of the proposed information collections to Cathleen Sadlo Schulz, Senior Attorney, U.S. Office of Special Counsel, 1730 M Street, NW., Suite 300, Washington, DC 20036–4505. Comments should be received on or before May 12, 1997.

**SUPPLEMENTARY INFORMATION:** Comment is requested on the following collections of information:

1. *Title of Collection:* Report of Possible Prohibited Personnel Practice or Other Prohibited Activity.

*Agency Form Number:* OSC 11; OMB Control Number 3255–0002.

*Type of Information Collection:* Emergency approval and reinstatement, with change, of a previously approved collection for which approval has expired.

*Affected public:* Current and former Federal employees and applicants for Federal employment.

*Respondent's Obligation:* Voluntary.

*Estimated Annual Number of Respondents:* 1884.

*Frequency:* On occasion.

*Estimated Average Burden Per Respondent:* 1 hour.

*Estimated Annual burden:* 1884 hours.

*Abstract:* This optional form, or the format provided in 5 CFR 1800.1, are for use by current and former Federal employees and applicants for Federal employment to report possible prohibited personnel practices or other prohibited activity by Federal agencies or employees.

2. *Title of Collection:* Disclosure of Information.

*Agency Form Number:* OSC 12; OMB Control Number 3255–0002.

*Type of Information Collection:* Emergency approval and reinstatement, with change, of a previously approved collection for which approval has expired.

*Affected public:* Federal employees and agencies and other individuals.

*Respondent's Obligation:* Voluntary.

*Estimated Annual Number of Respondents:* 252.

*Frequency:* On occasion.

*Estimated Average Burden Per Respondent:* 1 hour.

*Estimated Annual burden:* 252 hours.

*Abstract:* This optional whistleblower disclosure form, and the format provided in 5 CFR 1800.2, are for use by current and former Federal employees and applicants for Federal employment to disclose a violation of any law, rule, or regulation, or gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

Erin M. McDonnell,

*Associate Special Counsel for Planning and Advice.*

[FR Doc. 97–6295 Filed 3–12–97; 8:45 am]

BILLING CODE 7405–01–U

## DEPARTMENT OF STATE

**[Public Notice No. 2514]**

### Advisory Committee on International Communications and Information Policy; Public Meeting

The Department of State is holding the next meeting of its Advisory Committee on International Communications and Information Policy. The Committee was renewed on August 22, 1996, in order to continue to provide a formal channel for regular consultation and coordination on major economic, social and legal issues and problems in international communications and information policy, especially as these issues and problems involve users of information and communication services, providers of such services, technology research and development, foreign industrial and regulatory policy, the activities of international organizations with regard to communications and information, and developing country interests.

The 24-person committee was appointed by Ambassador Vonya B. McCann, United States Coordinator for International Communications and Information Policy, U.S. Department of State, and serves under the

Chairmanship of Ed Black, President, Computer & Communications Industry Association.

The purpose of this meeting will be to hear reports from the working groups on various issues that chart the future direction and work plan of the committee. The members will look at the substantive issues on which the committee should focus, as well as specific countries and regions of interest to the committee.

This meeting will be held on Thursday, March 27, 1997, from 9:30 a.m.–12:30 p.m. in Room 1107 of the Main Building of the U.S. Department of State, located at 2201 ''C'' Street, NW., Washington, DC 20520. While the meeting is open to the public, admittance to the State Department Building is only by means of a pre-arranged clearance list. Members of the public may attend these meetings up to the seating capacity of the room. In order to be placed on the pre-clearance list, please provide your name, title, company, social security number, date of birth, and citizenship to Shirlett Brewer at (202) 647–5233 or by fax at (202) 647–5957. All attendees must use the ''C'' Street entrance. One of the following valid ID's will be required for admittance: Any U.S. driver's license with photo, a passport, or a U.S. Government agency ID.

For further information, contact Timothy C. Finton, Executive Secretary of the committee, at (202) 647–5385.

Dated: February 27, 1997.

Timothy C. Finton,

*Executive Secretary, Advisory Committee for International Communications and Information Policy.*

[FR Doc. 97–6370 Filed 3–12–97; 8:45 am]

**BILLING CODE 4710–45–M**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

**AGENCY:** Office of the Secretary, (DOT).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The Federal Register Notice with a 60-day comment period soliciting comments on the following collection of information was published on October 22, 1996 [FR 61, page 54833].

**DATES:** Comments must be submitted on or before April 14, 1997.

**FOR FURTHER INFORMATION CONTACT:** Judith Street, (202) 267–9895, and refer to the OMB Control Number.

**SUPPLEMENTARY INFORMATION:**

Federal Aviation Administration

*Title:* Recording of Aircraft Conveyances and Security Documents.

*Type of Request:* Extension of a currently approved information collection for which approval has expired.

*OMB Control Number:* 2120–0043.

*Affected Public:* Individuals, corporations, states and local governments.

*Abstract:* Approval is needed for security conveyances, such as mortgages, submitted by the public for recording against aircraft, engines, propellers, and spare parts locations. 14 CFR part 49 establishes procedures for implementation of the recording of aircraft conveyances and security Documents. Part 49 describes what information must be contained in a security conveyance in order for it to be recorded with FAA. The convention on the International Recognition signatory prevents, by treaty, the export of an aircraft and cancellation of its nationality marks if there is an outstanding lien recorded. The Civil Aviation Registry must have consent or release of lien from the lien holder prior to confirmation/cancellation for export.

*Burden Estimate:* The estimated burden in 56,000 hours annually.

*Comments:* Send all comments regarding whether this information collection is necessary for proper performance of the function of the agency and will have practical utility; accuracy of the burden estimates; ways to minimize this burden; and ways to enhance quality, utility, and clarity of the information to be collected to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention DOT Desk Officer.

Issued in Washington, DC, on March 7, 1997.

Phillip A. Leach,

*Clearance Officer, United States Department of Transportation.*

[FR Doc. 97–6297 Filed 3–12–97; 8:45 am]

**BILLING CODE 4910–62–P–M**

### Aviation Proceedings; Agreements Filed During the Week Ending March 3, 1997

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–97–2177
*Date filed:* March 4, 1997
*Parties:* Members of the International Air Transport Association
*Subject:*
PTC12 NMS-AFR 0009 dated February 28, 1997
N. Atlantic-Central/Southern Africa Reso 311g
Excess Baggage Charges
(Minutes are contained in PTC12 NMS–AFR 0010, filed this date with the primary North Atlantic-Africa package.)
Intended effective date: May 1, 1997

*Docket Number:* OST–97–2178
*Date filed:* March 4, 1997
*Parties:* Members of the International Air Transport Association
*Subject:*
PTC12 NMS–AFR 0007 dated February 21, 1997
Mid Atlantic-Africa Resos r-1–11
PTC12 NMS–AFR 0008 dated February 21, 1997
South Atlantic-Africa Resos r-12–28–Agreement
PTC12 NMS–AFR Fares 0007 dated February 25, 1997
PTC12 NMS–AFR Fares 0008 dated February 25, 1997—Tables
PTC12 NMS–AFR 0011 dated February 28, 1997 Correction
(Minutes are contained in PTC12 NMS–AFR 0010, filed this date with the primary North Atlantic-Africa package.)
Intended effective date: April 1, 1997

*Docket Number:* OST–97–2179
*Date filed:* March 4, 1997
*Parties:* Members of the International Air Transport Association
*Subject:*
PTC12 NMS–AFR 0006 dated February 21, 1997
N. Atlantic-Africa Resos r1–22
PTC12 NMS–AFR 0010 dated February 28, 1997 Minutes
PTC12 NMS–AFR 0010 Fares 0009 dated February 28, 1997—Tables
Intended effective date: April 1, 1997

*Docket Number:* OST–97–2190
*Date filed:* March 6, 1997
*Parties:* Members of the International Air Transport Association
*Subject:*
PTC23 Telex Mail Vote 863 (as amended)
Australia-Europe one-way fares

r–1–071ii r–2–071oo
Intended effective date: April 1, 1997
*Docket Number:* OST–97–2191
*Date filed:* March 6, 1997
*Parties:* Members of the International Air Transport Association
*Subject:*
CTC12 Telex Mail Vote 861 r1
Scandinavia-USA Exclude Non-Alliance Countries
CTC12 Telex Mail Vote 862 r2
Scandinavia-USA Include Alliance Countries
Intended effective date: April 1, 1997
*Docket Number:* OST–97–2192
*Date filed:* March 6, 1997
*Parties:* Members of the International Air Transport Association
*Subject:*
PTC31 Telex Mail Vote 859 (as amended)
Hong Kong-San Francisco/Vancouver fares
r–1–First r–2–Interm. r–3–Restricted Ecny
Intended effective date: April 1, 1997
Paulette V. Twine,
*Chief, Documentary Services.*
[FR Doc. 97–6392 Filed 3–12–97; 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 March 7, 1997

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–97–2184.
*Date filed: March 5, 1997.*
*Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 2, 1997.*
*Description:* Application of Arriva Air International, Inc., pursuant to 49 U.S.C. Section 41102, and Subpart Q of the Regulations, applies for issuance of a certificate of public convenience and necessity so as to authorize Arriva Air to provide on-demand charter foreign air transportation of property and mail between points in the United States and points in various foreign countries.
Paulette V. Twine,
*Chief, Documentary Services.*
[FR Doc. 97–6393 Filed 3–12–97; 8:45 am]
BILLING CODE 4910–62–P

## Office of the Secretary

## Privacy Act of 1974: Notice To Add a System of Records

**AGENCY:** Maritime Administration, DOT.

**ACTION:** Notice to add a system of records.

**SUMMARY:** The Office of the Secretary is proposing to add a system of records notice to its inventory of Privacy Act systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

**DATES:** Comments must be submitted on or before April 14, 1997.

**ADDRESSES:** Comments should be addressed to Information Resource Management Staff, M–31, Department of Transportation, 400 7th Street, SW., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Crystal M. Bush, Office of Information Resource Management, Department of Transportation, Washington, DC 20590, Telephone (202) 366–9613, Fax (202) 366–7066, Internet crystal.bush@ost.dot.gov.

**SUPPLEMENTARY INFORMATION:** The Department of Transportation proposes to establish DOT/MARAD 30—Commitment Agreements. The purpose of this record system is to ensure that every student and graduate of the United States Merchant Marine Academy (USMMA) and subsidized student and graduate of the State maritime academies incurs a mandatory service obligation in the U.S. merchant marine. This obligation consists of: (1) Completing the course of instruction; (2) maintaining a license as an officer in the merchant marine of the United States for at least six years following graduation from a school; (3) serving as a commissioned officer in the U.S. Naval Reserve, the U.S. Coast Guard Reserve or any other reserve unit of an armed force of the United States for at least eight years following graduation from a school; and (4) serving as a merchant marine officer on U.S.-flag vessels, as an employee in a U.S. maritime-related industry ashore or as a commissioned officer on active duty in an armed force of the United States or National Oceanic and Atmospheric Administration (NOAA) Corps. The maritime employment service obligation for (4) above is three years for State maritime academy graduates and five years for USMMA graduates.

**DOT/MARAD 30**

**SYSTEM NAME:**

Commitment Agreements.

**SECURITY CLASSIFICATION:**

Nonpublic.

**SYSTEM LOCATION:**

Department of Transportation (DOT), Maritime Administration (MARAD), Academies Program Officer, Office of Maritime Labor, Training & Safety, 400 Seventh Street, SW., Washington, DC 20590.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Students, graduates of U.S. Merchant Marine Academy and State maritime academies.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Files containing information of students, graduates of U.S. Merchant Marine Academy and State maritime academies. Information may contain addresses, social security numbers, and medical information.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

46 App. U.S.C. 1295b(e).

**PURPOSE(S):**

Information collection is necessary to determine if a student or graduate of the

United States Merchant Marine Academy (USMMA) or subsidized student or graduate of a State maritime academy has a waivable/deferable situation that prevents him/her from fulfilling the requirements for their service obligation contract.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Files are maintained on the information collected from affected students and graduates to determine if waivers of the service obligation may be granted. See General Routine Uses.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM,**

**STORAGE:**

File information is on computer with hard copy back-up material in metal cabinets in a secured room.

**RETRIEVABILITY:**

Files are retrieved by name.

**SAFEGUARDS:**

Files are retrievable only through information known to the Academy Program Officer or other persons authorized to perform data input tasks.

**RETENTION AND DISPOSAL:**

Files are to be held until completion of eight-year service obligation period or as determined by the Maritime Administration. Files are currently not on a records control schedule but process to establish a disposal schedule is underway with agency Records Management Officer.

**SYSTEM MANAGER(S) AND ADDRESS:**

Department of Transportation, Maritime Administration, Academies Program Officer, Office of Maritime Labor, Training & Safety, 400 Seventh Street, SW., Rm. 7302, Washington, DC 20590.

**NOTIFICATION PROCEDURE:**

Same as ''System manager'' above.

**RECORD ACCESS PROCEDURES:**

Same as ''System manager'' above.

**CONTESTING RECORD PROCEDURES:**

Same as ''System manager'' above.

**RECORD SOURCE CATEGORIES:**

All information has been obtained from students, graduates of the U.S. Merchant Marine Academy and State maritime academies.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

Public comment is invited on the intention to establish a new system of records.

Issued in Washington, DC on February 17, 1997.

Michael P. Huerta,

*Associate Deputy Secretary, Acting, Chief Information Officer.*

[FR Doc. 97–6296 Filed 3–12–97; 8:45 am]

**BILLING CODE 4910–62–P**

## Coast Guard

**[CGD 97–014]**

### Minimum Requirements and Capabilities for Vessel Traffic Services

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Coast Guard is undertaking an effort to identify the minimum requirements and capabilities a Vessel Traffic Services (VTS) must have to serve its wide range of users and to develop criteria to identify ports requiring a VTS. This effort will form the basis for the Coast Guard to propose to Congress a viable production program for a VTS that takes advantage of available, off-the-shelf and open architecture systems that are inexpensive and easy to build and operate. The Coast Guard has invited representatives of maritime and environmental organizations and members of the public to provide input on these topics. The first public meeting on these topics was held on January 15, 1997. The most recent was held on February 27, 1997. Several additional public meetings are planned.

**DATES:** The Coast Guard will sponsor a public meeting to be held on March 20, 1997, from 9 a.m. to 5 p.m.

**ADDRESSES:** The meeting will be held at the National Academy of Sciences Green Building, Room 126, 2001 Wisconsin Avenue, NW, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:**

For information of VTS, contact Mike Sollosi, U.S. Coast Guard Office of Vessel Traffic Management, 2100 2nd Street, SW, Washington DC. Telephone (202) 267–1539, FAX (202) 267–4827. For information on the meeting, contact Peter Johnson, Marine Board, National Academy of Sciences, 2001 Wisconsin Avenue, NW, Washington, DC. Telephone (202) 334–3157, FAX (202) 334–3789.

Dated: March 4, 1997.

J.C. Card,

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.*

[FR Doc. 97–6242 Filed 3–12–97; 8:45 am]

**BILLING CODE 4910–14–M**

## Federal Aviation Administration

### Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Athens-Ben Epps Airport, Athens, GA

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of intent to rule on application.

**SUMMARY:** The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Athens-Ben Epps Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

**DATES:** Comments must be received on or before April 14, 1997.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Campus Building, 1701 Columbia Avenue, Suite 2–260, College Park, Georgia 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Tim Beggerly, Acting Airport Manager for the Athens-Clarke County Unified Government at the following address: Mr. Tim Beggerly, Acting Airport Manager, Athens-Ben Epps Airport, 1010 Ben Epps Road, Athens, Georgia 30605.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Athens-Clarke County Unified Government under section 158.23 of Part 158.

**FOR FURTHER INFORMATION CONTACT:** Southern Region, Atlanta Airports District Office, Mr. Daniel Gaetan, Program Manager, 1701 Columbia Ave., Suite 2–260, College Park, Georgia 30337–2747.

The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Athens-Ben Epps Airport under the

provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On February 21, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by Athens-Clarke County Unified Government was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than May 21, 1997.

The following is a brief overview of the application.

*Level of the proposed PFC:* $3.00.

*Proposed charge effective date:* July 1, 1997.

*Proposed charge expiration date:* December 5, 2001.

*Total estimated PFC revenue:* $187,628.

*Application number:* 97–01–C–00–AHN.

*Brief description of proposed project(s):* Expand East General Aviation Ramp, and Reimbursement for preparation of PFC application.

*Class or classes of air carriers which the public agency has requested not be required to collect PFCs:* None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Athens-Clarke County Unified Government.

Issued in College Park, Georgia on March 5, 1997.

Dell T. Jernigan,

*Manager, Atlanta Airports District Office, Southern Region.*

[FR Doc. 97–6249 Filed 3–12–97; 8:45 am]

**BILLING CODE 4910–13–M**

## Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Detroit Metropolitan Wayne County Airport, Detroit, MI

**AGENCY:** Federal Aviation Administration.

**ACTION:** Notice of intent to rule on application.

**SUMMARY:** The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Detroit Metropolitan Wayne County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

**DATES:** Comments must be received on or before April 14, 1997.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robert C. Braun, Director of Airports of the County of Wayne, Michigan at the following address: Wayne County Division of Airports, Detroit Metropolitan Wayne County Airport, L.C. Smith Terminal-Mezzanine, Detroit, Michigan 48242.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Detroit Metropolitan Wayne County Airport under section 158.23 of Part 158.

**FOR FURTHER INFORMATION CONTACT:** Mr. Leonard J. Mizerowski, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, (313–487–7277). The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Detroit Metropolitan Wayne County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On February 13, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by Detroit Metropolitan Wayne County Airport was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 1, 1997.

The following is a brief overview of the application.

*PFC Application No.:* 97–03–C–00–DTW.

*Level of the PFC:* $3.00.

*Proposed charge effective date:* June 1, 1997.

*Proposed charge expiration date:* September 30, 2030.

*Total estimated PFC revenue:* $1,696,242,000.00.

*Brief description of proposed project(s):*

Use Only Projects

New Midfield and International Terminal Facility.

Construction and Reconstruction of Existing Terminals and Concourses.

Impose and Use Projects

Concourse ''C'' Expansion and International Passenger Processing Facility Expansion.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: Air Taxi/Commercial Operators commuters or small Certified Air Carriers, Large Certified Air Carriers each of which enplane fewer than 500 passengers enplaned per year. Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice, and other documents germane to the application in person at the Detroit Metropolitan Wayne County Airport.

Issued in Des Plaines, Illinois, on March 5, 1997.

Benito DeLeon,

*Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.*

[FR Doc. 97–6248 Filed 3–12–97; 8:45 am]

**BILLING CODE 4910–13–M**

## Federal Railroad Administration

### Petition for Waiver of Compliance

In accordance with part 211 of title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Southern Pacific Transportation Company; (Waiver Petition Docket Number RSOP–96–1)

SP seeks a waiver of compliance from certain sections of 49 CFR part 218, subpart B—*Blue Signal Protection of Workers.* SP is requesting a permanent waiver of the provisions of 49 CFR 218.25 ''Workers on a main track'' at it's El Paso, Texas, fueling facility. SP, as of

May 29, 1996, designated four additional tacks as main tracks at the El Paso facility for a total of six main tracks in the El Paso facility. These tracks are in the middle of the El Paso facility and are sued for functions normally performed on yard tracks. Trains passing through the El Paso facility stop on one of the main tracks for fuel, locomotive inspection, or adding or removing power from the train. To perform this work on the main track, SP must provide blue signal protection under 49 CFR 218.25 which states in part:

When workers are on, under, or between rolling equipment on a main track:

(a) A blue signal must be displayed at each end of the rolling equipment; and

(b) If the rolling equipment to be protected includes one or more locomotives, a blue signal must be attached to the controlling locomotive at a location where it is readily visible to the engineman or operator at the controls of that locomotive.

SP is requesting the flexibility to treat these main tracks at the El Paso facility as tracks other than main tracks so it may have the option of protecting its employees working on, under, or between rolling equipment in accordance with 49 CFR 218.25 or 218.27, or a combination of both. SP believes that the safest and most efficient method of protecting its employees in the El Paso facility is through the use of a combination of blue signal protection and remotely controlled switches.

Currently, when a train enters the El Paso facility, it stops on one of the main tracks for fueling, locomotive inspection, or other work. Once the train stops, before any work is performed, blue signal protection is placed on the train. A mechanical employee places a blue signal in front of the train. He then drives one to one and one-half miles to the other end of the train to place another blue signal. This usually takes 10 to 15 minutes, during which time no work can be done on the train. Once the blue signals are set, work begins on the train. After the work is completed, the blue signal at the front of the train is removed by the mechanical employee who then drives to the other end of the train to remove the other blue signal.

SP seeks the opportunity to use remotely controlled switches alone or in combination with blue signals to protect its employees working on, under, or between rolling equipment on its main tracks in the El Paso facility. This can best be demonstrated by the following example: ''A train enters the El Paso facility on main track 1 from the west (heading eastward). Once the train comes to a stop, a blue signal would be placed in front of the train. After the signal is placed on the train, a blue signal would be placed in front of the train. After the signal is placed on the train, a mechanical employee would contact the control operator in the tower who controls the appropriate remove control switch and advise him to appropriately line and lock main track 1 switch. Work on the train could immediately commence, avoiding the delay incurred by the mechanical employee having to drive to the other end of the train and set up a blue signal. Once work on the train is completed, the mechanical employee would remove the blue signal at the front of the train and contact the control operator to reline and unlock the appropriate switch.''

Each group of workmen will be protected by a combination of blue signals and locked switches. Work on a train will not begin until blue signals are set and/or switches locked. SP will be able to work trains on five main tracks at the same time, reserving the sixth main track for through service which will improve the efficiency of the El Paso facility and provide the same level of blue signal protection for its employees.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number PB–94–3) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, Nassif Building, 400 Seventh Street, SW., Washington, DC. 20590. Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at FRA's temporary docket room located at 1120 Vermont Avenue, NW., Room 7051, Washington, DC. 20005.

Issued in Washington, DC, on March 6, 1997.

Phil Olekszyk,

*Deputy Associate Administrator for Safety Compliance and Program Implementation.*

[FR Doc. 97–6371 Filed 3–12–97; 8:45 am]

BILLING CODE 4910–06–P

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

March 6, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

**SPECIAL REQUEST:** In order to begin the survey described below in late March 1997, the Department of the Treasury is requesting that the Office of Management and Budget (OMB) review and approve this information collection by March 18, 1997. To obtain a copy of this study, please contact the Internal Revenue Service Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

*OMB Number:* 1545–1432.

*Project Number:* M:SP:V 97–007–G.

*Type of Review:* Revision.

*Title:* IRS Appeals Process Customer Satisfaction Survey.

*Description:* The National Director of Appeals anticipates that approximately 72,000 taxpayers will avail themselves of the Appeals process over the next year. This translates into about 6,000 closed cases each month, on average. This survey will incorporate three mailouts: (1) An initial mailout; (2) a second mailout to those who failed to respond within three weeks after all initial requests have been mailed; and (3) a third mailout to those who fail to respond within three weeks after the second mailout. All questionnaires will be returned to the Office of the National Director of Appeals in the National Office. Results will be used to evaluate how the Office of Appeals can improve its performance and reduce taxpayer burden by providing better customer service.

*Respondents:* Individuals or households.

*Estimated Number of Respondents:* 6,000.

*Estimated Burden Hours Per Response:* 4 minutes.

*Frequency of Response:* Other.

*Estimated Total Reporting Burden:* 400 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building. Washington, DC 20503.

Dale A. Morgan,

*Departmental Reports Management Officer.*

[FR Doc. 97–6258 Filed 3–12–97; 8:45 am]

**BILLING CODE 4830–01–P**

## Submission for OMB Review; Comment Request

March 5, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

U.S. Customs Service (CUS)

*OMB Number:* New.

*Form Number:* CF 446.

*Type of Review:* New collection.

*Title:* North American Free Trade Agreement (NAFTA) Certificate of Origin Verification Questionnaire.

*Description:* The objectives of NAFTA are to eliminate barriers to trade in goods and services between the United States, Mexico, and Canada; facilitate conditions of fair competition within the free trade area; liberalize significantly conditions for investments within the free trade area; establish effective procedures for the joint administration of the NAFTA; and the resolution of disputes.

*Respondents:* Business or other for-profit, Individuals or households, Not-for-profit institutions, Federal Government.

*Estimated Number of Respondents/ Recordkeepers:* 5,000.

*Estimated Burden Hours Per Respondent/Recordkeeper:* 1 hour.

*Frequency of Response:* On occasion.

*Estimated Total Reporting/ Recordkeeping Burden:* 24,000 hours.

*Clearance Officer:* J. Edgar Nichols (202) 927–1426, U.S. Customs Service, Printing and Records Management Branch, Room 6216, 1301 Constitution Avenue, N.W., Washington, DC 20229.

*OMB Reviewer:* Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

*Departmental Reports Management Officer.*

[FR Doc. 97–6259 Filed 3–12–97; 8:45 am]

**BILLING CODE 4820–02–P**

## Internal Revenue Service

## Proposed Collection; Comment Request for Form 1096

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1096, Annual Summary and Transmittal of U.S. Information Returns.

**DATES:** Written comments should be received on or before May 12, 1997 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Annual Summary and Transmittal of U.S. Information Returns.

*OMB Number:* 1545–0108 *Form Number:* 1096.

*Abstract:* Form 1096 is used to transmit information returns (Forms 1099, 1098, 5498, and W–2G) to the IRS service centers. Under Internal Revenue Code section 6041 and related regulations, a separate Form 1096 is used for each type of return sent to the service center by the payer. It is used by IRS to summarize, categorize, and process the forms being filed.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations, individuals or households, not-for-profit institutions, farms, Federal government, and State, local or tribal governments.

*Estimated Number of Respondents:* 5,197,271.

*Estimated Time Per Respondent:* 10 min.

*Estimated Total Annual Burden Hours:* 966,805.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 21, 1997.

Garrick R. Shear,

*IRS Reports Clearance Officer.*

[FR Doc. 97–6389 Filed 3–12–97; 8:45 am]

**BILLING CODE 4830–01–U**

## UNITED STATES INFORMATION AGENCY

### New Collection; Comment Request

**AGENCY:** United States Information Agency.

**ACTION:** Request OMB emergency approval: Certificate of eligibility for exchange visitor status (J–1 Visa).

The United States Information Agency has submitted the following information collection request (ICR) requesting emergency review procedures to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 [Public Law 104–13; 44 U.S.C. 3506(c)(2)(A)]. OMB approval has been requested by March 14, 1997. If granted the emergency approval is only valid for 180 days.

During the first 60 days of this same period a regular review of this information collection is also being undertaken. Comments are encouraged and will be accepted until May 12, 1997 concerning the public use form entitled ''Certificate of Eligibility for Exchange Visitor Status (J–1 Visa)''. Comments are requested concerning: (a) whether the proposed collection of information is necessary for the proper performance of the agency, including whether the information has practical utility; (b) the accuracy of the Agency'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.

Send comments regarding this burden estimate or any other aspect of this collection of information to the United States Information Agency, M/ADD, 301 Fourth Street, S.W., Washington, D.C. 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10202, NEOB, Washington, D.C. 20503.

**SUMMARY:** In cooperation with the U.S. Information Agency (USIA), the Immigration and Naturalization Service (INS), was mandated by Congress under Public Law, 104–208, Subtitle D, Section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, to implement a pilot program by which institutions of higher education and designated exchange visitor programs may electronically generate and submit this collection of information to administer and monitor nonimmigrant exchange visitor status by the INS and USIA on a regular basis. The statutory time-line for implementation of this pilot program mandated by the Attorney General requires an emergency review of this information collection. The pilot program is scheduled to commence on April 7, 1997.

In addition, this program is conducted pursuant to the mandate given to USIA under the terms and conditions of the Mutual Educational and Cultural Exchange Act of 1961, Title 22 Code of Federal Regulations (CFR), Section 514, Exchange Visitor Program, Final Rule; and Title 8, Section 101(a)(15) of the Immigration and Nationality Act.

**COPIES:** Copies of the Request for Clearance (OMB 83–I), supporting statement, and other documents that have been submitted to OMB for approval may be obtained from the USIA Clearance Officer. Comments should be submitted to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USIA, and also to the USIA Clearance Officer.

**FOR FURTHER INFORMATION CONTACT:** Agency Clearance Office, Ms. Jeannette Giovetti, United States Information Agency, M/ADD, 301 Fourth Street, S.W., Washington, D.C. 20547, telephone (202) 619–4408; and OMB review: Ms. Victoria Wassmer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10202, NEOB, Washington, D.C. 20503, Telephone (202) 395–3176.

**SUPPLEMENTARY INFORMATION:** Public reporting burden for this new collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

*Title:* ''Certificate of Eligibility for Exchange Visitor Status'', (J–1 Visa).

*Form Number:* IAP–66P.

*Abstract:* This form will be used to electronically collect and submit information in a limited pilot environment from non-immigrant exchange visitors participating in exchange visitor programs in the U.S. in order that INS and USIA can monitor the exchange visitors nonimmigrant status and ensure that the exchange visitors do not violate the conditions imposed by their nonimmigrant status while participating in an exchange visitor program.

*Proposed Frequency of Responses:* No. of Respondents—10,000; Recordkeeping Hours—.50; Total Annual Burden—20,000.

Dated: March 6, 1997.

Rose Royal,

*Federal Register Liaison.*

[FR Doc. 97–6257 Filed 3–12–97; 8:45 am]

**BILLING CODE 8230–01–M**

## DEPARTMENT OF VETERANS AFFAIRS

### Proposed Information Collection Activity; Public Comment Request

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, Veterans Benefits Administration (VBA) invites the general public and other Federal agencies to comment on this information collection. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)). Comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection.

**DATES:** Written comments and recommendations on the proposal for the collection of information should be received on or before May 12, 1997.

**ADDRESSES:** Direct all written comments to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. All comments will become a matter of public record and will be summarized in the VBA request for Office of Management and Budget (OMB) approval. In this document VBA is soliciting comments concerning the following information collection:

*OMB Control Number:* 2900–0465.

*Title and Form Numbers:* Student Verification of Enrollment, VA Forms 22–8979 and 22–8979–1.

(Note: VA Forms 22–8979 and 22–8979–1 collect the same information. VA Form 22–8979 is electronically generated for monthly mailings while VA Form 22–8979–1 is printed and distributed to VA regional offices for individual use.)

*Type of Review:* Extension of a currently approved collection.

*Need and Uses:* The form is used by students in certifying attendance and continued enrollment in courses leading

to a standard college degree or in non-college degree programs. The information is used to determine the individual's continued entitlement to VA benefits.

*Current Actions:* Public Law 98–525 established a new education program under Chapter 30, Title 38, U.S.C. It is available to individuals initially entering active duty on or after July l, 1985 (Category I eligibility) and to individuals eligible under Chapter 34, Title 38, U.S.C., who meet service requirements imposed by Public Law 99–576 (Category II eligibility). Individuals with Category II eligibility became eligible for Chapter 30 benefits effective January 1, 1990. Public Law 102–484 established an additional Category of eligibility (Category III). Category III includes all persons previously ineligible for Chapter 30 who are separated from active duty under two special release programs. Title 38, U.S.C., Section 3034(b) requires certification of actual attendance by the student and verification of that student's continued enrollment before payment can be released. Public Law 99–576 allowed this information to be collected without certification by an institution. VA Form 22–8979 serves as the form for reporting necessary certification of actual attendance and verification of the student's continued enrollment for claimants pursuing college programs. Since the previous submission, Public Law 104–201 was enacted into law and added two additional categories of individuals eligible for Chapter 30 that would use this information collection. The first additional category pertains to individuals that previously participated in Chapter 32, who meet certain specifications set by law, and elect to receive Chapter 30 benefits. The second additional category pertains to individuals that entered the National Guard between certain dates, meet certain specifications set by law, and elect to receive Chapter 30 benefits.

VA is authorized to pay educational benefits to veterans and other eligible persons pursuing approved programs not leading to a standard college degree under Chapters 30, 32, and 35, Title 38, U.S.C.; Chapter 1606, Title 10, U.S.C.; and Section 903 of Public Law 96–342. VA Form 22–8979 serves as the form for reporting necessary certification of actual attendance and verification of the student's continued enrollment for claimant's pursuing non-college degree programs.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 189,000 hours.

*Estimated Average Burden Per Respondent:* 5 minutes.

*Frequency of Response:* 7 times per year (The frequency is based on the average number of months each student will train.)

*Estimated Number of Respondents:* 324,000.

*Estimated Number of Responses:* 2,268,000.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form should be directed to Department of Veterans Affairs, Attn: Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, Telephone (202) 273–7079 or FAX (202) 275–4884.

Dated: February 11, 1997.

By direction of the Secretary.

Donald L. Neilson,

*Director, Information Management Service.*

[FR Doc. 97–6404 Filed 3–12–97; 8:45 am]

**BILLING CODE 8320–01–P**

## Agency Information Collection Activities: Proposed Collection; Comment

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, the Veterans Benefits Administration (VBA) invites the general public and other Federal agencies to comment on this information collection. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)). Comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection.

**DATES:** Written comments and recommendations on the proposal for the collection of information should be received on or before May 12, 1997.

**ADDRESSES:** Direct all written comments to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. All comments will become a matter of public record and will be summarized in the VBA request for Office of Management and Budget (OMB) approval. In this document VBA is soliciting comments concerning the following information collection:

*OMB Control Number:* 2900–0386.

*Title and Form Number:* Interest Rate Reduction Refinancing Loan Worksheet, VA Form 26–8923.

*Type of Review:* Extension of a currently approved collection.

*Need and Uses:* Lenders are required to submit VA Form 26–8923 when requesting guaranty on an interest rate reduction refinancing loan. VA loan examiners must assure that the requirements of the Deficit Reduction Act of 1984 and applicable VA regulations have been met before the issuance of guaranty. The form ensures that lenders correctly compute the funding fee and the maximum permissible loan amount for interest rate reduction refinancing loans.

*Current Actions:* For a loan to be eligible for guaranty under Title 38 U.S.C. 3710(a)(8) or 3712(a)(1)(F), Title 38 U.S.C. 3710(e)(1)(C), provides that the amount of the loan may not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs (include any discount permitted pursuant to Section 3703(c)(3)(A) of this Title as may be authorized by the Secretary, under regulations which the Secretary shall prescribe, to be included in such loans.

*Affected Public:* Business or other for-profit.

*Estimated Annual Burden:* 13,070 hours.

*Estimated Average Burden Per Respondent:* 10 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 78,422.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form should be directed to Department of Veterans Affairs, Attn: Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, Telephone (202) 273–7079 or FAX (202) 275–4884.

Dated: February 11, 1997.

By direction of the Secretary.

Donald L. Neilson,

*Director, Information Management Service.*

[FR Doc. 97–6405 Filed 3–12–97; 8:45 am]

**BILLING CODE 8320–01–P**

## Agency Information Collection Activities: Proposed Collection; Comment

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs

**ACTION:** Notice.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, the Veterans Benefits Administration (VBA) invites the general public and other Federal agencies to comment on this information collection. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)). Comments should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection.

**DATES:** Written comments and recommendations on the proposal for the collection of information should be received on or before May 12, 1997.

**ADDRESSES:** Direct all written comments to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. All comments will become a matter of public record and will be summarized in the VBA request for Office of Management and Budget (OMB) approval. In this document VBA is soliciting comments concerning the following information collection:

*OMB Control Number:* 2900–0276.

*Title and Form Number:* Manufactured Home Appraisal Report, VA Form 26–8712.

*Type of Review:* Extension of a currently approved collection.

*Need and Uses:* The form is used by VA fee and staff appraisers to establish the reasonable value of used manufactured homes. The reasonable value is then used: (1) To established the maximum loan amount a veteran may obtain for the purchase of a used manufactured home unit; (2) to obtain information on the condition of the unit and its compliance with VA's minimum property requirements; and (3) in the event of foreclosure, to ascertain the value of the unit for resale purposes for use in computation of claims in applicable cases.

*Current Actions:* Title 38 U.S.C. 3712, requires the Secretary to determine the reasonable value of used manufactured homes and prohibits the guaranty of any loan for a manufactured home which does not ''meet or exceed standards prescribed by the Secretary.''

*Affected Public:* Business or other for-profit—Individuals or households.

*Estimated Annual Burden:* The number of actual burden is 360 hours. However, because the requirement for appraisal reports is a common practice in the housing industry, only 1 hour is being requested for reporting.

*Estimated Average Burden Per Respondent:* 90 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 240.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form should be directed to Department of Veterans Affairs, Attn: Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, Telephone (202) 273–7079 or FAX (202) 275–4884.

Dated: February 11, 1997.

By direction of the Secretary.

Donald L. Neilson,

*Director, Information Management Service.*

[FR Doc. 97–6406 Filed 3–12–97; 8:45 am]

**BILLING CODE 8320–01–P**

## Agency Information Collection Activities: Proposed Collection; Comment

**AGENCY:** Office of Human Resources and Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, the Office of Human Resources and Administration invites the general public and other Federal agencies to comment on this information collection. This request for comment is being made pursuant to the Paperwork Reduction Act of 1997 (Pub. L. 104–13; 44 U.S.C. 3506(c)(2)(A)). Comment should address the accuracy of the burden estimates and ways to minimize the burden including the use of automated collection techniques or the use or other forms of information technology, as well as other relevant aspects of the information collection.

**DATES:** Written comments and recommendations on the proposal for the collection of information should be received on or before May 12, 1997.

**ADDRESSES:** Direct all written comments to Shirley A. McIntrye, Office of Human Resources and Administration (054A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All comments will become a matter of public record and will be summarized in the request for Office of Management and Budget (OMB) approval. In this document the Office of Human Resources and Administration is soliciting comments concerning the following information collection:

*OMB Control Number:* 2900–0117.

*Title and Form Number:* Inquiry Concerning Applicant for Employment, VA Form Letter 5–127.

*Type of Review:* Reinstatement, without change, of a previously approved collection for which approval has expired.

*Need and Uses:* The form letter is used to obtain information from individuals who have knowledge of the applicants' past work record, performance, and character. The information is used by VA personnel officials to verify qualifications and determine suitability of the applicant for VA employment.

*Current Actions:* The Information obtained through uses of the form letter is used by VA personnel officials in determining an applicant's suitability and qualifications for employment. If the information was not collected, the risk of appointing unqualified or unsuitable individuals would increase.

*Estimated Annual Burden:* 3,125 hours.

*Estimated Average Burden Per Respondent:* 15 minutes.

*Frequency of Response:* On occasion.

*Estiamted Number of Respondents:* 12,500.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form should be directed to Department of Veterans Affairs, Attn: Shirley A. McIntrye, Office of Human Resources and Administration (054A), 810 Vermont Avenue, NW., Washington, DC 20420, Telephone (202) 273–5008.

Dated: February 18, 1997.

By Direction of the Secretary.

Donald L. Neilson,

*Director, Information Management Service.*

[FR Doc. 97–6407 Filed 3–12–97; 8:45 am]

**BILLING CODE 8320–01–M**

## Agency Information Collection: Emergency Submission for OMB Review; Comment Request

**AGENCY:** Department of Veterans Affairs

**ACTION:** Notice

**SUMMARY:** The National Cemetery System (NCS) ), Office of Small and Disadvantage Business Utilization (OSDBU); Office of Management (OM), and Office of Inspector General (IG), Department of Veterans Affairs, have submitted to the Office of Management and Budget (OMB) the following emergency proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. 3507(j)(1)). The reason for emergency clearance request is that these

information collections are essential to the VA's mission and the use of normal clearance procedures is reasonably likely to prevent the VA from timely conducting the collections of information in a timely manner. OMB is requested to act on this emergency clearance request by March 24, 1997.

*OMB Control Number:* None assigned.

*Title and Form Number:* Generic Clearance for the VA Central Office Customer Satisfaction Surveys.

*Type of Review:* New collection.

*Need and Uses:* The NCS, OSDBU, OM, and IG will conduct the customer satisfaction surveys under this generic clearance to implement Executive Order 12862, Setting Customer Service Standards. If the surveys were not conducted, VA would be unable to comply with the Executive Order, and would not have the information needed to establish standards for the best possible customer-focused service. VA will use the information gathered to determine where and to what extent services are satisfactory, and where and to what extent they are in need of improvement. The information may lead to policy changes to improve VA's overall operations. In addition, voluntary customer surveys will not be used as substitutes for traditional program evaluation surveys that measure objectives outcomes. In order to maximize the voluntary response rates, the information collections will be designed to make participation convenient, simple, and free of unnecessary barriers.

*Affected Public:* Individuals or households; Business or other for-profit.

*Estimated Annual Burden:* 528 hours.

a. NCS: Cemetery Visitor Comment Card Survey—208 hours.

b. OSDBU: Survey of Results Veteran Owned Business Conference—17 hours.

c. OSDBU: Small Business Customer Survey—63 hours.

d. OM: Accountability Report Pilot Evaluation Report—138 hours.

e. IG: Patient Questionnaires—100 hours

*Estimated Average Burden Per Respondent:*

a. NCS: Cemetery Visitor Comment Card Survey—5 minutes.

b. OSDBU: Survey of Results Veteran Owned Business Conference—2 minutes.

c. OSDBU: Small Business Customer Survey—15 minutes.

d. OM: Accountability Report Pilot Evaluation Report—15 minutes.

e. IG: Patient Questionnaires—10 minutes.

*Frequency of Response:*

a. NCS: Cemetery Visitor Comment Card Survey—Annually.

b. OSDBU: Survey of Results Veteran Owned Business Conference—Annually.

c. OSDBU: Small Business Customer Survey—Annually.

d. OM: Accountability Report Pilot Evaluation Report—On occasion.

e. IG: Patient Questionnaires—One-time.

*Estimated Total Number of Respondents:*

a. NCS: Cemetery Visitor Comment Card Survey—2,500.

b. OSDBU: Survey of Results Veteran Owned Business Conference—500.

c. OSDBU: Small Business Customer Survey—250.

d. OM: Accountability Report Pilot Evaluation Report—550.

e. IG: Patient Questionnaires—600.

**ADDRESSES:** A copy of this submission may be obtained from Ron Taylor, VA Clearance Officer (045A4), Department of Veterans Affairs, 8l0 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015.

Comments and recommendations concerning this submission should be directed to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. DO NOT send requests for benefits to this address.

**DATES:** Comments on the information collection should be directed to the OMB Desk Officer on or before March 20, 1997.

**FOR FURTHER INFORMATION CONTACT:** Ron Taylor, VA Clearance Officer (045A4), (202) 273–8015.

Dated: February 18, 1997.

By direction of the Secretary.

Donald L. Neilson,

*Director, Information Management Service.*

[FR Doc. 97–6301 Filed 3–12–97; 8:45 am]

**BILLING CODE 8320–01–P**

## Agency Information Collection: Submission for OMB Review; Comment Request

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*OMB Control Number:* 2900–0215.

*Title and Form Number:* Request for Information to Make Direct Payment to Child Reaching Majority, VA Form Letter 21–863.

*Type of Review:* Extension of a currently approved collection.

*Need and Uses:* The form letter is used to gather the necessary information to determine the address of a child attaining majority and to determine the child's student status. The information is needed to pay a child directly when the child attains majority. VA procedures provide that a competent child who is entitled to benefits in his or her own right should be paid directly upon attaining majority.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 3,767 hours.

*Estimated Average Burden Per Respondent:* 10 minutes.

*Frequency of Response:* Generally one-time.

*Estimated Number of Respondents:* 22,600.

**ADDRESSES:** A copy of this submission may be obtained from Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 8l0 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015.

Comments and recommendations concerning this submission should be directed to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. Do not send requests for benefits to this address.

**DATES:** Comments on the information collection should be directed to the OMB Desk Officer on or before April 14, 1997.

**FOR FURTHER INFORMATION CONTACT:** Ron Taylor, Information Management Service (045A4), (202) 273–8015.

Dated: February 18, 1997.

By direction of the Secretary.

Donald L. Neilson,

*Director, Information Management Service*

[FR Doc. 97–6402 Filed 3–12–97; 8:45 am]

**BILLING CODE 8320–01–P**

## Agency Information Collection: Submission for OMB Review; Comment Request

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of

Veterans Affairs, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*OMB Control Number:* 2900–0021.

(Note: VA Forms 26–6850a and 26–5851 were previously approved under individual OMB Control Numbers 2900–0477 and 2900–0022, respectively. The VA is requesting consolidation of the use of these forms under OMB Control Number 2900–0021.)

*Titles and Form Numbers:* Notice of Default, VA Form 26–6850; Notice of Default and Intention to Foreclose, VA Form 26–6850a; and Notice of Intention to Foreclose, VA Form 26–6851.

*Type of Review:* Revision of a currently approved collection.

*Need and Uses:* When the VA receives either VA Form 26–6850, 26–6850a, or 26–6851, the loan service representative will review the form and assign a rating as to the timeliness/completeness of the holder's report. A complete and timely report is necessary to facilitate the VA's determination as to the need for and extent of supplemental servicing in individual cases. The loan status is then coded into LCS (Liquidation and Claims System). LCS is a centralized automated data processing system for the operational control of default reporting, loan servicing, liquidations and claims on outstanding GI loans.

*Affected Public:* Business or other for-profit—Individuals or households.

*Estimated Total Annual Burden:* 66,166 hours.

VA Form 26–6850—20,166 hours.

VA Form 26–6850a—26,000 hours.

VA Form 26–6851—20,000 hours.

*Estimated Total Average Burden Per Respondent:* 14 minutes.

VA Form 26–6850—10 minutes.

VA Form 26–6850a—20 minutes.

VA Form 26–6851—15 minutes.

*Frequency of Response:* On occasion.

*Estimated Total Number of Respondents:* 279,000.

VA Form 26–6850—121,000 respondents.

VA Form 26–6850a—78,000 respondents.

VA Form 26–6851—80,000 respondents.

**ADDRESSES:** A copy of this submission may be obtained from Ron Taylor, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8015.

Comments and recommendations concerning this submission should be directed to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–4650. DO NOT send requests for benefits to this address.

**DATES:** Comments on the information collection should be directed to the OMB Desk Officer on or before April 14, 1997.

**FOR FURTHER INFORMATION CONTACT:** Ron Taylor, Information Management Service (045A4), (202) 273–8015.

Dated: February 11, 1997.

By direction of the Secretary.

Donald L. Neilson,

*Director, Information Management Service.*

[FR Doc. 97–6403 Filed 3–12–97; 8:45 am]

**BILLING CODE 8320–01–P**

## Advisory Committee on Cemeteries and Memorials, Meeting

The Department of Veterans Affairs (VA) gives notice that a meeting of the Advisory Committee on Cemeteries and Memorials, authorized by 38 U.S.C. 2401, will be held at Arlington National Cemetery, Arlington, VA. This will be the committee's second meeting of fiscal year 1997. The purpose of the committee is to review the administration of VA's cemeteries and burial benefits program. On April 10, 1997, the meeting will convene at 8:15 a.m. (EST) and will adjourn at 4 p.m. (EST). On April 11, 1997, the meeting will convene at 8 a.m. (EST) and will adjourn at 2:30 p.m. (EST).

On April 10, there will be a business session and briefings that will primarily address issues concerning the mission and activities of Arlington National Cemetery, American Battle Monuments Commission, and National Park Service.

On April 11, the committee will be briefed on Field Operations and Operations Support Service. Suggestions for the next meeting location and agenda items will also be discussed.

The meeting will be open to the public. Those wishing to attend should contact Ms. Rebecca Schiller, Program Specialist, National Cemetery System, [phone (202) 273–5180] not later than 12 noon (EST), March 24, 1997.

Any interested person may attend, appear before, or file a statement with the Committee. Individuals wishing to appear before the Committee should indicate this in a letter to the Director, National Cemetery System (40) at 810 Vermont Avenue, NW., Washington, DC 20420. In any such letters, the writers must fully identify themselves and state the organization, association or person they represent. Also, to the extent practicable, letters should indicate the subject matter they want to discuss. Oral presentations should be limited to 10 minutes in duration. Those wishing to file written statements to be submitted to the Committee must also mail, or otherwise deliver, them to the Director, National Cemetery System.

Letters and written statements as discussed above must be mailed or delivered in time to reach the Director, National Cemetery System, by 12 noon (EST), March 24, 1997. Oral statements will be heard only between 1 p.m. and 2:30 p.m. (EST), April 11 at Arlington National Cemetery, Arlington, VA.

Dated: March 6, 1997.

By direction of the Secretary.

Heyward Bannister,

*Committee Management Officer.*

[FR Doc. 97–6300 Filed 3–12–97; 8:45 am]

**BILLING CODE 8320–01–M**

# Corrections

Federal Register
Vol. 62, No. 49
Thursday, March 13, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

### Rural Housing Service

### Rural–Cooperative Service

### Rural Utilities Service

### 7 CFR Parts 1910, 1941, 1943, 1945, and 1980

**RIN 0560–AE87**

### Implementation of the Direct and Guaranteed Loan Making Provisions of the Federal Agricultural Improvement Act of 1996

*Correction*

In interim rule document 97–4840, beginning on page 9351 in the issue of Monday, March 3, 1997, make the following corrections:

**§ 1945.469 [Corrected]**

1. On page 9357, in the second column, in amendatory instruction 33., in the second line ''(1)'' should read ''(l)''.

2. On page 9357, in the second column, in § 1945.469, the paragraph designation ''(1)'' should read ''(l)''.

**BILLING CODE 1505-01-D**

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part

*Correction*

In notice document 97–5227 beginning on page 9413 in the issue of Monday, March 3, 1997 make the following correction:

On page 9414, in the first column, in the table, under the heading ''Period to be reviewed'', the first entry ''1/1/91 - 12/31/96'' should read ''1/1/96 - 12/31/96''.

**BILLING CODE 1505-01-D**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[Docket No. 961210346–7035–02; I.D. 120596A]**

**RIN 0648–XX76**

### Summer Flounder Fishery; Final Specifications for 1997; Adjustment to 1997 State Quotas; Commercial Quota Harvested for Delaware

*Correction*

In rule document 97–5698, beginning on page 10473 in the issue of Friday, March 7, 1997, make the following corrections;

1. On page 10474, in Table 2, under the state of Massachusetts, in the third column under ''Initial 1997 quota'', ''757,8413'', should read ''757,841''.

2. On page 10474, in Table 2, under the state of Massachusetts, in the fourth column under ''Initial 1997 quota'', ''43,751'' should read ''343,751''.

**BILLING CODE 1505-01-D**

## DEPARTMENT OF DEFENSE

### 48 CFR Parts 234, 242, and 252

**[DFARS Case 96–D024]**

### Defense Federal Acquisition Regulation Supplement; Earned Value Management Systems

*Correction*

In rule document 97–5362, beginning on page 9990 in the issue of Wednesday, March 5, 1997, make the following corrections:

**234.005–71 [Corrected]**

1. On Page 9991, in the second column, in section 234.005–71, in paragraph (b), in the second line, ''Systems'' should read ''System''.

**242.1107–70 [Corrected]**

2. On page 9991, in the third column, the section heading number ''242,1107–70'' should read ''242.1107–70''.

3. On the same page, in the third column, in 242.1107–70, in paragraph (a), in the fourth line, ''cost–schedule'' should read ''Cost/Schedule''.

**BILLING CODE 1505-01-D**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

### 42 CFR Part 484

**[BPD-819-P]**

**RIN 0938-AG81**

### Medicare and Medicaid Programs; Conditions of Participation for Home Health Agencies

*Correction*

In proposed rule document 97–5316 beginning on page 11005 in the issue of Monday, March 10, 1997 make the following correction:

**§ 484.75 [Corrected]**

On page 11033, second column, § 484.75 (h) should be added after (g)(2) to read as follows:

(h) *Standard: Criminal background checks.* The HHA must conduct a criminal background check of home health aides as a condition of employment.

**BILLING CODE 1505-01-D**

Federal Register

Thursday
March 13, 1997

## Part II

# Department of Justice

**Office of Juvenile Justice and Delinquency Prevention**

**Proposed Comprehensive Plan for Fiscal Year 1997; Notice**

## DEPARTMENT OF JUSTICE

### Office of Juvenile Justice and Delinquency Prevention

**[OJP(OJJDP)–1115]**

**RIN 1121–ZA62**

### Proposed Comprehensive Plan for Fiscal Year 1997

**AGENCY:** Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Justice.

**ACTION:** Notice of Proposed Program Plan for fiscal year 1997.

**SUMMARY:** The Office of Juvenile Justice and Delinquency Prevention is publishing this notice of its Proposed Comprehensive Plan for fiscal year 1997.

**DATES:** Comments must be received on or before April 28, 1997.

**ADDRESSES:** Comments may be mailed to Shay Bilchik, Administrator, Office of Juvenile Justice and Delinquency Prevention, Room 742, 633 Indiana Avenue, NW., Washington, DC 20531.

**FOR FURTHER INFORMATION CONTACT:** Eileen M. Garry, Special Assistant to the Administrator, at 202–307–5911. [This is not a toll-free number.]

**SUPPLEMENTARY INFORMATION:** The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is a component of the Office of Justice Programs in the U.S. Department of Justice. Pursuant to the provisions of Section 204 (b)(5)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. § 5601 *et seq.* (JJDP Act), the Administrator of OJJDP is publishing for public comment a Proposed Comprehensive Plan describing the program activities that OJJDP proposes to carry out during fiscal year 1997. The Proposed Comprehensive Plan includes activities authorized in Parts C and D of Title II of the JJDP Act, codified at 42 U.S.C. § 5651–5665a, 5667, 5667a. Taking into consideration comments received on this Proposed Comprehensive Plan, the Administrator will develop and publish a Final Comprehensive Plan describing the particular program activities that OJJDP intends to fund during fiscal year 1997, using in whole or in part funds appropriated under Parts C and D of Title II of the JJDP Act.

Notice of the official solicitation of grant or cooperative agreement applications under the Final Comprehensive Plan will be published at a later date in the Federal Register. No proposals, concept papers, or other forms of application should be submitted at this time.

Overview

This is a critical time for juvenile justice, a time of both opportunity and challenge. Earlier this year, the Department of Justice announced a reduction in overall juvenile violent crime (3 percent) and a significant drop in juvenile homicide arrests (14 percent) between 1994 and 1995, the first downturns we have seen in 9 years. A National Center for Juvenile Justice analysis of the 1995 Uniform Crime Report data reveals that this decrease in overall juvenile crime arrests was driven by decreased arrests of juveniles 14 and under, an encouraging sign. While these younger juveniles were responsible for 30 percent of juvenile violent crime arrests in 1995, they accounted for more than half of the reported decline in juvenile violent crime arrests. All of the 2 percent decline in property arrests is attributable to these younger juveniles.

In order to ensure that these positive trends continue, we must continue to focus our efforts on establishing a continuum of prevention, early intervention, and graduated sanctions programs; strengthening the juvenile justice system; and building stronger, safer communities. These efforts are needed because we are still confronted with unacceptably high rates of juvenile crime. Juveniles still account for 18 percent of all arrests, some 2.7 million in 1995. Even with the 1995 decline in juvenile violent crime arrests noted above, the number is still 12 percent greater than the 1991 level and 67 percent above the 1986 level. Juveniles were involved in 32 percent of all robbery arrests, 23 percent of weapon arrests, and 15 percent of murder and aggravated assault arrests in 1995.

In the troubling area of drug use, juveniles were involved in 13 percent of all drug arrests in 1995, and the number of juvenile drug arrests has increased 138 percent since 1991. According to the 22d national survey in the Monitoring the Future study, illicit drug use among schoolchildren rose again in 1996. Since 1991, the proportion of students using any illicit drug in the 12 months prior to the survey has increased steadily. For 8th graders alone, the proportion has more than doubled (from 11 percent to 24 percent) since 1991. Since 1992, the proportion among 10th graders has nearly doubled (from 20 percent to 38 percent), and among 12th graders, it has risen by about half (from 27 percent to 40 percent).

Federal leadership in responding to the problems confronting juvenile justice is vested in OJJDP. Established in 1974 by the JJDP Act, OJJDP is the Federal agency responsible for providing a comprehensive, coordinated approach to preventing and controlling juvenile crime and improving the juvenile justice system. OJJDP administers State Formula Grants and State Challenge Grants Programs in States and territories, funds more than 100 projects through its Special Emphasis Discretionary Grant Program and its National Institute for Juvenile Justice and Delinquency Prevention, and coordinates Federal activities related to juvenile justice and delinquency prevention.

OJJDP serves as the staff agency for the Coordinating Council on Juvenile Justice and Delinquency Prevention; coordinates the Concentration of Federal Efforts Program; and administers the Title IV Missing and Exploited Children's Program, the Title V Community Prevention Grants Program, and programs under the Victims of Child Abuse Act of 1990, as amended, 42 U.S.C. § 13001 *et seq.*

Fiscal Year 1997 Program Planning Activities

The OJJDP program planning process for fiscal year 1997 is coordinated with the Assistant Attorney General, Office of Justice Programs (OJP), and the four other OJP program bureaus: the Bureau of Justice Assistance (BJA), the Bureau of Justice Statistics (BJS), the National Institute of Justice (NIJ), and the Office for Victims of Crime (OVC). The program planning process involves the following steps:

- Internal review of existing programs by OJJDP staff.
- Internal review of proposed programs by OJP bureaus and Department of Justice components.
- Review of information and data from OJJDP grantees and contractors.
- Review of information contained in State comprehensive plans.
- Review of comments made by youth service providers, juvenile justice practitioners, and researchers, to receive input in proposed new program areas.
- Consideration of suggestions made by juvenile justice policymakers concerning State and local needs.
- Consideration of all comments received during the period of public comment on the Proposed Comprehensive Plan.

Discretionary Program Activities

*Discretionary Grant Continuation Policy*

OJJDP has listed on the following pages continuation projects currently funded in whole or in part with Part C and Part D funds and eligible for continuation funding in fiscal year

1997, either within an existing project period or through an extension for an additional project period. A grantee's eligibility for continued funding for an additional budget period within an existing project period depends on the grantee's compliance with funding eligibility requirements and achievement of the prior year's objectives. The amount of award is based on prior projections, demonstrated need, and fund availability.

The only projects described in this Proposed Program Plan are those that are eligible to receive fiscal year 1997 continuation funding and programs OJJDP is considering for new awards in fiscal year 1997.

Consideration for continuation funding for an additional budget or project period for previously funded discretionary grant programs will be based upon several factors, including the following:

- The extent to which the project responds to the applicable requirements of the JJDP Act.
- Responsiveness to OJJDP and Department of Justice fiscal year 1997 program priorities.
- Compliance with performance requirements of prior grant years.
- Compliance with fiscal and regulatory requirements.
- Compliance with any special conditions of the award.
- Availability of funds (based on program priority determinations).

In accordance with Section 262 (d)(1)(B) of the JJDP Act, as amended, 42 U.S.C. § 5665a, the competitive process for the award of Part C funds shall not be required if the Administrator makes a written determination waiving the competitive process:

1. With respect to programs to be carried out in areas in which the President declares under the Robert T. Stafford Disaster Relief and Emergency Assistance Act codified at 42 U.S.C. § 5121 *et seq.* that a major disaster or emergency exists, or

2. With respect to a particular program described in Part C that is uniquely qualified.

*OJJDP Funding Policy*

OJJDP seeks to focus its assistance on the development and implementation of programs with the greatest potential for reducing juvenile delinquency and improving the juvenile justice system by establishing partnerships with State, Native American, Native Alaskan, and local governments and public and private organizations. To that end, OJJDP has set three goals that constitute the major elements of a sound policy that assures public safety and security while establishing effective juvenile justice and delinquency prevention programs:

- To promote delinquency prevention and early intervention efforts that reduce the flow of juvenile offenders into the juvenile justice system, the numbers of serious and violent offenders, and the development of chronic delinquent careers. While removing serious and violent juvenile offenders from the street serves to protect the public, long-term solutions lie primarily in taking aggressive steps to stop delinquency before it starts or becomes a pattern of behavior.
- To improve the juvenile justice system and the response of the system to juvenile delinquents, status offenders, and dependent, neglected, and abused children.
- To preserve the public safety in a manner that serves the appropriate development and best use of secure detention and corrections options, while at the same time fostering the use of community-based programs for juvenile offenders.

Underlying each of the three goals is the overarching premise that achievement of these goals is vital to protecting the long-term safety of the public from increased juvenile delinquency and violence. The following discussion addresses these three broad goals.

*Delinquency Prevention and Early Intervention*

A primary goal of OJJDP is to identify and promote programs that prevent or reduce the occurrence of juvenile offenses, both criminal and noncriminal, and to intervene immediately and effectively when delinquent or status offense conduct first occurs. A sound policy for juvenile delinquency prevention seeks to strengthen the most powerful contributing factor to socially acceptable behavior'a productive place for young people in a law-abiding society. Delinquency prevention programs can operate on a broad scale, providing for positive youth development, or can target juveniles identified as being at high risk for delinquency with programs designed to reduce future juvenile offending. OJJDP prevention programs take a risk and protective factor-focused delinquency prevention approach based on public health and social development models.

Early interventions are designed to provide services to juveniles whose noncriminal misbehavior indicates that they are on a delinquent pathway or to first-time nonviolent delinquent offenders or nonserious repeat offenders who do not respond to initial system intervention. These interventions are generally nonpunitive but serve to hold a juvenile accountable while providing services tailored to the individual needs of the juvenile and the juvenile's family. They are designed to both deter future misconduct and reduce the negative or enhance the positive factors present in a child's life

*Improvement of the Juvenile Justice System*

A second goal of OJJDP is to promote improvements in the juvenile justice system and facilitate the most effective allocation of system resources. This goal is necessary for holding juveniles who commit crimes accountable for their conduct, particularly serious and violent offenders who sometimes slip through the cracks of the system or are inappropriately diverted. This includes assisting law enforcement officers in their efforts to prevent and control delinquency and the victimization of children through community policing programs and coordination and collaboration with other system components and with child caring systems. Meeting this goal involves helping juvenile and family courts, and the prosecutors and public defenders who practice in those courts, to provide a system of justice that maintains due process protections. It requires trying innovative programs and carefully evaluating those programs to determine what works and what does not work. It includes a commitment to involving crime victims in the juvenile justice system and ensuring that their rights are considered.

In this regard, OJJDP will continue to work closely with the Office for Victims of Crime to further cooperative programming, including the provision of services to juveniles who are crime victims or the provision of victims services that improve the operation of the juvenile justice system. Improving the juvenile justice system also calls for building an appropriate juvenile detention and corrections capacity and for intensified efforts to use juvenile detention and correctional facilities when necessary and under conditions that maximize public safety, while providing effective rehabilitation services. It requires encouraging States to carefully consider the use of expanded transfer authority that sends the most serious, violent, and intractable juvenile offenders to the criminal justice system, while preserving individualized justice. It necessitates conducting research and gathering statistical information in order

to understand how the juvenile justice system works in serving children and families. And finally, the system can only be improved if information and knowledge are communicated, understood, and applied for the purpose of juvenile justice system improvement.

*Corrections, Detention, and Community-Based Alternatives*

A third OJJDP goal is to maintain the public safety through a balanced use of secure detention and corrections and community-based alternatives. This involves identifying and promoting effective community-based programs and services for juveniles who have formal contact with the juvenile justice system and emphasizing options that maintain the safety of the public, are appropriately restrictive, and promote and preserve positive ties with the child's family, school, and community. Communities cannot afford to place responsibility for juvenile delinquency entirely on publicly operated juvenile justice system programs. A sound policy for combating juvenile delinquency and reducing the threat of youth violence makes maximum use of a full range of public and private programs and services, most of which operate in the juvenile's home community, including those provided by the health and mental health, child welfare, social service, and educational systems.

Coordination of the development of community-based programs and services with the development and use of a secure detention and correctional system capability for those juveniles who require a secure option is cost effective, will protect the public, reduce facility crowding, and result in better services for both institutionalized juveniles and those who can be served while remaining in their community environment.

In pursuing these broad goals, OJJDP divides its programs into six key categories: public safety and law enforcement; strengthening the juvenile justice system; delinquency prevention and intervention; child abuse, neglect, and dependency courts; and missing and exploited children. A six category, overarching programs, contains programs that have significant elements common to more than one category.

*Introduction to Fiscal Year 1997 Program Plan*

In 1996, the U.S. Department of Justice announced new national statistics showing a 3-percent decline in the 1995 overall juvenile violent crime (murder, forcible rape, robbery, and aggravated assault) arrest rate, reversing an upward trend that had lasted for a decade. An even greater decline (14 percent) occurred in the juvenile murder arrest rate, which had also fallen significantly in the previous year. These declines are in sharp contrast to the 10-year climb between 1985–1994 when arrests of juveniles for all violent crimes rose by 75 percent and arrests of juveniles for murder rose 150 percent. Based on those trends and population projections, demographers were predicting that juvenile arrests for violent crimes would more than double by the year 2010.

The positive news released in 1996 must not lead to a relaxation of efforts to lower unacceptably high rates of juvenile violence and crime. Instead, this partial success should lead the Nation to intensify its commitment to reducing juvenile crime and to sustain the 1995 decline in arrest rates. This commitment must focus on strengthening the ability of communities to provide for their immediate safety through law enforcement and correctional strategies, to develop and implement both prevention and intervention programs, and to provide those services that will enable children to grow up as healthy and productive citizens in nurturing homes, safe schools, and peaceful, caring communities. To be effective, however, this commitment must be rooted in a comprehensive approach to the problems of juvenile delinquency, violence, and victimization.

Over the past 4 years, OJJDP has developed a framework for an improved, more effective juvenile justice system. The foundation was laid in 1993 with the publication of OJJDP's *Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders*. The *Comprehensive Strategy* uses statistics, research, and program evaluations as the basis for a set of sound principles for establishing a continuum of care for the Nation's children. The *Comprehensive Strategy* emphasizes the importance of local planning teams that assess the influences or factors putting youth at risk for delinquency, determine available resources, and put prevention programs in place to either reduce those risk factors or provide protective factors that buffer juveniles from the impact of risk factors. The *Comprehensive Strategy* also stresses the importance of early intervention for juveniles whose behavior puts them on one or more pathways to delinquency and a system of graduated sanctions that can ensure immediate and appropriate accountability and treatment for juvenile offenders.

In 1995, OJJDP published its *Guide for Implementing the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders,* a resource to help States, cities, and communities implement the *Comprehensive Strategy*. Early in 1996, the Coordinating Council on Juvenile Justice and Delinquency Prevention, of which OJJDP is a member, published *Combating Violence and Delinquency: The National Juvenile Justice Action Plan*. The *Action Plan* prioritizes Federal activities and resources under eight critical objectives that must be addressed to effectively combat delinquency and violence. Research and the findings of numerous commissions support the choice of these objectives as central to reducing and preventing juvenile violence, delinquency, and victimization. The objectives are to (1) provide immediate intervention and appropriate sanctions and treatment for delinquent juveniles; (2) prosecute certain serious, violent, and chronic juvenile offenders in criminal court; (3) reduce youth involvement with guns, drugs, and gangs; (4) provide opportunities for children and youth; (5) break the cycle of violence by addressing youth victimization, abuse, and neglect; (6) strengthen and mobilize communities; (7) support the development of innovative approaches to research and evaluation; and (8) implement an aggressive public outreach campaign on effective strategies to combat juvenile violence.

The OJJDP 1997 Proposed Program Plan is rooted in the principles of the *Comprehensive Strategy* and the objectives of the *Action Plan*. Just as in 1996, the Proposed Program Plan supports a balanced approach to aggressively addressing juvenile delinquency and violence through establishing graduated sanctions, improving the juvenile justice system's ability to respond, and preventing the onset of delinquency. The Proposed Program Plan also recognizes the need to ensure public safety and support children's development into healthy, productive citizens through a range of prevention, early intervention, and graduated sanctions programs.

Four program areas were identified through a process of engaging OJJDP staff, other Federal agencies, and juvenile justice practitioners in an examination of existing programs, research findings, and the needs of the field. OJJDP's national conference, ''Juvenile Justice at the Crossroads,'' held in December 1996 was particularly helpful in developing program priorities for fiscal year 1997. The new program areas are school-based gang intervention

and prevention, juvenile sex offenders, mental health, and cost-benefit analyses. In addition, OJJDP has identified for fiscal year 1997 funding a range of research and evaluation projects that will expand knowledge about juvenile offenders; the effectiveness of prevention, intervention, and treatment programs; and the operation of the juvenile justice system. Specific evaluation initiatives will be undertaken related to Boys and Girls Clubs of America's gang outreach efforts, teen courts, the President's Crime Prevention Council's drug and alcohol use prevention program, and gun violence reduction. Combined with OJJDP programs being continued in fiscal year 1997, these new demonstration and support programs form a continuum of programming that supports the objectives of the *Action Plan* and mirrors the foundation and framework of the *Comprehensive Strategy*.

These continuation activities and programs and the new fiscal year 1997 programs are at the heart of OJJDP's categorical funding efforts. For example, while focusing on the development of assessment centers as a new area of programming, continuing to offer training seminars in the Comprehensive Strategy, and looking to the SafeFutures program to implement the Comprehensive Strategy model, OJJDP will be exploring how to better address juvenile sex offenders and the mental health needs of juvenile offenders. Combined, these activities provide a more holistic approach to prevention and early intervention programs while enhancing the juvenile justice system's capacity to provide immediate and appropriate accountability and treatment for juvenile offenders, including those with special treatment needs.

OJJDP's Part D Gang Program will continue to support a range of comprehensive prevention, intervention, and suppression activities at the local level, evaluate those activities, and inform communities about the nature and extent of gang activities and effective and innovative programs through OJJDP's National Youth Gang Center. Similarly, our new activities related to school-based gang programs and the evaluation of the Boys and Girls Clubs gang outreach effort, along with an evaluation of selected youth gun violence reduction programs, will complement existing law enforcement and prosecutorial training programs by supporting and informing grassroots community organizations' efforts to address juvenile gangs and juvenile access to, and carriage and use of, guns. This programming will build upon OJJDP's youth-focused community policing, mentoring, and conflict resolution initiatives and programming in the area of drug abuse prevention, such as funding to the Race Against Drug program, the Congress of National Black Churches, and the National Center for Neighborhood Enterprise for schools, local church, and neighborhood-based drug abuse prevention programs.

In support of the need to break the cycle of violence, OJJDP's SafeKids/Safe Streets demonstration program, being implemented in partnership with other OJP offices and bureaus, will improve linkages between the dependency and criminal court systems, child welfare and social service providers, and family strengthening programs and will complement ongoing support of Court Appointed Special Advocates, Child Advocacy Centers, and prosecutor and judicial training in the dependency field, funded under the Victims of Child Abuse Act of 1990, as amended.

The Plan's research and evaluation programming will support many of the above activities by filling in critical gaps in knowledge about the level and seriousness of juvenile crime and victimization, its causes and correlates, and effective programs in preventing delinquency and violence. At the same time, OJJDP's research efforts will also be geared toward efforts that monitor and evaluate the ways juveniles are treated by the juvenile and criminal justice systems and any trends in this response, particularly as they relate to juvenile violence and its impact.

OJJDP is also utilizing its national perspective to disseminate information to those at the grassroots level—practitioners, policymakers, community leaders, and service providers who are directly responsible for planning and implementing policies and programs that have an impact on juvenile crime and violence.

OJJDP will continue to fund longitudinal research on the causes and correlates of delinquency, the findings of which are shared regularly with the field through OJJDP publications; utilize state-of-the-art technology to provide the field with an interactive CD-ROM on promising and effective programs designed to prevent delinquency and reduce recidivism; air national satellite teleconferences on key topics of relevance to practitioners; and publish new reports and documents on timely topics such as truants and dropouts, mentoring, home visitation and parent training, youth-related community policing strategies, youth gang homicides and drug trafficking, conflict resolution, collaborative partnerships, sharing of information pursuant to the Federal Educational Rights and Privacy Act, confidentiality of juvenile court records, innovative sentencing options, and strategies to reduce youth gun violence.

The various contracts, grants, cooperative agreements, and interagency fund transfers described in the Program Plan form a continuum of activity designed to address youth violence, delinquency, and victimization. In isolation, this programming can do little. However, the emphasis of OJJDP's programming is on collaboration. It is through collaboration that Federal, State, and local agencies; Native American tribes; national organizations; private philanthropies; the corporate and business sector; health, mental health, and social service agencies; schools; youth; families; and clergy can come together to form partnerships and leverage additional resources, identify needs and priorities, and implement innovative strategies. Together, as the promising statistics published last year demonstrate, we have made—and we can continue to make—a difference.

*Fiscal Year 1997 Programs*

The following are brief summaries of each of the new and continuation programs scheduled to receive funding in fiscal year 1997. As indicated above, the program categories are public safety and law enforcement; strengthening the juvenile justice system; delinquency prevention and intervention; child abuse, neglect, and dependency courts; and missing and exploited children. However, because many programs have significant elements of more than one of these program categories, or generally support all of OJJDP's programs, they are listed in an initial program category called Overarching Programs. The specific program priorities within each category are subject to change with regard to their priority status, sites for implementation, and other descriptive data and information based on the review and comment process, grantee performance, application quality, fund availability, and other factors.

A number of programs contained in this document have been identified for funding by Congress with regard to the grantee(s), the amount of funds, or both. Such programs are indicated by an asterisk (*). The 1997 Appropriations Act Conference Report for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Programs identified 12 programs for OJJDP to examine and fund if warranted. Four of these programs (Coalition for Juvenile Justice, KidsPeace—The National Center for Kids in Crisis, North America, Law-

Related Education, and Parents Anonymous, Inc.) are included in the Plan for continuation funding. The remaining eight are receiving careful consideration for funding in fiscal year 1997. They are:

Parents Resource Institute for Drug Education
Restorative Justice Challenge Grants
Institute on Violence and Destructive Behavior
Consortium on Children, Families, and the Law
Kansas Juvenile Intake and Assessment Center
Project O.A.S.I.S.
Savannah Youth Foundation
Teen Night Out

Fiscal Year 1997 Program Listing

*Overarching*

SafeFutures: Partnerships to Reduce Youth Violence and Delinquency
Evaluation of SafeFutures
Program of Research on the Causes and Correlates of Delinquency
Study Group on the Serious, Violent, and Chronic Juvenile Offender
National Academy of Sciences Study of Juvenile Justice
The Hamilton Fish National Institute on School/Community Violence*
OJJDP Management Evaluation Contract
Juvenile Justice Statistics and Systems Development
Census of Juveniles in Residential Placement
Cost-Benefit Analyses of Juvenile Justice Programs
Juvenile Justice Data Resources
National Juvenile Court Data Archive*
National Juvenile Justice and Delinquency Prevention Training and Technical Assistance Center
Technical Assistance for State Legislatures
OJJDP Technical Assistance Support Contract—Juvenile Justice Resource Center
Juvenile Justice Clearinghouse
Telecommunications Assistance
Coalition for Juvenile Justice*
Insular Area Support*

*Public Safety and Law Enforcement*

Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program
Evaluation of the Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program
Targeted Outreach With a Gang Prevention and Intervention Component (Boys and Girls Clubs)
The Developmental Dynamics of Gang Membership and Delinquency
National Youth Gang Center
Evaluation of Youth Gun Violence Reduction Programs
The Chicago Project for Violence Reduction
Child-Centered Community-Oriented Policing
Law Enforcement Training and Technical Assistance Program
Violence Studies

*Strengthening the Juvenile Justice System*

Development of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders
Serious, Violent, and Chronic Juvenile Offender Treatment Program
Juvenile Restitution: A Balanced Approach
Training and Technical Assistance Program to Promote Gender-Specific Programming for Female Juvenile Offenders
Cook County Juvenile Female Offenders Project
Juvenile Transfers to Criminal Court Studies
Replication and Expansion of Fagan Transfer Study
Technical Assistance to Juvenile Courts*
Juvenile Court Judges Training*
The Juvenile Justice Prosecution Unit
Due Process Advocacy Program Development
Quantum Opportunities Program (QOP) Evaluation
Intensive Community-Based Aftercare Demonstration and Technical Assistance Program
Evaluation of Intensive Community-Based Aftercare Demonstration and Technical Assistance Program
Interventions To Reduce Disproportionate Minority Confinement in Secure Detention and Correctional Facilities (The Deborah Ann Wysinger Memorial Program)
State Justice Statistics Program for Statistical Analysis Centers
Juvenile Probation Survey Research
Performance-Based Standards for Juvenile Detention and Correctional Facilities
Technical Assistance to Juvenile Corrections and Detention (The James E. Gould Memorial Program)
Training for Juvenile Corrections and Detention Management Staff
Training for Line Staff in Juvenile Detention and Corrections
Training and Technical Support for State and Local Jurisdictional Teams To Focus on Juvenile Corrections and Detention Overcrowding
National Program Directory
A Comprehensive Juvenile Sex Offender Typology
KidsPeace—The National Centers for Kids in Crisis, North America*
The Bethesda Day Treatment Program
Interagency Programs on Mental Health and Juvenile Justice

*Delinquency Prevention and Intervention*

Training In Risk-Focused Prevention Strategies
Youth Substance Use Prevention Programs (The President's Crime Prevention Council)
Survey of School-Based Gang Prevention and Intervention Programs
Youth-Centered Conflict Resolution
Teens, Crime, and the Community: Teens in Action in the 90s*
Law-Related Education*
Communities in Schools—Federal Interagency Partnership
The Congress of National Black Churches: National Anti-Drug Abuse/Violence Campaign (NADVC)
Risk Reduction Via Promotion of Youth Development
Community Anti-Drug Abuse Technical Assistance Voucher Project
Training and Technical Assistance for Family Strengthening Programs
Training and Technical Assistance To Promote Teen Court Programs
Evaluation of Teen Courts
Henry Ford Health System
Angel Gate Academy*
Suffolk County PAL (Police Athletic League)*
Do the Write Thing

*Child Abuse and Neglect and Dependency Courts*

Permanent Families for Abused and Neglected Children*
Parents Anonymous, Inc.*

*Missing and Exploited Children*

Jimmy Ryce Law Enforcement Training Center*

## Overarching

### *SafeFutures: Partnerships To Reduce Youth Violence and Delinquency*

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) will award grants of up to $1.4 million to each of six communities, initially funded with fiscal year 1995 funds, to assist with comprehensive community programs designed to reduce youth violence and delinquency. Boston, Massachusetts; Seattle, Washington; St. Louis, Missouri; Contra Costa County, California; Imperial County, California; and Fort Belknap, Montana (Native American site) were selected competitively to receive 5-year awards under the SafeFutures project on the basis of their substantial planning and progress in community assessment and strategic planning to address delinquency.

SafeFutures seeks to prevent and control youth crime and victimization through the creation of a continuum of care in communities. This continuum enables communities to be responsive to the needs of youth at critical stages of their development through providing an appropriate range of prevention, intervention, treatment, and sanctions programs.

The goals of SafeFutures are (1) to prevent and control juvenile violence and delinquency in targeted communities by reducing risk factors and increasing protective factors for delinquency; providing a continuum of services for juveniles at risk of delinquency, with appropriate immediate interventions for juvenile offenders; and developing a full range of graduated sanctions designed to hold delinquent youth accountable to the victim and the community, ensure community safety, and provide appropriate treatment and rehabilitation services; (2) to develop a more efficient, effective, and timely service delivery

system for at-risk and delinquent juveniles and their families that is capable of responding to their needs at any point of entry into the juvenile justice system; (3) to build the community's capacity to institutionalize and sustain the continuum by expanding and diversifying sources of funding; and (4) to determine the success of program implementation and the outcomes achieved, including whether a comprehensive strategy involving community-based efforts and program resources concentrated on providing a continuum of care has succeeded in preventing or reducing juvenile violence and delinquency.

Each of the six sites will continue to provide a set of services that builds on community strengths and existing services and fills in gaps within their existing continuum. These services include family strengthening, afterschool activities, mentoring, treatment alternatives for juvenile female offenders, mental health services, day treatment, graduated sanctions for violent and chronic offenders, and gang prevention, intervention, and suppression.

A national evaluation is being conducted by The Urban Institute to determine the success of the initiative and track lessons learned throughout SafeFutures efforts at each of the six sites. OJJDP has also committed a cadre of training and technical assistance (TTA) resources to SafeFutures through OJJDP's National Training and Technical Assistance Center, which has brought together more than 40 TTA providers and dedicated a full-time TTA coordinator for SafeFutures. The Center also assists the communities in brokering and leveraging additional TTA resources. In addition, the U.S. Department of Housing and Urban Development has provided interagency support of $100,000 for training and technical assistance targeted to violence and delinquency prevention for public housing areas in SafeFutures sites. Thus, operations, evaluation, and TTA have been organized together to form a joint team at the national level to support local site efforts.

SafeFutures activities will be carried out by the six current SafeFutures grantees. No additional applications will be solicited in fiscal year 1997.

*Evaluation of SafeFutures*

With fiscal year 1995 funds, OJJDP funded six communities under the SafeFutures: Partnerships to Reduce Youth Violence and Delinquency Program. The program sites are: Contra Costa County, California; Fort Belknap Indian Community, Harlem, Montana; Boston, Massachusetts; St. Louis, Missouri; Seattle, Washington; and Imperial County, California. The SafeFutures Program provides support for a comprehensive prevention, intervention, and treatment program to meet the needs of at-risk juveniles and their families.

Up to approximately $8.2 million will be made available for annual awards over a 5-year project period to support the efforts of these jurisdictions to enhance existing partnerships, integrate juvenile justice and social services, and provide a continuum of care that is designed to reduce the number of serious, violent, and chronic juvenile offenders.

The Urban Institute received a competitive 3-year cooperative agreement award with fiscal year 1995 funds to conduct a national evaluation of the SafeFutures program. The evaluation will consist of both process and impact components for each funded site. The evaluation process includes an examination of planning procedures and the extent to which each site's implementation plan is consistent with the principles of a continuum of care model. The evaluation will identify the obstacles and key factors contributing to the successful implementation of the SafeFutures program. The evaluator is responsible for developing a cross-site monograph documenting the process of program implementation for use by other communities that want to develop and implement a comprehensive community-based strategy to address serious, violent, and chronic delinquency.

In fiscal year 1996, The Urban Institute developed a logic model, held a cross-site cluster meeting, and visited each of the six SafeFutures sites. The Urban Institute is working closely with local evaluators to develop individual project logic models. In fiscal year 1997, the grantee will submit an evaluation plan and design and begin implementation.

A fiscal year 1997 supplemental award will be made to the current grantee, The Urban Institute, to complete second year funding. No additional applications will be solicited in fiscal year 1997.

*Program of Research on the Causes and Correlates of Delinquency*

Three project sites participate in the Program of Research on the Causes and Correlates of Delinquency: The University of Colorado at Boulder, the University of Pittsburgh, and the State University of New York at Albany. Results from this program have been used extensively in the field of juvenile justice and have contributed to the development of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders and other program initiatives.

OJJDP began funding this program in 1986 and has invested approximately $10.3 million to date. The program has addressed many issues of juvenile violence and delinquency. These include developing and testing causal models for chronic violent offending and examining interrelationships among gang involvement, drug selling, and gun ownership/use. To date, the Program has produced a massive amount of information on the causes and correlates of delinquent behavior.

Although there is great commonality across the project sites, each has unique design features. Additionally, each project has disseminated the results of its research through a variety of publications, reports, and presentations.

With fiscal year 1996 funding, each site of the Causes and Correlates Program was provided additional funds to further analyze the longitudinal data. New publications were developed, and both the role of mental health in delinquency and pathways to delinquency were the subject of further analyses.

In fiscal year 1997, the sites will continue their collaborative research efforts. Site-specific research will also continue. Additionally, the grantees will work on developing a cross-site data access capability to provide quick access to data from all three sites.

This program will be implemented by the current grantees—Institute of Behavioral Science, University of Colorado at Boulder; Western Psychiatric Institute and Clinic, University of Pittsburgh; and Hindelang Criminal Justice Research Center, State University of New York at Albany. No additional applications will be solicited in fiscal year 1997.

*Study Group on the Serious, Violent, and Chronic Juvenile Offender*

In fiscal year 1995, OJJDP funded the Study Group on the Serious, Violent, and Chronic Juvenile Offender to answer questions about these offenders. The objective of the Study Group is to develop a report that will include critical areas of interest including prevention, intervention, gangs, and other topics. The report will include programs that appear to be effective in responding to the violent juvenile offender. The report is expected to be completed in the Spring of 1997. Fiscal year 1997 funding would be provided for the Study Group to develop research papers on cost-benefit analysis and

other topics that support the research on serious and violent juvenile offenders. The Study Group, as an adjunct to their report, will also undertake the development of a 5-year research plan for OJJDP's Research and Program Development Division. The plan would include short and long term research goals and objectives.

The project would be implemented by the current grantee, the University of Pittsburgh. No additional applications would be solicited in fiscal year 1997.

*National Academy of Sciences Study of Juvenile Justice*

The unprecedented increase in the rates of violent crime arrests of youth between the ages of 12 and 17 through the mid 1990's, combined with the projected growth of this population over the next decade, portends an unwelcome increase in future violence by adolescents. Public anxiety over the growing seriousness of juvenile violence has led many States away from rehabilitation and toward deterrence and punishment as the primary thrust of their juvenile justice efforts.

In fiscal year 1997, OJJDP would support a 24-month study by the National Academy of Sciences to examine research on the functioning of the juvenile justice system over the past 10 years in the area of delinquency prevention and control. The purpose of this extensive review would be to provide a scientifically sound basis for planning a multidisciplinary, multiagency agenda for research that can not only inform policymakers and practitioners about the nature and extent of juvenile delinquency and violence but also identify the most effective strategies for preventing and reducing youth crime and violence.

Issues of interest to the study include (1) an assessment of the status of research into youth violence, methodological approaches to evaluate the effectiveness of youth violence prevention efforts and the efficacy of Federal, State, and local efforts to control youth violence; (2) a review of research literature and data on juvenile court practices during this period, including the experience with Federal requirements regarding status offenders, detention practices, and the impact of diversion strategies and waivers to criminal court for certain offenders and offenses; (3) a review of research literature and data on clients in the juvenile justice system including concerns regarding disproportionate minority representation and gender bias; (4) an assessment of available evaluation literature on system programs and prevention strategies and programs, gaps in the research and recommendations to strengthen it; and (5) the relationship between the research on the causes and correlates of juvenile delinquency and normal adolescent growth and development.

A project report, synthesizing materials gathered from discussions and papers presented at workshops and panel meetings, would provide an overview of the critical issues confronting the juvenile justice field, gaps in current knowledge base, and future directions for research and program development.

The program would be implemented by the National Academy of Sciences. No additional applications would be solicited in fiscal year 1997.

*The Hamilton Fish National Institute on School/Community Violence**

This consortium of eight universities will study violence in schools and the relationship of violence in schools to violence in the community. The consortium includes the George Washington University, Morehouse School of Medicine, the University of Oregon, the University of Kentucky, Florida State University, the University of Wisconsin, Syracuse University, and the University of Kansas. The Institute will be a research, development, and service organization committed to assisting State and local policymakers, criminal justice officials, school administrators, teachers, parents, and students to reduce the present levels of violence in and around schools.

Each of the universities will establish a local community/schools/university partnership committed to a long-term reduction in violence. Each school, surrounding community, and a partner university will work to diagnose specific problems of violence that occur in and around the selected schools. After problem identification, the consortium and the local community and schools will design and implement interventions for the violence problems.

This program will be implemented by the George Washington University. No additional applications will be solicited in fiscal year 1997.

*OJJDP Management Evaluation Contract*

The purpose of this contract, competitively awarded in fiscal year 1995 to Caliber Associates, is to provide an expert resource capable of performing independent, management-oriented evaluations of selected juvenile delinquency programs. These evaluations are designed to determine the effectiveness and efficiency of either individual projects or groups of projects. The contractor also assists OJJDP in determining how to make the best use of limited evaluation resources and how best to design and implement evaluations.

In fiscal year 1996, contract activities included: continued evaluation of three OJJDP-funded boot camps; continued support for the evaluation of Title V delinquency prevention programs at the local level; assistance in preparing OJJDP's 1995 Title V Program Report to Congress; assistance to OJJDP program development working groups; assistance in the creation of an ''evaluation partnership for juvenile justice'' designed to improve the number and quality of evaluations conducted by Formula Grants Program grantees, other Federal agencies, private foundations that fund evaluations, and State and local governments; and conducting other short- or long-term evaluations as required.

Evaluation activities under consideration for fiscal year 1997 include: (1) OJJDP's Pathways to Success program; (2) two law enforcement training seminars, Managing Juvenile Operations and SAFE POLICY; (3) continued impact evaluations of three OJJDP-funded bootcamps; (4) continued evaluation of Title V programs; (5) assistance to the OJJDP evaluation working group; (6) support to OJJDP Formula Grants Program grantees; and (7) evaluating OJJDP's implementation of the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders. The contract will be implemented by the current contractor, Caliber Associates. No additional applications will be solicited in fiscal year 1997.

*Juvenile Justice Statistics and Systems Development*

The Juvenile Justice Statistics and Systems Development (SSD) program was competitively awarded to the National Center for Juvenile Justice (NCJJ) to improve national, State, and local statistics on juveniles as victims and offenders. The project has focused on three major functions: (1) assessing of how current information needs are being met with existing data collection efforts and recommending options for improving national level statistics; (2) analyzing data and disseminating information gathered from existing Federal statistical series and national studies. (Based on this work, OJJDP released the first *Juvenile Offenders and Victims: A National Report* in September 1995 and released *Juvenile Offenders and Victims: 1996 Update on Violence* in March 1996); and (3) providing of training and technical

assistance for local agencies in developing or enhancing management information systems. A training curriculum, *Improving Information for Rational Decision Making in Juvenile Justice,* was drafted for pilot testing.

In this final phase of the SSD project, NCJJ would complete a long-term plan for improving national statistics on juveniles as victims and offenders, including constructing core data elements for a national reporting program for juveniles waived or transferred to criminal court; an implementation plan for integrating data collection on juveniles by juvenile justice, mental health, and child welfare agencies; and a report on standardized measures and instruments for self-reported delinquency surveys. The project would also make recommendations to fill information gaps in the areas of juvenile probation, juvenile court and law enforcement responses to juvenile delinquency, violent delinquency, and child abuse and neglect. In addition, the SSD Project would provide an update of *Juvenile Offenders and Victims: A National Report,* and work with the Office of Justice Programs'' Crime Statistics Working Group and other Federal interagency working groups on statistics. The project would be implemented by the current grantee, NCJJ. No additional applications would be solicited in fiscal year 1997.

*Census of Juveniles in Residential Placement*

This census of juveniles in residential placement would replace the biennial Census of Public and Private Juvenile Detention, Correctional, and Shelter Facilities, known as the Children in Custody census. This newly designed census would collect detailed information on the population of juveniles who are in juvenile residential placement facilities as a result of contact with the juvenile justice system. Over the past 3 years, OJJDP and the Bureau of the Census, with the assistance of a Technical Advisory Board, have developed a census that will more accurately represent the numbers of juveniles in residential placement and describe the reasons for their placement. The new method of data collection, tested in fiscal year 1996, involved gathering data in a roster-type booklet format or by electronic means. The new methods are expected to result in more accurate and useful data on the juvenile population, with less reporting burden for facility respondents.

In fiscal year 1997, OJJDP would fund the initial implementation of this census, including form preparation, mailout, and processing of the census forms. Some follow-up would also be done under this agreement. This program would be implemented through an interagency agreement with the Bureau of the Census. No additional applications would be solicited in fiscal year 1997.

*Cost-Benefit Analyses of Juvenile Justice Programs*

Finite resources require that hard choices be made among competing programs. Juvenile justice practitioners are increasingly being asked to justify their activities in terms of cost and effectiveness. Should programs be continued, expanded, or discontinued? Cost-benefit analyses are an important tool for policymakers and juvenile justice program administrators. They can provide useful, quantifiable, and integrated information. Accordingly, OJJDP proposes to support studies designed to determine monetary program benefits of multiple but similar kinds of programs, of single programs, and across different programs. Submissions by juvenile justice agencies would be encouraged.

A competitive solicitation for up to two studies would be issued in fiscal year 1997 to support cost-benefit analyses.

*Juvenile Justice Data Resources*

OJJDP has entered into an agreement with the Inter-University Consortium for Political and Social Research (ICPSR) at the University of Michigan to make OJJDP data sets routinely available to researchers. Under this agreement, ICPSR assures the technical integrity of data and develops a universal data format. The codebooks, along with the data, provide clear guidance for additional analyses. Once prepared, ICPSR provides access to these data sets to member institutions and the public. Among the data sets previously processed and available through ICPSR are the Children in Custody series; various data sets from the Juvenile Court Statistics series; the Conditions of Confinement Study; the National Incidence Studies of Missing, Abducted, Runaway, and Thrownaway Children (NISMART); and data from the Delinquency in a Birth Cohort II study.

This program would be implemented under an interagency agreement with ICPSR. No additional applications would be solicited in fiscal year 1997.

*National Juvenile Court Data Archive**

The National Juvenile Court Data Archive collects, processes, analyzes, and disseminates automated data and published reports from the Nation's juvenile courts. The Archive's reports examine referrals, offenses, intake, and dispositions in addition to providing information on specialized topics such as minorities in juvenile courts and specific offense categories. The Archive also provides assistance to jurisdictions in analyzing their juvenile court data.

In fiscal year 1996, the Archive enhanced the collection, reporting, and analysis of detailed data on detention, dispositions, risk factors, and treatment data using offender-based data sets from a sample of juvenile courts. In support of OJJDP's National Forum on Female Offenders, the Archive prepared a special statistics summary, *Female Offenders in the Juvenile Justice System*.

In addition to preparing traditional reports, NCJJ prepared a software package, *Easy Access to Juvenile Court Statistics 1990–1994*, that allows users to quickly answer questions regarding a wide range of case characteristics supported with national estimates. The software is distributed free on diskette and is also available through OJJDP's homepage on the World Wide Web.

The project will be implemented by the current grantee, NCJJ. No additional applications will be solicited in fiscal year 1997.

*National Juvenile Justice and Delinquency Prevention Training and Technical Assistance Center*

The National Juvenile Justice and Delinquency Prevention Training and Technical Assistance Center (NTTAC) was competitively funded in fiscal year 1995 for a 3-year project period to develop a national training and technical assistance clearinghouse, inventory and coordinate integrated delivery of juvenile justice training/technical assistance (TA) resources, and establish a data base of these resources.

In fiscal year 1995, initial work involved organization and staffing of the Center, orientation for OJJDP training/TA providers regarding their role in the Center's activities, and initial data base development. In fiscal year 1996, NTTAC provided coordinated TA support for the OJJDP SafeFutures and gang program initiatives, continued to promote collaboration among OJJDP training/TA providers, developed training/TA materials, and completed the OJJDP *Training and Technical Assistance Resource Catalog.* In addition, NTTAC assisted State and local jurisdictions and other OJJDP grantees with specialized training, including the development of training-of-trainers programs. NTTAC continued to evolve as a central source for information pertaining to the

availability of OJJDP-supported training/TA programs and resources.

In fiscal year 1997, in cooperation with OJJDP training/TA grantees and contractors, NTTAC will complete jurisdictional team training/TA packages for gender-specific services and juvenile correctional services, field test the packages, and coordinate delivery upon request. NTTAC will also update the *Training and Technical Assistance Resource Catalog*, the repository of training/TA materials, and the electronically maintained data base of training/TA materials. Another task for 1997 will be to develop an additional jurisdictional team training/TA package.

This project will be implemented by the current grantee, Community Research Associates. No additional applications will be solicited in fiscal year 1997.

*Technical Assistance for State Legislatures*

State legislatures are being pressed to respond to public fear of juvenile crime and a loss of confidence in the capacity of the juvenile justice system to respond effectively. Nearly every State has already implemented, or is considering, statutory changes affecting the juvenile justice system. For the most part, State legislatures have lacked the information needed to properly address juvenile justice issues. In fiscal year 1995, OJJDP awarded a 2-year grant to the National Conference of State Legislatures (NCSL) to provide relevant, timely information on comprehensive approaches in juvenile justice that are geared to the legislative environment. In fiscal year 1995 and fiscal year 1996, NCSL convened Leadership Forums for selected legislators, organized focus groups, and established an information clearinghouse function. In fiscal year 1997, OJJDP proposes to award continuation funding to the NCSL to further identify, analyze, and disseminate information to assist State legislatures to make more informed decisions about legislation affecting the juvenile justice system. A complementary task would involve supporting increased communication between State legislators and State and local leaders who influence decisionmaking regarding juvenile justice issues. NCSL would provide intensive technical assistance to four States, continue outreach activities, and maintain its clearinghouse function.

The project would be implemented by the current grantee, NCSL. No additional applications would be solicited in fiscal year 1997.

*OJJDP Technical Assistance Support Contract: Juvenile Justice Resource Center*

This 3-year contract, competitively awarded in fiscal year 1994, provides technical assistance and support to OJJDP, its grantees, and the Coordinating Council on Juvenile Justice and Delinquency Prevention in the areas of program development, evaluation, training, and research. This program support contract will be extended in fiscal year 1997. The contract will be implemented by the current contractor, Aspen Systems Corporation. A new competitive contract solicitation will be issued during fiscal year 1997, and a new contract awarded in fiscal year 1998.

*Juvenile Justice Clearinghouse*

A component of the National Criminal Justice Reference Service (NCJRS), the Juvenile Justice Clearinghouse (JJC) is OJJDP's central resource for collecting, maintaining, producing, and sharing information on all aspects of juvenile justice. Types of information managed by JJC include research and evaluation findings, State and local juvenile delinquency prevention and treatment programs and plans, availability of resources, training and educational programs, and statistics. JJC reaches the entire juvenile justice community and other interested persons, serving researchers, law enforcement officials, judges, prosecutors, probation and corrections staff, youth-service personnel, legislators, the media, and the public.

Among its support services, JJC offers toll-free telephone and online access to information; prepares specialized responses to information requests; produces, warehouses, and distributes OJJDP publications; exhibits at national conferences; and maintains a comprehensive juvenile justice library and data base. Because of the critical need to inform juvenile justice practitioners and policymakers of promising program approaches, JJC continually develops and recommends new products and strategies to communicate more effectively the research findings and program activities of OJJDP and the field. The entire NCJRS, of which the OJJDP-funded JJC is a part, is administered by the National Institute of Justice under a competitively-awarded contract.

The contract will be implemented by the current contractor, Aspen Systems Corporation. No additional applications will be solicited in fiscal year 1997.

*Telecommunications Assistance*

Developments in information technology and distance training have expanded and enhanced OJJDP's capacity to disseminate information and provide training and technical assistance. These technologies have the advantages of increased access to information and training for professionals in the juvenile justice system, reduced travel costs to conferences, and reduced time attending meetings requiring one or more nights away from one's home or office. Additionally, the successful use of live satellite teleconferences by OJJDP during the past 2 years has generated an enthusiastic response from the field.

During 1996, OJJDP's grantee, Eastern Kentucky University (EKU) produced five live satellite teleconferences on the following topics: juvenile boot camps, conflict resolution for youth, reducing youth gun violence, youth out of the education mainstream, and the viability of the juvenile court.

In fiscal year 1997, OJJDP proposes to continue the competitively awarded cooperative agreement to EKU in order to provide program support and technical assistance for a variety of information technologies, including audiographics, fiber optics, and satellite teleconferences, producing five additional live national satellite teleconferences. The grantee would also continue to provide technical assistance to other grantees interested in using this technology and explore linkages with key constituent groups to advance mutual information goals and objectives.

This project would be implemented by the current grantee, EKU. No additional applications would be solicited in fiscal year 1997.

*Coalition for Juvenile Justice**

The Coalition for Juvenile Justice supports and facilitates the purposes and functions of each State's Juvenile Justice State Advisory Group (SAG). Coalition members, acting as a statutorily authorized, duly chartered Federal advisory committee, review Federal policies and practices regarding juvenile justice and delinquency prevention and prepare and submit an annual report and recommendations to the President, Congress, and the Administrator of OJJDP. The Coalition also serves as an information center for the SAG's and conducts an annual conference to provide training for SAG members.

The program will be implemented by the current grantee, the Coalition for Juvenile Justice. No additional

applications will be solicited in fiscal year 1997.

*Insular Area Support**

The purpose of this program is to provide supplemental financial support to the U.S. Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands (Palau), and the Commonwealth of the Northern Mariana Islands. Funds are available to address the special needs and problems of juvenile delinquency in these insular areas, as specified by Section 261(e) of the JJDP Act, as amended, 42 U.S.C. § 5665(e).

Public Safety and Law Enforcement

*Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program*

This program supports the implementation of a comprehensive gang program model in five jurisdictions. The program was competitively awarded with fiscal year 1994 funds under a 3-year project period. The demonstration sites implementing the model, which was developed by the University of Chicago with OJJDP funding support, are Bloomington, Illinois; Mesa, Arizona; Riverside, California; San Antonio, Texas; and Tucson, Arizona. Implementation of the comprehensive gang program model requires the mobilization of the community to address gang-related violence by making available and coordinating social interventions, providing social/academic/vocational and other opportunities, and supporting gang suppression through law enforcement, probation, and other community control mechanisms.

During the past year, the demonstration sites completed initial gang violence problem assessments to identify the full nature and extent of the gang problem in the community and its causes. The assessment process has helped communities to understand causes of gang violence in their community; identify key points for prevention, intervention, and suppression; and identify benchmarks by which program success may be measured. The demonstration sites also participated in training and technical assistance activities, including cluster conferences sponsored by OJJDP and visits to a program in Chicago where the model has been implemented and demonstrated positive initial results through a 4-year evaluation. In addition, the demonstration sites began strategy implementation and service provision and made progress in community mobilization, either through existing planning structures or by creating new structures.

In fiscal year 1997, demonstration sites will receive third-year funding to continue implementation of the model program and build upon the sustained mobilization, planning, and assessment processes. Additionally, the demonstration sites will continue to target youth prone to gang violence through continuing implementation of the program model and work with the independent evaluator of this demonstration program. No additional applications will be solicited in fiscal year 1997.

*Evaluation of the Comprehensive Community-Wide Approach to Gang Prevention, Intervention and Suppression Program*

The University of Chicago, School of Social Services Administration, received a competitive cooperative agreement award in fiscal year 1994. This 4-year project period award supports the evaluation of OJJDP's Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program. The evaluation grantee assisted the five program sites (Bloomington, Illinois; Mesa, Arizona; Tucson, Arizona; Riverside, California; and San Antonio, Texas) in establishing realistic and measurable objectives, documenting program implementation, and measuring the impact of a variety of gang program strategies. It has also provided interim feedback to the program implementors.

In fiscal year 1996, the grantee designed and implemented organizational surveys and youth interviews; developed and implemented program tracking and worker questionnaires and interviews; gathered and tracked aggregate level offense/offender client data from police, prosecutor, probation, school, and social service program sources; developed and implemented uniform individual level criminal justice data collection efforts; consulted with local evaluators on development and implementation of local site parent/community resident surveys; and coordinated ongoing efforts with local researchers conducting special surveys of gang youth in the program.

In fiscal year 1997, the grantee will continue to gather data required to evaluate the program and provide ongoing feedback to project sites.

This project will be implemented by the current grantee, the University of Chicago, School of Social Services Administration. No additional applications will be solicited in fiscal year 1997.

*Targeted Outreach With a Gang Prevention and Intervention Component (Boys and Girls Clubs)*

This program is designed to enable local Boys and Girls Clubs to prevent youth from entering gangs, intervene with gang members in the early stages of gang involvement, and divert youth from gang activities into constructive activities and programs. In fiscal year 1996, Boys and Girls Clubs of America provided ongoing training and technical assistance to 30 existing gang prevention and 4 intervention sites and expanded the gang prevention and intervention program to 23 additional Boys and Girls Clubs, including clubs located in OJJDP's SafeFutures program sites.

In fiscal year 1997, Boys and Girls Clubs of America proposes to provide training and technical assistance to 20 new gang prevention sites, 3 new intervention sites, and the 6 SafeFutures sites and initiate a national evaluation of the Targeted Outreach: Gang Prevention and Intervention Program.

This program would be implemented by the current grantee, the Boys and Girls Clubs of America. No additional applications would be solicited in fiscal year 1997.

*The Developmental Dynamics of Gang Membership and Delinquency*

The Seattle Social Development Project (SSDP) is a longitudinal gang prevention study conducted in collaboration with Seattle Public Schools. Initially funded under a competitive field-initiated research program, the analysis of gangs in the SSDP data set has examined juveniles ages 10–18 to identify risk and protective factors for gang membership. Analysis details predictors of gang membership, age of initiation, length, desistance from gang membership, and consequences, measured at age 18, of gang membership during early and mid-adolescence.

In fiscal year 1996, the research study revealed the extent of gang membership in the SSDP sample, the types and proportion of crime committed in the sample that are committed by gang members, the extent of gang crime increases, when youth join gangs or already delinquent youth join gangs, the length of time youth stay active members, the childhood predictors of joining a gang in adolescence, and the developmental risk factors that best predict joining a gang.

In fiscal year 1997, the SSDP would obtain official criminal records for a

sample group, ages 18–21 years, and integrate them into the longitudinal data set from the SSDP. Additional data analysis would examine (1) the individual, peer, family, school, and neighborhood predictors of early initiation into gangs; (2) the predictors of sustained gang involvement; and (3) the effects of criminal justice system involvement on gang membership.

This project would be implemented by the current grantee, the University of Washington. No additional applications would be solicited in fiscal year 1997.

*National Youth Gang Center*

The proliferation of gang problems in large inner cities, smaller cities, suburbs, and even rural areas over the past two decades led to the development by OJJDP of a comprehensive, coordinated response to America's gang problem. This response involved five program components, one of which was the implementation and operation of the National Youth Gang Center (NYGC). The NYGC was competitively funded with fiscal year 1994 funds for a 3-year project period. NYGC was created to expand and maintain the body of critical knowledge about youth gangs and effective responses to them. NYGC assisted State and local jurisdictions in the collection, analysis, and exchange of information on gang-related demographics, legislation, research, and promising program strategies.

The Center also coordinated activities of the OJJDP Gang Consortium—a group of Federal agencies, gang program representatives, and service providers. Under the sponsorship of OJJDP, the National Institute of Justice, the Bureau of Justice Assistance, and members of the Regional Information Sharing Systems Program, the NYGC coordinated a National Youth Gang Symposium in June 1996, with over 700 participants in attendance. Results of the first NYGC National Youth Gang Survey were compiled and analyzed in fiscal year 1996.

Other major NYGC tasks in fiscal year 1996 included analysis of gang legislation and coordination of the OJJDP Youth Gang Consortium. The Consortium is developing information that will provide an overview of Federal agencies, including the development of a matrix to include information on planning cycles, contacts, and gang-related programs.

In fiscal year 1997, NYGC will prepare the matrix of the program planning cycle, information resources, contacts, and programs of the Consortium members and promote collaboration so State and local youth-serving agencies will be able to coordinate resources available from Federal agencies. Also, NYGC would hold additional focus group meetings to review the results of the first National Youth Gang Survey and to plan the format of followup surveys.

Fiscal year 1997 funds will support third-year funding of the NYGC cooperative agreement to the current grantee, the Institute for Intergovernmental Research. No additional applications will be solicited in fiscal year 1997.

*Evaluation of Youth Gun Violence Reduction Programs*

In response to the problem of juvenile gun violence, OJJDP and the International Association of Chiefs of Police (IACP) have identified promising programs designed to reduce gun violence by youth. Currently, numerous communities have implemented or are in the process of implementing youth gun violence reduction programs. However, not enough is known about the effectiveness of such programs.

In fiscal year 1997, OJJDP proposes to evaluate a select number of promising youth gun violence reduction programs currently under way in communities across the country, as identified by IACP. OJJDP would work with the grantee to select which of these programs have a sound theoretical foundation and are structured to support a rigorous evaluation. This program would encourage a collaborative research approach between practitioners and researchers. If these youth gun violence reduction programs prove to be effective in reducing gun violence committed by juveniles, the program models could be replicated in other jurisdictions or technical assistance developed and offered to jurisdictions to implement programs that have been proven effective in communities.

*The Chicago Project for Violence Prevention*

The Chicago Project for Violence Prevention's primary goal is the development of a citywide, accelerated, long-term effort to reduce violence in Chicago. Secondly, the Chicago Project demonstrates a comprehensive, citywide violence prevention model. Overall project objectives include reductions in homicide, physical injury, disability and emotional harm from assault, domestic abuse, sexual abuse and rape, and child abuse and neglect.

The Chicago Project is a partnership among the Chicago Department of Public Health, the Illinois Council for the Prevention of Violence, the University of Illinois, and Chicago communities. It began in January 1995 as a public health initiative with OJJDP funding. The project currently provides technical assistance to a variety of community-based and citywide organizations involved in violence prevention planning. The majority of technical assistance supports community level work and agencies working to directly support the community plan.

In fiscal year 1996, technical assistance was provided to the central planning group for the Austin community-based coalition, leadership and staff of the Westside Health Authority in the Austin community, and to other selected groups involved in the Austin plan for the development of their components (e.g., to Northwest Austin Council for the development of the afterschool and drug treatment components of the Austin plan). These groups are members of the violence consortium in Austin.

In fiscal year 1997, the Chicago Project would further refine the violence prevention strategy developed in the Austin community and begin implementation of the strategy and continue to provide technical assistance to the Logan Square and Grand Boulevard communities as they develop their violence prevention strategy.

The Chicago Project for Violence Prevention would be implemented by the current grantee, the University of Illinois, School of Public Health. No additional applications would be solicited in fiscal year 1997.

*Child-Centered, Community-Oriented Policing*

In fiscal year 1993, OJJDP provided support to the New Haven, Connecticut, Police Department and the Yale University Child Development Center to document a child-centered, community-oriented policing model being implemented in New Haven, Connecticut. The basic elements of the model are a 10-week training course in child development for all new police officers and child development fellowships for all community-based district commanders who direct neighborhood police teams. The fellowships provide 4 to 6 hours of training each week over a 3-month period at Yale's Child Study Center. The program also includes (1) a 24-hour consultation from a clinical professional and a police supervisor to patrol officers who assist children who have been exposed to violence; (2) weekly case conferences with police officers, educators, and child study center staff; and (3) open police stations located in

neighborhoods and accessible to residents for police and related services, community liaison, and neighborhood foot patrols.

In fiscal year 1994, Bureau of Justice Assistance (BJA) community policing funds helped support the first year of a 3-year training and technical assistance grant to replicate the program nationwide. These funds supported the development of criteria for a request for proposals, protocols for consultation, training-for-trainers sessions for New Haven police and clinical faculty, and the development of a multimodel strategy for data collection and program evaluation. Fiscal year 1995 OJJDP funds supported initiation of program replication efforts in Buffalo, New York; Charlotte, North Carolina; Nashville, Tennessee; and Portland, Oregon. Fiscal year 1996 funds supported the implementation of the five-phase replication protocol in the four selected sites. Fiscal year 1997 continuation funding from OJJDP would further support replication, site data collection and analysis activities, and development of a detailed casebook about the model and program.

This project would be implemented by the current grantee, the Yale University School of Medicine, in collaboration with the New Haven Department of Police Services. No additional applications would be solicited in fiscal year 1997.

*Law Enforcement Training and Technical Assistance Program*

Juvenile crime and victimization present some major challenges to practitioners who are responsible for prevention, intervention, and enforcement efforts. Increasing rates of violent crime committed by juveniles, rising juvenile involvement in gangs and drugs, and decreasing fiscal resources are just some of the challenges facing juvenile justice practitioners today.

OJJDP is committed to helping State and local agencies, organizations, and individuals face these challenges through a comprehensive program of training and technical assistance that is designed to enhance the juvenile justice system's ability to respond to juvenile crime and delinquency. This assistance targets many audiences, including law enforcement representatives, social service workers, school staff and administrators, prosecutors, judges, corrections and probation personnel, and key community and agency leaders.

Beginning in fiscal year 1997, the Law Enforcement Training and Technical Assistance Program will be implemented by a national training contractor under a 3-year contract with OJJDP.

Upon the completion of the ongoing competitive selection process, fiscal year 1997 funds will support the continuation of OJJDP's Chief Executive Officer Youth Violence Forum; the Managing Juvenile Operations (MJO) workshop; the Gang, Gun, and Drug POLICY workshop; the School Administrators for Effective Police, Prosecution, Probation Operations Leading to Improved Children and Youth Services (SAFE POLICY) workshop; the Serious Habitual Offender Comprehensive Action Program (SHOCAP); the Youth Oriented-Community Policing workshop; and the Tribal Law Enforcement Training and Technical Assistance workshop. No additional applications will be solicited in fiscal year 1997.

*Violence Studies*

The 1992 Amendments to the JJDP Act directed OJJDP to fund 2-year studies on violence in three urban and one rural jurisdiction. Building on the results of OJJDP's Program of Research on the Causes and Correlates of Delinquency, these studies were to examine the incidence of violence committed by or against juveniles in urban and rural areas of the United States. In fiscal year 1994, OJJDP initiated a University of Wisconsin study of homicides by and of youth in Milwaukee, Wisconsin. In that same year, under a grant to the University of South Carolina, OJJDP funded a cross-site study in rural areas in South Carolina, Georgia, and Florida. In fiscal year 1995, in Los Angeles, California, and Washington, D.C., the University of Southern California and the Institute for Law and Justice initiated additional violence studies.

These four studies are providing valuable information regarding community violence patterns, with a particular focus on homicide and firearm use involving juveniles. Their results will assist the juvenile justice system by identifying strategic law enforcement responses to juvenile violence and by identifying diversion, prevention, and control programs that ameliorate juvenile violence.

In fiscal year 1996, the University of Wisconsin and the University of South Carolina analyzed their data and made their project findings. The Institute for Law and Justice collected and analyzed aggregate data from various juvenile justice providers and from a series of interviews with agency staff serving adjudicated juveniles. The University of Southern California received funds to identify violence prevention programs, conduct a household survey, and interview adolescents and their caregivers in Los Angeles County.

In fiscal year 1997, OJJDP proposes to provide limited funding to the University of Southern California to complete its study. The program would be implemented by the current grantee, the University of Southern California. No additional applications would be solicited in fiscal year 1997.

*Strengthening the Juvenile Justice System*

Development of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders

The National Council on Crime and Delinquency and Developmental Research and Programs, Inc., have completed Phases I and II of a collaborative effort to support development and implementation of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders. Phase I involved assessing existing and previously researched programs in order to identify effective and promising programs that can be used in implementing the Comprehensive Strategy. In Phase II, a series of reports were combined into a *Guide for Implementing the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders.* Phase II also included convening a forum, ''Guaranteeing Safe Passage: A National Forum on Youth Violence,'' and holding two regional training seminars for key leaders on implementing the Comprehensive Strategy.

In fiscal year 1996, Phase III of the project was funded to provide: targeted dissemination of information on the Comprehensive Strategy at national conferences; intensive training for selected States to implement the Comprehensive Strategy in up to six local jurisdictions; the six SafeFutures sites; technical assistance to a limited number of individual jurisdictions interested in implementing the Comprehensive Strategy; and continued development of Comprehensive Strategy implementation materials.

In fiscal year 1997, the grantees will continue to target dissemination of the *Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders* and hold regional training seminars in the Southeast and Midwest; provide training and technical assistance to additional state and local jurisdictions interested in implementing the Comprehensive Strategy; and provide intensive training and technical

assistance in 5 competitively-selected Comprehensive Strategy States—Florida, Iowa, Maryland, Rhode Island, and Texas.

The program will be implemented by the current grantees, the National Council on Crime and Delinquency and Developmental Research and Programs, Inc. No additional applications will be solicited in fiscal year 1997.

*Serious, Violent, and Chronic Juvenile Offender Treatment Program*

The Serious, Violent, and Chronic Juvenile Offender Treatment Program is designed to assist local jurisdictions in the development and implementation of a comprehensive strategy for the intervention, treatment, and rehabilitation of juvenile offenders. The program was initially funded in 1993 under the Accountability-Based Community (ABC) Intervention program. Under the ABC initiative, Pittsburgh, Pennsylvania, and Washington, DC, were competitively funded to plan and implement a comprehensive graduated sanctions strategy.

In fiscal year 1994, under a second competitive announcement, OJJDP awarded funds under the Serious, Violent, and Chronic Offender Treatment Program to three additional jurisdictions (Boston, Massachusetts; Jefferson Parish, Louisiana; and Richmond, Virginia) to develop and implement a comprehensive graduated sanctions plan. The plan's basic elements included the following: (1) assess the existing continuum of secure and nonsecure intervention, treatment, and rehabilitation services in each jurisdiction; (2) define the juvenile offender population; (3) develop and implement a program strategy; (4) develop and implement an evaluation; (5) integrate private nonprofit, community-based organizations into the provision of offender services; (6) incorporate an aftercare program as an integral component of all residential placements; (7) develop a resource plan to enlist the financial and technical support of other Federal, State, and local agencies, private foundations, or other funding sources; and (8) develop a victim assistance component using local organizations.

In fiscal year 1996, each of the three fiscal year 1994 grantees received awards to continue implementation activities. Boston and Richmond will complete operations during fiscal year 1997. Jefferson Parish will receive a final 6-month award in fiscal year 1997.

No additional applications will be solicited in fiscal year 1997.

*Juvenile Restitution: A Balanced Approach*

OJJDP proposes to continue support of the juvenile restitution training and technical assistance program in fiscal year 1997. The project design is based on practitioner recommendations regarding juvenile justice program needs and the best methods for integrating and institutionalizing restitution and community service as key components of juvenile justice system dispositions. In fiscal year 1992, a practitioner working group helped map out a plan for optimum development of the components of restitution programs. Plan components included community service, victim reparation, victim-offender mediation, offender employment and supervision, employment development, and other program elements designed to establish restitution as a key element in improving the juvenile justice system. This project is guided by balanced and restorative justice (BARJ) principles, which include the need to provide a balance of (1) community protection, (2) offender competency development, and (3) offender accountability to individual victims and communities. The project helps juvenile justice agencies to introduce these elements in programs for sanctioning and controlling juvenile offenders.

In fiscal year 1995, the project assisted three local jurisdictions (Allegheny County, Pennsylvania; Dakota County, Minnesota; and West Palm Beach County, Florida) to implement the ''balanced approach,'' participated in presenting a series of regional roundtables for States interested in adopting the BARJ model, and provided *ad hoc* technical assistance. In fiscal year 1996, the project continued training, technical assistance, and development of guideline materials, including a *Balanced and Restorative Justice Project Resource Guide* and a *Curriculum Guide* on the BARJ model.

In fiscal year 1997, the project would provide training-of-trainers programs on the BARJ model based on the *Curriculum Guide* and the *Resource Guide.* The grantee would also continue to offer technical assistance to the increasing number of State and local jurisdictions interested in pursuing balanced and restorative justice.

This project would be implemented by the current grantee, Florida Atlantic University. No additional applications would be solicited in fiscal year 1997.

*Training and Technical Assistance Program To Promote Gender-Specific Programming for Female Juvenile Offenders*

The 1992 Amendments to the JJDP Act addressed, for the first time, the issue of gender-specific services. The Amendments require States participating in OJJDP's State Formula Grants Program to conduct an analysis of gender-specific services for the prevention and treatment of juvenile delinquency, including the types of services available, the need for such services, and a plan for providing needed gender-specific services for the prevention and treatment of juvenile delinquency.

In fiscal year 1995, the OJJDP Gender-Specific Services Program focused on providing training and technical assistance directly to States and on providing and promoting the establishment of gender-specific programs at the State level. Training and technical assistance were provided to a broad spectrum of policymakers and service providers regarding services for juvenile female offenders through direct grants, sponsorship of national conferences, and inclusion of a gender-specific service component in OJJDP's SafeFutures program.

In fiscal year 1996, building upon these past efforts, OJJDP awarded a 3-year competitive grant to Greene, Peters and Associates (GPA) to provide a comprehensive framework for assisting policymakers, service providers, educators, parents, and the general public in addressing the complex needs of female adolescents who are at risk for delinquent behavior. The project's objectives are to develop and test a training curriculum for policymakers, advocacy organizations, and community-based youth-serving organizations that conveys the need for effective gender-specific programming for juvenile females and the elements of such programs; to develop, test, and deliver a technical assistance package on the development of gender-specific programs; to inventory female-specific programs, identifying those program models designed to build upon the gender-specific needs of girls, and prepare a monograph suitable for national dissemination; to design and test a curriculum for line staff delivering services to juvenile females; to design and implement a public education initiative on the need for gender-specific programming for girls; and to design and conduct training for trainers. Because the grant was awarded at the end of fiscal year 1996, work on the project is in its initial stages.

The program will be implemented by the current grantee, GPA. No additional applications will be solicited in fiscal year 1997.

*Cook County Juvenile Female Offenders Project*

In fiscal year 1995, OJJDP awarded a competitive grant to enable Cook County to plan programs for juvenile female offenders in the Cook County Juvenile Temporary Detention Center. A Steering Committee formed to oversee the project included community and government agency representatives working together to effectuate change in the way juvenile female offenders are handled. To coordinate efforts, the committee organized a task force of 30 government and community-based agencies to promote gender equity and fairness.

The Steering Committee, with the assistance of task force members, accomplished several key objectives during their planning effort. They (1) developed a gender-specific needs and strengths assessment instrument and a risk assessment instrument for juvenile female offenders through a consulting contract with the National Council on Crime and Delinquency; (2) provided training in implementing gender-appropriate programming to more than 300 management and line staff representing more than 100 local public and private agencies; (3) compiled a directory of gender-specific services available in Cook County; (4) assessed the strengths and interactions, and the areas for improvement of interaction, among the five custodial agencies involved in legal responsibilities for juvenile female offenders in Cook County (the Chicago Police Department, Cook County Juvenile Temporary Detention Center, Illinois Department of Children and Family Services, Illinois Department of Corrections-Juvenile Division, and Cook County Juvenile Probation); and (5) designed a pilot program that includes a community-based continuum of care with a unique case management system.

In fiscal year 1997, the project proposes to join Federal, State, and local resources to implement the pilot program. Under the program, each juvenile female offender would have a case manager who will follow her throughout her involvement in the juvenile justice system. The case manager would advocate for services to meet the juvenile's needs in a timely and consistent manner.

This program would be implemented by the current grantee, the Cook County Board of Commissioners. No additional applications would be solicited in fiscal year 1997.

*Juvenile Transfers to Criminal Court Studies*

States are increasingly enacting juvenile code revisions broadening judicial waiver authority, providing prosecutor direct file authority, and mandating transfer of older, more violent juveniles to criminal court. Many States are also developing innovative procedures, such as blending traditional features of juvenile and criminal justice sentencing practices, through statutes that categorize juvenile offenders into different classes according to the seriousness of the offense, designating juvenile or criminal court for each class, or providing judges with discretion to make these judgments at sentencing. Studies of the impact of criminal court prosecution of juveniles have yielded mixed conclusions. Solid research on the intended and unintended consequences of transfer of juveniles to criminal court will enable policymakers and legislatures to develop statutory provisions and policies and improve judicial and prosecutorial waiver and transfer decisions.

To address the shortage of recent research results, OJJDP competitively funded two juvenile waiver and transfer research projects in fiscal year 1995. The first, awarded to the National Center for Juvenile Justice, compares juvenile and criminal court handling of juveniles in four States that authorize judicial waiver of serious and violent juvenile offenders and mandate criminal court handling for specified categories of juvenile offenders. The second study, awarded to the Florida Juvenile Justice Advisory Board, evaluates Florida's system of blending the option of criminal and juvenile justice system sentencing for serious and violent juvenile offenders. Additional funding was provided in fiscal year 1996 to enable the projects to collect case specific information on sentence completion and recidivism data in order to provide a more definitive assessment of the impact of criminal versus juvenile justice system handling of serious and violent offender cases.

In fiscal year 1997, OJJDP proposes to provide limited continuation funding in jurisdictions that were part of one or both of these studies and provide promising opportunities for longitudinal study. The projects would be implemented by the current grantees, the National Center for Juvenile Justice and the Florida Juvenile Justice Advisory Board. No additional applications would be solicited in fiscal year 1997.

*Replication and Extension of Fagan Transfer Study*

OJJDP proposes to award a grant to Columbia University to conduct a study, ''The Comparative Impact of Juvenile Versus Criminal Court Sanctions on Recidivism Among Adolescent Felony Offenders: A Replication and Extension.'' This study would be a replication and expansion of an original study and would be conducted by the Principal Investigator, Dr. Jeffrey Fagan. His 1986 New York/New Jersey study was the first transfer study comparing four contiguous counties matched on social, economic, and criminogenic factors and offender cohorts with essentially identical offense profiles. It was also the first such study to go beyond comparing sentences to studying the deterrent effects of the sanction and court jurisdiction on recidivism rates in juvenile versus criminal court.

The proposed replication and extension is the only research project that can answer questions about how case processing decisions have changed in the last decade. The new study would compare case dispositional outcomes in 1981–82 with those cases processed in 1993–94, a time period following sustained growth in the rates of youth violence. In addition, a study component under the direction of Dr. Barry Feld would explore whether there are factors being considered by prosecutors, judges and defense attorneys that explain the variation in sentences/dispositions and recidivism between groups of offenders handled in different systems. This component would provide an analysis of the organizational, contextual, or systemic factors involved in the decision processes affecting both jurisdiction and punishment. The study will also conduct interviews with selected offenders processed in different systems to gain a perspective on the impact of criminal versus juvenile system handling of such cases on further experiences with the justice system. The project would also collaborate with the other OJJDP Juvenile Transfers to Criminal Court Studies in sharing data collection instruments and in planning joint analyses where appropriate.

This program would be implemented by Columbia University. No additional applications would be solicited in fiscal year 1997.

*Technical Assistance to Juvenile Courts**

The National Center for Juvenile Justice (NCJJ), the research arm of the National Council of Juvenile and Family Court Judges, provides technical assistance under this grant for juvenile court practitioners. The focus of the technical assistance is on court administration and management, program development, and special legal issues. During fiscal year 1996, NCJJ responded to more than 850 requests for technical assistance. In addition, NCJJ staff completed the Research Report *State Responses to Serious and Violent Juvenile Crime.*

In fiscal year 1997, NCJJ will develop an online technical assistance capability to improve program monitoring and evaluation. In addition, a desktop guide for juvenile probation administrators will be completed.

The program will be implemented by the current grantee, NCJJ. No additional applications will be solicited in fiscal year 1997.

*Juvenile Court Judges Training**

The primary focus of this project in fiscal year 1997 will be to continue and refine the training and technical assistance program offered by the National Council of Juvenile and Family Court Judges (NCJFCJ). The objectives of the training are to supplement law school curriculums by providing basic training to new juvenile court judges and to provide experienced judges with state-of-the-art training on developments in juvenile and family case law and effective dispositional options. Emphasis is also placed on alcohol and substance abuse, child abuse and neglect, gangs and violence, disproportionate incarceration of minority youth, and intermediate sanctions. Training is also provided to other court personnel, including juvenile probation officers, aftercare workers, and child protection and community treatment providers. In fiscal year 1996, some 12,775 judges and court personnel received training through 74 different programs. In addition, more than 800 training-related technical assistance requests were completed.

The project will be implemented by the current grantee, NCJFCJ. No additional applications will be solicited in fiscal year 1997.

*The Juvenile Justice Prosecution Unit*

OJJDP has historically supported prosecutor training activities through the National District Attorneys Association (NDAA). To continue that work, OJJDP awarded a 3-year project period grant in fiscal year 1995 to the American Prosecutors Research Institute (APRI), the research and technical affiliate of NDAA, to establish a Juvenile Justice Prosecution Unit (JJPU). JJPU holds workshops on juvenile justice-related policy, leadership, and management for chief prosecutors and unit chiefs. JJPU also provides prosecutors with background information on juvenile justice issues and programs, training, and technical assistance.

The project is based on planning and input by prosecutors familiar with juvenile justice needs. It draws on the expertise of working groups of elected or appointed prosecutors and juvenile unit chiefs to support project staff in providing technical assistance, juvenile justice-related research, program information, and training to practitioners nationwide. In 1995, APRI collected information from prosecutors and sponsored a National Invitational Symposium on Juvenile Justice. The Symposium provided a forum for prosecutors to exchange ideas on programs, issues, legislation, and practices in juvenile justice. In 1996, APRI conducted three workshops for elected and appointed prosecutors and juvenile unit chiefs to help improve prosecutor involvement in the prosecution and prevention of juvenile delinquency. In 1997, APRI would conduct a second National Symposium, present additional workshops, and develop new reference materials for prosecutors.

The project would be implemented by the current grantee, APRI. No additional applications would be solicited in fiscal year 1997.

*Due Process Advocacy Program Development*

In fiscal year 1993, OJJDP funded the American Bar Association (ABA), in partnership with the Juvenile Law Center (JLC) of Philadelphia, Pennsylvania, and the Youth Law Center (YLC) of San Francisco, California, to develop strategies to improve due process and the quality of legal representation in the juvenile justice system. The goals of the program are to increase juvenile offenders' access to legal services and to improve the quality of preadjudication, adjudication, and dispositional advocacy for juvenile offenders. The strategies that have been developed are being made available to State and local defender organizations, State and local bar associations, and other relevant organizations so that they can develop approaches to increase the availability and quality of counsel for juveniles.

In fiscal years 1994 and 1995, the ABA, JLC, and YLC conducted an assessment of the current state of the art with regard to legal services, training, and education. This survey included a review of literature, case law, and State statutes and a survey of public defenders, court-appointed lawyers, law school clinical programs, and judges. As a result of this survey work, the ABA developed and published a report entitled *A Call for Justice: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings.* The report has been widely distributed to State and local bar associations, Chairs of State Juvenile Justice Advisory Groups, participants in the ABA survey, the National Association of Child Advocates, and others.

In fiscal year 1996, training was initiated, beginning with the States of Maryland, Tennessee, and Virginia. The structure and scope of the training are tailored to fit the needs of each State.

In fiscal year 1997, a training manual would be completed, covering key issues such as detention, transfer or waiver, and dispositional advocacy. The curriculum in the manual would build on existing quality training curriculums and inform defender organizations and others about the best training curriculums available. The training manual would be designed to fill gaps in existing training programs. The ABA and its partners would also continue to develop networks with public defenders offices, children's law centers, and others through the HANDSNET system and mailings that provide program updates. In addition, the ABA and its partners would provide or arrange for onsite technical assistance to additional jurisdictions that are actively pursuing the goals of this initiative.

This program would be implemented by the current grantee, ABA. No additional applications would be solicited in fiscal year 1997.

*Quantum Opportunities Program (QOP) Evaluation*

OJJDP proposes to fund an impact evaluation of the Quantum Opportunities Program, which the U.S. Department of Labor, in partnership with the Ford Foundation, is currently replicating in seven sites across the United States. The purpose of the funding would be to determine whether QOP reduces the likelihood that inner-city youth at educational risk will enter the criminal justice system, including the juvenile justice system. The QOP impact evaluation is designed to

measure the impact of QOP participation on such outcomes as high school graduation and enrollment in postsecondary education and training. Other student outcomes to be examined include academic achievement in high school, misbehavior in school, self-esteem and sense of control over one's life, educational and career goals, and personal decisions such as teenage parenthood, substance abuse, and criminal activity. Data on criminal activity is being collected from individual student interviews.

This proposed evaluation enhancement to the Department of Labor-funded evaluation would provide for the collection of analogous data from the juvenile justice system, thus allowing estimates of the impact of the QOP program on the likelihood of program youth becoming involved in the criminal justice system. Initial attention would be focused on identifying the appropriate governmental agencies responsible for the data, dealing with confidentiality requirements, determining the feasibility of collecting such information, preparing data collection protocols for each site, and preparing a report outlining the data collection design for implementation.

This program would be implemented through an interagency agreement with the U.S. Department of Labor. No additional applications would be solicited in fiscal year 1997.

*Intensive Community-Based Aftercare Demonstration and Technical Assistance Program*

This initiative is designed to support implementation, training and technical assistance, and evaluation of an intensive community-based aftercare model in four jurisdictions that were competitively selected to participate in this demonstration program. The overall goal of the intensive aftercare model is to identify and assist high-risk juvenile offenders to make a gradual transition from secure confinement back into the community. The Intensive Aftercare Program (IAP) model can be viewed as having three distinct, yet overlapping segments: (1) prerelease and preparatory planning activities during incarceration; (2) structured transitioning involving the participation of institutional and aftercare staffs both prior to and following community reentry; and (3) long-term reintegrative activities to insure adequate service delivery and the required level of social control.

In fiscal year 1994, The Johns Hopkins University received a multiyear grant to test their intensive community-based aftercare model in four demonstration sites: Denver (Metro), Colorado; Clark County (Las Vegas), Nevada; Camden and Newark, New Jersey; and Norfolk, Virginia. Each of the four sites received funding in fiscal year 1996 to support program implementation. The Johns Hopkins University contracts with California State University at Sacramento to assist in the implementation process by providing training and technical assistance and by making OJJDP demonstration funds available through contracts to each of the four demonstration sites. Each of the sites has developed risk assessment instruments for use in selecting high-risk youth who need this type of intensive aftercare, hired and trained staff in the intensive aftercare model, identified existing and needed community support (intervention) services, and identified and collected data necessary for the independent evaluation of the intensive community-based aftercare program. In accordance with a strong experimental research design, each of the sites uses a system of random assignment of clients to the program. The Johns Hopkins University and California State University at Sacramento have provided continuing training and technical assistance to both administrators/managers and line staff at the intensive community-based aftercare sites. Staff have been fully trained in the theoretical underpinnings of the IAP model and in its practical applications, such as techniques for identifying juveniles appropriate for the program. Training and technical assistance in this model have also been available to other States and OJJDP grantees on a limited basis.

In fiscal year 1997, the sites will continue to implement and test the aftercare model. An independent contractor is performing an evaluation under a separate grant. The Johns Hopkins University will provide ongoing training and technical assistance to the four selected sites and also provide aftercare technical assistance services to jurisdictions participating in the OJJDP/Department of the Interior Youth Environmental Service (YES) initiative, OJJDP's six SafeFutures program sites, and other programs, including the New York State Division for Youth's Youth Leadership Academy in Albany, New York.

The IAP project will be implemented by the current grantee, The Johns Hopkins University. No additional applications will be solicited in fiscal year 1997.

*Evaluation of Intensive Community-Based Aftercare Demonstration and Technical Assistance Program*

The National Council on Crime and Delinquency (NCCD) received a 3-year competitive fiscal year 1994 grant to conduct a process evaluation and design an impact evaluation of the Intensive Community-Based Aftercare Demonstration and Technical Assistance Program at sites in Colorado, New Jersey, Nevada, and Virginia. NCCD's initial award funded the design and implementation of the process evaluation, the design of an impact evaluation, and start-up data collection. A report on the process evaluation was submitted in the spring of 1996. Fiscal year 1996 funding enabled NCCD to begin the impact evaluation. Because of the excellent progress made during the first two years on the process evaluation, OJJDP extended this program for three additional years to allow sufficient time for completion of the impact evaluation.

NCCD will use a true experimental design to answer the following research questions: (1) is the nature of supervision and services provided to Intensive Community-Based Aftercare (IAP) youth different from that given to ''regular'' parolees?; (2) does IAP have an impact on the subsequent delinquent or criminal involvement of program participants?; (3) does IAP have an impact on the specific intermediate outcomes such as reduction of substance abuse, improved peer relationships, improved self-concept, and reduced delinquent or criminal behavior?; and (4) is IAP cost-effective?

The project will be implemented by the current grantee, NCCD. No additional applications will be solicited in fiscal year 1997.

*Interventions To Reduce Disproportionate Minority Confinement in Secure Detention and Correctional Facilities (The Deborah Ann Wysinger Memorial Program)*

In fiscal year 1995, under a national discretionary grant initiative, OJJDP funded eight programs designed to enable States to identify strategies to eliminate the overrepresentation of minority juveniles in secure detention or correctional facilities, adult jails and lockups, and other secure institutional facilities. One of the eight awards was made to The Academy, Inc., in Columbus, Ohio, which conducted an evaluation of the Franklin County (Ohio) Juvenile Court's efforts to reduce minority overrepresentation.

The evaluation focuses on three areas: (1) staff issues such as working

conditions, morale, and attitudes toward peers, supervisors, administrative staff, and jurists; (2) treatment issues related to reducing minority overrepresentation; and (3) broader implications for research, particularly studies supported by Federal agencies.

This proposed project is an outgrowth of the research begun in the Franklin County Juvenile Court. The Academy is concluding the evaluation of a broad range of policy modifications undertaken by this court to address minority overrepresentation at intake and in its confinement facilities. In this project, the proposed research would shift the focus from juvenile court to a study of similar circumstances surrounding police policies and decisions to refer some juveniles to the courts, release others to their parents, and/or divert still others to community-based programs.

This program would be implemented by The Academy, Inc. No additional applications would be solicited in fiscal year 1997.

*State Justice Statistics Program for Statistical Analysis Centers*

Through an interagency agreement with the Bureau of Justice Statistics (BJS), OJJDP proposes to contribute funds to the BJS State Justice Statistics Program for Statistical Analysis Centers (SAC). The supplemental funding would be offered to State SAC's to encourage them to undertake studies of juvenile transfers to criminal court for prosecution and youth gang involvement in criminal activity.

Studies of juvenile transfers to criminal court for prosecution include those studies that monitor the flow of cases involving juveniles (by reason of age and/or offense and prior history) into the criminal court and may focus on statewide or high-volume local processes, outcomes, and impact of the decision to try the case in criminal court. Preference would be given to those studies that provide appropriate comparative samples with juveniles retained in the juvenile justice system (or which have the capability to generate trends) and those studies that can and are willing to collect data currently being captured by OJJDP's studies of Juvenile Transfers to Criminal Court.

The second topic area proposed to be supported is youth gang involvement in violence, drug sales, and weapons use and system response. This area would support studies that monitor trends in such behavior (violent crime, drug markets, and weapons use and sales) by youth gangs; its concentration and migration among different neighborhoods; and the law enforcement, criminal, and juvenile justice system response to such behavior. Of particular interest would be studies that demonstrate the utility of Geographic-Based Information Systems (GIS) to monitor trends in behavior and system response spatially.

No applications would be solicited by OJJDP in fiscal year 1997. To acquire a copy of the BJS solicitation, contact Paul White, State Justice Statistics (SJS) Program Manager, at 202–307–0771. The deadline for the first cycle of applications to BJS is June 30, 1997.

*Juvenile Probation Survey Research*

Juvenile probation is one of the most critical areas of the juvenile justice system. However, there is currently very little information available on juveniles on probation. We do not know how many juveniles are on probation, their demographic characteristics, their offenses, or the conditions of their probation, including length, residential confinement, electronic monitoring, restitution, etc. In fiscal year 1996, this project conducted survey research and developed a questionnaire to collect this important information. Because States operate their juvenile probation systems in very different manners, the project also examined how these differences affected the information collected.

Also in fiscal year 1996, OJJDP held a national meeting to assess the needs and scope of the future survey work to be undertaken. The meeting included probation officers, national experts in juvenile probation, and experts in the field of survey development.

In fiscal year 1997, the project will develop an interview protocol for exploratory interviews, conduct interviews in 20 probation offices around the country, develop an initial data collection instrument, and provide a plan for testing.

OJJDP will provide second-year funding to complete this research through an interagency agreement with the Bureau of the Census. No additional applications will be solicited in fiscal year 1997.

*Performance-Based Standards for Juvenile Detention and Correctional Facilities*

There is a need to increase the accountability of detention and correctional agencies, facilities, and staff in performing their basic functions. The development of performance-based standards has emerged as a primary strategy for improving conditions of confinement. This program supports the development and implementation of performance-based standards for juvenile detention and corrections. The performance measures and standards being developed will address both services and the quality of life for confined juveniles. They will reflect the consensus of a broadly representative group of national organizations on the mission, goals, and objectives of juvenile detention and corrections. OJJDP plans to promote nationwide adoption and implementation of the measures and standards through a future training and technical assistance program.

In fiscal year 1995, OJJDP awarded a competitive 18-month cooperative agreement to the Council of Juvenile Corrections Administrators (CJCA) to develop national performance-based standards for juvenile detention and correctional facilities. A National Consortium of major professional and advocacy organizations provided technical advice and support in all aspects of the development and implementation of the standards. The project focused on standards in the areas of: safety; security; order; programming, treatment, and education; health; and justice.

During fiscal year 1996, project working groups completed the drafting of performance criteria and measures and assessment tools for monitoring performance in all substantive areas. In addition, all materials were field tested and revised as needed. A plan for implementation was also completed.

In fiscal year 1997, a complete set of performance-based standards and a measurement system will be completed, along with plans for an 18-month period of intensive demonstration and testing of the performance-based standards and their impact on juvenile corrections and detention programming.

The program would be implemented in fiscal year 1997 by the current grantee, CJCA. No additional applications would be solicited in fiscal year 1997.

*Technical Assistance to Juvenile Corrections and Detention (The James E. Gould Memorial Program)*

The primary purpose of the Technical Assistance to Juvenile Corrections and Detention project is to provide specialized technical assistance to juvenile corrections, detention, and community residential service providers. The grantee, the American Correctional Association (ACA), also plans and convenes an annual Juvenile Corrections and Detention Forum. The Forum provides an opportunity for juvenile corrections and detention leaders to meet and discuss issues, problems, and solutions to emerging

corrections and detention problems. The ACA also provides workshops and conferences on current and emerging national issues in the field of juvenile corrections and detention, writes and solicits articles for professional publications, conducts surveys, and offers technical assistance through document dissemination. OJJDP awarded a fiscal year 1995 competitive grant to the ACA to provide these services over a 3-year project period.

The project will be implemented by the current grantee, ACA. No additional applications will be solicited in fiscal year 1997.

*Training for Juvenile Corrections and Detention Management Staff*

In fiscal year 1997, OJJDP proposes to continue its support for the development and implementation of a comprehensive training program for juvenile corrections and detention management staff through a new interagency agreement with the National Institute of Corrections (NIC). Initiated in 1991, the program is designed to offer a core curriculum for juvenile corrections and detention administrators and midlevel management personnel in such areas as leadership development, management, training of trainers, legal issues, cultural diversity, the role of the victim in juvenile corrections, juvenile programming for special needs offenders, and management of the violent or disruptive offender. In fiscal year 1996, NIC conducted 8 training seminars, 5 workshops, and 1 video conference and made 10 technical assistance awards, reaching 3,302 participants.

In fiscal year 1997, it is anticipated that the project would provide 8 seminars, 2 workshops at national conferences, and 1 national video conference to reach a total of 6,000 practitioners. The training would be conducted at the NIC Academy and regionally. No additional applications would be solicited in fiscal year 1997.

*Training for Line Staff in Juvenile Detention and Corrections*

In fiscal year 1994, the National Juvenile Detention Association (NJDA) was awarded a competitive 3-year project period grant to establish a training program to meet the needs of the more than 38,000 line staff of juvenile detention and corrections facilities. In fiscal year 1996, NJDA developed and pilot tested the 40-hour Corrections Careworker Curriculum, developed the 24-hour Train-the-Trainer for the Corrections Careworker Curriculum, conducted 42 separate trainings for 2,700 participants, developed 2 new lesson plans in safety and conflict resolution, and provided technical assistance to 37 agencies.

In fiscal year 1997, the third year of funding, NJDA will continue to offer training to practitioners, including the new Corrections Careworker Curriculum for juvenile corrections line staff. Additionally, NJDA will deliver selected training programs for juvenile detention and corrections line staff on current issues.

This project will be implemented by the current grantee, NJDA. No additional applications will be solicited in fiscal year 1997.

*Training and Technical Support for State and Local Jurisdictional Teams To Focus on Juvenile Corrections and Detention Overcrowding*

*The Conditions of Confinement: Juvenile Detention and Correctional Facilities* Research Report (1994), completed by Abt Associates under an OJJDP grant, identified overcrowding as the most urgent problem facing juvenile corrections and detention facilities. Overcrowding in juvenile facilities is a function of decisions and policies made at the State and local levels. The trend toward increased use of detention and commitment to State facilities, which has been seen in many jurisdictions, has been reversed when key decisionmakers, such as the chief judge, chief of police, director of the local detention facility, head of the State juvenile correctional agency, and others who affect the flow of juveniles through the system, agree to make decisions collaboratively and modify existing practices and policies. In some instances, modification has occurred in response to court orders. Compliance with court orders can be improved with the support of enhanced interagency communication and planning among those agencies affecting the flow of juveniles through the system.

In addressing the problem of overcrowded facilities, OJJDP considered the recommendations of the Conditions of Confinement study regarding overcrowding, the data on overrepresentation of minority youth in confinement, and other information that suggests crowding in juvenile facilities is a national problem. Policymakers can address this issue by increasing capacity, where necessary, or by taking other steps to control crowding.

This project, competitively awarded to the National Juvenile Detention Association (NJDA) (in partnership with the San Francisco Youth Law Center) in fiscal year 1994 for a 3-year project period, provides training and technical assistance materials for use by State and local jurisdictional teams. In fiscal year 1995, the project collected information on strategies to control crowding and prepared training and technical assistance materials. Based on the demonstrated need for assistance and related criteria, NJDA selected three jurisdictions in fiscal year 1996 (Camden, New Jersey; Oklahoma City, Oklahoma; and the Rhode Island Juvenile Corrections System) for onsite development, implementation, and testing of procedures to reduce crowding. In fiscal year 1997, the third year of funding, the project will continue to provide training and technical assistance to these sites, complete the development of technical assistance materials, and assess the procedures used to control overcrowding.

This project will be implemented by the current grantee, NJDA. No additional applications will be solicited in fiscal year 1997.

*National Program Directory*

In fiscal year 1995, OJJDP initiated the development of a *National Program Directory*, a national list of all juvenile justice offices, facilities, and programs in the United States, through the Bureau of the Census. The Census Bureau developed a directory format for juvenile detention and correctional facilities, which contains the addresses and phone numbers of localities, names and titles of directors, and important classification information, classifies facilities by the agency or firm that operates them, and lists the functions of the facility. This structure was developed specifically to provide OJJDP with the ability to conduct surveys and censuses of juvenile custody facilities. The effort placed into developing this structure also translated to other areas, such as a list of juvenile probation offices.

Beyond developing the computer structure, this project developed, in fiscal year 1996, the actual sampling frame or address list. The development of complete frames for any segment of the juvenile justice system required many different approaches. The Census Bureau used contacts with professional organizations to compile a preliminary list of juvenile facilities, courts, probation offices, and programs. The Census Bureau will seek contacts in each State for further clarification of the lists, following up until a complete list of all programs of interest has been compiled.

This program will be continued in fiscal year 1997 through an existing interagency agreement with the Census

Bureau. No additional applications will be solicited in fiscal year 1997.

*A Comprehensive Juvenile Sex Offender Typology*

The criminal justice system has struggled to address issues related to juvenile sex offenders' dangerousness, the most appropriate level of placement restrictiveness, the potential for rehabilitation, assessment requirements, and intervention needs. Efforts to address these issues effectively have been hampered by the lack of an empirically-based system for classifying this heterogeneous population into meaningful subgroups. OJJDP, in collaboration with other Federal agencies, proposes to support a competitive research project to generate an empirically validated typology of the juvenile sex offender that would provide both the scientific basis for understanding differences between groups of juvenile sex offenders and direction to guide judicial decisionmaking.

*KidsPeace—The National Centers for Kids in Crisis, North America**

The purpose of this program is to provide children in crisis, specifically seriously disturbed children and adolescents, with Individual Foster Care (IFC) in a therapeutic family setting. Fiscal year 1996 accomplishments include opening up the family training sessions to New Jersey foster parents and implementing outreach efforts that resulted in several hundred calls from individuals interested in working as foster parents. At present, five families are licensed and approved. Another 10 families are in various stages of the 10-week training and approval process. In the near future, a local television station will broadcast a show featuring the services being offered through this newly established program in Union, New Jersey.

KidsPeace will expand the program in fiscal year 1997 to additional sites providing social, emotional, and educational growth and development in the children served; initial out-of-home placement, community reintegration from more restrictive residential programs, or an alternative to failed foster family placements; and intensive family treatment with professional training, supervision, and ongoing support to enhance families' abilities to meet the needs of their IFC children. The program also involves and challenges the family of origin to become active participants in their child's treatment program (whenever deemed appropriate by the courts). In fiscal year 1997, KidsPeace will develop an outcome-based research component to better define the types of children who are best served in the IFC program, improve the services being offered, and track the progress of children following discharge from care.

The program will be implemented by the current grantee, KidsPeace—The National Centers for Kids in Crisis, North America. No additional applications will be solicited in fiscal year 1997.

*The Bethesda Day Treatment Program*

Bethesda Day Treatment is a program of the Bethesda Family Services Foundation. OJJDP began funding the program in fiscal year 1993 to establish a program in Philadelphia for serious juvenile offenders. The program was expanded in fiscal year 1995 to replicate the Bethesda model in 10 national jurisdictions. Since the original grant was made, the Foundation has established programs in 17 localities. There are programs currently operating in Arizona, Florida, Maryland, New Mexico, New York, Oklahoma, and Pennsylvania.

The Bethesda Day Treatment Program consists of comprehensive community-based activities designed to safely reduce overcrowding in secure facilities, provide treatment prior to adjudication, continue treatment after adjudication or after release from secure treatment, and provide a continuum of care.

Replication sites receive technical assistance in the development of six distinct units of program service: day treatment services, a prep-school, drug and alcohol abuse treatment, foster care, family systems counseling, and parenting. Accepting juveniles between ages 10 and 17, the program uses 18 different treatment modalities, intensively penetrating the home, the school, the job site, and the peer group in order to interrupt antisocial behavior patterns.

The site replication aspect of this program would be continued in fiscal year 1997 with a continuation award to enable the Bethesda Family Services Foundation to complete technical assistance delivery to selected sites. No additional applications would be solicited in fiscal year 1997.

*Interagency Programs on Mental Health and Juvenile Justice*

In October 1996, OJJDP convened a Mental Health/Juvenile Justice Working Group to discuss the mental health needs of juveniles and to suggest funding priorities for OJJDP. The Mental Health/Juvenile Justice Initiative addresses four of the eight ideas generated by the working group. These areas include: (1) assessing screening instruments and screening procedures to identify multi-needs children, adjudicative competency, and other mental health issues; (2) examining the effectiveness of organizational structure and how organizations deal with providing mental health services on both a short-term and long-term basis; (3) examining the relationship between mental health and violence and co-occurring disorders; and (4) looking at best practices such as the use of common funding streams.

OJJDP is interested in providing support in one or more of these areas in fiscal year 1997 and requests input from the field on suggested priorities, activities, and program support.

Delinquency Prevention and Intervention

*Training in Risk-Focused Prevention Strategies*

OJJDP will provide additional training in fiscal year 1997 to communities interested in developing a risk and protective factor-focused delinquency prevention strategy. This training supports OJJDP's Title V Community Prevention Grants Program and the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders by providing the knowledge and skills necessary for State, local, and private agency officials and citizens to identify and address risk factors that lead to violent and delinquent behavior in children. In fiscal years 1994–1996, this training was offered to all States, territories, and the District of Columbia that received discretionary grants from OJJDP to implement the Title V program.

After initiating this training program in fiscal year 1994, OJJDP awarded a competitive contract with fiscal year 1995 funds and continued the contract in 1996 to perform ongoing tasks and provide prevention training in the following areas: (1) orientation on risk- and resiliency-focused prevention theories and strategies for local community leaders; (2) identification, assessment, and addressing of risk factors; (3) development and provision of training of trainers in selected States to provide a statewide capacity to train communities in risk-focused prevention; and (4) provision of technical assistance to States and localities for needs identified through implementation of the Title V program.

These services will be provided in fiscal year 1997 through third-year funding of the contract awarded to Developmental Research and Programs, Inc. A new competitive solicitation may

be issued late in fiscal year 1997 for award in fiscal year 1998.

*Youth Substance Use Prevention Program (President's Crime Prevention Council)*

Due to the urgency of the problem of drug use among juveniles and the importance of having Federal agencies undertake collaborative efforts to make the most efficient and effective use of resources, OJJDP has joined with the President's Crime Prevention Council (PCPC) in issuing a Notice of Funding Availability (NOFA) for the Youth Substance Use Prevention Program and the evaluation of that program. The program will assist community-based, youth-led, and grassroots organizations that sponsor activities designed to combat youth drug and alcohol use and provide an evaluation of the funded programs. Up to $1 million will be made available from PCPC funds. OJJDP will administer the program under an interagency agreement with PCPC. Interested applicants for this program should obtain a copy of the NOFA from the Juvenile Justice Clearinghouse at 800/638–8736 or the OJJDP homepage at http://www/ncjrs.org/ojjhome.htm.

OJJDP will also issue a separate, competitive solicitation to evaluate the Youth Substance Use Prevention Program. The substance use prevention evaluation strategy used by the grantee must be theory driven and based on sound research principles. Both a process and an outcome evaluation will be performed. The outcome evaluation would determine whether youth-led prevention programs are effective. The process evaluation would define the critical elements of implementing a successful youth-led prevention program.

*Survey of School-Based Gang Prevention and Intervention Programs*

This program would assess school-based gang prevention and intervention programs to identify promising or successful models for national demonstration and evaluation or replication and dissemination. For example, one type of program of interest is a youth gang unit in the school. The school youth gang unit serves as the first line of defense against the problem of gangs. Some units address gang crimes and school rule violations citywide. Another program of interest would be entrepreneurial skills programs for youth to prevent them from staying in gangs. Examples of this type of program are found in schools that develop stores or gardens and train young people in marketable skills, giving them high school or college credit for successfully participating in the training.

OJJDP proposes to issue a competitive solicitation for this initiative in fiscal year 1997.

*Youth-Centered Conflict Resolution*

Increasing levels of juvenile violence have become a national concern. Violence in and around school campuses and conflict among juveniles in both schools and neighborhoods are problems for school administrators, teachers, parents, community leaders, and the public. Although experts may debate the merits and impact of the varied contributing factors, they would agree that most school curriculums do not provide for the systematic teaching of problem-and conflict-resolving skills.

To address this issue, OJJDP awarded a competitive cooperative agreement in fiscal year 1995 for a 3-year project period to the Illinois Institute for Dispute Resolution (IIDR) to develop, in concert with other established conflict resolution (CR) organizations, a national strategy for broad-based education and training in the use of conflict resolution skills. In support of this task, IIDR conducted three regional conferences based on a joint publication developed by the Departments of Justice and Education. IIDR also provided technical assistance and disseminated information about CR programs to individuals, organizations, and communities.

In fiscal year 1997, the project will conduct additional training sessions as part of, or in conjunction with, established meetings or conferences of national educational, justice, and youth-serving organizations. IIDR will also develop a training manual and provide training in CR education to administrators; school staff; and youth, parents, and staff associated with arts-based programs for at-risk youth. The arts component is funded by the National Endowment for the Arts.

The project will be implemented by the current grantee, IIDR. No additional applications will be solicited in fiscal year 1997.

*Teens, Crime, and the Community: Teens in Action in the 90s**

This continuation program is conducted by the National Crime Prevention Council (NCPC) in partnership with the National Institute for Citizen Education in the Law (NICEL). Teens in Action in the 90s is a special application of the Teens, Crime, and Community (TCC) program that operates on the premise that teens, who are disproportionately the victims of crimes, can contribute to improving their schools and communities through a broad array of activities.

During fiscal year 1996, the TCC Program expanded through five regional expansion centers located in New England, the Mid-Atlantic States, the Mid-South, the Deep South, and the Pacific Northwest Coast. These TCC projects utilized Boys and Girls Clubs of America and their affiliates to become partners in TCC efforts in these regions.

More than 5,000 teachers, social service providers, juvenile justice professionals, law enforcement officers, and other community leaders participated in intensive training to help sites implement the TCC curriculum in their communities. More than 1,000 individuals benefited from technical assistance, materials, and consultation regarding TCC in areas of program implementation, fund development, and networking opportunities. In addition, NCPC and NICEL initiated the implementation of the National Teens, Crime, and the Community Program in the six SafeFutures sites. In fiscal year 1997, TCC will be implemented in additional sites throughout the country.

The program will be implemented by the current grantee, NCPC. No additional applications will be solicited in fiscal year 1997.

*Law-Related Education (LRE)**

The national Law-Related Education (LRE) Program, Youth for Justice, includes 5 coordinated LRE projects and programs operating in 48 States and 4 non-State jurisdictions. Youth for Justice provides training and technical assistance to State and local school jurisdictions that are designed to achieve the institutionalization of quality LRE programs for at-risk juveniles. The major components of the program are coordination and management, training and technical assistance, assistance to local program sites, public information, and program development and assessment. In 1996, the Youth for Justice program continued to provide materials, training, and technical assistance to its national network of statewide LRE centers and sponsored youth summits in more than 40 States. The focus of the program during fiscal year 1997 will be to continue linking LRE to violence reduction efforts and to involve program participants in finding solutions to juvenile violence. Planned activities for fiscal year 1997 include a national teleconference and dissemination of information about special applications of LRE developed for high-risk segments of the population (middle school students and teen parents). Youth for Justice will also produce and

disseminate a technical assistance compendium of LRE research and best practices.

This program will be implemented by the current grantees, the American Bar Association, the Center for Civic Education, the Constitutional Rights Foundation, the National Institute for Citizen Education in the Law, and Phi Alpha Delta. No additional applications will be solicited in fiscal year 1997.

*Communities In Schools—Federal Interagency Partnership*

This program is a continuation of a national school dropout prevention model developed and implemented by Communities In Schools, Inc. (CIS). CIS, Inc., provides training and technical assistance to CIS programs in States and local communities, enabling them to adapt and implement the CIS model. The model brings social, employment, mental health, drug prevention, entrepreneurship, and other resources to high-risk youth and their families in the school setting. Where CIS State organizations are established, they assume primary responsibility for local program replication during the Federal Interagency Partnership.

The Federal Interagency Partnership program is based on the following strategies: (1) to enhance CIS, Inc., training and technical assistance capabilities; (2) to enhance the organization's capability to introduce selected initiatives to CIS youth at the local level; (3) to enhance the CIS, Inc., information dissemination network capability; and (4) to enhance the CIS, Inc., capability to network with Federal agencies on behalf of State and local CIS programs.

Fiscal year 1996 accomplishments under the Federal Interagency Partnership include the following: (1) continued support and expansion of the CIS Youth Entrepreneurial Project, including 16 student-run entrepreneurship programs; (2) expansion of a consulting program consisting of a pool of CIS State and local program directors and other experts to support programs that include community collaboration, strategic planning, and working with at-risk youth; (3) production and distribution of two issues of *Facts You Can Use: Seeds of Help,* a technical publication concentrating on functional areas of importance to local CIS programs and the sponsors of the Federal Interagency Partnership; and (4) a 3-day training session featuring presentations from Federal agencies on the financial and programmatic resources available through their Departments.

Fiscal year 1997 proposals include: (1) provide continuing training and technical assistance on family strengthening and parent participation initiatives that will expand and enhance CIS family service activities; (2) offer and provide training and technical assistance, as requested, to the six SafeFutures sites; (3) work with groups identified by the U.S. Department of Commerce to continue to support the development of a CIS program serving a Native American community in Rapid City, South Dakota; (4) support the continued expansion of the CIS Youth Entrepreneurship initiative; (5) update and produce the publication *CIS: A History of Partnership* and produce and distribute the CIS *Facts You Can Use* technical bulletin quarterly; (6) continue to identify violence prevention and gang prevention programs appropriate for use by the CIS network; and (7) continue to incorporate evaluated family strengthening programs in the *Facts You Can Use* technical bulletin and the *Federal Products Showcase.*

The Federal Interagency Partnership program is jointly funded by OJJDP and the Department of Commerce under an OJJDP grant. The program would be implemented by the current grantee, Communities In Schools, Inc. No additional applications would be solicited in fiscal year 1997.

*The Congress of National Black Churches: National Anti-Drug Abuse/ Violence Campaign (NADVC)*

OJJDP proposes to continue to fund the Congress of National Black Churches' (CNBC) national public awareness and mobilization strategy to address the problem of juvenile drug abuse and violence in targeted communities. The goal of the CNBC national strategy is to summon, focus, and coordinate the leadership of the black religious community, in cooperation with the Department of Justice and other Federal agencies and organizations, to mobilize groups of community residents to combat juvenile drug abuse and drug-related violence.

The campaign now operates in 37 city alliances, having grown from 5 original target cities. The smallest of these alliances consists of 6 churches and the largest has 135 churches. The NADVC program involves approximately 2,220 clergy and affects 1.5 million youth and the adults who influence their lives. NADVC also provides technical support to four statewide religious coalitions.

As a result of NADVC's technical assistance and training workshops, project sites have been able to leverage more than $2 million in private and government funding.

NADVC has contributed to the planning and presentation of numerous technical assistance and training conferences on violence and substance abuse prevention and produced a *National Training and Site Development Guide* and a video to assist sites in implementing the NADVC model.

In addition, in fiscal year 1996, NADVC became a partner in the Education Development Center's (EDC) Juvenile Hate Crime Initiative. NADVC used EDC's hate crime curriculum to focus on prevention through the networks and resources in the faith community to address the impact and roles of juveniles and youth in engaging in and preventing hate crimes. NADVC is currently providing training and technical assistance in South Carolina, the location of the majority of the recent church burnings in the United States.

The proposed expansion of activities in fiscal year 1997 would be accomplished through NADVC's Regional Hate Crime Prevention Initiative, the Campaign's model for anti-drug/violence strategies, and NADVC's faith community network.

The program, which would continue to expand to new sites in fiscal year 1997 and enhance efforts to address hate crime and family violence intervention issues, would be implemented by the current grantee, CNBC. No additional applications would be solicited in fiscal year 1997.

*Risk Reduction Via Promotion of Youth Development*

Risk Reduction Via Promotion of Youth Development, located in South Carolina, is a large-scale prevention trial involving hundreds of children and several elementary schools located in lower socioeconomic neighborhoods of Columbia, South Carolina. This program is the result of an interagency agreement with the National Institute of Mental Health (NIMH). The Centers for Disease Control and Prevention and the National Institute on Drug Abuse have also provided funding for the program.

The trial involves a large-scale project designed to promote coping-competence and reduce risk for conduct problems, substance use, and school failure beginning in early elementary school. Interventions include a classroom program, a schoolwide conflict management program, peer social skills training, and home-based family programming. The sample includes African American and Caucasian children attending schools located in lower income neighborhoods. There is a sample of high-risk children (showing early aggressive behavior at school entry) and a second sample of lower risk

children (residing in socioeconomically disadvantaged neighborhoods). The interventions begin in first grade, and children are followed longitudinally throughout the 5 years of the project. A major goal is to reduce the development of conduct problems, aggression, and subsequent delinquency and violence. The project also seeks to alter home and school climates in order to reduce risk for adverse outcomes and to promote positive youth development.

This program would be implemented through a fund transfer to NIMH under an interagency agreement. No additional applications would be solicited in fiscal year 1997.

*Community Anti-Drug Abuse Technical Assistance Voucher Project*

Through the Community Anti-Drug Abuse Technical Assistance Voucher Project, the National Center for Neighborhood Enterprise (NCNE) awards vouchers to grassroots organizations to purchase technical assistance and training to effectively address the problem of juvenile drug abuse.

As a result of a large number of incoming applications, NCNE has established a clearinghouse featuring 1,224 promising and proven anti-drug programs. They are part of the NCNE National Clearinghouse of Youth Anti-Drug Abuse Programs. Twenty-nine organizations received voucher awards totaling $62,000 in fiscal year 1996. Awards ranged from $1,000 to $10,000 per site.

The impact of technical assistance vouchers includes enhanced organizational visibility, larger grant awards for indigenous groups, and expanded and increased services resulting from technical assistance in program development and staff training. In addition to awarding vouchers for technical assistance, NCNE provides technical assistance to applicants regarding the development of their mission, goals, and objectives.

The Community Anti-Drug Abuse Technical Assistance Voucher Project would be implemented by the current grantee, NCNE. No additional applications would be solicited in fiscal year 1997.

*Training and Technical Assistance for Family Strengthening Programs*

Prevention, early intervention, and effective crisis intervention are critical elements in a community's family support system. In many communities, one or more of these elements may be missing or programs may not be coordinated. In addition, technical assistance and training are often not available to community organizations and agencies providing family strengthening services. In response, OJJDP awarded a 3-year competitive cooperative agreement in fiscal year 1995 to the University of Utah's Department of Health and Education to provide training and technical assistance to communities interested in establishing or enhancing a continuum of family strengthening efforts. In the first program year, the grantee drafted a literature review and summaries of exemplary programs; conducted a national search for, rated, and selected family strengthening models; planned 2 regional training conferences to showcase the selected exemplary and promising family strengthening programs; convened the first conference for 250 attendees in Salt Lake City, Utah; and developed an application process for sites to receive followup training on specific program models. In fiscal year 1997, the grantee will complete the literature review and model program summaries; convene the second regional conference in Washington, D.C.; conduct program-specific workshops; produce user and training-of-trainers guides; and distribute videos of several family strengthening workshops.

This program will continue to be implemented by the current grantee, the University of Utah's Department of Health and Education. No additional applications will be solicited in fiscal year 1997.

*Training and Technical Assistance To Promote Teen Court Programs*

OJJDP considers teen courts, also called peer courts, to be a promising mechanism for holding juvenile offenders accountable for their actions while promoting avenues for positive youth development. Teen courts are included as a promising early intervention program in OJJDP's *Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders*.

To encourage the use of teen court programs to address problems associated with delinquency, substance abuse, and traffic safety, OJJDP provided funding in fiscal year 1996 to supplement the existing Teen Court Programs Project of the National Highway Traffic Safety Administration (NHTSA) of the U.S. Department of Transportation. The NHTSA grant was awarded in fiscal year 1994 for a 3-year project period to the American Probation and Parole Association (APPA) to develop a teen court guide and provide training and technical assistance to develop or enhance teen court programs. This existing NHTSA grant and OJJDP's fiscal year 1996 funds supported the development of the joint publication *Peer Justice and Youth Empowerment: An Implementation Guide for Teen Court Programs* and additional technical assistance to three selected sites. Technical assistance to develop or enhance teen courts was provided to Lane and Deschuttes Counties in Oregon; Minnesota Planning, Inc., in St. Paul, Minnesota; and the Orange County Teen Court Program in Orlando, Florida. The additional funds from OJJDP enabled APPA to provide more onsite assistance to each of the three agencies in the areas of identifying problems and overcoming barriers.

The national response to the training and technical assistance and to the *Guide* has been enthusiastic. NHTSA and OJJDP have received numerous requests to provide additional training seminars and technical assistance based on the *Guide*. In fiscal year 1997, OJJDP proposes to provide funding to NHTSA through an interagency agreement to supplement the existing grant with APPA. This would enable APPA to provide six intensive training seminars and site-specific technical assistance to three additional sites in fiscal year 1997. The seminars would each cover 2½ days of intensive training that is accredited by APPA for 1½ continuing education units to help maintain certification or for employment or school requirements. Technical assistance would be provided to three selected jurisdictions with site-specific strategic planning for the program organizers on developing, implementing, or enhancing teen court programs. To be eligible for technical assistance, recipients need to have completed an APPA teen court training seminar. A request for proposals would be sent to the six training seminar participants and to participants who completed earlier teen court training seminars held by APPA. Site selection for the training and technical assistance would be determined by APPA project staff with input and approval from OJJDP and NHTSA.

This project would be implemented by the current NHTSA grantee, APPA. No additional applications would be solicited in fiscal year 1997.

*Evaluation of Teen Courts*

Teen courts constitute one approach to reducing underage drinking, impaired driving, and other problem behaviors of youth such as shoplifting and vandalism. Teen courts emphasize concepts such as accountability, positive peer influence, competency development, and youth empowerment

and involvement. Teen court programs offer jurisdictions a potential means for holding youthful offenders accountable for problem behaviors, including those for which they previously may have received little or no intervention.

In fiscal year 1997, OJJDP proposes to begin an evaluation of teen court programs currently underway in communities across the country. During this initial phase, OJJDP would award a competitive grant to develop a strategy for selecting programs that have a sound theoretical foundation and are structured to support a rigorous evaluation that would help to refine that program model. This program would encourage a collaborative research approach between practitioners and researchers. Upon determination of the evaluation potential of the identified sites, OJJDP would support a full process and impact evaluation of these programs in subsequent fiscal years.

*Henry Ford Health System*

The Henry Ford Health System (HFHS) Center has developed and initiated a program in Detroit with fiscal year 1995 and 1996 OJJDP funds that serves the Northern High School attendance area, including seven elementary schools and two middle schools that serve as feeder schools for Northern High School. Michigan Formula Grants Program funds assisted in this effort. The underlying objective of the program is the reduction of gang and community violence among children attending these Detroit schools. The program is designed to identify individuals at moderate to high risk of violence, assess the needs of the target population of youth and the resources available in the community to deal with those needs, coordinate community resources to create comprehensive violence reduction programs, and evaluate the efficacy of component programs and the initiative as a whole. Evaluation would be based on the project's effect on reducing the incidence of specific violent acts, in both school and community settings.

Five health centers were opened in 1996. The staff include a physician assistant, nurse practitioners, social workers, medical assistants, and receptionists. Along with analysis of crime and health data from the past 2 years in the target area, surveys were conducted in six of the school's areas. The health education programs were created in direct response to needs identified by community surveys and an overall evaluation of community resources. In fiscal year 1997, this program would implement centers in the remaining school sites and strengthen the multiple component activities in each school such as community patrols, tutoring, drama, peer education, and substance abuse prevention.

This program would be implemented by the current grantee, HFHS. No new applications would be solicited in fiscal year 1997.

*Angel Gate Academy**

In fiscal year 1997, OJJDP will fund the Angel Gate Academy, a 4-week residential program jointly developed by the California National Guard (CNG), which runs the program, and the Los Angeles Unified School District (LAUSD), which recruits and refers high-risk youth and provides both teachers for the camp and reintegration support when the youth return to their respective schools.

Targeted youth are between 11 and 14 years of age and are referred to the program by the LAUSD because they are exhibiting various high-risk behaviors. Their participation is voluntary, and parents are actively involved in the referral decision and in participating with staff during the reintegration program. All of the children are part of the IMPACT counseling program that is supported by Drug-Free Schools and Communities funding from the U.S. Department of Education.

The camp is located on a National Guard facility near San Luis Obispo, California. At the camp, the youth learn discipline and leadership skills and participate in an educational program at nearby Cuesta College. The youth spend most of the day in the education program, where they participate in a curriculum that teaches critical thinking skills, science, and math. Additional educational experiences in writing and literacy are provided by the assigned LAUSD teachers. Other modules provided under the curriculum jointly developed by the CNG and LAUSD include physical fitness training, leadership training through drill and ceremony, self-discipline, team building, IMPACT counseling, and enrichment activities.

It is anticipated that up to 460 youth will participate in the 7 camps during this 9- to 10-month program. When they return to their schools, they will again engage in the intensive IMPACT counseling program and their parents will be provided the opportunity to participate in parenting classes by the LAUSD.

No additional applications will be solicited in fiscal year 1997.

*Suffolk County PAL (Police Athletic League)**

The Suffolk County Police Athletic League Program provides recreational and athletic programs to hundreds of children in Suffolk County, New York. The youth are coached by police volunteers from the surrounding area. With this OJJDP grant, the Suffolk County PAL will expand its program over a 2-year period to increase the number of youth who participate; add a mentoring/tutoring component that will recruit law enforcement, business, and community leaders to mentor the youth; and fund an impact evaluation of the program. This 2-year effort will result in serving at least 400 new children each year.

This program will be implemented by Suffolk County PAL. No additional applications will be solicited in fiscal year 1997.

*Do The Write Thing*

A program of the National Campaign to Stop Violence, the Do The Write Thing program was founded in 1994. The program approach is to encourage at-risk youth to write about the violence and drugs in their neighborhoods and lives, to identify solutions, and commit to a personal course of action to reduce violence. The program focuses on youth ages 12–14, offering them a therapeutic way to deal with the violence that surrounds them.

Do The Write Thing began as a local project in Washington, D.C. In 1996, the program expanded to 10 cities, with 300 middle schools and 5,000 children participating. Participating cities are Washington, D.C.; Atlanta, Georgia; Chicago, Illinois; Detroit, Michigan; Houston, Texas; Los Angeles, California; Las Vegas, Nevada; Miami, Florida; New York, New York; and Philadelphia, Pennsylvania. The program received solid support from mayors, police chiefs, judges, prosecutors, school superintendents, and other community leaders. With corporate and government support, including OJJDP, Do The Write Thing was able to compile and distribute a publication of winning essays and sponsor a national recognition ceremony in Washington, D.C.

In fiscal year 1997 OJJDP proposes to assist the program to expand the project within the ten existing sites and begin the process of expanding to new sites for the 1997–98 school year. The Do The Write Thing program would be implemented by the National Campaign to Stop Violence. No additional applications would be solicited in fiscal year 1997.

Child Abuse and Neglect and Dependency Courts

*Permanent Families for Abused and Neglected Children**

This is a national project to prevent unnecessary foster care placement of abused and neglected children, reunify the families of children in care, and provide permanent adoptive homes when reunification is impossible. The purpose is to ensure that foster care is used only as a last resort and as a temporary solution. Accordingly, the project is designed to make certain that government's responsibility to children in foster care is acknowledged by appropriate disciplines. Project activities include national training programs for judges, social service personnel, citizen volunteers, and others under the ''reasonable efforts'' provision of the Social Security Act, as amended, 42 U.S.C. § 671(a)(15); training in selected States; and implementation of a model guide for risk assessment.

The project is implemented by the National Council of Juvenile and Family Court Judges (NCJFCJ). Under this project, NCJFCJ also provides technical assistance to help communities improve handling of child abuse and neglect cases and supports replication of the model court improvement programs in selected jurisdictions.

During the past project year, 31 State and national training programs were held. NCJFCJ also implemented a new program to divert families from the court system through arbitration under court supervision in a number of courts, using private funding sources. The court diversion project and efforts to improve dependency court administration, documented in the publication *Resource Guidelines: Improving Court Practice in Abuse and Neglect Cases*, were incorporated into training under this project. NCJFCJ also worked closely with allied national organizations, including the National Association of Public Child Welfare Administrators, the Association of Interstate Compact Administrators, and the National Court Appointed Special Advocate Association, to coordinate and leverage efforts to improve permanency planning for children. A key activity was the development of a curriculum to train judges and compact administrators on the new regulations regarding interstate placement.

With fiscal year 1997 funds, NCJFCJ will continue and expand its training and technical assistance efforts, update the permanency planning curriculum, and strengthen and establish new linkages with allied organizations. The project's purpose remains focused on improving the ability of the dependency courts and related systems to make timely and informed decisions on placement for children and adolescents.

The Permanent Families for Abused and Neglected Children program will be implemented by the current grantee, NCJFCJ. No additional applications will be solicited in fiscal year 1997.

*Parents Anonymous, Inc.**

Parents Anonymous, Inc. (PA) establishes groups and adjunct programs that respond to the needs of families through a mutual support model of parents and professionals sharing their expertise and their belief in each individual's ability to grow and change in ways that create caring and safe environments for themselves and their children. In fiscal year 1994, OJJDP supported PA to enhance its mission to prevent child abuse and neglect by developing a new capability within the PA network to address the needs of high-risk, inner-city, and Native American populations.

As a result of OJJDP funding, PA has developed and maintained 40 new groups serving families of color in high-risk neighborhoods and on reservations in 12 States. In fiscal year 1996, PA produced extensive technical assistance materials through two national teleconferences for several hundred participants on Successful Parents Anonymous Groups in Prisons and Promoting Effective Parent Leadership and conducted two regional conferences in Phoenix and Atlanta providing training to develop and maintain PA programs. PA also published and distributed nationwide 16,000 copies of *Innovations*, the PA, Inc., newsletter, with focused articles on the needs of Latino families and cultural responsiveness, and 30,000 copies of *The Parent Networker*, the PA, Inc., newsletter by and for parents. PA produced two program bulletins, *Parent Leadership Is a Powerful Tool for Outreach, Public Awareness and Advocacy* and *Parents Anonymous as Parent Education: A Model for Success Based on Adult Learning Styles*, and developed a manual for the PA National Network providing concrete methods for implementing PA programs in high-risk communities. PA also produced a targeted brochure for judges, probation officers, and other professionals serving youth with delinquency problems and began information sharing to plan technical assistance, as requested, for SafeFutures sites.

During fiscal year 1997, PA, Inc., plans to (1) expand program sites for families of color with a specific focus on Minnesota, New Jersey, Oregon, and Texas; (2) provide technical assistance and training to PA groups with a focus on targeted populations and/or groups held in specialized settings such as local jails, State prisons, and Federal penitentiaries for incarcerated mothers and fathers; (3) develop a special national fathers'' initiative in sites across the United States; (4) develop new program materials to address the needs of families of color; (5) expand PA's emphasis on parent leadership; and (6) create media opportunities for outreach, public awareness, and education on PA for professionals and families.

The project will be implemented by the current grantee, PA, Inc. No additional applications will be solicited in fiscal year 1997.

Missing and Exploited Children

*Jimmy Ryce Law Enforcement Training Center**

This program establishes the Jimmy Ryce Law Enforcement Training Center (JRLETC) at the National Center for Missing and Exploited Children (NCMEC). The purpose of JRLETC is to enhance the overall response to nonparental abductions by providing training and technical assistance to Federal, State, and local law enforcement personnel. Fiscal year 1997 funds will be expended as follows:

NCMEC will expand its national Chief Executive Officer (CEO) training seminar into a 3-day course. The seminar will highlight the most current research and practices and provide information pertaining to comprehensive response protocols and NCMEC and Federal resources to assist State and local law enforcement.

Fox Valley Technical College (FVTC), OJJDP's missing children training contractor, will accelerate delivery of the Response to Missing and Exploited Children training course. This course targets State and local law enforcement and contains modules providing investigative information on all aspects of missing children cases.

The Federal Bureau of Investigation's (FBI) Criminal Justice Information Services Division will provide training for National Crime Information Center (NCIC) Control Terminal Officers in the new NCIC flagging system, Federal resources to assist State and local law enforcement investigating missing children cases, and NCIC Missing Person File definitions.

The FBI Child Abduction Serial Killer Unit (CASKU) will provide training and technical assistance to State and local law enforcement investigating difficult

missing children cases. CASKU and the Hardiman Task Force will assess incident response for the purposes of curriculum development and will assist in the CEO training at JRLETC.

Fiscal year 1997 funds will be awarded or transferred via interagency agreement to the organizations carrying out the activities outlined above. No additional applications will be solicited in fiscal year 1997.

Dated: March 4, 1997.

Shay Bilchik,

*Administrator, Office of Juvenile Justice and Delinquency Prevention.*

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## Part III

# Office of Personnel Management

**Proposed Laboratory Personnel Management Demonstration Project; Missile Research, Development and Engineering Center, Department of the Army, U.S. Army Missile Command (MICOM), Redstone Arsenal, Alabama; Notice**

## OFFICE OF PERSONNEL MANAGEMENT

### Proposed Laboratory Personnel Management Demonstration Project; Missile Research, Development and Engineering Center, Department of the Army, U.S. Army Missile Command (MICOM), Redstone Arsenal, Alabama

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice of Intent to Implement Demonstration Project.

**SUMMARY:** Title VI of the Civil Service Reform Act, 5 U.S.C. 4703, authorizes the Office of Personnel Management (OPM) to conduct demonstration projects that experiment with new and different personnel management concepts to determine whether such change in personnel policy or procedures would result in improved Federal personnel management.

Public Law 103–337, October 5, 1994, permits the Department of Defense (DoD), with the approval of the OPM, to carry out personnel demonstration projects generally similar in nature to the China Lake demonstration project at DoD Science and Technology (S&T) Reinvention Laboratory sites. The Army is proposing five demonstration sites initially: the Army Research Laboratory, U.S. Army Waterways Experiment Station, Medical Research Materiel Command, the Missile Research, Development and Engineering Center, and the Aviation Research, Development, and Engineering Center. This proposal is for the Missile Research, Development, and Engineering Center (MRDEC).

**DATES:** To be considered, written comments must be submitted on or before May 20, 1997; a public hearing will be scheduled as follows: Tuesday, April 29, 1997, at 10:00 a.m. in Redstone Arsenal, Alabama. At the time of the hearings, interested persons or organization may present their written or oral comments on the proposed demonstration project. The hearing will be informal.

Anyone wishing to testify should contact the person listed under **FOR FURTHER INFORMATION CONTACT**, and state the hearing location, so that OPM can plan the hearings and provide sufficient time for all interested persons and organizations to be heard. Priority will be given to those on the schedule, with others speaking in any remaining available time. Each speaker's presentation will be limited to ten minutes. Written comments may be submitted to supplement oral testimony during the public comment period.

**ADDRESSES:** Comments may be mailed to Fidelma A. Donahue, U.S. Office of Personnel Management, 1900 E Street, NW, room 7460, Washington, DC 20415; public hearing will be held at the U.S. Army Missile Command, Sparkman Auditorium, Martin Road, Building 5304, Redstone Arsenal, Alabama.

**FOR FURTHER INFORMATION CONTACT:** (1) On proposed demonstration project: Dr. William H. Leonard, U.S. Army Missile Command, ATTN: AMSMI–RD, Redstone Arsenal, AL 35898–5400, 205–876–1442; (2) On proposed demonstration project and public hearing: Fidelma A., Donahue, U.S. Office of Personnel Management, 1900 E Street, NW, Room 7460, Washington, DC 20415, 202–606–1138.

**SUPPLEMENTARY INFORMATION:** Since 1966, many studies of Department of Defense (DoD) laboratories have been conducted on laboratory quality and personnel. Almost all of these studies have recommended improvements in civilian personnel policy, organization, and management. The proposed project involves simplified job classification, paybanding, streamlined hiring processes, pay-for-performance management system, expanded developmental opportunity, and modified Reduction-In-Force (RIF) procedures.

Office of Personnel Management.

James B. King,

*Director.*

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### I. Executive Summary

This project was designed by the Department of the Army, with participation of and review by the Department of Defense (DoD) and the Office of Personnel Management (OPM). The purpose of the project is to achieve the best workforce for the MRDEC mission, adjust the workforce for change, and improve workforce quality.

The foundations of this project are based on the concept of linking performance to pay for all covered positions; simplifying paperwork and the processing of classification and other personnel actions; emphasizing partnerships among management, employees, and unions representing covered employees; and delegating classification and other authorities to line managers. Additionally, the research intellect of the MRDEC workforce will be revitalized through the use of expanded opportunities for employee development. These opportunities will reinvigorate the creative intellect of the research and development community.

Development and execution of this project will be in-house budget neutral, based on a baseline of September 1995 in-house costs and consistent with the Department of the Army (DA) plan to downsize laboratories. Army managers at the DoD S&T Reinvention Laboratory sites will manage and control their personnel costs to remain within established in-house budgets. An in-house budget is a compilation of costs of the many diverse components required to fund the day-to-day operations of a laboratory. These components generally include pay of people (labor, benefits, overtime, awards), training, travel, supplies, non-capital equipment, and other costs depending on the specific function of the activity.

This project will be under the joint sponsorship of the Assistant Secretary of the Army for Research, Development and Acquisition and the Assistant Secretary of the Army for Manpower and Reserve Affairs. The Commander, U.S. Army Materiel Command, will execute and manage the project. Project oversight within the Army will be achieved by an executive steering committee made up of top-level executives, co-chaired by the Deputy Assistant Secretary of the Army for Research and Technology and the Deputy Assistant Secretary of the Army (Civilian Personnel Policy)/Director, Civilian Personnel. Oversight external to the Army will be provided by the

Department of Defense and the Office of Personnel Management.

II. Introduction

*A. Purpose*

The purpose of the project is to demonstrate that the effectiveness of Department of Defense (DoD) laboratories can be enhanced by allowing greater managerial control over personnel functions and, at the same time, expanding the opportunities available to employees through a more responsive and flexible personnel system. The quality of DoD laboratories, their people, and products has been under intense scrutiny in recent years. This perceived deterioration of quality is due, in substantial part, to the erosion of control which line managers have over their human resources. This demonstration, in its entirety, attempts to provide managers, at the lowest practical level, the authority, control, and flexibility needed to achieve quality laboratories and quality products.

*B. Problems With the Present System*

The MRDEC products contribute to the readiness of U.S. forces and to the stability of the American economy. To do this, the MRDEC must acquire and retain an enthusiastic, innovative, and highly educated and trained workforce, particularly scientists and engineers. The MRDEC must be able to compete with the private sector for the best talent and be able to make job offers in a timely manner with the attendant bonuses and incentives to attract high quality employees. Today, industry laboratories can make an offer of employment to a promising new hire before the government can prepare the paperwork necessary to begin the recruitment process.

Currently, jobs are described using a cumbersome classification system that is overly complex and specialized. This hampers a manager's ability to shape the workforce and match the positions while making best use of employees. Managers must be given local control of positions and their classification to move both their employees and vacancies within their organization to other lines of the business activities to match the life cycle needs of supported customers.

These issues work together to hamper supervisors in all areas of human resource management. Hiring restrictions and overly complex job classifications, coupled with poor tools for rewarding and motivating employees and a system that does not assist managers in removing poor performers builds stagnation in the workforce and wastes valuable time.

*C. Changes Required/Expected Benefits*

This project is expected to demonstrate that a human resource system tailored to the mission and needs of the MRDEC will result in: (a) Increased quality in the total workforce and the products they produce; (b) increased timeliness of key personnel processes; (c) increased retention of high quality employees and separation rates of poor quality employees; and (d) increased customer satisfaction with the MRDEC and its products by all customers it serves.

The MRDEC demonstration program builds on the successful features of demonstration projects at China Lake and the National Institute of Standards and Technology (NIST). These demonstration projects have produced impressive statistics on the job satisfaction for their employees versus that for the federal workforce in general. Therefore, in addition to expected benefits mentioned above, the MRDEC demonstration expects to find more satisfied employees on many aspects of the demonstration including pay equity, classification decisions, and career development opportunities. A full range of measures will be collected during project evaluation (Section VII).

*D. Participating Organization*

MRDEC has approximately 1881 employees covered by the project. Approximately 99 percent of the employees are located at Redstone Arsenal, Alabama, with the remaining located at the following sites: Andover, Massachusetts; Tucson, Arizona; Orlando, Florida; and Dallas, Texas.

*E. Participating Employees*

The demonstration project includes civilian appropriated funded employees in the competitive and excepted service paid under the General Schedule (GS) pay systems. Scientific and Technical (ST) employees will be included for employee development, performance appraisal, and award provisions only; their classification, staffing, and compensation, however, will not change. Senior Executive Service employees, Federal Wage System employees, and employees in the Quality Assurance Specialist (Ammunition Surveillance) (QASAS) career program will not be covered in the demonstration project. Additionally, DA interns will not be converted to the demonstration until they complete their intern program. Personnel added to the laboratory in like positions covered by the demonstration (either through appointment, promotion, reassignment, change to a lower grade or where their functions and positions have been transferred into the laboratory) will be converted to the demonstration project. Successor organizations which may result from actions associated with the 1995 Base Realignment and Closure Commission will continue coverage in the demonstration project.

*F. Labor Participation*

The American Federation of Government Employees (AFGE) represents many GS employees at MRDEC. The MRDEC is continuing to fulfill its obligations to consult and/or negotiate with the AFGE, in accordance with 5 U.S.C. 4703 (F) and 7117. The participation with the AFGE is within the spirit and intent of Executive Order 12871.

The AFGE represents all professional and nonprofessional employees except those who are supervisors or managers. AFGE Local 1858 has been involved with and has participated in the development of the project since its inception. The union is an integral part of this personnel demonstration and will be a full partner in arriving at major decisions involving program implementation.

*G. Project Design*

An Integrated Process Team approach was used at the U.S. Army Missile Command to develop the attributes of this personnel demonstration proposal. The team was lead by MRDEC management, and team members came from managers and associates from the MRDEC, AFGE Local 1858, the Civilian Personnel Office, and several other major functional organizations within the Missile Command.

This personnel system design has been subjected to critical reviews by Executive Steering Groups within the MRDEC and the Missile Command. Additionally, negotiations with AFGE Local 1858 have influenced the design in areas of significant concern to bargaining unit employees. A survey, designed by AFGE Local 1858, was conducted to elicit RDEC employee opinions and preferences on key features of the proposal.

The design was preceded by an exhaustive study of broadbanding systems currently practiced in the Federal sector. A first generation design was briefed to the MRDEC workforce with the assistance of AFGE Local 1858. During these briefing sessions, employees were provided a copy of the first generation proposal, a set of anticipated questions and answers, and a list of points of contact for concerns

and questions. Later design generations have evolved from critical reviews by headquarters elements of the Department of the Army, Department of Defense, and the Office of Personnel Management. Additionally, consultation was provided by the designers of the broadbanding systems practiced by the Navy China Lake experiment and the National Institute of Standards and Technology.

*H. Personnel Management Board*

The MRDEC intends to establish an appropriate balance between the personnel management authority and accountability of supervisors and of the oversight responsibilities of a Personnel Management Board (PMB). The Director will delegate management and oversight of the Project at MRDEC to a Personnel Management Board whose members, Chairperson, and staff will be appointed by the Director. The union may provide a representative to observe all deliberations of the PMB, and this representative may vote on those issues that are not exclusively management responsibilities. The PMB will be tasked with the following:

1. Overseeing the civilian pay budget,
2. Determining the composition of the pay-for-performance pay pools in accordance with the guidelines of this proposal and internal procedures,
3. Administering funds allocation to pay pool managers,
4. Reviewing operation of MRDEC pay pools,
5. Reviewing hiring and promotion salaries as well as exceptions to pay-for-performance salary increases,
6. Providing guidance to pay pool managers,
7. Monitoring award pool distribution by organization or any other special categorization,
8. Selecting participants for the Expanded Developmental Opportunity Program, long term training, and any special developmental assignments,
9. Managing promotions to stay within ''high grade'' controls,
10. Addressing in-house budget neutrality issues to include tracking of average salaries,
11. Assessing the need for changes to demonstration procedures and policies.

III. Personnel System Changes

*A. Broadbanding*

Occupational Families

Occupations at the MRDEC will be grouped into occupational families. Occupations will be grouped according to similarities in type of work, customary requirements for formal training or credentials, and in consideration of the business practices at the MRDEC. The common patterns of advancement within the occupations as practiced at DoD Laboratories and in the private sector will also be considered. The current occupations and grades have been examined, and their characteristics and distribution have served as guidelines in the development of the four occupational families described below:

1. *Engineers and Scientists (E&S).* This occupational family includes all technical professional positions, such as engineers, physicists, chemists, metallurgists, mathematicians, and computer scientists. Predominantly, specific course work or educational degrees are required for these occupations.

2. *E&S Support.* This occupational family contains positions that directly support the E&S mission: it includes specialized functions in such fields as technical information management, librarians, equipment specialists, quality assurance, and engineering and electronics technicians. Employees in these jobs may or may not require college course work. However, training and skills in the various electrical, mechanical, chemical or computer crafts and techniques are generally required.

3. *Business Management.* This occupational family contains specialized functions in such fields as finance, procurement, accounting, administrative computing, and management analysis. Analytical ability and specialized knowledge in administrative fields or special degrees are required.

4. *General Support.* This occupational family is composed of positions for which minimal formal education is needed, but for which special skills, such as office automation or shorthand, are usually required. Clerical work usually involves the processing and maintenance of records. Assistant work requires knowledge of methods and procedures within a specific administrative area. Other support functions include the work of secretaries, guards, and mail clerks.

Paybands

Each occupational family will be composed of discrete paybands (levels) corresponding to recognized advancement within the occupations. These paybands will replace grades. They will not be the same for all occupational families. Each occupational family will be divided into four to five paybands; each payband covering the same pay range now covered by one or more grades. A salary overlap, similar to the current overlap between GS grades, will be maintained.

Ordinarily an individual will be hired at the lowest salary in a payband. Exceptional qualifications, specific organizational requirements, or other compelling reasons may lead to a higher entrance level within a band.

The proposed paybands for the occupational families and how they relate to the current GS grades are shown in Figure 1. Application of the Fair Labor Standards Act (FLSA) within each payband is also shown in Figure 1. This payband concept has the following advantages:

1. It may reduce the number of classification decisions required during an employee's career.
2. It simplifies the classification decision-making process and paperwork. A payband covers a larger scope of work than a grade, and thus will be defined in shorter and simpler language.
3. It supports delegation of classification authority to line managers.
4. It provides a broader range of performance-related pay for each level. In many cases, employees whose pay would have been frozen at the top step of a grade will now have more potential for upward movement in the broader payband.
5. It prevents the progression of low performers through a payband by mere longevity, since job performance serves as the basis for determining pay.

The MRDEC broadbanding plan expands the broadbanding concept used at China Lake and NIST by creating Payband V of the Engineers and Scientists occupational family. This payband is designed for Senior Technical Managers and Senior Scientists/Engineers.

Current OPM guidelines covering the Senior Executive System and Scientific and Professional (ST) positions do not fully meet the needs of MRDEC. The SES designation is appropriate for executive level managerial positions whose classification exceeds the GS–15 grade level. The primary knowledges and abilities of SES positions relate to supervisory and managerial responsibilities. Positions classified as ST are designed for bench research scientists and engineers. OPM guidelines state that the duties and responsibilities of ST positions must not include any managerial or supervisory responsibility.

MRDEC currently has several division/office chief positions that have characteristics of both SES and ST classifications. These division/office chiefs in MRDEC are responsible for supervising other GS–15 positions,

including function supervisors and non-supervisory researcher engineers and scientists. MRDEC management considers the primary requirement for division/office chiefs to be knowledgeable of and have expertise in the specific scientific and technology areas related to the mission of their organizations. The ability to manage, while important, is considered secondary. Historically, these positions have been filled by employees who possess primarily scientific/engineering credentials and who are considered experts in their field by the scientific community. While it is clear these positions warrant classification beyond the GS–15 level, attempts to classify most of the positions as SES have been difficult because the size of the organizations and their location in the Center are not competitive with other SES level positions. Classification of the positions as ST is also not an option because supervisory responsibilities cannot be ignored.

As preeminent scientists and engineers, incumbents of ST positions are responsible for specific research and development efforts that are continuing and long range, generally requiring the efforts of a team. These ST positions usually serve as team leaders which means there is some responsibility for assigning work, coordinating results, and redirecting efforts. It is administratively convenient for these research team leaders to also participate in performance management. The restriction of including supervisory authorities in ST jobs has forced MRDEC to exclude any mention of the team leader responsibilities in these position descriptions for fear that they will be interpreted as characteristic of SES rather than ST positions. Consequently, MRDEC has some positions that do not strictly conform to OPM definitions of either the SES or ST.

The purpose of Payband V is to overcome the difficulties identified above by creating a category for two types of positions—the Senior Technical Manager (with full supervisory authority) and the Senior Engineer/ Scientist (less than full supervisory authority or no supervisory authority). Current GS–15 division/office chiefs will convert into the demonstration project at Payband IV. After conversion they will be reviewed against established criteria added to determine if they should be reclassified to Payband V. Other positions possibly meeting criteria for classification to Payband V will be reviewed on a case-by-case basis. The proposed salary range is the same as currently exists for ST positions (minimum of 120% of the minimum rate of basic pay for GS–15 with a maximum of the basic rate of pay established for Level IV of the Executive Schedule).

Vacant positions in Payband V will be competitively filled to ensure that selections are made from among the world's preeminent researchers and technical leaders in the specialty fields. MRDEC will capitalize on the efficiencies that can accrue from central recruiting by continuing to use the expertise of the Army Materiel Command SES Office as the recruitment agent. Panels will be created to assist in filling Payband V positions. Panel members will be selected from a pool of current MRDEC SES members, ST employees and those in Payband V, and an equal number of individuals of equivalent stature from outside the Center to ensure impartiality, breadth of technical expertise, and a rigorous and demanding review. The panel will apply criteria developed largely from the current OPM Research Grade Evaluation Guide for positions exceeding the GS–15 level. The same procedure will be used for evaluating Senior Technical Manager positions except the rating criteria will be adjusted to account for the difference in the positions, such as greater emphasis on technical program management and supervisory abilities.

The final component of Payband V is the management of all Payband V assets. Specifically, this includes authority to classify, create, abolish positions as circumstances warrant; recruit and reassign employees in this payband; set pay and to have their performance appraised under this project's Pay for Performance System. This authority will be executed within parameters to be established at the DA level, to include controls on the numbers of Payband V positions and recruitment/promotion criteria. The specific details regarding the control and management of Payband V assets will be included in the demonstration's operating procedures. The laboratory wants to demonstrate increased effectiveness by gaining greater managerial control and authority, consistent with merit, affirmative action, and equal employment opportunity principles.

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**Figure 1. Pay Bands and Occupational Families**

| Occupational Families | Bands | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Corresponding GS grades | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | Above GS-15 |
| Engineers & Scientists DB | I N | | | | II * | | | | | | | III E | | IV E | | V E |
| E&S Support DE | I N | | | | II * | | | | | III * | | | IV E | | V E | |
| Business Mgt DJ | I N | | | | II * | | | | | III * | | | IV E | | V E | |
| General Support DK | I N | | | | II * | | III * | | IV * | | | | | | | |

**FLSA CODES: N - Nonexempt**

**E - Exempt**

*** - Nonexempt or Exempt**

**Note: Although typical exemption status under the various paybands is shown in the above table, actual FLSA exemption determinations are made on a case-by-case basis.**

Fair Labor Standards Act

Fair Labor Standards Act (FLSA) exemption and nonexemption determinations will be made consistent with criteria found in 5 CFR part 551. Pay increases for employees receiving retained rates will be determined in accordance with 5 U.S.C. 5363 except that those with a U rating will receive no pay increase. There are eight paybands (see Figure 1) where employees can be either exempt or nonexempt from overtime provisions. For these eight paybands supervisors with classification authorities will make the determinations on a case-by-case basis by comparing the duties and responsibilities assigned, the classification standards for each payband, and the FLSA criteria under 5 CFR part 551. Additionally, the advice and assistance of the Civilian Personnel Advisory Center/Civilian Personnel Operations Center (CPAC/CPOC) will be obtained in making determinations as part of the performance review process. The benchmark position descriptions will not be the sole basis for the determination. Basis for exemption will be documented and attached to each description. Exemption criteria will be narrowly construed and applied only to those employees who clearly meet the spirit of the exemption. Changes will be documented and provided to the CPAC/CPOC, as appropriate.

Simplified Assignment Process

Today's environment of downsizing and workforce transition mandates that the MRDEC have increased flexibility to assign individuals. Broadbanding can be used to address this need. As a result of the assignment to a particular level descriptor, the organization will have increased flexibility to assign an employee, without pay change, within broad descriptions consistent with the needs of the organization, and the individual's qualifications and rank or level. Subsequent assignments to projects, tasks, or functions anywhere within the organization requiring the same level and area of expertise, and qualifications would not constitute an assignment outside the scope or coverage of the current level descriptor.

Such assignments within the coverage of the generic descriptors are accomplished without the need to process a personnel action. For instance, a technical expert can be assigned to any project, task, or function requiring similar technical expertise. Likewise, a manager could be assigned to manage any similar function or organization consistent with that individual's qualifications. This flexibility allows a broader latitude in assignments and further streamlines the administrative process and system.

Promotion

A promotion is a move of an employee to (1) a higher payband in the same occupational family or (2) a payband in another occupational family in combination with an increase in the employee's salary. Positions with known promotion potential to a specific band within an occupational family will be identified when they are filled. Not all positions in an occupational family will have promotion potential to the same band. Movement from one occupational family to another will

depend upon individual knowledge, skills, and abilities, and needs of the organization.

Promotions will be processed under competitive procedures in accordance with merit principles and requirements and the local merit promotion plan. The following actions are excepted from competitive procedures:

(a) Re-promotion to a position which is in the same payband and occupational family as the employee previously held on a permanent basis within the competitive service.

(b) Promotion, reassignment, demotion, transfer or reinstatement to a position having promotion potential no greater than the potential of a position an employee currently holds or previously held on a permanent basis in the competitive service.

(c) A position change permitted by reduction in force procedures.

(d) Promotion without current competition when the employee was appointed through competitive procedures to a position with a documented career ladder.

(e) A temporary promotion, or detail to a position in a higher payband, of 180 days or less.

(f) Reclassification to include impact of person on-the-job promotions.

(g) A promotion resulting from the correction of an initial classification error or the issuance of a new classification standard.

(h) Consideration of a candidate not given proper consideration in a competitive promotion action.

(i) Impact of person on the job and Factor IV process (application of the Research Grade Evaluation Guide, Equipment Development Grade Evaluation Guide, Part III, or similar guides) promotions.

Link Between Promotion and Performance

Career ladder promotions and promotions resulting from the addition of duties and responsibilities are examples of promotions that can be made noncompetitively. Promotions can be made noncompetitively when contributions and achievements are such that a higher payband is achieved when comparing the overall position to the Equipment Development Grade Evaluation Guide, Part III or the Research Grade Evaluation Guide. To be promoted noncompetitively from one band to the next, an employee must meet the minimum qualifications for the job and have a current performance rating of B or better (see *Performance Evaluation*) or equivalent under a different performance management system. Selection of employees through competitive procedures will require a current performance rating of B or better.

*B. Pay-for-Performance Management System*

Performance Evaluation

Introduction

The performance evaluation system will link compensation to performance through annual performance appraisals and performance scores. The performance evaluation system will allow optional use of peer evaluation and/or input from subordinates as determined appropriate by the Personnel Management Board. The system will have the flexibility to be modified, if necessary, as more experience is gained under the project.

Performance Objectives

Performance objectives are statements of job responsibilities based on the work unit's mission, goals and supplemental benchmark position descriptions. Employees and supervisors will jointly develop performance objectives which will reflect the types of duties and responsibilities expected at the respective pay level. In case of disagreements, the decision of the supervisor will prevail. Performance objectives deal with outputs and outcomes of a particular job. The performance objectives, representing joint efforts of employees and their rating chains, should be in place within 30 days from the beginning of each rating period.

Performance Elements

Performance elements are generic attributes of job performance, such as technical competence, that an employee exhibits in performing job responsibilities and associated performance objectives. New performance elements and rating forms will be designed to implement a new scoring and rating system. The new performance evaluation system will be based on critical and non-critical performance elements defined in Appendix C. Each performance element is assigned a weight between a specified range. The total weight of all elements in a performance plan is 100 points. The supervisor assigns each element some portion of the 100 points in accordance with its importance for mission attainment. As a general rule, essentially identical positions will have the same critical elements and the same weight. These weights will be developed along with employee performance objectives.

Mid-Year Review

A mid-year review between a supervisor and employee will be held to determine whether objectives are being met and whether ratings on performance elements are above an unsatisfactory level. Performance objectives should be modified as necessary to reflect changes in planning, workload, and resource allocation. The weights assigned to performance elements may be changed if necessary. Additional reviews may be held as deemed necessary by the supervisor or requested by the employee. The supervisor will provide periodic feedback to the employee on their level of performance. If the supervisor determines that the employee is not performing at an acceptable level on one or more elements, the supervisor must alert the employee and document the problem(s). This feedback will be provided at any time during the rating cycle.

Performance Appraisal

A performance appraisal will be scheduled for the final weeks of the annual performance cycle, although an individual performance appraisal may be conducted at any time after the minimum appraisal period of 120 days is met. The performance appraisal process brings supervisors and employees together for formal discussions on performance and results in (1) written appraisals, (2) performance ratings, (3) performance scores, and (4) other individual performance-related actions as appropriate. A performance appraisal shall consist of two meetings held between employee and supervisor: the performance review meeting and the evaluation feedback meeting.

Performance Review Meeting Between Employee and Supervisor

The review meeting is to discuss job performance and accomplishments. Supervisors will not assign performance scores or performance ratings at this meeting. The supervisor notifies the employee of the review meeting in time to allow the employee to prepare a list of accomplishments. Employees will be given an opportunity at the meeting to give a personal performance assessment and describe accomplishments. The supervisor and employee will discuss job performance and accomplishments in relation to the performance elements, objectives, and planned activities established in the performance plan.

Evaluation Feedback Meeting Between Employee and Supervisor

In this second meeting between employee and supervisor, the supervisor

informs the employee of management's appraisal of the employee's performance on performance objectives, and the employee's performance score and rating on performance elements. During this second meeting, the supervisor and employee will discuss and document performance objectives for the next rating period.

Performance Scores

The overall score is the sum of individual performance element scores. Employees will receive an academic-type rating of A, B, C, or U depending upon the score attained. These summary ratings are representative of pattern E (a 4 level system) in summary level chart in 5 CFR 430.208(d)(1). This rating will become the rating of record, and only those employees rated C or higher will receive general increases, performance pay increases (i.e., basic pay increases), and/or performance bonuses. A rating of A will be assigned for scores from 85 to 100 points, B for scores from 70 to 84, C for scores from 50 to 69, and U for scores from 0 to 49 or a failure to achieve at the 50% level of any critical element. The academic-type ratings will be used to determine performance payouts and to award additional RIF retention years as follows:

| Rating | Compensation | RIF retention yrs added |
|---|---|---|
| A | 4 shares+c* | 10 |
| B | 2 shares+c | 7 |
| C | 1 share+c | 3 |
| U | 0 | 0 |

*c=GS General Increase (Title 5, Section 5303).

Selection of the weighted points to assign to an employee's performance on performance elements is assisted by use of benchmark performance standards (Appendix D). These benchmark performance standards are modified versions of the performance standards used by the National Institute of Standards and Technology (NIST), National Bureau of Standards. Each benchmark performance standard describes the level of performance associated with a particular point on a rating scale. Supervisors may add supplemental standards to the performance plans of the employees they supervise to further elaborate the benchmark performance standards.

Performance-Based Actions

MRDEC will implement a process to deal with poor performers. This process may lead to involuntary separations, with grievance or appeal rights. The process may start at any time during the rating period, not necessarily at the end of an appraisal period. This process begins when the supervisor identifies a deficiency(ies) which causes the level of performance to be at the U (unsatisfactory) level based on a composite score that is less than 50 for all elements or a score on any critical element of less than 50 percent.

When the employee's performance is determined to be unsatisfactory at the close of the annual rating period, the Unsatisfactory (U) rating will become the rating of record for all matters relating to pay or Reduction-in-Force (RIF).

There are two processes to deal with poor performers:

1. Change in Assignment—Because it is recognized that employees may be assigned to a position for which they are not suited, an attempt will be made to place poor performers in a position better suited to their skills and capabilities. The offer of change in assignment will be contingent upon the employee's concurrence and will be either within the same band or in the next lower payband. If reassigned, the employee will receive written notification that they will be given a reasonable opportunity period of no less than 30 calendar days in length, to demonstrate performance at a level that is at least equal to that of a summary level C rating. The period of time considered to be reasonable will be determined, in part, by whether the employee's reassignment is to a substantially similar or the same position under a different supervisor, or in a different office, or in a substantially different position. Essential training and mentoring will be provided as appropriate during this opportunity period. Failure to achieve a level of performance that is at least equal to that of a summary level C rating (following the above-referenced opportunity period) will place the employees in Step 3 of this process. There will be no further opportunity period.

2. Performance Improvement Plan (PIP)—If the employee does not accept an offer of change in assignment, or if there is no appropriate, available position to assign an employee, the supervisor will develop a PIP that will be monitored for a reasonable period of time (no less than 30 calendar days). When an employee is placed in a PIP, the employee will be informed in writing, that unless their level of performance improves to, and is sustained at a level at least equal to that of a summary level C rating, the employee may be removed from the position (change in assignment, reduction in pay, or removal from the Federal service).

If, during or at the conclusion of the PIP, the employee's level of performance improves to a level at least equal to that of a summary level C rating and is again determined to deteriorate to below level C in any area during one year from the beginning of the PIP, the MRDEC may initiate action to remove the employee from the position with no additional opportunity to improve. An employee whose level of performance improves to a level at least equal to that of a summary level C rating for one year from the beginning of the PIP, and then deteriorates to below level C again, in any area, during succeeding rating periods, will be placed in a second PIP before initiating action to remove the employee from the position.

If and when performance improves during the period in which the employee is otherwise ineligible for the general increase, then the general increase shall be restored. Such restoration is not retroactive and is separate and apart from incentive pay.

3. Removal—If the employee fails to demonstrate a level of performance at least equal to that of a summary level C rating after completing either Step 1 or Step 2, the employee will be given a written notice of proposed removal from the position. The notice period will be a minimum of 30 calendar days and the employee will have a reasonable period of time in which to reply. The employee will be given a written notice of decision to include all applicable grievance and appeal rights.

Note: Performance-based adverse actions may be taken under 5 U.S.C., Chapter 75, rather than Chapter 43.

A decision to remove an employee for poor performance may be based only on those instances of poor performance that occurred during the opportunity period (Step 1) or during the one-year period ending on the date of proposed removal (Step 2). The notice of decision will specify the instances of poor performance on which the action is based and will be given to the employee at or before the time the action will be effective.

The MRDEC will preserve all relevant documentation concerning an action taken for poor performance and make it available to review by the affected employee or designated representative. At a minimum, the record will consist of a copy of the notice of proposed action; the employee's written reply, if provided, or a summary if the employee makes an oral reply. Additionally, the record will contain the written notice of decision and the reasons therefore,

along with any supporting material including documentation regarding the opportunity afforded the employee to demonstrate improved performance. An employee who sustains their performance at a level at least equal to a summary level C rating for one year, will have all relevant documentation removed from their record.

Employee Relations

Employees covered by the project will be evaluated under a performance evaluation system that affords grievance or appeal rights comparable to those provided currently.

Senior Executive Service and 5 U.S.C. 3104 (ST) Employees

Members of the SES will remain under the current SES performance appraisal system. Title 5 U.S.C. 3104 (ST) employees will be included in the project performance evaluation system, but will not be in the project pay-for-performance system.

Awards

The MRDEC currently has an extensive awards program consisting of both internal and external awards. On-the-spot, special act (which are both performance related and nonperformance related), and other internal awards (both monetary and nonmonetary) will continue under the project, and may be modified or expanded as appropriate. MACOM, DA, and DoD awards and other honorary noncash awards will be retained.

Teams may distribute an award pool among themselves where appropriate. Thus, a team leader or supervisor may allocate a sum of money to a team for outstanding completion of a special task, and the team may decide the individual distribution of the total dollars among themselves.

The MRDEC Director will have the authority to grant awards to covered employees of up to $10,000 for a special act. The scale of the award will be determined using criteria in AR 5–17. AFGE Local 1858 will be notified and provided an opportunity to comment on proposed special act awards for bargaining unit employees before the effective date of the award. The name of proposed special act awardees will not be released to the union for privacy act purposes.

Members of the SES will remain under their current awards system and will not participate in the project performance recognition bonus awards program. Title 5 U.S.C. 3104 (ST) employees will be eligible for cash awards.

Pay Administration

Introduction

The objective is to establish a pay system that will improve the ability of the MRDEC to attract and retain quality employees. The new system will be a pay-for-performance system and, when implemented, will result in a redistribution of pay resources based upon individual performance.

Pay-for-Performance

MRDEC will use a simplified performance appraisal system that will permit both the supervisor and the employee to focus on quality of the work. The proposed system will permit the manager/supervisor to base incentive pay increases entirely on performance or value added to the goals of the organization. This system will allow managers to withhold pay increases from nonperformers, thereby giving the nonperformer the incentive to improve performance or leave government service. For example, employees with ratings of U will receive no performance pay increase, general increase, or performance bonus. This action may result in the employee's pay falling below the minimum rate of their current payband because the minimum rate is increased by the general increase (5 U.S.C. 5303). Under these transitory conditions, the employee's payband designator will remain the same. Since there is no reduction in band level or pay, there is no adverse action.

Pay for performance has two components: performance pay increases and/or performance bonuses. All covered employees will be given the full amount of locality pay adjustments when they occur regardless of performance. The funding for performance pay increases and/or performance bonuses is composed of money previously available for within-grade increases, quality step increases, promotions from one grade to another where both grades are now in the same payband, and for some performance awards. Additionally, funds will be obtained from performance pay increases withheld for poor performance (see *Performance Evaluation*).

Performance Pay Pool

The performance pay pool is composed of a base pay fund and a bonus pay fund. The payouts made to employees from the performance pay pool will be a mix of base pay increases and bonus payments, subject to the amounts available in the respective funds. The funding for the base pay fund is composed of money previously available for within-grade increases, quality step increases, and promotions between grades that are banded under the demonstration project. The bonus pay fund is separately funded within the constraints of the organization's overall performance award budget. Some portion of the performance award budget will be reserved for special ad hoc awards—e.g., suggestion awards or special act awards—and will not be included as part of the performance pay pool.

The MRDEC Budget Office, in consultation with AFGE Local 1858 and supporting personnelists, will calculate the total performance pay pool funds and allocate pay pools to Major Organizational Units or teams as appropriate.

Performance Pay Increases and/or Performance Bonuses

A pay pool manager is accountable for staying within pay pool limits. The pay pool manager assigns performance pay increases and/or performance bonuses to individuals on the basis of an academic-type rating, the value of the performance pay pool resources available, and the individual's current basic rate of pay within a given payband. A pay pool manager may request approval from the Personnel Management Board (PMB) or its designee to grant a performance pay increase to an employee that is higher than the compensation formula for that employee to recognize extraordinary achievement or to provide accelerated compensation for local interns.

Performance payouts will be calculated for each individual based upon a performance pay pool value that will be initially 3 percent (e.g., 2.0% performance pay + 1.0% performance bonus) of the combined basic rates of pay of the assigned employees. This percentage, a payout factor, will be adjusted as necessary to compensate for changing employee demographics which impact the elements used in the GS system, such as the amount of step raises, quality step increases, and promotions. Performance payouts will be calculated so that a pay pool manager will not exceed the resources that are available in the pay pool. An employee's performance payout is computed as follows:

$$\text{Performance Payout} = \frac{\text{Pool Value} * \text{SAL} * \text{N}}{\text{SUM (SALj} * \text{Nj); j} = 1 \text{ to n}}$$

Where:
Pool Value=F * SUM (SALk); k=1 to n
n=Number of employees in pay pool
N=Number of shares earned by an employee based on their performance rating (0 to 4)
SAL=An individual's basic rate of pay
SUM=The summation of the entities in parenthesis over the range indicated
F=Payout Factor

Once the individual performance payout amounts have been determined, the next step is to determine what portion of each payout will be in the form of a base pay increase as opposed to a bonus payment. A base pay share factor is derived by dividing the amount of the base pay fund by the amount of the total performance pay pool. This factor is multiplied by the individual performance payout amounts to derive each individual's projected base pay increase. Certain employees will not be able to receive the projected base pay increase due to base pay caps. Base pay is capped when an employee reaches the maximum rate of pay in an assigned payband, when the midpoint principle applies (see below), and when the 50 percent rule applies (see below).

If the organization determines it is appropriate, it may reallocate a portion (up to the maximum possible amount) of the unexpended base pay funds for capped employees to uncapped employees. This reallocation must be made on a proportional basis so that all uncapped employees receive the same percentage increase in their base pay share (unless the reallocation adjustment is limited by a pay cap). Any dollar increase in an employee's projected base pay increase will be offset, dollar for dollar, by an accompanying reduction in the employee's projected bonus payment. Thus, the employee's total performance payout is unchanged.

A midpoint principle will be used to determine performance pay increases. This principle requires that employees in all paybands must receive a B rating or higher to advance their basic rate of pay beyond the midpoint dollar threshold of their respective paybands. If the performance payout formula yields a basic pay increase for a C-rated employee that would increase their basic rate of pay beyond the midpoint dollar threshold, then their basic rate of pay will be adjusted to the midpoint dollar threshold and the balance converted to a performance bonus. Once an employee has progressed beyond the midpoint dollar threshold, future performance pay increases will require a B rating or greater. If an employee attains a C rating and is beyond the midpoint dollar threshold, incentive pay increases will be restricted to performance bonuses only.

Annual performance pay increases will be limited to (1) 50 percent of the difference between the particular maximum band rate and the employee's current basic rate of pay, or (2) the projected performance pay increase, whichever is less, with the balance converted to a performance bonus. This means that employees whose pay has reached the upper limits of a particular payband will receive most performance incentives as a performance bonus. Performance bonuses will not become a part of employee basic rate of pay.

Supervisory Pay Adjustments

Supervisory pay adjustments may be used at the discretion of the MRDEC Director, to compensate employees assuming positions entailing supervisory responsibilities. Supervisory pay adjustments are increases to the supervisor's basic rate of pay, ranging up to 10 percent of that pay rate, subject to the constraint that the adjustment may not cause the employee's basic rate of pay to exceed the payband maximum rate. Only employees in supervisory positions with formal supervisory authority meeting that required for coverage under the OPM GS Supervisory Guide may be considered for the supervisory pay adjustment. Criteria to be considered in determining the pay increase percentage include the following organizational and individual employee factors: (1) Needs of the organization to attract, retain, and motivate high quality supervisors; (2) budgetary constraints; (3) years of supervisory experience; (4) amount of supervisory training received; (5) performance appraisals and experience as a group or team leader; (6) their organizational level of supervision; and (7) managerial impact on the organization. The supervisory pay adjustment will not apply to 5 U.S.C. 3104 (ST) positions.

Conditions, after the date of conversion into the demonstration project, under which the application of a supervisory pay adjustment may be considered are as follows:

(1) New hires into supervisory positions will have their initial rate of basic pay set at the supervisor's discretion within the pay range of the applicable payband. This rate of pay may include a supervisory pay adjustment determined using the ranges and criteria outlined above.

(2) A career employee selected for a supervisory position that is within the employee's current payband may also be considered for a supervisory pay adjustment.

If a supervisor is already authorized a supervisory pay adjustment and is subsequently selected for another supervisory position, within the same payband, then the supervisory pay adjustment will be redetermined.

Within the demonstration project rating system, the performance element ''Supervision/EEO'' is identified as a critical element. Changes in the rating value for this element awarded to a supervisor with a supervisory pay adjustment may generate a review of the adjustment and may result in an increase or decrease to that adjustment. Decrease to a supervisory pay adjustment is not an adverse action if this action results from changes in supervisory duties or supervisory ratings.

Supervisors, upon initial conversion into the demonstration project into the same, or substantially similar position, will be converted at their existing basic rate of pay and will not be offered a supervisory pay adjustment.

The initial dollar amount of the adjustment will be removed when the employee voluntarily leaves the supervisory position. The cancellation of the adjustment under these circumstances is not an adverse action and is not appealable. If an employee is removed from a supervisory position for personal cause (performance or conduct), the adjustment will be removed under adverse action procedures. However, if an employee is removed from a non-probationary supervisory position for conditions other than voluntary or for personal cause, then the pay retention provisions of 5 CFR part 536 will prevail.

Supervisory Pay Differentials

Supervisory differentials may be used, at the discretion of the MRDEC Director, to incentivize and reward supervisors who are in paybands III and IV of the E&S occupational family in supervisory positions with formal supervisory authority meeting that required for coverage under the OPM GS Supervisory Guide. A supervisory pay

differential is a cash incentive that may range up to 10 percent of the supervisor's basic rate of pay. It is paid on a pay period basis and is not included as part of the supervisor's basic rate of pay. Criteria to be considered in determining the amount of this supervisory pay differential includes those identified for Supervisory Pay Adjustments.

The supervisory pay differential may be considered, either during conversion into or after initiation of the demonstration project, if the supervisor has subordinate employees in the same payband. The differential must be terminated if the employee is removed from a supervisory position, regardless of cause.

As specified in Supervisory Pay Adjustments, after initiation of the demonstration project, all personnel actions involving a supervisory differential will require a statement signed by the employee acknowledging that the differential may be terminated or reduced at the MRDEC Director's discretion. The termination or reduction of the differential is not an adverse action and is not subject to appeal.

Pay and Compensation Ceilings

An employee's total monetary compensation paid in a calendar year may not exceed the basic rate of pay paid in level I of the Executive Schedule consistent with 5 U.S.C. 5307 and 5 CFR part 530, subpart B.

In addition, each payband will have its own pay ceiling, just as grades do in the current system. Pay rates for the various paybands will be directly keyed to the GS rates. Except for retained rates, basic pay will be limited to the maximum rates payable for each payband.

Pay Setting for Promotion

Upon promotion to a higher payband, an employee will be entitled to a 6% pay increase or the lowest level in the payband to which promoted, whichever is greater. Highest previous rate also may be considered in setting pay upon promotion, under rules similar to the highest previous rate rules in 5 CFR 531.203(c) and (d).

*C. Classification*

Introduction

The objectives of the new classification system are to simplify the classification process, make the process more serviceable and understandable, and place more decision-making authority and accountability with line managers. All positions listed in Appendix A will be in the classification structure. Provisions will be made for including other occupations as employment requirements change in response to changing technical programs.

Occupational Series

The present GS classification system has over 400 occupations (also called series), which are divided into 22 groups. The occupational series will be maintained. New series, established by OPM, may be added as needed to reflect new occupations in the work force. Appendix A lists the occupational series currently represented at the MRDEC by occupational family.

Classification Standards

MRDEC will use a classification system that is a modification of the system now in use at the U.S. Navy, Naval Command, Control and Ocean Surveillance Center, San Diego, California. The present classification standards will be used to create local benchmark position descriptions for each payband, reflecting duties and responsibilities comparable to those described in present classification standards for the span of grades represented by each payband. There will be at least one benchmark position description for each payband. A supervisory benchmark position description will be added to those paybands that include supervisory employees. Present titles and series will continue to be used in order to recognize the types of work being performed and educational backgrounds and requirements of incumbents. Locally developed specialty codes and OPM functional codes will be used to facilitate titling, making qualification determinations, and assigning competitive levels to determine retention status.

Position Descriptions and Classification Process

The MRDEC Director will have delegated classification authority and may redelegate this authority to subordinate managers. New benchmark position descriptions will be developed to assist managers in exercising delegated position classification authority. Managers will identify the occupational family, job series, the functional code, the specialty code, payband level, and the appropriate acquisition codes. The manager will document these decisions on a cover sheet similar to the present DA Form 374.

Specialty codes will be developed by Subject Matter Experts (SMEs) to identify the special nature of work performed. Functional codes are those currently found in the OPM Introduction to the Classification Standards which define certain kinds of activities, e.g., Research, Development, Test and Evaluation, etc., and covers Engineers & Scientists.

Classification Appeals

An employee may appeal the occupational family, occupational series, or payband of his or her position at any time. The employee may accomplish this by exercising any of the following options: (a) The employee must formally raise the areas of concern to supervisors in the immediate chain of command, either verbally or in writing, (b) If the employee is not satisfied with the supervisory response, the employee may appeal to the appellate level within DoD or may appeal directly to OPM, (c) If the employee elects to first appeal to DoD but is not satisfied with this response, he/she may appeal to the Office of Personnel Management. Appellate decisions from OPM are final.

The evaluation of a classification appeal, is based on the MRDEC Personnel Demonstration Project Classification Standards.

*D. Hiring and Appointment Authorities*

1. Hiring Authority

A candidate's basic eligibility will be determined using Office of Personnel Management's (OPM) Qualification Standards Handbook for General Schedule Positions. Candidates must meet the minimum standards for entry into the payband. For example if the payband includes positions in grades GS–5 and GS–7, the candidate must meet the qualifications for positions at GS–5 level. Specific experience/education required will be determined based on whether a position to be filled is at the lower or higher end of the band. Selective placement factors can be established in accordance with the OPM Qualification Handbook, when judged to be critical to successful job performance. These factors will be communicated to all candidates for particular position vacancies and must be met for basic eligibility. Under the demonstration authority, the MRDEC will modify qualification standards only as authorized in the General Policies and instructions (paragraph 8) of the Qualification Standard Handbook.

2. Appointment Authority

Under the demonstration project, there will continue to be career and career conditional appointments and temporary appointments not to exceed one year. These appointments will use

existing authorities and entitlements. Non-permanent positions (exceeding one year) needed to meet fluctuating or uncertain workload requirements will be filled using a Contingent Employee appointment authority.

Employees hired for more than one year, under the contingent employee appointment authority, are given term appointments in the competitive service for no longer than five years. The MRDEC Director is authorized to extend a contingent appointment one additional year. These employees are entitled to the same rights and benefits as term employees and will serve a one year trial period. The Pay-for-Performance Management System described in III.B applies to contingent employees.

Appointments will be made under the same appointment authorities and processes as regular term appointments, but recruitment bulletins must indicate that there is a potential for conversion to permanent employment.

Employees hired under the contingent employee authority may be eligible for conversion to career-conditional appointments. To be converted, the employee must (1) have been selected for the term position under competitive procedures, with the announcement specifically stating that the individual(s) selected for the term position(s) may be eligible for conversion to career-conditional appointment at a later date; (2) served two years of substantially continuous service in the term position; (3) be selected under merit promotion procedures for the permanent position ; and (4) have a current rating of B or better.

Employees serving under regular term appointments at the time of conversion to the Demonstration Project will be converted to the new contingent employee appointments provided they were hired for their current positions under competitive procedures. These employees will be eligible for conversion to career-conditional appointment if they have a current rating of B or better (or one of the top two ratings on the current evaluation system), and are selected under merit promotion procedures for their permanent position after having completed two years of continuous service. Time served in temporary or term positions prior to conversion to the contingent employee appointment is creditable to the requirement for two years of continuous service stated above, provided the service was continuous.

3. Extended Probationary Period

The current one year probationary period will be extended to two years for all newly hired employees in the Engineers and Scientists, E&S Support, and Business Management occupational families. The purpose of extending the probationary period is to allow supervisors an adequate period of time to fully evaluate an employee's ability to complete a cycle of work (such as research, program development and execution, and technology transfer) and to fully evaluate an employee's contribution and conduct. Employees in the General Support occupational family will serve a one year probationary period.

Aside from extending the time period, all other features of the current probationary period are retained including the potential to remove an employee without providing the full substantive and procedural rights afforded a non-probationary employee. Any employee appointed prior to the implementation date will not be affected. The two year probation will apply to new hires or those who do not have reemployment rights or reinstatement privileges.

Probationary employees will be terminated when the employee fails to demonstrate proper conduct, technical competency, and/or adequate contribution for continued employment. When the MRDEC decides to terminate an employee serving a probationary period because his/her work performance or conduct during this period fails to demonstrate their fitness or qualifications for continued employment, it shall terminate his/her services by written notification of the reasons for separation and the effective date of the action. The information in the notice as to why the employee is being terminated shall, as a minimum, consists of the manager's conclusions as to the inadequacies of their performance or conduct.

4. Supervisory Probationary Periods

Supervisory probationary periods will be made consistent with 5 CFR part 315, Subchapter 315.901. Employees that have successfully completed the initial probationary period will be required to complete an additional one year probationary period for the initial appointment to a supervisory position. If, during the probationary period, the decision is made to return the employee to a nonsupervisory position for reasons solely related to supervisory performance, the employee will be returned to a comparable position of no lower payband and pay than the position from which they were promoted.

5. Voluntary Emeritus Program

Under the demonstration project, the Center Director will have the authority to offer retired or separated individuals (engineers and scientists) voluntary assignments in the Center. This authority will include individuals who have retired or separated from Federal service. Voluntary Emeritus Program assignments are not considered ''employment'' by the Federal government (except for purposes of injury compensation). Thus, such assignments do not affect an employee's entitlement to buyouts or severance payments based on an earlier separation from Federal service. The Voluntary Emeritus Program will ensure continued quality research while reducing the overall salary line by allowing higher paid individuals to accept retirement incentives with the opportunity to retain a presence in the scientific community. The program will be of most benefit during manpower reductions as senior S&Es could accept retirement and return to provide valuable on-the-job training or mentoring to less experienced employees. Voluntary service will not be used to replace any employee.

To be accepted into the emeritus program, a volunteer must be recommended by Center managers to the Center Director. Everyone who applies is not entitled to a voluntary assignment. The Center Director must clearly document the decision process for each applicant (whether accepted or rejected) and retain the documentation throughout the assignment. Documentation of rejections will be maintained for two years.

To ensure success and encourage participation, the volunteer's federal retirement pay (whether military or civilian) will not be affected while serving in a voluntary capacity. Retired or separated federal employees may accept an emeritus position without a break or mandatory waiting period.

Volunteers will not be permitted to monitor contracts on behalf of the government or to participate on any contracts or solicitations where a conflict of interest exists. The same rules that currently apply to source selection members will apply to volunteers.

An agreement will be established between the volunteer, the Center Director and the CPAC/CPOC Director. The agreement will be reviewed by the local Legal Office for ethics determinations under the Joint Ethics Regulation. The agreement must be

finalized before the assumption of duties and shall include:

(a) A statement that the voluntary assignment does not constitute an appointment in the civil service and is without compensation, and any and all claims against the Government (because of the voluntary assignment) are waived by the volunteer,

(b) A statement that the volunteer will be considered a federal employee for the purpose of injury compensation,

(c) Volunteer's work schedule,

(d) Length of agreement (defined by length of project or time defined by weeks, months, or years),

(e) Support provided by the Center (travel, administrative, office space, supplies),

(f) A one page Statement of Duties and Experience,

(g) A provision that states no additional time will be added to a volunteer's service credit for such purposes as retirement, severance pay, and leave as a result of being a member of the Voluntary Emeritus Program,

(h) A provision allowing either party to void the agreement with 10 working days written notice, and

(i) The level of security access required (any security clearance required by the assignment will be managed by the Center while the volunteer is a member of the Voluntary Emeritus Program).

*E. Employee Development*

1. Expanded Developmental Opportunity Program

The MRDEC Expanded Developmental Opportunity Program will be funded by the MRDEC, and it will cover all demonstration project employees in the Engineers and Scientists and the E&S Support occupational families. An expanded developmental opportunity complements existing developmental opportunities such as (1) long term training, (2) one year work experiences in an industrial setting via the Relations With Industry Program, (3) one year work experiences in laboratories of allied nations via the Science and Engineer Exchange Program, (4) rotational job assignments within the MRDEC, (5) up to one year developmental assignments in higher headquarters within the Army and Department of Defense, and (6) self directed study via correspondence courses and local colleges and universities.

Each developmental opportunity period should benefit the MRDEC, as well as increase the employee's individual effectiveness. Various learning or uncompensated developmental work experiences may be considered, such as advanced academic teaching or research, or on-the-job work experience with public or non-profit organizations. Employees will be eligible after completion of seven years of Federal service. Final approval authority will rest with the MRDEC Director, and selection of an employee to be granted an expanded developmental opportunity will be on a competitive basis. An expanded developmental opportunity period will not result in loss of (or reduction in) pay, leave to which the employee is otherwise entitled, or credit for time or service. Employees accepting an expanded developmental opportunity do not have to sign a continued service agreement cited in 5 U.S.C. 4108(a)(1) (Supplement 1995).

The opportunity to participate in the Expanded Developmental Opportunity Program will be announced annually. Instructions for application and the selection criteria will be included in the announcement. Final selection for participation in the program will be made by the Personnel Management Board. The position of employees on an expanded developmental opportunity may be backfilled with employees temporarily promoted or contingent employees or employees assigned via the simplified assignment process in III.A. However, that position or its equivalent must be made available to the employee returning from the expanded developmental opportunity.

2. Training for Degrees

Degree training is an essential component of an organization that requires continuous acquisition of advanced and specialized knowledge. Degree training in the academic environment of laboratories is also a critical tool for recruiting and retaining employees with or requiring critical skills. Constraints under current law and regulation limit degree payment to shortage occupations. In addition, current government wide regulations authorize payment for degrees based only on recruitment or retention needs. Degree payment is not permitted for non-shortage occupations involving critical skills.

The MRDEC proposes to expand the authority to provide degree payment for purposes of meeting critical skill requirements, to ensure continuous acquisition of advanced and specialized knowledge essential to the organization, and to recruit and retain personnel critical to the present and future requirements of the organization. Degree payment may not be authorized where it would result in a tax liability for the employee without the employee's express and written consent. It is expected that the degree payment authority will be used primarily and largely for advanced degrees, except where an undergraduate program is necessary to the attainment of an advanced degree or credits. Any variance from this policy must be rigorously determined and documented.

The MRDEC will develop guidelines to ensure competitive approval of degree payment and that such decisions are fully documented. In addition, this proposal shall be implemented consistent with 5 U.S.C. 4107(b)(2).

*F. Revised Reduction-in-Force (RIF) Procedures*

Introduction

Modifications include limiting competitive area to occupational families and increasing the emphasis on performance in the RIF Process. Retention criteria are in the following order; tenure, veterans' preference, service credit adjusted by a sum of the last three performance ratings. Current reduction in force regulations/ procedures have been adjusted in the context of the occupational family and the payband classification system. Also regulations are being modified by substituting ''same payband'' for ''same grade'' and ''one payband lower'' for ''three grades lower.''

Competitive Areas

Each of the four occupational families will be a separate competitive area and each competitive area will cover all geographic locations. Bumps and retreats will occur only within the competitive area and only to positions for which the employee is qualified in the same or next lower payband.

Competitive levels will be established based on the payband, classification series, and where responsibilities are similar enough in duties, qualification requirements, pay schedules, and working conditions so that an employee may be reassigned to any of the other positions within the level without requiring significant training or causing undue interruption. Separate competitive levels will be established for positions in the competitive and excepted service; for positions filled on a full-time, part-time, intermittent, seasonal, or on-call basis; and separate levels will be established for positions filled as a trainee or developmental.

Retention

Competing employees are listed on a retention register in the order shown

below. Each tenure group has three subgroups (30% or higher compensable veterans, other veterans, and non-veterans) and employees appear on the retention register in that order. Within each subgroup, employees are in order of years of service adjusted to include performance credit.

Tenure I (Career employees)
Tenure II (Career-Conditional employees)
Tenure III (Contingent employees)

In the Demonstration Project an employee can bump into a position, in the same occupational family in the same payband or one below, that is currently held by another employee in a lower retention subgroup. An employee may retreat within the same occupational family in the same band or one payband below the one that is currently held by another employee in the same subgroup who has lower adjusted RIF service computation date. A preference eligible with a compensable service-connected disability of 30 percent or more may displace employees in positions equivalent to five GS grades below the minimum grade level of his/her current band.

An employee with a current annual performance rating of U has assignment rights only to a position held by another employee who has a U rating. An employee who has been given a written decision of removal because of unacceptable performance will be placed at the bottom of the retention register for his/her competitive level.

Link Between Performance and Retention

An employee will have additional years of service added to the service computation date for retention purposes. The credit is applied for each of the last three annual performance ratings of record, received over the last four years, for a potential credit of 30 years. If an employee has less than three annual performance ratings of record, then for each missing rating, a rating of C will be assumed. Ratings given under nonDemo systems will be converted to the demo rating scheme and provided the equivalent rating credit.

Rating A adds 10 years
Rating B adds 7 years
Rating C adds 3 years
Rating U adds no credit for retention

Grade and Pay Retention

Except where waived or modified in the waivers section of this plan, grade and pay retention will follow current law and regulations.

IV. Training

*Introduction*

The key to the success or failure of the proposed demonstration project will be the training provided for all involved. This training will not only provide the necessary knowledge and skills to carry out the proposed changes, but will also lead to program commitment on the part of participants.

Training at the beginning of implementation and throughout the demonstration will be provided to supervisors, employees, and the administrative staff responsible for assisting managers in effecting the changeover and operation of the new system.

The elements to be covered in the orientation portion of this training will include: (1) a description of the personnel system, (2) how employees are converted into and out of the system, (3) the pay adjustment and/or bonus process, (4) familiarization with the new position descriptions and performance objectives, (5) the performance evaluation management system, (6) the reconsideration process, and (7) the demonstration project administrative and formal evaluation process. AFGE Local 1858 will be given an opportunity to describe their role and function in the demonstration program.

*Supervisors*

The focus of this project on management-centered personnel administration, with increased supervisory and managerial personnel management authority and accountability, demands thorough training of supervisors and managers in the knowledge and skills that will prepare them for their new responsibilities. Training will include detailed information on the policies and procedures of the demonstration project, skills training in using the classification system, position description preparation, performance evaluation, and interaction with AFGE Local 1858 as a partner. Additional training may focus on nonproject procedural techniques such as interpersonal and communication skills.

*Administrative Staff*

The administrative staff, generally personnel specialists, technicians, and administrative officers, will play a key role in advising, training, and coaching supervisors and employees in implementing the demonstration project. This staff will need training in the procedural and technical aspects of the project.

*Employees*

The MRDEC, in conjunction with the AFGE Local 1858 and education and development assets of the CPAC/CPOC will train employees covered under the demonstration project. In the months leading up to the implementation date, meetings will be held for employees to fully inform them of all project decisions, procedures, and processes.

V. Conversion

*Conversion to the Demonstration Project*

a. Initial entry into the demonstration project will be accomplished through a full employee protection approach that ensures each employee an initial place in the appropriate payband without loss of pay. Employees serving under regular term appointments at the time of the implementation of the demonstration project will be converted to the contingent employee appointment. Position announcement, etc. will not be required for these contingent employee appointments. An automatic conversion from current GS/GM grade and pay into the new broadband system will be accomplished.

Each employee's initial total salary under the demonstration project will equal the total salary received immediately before conversion. Employees who enter the demonstration project later by lateral reassignment or transfer will be subject to parallel pay conversion rules. If conversion into the demonstration project is accompanied by a geographic move, the employee's GS pay entitlements in the new geographic area must be determined before performing the pay conversion.

b. Employees who are on temporary promotions at the time of conversion will be converted to a payband commensurate with the grade of the position to which promoted. At the conclusion of the temporary promotion, the employee will revert to the payband which corresponds to the grade of record. When a temporary promotion is terminated, the employee's pay entitlements will be determined based on the employee's position of record, with appropriate adjustments to reflect pay events during the temporary promotion, subject to the specific policies and rules established by the MRDEC. In no case may those adjustments increase the pay for the position or record beyond the applicable pay range maximum rate. The only exception will be if the original competitive promotion announcement stipulated that the promotion could be made permanent; in these cases actions to make the temporary promotion permanent will be considered, and if

implemented, will be subject to all existing priority placement programs.

c. Employees who are covered by special salary rates, prior to the demonstration project, will no longer be considered a special rate employee under the Demonstration Project. These employees will, therefore, be eligible for full locality pay.

The adjusted salaries of these employees will not change. Rather, the employees will receive a new basic pay rate computed by dividing their adjusted basic pay (higher of special rate or locality rate) by the locality pay factor for their area. A full locality adjustment will then be added to the new basic pay rate. Adverse action and pay retention provisions will not apply to the conversion process as there will be no change in total salary.

d. During the first 12 months following conversion, employees will receive pay increases for non-competitive promotion equivalents when the grade level of the promotion is encompassed within the same broadband, the employee's performance warrants the promotion and promotions would have otherwise occurred during that period. Employees who receive an in-level promotion at the time of conversion will not receive a prorated step increase equivalent as defined below.

e. At the time of conversion each converted employee will be given a lump sum cash payment for the time credited to the employee toward what would have been the employee's next within-grade (step) increase. The payment for employees will be computed by: calculating the ratio of the number of weeks the employee will have spent in the current step through the week prior to the day of conversion, to the total number of weeks in the employee's current waiting period for a regular within-grade increase; and multiplying that ratio by the dollar value of the employee's next within-grade increase at the time of conversion.

*Conversion or Movement from a Project Position to a General Schedule Position*

If a demonstration project employee is moving to a General Schedule (GS) position not under the demonstration project, or if the project ends and each project employee must be converted back to the GS system, the following procedures will be used to convert the employee's project payband to a GS-equivalent grade and the employee's project rate of pay to GS equivalent rate of pay. The converted GS grade and GS rate of pay must be determined before movement or conversion out of the demonstration project and any accompanying geographic movement, promotion, or other simultaneous action. For conversions upon termination of the project and for lateral reassignments, the converted GS grade and rate will become the employee's actual GS grade and rate after leaving the demonstration project (before any other action). For transfers, promotions, and other actions, the converted GS grade and rate will be used in applying any GS pay administration rules applicable in connection with the employee's movement out of the project (e.g., promotion rules, highest previous rate rules, pay retention rules), as if the GS converted grade and rate were actually in effect immediately before the employee left the demonstration project.

a. Grade-Setting Provisions: An employee in a payband corresponding to a single GS grade is converted to that grade. An employee in a payband corresponding to two or more grades is converted to one of those grades according to the following rules:

(1) The employee's adjusted rate of basic pay under the demonstration project (including any locality payment) is compared with step 4 rates in the highest applicable GS rate range. (For this purpose, a ''GS rate range'' includes a rate in (1) the GS base schedule, (2) the locality rate schedule for the locality pay area in which the position is located, or (3) the appropriate special rate schedule for the employee's occupational series, as applicable.) If the series is a two-grade interval series, only odd-numbered grades are considered below GS–11.

(2) If the employee's adjusted project rate equals or exceeds the applicable step 4 rate of the highest GS grade in the band, the employee is converted to that grade.

(3) If the employee's adjusted project rate is lower than the applicable step 4 rate of the highest grade, the adjusted rate is compared with the step 4 rate of the second highest grade in the employee's payband. If the employee's adjusted rate equals or exceeds step 4 rate of the second highest grade, the employee is converted to that grade.

(4) This process is repeated for each successively lower grade in the band until a grade is found in which the employee's adjusted project rate equals or exceeds the applicable step 4 rate of the grade. The employee is then converted at that grade. If the employee's adjusted rate is below the step 4 rate of the lowest grade in the band, the employee is converted to the lowest grade.

(5) Exception: If the employee's adjusted project rate exceeds the maximum rate of the grade assigned under the above-described ''step 4'' rule but fits in the rate range for the next higher applicable grade (i.e., between step 1 and step 4), then the employee shall be converted to that next higher applicable grade.

(6) Exception: An employee will not be converted to a lower grade than the grade held by the employee immediately preceding a conversion, lateral reassignment, or lateral transfer into the project, unless since that time the employee has undergone a reduction in band.

b. Pay-Setting Provisions: An employee's pay within the converted GS grade is set by converting the employee's demonstration project rate of pay to GS rate of pay in accordance with the following rules:

(1) The pay conversion is done before any geographic movement or other pay-related action that coincides with the employee's movement or conversion out of the demonstration project.

(2) An employee's adjusted rate of basic pay under the project (including any locality payment) is converted to a GS adjusted rate on the highest applicable rate range for the converted GS grade. (For this purpose, a ''GS rate range'' includes a rate range in (1) the GS base schedule, (2) an applicable locality rate schedule, or (3) an applicable special rate schedule.)

(3) If the highest applicable GS rate range is a locality pay rate range, the employee's adjusted project rate is converted to a GS locality rate of pay. If this rate falls between two steps in the locality-adjusted schedule, the rate must be set at the higher step. The converted GS unadjusted rate of basic pay would be the GS base rate corresponding to the converted GS locality rate (i.e., same step position). (If this employee is also covered by a special rate schedule as a GS employee, the converted special rate will be determined based on the GS step position. This underlying special rate will be basic pay for certain purposes for which the employee's higher locality rate is not basic pay.)

(4) If the highest applicable GS rate range is a special rate range, the employee's adjusted project rate is converted to a special rate. If this rate falls between two steps in the special rate schedule, the rates must be set at the higher step. The converted GS unadjusted rates of basic pay will be the GS rates corresponding to the converted special rate (i.e., same step position).

c. Within-Grade Increase—Equivalent Increase Determinations: Service under the demonstration project is creditable for within-grade increase purposes upon conversion back to the GS pay system. Performance pay increases (including a

zero increase) under the demonstration project are equivalent increases for the purpose of determining the commencement of a within-grade increase waiting period under 5 CFR 531.405(b).

*Personnel Administration*

All personnel laws, regulations, and guidelines not waived by this plan will remain in effect. Basic employee rights will be safeguarded and merit principles will be maintained. Supporting personnel specialists will continue to process personnel-related actions and provide consultative and other appropriate services.

*Automation*

The MRDEC will continue to use the Defense Civilian Personnel Data System (DCPDS) for the processing of personnel-related data. Payroll servicing will continue from the respective payroll offices.

Local automated systems will be developed to support computation of performance related pay increases and awards and other personnel processes and systems associated with this project.

*Experimentation and Revision*

Many aspects of a demonstration project are experimental. Modifications may be made from time to time as experience is gained, results are analyzed, and conclusions are reached on how the system is working. The MRDEC will make minor modifications, such as changes in the occupational series in a occupational family without further notice. Major changes, such as a change in the number of occupational families, will be published in the Federal Register.

VI. Project Duration

Public Law 103–337 removed any mandatory expiration date for this demonstration. The project evaluation plan adequately addresses how each intervention will be comprehensively evaluated for at least the first 5 years of the demonstration. Major changes and modifications to the interventions can be made through announcement in the Federal Register and would be made if formative evaluation data warranted. At the 5 year point, the entire demonstration will be reexamined for either: (a) permanent implementation, (b) change and another 3–5 year test period, or (c) expiration.

VII. Evaluation Plan

Chapter 47 (Title 5 U.S.C.) requires that an evaluation system be implemented to measure the effectiveness of the proposed personnel management interventions. An evaluation plan for the entire laboratory demonstration program covering 24 DoD labs was developed by a joint OPM/DOD Evaluation Committee. A Comprehensive evaluation plan was submitted to the Office of Defense Research & Engineering in 1995 and subsequently approved (Proposed Plan for Evaluation of the Department of Defense S&T Laboratory Demonstration Program, Office of Merit Systems Oversight & Effectiveness, June 1995). The overall evaluation effort will be coordinated and conducted by OPM's Personnel Resources and Development Center (PRDC). The primary focus of the evaluation is to determine whether the waivers granted result in a more effective personnel system than the current as well as an assessment of the costs associated with the new system.

The present personnel system with its many rigid rules and regulations is generally perceived as an impediment to mission accomplishment. The Demonstration Project is intended to remove some of those barriers and therefore, is expected to contribute to improved organizational performance. While it is not possible to prove a direct causal link between intermediate and ultimate outcomes (improved personnel system performance and improved organizational effectiveness), such a linkage is hypothesized and data will be collected and tracked for both types of outcome variables.

An intervention impact model (Appendix B) will be used to measure the effectiveness of the various personnel system changes or interventions. Additional measures will be developed as new interventions are introduced or existing interventions modified consistent with expected effects. Measures may also be deleted when appropriate. Activity specific measures may also be developed to accommodate specific needs or interests which are locally unique.

The evaluation model for the Demonstration Project identifies elements critical to an evaluation of the effectiveness of the interventions. The overall evaluation approach will also include consideration of context variables that are likely to have an impact on project outcomes: e.g., HRM regionalization, downsizing, cross-service integration, and the general state of the economy. However, the main focus of the evaluation will be on intermediate outcomes, i.e., the results of specific personnel system changes which are expected to improve human resources management. The ultimate outcomes are defined as improved organizational effectiveness, mission accomplishment, and customer satisfaction.

Data from a variety of different sources will be used in the evaluation. Information from existing management information systems supplemented with perceptual data will be used to assess variables related to effectiveness. Multiple methods provide more than one perspective on how the demonstration project is working. Information gathered through one method will be used to validate information gathered through another. Confidence in the findings will increase as they are substantiated by the different collection methods. The following types of data will be collected as part of the evaluation: (1) Workforce data; (2) personnel office data; (3) employee attitudes and feedback using surveys, structured interviews, and focus groups; (4) local activity histories; and, (5) core measures of laboratory effectiveness.

VIII. Demonstration Project Costs

Costs associated with the development of the personnel demonstration system include software automation, training, and project evaluation. All funding will be provided through the MICOM/MRDEC budget. The projected annual expenses for each area is summarized in Table 1.

TABLE 1.—Projected Developmental Costs (Then Year Dollars)

| | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 |
|---|---|---|---|---|---|---|
| Training | $6K | $99K | $12K | | | |
| Project Evaluation | $25K | $60K | $60K | $60K | $60K | $60K |
| Automation | $80K | $10K | | | | |

TABLE 1.—Projected Developmental Costs (Then Year Dollars)

| | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 |
|---|---|---|---|---|---|---|
| Totals | $111K | $169K | $72K | $60K | $60K | $60K |

IX. Required Waivers to Law and Regulation

Public Law 103–337 gave the DoD the authority to experiment with several personnel management innovations. In addition to the authorities granted by the law, the following are the waivers of law and regulation that will be necessary for implementation of the Demonstration Project. In due course, additional laws and regulations may be identified for waiver request.

1. Title 5, U.S. Code

Chapter 31, Section 3111: Acceptance of Volunteer Service—To the extent that the acceptance of retired or separated engineers and scientists are not included as volunteers under current statute.

Chapter 33, Section 3324: Appointment to positions classified above GS–15.

Chapter 41, Section 4107: Pay for Degrees.

Chapter 41, Section 4108: Employee Agreements; Service after Training—To the extent that employees who accept an expanded developmental opportunity (sabbatical) do not have to sign a continued service agreement.

Chapter 43, Sections 4301(3): Definitions.

Chapter 43, Section 4302: Establishment of Performance Appraisal Systems.

Chapter 43, Section 4303(a), (b), and (c): Actions Based on Unacceptable Performance.

Chapter 51, Sections 5101–5111: Related to classification standards and grading; to the extent that white collar employees will be covered by broadbanding. Pay category determination criteria for federal wage system positions remain unchanged.

Chapter 53, Sections 5301, 5302 (8) and (9), 5303 and 5304: Sections 5301, 5302, and 5304 are waived only to the extent necessary to allow demonstration project employees to be treated as General Schedule employees and to allow basic rates of pay under the demonstration project to be treated as scheduled rates of pay. This waiver does not apply to ST employees who continue to be covered by these provisions, as appropriate.

Chapter 53, Section 5305: Special Rates.

Chapter 53, Sections 5331–5336: General Schedule pay rates.

Chapter 53, Sections 5361–5366: Grade and pay retention—This waiver applies only to the extent necessary to (1) replace ''grade'' with ''payband''; (2) allow demonstration project employees to be treated as General Schedule employees; (3) provide that pay retention provisions do not apply to conversions from General Schedule special rates to demonstration project pay, as long as total pay is not reduced, and to reductions in pay due solely to the removal of a supervisory pay adjustment upon voluntarily leaving a supervisory position; and (4) provide that an employee on pay retention whose performance rating is ''U'' is not entitled to 50 percent of the amount of the increase in the maximum rate of basic pay payable for the payband of the employee's position. This waiver does not apply to ST employees unless they move to a GS-equivalent position under the demonstration project under conditions that trigger entitlement to pay retention.

Chapter 55, Section 5545(d): Hazardous duty differential—This waiver applies only to the extent necessary to allow demonstration project employees to be treated as General Schedule employees. This waiver does not apply to ST employees.

Chapter 57, Section 5753, 5754, and 5755: Recruitment and Relocation Bonuses, Retention Allowances and Supervisory Differentials—This waiver applies only to the extent necessary to allow employees and positions under the demonstration project to be treated as employees and positions under the General Schedule. This waiver does not apply to ST employees who continue to be covered by these provisions, as appropriate.

Chapter 75, Section 7512(3): Adverse actions—This waiver applies only to the extent necessary to replace ''grade'' with ''payband''.

Chapter 75, Section 7512(4): Adverse actions—This waiver applies only to the extent necessary to provide that adverse action provisions do not apply to (1) conversions from General Schedule special rates to demonstration project pay, as long as total pay is not reduced and (2) reductions in pay due to the removal of a supervisory pay adjustment upon voluntary movement to a nonsupervisory position.

2. Title 5, Code of Federal Regulations

Part 300.601–605: Time-in-Grade requirements—Restrictions eliminated under the demonstration.

Part 308.101 through 308.103: Volunteer Service—To the extent that retired engineers/scientists can perform voluntary services.

Part 315.801 and 315.802: Probationary Period—Demonstration project employees in some occupational families will have extended probationary period.

Part 316.301: Term Appointments—Adding years to exceed 4.

Part 316.303: Tenure of Term Employees—Demonstration allows for conversion.

Part 316.305: Eligibility for Within-Grade Increases.

Part 351.402(b): Competitive Areas—Demonstration establishes Competitive Areas by Occupational Family.

Part 351.403: Competitive level—To the extent that payband is substituted for grade.

Part 351.504: Credit for Performance—As it relates to years of credit.

Part 351.701: Assignment Involving Displacement—To the extent that employees bump and retreat rights will be limited to one payband except in the case of 30% preference eligibles which is a position equivalent to five GS grades below the minimum grade level of his/her payband.

Part 430 subpart B, Performance Appraisal for General Schedule, Prevailing Rate, and Certain Other Employees: Employees under the demonstration project will not be subject to the requirements of this subpart.

Part 432: Modified to the extent that an employee may be removed, reduced in band level with a reduction in pay, reduced in pay without a reduction in band level and reduced in band level without a reduction in pay based on unacceptable performance. Also modified to delete reference to critical element. For employees who are reduced in band level without a reduction in pay, Sections 432.105 and 432.106(a) do not apply.

Part 432, Sections 104 and 105: Proposing and Taking Action Based on Unacceptable Performance.

Part 511: Classification Under the General Schedule—To the extent that grades are changed to broadbands, and that white collar positions are covered by broadbanding.

Part 530, subpart C: Special salary rates.

Part 531, subparts B, D, and E: Determining rate of basic pay, within-grade increases, and quality step increases.

Part 531, subpart F: Locality pay—This waiver applies only to the extent necessary to allow demonstration project employees to be treated as General Schedule employees, and basic rates of pay under the demonstration project to be treated as scheduled annual rates of pay. This waiver does not apply to ST employees who continue to be covered by these provisions, as appropriate.

Part 536: Grade and pay retention—This waiver applies only to the extent necessary to (1) replace ''grade'' with ''payband'; (2) provide that pay retention provisions do not apply to conversions from General Schedule special rates to demonstration project pay, as long as total pay is not reduced, and to reductions in pay due solely to the removal of a supervisory pay adjustment upon voluntarily leaving a supervisory position; and (3) provide that an employee on pay retention whose performance rating is ''U'' is not entitled to 50 percent of the amount of the increase in the maximum rate of basic pay payable for the payband of the employee's position. This waiver does not apply to ST employees unless they move to a GS-equivalent position under the demonstration project under conditions that trigger entitlement to pay retention.

Part 550.703: Severance Pay—This waiver applies only to the extent necessary to modify the definition of ''reasonable offer'' by replacing ''two grade or pay levels'' with ''one band level'' and ''grade or pay level'' with ''band level'.

Part 550.902: Hazardous Duty Differential—This waiver applies only to the extent necessary to allow demonstration project employees to be treated as General Schedule employees. This waiver does not apply to ST employees.

Part 575, subparts A, B, C, and D: Recruitment Bonuses, Relocation Bonuses, Retention Allowances and Supervisory Differentials—This waiver applies only to the extent necessary to allow employees and positions under the demonstration project covered by broadbanding to be treated as employees and positions under the General Schedule. This waiver does not apply to ST employees who continue to be covered by these provisions, as appropriate.

Part 752.401 (a)(3): Adverse Actions—This waiver applies only to the extent necessary to replace ''grade'' with ''payband.'

Part 752.401(a)(4): Adverse Actions—This waiver applies only to the extent necessary to provide that adverse action provisions do not apply to (1) conversions from General Schedule special rates to demonstration project pay, as long as total pay is not reduced and (2) reductions in pay due to the removal of a supervisory pay adjustment upon voluntary movement to a nonsupervisory position.

Appendix A: Occupational Series by Occupational Family

*I. Engineers & Scientists*

0801 General Engineer
0806 Materials Engineer
0808 Architecture
0810 Civil Engineer
0819 Environmental Engineer
0830 Mechanical Engineer
0850 Electrical Engineer
0854 Computer Engineer
0855 Electronics Engineer
0861 Aerospace Engineer
0892 Ceramics Engineer
0893 Chemical Engineer
0896 Industrial Engineer
0899 Student Trainee (Engr)
1301 Physical Scientist
1310 Physicist
1320 Chemist
1321 Metallurgist
1515 Operations Research Analyst
1520 Mathematician
1529 Mathematician Stat
1550 Computer Scientist

*II. E&S Support*

0028 Environ Protec Specialist
0301 Data & Configuration Management, Standardization
0334 Computer Specialist
0391 Telecommunications
0802 Engineering Technician
0809 Construction Rep
0856 Electronics Technician
1001 General Arts & Information
1040 Language Specialist
1082 Technical Information Writer
1083 Technical Writer/Editor
1150 Industrial Specialist
1311 Physical Sciences Tech
1410 Librarian (Phy Sci & Engr)
1412 Technical Information Spec
1499 Student Trainee
1521 Mathematics Technician
1670 Equipment Specialist
1910 Quality Assurance Specialist

*III. Business Management*

0301 Misc Admin & Program
0340 Program Manager
0341 Administrative Officer
0342 Support Services Spec
0343 Mgmt/Prog Analyst
0560 Budget Analyst
1102 Contract Specialist
2001 General Supply Spec

*IV. General Support*

0085 Guard
0302 Messenger
0303 Misc Clerk and Asst
0305 Mail Clerk
0312 Clerk-Stenographer
0318 Secretary
0326 Ofc Automation Clerk
0344 Management Assistant
0561 Budget Assistant
1106 Procurement Clerk
1411 Library Technician
2005 Supply Technician

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## Appendix B: Project Evaluation and Oversight

## Intervention Impact Model - DoD Lab Demonstration Program

1. Compensation

| INTERVENTION | EXPECTED EFFECTS | MEASURES | DATA SOURCES |
|---|---|---|---|
| a. Broadbanding | -increased organizational flexibility | -perceived flexibility | -attitude survey |
| | -reduced administrative workload, paperwork reduction | -actual/perceived time savings | -personnel office data, PME results, attitude survey |
| | -advanced in-hire rates | -starting salaries of banded v. non-banded employees | -workforce data |
| | -slower pay progression at entry levels | -progression of new hires over time by band, career path | -workforce data |
| | -increased pay potential | -mean salaries by band, career path, demographics<br>-total payroll cost | -workforce data |
| | -increased satisfaction with advancement | -employee perceptions of advancement | -workforce data |
| | -increased pay satisfaction | -pay satisfaction, internal/external equity | -attitude survey |
| | -improved recruitment | -offer/acceptance ratios | -personnel office data |
| | -no change in high grade (GS-14/15) distribution | -percent declinations<br>-number/percentage of high grade salaries pre/post banding | -workforce data |
| b. Conversion buy-in | -employee acceptance | -employee perceptions of equity, fairness<br>-cost as a percent of payroll | -attitude survey<br>-workforce data |

2. Performance Management

| INTERVENTION | EXPECTED BENEFITS | MEASURES | DATA SOURCES |
|---|---|---|---|
| a. Cash awards/ bonuses | -reward/motivate performance | -perceived motivational power | -attitude survey |
| | -to support fair and appropriate distribution of awards | -amount and number of awards by career path, demographics, | -workforce data |
| | | -perceived fairness of awards | -attitude survey |
| | | -satisfaction with monetary awards | -attitude survey |
| b. Performance/ contribution based pay progression | -increased pay-performance link | -perceived pay-performance link | -attitude survey |
| | | -perceived fairness of ratings | -attitude survey |
| | -improved performance feedback | -satisfactions with ratings | -attitude survey |
| | | -employee trust in supervisors | -attitude survey |
| | | -adequacy of performance feedback | -attitude survey |
| | -decreased turnover of high performers/increased turnover of low performers | -turnover by performance rating category | -workforce data |
| | -differential pay progression of high/low performers | -pay progression by performance rating category, career path | -workforce data |
| | -alignment of organizational and individual performance expectations and results | -linkage of performance expectations to strategic plans/ goals | -performance expectations, strategic plans |
| | | -performance expectations | -attitude survey/ focus groups |
| | -increased employee involvement in performance planning and assessment | -perceived involvement | -attitude survey/ focus groups |
| | | -performance management procedures | -personnel regulations |
| c. New appraisal process | -reduced administrative burden | -employee and supervisor perception of revised procedures | -attitude survey |
| | -improved communication | -perceived fairness of process | -focus group |
| d. Performance development | -better communication of performance expectations | -feedback and coaching procedures used | -focus groups |
| | | -time, funds spend on training by demographics | -personnel office data |
| | -improved satisfaction and quality of workforce | -organizational commitment | -training records |
| | | -perceived workforce quality | -attitude surveys |

3. "White Collar" Classification

| INTERVENTION | EXPECTED EFFECTS | MEASURES | DATA SOURCES |
|---|---|---|---|
| a. Improved classification systems with generic standards | -reduction in amount of time and paperwork spent on classification | -time spent on classification procedures<br>-reduction of paperwork/number of personnel actions (classification/promotion) | -personnel office data |
| | -ease of use | -managers' perceptions of time savings, ease of use, improved ability to recruit | -attitude survey |
| | -improved recruitment of employees with appropriate skills | -quality of recruits<br>-perceived quality of recruits<br>-GPA's of new hires, educational levels | -focus groups/ interviews<br>-personnel office data |
| b. Classification authority delegated to managers | -increased supervisory authority/accountability | -perceived authority | -attitude survey |
| | -decreased conflict between management and personnel staff | -number of classification disputes/appeals pre/post<br>-management satisfaction with service provided by personnel office | -personnel records<br>-attitude survey |
| | -no negative impact on internal pay equity | -internal pay equity | -attitude survey |
| c. Dual career ladder | -increased flexibility to assign employees | -assignment flexibility | -focus groups, surveys |
| | -improved internal mobility | -sup/non-sup ratios | -workforce data |
| | -increased pay equity | -perceived internal mobility | -attitude survey |
| | -flatter organization | -perceived pay equity<br>-supervisory/non-supervisory ratios | -attitude survey<br>-workforce data |
| | -improved quality of supervisory staff | -employee perceptions of quality of supervisors | -attitude survey |

4. RIF

| INTERVENTION | EXPECTED EFFECTS | MEASURES | DATA SOURCES |
|---|---|---|---|
| Modified RIF | -prevent loss of high performing employees with needed skills<br>-contain cost and disruption | -separated employees by demographics, performance<br>-satisfaction with RIF process<br>-cost comparisons of traditional v. modified RIF<br>-time to conduct RIF<br>-number of appeals/ reinstatements | -workforce data<br>-attitude survey/ focus groups<br>-attitude survey/ focus groups |

5. COMBINATION OF ALL INTERVENTIONS

| INTERVENTION | EXPECTED EFFECTS | MEASURES | DATA SOURCES |
|---|---|---|---|
| All | -improved organizational effectiveness | -combination of personnel measures | -all data sources |
| | -improved management of R&D workforce | -employee/management satisfaction | -attitude survey |
| | -improved planning | -planning procedures | -strategic planning documents |
| | -cross functional coordination | -perceived effectiveness of planning procedures | -organizational charts |
| | | -actual/perceived coordination | -attitude survey |
| | -increased product success | -customer satisfaction | -customer satisfaction surveys |
| | -cost of innovation | -project training/development cost (staff salaries, contract cost, training hours per employee) | -demo project records<br>-contract documents |

6. CONTEXT

| INTERVENTION | EXPECTED EFFECTS | MEASURES | DATA SOURCES |
|---|---|---|---|
| a. Regionalization | -reduced servicing ratio/ cost | -HR servicing ratio | -workforce data/ personnel office data |
| | | -average cost per employee served | -workforce data/ personnel office data |
| | -no negative impact on service quality | -service quality, timeliness | -attitude survey/ focus groups |
| b. GPRA | -improved organizational performance | -other measures to be developed | -as established |

Appendix C. Performance Elements

All employees will be rated against at least the five generic performance elements listed through ''e'' below. Technical competence is a mandatory critical element. Other elements may be identified as critical by agreement between the rater and the employee. In case of disagreements, the decision of the supervisor will prevail. Generally, any performance element weighted 25 or higher should be critical. However, only those employees whose duties require manager/leader responsibilities will be rated on element ''f.'' Supervisors will be rated against an additional critical performance element, listed at ''g'' below:

a. *Technical Competence.* Exhibits and maintains current technical knowledge, skills, and abilities to produce timely and quality work with the appropriate level of supervision. Makes prompt, technically sound decisions and recommendations that add value to mission priorities and needs. For appropriate career paths, seeks and accepts developmental and/or special assignments. Adaptive to technological change. (Weight range: 15 to 50)

b. *Working Relationships.* Accepts personal responsibility for assigned tasks. Considerate of others' views and open to compromise on areas of difference, if allowed by technology, scope, budget, or direction. Exercises tact and diplomacy and maintains effective relationships, particularly in immediate work environment and teaming situations. Always willing to give assistance. Shows appropriate respect and courtesy. (Weight Range: 5 to 15)

c. *Communications.* Provides or exchanges oral/written ideas and information in a manner that is timely, accurate and cogent. Listens effectively so that resultant actions show understanding of what was said. Coordinates so that all relevant individuals and functions are included in, and informed of, decisions and actions. (Weight Range: 5 to 15)

d. *Resource Management.* Meets schedules and deadlines, and accomplishes work in order of priority; generates and accepts new ideas and methods for increasing work efficiency; effectively utilizes and properly controls available resources; supports organization's resource development and conservation goals. (Weight Range: 15 to 50)

e. *Customer Relations.* Demonstrates care for customers through respectful, courteous, reliable and conscientious actions. Seeks out and develops solid working relationships with customers to identify their needs, quantifies those needs, and develops practical solutions. Keeps customer informed and prevents surprises. Within the scope of job responsibility, seeks out and develops new programs and/or reimbursable customer work. (Weight Range: 10 to 50)

f. *Management/Leadership.* Actively furthers the mission of the organization. As appropriate, participates in the development and implementation of strategic and operational plans of the organization. Develops and implements tactical plans. Exercises leadership skills within the environment. Mentors junior personnel in career development, technical competence, and interpersonal skills. Exercises due responsibility of technical/acquisition/organizational positions assigned to them. (Weight Range: 0 to 50)

g. *Supervision/EEO.* Works toward recruiting, developing, motivating, and retaining quality team members; takes timely/appropriate personnel actions, applies EEO/merit principles; communicates mission and organizational goals; by example, creates a positive, safe, and challenging work environment; distributes work and empowers team members. (Weight Range: 15 to 50)

## Appendix D. Benchmark Performance Standards

## ELEMENT POINT-RANGES AND PERFORMANCE STANDARDS

THESE BENCHMARK PERFORMANCE STANDARDS ARE USED TO EVALUATE AND SCORE PERFORMANCE AGAINST THE WEIGHTED PERFORMANCE ELEMENTS. THIS SHEET MUST BE USED IN CONJUNCTION WITH BENCHMARK JOB DESCRIPTION AND PERFORMANCE OBJECTIVES

| | ELEMENT WEIGHTS | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | 50 | 45 | 40 | 35 | 30 | 25 | 20 | 15 | 10 | 5 |
| **100%** Performance elements were attained demonstrating exceptional initiative, versatility, originality, and creativity. This individual demonstrates the ability to grasp, understand, organize, and convey complex issues to others and carry the job assignment to successful completion with minimum direct supervision. Performance elements were effectively achieved utilizing cooperation, responsiveness, conflict avoidance, or conflict resolution. Written and oral communications were appropriately demonstrated effectively and efficiently. Performance elements were achieved with demonstrated leadership, integrity, competency, commitment, candor, and sense of duty. | 49 | 44 | 39 | 34 | 29 | | | | | |
| | 48 | | | | | 24 | | | | |
| | | 43 | 38 | | | | 19 | | | |
| | 47 | 42 | | 33 | 28 | | | | | |
| | 46 | | 37 | | | 23 | | 14 | | |
| | | 41 | | 32 | | | | | | |
| | 45 | | 36 | | 27 | | 18 | | 9 | |
| | | 40 | | 31 | | 22 | | | | |
| | 44 | | 35 | | | | | | | |
| | 43 | 39 | | 30 | 26 | | | | | |
| | | 38 | 34 | | | | 17 | | | |
| | 42 | | | 29 | 25 | 21 | | | | |
| | 41 | 37 | 33 | | | | | | | |
| | 40 | 36 | 32 | 28 | 24 | 20 | 16 | 12 | 8 | 4 |
| | 39 | 35 | 31 | | 23 | | | | | |
| | 38 | 34 | | 27 | | 19 | | | | |
| | | | 30 | | | | 15 | | | |
| | 37 | 33 | | 26 | 22 | | | 11 | | |
| | 36 | | 29 | | | 18 | | | | |
| | | 32 | | 25 | | | | | | |
| **70%** Performance elements were attained effectively and efficiently with consistently high quality and quantity of work. This individual has demonstrated the ability to complete the job assignments in an efficient, orderly sequence that culminated in results that were timely, correct, thorough and cost effective. Performance elements were attained with consistently above average quality and reliability while effectively utilizing accepted procedures and resolving problems with skill and resourcefulness. Performance elements were attained with consistently productive cooperative efforts and with clear, precise, and convincing written and oral communication. | 35 | | 28 | | 21 | | 14 | | 7 | |
| | | 31 | | 24 | | | | | | |
| | 34 | | 27 | | | 17 | | | | |
| | 33 | 30 | | 23 | 20 | | | 10 | | |
| | | | 26 | | | | 13 | | | |
| | 32 | 29 | | 22 | | 16 | | | | |
| | 31 | 28 | 25 | | 19 | | | | | |
| | 30 | 27 | 24 | 21 | 18 | 15 | 12 | 9 | 6 | 3 |
| | 29 | 26 | 23 | | | | | | | |
| | 28 | | | 20 | 17 | 14 | | | | |
| | | 25 | 22 | | | | 11 | | | |
| | 27 | 24 | | 19 | 16 | | | | | |
| | 26 | | 21 | | | | | | | |
| | | 23 | | 18 | | 13 | | | | |
| **50%** Performance elements were accomplished, were mostly reliable, and delivered without unacceptable delays. Procedures were minimally correct and problems were dealt with satisfactorily. Attained performance elements, using work methodology that demonstrated a reasonable degree of cooperation with others with clear and concise written and oral communications. | 25 | | 20 | | 15 | | 10 | | 5 | |
| **UNSATISFACTORY** | 24 | 22 | 19 | 17 | 14 | 12 | 9 | 7 | 4 | 2 |

Performance elements were not successfully completed because of failure in quality, quantity, completeness, responsiveness, or timeliness of work. Performance elements products were deficient, because they were contrary to direction or guidelines; did not meet minimum specifications; were inconsistent with organizational procedures; were significantly flawed or substandard in quality; demonstrated insufficient technical knowledge or skill; were incomplete; were unacceptably late; lacked essential cooperative involvement or support; or problems that arose during performance of performance elements activities were not satisfactory resolved.

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## Part IV

# Office of Personnel Management

**Propose Laboratory Personnel Management Demonstration Project; Department of the Army, U.S. Army Engineer Waterways Experiment Station, Vicksburg, Mississippi; Notice**

## OFFICE OF PERSONNEL MANAGEMENT

### Proposed Laboratory Personnel Management Demonstration Project; Department of the Army, U.S. Army Engineer Waterways Experiment Station, Vicksburg, Mississippi

**AGENCY:** Office of Personnel Management.

**ACTION:** Notice of Intent to Implement Demonstration Project.

**SUMMARY:** Title V of the Civil Service Reform Act, 5 U.S.C. 4703, authorizes the Office of Personnel Management (OPM) to conduct demonstration projects that experiment with new and different personnel management concepts to determine whether such changes in personnel policy or procedures would result in improved Federal personnel management.

Public Law 103–337, October 5, 1994, permits the Department of Defense (DoD), with the approval of the OPM, to carry out personnel demonstration projects generally similar to the China Lake demonstration project at DoD Science and Technology (S&T) reinvention laboratories. The Army is proposing demonstration projects initially to cover five of its S&T reinvention laboratories: the Army Research Laboratory; the Army Missile Research, Development, and Engineering Center; the Army Aviation Research and Development Center; the Army Medical Research and Materiel Command; and the Army Engineer Waterways Experiment Station. This proposal is for the Army Engineer Waterways Experiment Station (WES).

**DATES:** To be considered, written comments must be submitted on or before May 20, 1997; the public hearing will be scheduled as follows: Friday, May 2, 1997, at 10:00 a.m., in Vicksburg, Mississippi. At the time of the hearing, interested persons or organizations may present their written or oral comments on the proposed demonstration project. The hearing will be informal. However, anyone wishing to testify should contact the person listed under **FOR FURTHER INFORMATION CONTACT,** and state the hearing location, so that OPM can plan the hearings and provide sufficient time for all interested persons and organizations to be heard. Priority will be given to those on the schedule, with others speaking in any remaining available time. Each speaker's presentation will be limited to ten minutes. Written comments may be mailed to Fidelma A. Donahue, U.S. Office of Personnel Management, 1900 E Street, NW, Room 7460, Washington, DC 20415; public hearing will be held at the following location: U.S. Army Engineer Waterways Experiment Station, Building 1006, 3909 Halls Ferry Road, Vicksburg, Mississippi.

**FOR FURTHER INFORMATION CONTACT:** (1) On proposed demonstration project: Dr. C. H. Pennington, U.S. Army Engineer Waterways Experiment Station, ATTN: CEWES–ZT–E, 3909 Halls Ferry Road, Vicksburg, Mississippi 39180–6199, phone 601–634–3549; on proposed demonstration project and public hearings: Fidelma A. Donahue, U.S. Office of Personnel Management, 1900 E Street, NW, Room 7460, Washington, DC 20415, phone 202–606–1138.

**SUPPLEMENTARY INFORMATION:** Since 1966, at least 19 studies of DoD laboratories have been conducted on laboratory quality and personnel. Almost all of these studies have recommended improvements in civilian personnel policy, organization, and management. The proposed project involves simplified job classifications, pay banding, a contribution-based compensation system, streamlined hiring processes, and modified Reduction-in-Force (RIF) procedures.

Office of Personnel Management

James B. King,

*Director.*

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I. Executive Summary

The Department of the Army (DA) proposes to establish, as a demonstration project, a Personnel Demonstration Project generally similar to the system currently in use at the Navy Personnel Demonstration Project known as ''China Lake.'' The Personnel Demonstration Project will be implemented initially at five Army Science and Technology (S&T) Reinvention Laboratory sites, and will be developed to be in-house budget neutral, based on a baseline of September 1995 in-house costs and consistent with the DA plan to downsize the DA laboratories and research and development (R&D) centers. An in-house budget is a compilation of costs of the many diverse components required to fund the day-to-day operations of a laboratory. These components generally include pay of people (labor, benefits, overtime, awards), training, travel, supplies, non-capital equipment, and other costs depending on the specific function of the activity.

This project was designed by the Assistant Secretary of the Army for Research, Development and Acquisition with the support of the Assistant Secretary of the Army for Civil Works, and the participation of five Army S&T Reinvention Laboratories. Review was provided by the US Army Corps of Engineers, DA, DoD, and OPM. Phases of the project that address non-Title 5 issues began as early as 1 October 1995, with implementation of Title 5 initiatives beginning no earlier than Spring 1997.

The project is built upon the concepts of linking performance to pay for all covered positions, simplifying paperwork in the processing of classification and other personnel actions, emphasizing partnerships among management, employees, and unions, and delegating classification and other authorities to line managers.

II. Introduction

*A. Purpose*

The quality of DoD laboratories, their people, and products has been under intense scrutiny in recent years. This perceived deterioration of quality is due, in substantial part, to the erosion of control which line managers have over their human resources. This demonstration, in its entirety, attempts to provide managers, at the lowest practical level, the authority, control, and flexibility needed to achieve quality laboratories and quality products. The purposes of the demonstration project are to: improve the hiring process and

allow WES to compete more effectively for high-quality personnel; motivate and retain staff, through pay for performance, sabbaticals, and a more responsive personnel system; strengthen the manager's role in personnel management through increased delegation of personnel authorities; increase the efficiency of the personnel system by simplifying the classification system through broad banding and reduction of guidelines, steps, and paperwork; and create a model that could be adopted by other government agencies.

This project will be under the joint sponsorship of the Assistant Secretary of the Army for Research, Development and Acquisition and the Assistant Secretary of the Army for Manpower and Reserve Affairs. The MACOM Commander of the participating Army S&T Reinvention Laboratory will execute and manage the project.

Project oversight will be achieved by an executive steering committee made up of top-level executives, co-chaired by the Deputy Assistant Secretary of the Army for Research and Technology and the Deputy Assistant Secretary of the Army (Civilian Personnel Policy)/ Director, Civilian Personnel. Oversight external to the Army will be provided by DoD and OPM.

*B. Problems With the Present System*

The civilian personnel system currently in use at DoD laboratories has several major inefficiencies, which hinder management's ability to recruit and retain the best qualified personnel. Line managers have only limited flexibility to administer personnel resources, and existing personnel regulations are often in conflict with line management's ability to perform world-class research. Laboratory managers are frustrated in their attempts to hire the best and brightest engineers and scientists (E&S).

The classification system requires lengthy, narrative, individual position descriptions, which have to be classified by the use of complex and often outdated position classification standards. The system causes delays in recruiting, reassigning, promoting, and removing employees. Rewarding or taking a performance based action requires inordinate paperwork and time, often discouraging managers from pursuing critical actions. Few incentives, with limited flexibility, exist in dealing with all levels of the workforce, and pay is not always commensurate with performance. The current reduction-in-force (RIF) system does not adequately recognize performance as a major criterion in RIF situations. The RIF rules are complex, and difficult to understand and administer. The RIF process disrupts operations, due to displacement of employees within their competitive levels and in the exercise of bumping and retreat rights.

*C. Changes Required and Expected Benefits*

This project is expected to demonstrate that a human resource management system tailored to the mission and need of WES will result in: increased quality in the engineering and science workforce and the laboratory products they produce; increased timeliness of key personnel processes; trended workforce data that reveals increased retention of excellent contributors and separation rates of poor contributors; and increased customer satisfaction with the laboratory and its products by customers serviced.

This demonstration program builds on the successful features of demonstration projects at China Lake and the National Institute of Standards and Technology. These demonstration projects have produced impressive statistics on job satisfaction of their employees versus that for the federal workforce in general. This demonstration expects similar successes. A full range of data will be collected to evaluate the project (and is described in Section VII, *Evaluation Plan*).

*D. Participating Organization*

U.S. Army Engineer Waterways Experiment Station, 3909 Halls Ferry Road, Vicksburg, Mississippi 39180–6199. Employees assigned to WES work at the locations shown in Table 1.

TABLE 1.—DUTY LOCATIONS

| Location | Total No. of employees |
|---|---|
| London, England | 1 |
| Berkeley, CA | 1 |
| Fort Collins, CA | 1 |
| Washington, DC | 3 |
| Gainesville, FL | 1 |
| Jacksonville, FL | 1 |
| Jackson, MS | 1 |
| Natchez, MS | 1 |
| Vicksburg, MS | 1412 |
| New Madrid, MO | 1 |
| Duck, NC | 12 |
| Corvallis, OR | 1 |
| Calhoun Falls, SC | 3 |
| Lewisville, TX | 3 |
| North Bonneville, WA | 2 |
| Eau Galle, WI | 2 |
| Onalaska, WI | 1 |

*E. Participating Employees*

The project will cover all General Schedule (GS) employees assigned to WES. Federal Wage System (FWS) employees, Civilian Intelligence Personnel Management (CIPMS) employees covered by Title X, and 5 U.S.C. 3105 Scientific and Technical (ST) employees will be included for employee development provisions only. The occupational series of employees included in the project are identified by occupational family in Table 2. All GS employees with appointments exceeding one year will be covered by the provisions of this project. GS employees with appointments limited to one year or less will be covered for pay banding, the performance appraisal process, and salary adjustments. Senior Executive Service (SES) employees will not be included in the project. It is the intent of WES to expand coverage of the project to all FWS employees 1 to 2 years following date of implementation. In the event of expansion to FWS employees beyond the performance appraisal provisions, full approval will be obtained from DA, DoD, and OPM.

The American Federation of Government Employees (AFGE) represents approximately 550 GS and FWS employees at WES. The AFGE represents all E&S Technicians except student trainees; all General Support employees except fire protection inspectors, security guards, student trainees, and those designated as confidential employees; and all nonsupervisory FWS employees. AFGE Local 3310 has been involved with and participated in the development of the project since its inception. WES will continue to fulfill its obligation to consult or negotiate with the AFGE, as appropriate, in accordance with 5 U.S.C. 4703 (F) and 7117. The participation with the AFGE is within the spirit and intent of Executive Order 12871.

*F. Project Design*

In August 1994, a Project Manager was appointed to lead the WES reinvention effort. The Project Manager was assisted by a representative of the servicing Human Resources Management (HRM) Office. During October-November 1994, a WES concept plan was developed to map out desired areas in which to propose changes in the personnel system. The concept plan was then merged into a single Army plan for the participating Army S&T Laboratories and was submitted to the DA in December 1994.

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# TABLE 2. OCCUPATIONAL SERIES INCLUDED IN THE DEMONSTRATION PROJECT

| | | | | | |
|---|---|---|---|---|---|
| | ***Engineers & Scientists*** | 0301 | Info Syst Mgr Spec/Joint Test Prog Mgt Coordinator/Emergency Oper Mgr | 1106 | Procurement Clerk |
| 0023 | Outdoor Recreation Planner | 0334 | Computer Specialist | 1107 | Property Disposal Clerk |
| 0150 | Geographer | 0341 | Administrative Officer | 1411 | Library Technician |
| 0193 | Archeologist | 0342 | Support Services Administrative Officer | 2005 | Supply Clerk |
| 0401 | Biologist | 0343 | Mgt & Prog Analysis Officer | 2102 | Transportation Clerk |
| 0403 | Microbiologist | 0346 | Logistics Management Officer | 2131 | Freight Rate Specialist |
| 0408 | Ecologist | 0391 | Telecommunications Officer | | |
| 0410 | Zoologist | 0399 | Student Trainee | | |
| 0414 | Entomologist | 0505 | Financial Manager | | |
| 0430 | Botanist | 0510 | Accountant | | |
| 0434 | Plant Pathologist | 0511 | Auditor | | |
| 0435 | Plant Physiologist | 0560 | Budget Officer | | |
| 0470 | Soil Scientist | 0599 | Student Trainee | | |
| 0471 | Agronomist | 0610 | Nurse | | |
| 0482 | Fishery Biologist | 0905 | General Attorney | | |
| 0486 | Wildlife Biologist | 0950 | Paralegal Specialist | | |
| 0499 | Student Trainee | 1020 | Illustrator | | |
| 0690 | Industrial Hygienist | 1035 | Public Affairs Specialist | | |
| 0801 | General Engineer | 1060 | Photographer | | |
| 0803 | Safety Engineer | 1071 | Audiovisual Specialist | | |
| 0806 | Materials Engineer | 1082 | Editor | | |
| 0807 | Landscape Architecture | 1084 | Visual Information Specialist | | |
| 0808 | Architecture | 1102 | Contract Specialist | | |
| 0810 | Civil/Hydraulic/Structural Engineer | 1104 | Property Disposal Specialist | | |
| 0819 | Environmental Engineer | 1199 | Student Trainee | | |
| 0830 | Mechanical Engineer | 1410 | Librarian | | |
| 0850 | Electrical Engineer | 1412 | Technical Information Specialist | | |
| 0854 | Computer Engineer | 1499 | Student Trainee | | |
| 0855 | Electronics Engineer | 1712 | Training Instructor | | |
| 0893 | Chemical Engineer | 2001 | General Supply Specialist | | |
| 0899 | Student Trainee | 2101 | Transportation Specialist | | |
| 1301 | Physical Scientist | | ***General Support*** | | |
| 1310 | Physicist | 0081 | Firefighter | | |
| 1313 | Geophysicist | 0085 | Security Guard | | |
| 1315 | Hydrologist | 0090 | Guide | | |
| 1320 | Chemist | 0099 | Student Trainee | | |
| 1350 | Geologist | 0302 | Messenger | | |
| 1360 | Oceanographer | 0303 | Clerk | | |
| 1399 | Student Trainee | 0305 | Mail & File Clerk | | |
| 1515 | Operations Research Analyst | 0312 | Clerk-Stenographer | | |
| 1520 | Mathematician | 0318 | Secretary | | |
| 1530 | Statistician | 0322 | Clerk-Typist | | |
| 1550 | Computer Scientist | 0326 | Office Automation Clerk | | |
| 1599 | Student Trainee | 0332 | Computer Operator | | |
| | ***E&S Technicians*** | 0335 | Computer Clerk | | |
| 0028 | Environmental Protection Specialist | 0344 | Management Assistant | | |
| 0802 | Engineering Technician | 0361 | Equal Employment Opportunity Assistant | | |
| 0818 | Engineering Draftsman | 0394 | Communications Clerk | | |
| 0856 | Electronics Technician | 0503 | Financial Clerk & assistant | | |
| 1311 | Physical Science Technician | 0525 | Accounting Technician | | |
| 1371 | Cartographic Technician | 0530 | Cash Processing Technician | | |
| 1521 | Mathematics Technician | 0540 | Voucher Examiner | | |
| 1670 | Equipment Specialist | 0544 | Teller | | |
| | ***Administrative*** | 0561 | Budget Clerk | | |
| 0018 | Safety & Occupational Health Specialist | 0986 | Legal Clerk | | |
| 0099 | Student Trainee | 1105 | Purchasing Clerk | | |
| 0260 | Equal Employment Opportunity Specialist | | | | |

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WES formed four teams in January 1995 to develop specific initiatives to be undertaken in the WES demonstration project. The teams were composed of from 7 to 14 employees each and included representatives from management, engineers, scientists, technicians, clerical, administrative, wage grade, human resources, and representatives from the local union. The teams developed human resources management initiatives which were designed to: assist in hiring the best people to accomplish the mission; improve training and development of the workforce; improve and simplify the position classification process; develop a broadband system to facilitate classification and career progression; and develop a pay for performance system to recognize employee contributions to mission accomplishment.

The Army's plan was reviewed concurrently by DoD and OPM in April 1996. Among their many recommendations was one for each Army lab to submit individual project plans. The second joint review by DoD and OPM of the lab plans was conducted in September 1996. The philosophy and intent of WES throughout the process of project development was the inclusion of its total workforce. As such, a pay-for-performance broadbanding system was developed for FWS employees, in partnership with representation from the bargaining unit, and was included as part of the WES plan. At the joint reviews, the DoD Civilian Personnel Management Service and OPM's Office of Classification and Office of Compensation Policy considered the broadbanding of FWS employees as outlined in the WES plan to be inappropriate. FWS employees were removed from the plan for pay-for-performance purposes only. Options for including them in a pay-for-performance system at a later date are currently being developed by WES, DA, DoD, and OPM.

This plan and these initiatives are the result of many months of effort by dedicated participants at WES, U.S. Army Corps of Engineers, DA, and DoD levels.

## III. Personnel System Changes

### *A. Broadbanding*

#### 1. Pay Bands

Each occupational family will be composed of discrete pay bands corresponding to recognized advancement within the occupations. The pay bands will replace grades. The pay bands will not be the same for all occupational families. Each occupational family will be divided into four to six pay bands, each pay band covering the same pay range now covered by one or more grades. The minimum rate of basic pay for a band will be the minimum rate for the lower grade in the band as shown on the regular GS schedule. The maximum rate of basic pay for a pay band will be the highest regular schedule GS rate possible for positions within that occupational family and pay band. A salary overlap, similar to the current overlap between GS grades, will be maintained.

Ordinarily an individual will be hired at the lowest salary in a pay band. Exceptional qualifications, specific organizational requirements, or other compelling reasons may lead to a higher entrance salary within a pay band.

The proposed pay bands for the occupational families and how they relate to the current GS grades are shown in Table 3. This pay band concept has the following advantages because it: reduces the number of classification decisions required during an employee's career; simplifies the classification decision-making process and paperwork; supports delegation of classification authority to line managers; provides a broader range of performance-related pay for each pay band; and prevents the progression of low performers through a pay band by mere longevity, since job performance serves as the basis for determining pay.

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TABLE 3. - OCCUPATIONAL FAMILIES AND PAY BANDS

| Occupational Families | Pay Bands | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Engineers and Scientists | I (N) | | | II (N) | | | | | | III (E) | | IV (E) | | V (E) | VI (E) | |
| E&S Technicians | I (N) | | | II (N) | | | III (N) | | | IV (E) | | | | | | |
| Administrative | I (N) | | | II (N) | | | | | | III (E) | | IV (E) | | V (E) | | |
| General Support | I (N) | | | II (N) | | III (N) | | IV (E) | | | | | | | | |
| Corresponding GS Grades | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | Above 15 |

FLSA Codes: N = Nonexempt; E = Exempt. Although typical exemption status under the various pay bands is shown, actual FLSA exemption status determinations are made on a case-by-case basis.

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A feature is pay band VI of the Engineers and Scientists occupational family, which is an expansion of the broad banding concept used at China Lake and NIST. This pay band is designed for Senior Technical Managers and Senior Engineers/Scientists.

Current OPM guidelines covering the Senior Executive Service and Scientific and Technical positions do not fully meet the needs of WES. The SES designation is appropriate for executive level managerial positions whose classification exceeds the GS-15 grade level. The primary knowledges and abilities of SES positions involve supervisory and managerial authorities. Positions classified as ST are designed for bench research scientists and engineers. OPM guidelines state that the duties and responsibilities of ST positions must not include any managerial or supervisory responsibility.

WES currently has a few senior manager positions which have characteristics of both SES and ST classifications. Most of these positions are responsible for supervising other GS–15 positions, including branch chief, non-supervisory researcher engineers and scientists, and potential ST positions. The positions are classified at the GS–15 level, and one has been recognized at the SES level. WES management considers the primary requirement for the positions to be knowledge of and expertise in the specific scientific and technology areas related to the mission of the organization. The ability to manage, while important, is considered secondary. Historically, these positions have been filled by employees who possess primarily scientific/engineering credentials and who are considered experts in their field by the scientific community. While it is clear these positions warrant classification beyond the GS–15 level, attempts to classify the positions as SES have been difficult. Classification of the positions at ST is also not an option because of the supervisory responsibilities.

As preeminent engineers and scientists, STs are responsible for specific research and development efforts that are continuing and long range, generally requiring the efforts of a team. STs usually serve as team leaders which means there is some responsibility for assigning work, coordinating results and redirecting efforts. It is administratively convenient for these research team leaders to also participate in performance management. The restriction of including supervisory authorities in ST jobs has forced WES to exclude any mention of the team leader responsibilities in these position descriptions for fear that they will be interpreted as characteristic of SES rather than ST positions. Consequently, WES has positions that do not conform to the strict OPM definitions of either the SES or ST.

The purpose of pay band VI is to overcome the difficulties identified above by creating a category for two types of positions—the Senior Technical Manager (with full supervisory authorities) and the Senior Engineer/ Scientist (less than or no supervisory authority). Current GS–15 Senior Technical Managers and Senior Engineers/Scientists will convert into the demonstration project at pay band V. After conversion the Senior Technical Manager and Senior Engineers/Scientist positions will be reviewed against established criteria to determine if they should be reclassified to pay band VI. The proposed salary range is the same as currently exists for ST positions (minimum of 120 percent

of the minimum rate of basic pay of GS–15 with a maximum of the basic rate of pay established for level IV of the Executive Schedule). Vacant positions in pay band VI will be competitively filled to ensure that selections are made from among the world's preeminent researchers and technical leaders in the specialty fields.

The final component of pay band VI is the management of all pay band VI assets. Specifically, this includes authority to classify, create, abolish positions as circumstances warrant; recruit and reassign employees in this pay band; set pay and to have their performance appraised under this project's pay-for-performance system. This authority will be executed within parameters to be established at the DA level, to include controls on the numbers of pay band VI positions and recruitment/promotion criteria. The specific details regarding the control and management of pay band VI assets will be included in the demonstration's operating procedures. The laboratory wants to demonstrate increased effectiveness by gaining greater managerial control and authority, consistent with merit, affirmative action, and equal employment opportunity principles.

2. Occupational Families

Positions will be grouped into occupational families according to similarities in type of work and customary requirements for formal training or credentials. The historical patterns of advancement within the occupational families will be considered. The current positions and grades at WES have been examined, and their characteristics and distribution have served as guidelines in the development of occupational families. Four occupational families will be established:

(a) *Engineers and Scientists.* This occupational family includes all technical professional positions such as engineers (civil, hydraulic, structural, mechanical, electronic, electrical, chemical, and environmental), mathematicians, statisticians, computer scientists, outdoor recreational planners, geographers, architects, archaeologists, operations research analysts, and a variety of physical and biological scientists. Specific course work or educational degrees are required for positions in this occupational family.

(b) *E&S Technicians.* This occupational family consists of the positions that support the various engineering and scientific activities. Employees in this occupational family are required to have training and skills in the various technical areas (civil, hydraulic, structural, geotechnical, physical, coastal, biological, chemical).

(c) *Administrative.* This occupational family contains specialized functions in such fields as counsel, audit, finance, procurement, public information, accounting, administrative, computing, safety, and management analysis. Special training and skills in administrative fields or special degrees are required.

(d) *General Support.* This occupational family is composed of positions requiring special skills and knowledge, such as typing or shorthand, and job-related experience. Clerical work usually involves the processing and maintenance of records. Assistant work requires knowledge of methods and procedures within a specific administrative area. Other support functions include the work of secretaries, legal clerks, guards, mail clerks, etc.

3. Fair Labor Standards Act

Fair Labor Standards Act (FLSA) exemption and nonexemption determinations will be made consistent with criteria found in 5 CFR part 551. All employees are covered by the FLSA unless they meet the executive, administrative, or professional criteria for exemption. As a general rule, the FLSA status can generally be matched to the occupational families and pay bands found in Table 3. Exceptions to these guidelines include supervisors/managers who meet the definitions outlined in the OPM General Schedule Supervisory Guide. The generic position descriptions will not be the sole basis for the FLSA determination. Each position will be evaluated on a case by case basis by comparing the duties and responsibilities assigned, the classification standards for each pay band, under 5 CFR part 551 criteria.

*B. Classification*

1. Coverage

The present GS classification system has over 400 occupations (also called series), which are divided into 22 groups. The present occupational series will be maintained. New series may be added as needed to reflect new occupations in the work force when established by OPM.

2. Classification Standards

The classification system will be modified to facilitate pay banding. The present classification standards will be used to create local benchmark position description/standards for each pay band, reflecting duties and responsibilities comparable to those described in present classification standards for the span of grades represented by each pay band. Present titles and series will continue to be used in order to recognize the types of work being performed and educational backgrounds and requirements of incumbents. Locally developed specialty codes and OPM functional codes will be used to facilitate titling, making qualification determinations, and assigning competitive levels to determine retention status.

3. Position Descriptions and Classification Process

New standardized position descriptors will be developed to assist managers in exercising delegated position classification authority. Managers will identify the appropriate pay band and descriptor definition and proceed to finalize the position description. A cover sheet similar to the present DA Form 374 will be used to reflect their classification decision. The cover sheet used will include a provision for designating specialty codes. These specialty codes will be developed to identify the special nature of work performed and will be included on the final position descriptor.

Employees will be entitled to appeal the title, series, and pay band level of their position to the DoD Field Advisory Service (FAS) and to OPM. The appeal will be adjudicated using the position classification provisions/criteria of this demonstration project. Employees may appeal either to FAS or OPM; however, if they first appeal to OPM, they may not then appeal to FAS.

*C. Pay for Performance*

The objective is to establish a pay system that will improve the ability of WES to attract and retain quality employees. The new system will be a pay-for-performance system and, when implemented, will result in a redistribution of pay resources based upon individual performance.

1. Determining Pay Increases

Compensation will be allocated to employees through organizational compensation pools. The WES Director, Commander and Deputy Director, and Laboratory Directors at WES will manage their respective pools.

The compensation pools will have two components: funds for performance pay increases (money previously available for within-grade increases, quality step increases, and promotions between grades that are banded under the project); and funds for General

Schedule pay increases. Performance awards (cash awards and bonuses presently allowed) and locality pay increases will continue under the project and will be excluded from the compensation pools. The compensation pools will be managed to ensure relative cost neutrality. As a result, funds will not be shifted between pools.

Annual base pay increases paid from the performance pay increase component of the compensation pools will be based on eligibility as well as scores on the established standards as follows:

$$PR = \frac{V}{100} S P$$

Where:

PR=employee's annual performance-based pay raise, $
V=value of a share, percent
S=number of shares earned by employee based on performance
P=employee's salary prior to pay raise

The number of shares earned by an employee will vary from 0 to 4 and will depend upon their performance score. A performance pay increase may not cause the employee's rate of basic pay to exceed the maximum rate of the bay band.

The value of a share will be computed in a manner to ensure that the amount of money available for performance pay increases will not exceed the amount of money in a compensation pool that is available for raises. Therefore, the amount of money available annually within a pay pool for performance-based pay raises is:

$$M = \frac{A}{100} \sum_{i=1}^{n} P_i$$

Where:

A=average annual historical pay raise, percent
M=pay pool size, $
$P_i$=salary of employee i
n=number of employees in compensation pool

The share value (percent) is computed in a manner to ensure exact expenditure of the amount of money in the compensation pool as follows:

$$V = \frac{M}{\sum_{i=1}^{n_e} S_i P_i} \times 100$$

Where:

$S_i$=number of shares earned by employee i based upon performance
$n_e$=number of employees within compensation pool that are eligible for a performance-based pay raise

A payout function that correlates number of shares earned by an employee for a performance based pay raise to average performance score will be similar to the plot shown in Figure 1.

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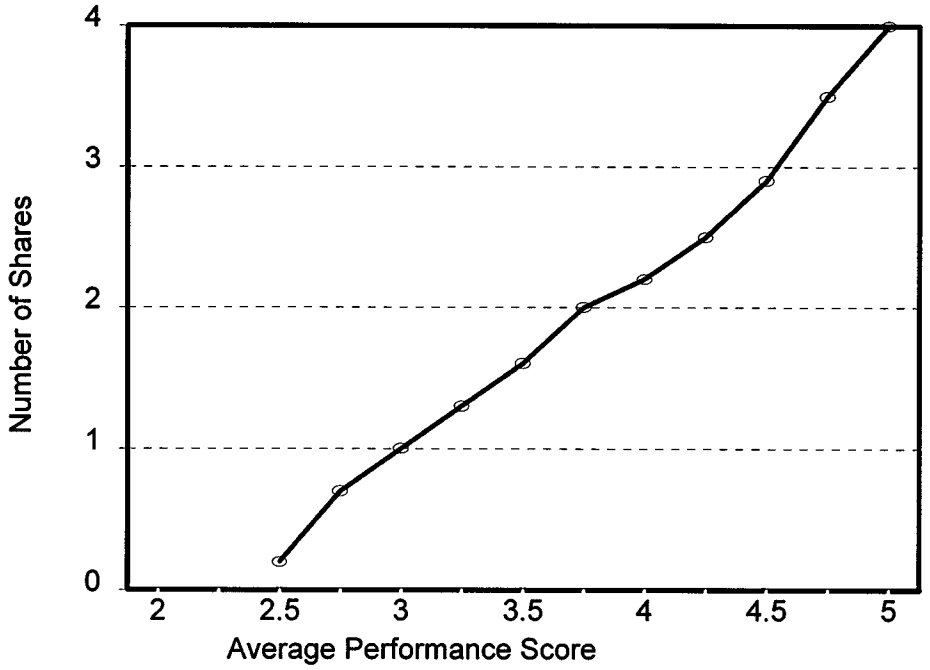
Figure 1. Relation between shares earned for performance and average performance score.

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The annual General Schedule pay increase will be allocated as follows:

(a) The first step is setting the percentage General Schedule increase that will be given to all eligible employees. This amount will be equal to the General Schedule increase authorized for GS employees. All employees whose average performance score is 2.0 or greater will be eligible for the increase. Employees with an average performance score of less than 2.0 will be ineligible for the full General Schedule increase and may receive either none or one-half of the increase. Pay increases for employees receiving retained rates will be determined in accordance with 5 U.S.C. 5363 except that those with an average performance score of less than 2.0 may receive either none or one-quarter of the increase in the maximum rate of basic pay for the applicable pay band.

(b) The minimum and maximum pay rates of basic pay for each pay band in an occupational family will be adjusted by any general pay increase to reflect the new rates in accordance with the

criteria reflected in Section III, *Broadbanding*, of this plan.

2. Performance Evaluation

The performance appraisal system will link compensation to performance through annual performance evaluations and performance ratings. Performance will be evaluated against generic performance standards. Rating elements will be provided for all employees. All rating elements will be critical and scored on a scale of 0 to 5. The score will be based on employees performance as evaluated against generic performance standards for each element. The supervisor will discuss performance rating standards with the employee to clarify performance criteria at the beginning of the rating period. The generic performance standards, with the provision to add specific work plans, will be used to evaluate employee performance. The standards will describe the level of performance required for the employee to be rated fully successful. Reviews will be conducted at least at mid-year to evaluate employee progress in meeting performance standards. However, WES interns in recognized career programs will be appraised semi-annually until they complete their internship. The last performance rating in each annual cycle will be considered to be the rating of record for interns.

Since all employees will not have the same number of rating elements, the element scores will be summed and averaged by the number of elements rated to determine the overall performance score. The score will be used for setting performance pay increases and determining eligibility for performance awards.

Employees must have an average performance score of 2.5 and above to be eligible for performance pay increases. Employees with an average performance score of 2.0 or greater will be eligible for performance awards and full General Schedule increases. Employees with an average score of less than 2.0 will be ineligible for performance awards and full General Schedule increases. A within-the-year review may be used to reevaluate employees with performance scores of less than 2.0. If the employee's performance has improved sufficiently since the last rating period, the employee may be eligible for a nonretroactive General Schedule pay raise at that time.

3. Awards

WES currently has an extensive awards program consisting of both internal and external awards. On-the-spot, special act, and other internal awards (both monetary and nonmonetary) will continue under the project. MACOM, DA, and DoD awards and other honorary noncash awards will be retained.

Cash awards may be given for performance and to recognize and encourage special contributions. Awards can be made to individuals, teams, or organizations. Awards must be approved at a managerial level at least one level higher than the recommending official except in the case where the WES Director is the recommender. Cash awards will not be considered to be a part of base pay.

*D. Pay Setting Provisions*

1. Pay and Compensation

(a) *Pay Ceilings.* An employee's total monetary compensation paid in a calendar year may not exceed the rate of basic pay for level I of the Executive Schedule consistent with 5 U.S.C. 5307 and 5 CFR part 530, subpart B. Each pay band will have its own pay ceiling, just as grades do in the GS system. Basic pay rates for the various pay bands will be directly keyed to the GS basic rates of pay except for pay band VI in the Engineers and Scientists occupational family. Pay band VI will have pay rates keyed to a minimum of 120% of the minimum rate of basic pay for GS–15 basic pay with a maximum of the basic rate of pay established for level IV of the Executive Schedule.

(b) *Staffing Supplements.* Employees assigned to occupational series covered by special rates will be eligible for a staffing supplement if the maximum adjusted rate for the banded GS grades to which assigned exceeds the maximum GS locality rate for the banded grades (e.g., engineers in pay bands II and III). The staffing supplement is added to the base pay, much like locality rates are added on to base pay. The employee's total pay immediately after implementation of the demonstration project will be the same as immediately before the demonstration project, but a portion of the total will be in the form of a staffing supplement. Adverse action and pay retention provisions will not apply to the conversion process as there will be no change in total salary. The staffing supplement is calculated as described below.

Upon conversion, the demonstration base rate will be established by dividing the old maximum GS adjusted rate (special rate or locality rate) by the staffing factor. The staffing factor will be determined by dividing the maximum special rate for the banded grades by the GS unadjusted rate corresponding to that special rate (step 10 of the GS rate for the same grade as the special rate). The employee's demonstration staffing supplement is derived by multiplying the demonstration base rate by the staffing factor minus one. So the employee's final demonstration special staffing rate equals the demonstration base rate plus the special staffing supplement; this amount will equal the employee's former maximum GS adjusted rate. Simplified, the formula is:

$$\text{Staffing factor} = \frac{\text{Maximum special rate for the banded grades}}{\text{GS rate corresponding to that special rate}}$$

$$\text{Demonstration base rate} = \frac{\text{Old maximum GS adjusted rate (special or locality rate)}}{\text{Staffing factor}}$$

$$\text{Staffing supplement} = \text{Demonstration base rate} \times (\text{staffing factor} - 1)$$

$$\text{Salary upon conversion} = \text{Demo base rate} + \text{staffing supplement} \ (\text{sum will} = \text{existing rate})$$

Example: In the case of a GS–801–11/03 employee who is receiving a special salary rate, the salary before the demonstration project is $42,944. The maximum special rate for a GS–801–11 Step 10 is $51,295 and the corresponding regular rate is $46,523. The staffing factor is computed as follows:

$$\text{Staffing factor} = \frac{\$51{,}295}{\$46{,}523} = 1.1026$$

$$\text{Demonstration base rate} = \frac{\$42{,}944}{1.1026} = \$38{,}948$$

Then to determine the staffing supplement, multiply the demonstration base by the staffing factor minus 1.

$$\text{Staffing supplement} = \begin{array}{r} \$38{,}948 \\ \times .1026 \\ \hline \$\ 3{,}996 \end{array}$$

The staffing supplement of $3,996 is added to the demonstration base rate of $38,948 and the total salary is $42,944, which is the salary of the employee before conversion to the demonstration project.

If an employee is in a band where the maximum GS adjusted rate for the banded grades is a locality rate, when the employee is converted into the demonstration, the demonstration base rate is derived by dividing the employee's former GS maximum adjusted rate (locality or special rate) by the applicable locality pay factor. The employee's demonstration locality-adjusted rate will equal the employee's former maximum GS adjusted rate.

Annual pay adjustment for employees in special rate occupations will require recomputation of the staffing supplement. If OPM discontinues or decreases special rates, employees will be entitled to pay retention. Upon geographic movement, an employee who receives the special staffing supplement will have the supplement recomputed. Any resulting reduction in pay will not be considered an adverse action or a basis for pay retention.

Established salary including the staffing supplement will be considered basic pay for the same purposes as a locality rate under 5 CFR 531.606(b), i.e., for purposes of retirement, life insurance, premium pay, and severance pay purposes and for advances in pay. It will also be used to compute worker's compensation payments and lump sum payments for accrued and accumulated annual leave.

2. Promotions

A promotion is the movement of an employee to a higher pay band within the same occupational family or to a pay band in a different occupational family which results in an increase in the employee's salary. Progression within a pay band, whether by performance pay increases or supervisory adjustments, are not subject to the provisions of this section.

Promotions will be processed under competitive procedures in accordance with merit principles and requirements. The following actions are excepted from competitive procedures:

(a) Re-promotion to a position which is in the same pay band and occupational family as the employee previously held on a permanent basis within the competitive service.

(b) Promotion, reassignment, demotion, transfer, or reinstatement to a position having promotion potential no greater than the potential of a position an employee currently holds or previously held on a permanent basis in the competitive service.

(c) A position change permitted by RIF procedures.

(d) Promotion without current competition when the employee was appointed through competitive procedures to a position with a documented career ladder.

(e) A temporary promotion, or detail to a position in a higher pay band, of 180 days or less.

(f) Impact of person-in-the-job promotions.

(g) Promotion resulting from the accretion of duties and responsibilities.

(h) A promotion resulting from the correction of an initial classification error.

Upon promotion to a higher pay band, an employee will be entitled to a 6 percent basic pay increase or the lowest level in the pay band to which promoted, whichever is greater.

3. Link Between Promotion and Performance

Noncompetitive promotions (e.g., accretion of duties, recognition of impact of person-in-job, career ladder) will require an acceptable level of performance in their current position. To be promoted noncompetitively from one band to the next within an occupational family, an employee must meet the minimum qualifications for the job and have a current average performance score of 2.5 or above (Section III, *Performance Evaluation*) or equivalent under a different performance management system (an equivalence chart will be developed by HRM specialists and included in the implementation instructions). Selection of employees through competitive procedures will require a current average performance score of 2.5 or above.

4. Supervisory Pay Adjustments

Supervisory pay adjustments may be used, at the discretion of the WES Director, to compensate employees in the Engineers and Scientists occupational family in supervisory positions. Supervisory pay adjustments are increases to the supervisor's basic rate of pay, ranging up to 10 percent of that pay rate, subject to the constraint that the adjustment may not cause the employee's basic rate of pay to exceed the pay band maximum rate. Only employees in supervisory positions with formal supervisory authority meeting that required for coverage under the OPM GS Supervisory Guide will be considered for the supervisory pay adjustment. Criteria to be considered in determining the pay increase percentage include the following organizational and individual employee factors: needs of the organization to attract, retain, and motivate high quality supervisors; budgetary constraints; years of supervisory experience; amount of supervisory training received; performance; and managerial impact on the organization.

Conditions, after the date of conversion into the demonstration project, under which the application of a supervisory pay adjustment will be considered are as follows:

(a) New hires into supervisory positions will have their initial rate of basic pay set at the supervisor's discretion within the pay range of the applicable pay band. This rate of pay may include a supervisory pay

adjustment determined using the ranges and criteria outlined above.

(b) An employee selected for a supervisory position that is within the employee's current pay band may also be considered for a supervisory pay adjustment.

(c) If a supervisor is already authorized a supervisory pay adjustment and is subsequently selected for another supervisory position, within the same pay band, then the supervisory pay adjustment will be redetermined.

(d) An employee promoted to a supervisory position in a higher pay band may be considered for a supervisory adjustment in addition to the pay increase that resulted from the promotion.

Supervisors, upon initial conversion into the demonstration project into the same, or substantially similar position, will be converted at their existing basic rate of pay and will not be offered a supervisory pay adjustment.

Before supervisory employees may receive the pay adjustment, they must sign a statement acknowledging that the entire adjustment will be immediately withdrawn if they are removed from the supervisory position because of unacceptable performance or conduct. Supervisory employees who are reassigned to a nonsupervisory position for any other reasons (i.e., employee choice, management directed reassignment, or RIF) will receive one-half of the pay adjustment for one year following the reassignment. Eliminations or reductions in supervisory pay adjustments are not adverse actions, are not subject to appeal, and are not covered under pay retention provisions.

5. Supervisory Pay Differentials

Supervisory pay differentials may be used, at the discretion of the WES Director, to incentivize and reward E&S supervisors who are in pay bands IV and V whose pay is at the maximum rate of the pay band. Formal supervisory authority meeting that required for coverage under the OPM GS Supervisory Guide is required. A supervisory pay differential is a cash incentive, paid out on a pay period basis, which is not included as part of the supervisor's basic rate of pay. The differential may be up to 10 percent of the supervisor's basic rate of pay. Criteria to be considered in determining the amount of this supervisory pay differential includes those identified for supervisory pay adjustments.

The supervisory pay differential may be considered, either during conversion into or after initiation of the demonstration project. The differential will be terminated if the employee is removed from a supervisory position, regardless of cause.

As specified in the Supervisory Pay Adjustment Section, all personnel actions involving a supervisory differential will require a statement signed by the employee acknowledging that the differential may be terminated or reduced at the discretion of the WES Director. The termination or reduction of the differential is not an adverse action, is not subject to appeal, and is not covered under pay retention provisions.

*E. Hiring and Placement Authorities*

1. Modified Term Appointments

WES conducts many research and development projects that range from 3 to 6 years. The current 4-year limitation on term appointments imposes a burden on laboratory managers by forcing the termination of some term employees prior to completion of projects they were hired to support. This disrupts the research and development process and reduces the ability of WES to serve its customers.

Under the demonstration project, WES will have the authority to hire individuals under modified term appointments. These appointments will be used to fill positions for a period of more than 1 year but not more than 5 years when the need for employee's services is not permanent. The modified term appointments differ from term employment as described in 5 CFR part 316 in that they may be made for a period not to exceed 5, rather than 4 years. The WES Director is authorized to extend a term appointment 1 additional year.

Employees hired under the modified term appointment authority may be eligible for conversion to career-conditional appointments. To be converted, the employee must: have been selected for the term position under competitive procedures, with the announcement specifically stating that the individual(s) selected may be eligible for conversion to a career-conditional appointment at a later date; have served 2 years of continuous service in the term position; be selected under WES merit promotion procedures for the permanent position; and have a current performance score of 2.5 or better.

Employees serving under term appointments at the time of conversion to the demonstration project will be converted to the new modified term appointments provided they were hired for their current positions under competitive procedures. These employees will be eligible for conversion to career-conditional appointment if they have a current performance score of 2.5 or better and are selected under merit promotion procedures for the permanent position after having completed 2 years of continuous service. Time served in temporary or term positions prior to conversion to the modified term appointment is creditable, provided the service was continuous. Employees serving under modified term appointments under this plan will be covered by the plan's pay-for-performance system.

2. Extended Probationary Period

A new employee needs to demonstrate adequate contribution during all cycles of a research effort for a laboratory manager to render a thorough evaluation. The current 1-year probationary period will be extended to 2 years for all newly hired career employees in the Engineers and Scientists occupational family. The purpose of extending the probationary period is to allow supervisors an adequate period of time to fully evaluate an employee's contribution and conduct.

Aside from extending the time period, all other features of the current probationary period, including the criteria for crediting prior service and the limited notice and appeal rights, are retained. The requirements for conversion to career tenure are unchanged. Employees appointed prior to the implementation date will not be affected.

Probationary employees will be terminated when the employee fails to demonstrate proper conduct, technical competency, and/or adequate work contribution for continued employment. When WES decides to terminate an employee serving a probationary period because their work contribution or conduct during this period fails to demonstrate their fitness or qualifications for continued employment, it shall terminate their services by written notification of the reasons for separation and the effective date of the action. The information in the notice as to why the employee is being terminated shall, as a minimum, consist of WES's conclusions as to the inadequacies of their work contribution or conduct.

3. Voluntary Emeritus Program

Under the demonstration project, the WES Director will have the authority to offer retired or separated individuals (engineers and scientists) voluntary assignments in the laboratory. This

authority will include individuals who have retired or separated from Federal service. Voluntary Emeritus Program assignments are not considered ''employment'' by the Federal Government (except for purposes of injury compensation). Thus, such assignments do not affect an employee's entitlement to buy-outs or severance payments based on an earlier separation from Federal service. The Voluntary Emeritus Program will ensure continued quality research while reducing the overall salary line by allowing higher paid individuals to accept retirement incentives with the opportunity to retain a presence in the scientific community. The program will be of most benefit during manpower reductions as senior E&Ss could accept retirement and return to provide valuable on-the-job training or mentoring to less experienced employees.

To be accepted into the emeritus program, a volunteer must be recommended by a Laboratory Director to the WES Director. Everyone who applies is not entitled to a voluntary assignment. The WES Director must clearly document the decision process for each applicant (whether accepted or rejected) and retain the documentation.

To ensure success and encourage participation, the volunteer's federal retirement pay (whether military or civilian) will not be affected while serving in a voluntary capacity. Retired or separated federal employees may accept an emeritus position without a waiting period.

Volunteers will not be permitted to monitor contracts on behalf of the government or to participate on any contracts or solicitations where a conflict of interest exists. The same rules that currently apply to source selection members will apply to volunteers.

An agreement will be established between the volunteer and the WES. The agreement will be reviewed by the local Office of Counsel for ethics determinations under the Joint Ethics Regulation. The agreement must be finalized before the assumption of duties and shall include:

(a) A statement that the voluntary assignment does not constitute an appointment in the civil service and is without compensation and any and all claims against the Government because of the voluntary assignment are waived by the volunteer.

(b) A statement that the volunteer will be considered a federal employee for the purpose of injury compensation.

(c) Volunteer's work schedule.

(d) Length of agreement (defined by length of project or time defined by weeks, months, or years).

(e) Support provided by the laboratory (travel, administrative, office space, supplies).

(f) A one page Statement of Duties.

(g) A provision that states no additional time will be added to a volunteer's service credit for such purposes as retirement, severance pay, and leave as a result of being a member of the Voluntary Emeritus Program.

(h) A provision allowing either party to void the agreement with 10 working days written notice.

(i) The level of security access required (any security clearance required by the assignment will be managed by the laboratory while the volunteer is a member of the Voluntary Emeritus Program).

*F. Employee Development*

The objective of the employee development program will be to develop the competence of employees for maximum achievement of Laboratory, MACOM, DA, and DoD goals. WES will continue its employee development programs, such as local training, off-site training, long-term training, and developmental assignments. Under this Project, the opportunity to apply for expanded developmental opportunities to include sabbaticals and training for degrees, which was previously restricted, will be made available to permanent employees.

1. Sabbatical

WES will have the authority to grant sabbaticals to career employees to permit them to engage in study or uncompensated work experience that will contribute to their development and effectiveness. Each sabbatical should benefit WES as well as increase the employee's individual effectiveness. Examples are as follows: advanced academic teaching, study, or research; self-directed (independent) or guided study; and on-the-job work experience with a public, private, or nonprofit organization. Each recipient of a sabbatical must sign a continued service agreement and agree to serve a period equal to at least three times the length of the sabbatical.

2. Degree Training

Degree training is an essential component of an organization that requires continuous acquisition of advanced and specialized knowledge. Degree training in the academic environment of DoD laboratories is also a critical tool for recruiting and retaining employees with or requiring critical skills. Constraints under current law and regulation limit degree payment to shortage occupations. In addition, current government-wide regulations authorize payment for degrees based only on recruitment or retention needs. Degree payment is currently not permitted for non-shortage occupations involving critical skills.

Under the Personnel Demonstration Project, WES will expand the authority to provide degree training for purposes of meeting critical skill requirements, to ensure continuous acquisition of advanced and specialized knowledge essential to the organization, and to recruit and retain personnel critical to the present and future requirements of the organization. It is expected that the degree payment authority will be used primarily for attainment of advanced degrees.

*G. Reduction in Pay or Removal Actions*

Employees covered by the project will be evaluated under a performance evaluation system that affords grievance and/or appeal rights the same as those provided currently.

1. Unacceptable Performance

Employees whose performance is unsatisfactory (equivalent to a performance score of 0 on any critical element) at anytime during the year shall be placed in a Performance Improvement Plan (PIP). If in a PIP at the end of a rating period, the employee will not be given a performance rating while in that program. If performance remains unsatisfactory upon completion of the PIP, the employee will be separated from his or her position or reduced to a lower pay band. If performance becomes satisfactory, the employee will receive a performance rating of record and appropriate adjustments to pay may be made at that time (i.e. granting General Schedule increase). These performance-based actions will follow the same procedures as current performance-related removals and reductions in grade under Chapter 43 or Chapter 75 when appropriate.

2. Placement in a Lower Pay Band

An employee who is determined ineligible for a performance award may receive either none or one-half the General Schedule pay increase and will not receive a performance pay increase or performance award. Because the minimum pay rate for each pay band will be increased each year by the amount of the General Schedule increase, it is possible that the new minimum rate of a pay band will exceed the basic pay of an employee in that band who did not receive the full

General Schedule increase. In these cases, the employee will be moved to the next lower band level and the action will be considered a demotion. This will not be considered an adverse action, will not be appealable through a statutory appeals process, and will not be covered under grade retention provisions.

*G. Revised Reduction in Force (RIF) Procedures*

Modifications include limiting competitive areas to occupational families and increasing the emphasis on performance in the RIF process. These modifications will increase the probability of retaining the highest performing individuals in their positions and will increase the probability of displacing the lowest performing individuals.

1. Competitive Areas

For RIF purposes, the competitive area will be the occupational family in which the employee is assigned and will cover all geographic locations.

2. Retention

Retention registers will be established based on the following criteria listed in order of priority: tenure status (Tenure I-career, Tenure II-career conditional, Tenure III-modified term); veteran's preference; most recent employee performance score; and service computation date. Modified term employees within the affected occupational family will be separated before permanent Tenure I and II employees. The present RIF system essentially remains in effect, except that performance scores are part of the retention order. Performance scores will not be used to adjust the service computation date. A preference eligible with a compensable service-connected disability of 30 percent or more may displace employees in positions equivalent to 5 GS grades below the minimum grade level of his/her current pay band. Increasing the emphasis on job performance will help ensure the retention of outstanding individuals in RIF situations.

3. Grade and Pay Retention

Except where waived or modified in the waiver section of this plan, grade and pay retention will follow current law and regulations.

IV. Training

The key to the success or failure of the proposed demonstration project will be the training provided for all involved. This training will not only provide the necessary knowledge and skills to carry out the proposed changes, but will also lead to commitment to the program on the part of all participants. Training will be tailored to fit the requirements of every employee included and will fully address employee concerns to ensure that everyone has a comprehensive understanding of the program.

Training at the beginning of implementation and throughout the demonstration will be provided to supervisors, employees, and the administrative staff responsible for assisting managers in effecting the changeover and operation of the new system.

The elements to be covered in the orientation portion of this training will include the following: a description of the system; how employees are converted into the system; pay adjustment process; familiarization with the new position descriptions and performance objectives; the individual performance rating process; the reconsideration process; and the demonstration project administrative and formal evaluation process.

*A. Supervisors*

The focus of this project on management-centered personnel administration, with increased supervisory and managerial personnel management authority and accountability, demands thorough training of supervisors and managers in the knowledge and skills that will prepare them for their new responsibilities. Training will include detailed information on the policies and procedures of the demonstration project, skills training in using the classification system, position description preparation, and performance evaluation. Additional training may focus on nonproject procedural techniques such as interpersonal and communication skills.

*B. Administrative Staff*

The administrative staff, generally personnel specialists, technicians, and administrative officers, will play a key role in advising, training, and coaching supervisors and employees in implementing the demonstration project. This staff will need training in the procedural and technical aspects of the project.

*C. Employees*

WES will train employees covered under the demonstration project. In the months leading up to the implementation date, meetings will be held for employees to fully inform them of all project decisions, procedures, and processes.

V. Conversion

*A. Conversion to the Demonstration Project*

Initial entry into the demonstration project for covered employees will be accomplished through a full employee protection approach that ensures each employee an initial place in the appropriate occupational family and pay band without loss of pay. An automatic conversion from current GS/GM grade and pay into the new broad banding system will be accomplished. Except for special rate employees, each employee will be converted at their current GS salary at the time of conversion.

Special conversion rules will apply to special rate employees (see Section III, Pay Setting Provisions). Employees who enter the demonstration project later by lateral reassignment or transfer will be subject to the same pay conversion rules. Employees serving under regular term appointments at the time of project implementation will be converted to the modified term appointment. Position announcements, etc. will not be required for these term appointments. If conversion into the demonstration project is accompanied by a geographic move, the employee's GS pay entitlements in the new geographic area must be determined before performing the pay conversion.

Employees who are on temporary promotions at the time of conversion will be converted to a pay band commensurate with the grade of the position to which temporarily promoted. At the conclusion of the temporary promotion, the employee will revert to the pay band which corresponds to the grade of record. When a temporary promotion is terminated, pay will be determined as described in Section III, Pay Setting Provisions. The only exception will be if the original competitive promotion announcement stipulated that the promotion could be made permanent; in these cases, actions to make the temporary promotion permanent will be considered and, if implemented, will be subject to all existing priority placement programs.

At the time of conversion, each employee will be given a lump sum cash payment for the time credited (in weeks) to the employee toward what would have been the employee's next within-grade increase. This step buy-in is applicable only to employees converted into the project at the time of its initial establishment.

Any OCONUS employee covered by the project will continue to be ineligible for locality pay. The maximum basic

salary payable in the pay band will be limited to the maximum rate of pay on the GS salary table which does not include any locality pay.

*B. Conversion From the Demonstration Project*

If a demonstration project employee is moving to a position not under the demonstration project, or if the project ends and each project employee must be converted back to the GS system, the following procedures will be used to convert the employee's project pay band to an equivalent grade and the employee's project rates of pay to equivalent rates of pay. The converted grade and rates of pay must be determined before movement or conversion out of the demonstration project and any accompanying geographic movement, promotion, or other simultaneous action. For conversions upon termination of the project and for lateral reassignments, the converted grade and rates will become the employee's actual grade and rates after leaving the demonstration project (before any other action). For transfers, promotions, and other actions, the converted grade and rates will be used in applying any pay movement out of the project (i.e., promotion rules, highest previous rate rules, pay retention rules) as if the converted grade and rates were actually in effect immediately before the employee left the demonstration project.

1. *Grade-Setting Provisions.* An employee in a pay band corresponding to a single grade is converted to that grade. An employee in a pay band corresponding to two or more grades is converted to one of those grades according to the following rules:

(a) The employee's adjusted rate of basic pay under the demonstration project (including any locality payment or staffing supplement but excluding any supervisory pay adjustment) is compared with step 4 rates in the highest applicable GS rate range. For this purpose, a ''GS rate range'' includes a rate range in the GS base schedule, the locality rate schedule for the locality pay area in which the position is located, or the appropriate special rate schedule for the employee's occupational series, as applicable. If the series is a two-grade interval series, only odd-numbered grades are considered below GS–11.

(b) If the employee's adjusted project rate equals or exceeds the applicable step 4 rate of the highest GS grade in the band, the employee is converted to that grade.

(c) If the employee's adjusted project rate is lower than the applicable step 4 rate of the highest grade, the adjusted rate is compared with the step 4 rate of the second highest grade in the employee's pay band. If the employee's adjusted rate equals or exceeds step 4 rate of the second highest grade, the employee is converted to that grade.

(d) This process is repeated for each successively lower grade in the band until a grade is found in which the employee's adjusted project rate equals or exceeds the applicable step 4 rate of the grade. The employee is then converted at that grade. If the employee's adjusted rate is below the step 4 rate of the lowest grade in the band, the employee is converted to the lowest grade.

(e) Exception: If the employee's adjusted project rate exceeds the maximum rate of the grade assigned under the above-described ''step 4'' rule but fits in the rate range for the next higher applicable grade (i.e., between step 1 and step 4), then the employee shall be converted that next higher applicable grade.

(f) Exception: An employee will not be converted to a lower grade than the grade held by the employee immediately preceding a conversion, lateral reassignment, or lateral transfer into the project, unless since that time the employee has undergone a reduction in band.

2. *Pay-Setting Provisions.* An employee's pay within the converted GS grade is set by converting the employee's demonstration project rates of pay to GS rates of pay in accordance with the following rules:

(a) The pay conversion is done before any geographic movement or other pay-related action that coincides with the employee's movement or conversion out of the demonstration project.

(b) An employee's adjusted rate of basic pay under the project (including any locality payment or staffing supplement but excluding any supervisory pay adjustment) is converted to a GS adjusted rate on the highest applicable GS rate range for the converted GS grade. For this purpose, a ''GS rate range'' includes a rate range in the GS base schedule, an applicable locality rate schedule, or an applicable special rate schedule.

(c) If the highest applicable GS rate range is a locality pay rate range, the employee's adjusted project rate is converted to a GS locality rate of pay. If this rate falls between two steps in the locality-adjusted schedule, the rate must be set at the higher step. The converted GS unadjusted rate of basic pay would be the GS base rate the corresponding to the converted GS locality rate (i.e., same step position). If this employee is also covered by a special rate schedule as a GS employee, the converted special rate will be determined based on the GS step position. This underlying special rate will be basic pay for certain purposes for which the employee's higher locality rate is not basic pay.

(d) If the highest applicable GS rate range is a special rate range, the employee's adjusted project rate is converted to a special rate. If this rate falls between two steps in the special rate schedule, the rate must be set at the higher step. The converted GS unadjusted rate of basic pay will be the GS rate corresponding to the converted special rate (i.e., same step position).

3. *Within-Grade Increase—Equivalent Increase Determinations.* Service under the demonstration project since the last pay-for-performance determination is creditable for within-grade purposes upon conversion back to the GS pay system. Performance pay increases (including a zero increase) under the demonstration project are equivalent increases for the purpose of determining the commencement of a within-grade increase waiting period under 5 CFR 531.405(b).

VI. Project Duration

Public Law 103–337 removed any mandatory expiration date for this demonstration. The project evaluation plan adequately addresses how each intervention will be comprehensively evaluated for at least the first 5 years of the demonstration (Proposed Plan for the Evaluation of the DoD Laboratory Demonstration Program, OPM, 1995). Major changes and modifications to the interventions can be made through announcement in the Federal Register and would be made if formative evaluation data warranted. At the 5 year point, the entire demonstration will be reexamined for either: permanent implementation; change and another 3–5 year test period; or expiration.

VII. Evaluation Plan

Authorizing legislation mandated evaluation of the demonstration project to assess the merits of project outcomes and to evaluate the feasibility of applications to other federal organizations. A comprehensive and methodologically rigorous evaluation of the personnel system changes will be carried out. The overall evaluation consists of two components—external and internal evaluation. The external evaluation will be conducted by OPM's Personnel Resources and Development Center (PRDC) to benefit from their extensive experience evaluating demonstration projects. PRDC will serve in the role of external evaluator to

ensure the integrity of the evaluation process, outcomes, and interpretation of results. Their external evaluation will be supplemented by an internal evaluation to be accomplished by the staff of WES. Selected parts of the evaluation will be completed using contractor support. The contractor(s) will be well qualified and experienced with demonstrated expertise in performing relevant support functions.

Essential elements of the evaluation plan are set forth below. The demonstration project is a complex experiment to be conducted in a dynamic environment over several years. Modifications and refinements to the evaluation plan will be made as required by mid-course project changes. All additions, deletions, and refinements to the current plan will be fully documented and explained as part of the evaluation reporting process. The main purpose of the evaluation is to determine the effectiveness of the personnel system changes described by the individual interventions. Every effort will be made to establish direct cause-and-effect relationships between the interventions and effectiveness criteria. An ancillary objective is to assess the effects of the interventions on improved organizational performance. An indirect causal link is hypothesized between the personnel system changes and improved organizational effectiveness, i.e., improved laboratory performance, mission accomplishment, and customer satisfaction. The current personnel management system with its many rigid rules and regulations often is perceived as a barrier to mission accomplishment. Together, the demonstration project initiatives are intended to remove some of those barriers, and therefore, are expected to contribute to improved laboratory performance.

The evaluation effort will be accomplished in four distinct phases:

(a) Design phase—includes development of the evaluation model, selection of experimental and comparison sites, and collection of baseline data prior to implementation.

(b) Implementation phase—includes actual project implementation and monitoring of the degree and support of implementation to assure that each of the project interventions has been operationalized as originally conceived.

(c) Formative evaluation phase—includes data collection and analysis for five years for purposes of evaluating the effects of the interventions. Periodic reports and annual summaries will be prepared to document the findings.

(d) Summative evaluation phase—focuses on summary evaluation and overall assessment of the project's impact, including presentation of conclusions and final recommendations upon completion of the project.

An intervention impact model (Appendix A) will be used to measure the effectiveness of the various personnel system changes or interventions. Additional measures will be developed as new interventions are introduced or existing interventions modified with consistent with expected effects. Measures may also be deleted when appropriate. Activity specific measures may also be developed to accommodate specific needs or interests which are locally unique.

The evaluation model for the Demonstration Project identifies elements critical to an evaluation of the effectiveness of the interventions. The overall evaluation approach will also include consideration on context variables that are likely to have an impact on project outcomes (e.g., HRM regionalization, downsizing, cross-service integration, and the general state of the economy). However, the main focus of the evaluation will be on intermediate outcomes, i.e., the results of specific personnel system changes which are expected to improve human resources management. The ultimate outcomes are defined as improved organizational effectiveness, mission accomplishment, and customer satisfaction.

Data from a variety of different sources will be used in the evaluation. Information from existing management information systems supplemented with perceptual data will be used to assess variables related to effectiveness. Multiple methods provide more than one perspective on how the demonstration project is working. Information gathered through one method will be used to validate information gathered through another. Confidence in the findings will increase as they are substantiated by the different collection methods. The following types of data will be collected as part of the evaluation: workforce data; personnel office data; employee attitudes and feedback using surveys, structured interviews and focus groups; local activity histories, and core measures of laboratory effectiveness.

## VIII. Demonstration Project Costs

### *A. Step Buy-Ins*

Under the current pay structure, employees progress through their assigned grade in step increments. Since this system is being replaced under the demonstration project, employees will be awarded that portion of the next higher step they have completed up until the effective date of implementation. As under the current system, supervisors will be able to withhold these partial step increases if the employee's performance is not at an acceptable level of competence.

At the time of conversion, each employee will be given a lump sum cash payment for the time credited (in weeks) to the employee toward what would have been the employee's next within-grade increase. Employees at the top step of their grade on the date of implementation will not be eligible for within-grade increase equity adjustments since they are already at the top of the step scale.

### *B. Development Costs*

Costs associated with the development of the personnel demonstration system include software automation, training, and project evaluation. All funding will be provided through the WES budget. The projected annual expenses for each area is summarized in Table 4. Project evaluation costs are not expected to continue beyond the first 6 years.

TABLE 4.—PROJECTED DEVELOPMENTAL COSTS

| | FY 96 | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 |
|---|---|---|---|---|---|---|
| Training | $97K | $19K | | | | |
| Project Evaluation | 25K | 60K | $60K | $60K | $60k | $60K |
| Automation | 80K | 10K | | | | |
| Totals | 202K | 89K | 60K | 60K | 60k | 60K |

IX. Required Waivers to Law and Regulations

Public Law 103–337 gave the DoD the authority to experiment with several personnel management innovations. In addition to the authorities granted by the law, the following are the waivers of law and regulation that will be necessary for implementation of the Demonstration Project. In due course, additional laws and regulations may be identified for waiver request.

*A. Waivers to Title 5, U.S. Code*

Section 3111, Acceptance of volunteer service
Section 3324, Appointments to positions classified above GS–15
Section 3341, Details
Section 4107, Non-Government facilities; restrictions (to the extent that training may be paid for the purpose of an employee to obtain a degree)
Section 4108, Employee agreements; service after training (to the extent that continued service is required only for long-term training and sabbaticals)
Sections 5101–5111, Purpose, definitions, basis, classification of positions, review, authority (to the extent that white collar employees will be covered by broadbanding. Pay category determination criteria for Federal Wage System positions remain unchanged).
Sections 5301; 5302 (8), and (9); 5303; and 5304, Pay comparability system (Sections 5301, 5302, and 5304 are waived only to the extent necessary to allow: (1) Demonstration project employees, except employees in band VI of the Engineers and Scientists occupational family, to be treated as General Schedule employees; (2) basic rates of pay under the demonstration project to be treated as scheduled rates of basic pay; and (3) employees in band VI of the Engineers and Scientists occupational family to be treated as ST employees for the purposes of these provisions)
Section 5305, Special pay authority
Sections 5331–5336, General Schedule pay rates
Sections 5361–5366, Grade and pay retention (to the extent necessary to (1) Replace ''grade'' with ''pay band'; (2) allow demonstration project employees to be treated as General Schedule employees; (3) provide that pay band retention provisions do not apply to movements to a lower pay band as a result of receiving no or only part of a general pay increase because of poor performance; (4) provide that pay retention provisions do not apply to conversions from General Schedule special rates to demonstration project pay, as long as total pay is not reduced, and to reductions in pay due solely to the removal of all or part of a supervisory pay adjustment upon leaving a supervisory position; and (5) provide that an employee on pay retention whose performance rating is less than 2.0 is not entitled to 50 percent of the amount of the increase in the maximum rate of basic pay payable for the pay band of the employee's position. This waiver does not apply to employees in band VI of the Engineers and Scientists occupational family who are to be treated as ST employees for the purposes of applying the grade and pay retention provisions.)
Section 5545, Night, standby, irregular, and hazardous duty differential (to the extent necessary to allow demonstration project employees to be treated as General Schedule employees. This waiver does not apply to employees in band VI of the Engineers and Scientists occupational family.)
Sections 5753, 5754, and 5755, Recruitment and relocation bonuses, retention allowances, and supervisory differentials (to the extent necessary to allow: (1) Employees and positions under the demonstration project to be treated as employees and positions under the General Schedule; and (2) employees in band VI of the Engineers and Scientists occupational family to be treated as ST employees)
Section 7512(3), Adverse actions (to the extent necessary to (1) substitute ''pay band'' for ''grade.''
Section 7512(4), Adverse actions (to the extent necessary to provide that adverse action provisions do not apply to: (1) Conversions from General Schedule special rates to demonstration project pay, as long as total pay is not reduced; and (2) reductions in pay due to removal of all or part of a supervisory adjustment)

*B. Waivers to Title 5, Code of Federal Regulations*

Part 300.601–605, Time-in-grade restrictions (to the extent that time-in-grade restrictions are eliminated)
Part 308.101–103, Volunteer service (to the extent that volunteer service is unrestricted)
Parts 315.801(a) and 315.802(a), Length of probationary period (to the extent that the probationary period for engineers and scientists is increased to 2 years)
Part 316.301, Term appointment (to the extent that modified term appointments may cover a maximum period of 6 years)
Part 316.303, Tenure of term employees (to the extent that term employees may compete for permanent status through local merit promotion plans)
Part 335.103, Covering the length of details and temporary promotions
Part 351.402(b), Competitive area (to the extent that occupational family is the competitive area)
Part 351.403, Competitive level (to the extent that pay band is substituted for grade)
Part 351.504, Retention standing, credit for performance (to the extent that service credit will not be modified based on performance rating)
Part 351.701, Assignment involving displacement (to the extent that a performance score of 1 is substituted for level 2 and bumping and retreating will be limited to no more than 2 pay bands except for 30 percent compensable veterans who can retreat to the equivalent of 5 GS grades)
Part 430.101–210, subparts A and B, Performance Management System
Part 432.103–105, Performance based reduction-in-grade and removal actions (to the extent that pay band is substituted for grade, reduction in band level as a result of non-receipt of General Schedule increases because of poor performance is not an adverse action, and unacceptable performance is redefined)
Part 511.101, 201–203, General provisions and coverage of the General Schedule (to the extent that positions are covered by broadbanding)
Part 511.601–612, Classification appeals (to the extent that positions are covered by broadbanding)
Part 530, subpart C, Special salary rates
Part 531, subparts B, D, and E, Determining the rate of basic pay, within-grade increases, and quality step increases
Part 531, subpart F, Locality-based comparability payments (to the extent necessary to allow: (1) demonstration project employees, except employees in band VI of the Engineers and Scientists occupational family, to be treated as General Schedule employees; (2) basic rates of pay under the demonstration project to be treated as scheduled annual rates of pay; and (3) employees in band VI of the Engineer and Scientist occupational family to be treated as ST employees)
Part 536, Grade and pay retention (to the extent necessary to: (1) replace ''grade'' with ''pay band'; (2) provide

that pay band retention provisions do not apply to movements to a lower pay band as a result of receiving no or only part of a general pay increase because of poor performance; (3) provide that pay retention provisions do not apply to conversions from General Schedule special rates to demonstration project pay, as long as total pay is not reduced, and to reductions in pay due solely to the removal of all or part of a supervisory pay adjustment upon leaving a supervisory position; and (4) provide than an employee on pay retention whose performance rating is less than 2.0 is not entitled to 50 percent of the amount of the increase in the maximum rate of basic pay payable for the pay band of the employee's position. This waiver does not apply to employees in band VI of the Engineers and Scientists occupational family who are to be treated as ST employees for the purposes of applying the grade and pay retention provisions)

Part 550.703, Severance pay (to the extent necessary to modify the definition of ''reasonable offer'' by replacing ''two grade or pay levels'' with ''one band level'' and ''grade or pay level'' with ''band level''

Part 550.902, Hazardous duty differential, definition of ''employee'' (to the extent necessary to allow demonstration project employees to be treated as General Schedule employees. This waiver does not apply to employees in band VI of the Engineers and Scientists occupational family)

Part 575, subparts A, B, C, and D, Recruitment bonuses, relocation bonuses, retention allowances and supervisory differentials (to the extent necessary to allow (1) employees and positions under the demonstration project to be treated as employees and positions under the General Schedule and (2)employees in band VI of the Engineers and Scientists occupational family to be treated as ST employees)

Part 752.401 (a)(3), Adverse actions (this provision is waived only to the extent necessary to (1) substitute ''pay band'' for ''grade'' and (2) provide that moving a lower pay band as a result of not receiving the full amount of a general pay increase because of poor performance is not an adverse action)

Part 752.401 (a)(4), Adverse actions (to the extent necessary to provide that adverse action provisions do not apply to: (1) conversions from General Schedule special rates to demonstration project pay, as long as total pay is not reduced; and (2) reductions in pay due to the removal of all or part of a supervisory adjustment)

BILLING CODE 6325–01–P

## Appendix A. Intervention Impact Model: Project Evaluation

| Intervention | Expected Effects | Measures | Data Sources |
|---|---|---|---|
| **1. Broadbanding** | | | |
| a. Pay Bands | -Less difficulty and less time spent on classification | -Perceptions of difficulty and time spent on classification activities by managers and personnelists | -Focus groups<br>-Attitude survey<br>-Personnel activity reports |
| | -Increased understanding with the classification results under the new system | -Perceptions of satisfaction with classification process | -Focus groups<br>-Attitude survey |
| b. Occupational Families | -Increased satisfaction with advancement potential | -Perceptions of satisfaction with career path process and progression | -Focus groups<br>-Attitude survey |
| | -Increase in management authority | -Perception of authority | -Attitude survey |
| c. Conversion of Employees to the Demonstration Project | -Employee acceptance | -Perception of equity and fairness | -Attitude survey |
| **2. Classification** | | | |
| a. Classification Standards | -Less difficulty and less time spent on classification; less difficulty classifying jobs | -Perceptions of difficulty and time spent on classification activities by managers and personnelists | -Focus groups<br>-Attitude survey<br>-Personnel activity reports |
| | -Increased satisfaction with the classification results under the new system | -Perceptions of satisfaction with classification process | -Focus groups<br>-Attitude survey |
| b. Position Descriptions and Classification Process | -Less difficulty and less time spent on classification by managers | -Perceptions of difficulty and time spent on classification activities by managers and personnelists | -Focus groups<br>-Attitude survey<br>-Personnel activity reports |
| | -Fewer position descriptions | -Reduced time to develop position descriptions | -Attitude survey<br>-Personnel activity reports |
| | -Increased satisfaction with the classification results under the new system | -Perceptions of satisfaction with classification process | -Focus groups<br>-Attitude survey |
| | -Development of generic classification standards | -Implementation of generic standards | -Personnel activity reports |
| **3. Pay for Performance** | | | |
| a. Supervisory Pay Adjustments and Differentials | -Reward top performers who take supervisory and managerial assignments | -Attitudes of supervisors and managers with pay | -WES workforce data<br>-Attitude survey |

| Intervention | Expected Effects | Measures | Data Sources |
|---|---|---|---|
| b. Promotion Link | -Promotions based on individual's performance | -Probability of promotion for high performers | -WES workforce data<br>-Attitude survey |
| c. Link Between Performance and Pay | -Stronger link between performance and pay | -Pay for performance correlations<br>-Perception of pay for performance link | -WES workforce data<br>-Attitude survey |
| | -Improve retention of high performers | -Employee perception of equality | -Attitude survey |
| | -Increase turnover among low performers | -Turnover rates by performance over time | -WES workforce data |
| | -Increase in supervisory decision making authority accountability | -Supervisors perception of pay for performance link | -Attitude survey |
| | -Increase pay satisfaction | -Employees perception of pay for performance link | -Attitude survey |
| d. Awards | -Stronger link between performance and awards | -Amount and number of awards by performance score and occupational family | -WES workforce data |
| | | -Employee perception of fairness | -Attitude survey |
| **4. Hiring and Placement** | | | |
| a. Hiring Authority | -Reduction in time to hire | -Time lag from announcement to date | -WES workforce data hiring log |
| | -Improve rate of job offers/ acceptance | -Offer acceptance rate | -WES workforce data hiring log |
| | -Improve image as interested caring employer | -Offer acceptance rate | -Managers' and supervisors' documented experience |
| b. Modified Term Appointments | -Decrease in hiring authorities | -Better qualified candidates within the temporary workforce | -WES workforce data |
| c. Extended Probationary Period | -Provide managers time to accurately identify successful employees | -Managers perception of new hires success | -Attitude survey |
| | | -New hires performance ratings | -WES workforce data |
| | -Increase in length of probation for engineers and scientists | -Pre and post comparison of length of probation | -WES workforce data |

| Intervention | Expected Effects | Measures | Data Sources |
|---|---|---|---|
| | -Increase in voluntary (in lieu of adverse action) and involuntary turnover of low performers during probation | -Comparison of voluntary/ involuntary turnover rates for low performers during probation period | -WES workforce data |
| **5. Employee Development** | | | |
| a. Sabbaticals | -Increase development of employees<br>-Use of sabbaticals for career development | -Perception of fairness in career development | -Attitude survey<br>-Documented experience of managers and supervisors |
| b. Degree Training | -Increase development of employees | -Perception of fairness in career development | -Attitude survey |
| **6. Reduction-In-Force** | | | |
| Modified RIF | -Retention of high performers | -Evaluation rating vs RIF turnover | -WES workforce data<br>-Historical WES data<br>-Historical RIF data from other Army Laboratories |
| | -Reduce disruption to the workforce by limiting RIF to occupational family | -Attitudes on a RIF action | -Attitude survey |
| **7. Combination of all Interventions** | | | |
| All | -Improved organizational effectiveness | -Combination of personnel measures | -All data sources |
| | -Improved management of R&D workforce | -Employee/management satisfaction | -Attitude survey |
| | -Improved planning | -Planning procedures | -Strategic planning documents |
| | -Improved cross functional coordination | -Perceived effectiveness of planning procedures<br>-Actual perceived coordination | -Organizational charts |
| | -Increased product success | -Customer satisfaction | -Attitude survey<br>-Customer satisfaction surveys |

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Federal Register

Thursday
March 13, 1997

Part V

# Department of Health and Human Services

## Announcement of Availability of Grants for Adolescent Family Life Demonstration Projects; Notice

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

**RIN 0905–ZBOO**

## Office of Public Health and Science; Announcement of Availability of Grants for Adolescent Family Life Demonstration Projects

**AGENCY:** Office of Adolescent Pregnancy Programs, Office of Population Affairs, OPHS, HHS.

**ACTION:** Notice.

**SUMMARY:** The Office of Adolescent Pregnancy Programs (OAPP) requests applications for grants under the Adolescent Family Life (AFL) Demonstration Projects Program. These grants are for planning and development of community-based and community-supported demonstration projects to find effective means of preventing pregnancy by encouraging adolescents to abstain from sexual activity. Although adolescents under age 19 are eligible for services, the OAPP is particularly interested in projects which target youth ages 9 to 14.

The OAPP is attempting to expedite and simplify the process of awarding small grants, within the requirements of Title XX of the Public Health Service Act, in order to solicit applications from small grass roots and/or community-based entities.

Funds are available for approximately 20–40 projects, which may be located in any State, the District of Columbia, the territories of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Commonwealth of the Northern Mariana Islands, Republic of Palau, Republic of the Marshall Islands and the Federated States of Micronesia.

Applicants also should be aware that the Department of Health and Human Services' Maternal and Child Health Bureau will be issuing separate grant application guidance to State Health Agencies for the abstinence education provision contained in the ''Personal Responsibility and Work Opportunity Reconciliation Act of 1996'', P.L. 104–193.

**DATES:** To receive consideration grant applications must be received by the Director, Grants Management Office by April 14, 1997. Applications will be considered as meeting the deadline if they are either (1) Received on or before the deadline date, or (2) postmarked on or before the deadline date and received in time for submission to the review committee. A legibly dated receipt from a commercial carrier or U.S Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be accepted as proof of timely mailing. Applications which do not meet the deadline will be considered late applications and will be returned to the applicant.

**ADDRESSES:** Requests for application kits may be faxed to (301) 594–5980. Application kits may also be obtained from and applications must be submitted to: Grants Management Office, Office of Population Affairs, 4350 East-West Highway, Suite 200, Bethesda, MD 20814.

**FOR FURTHER INFORMATION CONTACT:** Grants Management Office at (301) 594–4012 or Program Office at (301) 594–4004. Staff are available to answer questions and provide limited technical assistance in the preparation of grant applications.

**SUPPLEMENTARY INFORMATION:** Title XX of the Public Health Service Act, 42 U.S.C. 300z, *et seq.*, authorizes the Secretary of Health and Human Services to award grants for demonstration projects to provide services to pregnant and nonpregnant adolescents, adolescent parents and their families. (Catalog of Federal Domestic Assistance Number 93.995) Title XX authorizes grants for three types of demonstration projects: (1) projects which provide ''care services'' only (*i.e.*, services for the provisions of care to pregnant adolescents, adolescent parents and their families); (2) projects which provide ''prevention services'' only (*i.e.*, services to prevent adolescent sexual relations); and (3) projects which provide a combination of care and prevention services.

Under this program announcement, OAPP intends to make available approximately $1 million to support an estimated 20–40 new *prevention* demonstration projects only. The awards will range from $20,000 to $50,000. *These grants will be awarded for a period of one year to grass roots and/or community organizations for the purpose of planning and developing a pilot prevention project. We encourage applications from organizations currently serving youth.*

A grant award may not exceed 70 percent of the total cost of the project for the first year. The non-Federal share of the project costs may be provided in cash expenditures or fairly evaluated in-kind contributions, including plant, equipment and services.

The specific prevention services which may be funded under Title XX are listed below under Prevention Programs.

The following application requirements contain information collections subject to OMB approval under the Paperwork Reduction Act of 1995 (P.L. 104–13). These information collections have been approved by OMB under control number 0937–0189.

### Eligible Applicants

Any public or private nonprofit organization or agency is eligible to apply for a grant. Grants are awarded only to those organizations or agencies which are determined to demonstrate the capability of providing the proposed services and meet the statutory requirements.

### Prevention Programs

Under this announcement, funds are available for local projects only.

The primary purpose of prevention programs is to find effective means of reaching adolescents, both male and female, before they become sexually active in order to encourage them to abstain from sexual activity. There is general agreement that early initiation of sexual activity brings not only the risk of unintended pregnancy but also substantial health risks to adolescents, primarily infection with sexually transmitted diseases (STDs) including HIV. Accordingly, applicants must provide services that help pre-adolescents and young adolescents acquire knowledge and skills that will instill healthy attitudes and encourage and support abstinence from sexual activity. Any information provided for adolescents who may be or become sexually active, which relates to reducing the risk of unintended pregnancy and disease, must be medically accurate and must be presented within the context that abstinence is the best choice and is what the project recommends.

*Under this announcement, OAPP will fund proposals to grass roots and/or community organizations to plan and pilot test a prevention project consistent with this program announcement. OAPP will not fund proposals to develop new prevention curricula. Applicants must propose to use existing and available educational materials/curricula which are consistent with this program announcement.*

Programs must be consistent with abstinence education as defined in the ''Personal Responsibility and Work Opportunity Reconciliation act of 1996'', P.L. 104–193. Accordingly, under this announcement the term ''abstinence education'' means an educational or motivational program which—

A. has as its exclusive purpose, teaching the social, psychological, and health gains to be realized by abstaining from sexual activity;

B. teaches abstinence from sexual activity outside marriage as the expected standard for all school age children;
C. teaches that abstinence from sexual activity is the only certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, and other associated health problems;
D. teaches that a mutually faithful monogamous relationship in context of marriage is the expected standard of human sexual activity;
E. teaches that sexual activity outside of the context of marriage is likely to have harmful psychological and physical effects;
F. teaches that bearing children out-of-wedlock is likely to have harmful consequences for the child, the child's parents, and society;
G. teaches young people how to reject sexual advances and how alcohol and drug use increases vulnerability to sexual advances; and
H. teaches the importance of attaining self-sufficiency before engaging in sexual activity.

Under the statutory requirements of Title XX, applicants for prevention programs are not required to provide any specific array of services. OAPP encourages the submission of applications which focus on educational services relating to family life and which teach the social, psychological and health gains to be realized by abstaining from sexual activity.

The legislation also permits a proposal to include any one or more of the following services as appropriate:

(1) Educational services relating to family life and problems associated with adolescent premarital sexual relations including:

(a) Information about adoption,
(b) Education on the responsibilities of sexuality and parenting,
(c) The development of material to support the role of parents as the providers of sex education, and
(d) Assistance to parents, schools, youth agencies and health providers to educate adolescents and preadolescents concerning self-discipline and responsibility in human sexuality;

(2) Appropriate educational and vocational services;

(3) Counseling for the immediate and extended family members of the eligible person;

(4) Transportation;

(5) Outreach services to families of adolescents to discourage sexual relations among unemancipated minors.

If an applicant chooses to provide any of the above services in addition to educational services relating to family life and problems associated with adolescent premarital sexual relations, the applicant must justify how these services ((2) through (5)) will support or promote the educational component.

Evaluation

Section 2006(b)(1) of Title XX requires each grantee to expend at least one percent but not more than five percent of the Federal funds received under Title XX on evaluation of the project. As this is a demonstration program, all applications are required to have an evaluation component consistent with the scope of the proposed project and the funding level. Given the nature of these small grants, the expectations of OAPP are that applicants will budget evaluation costs at the lower end (one percent). All project evaluations should monitor program processes to determine whether the program has been carried out as planned and measure the program's outcomes where possible.

Section 2006(b)(2) requires that an organization or an entity independent of the grantee providing services assist the grantee in evaluating the project. The OAPP recommends consultation between the applicant organization and the proposed evaluator in the development of the intervention and of the evaluation plan.

Application Requirements

Applications must be submitted on the forms supplied (PHS 5161–1, Revised 5/96) and in the manner prescribed in the application kits provided by the OAPP. Applicants are required to submit an application signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award. *Applications sent by FAX will not be accepted.*

Applicants must be familiar with Title XX in its entirety to ensure that they have complied with all applicable requirements. A copy of the legislation is included in the application kit.

It should be noted that grantees may not teach or promote religion in their AFL project. Each grant project must be accessible to the public generally, not just to those of a particular religious affiliation.

Under sec. 2011(a) of the Act, AFL projects may not provide abortions or abortion counseling or referral either directly or through subcontract and may not advocate, promote or encourage abortion. However, if both the adolescent and her parents request abortion counseling, a project may provide referral for such counseling.

Additional Requirements

Applicants for grants must also meet the following requirements:

(1) *Requirements for Review of an Application by the Governor.* Section 2006(e) of Title XX requires that each applicant shall provide the governor of the State in which the applicant is located a copy of each application submitted to OAPP for a grant for a demonstration project for services under this Title. The Governor has 60 days from the receipt date in which to provide comments to the applicant.

An applicant may comply with this requirement by submitting a copy of the application to the governor of the State in which the applicant is located at the same time the application is submitted to OAPP. To inform the governor's office of the reason for the submission, a copy of this notice should be attached to the application.

(2) *Review Under Executive Order 12372.* Applications under this announcement are subject to the review requirements of E.O. 12372, ''Intergovernmental Review of Federal Programs,'' as implemented by 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' E.O. 12372 sets up a system for state and local government review of proposed Federal assistance applications. As soon as possible the applicant (other than federally-recognized Indian tribal governments) should contact the Governor's Office in the state to be served for information regarding the particular review process designed by the state. The State comment(s) should be forwarded to the Grants Management Office, Office of Population Affairs, 4350 East-West Highway, Suite 200, Bethesda, MD 20814. Such comments must be received by the Office of Population Affairs by August 11, 1997 to be considered.

The application kit contains information to guide applicants in fulfilling the above requirements.

Application Consideration and Assessment

Applications which are judged to be late or which do not conform to the requirements of this program announcement will not be accepted for review. Applicants will be so notified, and the applications will be returned. All other applications will be reviewed by a multidisciplinary panel of independent reviewers and assessed according to the following criteria:

(1) The applicant is a public or nonprofit grass roots and/or community agency which networks with and is supported by other community agencies, serves youth and has the capacity to develop the pilot project, test it, and document the implementation process. (40 points)

(2) The applicant's rationale for use of the proposed approach and description of the proposed project are consistent with the program announcement, reflect community needs and would result in a project that could be continued on a larger scale. (50 points)

(3) The applicant's presentation of an evaluation plan, indicates an understanding of the necessity for documenting the process of the pilot implementation and any outcomes. (10 points)

Final grant award decisions will be made by the Deputy Assistant Secretary for Populations Affairs. In making these decisions, the Deputy Assistant Secretary for Population Affairs will take into account the extent to which grants approved for funding will provide an appropriate geographic distribution of resources, the priorities in sec. 2005(a), and the other factors in sec. 2005, including consideration of:

(1) The applicant's capacity to administer funds responsibly;

(2) The incidence of adolescent pregnancy and the availability of services in the geographic area to be served;

(3) The population to be served;

(4) The community commitment to and involvement in planning and implementation of the demonstration project;

(5) The organizational model(s) for delivery of service;

(6) The usefulness for policymakers and service providers of the proposed project and its potential for complementing existing adolescent health models;

(7) The reasonableness of the estimated cost to the government considering the anticipated results.

OAPP does not release information about individual applications during the review process until final funding decisions have been made. When these decisions have been made, applicants will be notified by letter of the outcome of their applications. The official document notifying an applicant that an application has been approved for funding is the Notice of Grant Award, which specifies to the grantee the amount of money awarded, the purpose of the grant, the terms and conditions of the grant award, and the amount of funding to be contributed by the grantee to project costs.

Dated: January 13, 1997.

Thomas C. Kring,

*Acting Deputy Assistant Secretary for Population Affairs.*

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Federal Register

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Part VI

# Department of Health and Human Services

## Announcement of Availability of Grants for Adolescent Family Life Demonstration Projects; Notice

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

**RIN 0905–ZA99**

## Office of Public Health and Science; Announcement of Availability of Grants for Adolescent Family Life Demonstration Projects

**AGENCY:** Office of Adolescent Pregnancy Programs, Office of Population Affairs, OPHS, HHS.

**ACTION:** Notice.

**SUMMARY:** The Office of Adolescent Pregnancy Programs (OAPP) requests applications for grants under the Adolescent Family Life (AFL) Demonstration Projects Program. These grants are for community-based and community-supported demonstration projects to find effective means of preventing pregnancy by encouraging adolescents to abstain from sexual activity through provision of age-appropriate education on sexuality and decision-making skills. Although adolescents under age 19 are eligible for services, the OAPP is particularly interested in projects which target youth ages 9 to 14.

Funds are available for approximately 40–50 projects, which may be located in any State, the District of Columbia, the territories of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Commonwealth of the Northern Mariana Islands, Republic of Palau, Republic of the Marshall Islands and the Federated States of Micronesia.

Applicants also should be aware that the Department of Health and Human Services' Maternal and Child Health Bureau will be issuing separate grant application guidance to State Health Agencies for the Abstinence education provision contained in the ''Personal Responsibility and Work Opportunity Reconciliation Act of 1996'', Pub.L. 104–193.

**DATES:** To receive consideration grant applications must be received by the Director, Grants Management Office by April 28, 1997. Applications will be considered as meeting the deadline if they are either (1) received on or before the deadline date, or (2) postmarked on or before the deadline date and received in time for submission to the review committee. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks will not be accepted as proof of timely mailing. Applications which do not meet the deadline will be considered late applications and will be returned to the applicant.

**ADDRESSES:** Requests for application kits may be faxed to (301) 594–5980. Application kits may also be obtained from and applications must be submitted to: Grants Management Office, Office of Population Affairs, 4350 East-West Highway, Suite 200, Bethesda, MD 20814.

**FOR FURTHER INFORMATION CONTACT:** Grants Management Office at (301) 594–4012 or Program Office at (301) 594–4004. Staff are available to answer questions and provide limited technical assistance in the preparation of grant applications.

**SUPPLEMENTARY INFORMATION:** Title XX of the Public Health Service Act, 42 U.S.C. 300z, *et seq.*, authorizes the Secretary of Health and Human Services to award grants for demonstration projects to provides services to pregnant and nonpregnant adolescents, adolescent parents and their families. (Catalog of Federal Domestic Assistance Number 93.995) Title XX authorizes grants for three types of demonstration projects: (1) Projects which provide ''care services'' only (*i.e.*, services for the provision of care of pregnant adolescents, adolescent parents and their families); (2) projects which provide ''prevention services'' only (*i.e.*, services to prevent adolescent sexual relations); and (3) projects which provide a combination of care and prevention services.

Under this program announcement, OAPP intends to make available approximately $8 million to support an estimated 40–50 new *prevention* demonstration projects only. An applicant may submit a proposal for a *local* or *state-wide* prevention project. The awards will range from $100,000 to $225,000. These grants will be awarded for a period of one year, and the availability of funding for later years is uncertain. Therefore, we encourage applications from experienced organizations which are currently operating programs and which have the capability of expanding and enhancing these services to serve significant numbers of adolescents according to the guidelines specified in this announcement. Additional funds may be available in Fiscal Year 1998 and following years. If funds do become available, grantees funded under this program announcement will be eligible to reapply for continued funding.

Grants are funded in annual increments (budget periods). Funding for all approved budget periods beyond the first year of a grant is contingent upon the availability of funds, satisfactory progress of the project, and adequate stewardship of Federal funds. A grant award may not exceed 70 percent of the total cost of the project for each of the first and second years and 60 percent for the third year. The non-Federal share of the project costs may be provided in cash expenditures or fairly evaluated in-kind contributions, including plant, equipment and services.

The specific prevention services which may be funded under Title XX are listed below under PREVENTION PROGRAMS.

The following application requirements contain information collections subject to OMB approval under the Paperwork Reduction Act of 1995 (Pub. L. 104–13). These information collections have been approved by OMB under control number 0937–0189.

### Eligible Applicants

Any public or private nonprofit organization or agency is eligible to apply for a grant. Grants are awarded only to those organizations or agencies which are determined to demonstrate the capability of providing the proposed services and meet the statutory requirements.

### Prevention Programs

Under this announcement, funds are available for local or state-wide projects.

The primary purpose of prevention programs is to find effective means of reaching adolescents, both male and female, before they become sexually active in order to encourage them to abstain from sexual activity. There is general agreement that early initiation of sexual activity brings not only the risk of unintended pregnancy but also substantial health risks to adolescents, primarily infection with sexually transmitted diseases (STDs), including HIV. Accordingly, applicants must provide services that help pre-adolescents and young adolescents acquire knowledge and skills that will instill healthy attitudes and encourage and support abstinence from sexual activity. Any information provided for adolescents who may be or become sexually active, which relates to reducing the risk of unintended pregnancy and disease, must be medically accurate and must be presented within the context that abstinence is the best choice and is what the project recommends.

*Under this announcement, applicants may propose to develop and test new prevention curricula, update existing curricula or use existing and available educational materials/curricula which are consistent with this program*

*announcement within their demonstration projects.*

Programs must be consistent with abstinence education as defined in the ''Personal Responsibility and Work Opportunity Reconciliation Act of 1996'', Pub. L. 104–193. Accordingly, the term ''abstinence education'' means an educational or motivational program which—

A. Has as its exclusive purpose, teaching the social, psychological, and health gains to be realized by abstaining from sexual activity;

B. Teaches abstinence from sexual activity outside marriage as the expected standard for all school age children;

C. Teaches that abstinence from sexual activity is the only certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, and other associated health problems;

D. Teaches that a mutually faithful monogamous relationship in context of marriage is the expected standard of human sexual activity;

E. Teaches that sexual activity outside of the context of marriage is likely to have harmful psychological and physical effects;

F. Teaches that bearing children out-of-wedlock is likely to have harmful consequences for the child, the child's parents, and society;

G. Teaches young people how to reject sexual advances and how alcohol and drug use increases vulnerability to sexual advances; and

H. Teaches the importance of attaining self-sufficiency before engaging in sexual activity.

Under the statutory requirements of Title XX, applicants for prevention programs are not required to provide any specific array of services, OAPP encourages the submission of applications which focus on educational services relating to family life and which teach the social, psychological and health gains to be realized by abstaining from sexual activity.

The legislation also permits a proposal to include any one or more of the following services as appropriate:

(1) Educational services relating to family life and problems associated with adolescent premarital sexual relations including:

(a) Information about adoption,

(b) Education on the responsibilities of sexuality and parenting,

(c) The development of material to support the role of parents as the providers of sex education, and

(d) Assistance to parents, schools, youth agencies and health providers to educate adolescents and preadolescents concerning self-discipline and responsibility in human sexuality;

(2) Appropriate educational and vocational services;

(3) Counseling for the immediate and extended family members of the eligible person;

(4) Transportation;

(5) Outreach services to families of adolescents to discourage sexual relations among unemancipated minors;

If an applicant chooses to provide any of the above services in addition to educational services relating to family life and problems associated with adolescent premarital sexual relations, the applicant must justify how these services ((2) through (5)) will support or promote the educational component.

Evaluation

Section 2006(b)(1) of Title XX requires each grantee to expend at least one percent but not more than five percent of the Federal funds received under Title XX on evaluation of the project. As this is a demonstration program, all applications are required to have an evaluation component of high quality consistent with the scope of the proposed project and the funding level. All project evaluations should monitor program processes to determine whether the program has been carried out as planned and measure the program's outcomes. Waivers of the five percent limit on evaluation (see sec. 2006(b)(1)) may be granted in cases where a more rigorous or comprehensive evaluation effort is proposed.

Section 2006(b)(2) requires that an organization or an entity independent of the grantee providing services assist the grantee in evaluating the project. The OAPP strongly recommends extensive collaboration between the applicant organization and the proposed evaluator in the development of the intervention, development of the evaluation hypothesis(es), identification of the variables to be measured and a timetable for initiation of the intervention, baseline measurement, and ongoing evaluation data collection and analysis.

Application Requirements

Applications must be submitted on the forms supplied (PHS 5161–1, Revised 5/96) and in the manner prescribed in the application kits provided by the OAPP. Applicants are required to submit an application signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award. *Applications sent by FAX will not be accepted.*

Applicants must be familiar with Title XX in its entirety to ensure that they have complied with all applicable requirements. A copy of the legislation is included in the application kit.

It should be noted that grantees may not teach or promote religion in their AFL project. Each grant project must be accessible to the public generally, not just to those of a particular religious affiliation.

Under sec. 2011(a) of the Act, AFL projects may not provide abortions or abortion counseling or referral either directly or through subcontract and may not advocate, promote or encourage abortion. However, if both the adolescent and her parents request abortion counseling, a project may provide referral for such counseling.

Additional Requirements

Applicants for grants must also meet the following requirements:

(1) *Requirements for Review of an Application by the Governor.* Section 2006(e) of Title XX requires that each applicant shall provide the Governor of the State in which the applicant is located a copy of each application submitted to OAPP for a grant for a demonstration project for services under this Title. The Governor has 60 days from the receipt date in which to provide comments to the applicant.

An applicant may comply with this requirement by submitting a copy of the application to the Governor of the State in which the applicant is located at the same time the application is submitted to OAPP. To inform the Governor's office of the reason for the submission, a copy of this notice should be attached to the application.

(2) *Review Under Executive Order 12372.* Applications under this announcement are subject to the review requirements of E.O. 12372, ''Intergovernmental Review of Federal Programs,'' as implemented by 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' E.O. 12372 sets up a system for state and local government review of proposed Federal assistance applications. As soon as possible the applicant (other than federally-recognized Indian tribal governments) should contact the Governor's Office in the state to be served for information regarding the particular review process designed by the state. The State comment(s) should be forwarded to the Grants Management Office, Office of Population Affairs, 4350 East-West Highway, Suite 200, Bethesda, MD 20814. Such comments must be received by the Office of Population Affairs by August 11, 1997, to be considered.

The application kit contains information to guide applicants in fulfilling the above requirements.

Application Consideration and Assessment

Applications which are judged to be late or which do not conform to the requirements of this program announcement will not be accepted for review. Applicants will be so notified, and the applications will be returned. All other applicants will be reviewed by a multidisciplinary panel of independent reviewers and assessed according to the following criteria:

(1) The capacity of the proposed applicant organization to provide rapid and effective use of resources needed to conduct the project, collect data and evaluate it. This includes personnel, time and facilities. (30 points)

(2) The applicant's rationale for use of the proposed approach and its worth for testing and/or replication based upon its previous demonstration, review of the literature and/or evaluation findings. (20 points)

(3) The applicant's presentation of an appropriate project design, consistent with the requirements of Title XX, including a clear statement of goals and objectives, reasonable methods for achieving the objectives, a reasonable workplan and timetable and a clear statement of results or benefits expected. (30 points)

(4) The applicant's presentation of a detailed evaluation plan, indicating an understanding of program evaluation methods and reflecting a practical, technically sound approach to assessing the project's achievement of program objectives.

Final grant award decisions will be made by the Deputy Assistant Secretary for Populations Affairs. In making these decisions, the Deputy Assistant Secretary for Population Affairs will take into account the extent to which grants approved for funding will provide an appropriate geographic distribution of resources, the priorities in sec. 2005(a), and the other factors in sec. 2005, including consideration of:

(1) The applicant's capacity to administer funds responsible;

(2) The incidence of adolescent pregnancy and the availability of services in the geographic area to be served;

(3) The population to be served;

(4) The community commitment to and involvement in planning and implementation of the demonstration project;

(5) The organizational model(s) for delivery of service;

(6) The usefulness for policymakers and service providers of the proposed project and its potential for complementing existing adolescent healthmodels;

(7) The reasonableness of the estimated cost to the government considering the anticipated results.

OAPP does not release information about individual applications during the review process until final funding decisions have been made. When these decisions have been made, applicants will be notified by letter of the outcome of their applications. The official document notifying an applicant that an application has been approved for funding is the Notice of Grant Award, which specifies to the grantee the amount of money awarded, the purpose of the grant, the terms and conditions of the grant award, and the amount of funding to be contributed by the grantee to project costs.

Dated: January 17, 1997.

Thomas C. Kring,

*Acting Deputy Assistant Secretary for Population Affairs.*

[FR Doc. 97–6307 Filed 3–12–97; 8:45 am]

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Federal Register

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March 13, 1997

## Part VII

# Department of Education

**Office of Civil Rights; Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties; Notice**

## DEPARTMENT OF EDUCATION

### Office for Civil Rights; Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties

**ACTION:** Final policy guidance.

**SUMMARY:** The Assistant Secretary for Civil Rights issues a final document entitled ''Sexual Harassment Guidance'' (Guidance). Sexual harassment of students is prohibited by Title IX of the Education Amendments of 1972 under the circumstances described in the Guidance. The Guidance provides educational institutions with information regarding the standards that are used by the Office for Civil Rights (OCR), and that institutions should use, to investigate and resolve allegations of sexual harassment of students engaged in by school employees, other students (peers), or third parties.

**FOR FURTHER INFORMATION CONTACT:** Howard I. Kallem. U.S. Department of Education, 600 Independence Avenue, S.W., Room 5412 Switzer Building, Washington, D.C. 20202–1174. Telephone (202) 205–9641. Internet address: Howard__Kallem@ed.gov For additional copies of this Guidance, individuals may call OCR's Customer Service Team at (202) 205–5413 or toll-free at 1–800–421–3481. Individuals who use a telecommunications device for the deaf (TDD) may call the Department's toll-free number, 1–800–421–3481, in conjunction with the phone company's TDD relay capabilities. This Guidance will also be available at OCR's site on the Internet at URL http://www.ed.gov/offices/OCR/ocrpubs.html.

**SUPPLEMENTARY INFORMATION:**

Purpose of the Guidance

Title IX of the Education Amendments of 1972 (Title IX) prohibits discrimination on the basis of sex in education programs and activities receiving Federal financial assistance. Sexual harassment of students can be a form of discrimination prohibited by Title IX. The Office for Civil Rights has long recognized that sexual harassment of students engaged in by school employees, other students, or third parties is covered by Title IX. OCR's policy and practice is consistent with the Congress' goal in enacting Title IX—the elimination of sex-based discrimination in federally assisted education programs. It is also consistent with United States Supreme Court precedent and well-established legal principles that have developed under Title IX, as well as under the related anti-discrimination provisions of Title VI and Title VII of the Civil Rights Act of 1964.

The elimination of sexual harassment of students in federally assisted educational programs is a high priority for OCR. Through its enforcement of Title IX, OCR has learned that a significant number of students, both male and female, have experienced sexual harassment, that sexual harassment can interfere with a student's academic performance and emotional and physical well-being, and that preventing and remedying sexual harassment in schools is essential to ensure nondiscriminatory, safe environments in which students can learn.

The Guidance applies to students at every level of education. It provides information intended to enable school employees and officials to identify sexual harassment and to take steps to prevent its occurrence. In addition, the Guidance is intended to inform educational institutions about the standards that should be followed when investigating and resolving claims of sexual harassment of students. The Guidance is important because school personnel who understand their obligations under Title IX are in the best position to prevent harassment and to lessen the harm to students if, despite their best efforts, harassment occurs. The Guidance discusses factors to be considered in applying the standards and examples that are designed to illustrate how the standards may apply to particular situations. Overall, the Guidance illustrates that in addressing allegations of sexual harassment, the judgment and common sense of teachers and school administrators are important elements of a response that meets the requirements of Title IX.

In addition, it is clear from the Guidance that not all behavior with sexual connotations constitutes sexual harassment under Federal law. In order to give rise to a complaint under Title IX, sexual harassment must be sufficiently severe, persistent, or pervasive that it adversely affects a student's education or creates a hostile or abusive educational environment. For a one-time incident to rise to the level of harassment, it must be severe.

As illustrated in the Guidance, school personnel should consider the age and maturity of students when responding to allegations of sexual harassment. The Guidance explains that age is relevant in determining whether sexual harassment occurred in the first instance, as well as in determining the appropriate response by the school. For example, age is relevant in determining whether a student welcomed the conduct and in determining whether the conduct was severe, persistent, or pervasive. Age is a factor to be considered by school personnel when determining what type of education or training to provide to students in order to prevent sexual harassment from occurring.

Notably, during the time that the Guidance was available for public comment, several incidents involving young students occurred in public schools and were widely reported in the press. In one incident a school reportedly punished a six-year-old boy, under its sexual harassment policy, for kissing a female classmate on the cheek. These incidents provide a good example of how the Guidance can assist schools in formulating appropriate responses to conduct of this type. The factors in the Guidance confirm that a kiss on the cheek by a first grader does not constitute sexual harassment.

Consistent with the Guidance's reliance on school employees and officials to use their judgment and common sense, the Guidance offers school personnel flexibility in how to respond to sexual harassment. Commenters who read the Guidance as always requiring schools to punish alleged harassment under an explicit sexual harassment policy rather than by use of a general disciplinary or behavior code, even if the latter may provide more age-appropriate ways to handle those incidents, are incorrect. First, if inappropriate conduct does not rise to the level of harassment prohibited by Title IX, school employees or officials may rely entirely on their own judgment regarding how best to handle the situation.

Even if a school determines that a student's conduct is sexual harassment, the Guidance explicitly states that Title IX permits the use of a general student disciplinary procedure. The critical issue under Title IX is whether responsive action that a school could reasonably be expected to take is effective in ending the sexual harassment and in preventing its recurrence. If treating sexual harassment merely as inappropriate behavior is not effective in ending the harassment or in preventing it from escalating, schools must take additional steps to ensure that students know that the conduct is prohibited sex discrimination.

Process in Developing the Guidance

Because of the importance of eliminating sexual harassment in schools, and based on the requests of schools, teachers, parents, and other interested parties, OCR determined that it should provide to schools a

comprehensive discussion of the legal standards and related issues involved in resolving sexual harassment incidents. While this document reflects longstanding OCR policy and practice in this area, it also reflects extensive consultation with interested parties. Even before making documents available for formal comment, OCR held a series of meetings with groups representing students, teachers, school administrators, and researchers. In these discussions, OCR gained valuable information regarding the realities of sexual harassment in schools, as well as information regarding promising practices for identifying and preventing harassment. These insights and learning are reflected in the Guidance.

## Issuance of the Guidance for Comment and the Format of the Final Guidance

On August 16, 1996, the Assistant Secretary for Civil Rights published a notice in the Federal Register (61 FR 42728) regarding the availability of a document entitled: ''Sexual Harassment Guidance: Peer Sexual Harassment'' (Peer Guidance) and inviting comments on the document. Subsequently, on October 4, 1996, the Assistant Secretary published in the Federal Register (61 FR 52172) a request for comments on a document entitled: ''Sexual Harassment Guidance: Harassment of Students by School Employees'' (Employee Guidance). Both notices stated that the guidance documents reflected longstanding OCR policy and practice and invited comments and recommendations regarding their clarity and completeness.

The most significant change in the format of the final document is that it combines the two separate guidance documents into one document that addresses sexual harassment of students by peers, school employees, or third parties. Commenters frequently stated that a combined document would be clearer and easier to use. OCR agrees. Thus, the term ''Guidance'' when used in this preamble refers to the combined document that incorporates both the Peer Guidance and the Employee Guidance.

## Analysis of Comments and Changes

In response to the Assistant Secretary's invitations to comment, OCR received approximately 70 comments on the Peer Guidance and approximately 10 comments on the Employee Guidance. Many commenters stated that the guidance documents provided comprehensive, clear, and useful information to schools. For instance, one commenter stated that the Peer Guidance was ''a godsend * * * in one convenient place [it provides] the clear implications of the statutes, regulations, and case law.'' Another commenter stated that the Guidance ''will assist universities * * * in maintaining a harassment-free educational environment.''

Commenters also provided many specific suggestions and examples regarding how the final Guidance could be more complete and clearer. Many of these suggested changes have been incorporated into the Guidance.

The preamble discusses recurring and significant recommendations regarding the clarity and completeness of the document. While the invitations to comment on the Peer Guidance and Employee Guidance did not request substantive comments regarding OCR's longstanding policy and practice in the area of sexual harassment, some commenters did provide these comments. In instances in which OCR could provide additional useful information to readers related to these comments, it has done so in the preamble. Comments are grouped by subject and are discussed in the following sections.

### *The Need for Additional Guidance*

*Comments:* Many commenters agreed that a document combining the Peer Guidance and the Employee Guidance would provide more clarity to schools. Commenters disagreed, however, regarding whether, and what type of, additional information is needed to enhance schools' understanding of their legal obligations under Title IX. Some commenters asked for more detailed analysis regarding the applicable legal standards, including hard and fast rules for determining what is harassment and how a school should respond. Other commenters, by contrast, found OCR's guidance documents, including the extensive legal citations, to be too detailed and ''legalistic.'' They expressed a need for a document that is simpler and more accessible to teachers, parents, school administrators, and others who need to know how to recognize, report, or respond to sexual harassment.

*Discussion:* As the Guidance makes clear, it is impossible to provide hard and fast rules applicable to all instances of sexual harassment. Instead, the Guidance provides factors to help schools make appropriate judgments.

In response to concerns for more analysis of the legal standards, OCR has provided additional examples in the Guidance to illustrate how the Title IX legal standards may apply in particular cases. It is important to remember that examples are just that; they do not cover all the types of situations that may arise. Moreover, they may not illustrate the only way to respond to sexual harassment of students because there is often no one right way to respond.

OCR also believes that there is a legitimate concern that school administrators, teachers, students, and parents need an accessible document to assist them in recognizing and appropriately responding to sexual harassment. Accordingly, OCR has developed, in addition to the final Guidance, a pamphlet for conveying basic information regarding parties' rights and responsibilities under Title IX. The pamphlet includes information from the Guidance that would be most useful to these groups as they confront issues of sexual harassment. Concurrent with the issuance of this Guidance, the pamphlet will be issued with copies available from all OCR offices and an electronic posting on OCR's web site. For a copy of the pamphlet, individuals may call OCR's Customer Service Team at (202) 205–5413 or toll-free 1–800–421–3481. Copies will also be available from all OCR enforcement offices, and the pamphlet will be posted on OCR's site on the Internet at URL http://www.ed.gov/offices/OCR/ocrpubs.html.

### *Additional Guidance on the First Amendment*

*Comments:* Many commenters asked OCR to provide additional guidance regarding the interplay of academic freedom and free speech rights with Title IX's prohibition of sexual harassment. Several of these commenters wanted OCR to announce hard and fast rules in this area, although commenters disagreed on what those rules should be. For instance, one commenter requested that OCR tell schools that the First Amendment does not prevent schools from punishing speech that has no legitimate pedagogical purpose. Another commenter, by contrast, wanted OCR to state that classroom speech simply can never be the basis for a sexual harassment complaint. Other commenters requested that OCR include specific examples regarding the application of free speech rights.

*Discussion:* As the documents published for comment indicated, the resolution of cases involving potential First Amendment issues is highly fact- and context-dependent. Thus, hard and fast rules are not appropriate.

However, in order to respond to concerns that schools need assistance in making these determinations, OCR has provided additional examples in the Guidance regarding the application of

the First Amendment principles discussed there.

*Application of Guidance to Harassment by Third Parties*

*Comments:* Several commenters stated that it was unclear whether the Guidance applies if a student alleges harassment by a third party, i.e., by someone who is not an employee or student at the school.

*Discussion:* The Guidance clarifies that the principles in the Guidance apply to situations in which, for example, a student alleges that harassment by a visiting professional speaker or members of a visiting athletic team created a sexually hostile environment. The Peer Guidance did, in fact, discuss the standards applicable to the latter situation in which students from another school harassed the school's students.

The applicable standards have not changed, but the final Guidance clarifies that the same standards also apply if adults who are not employees or agents of the school engage in harassment of students.

*Application of Guidance to Harassment Based on Sexual Orientation*

*Comments:* Several commenters indicated that, in light of OCR's stated policy that Title IX's prohibition against sexual harassment applies regardless of the sex of the harassed student or of the sex of the alleged harasser, the Guidance was confusing regarding the statement that Title IX does not apply to discrimination on the basis of sexual orientation.

*Discussion:* The Guidance has been clarified to indicate that if harassment is based on conduct of a sexual nature, it may be sexual harassment prohibited by Title IX even if the harasser and the harassed are the same sex or the victim of harassment is gay or lesbian. If, for example, harassing conduct of a sexual nature is directed at gay or lesbian students, it may create a sexually hostile environment and may constitute a violation of Title IX in the same way that it may for heterosexual students. The Guidance provides examples to illustrate the difference between this type of conduct, which may be prohibited by Title IX, and conduct constituting discrimination on the basis of sexual orientation, which is not prohibited by Title IX. The Guidance also indicates that some State or local laws or other Federal authority may prohibit discrimination on the basis of sexual orientation.

*The Effect on the Guidance of Conflicting Federal Court Decisions*

*Comments:* Several commenters requested clarification of the standards to be applied to sexual harassment cases in States subject to the jurisdiction of the United States Court of Appeals for the Fifth Circuit, specifically in light of the Fifth Circuit's decision in *Rowinsky* v. *Bryan Independent School District*, 80 F.3d 1006 (5th Cir. 1996), *cert. denied*, 117 S. Ct. 165 (1996).

*Discussion:* One beneficial result of the Guidance will be to provide courts with ready access to the standards used by the agency that has been given the authority by law to interpret and enforce Title IX. Courts generally benefit from and defer to the expertise of an agency with that authority.

Nevertheless, OCR recognizes that recent Fifth Circuit decisions add to schools' confusion regarding Title IX legal standards. In *Rowinsky*, the Fifth Circuit held that a school is not liable under Title IX even if it is on notice of peer sexual harassment and it ignores or fails to remedy it, unless it responds differently based on the sex of the alleged victim. Consistent with the vigorous dissent in *Rowinsky*, as well as with other Federal decisions contrary to the *Rowinsky* holding, OCR continues to believe that the *Rowinsky* decision was wrongly decided. In OCR's view, the holding in *Rowinsky* was based on a mistaken belief that the legal principle underpinning this aspect of the Guidance makes a school responsible for the actions of a harassing student, rather than for the school's own discrimination in failing to respond once it knows that the harassment is happening.

In two very recent decisions involving sexual harassment of students by school employees, the Fifth Circuit again applied Title IX law in a manner inconsistent with OCR's longstanding policy and practice. First, in *Canutillo Indep. School Dist.* v. *Leija*, 101 F.3d 393, 398–400 (5th Cir. 1996), the court held, again over a strong dissent and contrary to OCR policy, that a school district was not liable for the sexual molestation of a second grade student by one of her teachers because the student and her mother only reported the harassment to her homeroom teacher. The court determined that notice to the teacher was not notice to the school—notwithstanding that a school handbook instructed students and parents to report complaints to the child's primary or homeroom teacher.

Finally, in *Rosa H.* v. *San Elizario Indep. School Dist.*, 1997 U.S. App. LEXIS 2780 (Feb. 17, 1997), the Fifth Circuit reversed a jury finding that a school district was liable under Title IX for a hostile environment created by the school's male karate instructor, who repeatedly initiated sexual intercourse with a fifteen-year-old female karate student, often during the school day. The court held that, while ''there was no question that the student was subject to discrimination based on sex,'' a school is liable only in situations in which an employee who has been invested by the school board with supervisory power over the offending employee actually knew of the abuse, had the power to end the abuse, and failed to do so.

Several of the decisions discuss according ''appreciable deference'' to OCR's interpretation of Title IX in appropriate circumstances and contain other indications that Title IX law is evolving in the Fifth Circuit. When OCR investigates complaints involving schools in States in the Fifth Circuit (Texas, Louisiana, and Mississippi), it will in each case determine and follow the current applicable law, even if it is inconsistent with OCR policy. OCR will also participate where appropriate, and in conjunction with the Department of Justice, to shape the evolution of Title IX law in a manner consistent with the Guidance.

Inconsistent decisions do not prohibit schools in States in the Fifth Circuit from following the Guidance. Since the Guidance assists school in ensuring that students can learn in a safe and nondiscriminatory educational environment, it is the better practice for these schools to follow the Guidance. Indeed, in light of the evolving case law in the Fifth Circuit, following the Guidance may also be the safest way to ensure compliance with the requirements of Title IX. School personnel in States in the Fifth Circuit should also consider whether State, local, or other Federal authority affects their obligations in these areas.

*Notice*

*Comments:* Several commenters recommended that additional guidance be provided regarding the types of employees through which a school can receive notice of sexual harassment. Commenters disagreed, however, on who should be able to receive notice. For instance, some commenters stated that OCR should find that a school has received notice only if ''managerial'' employees, ''designated'' employees, or employees with the authority to correct the harassment receive notice of the harassment. Another commenter suggested, by contrast, that any school employee should be considered a

responsible employee for purposes of notice.

*Discussion:* The Guidance states that a school has actual notice of sexual harassment if an agent or responsible employee of the school receives notice. An exhaustive list of employees would be inappropriate, however, because whether an employee is an agent or responsible school employee, or whether it would be reasonable for a student to believe the employee is an agent or responsible employee, even if the employee is not, will vary depending on factors such as the authority actually given to the employee and the age of the student. Thus, the Guidance gives examples of the types of employees that can receive notice of harassment. In this regard, it is important for schools to recognize that the Guidance does not necessarily require that any employee who receives notice of the harassment also be responsible for taking appropriate steps to end the harassment or prevent its recurrence. An employee may be required only to report the harassment to other school officials who have the responsibility to take appropriate action.

OCR does not agree with those commenters who recommend that a school can receive notice only through managerial or designated employees. For example, young students may not understand those designations and may reasonably believe that an adult, such as a teacher or the school nurse, is a person they can and should tell about incidents of sexual harassment regardless of that person's formal status in the school administration.

*Comments:* Several commenters stated that constructive notice, or the ''should have known'' standard, puts schools in the untenable position of constantly monitoring students and employees to seek out potential harassers.

*Discussion:* Constructive notice is relevant only if a school's liability depends on notice and conduct has occurred that is sufficient to trigger the school's obligation to respond. As the examples in the Guidance indicate, constructive notice is applicable only if a school ignores or fails to recognize overt or obvious problems of sexual harassment. Constructive notice does not require a school to predict aberrant behavior.

*Remedying the Effects of Harassment on Students*

*Comments:* Several commenters expressed concern regarding the Guidance's statement that schools may be required to pay for professional counseling and other services necessary to remedy the effects of harassment on students. Some comments indicated confusion over the circumstances under which the responsibility for those costs would exist and concern over the financial responsibility that would be created. Others stated that schools should not be liable for these costs if they have taken appropriate responsive action to eliminate the harassing environment, or if the harassers are non-employees.

*Discussion:* The final Guidance provides additional clarification regarding when a school may be required to remedy the effects on those who have been subject to harassment. For instance, if a teacher engages in *quid pro quo* harassment against a student, a school is liable under Title IX for the conduct and its effects. Thus, appropriate corrective action could include providing counseling services to the harassed student or paying other costs necessary to remedy the effects of the teacher's harassment. On the other hand, if a school's liability depends on its failure to take appropriate action after it receives notice of the harassment, e.g., in cases of peer harassment, the extent of a school's liability for remedying the effects of harassment will depend on the speed and efficacy of the school's response once it receives notice. For instance, if a school responds immediately and appropriately to eliminate harassment of which it has notice and to prevent its recurrence, it will not be responsible for remedying the effects of harassment, if any, on the individual. By contrast, if a school ignores complaints by a student that he or she is persistently being sexually harassed by another student in his or her class, the school will be required to remedy those effects of the harassment that it could have prevented if it had responded appropriately to the student's complaints, including, if appropriate, the provision of counseling services.

*Confidentiality*

*Comments:* Many commenters recommended additional clarification regarding how schools should respond if a harassed student requests that his or her name not be disclosed. Some commenters believe that, particularly in the elementary and secondary school arena, remedying harassment must be the school's first priority, even if that action results in a breach of a request for confidentiality. These commenters were concerned that, by honoring requests for confidentiality, schools would not be able to take effective action to remedy harassment. Other commenters believe that if requests for confidentiality are not honored, students may be discouraged from reporting harassment. These commenters, therefore, argue that declining to honor these requests would be less effective in preventing harassment than taking whatever steps are possible to remedy harassment, while maintaining a victim's confidentiality. Finally, some commenters were concerned that withholding the name of the victim of harassment would interfere with the due process rights of the accused.

*Discussion:* The Guidance strikes a balance regarding the issue of confidentiality: encouraging students to report harassment, even if students wish to maintain confidentiality, but not placing schools in an untenable position regarding their obligations to remedy and prevent further harassment, or making it impossible for an accused to adequately defend himself or herself. The Guidance encourages schools to honor a student's request that his or her name be withheld, if this can be done consistently with the school's obligation to remedy the harassment and take steps to prevent further harassment. (The Guidance also notes that schools should consider whether the Family Educational Rights and Privacy Act (FERPA) would prohibit a school from disclosing information from a student's education record without the consent of the student alleging harassment.) In addition, OCR has provided clarification by describing factors schools should consider in making these determinations. These factors include the nature of the harassment, the age of the students involved, and the number of incidents and students involved. These factors also may be relevant in balancing a victim's need for confidentiality against the rights of an accused harasser.

The Guidance also has been clarified to acknowledge that, because of the sensitive nature of incidents of harassment, it is important to limit or prevent public disclosure of the names of both the student who alleges harassment and the name of the alleged harasser. The Guidance informs schools that, in all cases, they should make every effort to prevent public disclosure of the names of all parties involved, except to the extent necessary to carry out a thorough investigation.

*FERPA*

*Comments:* Several commenters stated that the Department should change its position that FERPA could prevent a school from informing a complainant of the sanction or discipline imposed on a student found guilty of harassment. Some commenters

argued that information regarding the outcome of a sexual harassment complaint is not an education record covered by FERPA. Other commenters argued alternatively that any information regarding the outcome of the proceedings is ''related to'' the complainant and, therefore, the information can be disclosed to him or her consistent with FERPA. In addition, some commenters asked for clarification that FERPA does not limit the due process rights of a teacher who is accused of harassment to be informed of the name of the student who has alleged harassment.

*Discussion:* As these comments indicate, the interplay of FERPA and Title IX raises complex and difficult issues. Regarding requests for clarification on the interplay of FERPA and the rights of an accused employee, the Guidance clarifies that the Department does not interpret FERPA to override any federally protected due process rights of a school employee accused of harassment.

Regarding whether FERPA prohibits the disclosure of any disciplinary action taken against a student found guilty of harassment, it is the Department's current position that FERPA prohibits a school from releasing information to a complainant if that information is contained in the other student's education record unless— (1) the information directly relates to the complainant (for example, an order requiring the student harasser not to have contact with the complainant); or (2) the harassment involves a crime of violence or a sex offense in a postsecondary institution. However, in light of the comments received on this issue, the Department has determined that its position regarding the application of FERPA to records and information related to sexual harassment needs further consideration. Accordingly, the section on ''Notice of Outcome and FERPA'' has been removed from the Guidance. Additional guidance on FERPA will be forthcoming.

*Does Title IX Require Schools to Have a Sexual Harassment Policy*

*Comments:* Several commenters requested additional clarity regarding whether Title IX requires schools to have a policy explicitly prohibiting sexual harassment or to have grievance procedures specifically intended to handle sexual harassment complaints, or both.

*Discussion:* Title IX requires a recipient of Federal funds to notify students and parents of elementary and secondary students of its policy against discrimination based on sex and have in place a prompt and equitable procedure for resolving sex discrimination complaints. Sexual harassment can be a form of sexual discrimination. The Guidance clearly states that, while a recipient's policy and procedure must meet all procedural requirements of Title IX and apply to sexual harassment, a school does not have to have a policy and procedure specifically addressing sexual harassment, as long as its non-discrimination policy and procedures for handling discrimination complaints are effective in eliminating all types of sex discrimination. OCR has found that policies and procedures specifically designed to address sexual harassment, if age appropriate, are a very effective means of making students and employees aware of what constitutes sexual harassment, that that conduct is prohibited sex discrimination, and that it will not be tolerated by the school. That awareness, in turn, can be a key element in preventing sexual harassment.

Dated: March 10, 1997.

Norma V. Cantú,

*Assistant Secretary for Civil Rights.*

## Sexual Harassment Guidance: Harassment of Students [1] by School Employees, Other Students, or Third Parties

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### Introduction

Under Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulations, no individual may be discriminated against on the basis of sex in any education program or activity receiving Federal financial assistance.[2] Sexual harassment of students is a form of prohibited sex discrimination [3] under the circumstances described in the Guidance. The following types of conduct constitute sexual harassment:

*Quid Pro Quo Harassment*

A school employee [4] explicitly or implicitly conditions a student's participation in an education program or activity or bases an educational decision on the student's submission to unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, or physical conduct of a sexual nature.[5] *Quid pro quo* harassment is equally unlawful whether the student resists and suffers the threatened harm or submits and thus avoids the threatened harm.

*Hostile Environment Sexual Harassment*

Sexually harassing conduct (which can include unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature) [6] by an employee, by another student, or by a third party that is sufficiently severe, persistent, or pervasive to limit a student's ability to participate in or benefit from an education program or activity, or to create a hostile or abusive educational environment.[7]

Schools are required by the Title IX regulations to have grievance procedures through which students can complain of alleged sex discrimination, including sexual harassment.[8] As outlined in this guidance, grievance procedures also provide schools with an excellent mechanism to be used in their efforts to prevent sexual harassment before it occurs.

Finally, if the alleged harassment involves issues of speech or expression, a school's obligations may be affected by the application of First Amendment principles.

These and other issues are discussed in more detail in the following paragraphs.

### Applicability of Title IX

Title IX applies to all public and private educational institutions that receive Federal funds, including elementary and secondary schools, school districts, proprietary schools, colleges, and universities. The Guidance uses the term ''schools'' to refer to all those institutions. The ''education program or activity'' of a school includes all of the school's operations.[9] This means that Title IX protects students in connection with all of the academic, educational, extra-curricular, athletic, and other programs of the school, whether they take place in the facilities of the school, on a school bus, at a class or training program sponsored by the school at another location, or elsewhere.

It is important to recognize that Title IX's prohibition of sexual harassment does not extend to legitimate nonsexual touching or other nonsexual conduct. For example, a high school athletic coach hugging a student who made a goal or a kindergarten teacher's consoling hug for a child with a skinned knee will not be considered sexual harassment.[10] Similarly, one student's demonstration of a sports maneuver or

technique requiring contact with another student will not be considered sexual harassment. However, in some circumstances, nonsexual conduct may take on sexual connotations and may rise to the level of sexual harassment. For example, a teacher's repeatedly hugging and putting his or her arms around students under inappropriate circumstances could create a hostile environment.

Title IX protects any ''person'' from sex discrimination; accordingly both male and female students are protected from sexual harassment engaged in by a school's employees, other students, or third parties.[11] Moreover, Title IX prohibits sexual harassment regardless of the sex of the harasser, i.e., even if the harasser and the person being harassed are members of the same sex.[12] An example would be a campaign of sexually explicit graffiti directed at a particular girl by other girls.[13]

Although Title IX does not prohibit discrimination on the basis of sexual orientation,[14] sexual harassment directed at gay or lesbian students may constitute sexual harassment prohibited by Title IX. For example, if students heckle another student with comments based on the student's sexual orientation (e.g., ''gay students are not welcome at this table in the cafeteria''), but their actions or language do not involve sexual conduct, their actions would not be sexual harassment covered by Title IX. On the other hand, harassing conduct of a sexual nature directed toward gay or lesbian students (e.g., if a male student or a group of male students target a lesbian student for physical sexual advances) may create a sexually hostile environment and, therefore, may be prohibited by Title IX. It should be noted that some State and local laws may prohibit discrimination on the basis of sexual orientation. Also, under certain circumstances, courts may permit redress for harassment on the basis of sexual orientation under other Federal legal authority.[15]

It is also important to recognize that gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex, but not involving conduct of a sexual nature, may be a form of sex discrimination that violates Title IX if it is sufficiently severe, persistent, or pervasive and directed at individuals because of their sex.[16] For example, the repeated sabotaging of female graduate students' laboratory experiments by male students in the class could be the basis of a violation of Title IX. Although a comprehensive discussion of gender-based harassment is beyond the scope of this Guidance, in assessing all related circumstances to determine whether a hostile environment exists, incidents of gender-based harassment combined with incidents of sexual harassment could create a hostile environment, even if neither the gender-based harassment alone nor the sexual harassment alone would be sufficient to do so.[17]

## Liability of a School for Sexual Harassment

### *Liability of a School for Sexual Harassment by its Employees*

A school's liability for sexual harassment by its employees is determined by application of agency principles,[18] i.e., by principles governing the delegation of authority to or authorization of another person to act on one's behalf.

Accordingly, a school will always be liable for even one instance of *quid pro quo* harassment by a school employee in a position of authority, such as a teacher or administrator, whether or not it knew, should have known, or approved of the harassment at issue.[19] Under agency principles, if a teacher or other employee uses the authority he or she is given (e.g., to assign grades) to force a student to submit to sexual demands, the employee ''stands in the shoes'' of the school and the school will be responsible for the use of its authority by the employee or agent.[20]

A school will also be liable for hostile environment sexual harassment by its employees,[21] i.e., for harassment that is sufficiently severe, persistent, or pervasive to limit a student's ability to participate in or benefit from the education program or to create a hostile or abusive educational environment if the employee— (1) acted with apparent authority (i.e., because of the school's conduct, the employee reasonably appears to be acting on behalf of the school, whether or not the employee acted with authority); [22] or (2) was aided in carrying out the sexual harassment of students by his or her position of authority with the institution.[23] For example, a school will be liable if a teacher abuses his or her delegated authority over a student to create a hostile environment, such as if the teacher implicitly threatens to fail a student unless the student responds to his or her sexual advances, even though the teacher fails to carry out the threat.[24]

As this example illustrates, in many cases the line between *quid pro quo* and hostile environment discrimination will be blurred, and the employee's conduct may constitute both types of harassment. However, what is important is that the school is liable for that conduct under application of agency principles, regardless of whether it is labeled as *quid pro quo* or hostile environment harassment.

Whether other employees, such as a janitor or cafeteria worker, are in positions of authority in relation to students—or whether it would be reasonable for the student to believe the employees are, even if the employees are not (i.e., apparent authority)—will depend on factors such as the authority actually given to the employee [25] (e.g., in some elementary schools, a cafeteria worker may have authority to impose discipline) and the age of the student. For example, in some cases the younger a student is, the more likely it is that he or she will consider any adult employee to be in a position of authority.

Even in situations not involving (i) *quid pro quo* harassment, (ii) creation of a hostile environment through an employee's apparent authority, or (iii) creation of a hostile environment in which the employee is aided in carrying out the sexual harassment by his or her position of authority, a school will be liable for sexual harassment of its students by its employees under the same standards applicable to peer and third party hostile environment sexual harassment, as discussed in the next section. That is, if the school fails to take immediate and appropriate steps to remedy known harassment, then the school will be liable under Title IX.[26] It is important to emphasize that under this standard of liability the school can avoid violating Title IX if it takes immediate and appropriate action upon notice of the harassment.

### *Liability of a School for Peer or Third Party Harassment* [27]

In contrast to the variety of situations in which a school may be liable for sexual harassment by its employees, a school will be liable under Title IX if its students sexually harass other students if (i) a hostile environment exists in the school's programs or activities, (ii) the school knows or should have known of the harassment, and (iii) the school fails to take immediate and appropriate corrective action.[28] (Each of these factors is discussed in detail in subsequent sections of the Guidance.) Under these circumstances, a school's failure to respond to the existence of a hostile environment within its own programs or activities permits an atmosphere of sexual discrimination to permeate the educational program and results in discrimination prohibited by Title IX. Conversely, if, upon notice of hostile environment harassment, a school takes immediate and appropriate

steps to remedy the hostile environment, the school has avoided violating Title IX. Thus, Title IX does not make a school responsible for the actions of harassing students, but rather for its own discrimination in failing to remedy it once the school has notice.

Sexually harassing conduct of third parties, who are not themselves employees or students at the school (e.g., a visiting speaker or members of a visiting athletic club) can also cause a sexually hostile environment in school programs or activities. For the same reason that a school will be liable under Title IX for a hostile environment caused by its students, a school will be liable if third parties sexually harass its students if (i) a hostile environment exists in the school's programs or activities, (ii) the school knows or should have known of the harassment, and (iii) the school fails to take immediate and appropriate corrective action.[29] However, the type of appropriate steps the school should take will differ depending on the level of control the school has over the third party harasser.[30] This issue is discussed in ''Recipient's Response.''

*Effect of Grievance Procedures on Liability*

Schools are required by the Title IX regulations to adopt and publish grievance procedures providing for prompt and equitable resolution of sex discrimination complaints, including complaints of sexual harassment, and to disseminate a policy against sex discrimination.[31] (These issues are discussed in the section on ''Prompt and Equitable Grievance Procedures.'') These procedures provide a school with a mechanism for discovering sexual harassment as early as possible and for effectively correcting problems, as required by Title IX. By having a strong policy against sex discrimination and accessible, effective, and fairly applied grievance procedures, a school is telling its students that it does not tolerate sexual harassment and that students can report it without fear of adverse consequences.

Accordingly, in the absence of effective policies and grievance procedures, if the alleged harassment was sufficiently severe, persistent, or pervasive to create a hostile environment, a school will be in violation of Title IX because of the existence of a hostile environment, even if the school was not aware of the harassment and thus failed to remedy it.[32] This is because, without a policy and procedure, a student does not know either of the school's interest in preventing this form of discrimination or how to report harassment so that it can be remedied. Moreover, under the agency principles previously discussed, a school's failure to implement effective policies and procedures against discrimination may create apparent authority for school employees to harass students.[33]

*OCR Case Resolution*

If OCR is asked to investigate or otherwise resolve incidents of sexual harassment of students, including incidents caused by employees, other students, or third parties, OCR will consider whether—(1) the school has a policy prohibiting sex discrimination under Title IX and effective Title IX grievance procedures;[34] (2) the school appropriately investigated or otherwise responded to allegations of sexual harassment; and (3) the school has taken immediate and appropriate corrective action responsive to *quid pro quo* or hostile environment harassment. (Issues related to appropriate investigative and corrective actions are discussed in detail in the section on ''Recipient's Response.'') If the school has taken each of these steps, OCR will consider the case against the school resolved and take no further action other than monitoring compliance with any agreement between the school and OCR. This is true in cases in which the school was in violation of Title IX, as well as those in which there has been no violation of Title IX.[35]

Welcomeness

In order to be actionable as harassment, sexual conduct must be unwelcome. Conduct is unwelcome if the student did not request or invite it and ''regarded the conduct as undesirable or offensive.''[36] Acquiescence in the conduct or the failure to complain does not always mean that the conduct was welcome.[37] For example, a student may decide not to resist sexual advances of another student or may not file a complaint out of fear. In addition, a student may not object to a pattern of sexually demeaning comments directed at him or her by a group of students out of a concern that objections might cause the harassers to make more comments. The fact that a student may have accepted the conduct does not mean that he or she welcomed it.[38] Also, the fact that a student willingly participated in conduct on one occasion does not prevent him or her from indicating that the same conduct has become unwelcome on a subsequent occasion. On the other hand, if a student actively participates in sexual banter and discussions and gives no indication that he or she objects, then the evidence generally will not support a conclusion that the conduct was unwelcome.[39]

If younger children are involved, it may be necessary to determine the degree to which they are able to recognize that certain sexual conduct is conduct to which they can or should reasonably object and the degree to which they can articulate an objection. Accordingly, OCR will consider the age of the student, the nature of the conduct involved, and other relevant factors in determining whether a student had the capacity to welcome sexual conduct.

Schools should be particularly concerned about the issue of welcomeness if the harasser is in a position of authority. For instance, because students may be encouraged to believe that a teacher has absolute authority over the operation of his or her classroom, a student may not object to a teacher's sexually harassing comments during class; however, this does not necessarily mean that the conduct was welcome. Instead, the student may believe that any objections would be ineffective in stopping the harassment or may fear that by making objections he or she will be singled out for harassing comments or other retaliation.

In addition, OCR must consider particular issues of welcomeness if the alleged harassment relates to alleged ''consensual'' sexual relationships between a school's adult employees and its students. If elementary students are involved, welcomeness will not be an issue: OCR will never view sexual conduct between an adult school employee and an elementary school student as consensual. In cases involving secondary students, there will be a strong presumption that sexual conduct between an adult school employee and a student is not consensual. In cases involving older secondary students, subject to the presumption,[40] OCR will consider a number of factors in determining whether a school employee's sexual advances or other sexual conduct could be considered welcome.[41] In addition, OCR will consider these factors in all cases involving postsecondary students in making those determinations.[42] The factors include:

- The nature of the conduct and the relationship of the school employee to the student, including the degree of influence (which could, at least in part, be affected by the student's age), authority, or control the employee has over the student.
- Whether the student was legally or practically unable to consent to the sexual conduct in question. For

example, a student's age could affect his or her ability to do so. Similarly, certain types of disabilities could affect a student's ability to do so.

If there is a dispute about whether harassment occurred or whether it was welcome—in a case in which it is appropriate to consider whether the conduct could be welcome—determinations should be made based on the totality of the circumstances. The following types of information may be helpful in resolving the dispute:

- Statements by any witnesses to the alleged incident.
- Evidence about the relative credibility of the allegedly harassed student and the alleged harasser. For example, the level of detail and consistency of each person's account should be compared in an attempt to determine who is telling the truth. Another way to assess credibility is to see if corroborative evidence is lacking where it should logically exist. However, the absence of witnesses may indicate only the unwillingness of others to step forward, perhaps due to fear of the harasser or a desire not to get involved.
- Evidence that the alleged harasser has been found to have harassed others may support the credibility of the student claiming the harassment; conversely, the student's claim will be weakened if he or she has been found to have made false allegations against other individuals.
- Evidence of the allegedly harassed student's reaction or behavior after the alleged harassment. For example, were there witnesses who saw the student immediately after the alleged incident who say that the student appeared to be upset? However, it is important to note that some students may respond to harassment in ways that do not manifest themselves right away, but may surface several days or weeks after the harassment. For example, a student may initially show no signs of having been harassed, but several weeks after the harassment, there may be significant changes in the student's behavior, including difficulty concentrating on academic work, symptoms of depression, and a desire to avoid certain individuals and places at school.
- Evidence about whether the student claiming harassment filed a complaint or took other action to protest the conduct soon after the alleged incident occurred. However, failure to immediately complain may merely reflect a fear of retaliation or a fear that the complainant may not be believed rather than that the alleged harassment did not occur.
- Other contemporaneous evidence. For example, did the student claiming harassment write about the conduct, and his or her reaction to it, soon after it occurred (e.g., in a diary or letter)? Did the student tell others (friends, parents) about the conduct (and his or her reaction to it) soon after it occurred?

Severe, Persistent, or Pervasive

Hostile environment sexual harassment of a student or students by other students, employees, or third parties is created if conduct of a sexual nature is sufficiently severe, persistent, or pervasive to limit a student's ability to participate in or benefit from the education program or to create a hostile or abusive educational environment. Thus, conduct that is sufficiently severe, but not persistent or pervasive, can result in hostile environment sexual harassment.

In deciding whether conduct is sufficiently severe, persistent, or pervasive, the conduct should be considered from both a subjective [43] and objective [44] perspective. In making this determination, all relevant circumstances should be considered [45]:

- *The degree to which the conduct affected one or more students' education.* For a hostile environment to exist, the conduct must have limited the ability of a student to participate in or benefit from his or her education or altered the conditions of the student's educational environment.[46]

•• Many hostile environment cases involve tangible or obvious injuries.[47] For example, a student's grades may go down or the student may be forced to withdraw from school because of the harassing behavior.[48] A student may also suffer physical injuries and mental or emotional distress.[49]

•• However, a hostile environment may exist even if there is no tangible injury to the student.[50] For example, a student may have been able to keep up his or her grades and continue to attend school even though it was more difficult for him or her to do so because of the harassing behavior.[51] A student may be able to remain on a sports team, despite feeling humiliated or angered by harassment that creates a hostile environment.[52] Harassing conduct in these examples alters the student's educational environment on the basis of sex.

•• A hostile environment can occur even if the harassment is not targeted specifically at the individual complainant.[53] For example, if a student or group of students regularly directs sexual comments toward a particular student, a hostile environment may be created not only for the targeted student, but also for others who witness the conduct. Similarly, if a middle school teacher directs sexual comments toward a particular student, a hostile environment may be created for the targeted student and for the students who witness the conduct.

- *The type, frequency, and duration of the conduct.* In most cases, a hostile environment will exist if there is a pattern or practice of harassment or if the harassment is sustained and nontrivial.[54] For instance, if a young woman is taunted by one or more young men about her breasts or genital area or both, OCR may find that a hostile environment has been created, particularly if the conduct has gone on for some time, takes place throughout the school, or if the taunts are made by a number of students. The more severe the conduct, the less the need to show a repetitive series of incidents; this is particularly true if the harassment is physical. For instance, if the conduct is more severe, e.g., attempts to grab a female student's breasts, genital area, or buttocks, it need not be as persistent or pervasive in order to create a hostile environment. Indeed, a single or isolated incident of sexual harassment may, if sufficiently severe, create a hostile environment.[55] On the other hand, conduct that is not severe, persistent, or pervasive will not create a hostile environment; e.g., a comment by one student to another student that she has a nice figure. Indeed, depending on the circumstances, this may not even be conduct of a sexual nature.[56] Similarly, because students date one another, a request for a date or a gift of flowers, even if unwelcome, would not create a hostile environment. However, there may be circumstances in which repeated, unwelcome requests for dates or similar conduct could create a hostile environment. For example, a person may request dates in an intimidating or threatening manner.
- *The identity of and relationship between the alleged harasser and the subject or subjects of the harassment.* A factor to be considered, especially in cases involving allegations of sexual harassment of a student by a school employee, is the identity of and relationship between the alleged harasser and the subject or subjects of the harassment. For example, due to the power that a professor or teacher has over a student, sexually based conduct by that person toward a student is more likely to create a hostile environment than similar conduct by another student.[57]
- *The number of individuals involved.* Sexual harassment may be committed by an individual or a group.

In some cases, verbal comments or other conduct from one person might not be sufficient to create a hostile environment, but could be if done by a group. Similarly, while harassment can be directed toward an individual or a group,[58] the effect of the conduct toward a group may vary, depending on the type of conduct and the context. For certain types of conduct, there may be ''safety in numbers.'' For example, following an individual student and making sexual taunts to him or her may be very intimidating to that student but, in certain circumstances, less so to a group of students. On the other hand, persistent unwelcome sexual conduct still may create a hostile environment if directed toward a group.

- *The age and sex of the alleged harasser and the subject or subjects of the harassment.* For example, in the case of younger students, sexually harassing conduct is more likely to be intimidating if coming from an older student.[59]
- *The size of the school, location of the incidents, and context in which they occurred.* Depending on the circumstances of a particular case, fewer incidents may have a greater effect at a small college than at a large university campus. Harassing conduct occurring on a school bus may be more intimidating than similar conduct on a school playground because the restricted area makes it impossible for the students to avoid their harassers.[60] Harassing conduct in a personal or secluded area such as a dormitory room or residence hall can also have a greater effect (e.g., be seen as more threatening) than would similar conduct in a more public area. On the other hand, harassing conduct in a public place may be more humiliating. Each incident must be judged individually.
- *Other incidents at the school.* A series of instances at the school, not involving the same students, could—taken together—create a hostile environment, even if each by itself would not be sufficient.[61]
- *Incidents of gender-based, but non-sexual, harassment.* Acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex, but not involving sexual activity or language, can be combined with incidents of sexual harassment to determine if the incidents of sexual harassment are sufficiently severe, persistent, or pervasive to create a sexually hostile environment.[62]

Notice

A school will be in violation of Title IX if the school ''has notice'' of a sexually hostile environment and fails to take immediate and appropriate corrective action.[63] A school has notice if it actually ''knew, or in the exercise of reasonable care, should have known'' about the harassment.[64] In addition, as long as an agent or responsible employee of the school received notice,[65] the school has notice.

A school can receive notice in many different ways. A student may have filed a grievance or complained to a teacher about fellow students sexually harassing him or her. A student, parent, or other individual may have contacted other appropriate personnel, such as a principal, campus security, bus driver, teacher, an affirmative action officer, or staff in the office of student affairs. An agent or responsible employee of the school may have witnessed the harassment. The school may receive notice in an indirect manner, from sources such as a member of the school staff, a member of the educational or local community, or the media. The school also may have received notice from flyers about the incident or incidents posted around the school.[66]

Constructive notice exists if the school ''should have'' known about the harassment—if the school would have found out about the harassment through a ''reasonably diligent inquiry.'' [67] For example, if a school knows of some incidents of harassment, there may be situations in which it will be charged with notice of others—if the known incidents should have triggered an investigation that would have led to a discovery of the additional incidents. In other cases, the pervasiveness of the harassment may be enough to conclude that the school should have known of the hostile environment—if the harassment is widespread, openly practiced, or well-known to students and staff (such as sexual harassment occurring in hallways, graffiti in public areas, or harassment occurring during recess under a teacher's supervision).[68]

In addition, if a school otherwise has actual or constructive notice of a hostile environment and fails to take immediate and appropriate corrective action, a school has violated Title IX even if the student fails to use the school's existing grievance procedures.

Recipient's Response

Once a school has notice of possible sexual harassment of students—whether carried out by employees, other students, or third parties—it should take immediate and appropriate steps to investigate or otherwise determine what occurred and take steps reasonably calculated to end any harassment, eliminate a hostile environment if one has been created, and prevent harassment from occurring again. These steps are the school's responsibility whether or not the student who was harassed makes a complaint or otherwise asks the school to take action.[69] As described in the next section, in appropriate circumstances the school will also be responsible for taking steps to remedy the effects of the harassment on the individual student or students who were harassed. What constitutes a reasonable response to information about possible sexual harassment will differ depending upon the circumstances.

*Response to Student or Parent Reports of Harassment; Response to Direct Observation by a Responsible Employee or Agent of Harassment*

If a student or the parent of an elementary or secondary student provides information or complains about sexual harassment of the student, the school should initially discuss what actions the student or parent is seeking in response to the harassment. The school should explain the avenues for informal and formal action, including a description of the grievance procedure that is available for sexual harassment complaints and an explanation of how the procedure works. If a responsible school employee or agent has directly observed sexual harassment of a student, the school should contact the student who was harassed (or the parent, depending upon the age of the student), [70] explain that the school is responsible for taking steps to correct the harassment, and provide the same information described in the previous sentence.

Regardless of whether the student who was harassed, or his or her parent, decides to file a formal complaint or otherwise request action on the student's behalf (including in cases involving direct observation by a responsible school employee or agent), the school must promptly investigate to determine what occurred and then take appropriate steps to resolve the situation. The specific steps in an investigation will vary depending upon the nature of the allegations, the source of the complaint, the age of the student or students involved, the size and administrative structure of the school, and other factors. However, in all cases the inquiry must be prompt, thorough, and impartial. (Requests by the student who was harassed for confidentiality or for no action to be taken, responding to notice of harassment from other sources, and the components of a prompt and equitable grievance procedure are discussed in subsequent sections of the Guidance.)

It may be appropriate for a school to take interim measures during the investigation of a complaint. For instance, if a student alleges that he or she has been sexually assaulted by another student, the school may decide to immediately place the students in separate classes or in different housing arrangements on a campus, pending the results of the school's investigation. Similarly, if the alleged harasser is a teacher, allowing the student to transfer to a different class may be appropriate. In cases involving potential criminal conduct, school personnel should determine whether appropriate law enforcement authorities should be notified. In all cases, schools should make every effort to prevent public disclosure of the names of all parties involved, except to the extent necessary to carry out an investigation.

If a school determines that sexual harassment has occurred, it should take reasonable, timely, age-appropriate, and effective corrective action, including steps tailored to the specific situation.[71] Appropriate steps should be taken to end the harassment. For example, school personnel may need to counsel, warn, or take disciplinary action against the harasser, based on the severity of the harassment or any record of prior incidents or both.[72] A series of escalating consequences may be necessary if the initial steps are ineffective in stopping the harassment.[73] In some cases, it may be appropriate to further separate the harassed student and the harasser, e.g., by changing housing arrangements[74] or directing the harasser to have no further contact with the harassed student. Responsive measures of this type should be designed to minimize, as much as possible, the burden on the student who was harassed. If the alleged harasser is not a student or employee of the recipient, OCR will consider the level of control the school has over the harasser in determining what response would be appropriate[75].

Steps also should be taken to eliminate any hostile environment that has been created. For example, if a female student has been subjected to harassment by a group of other students in a class, the school may need to deliver special training or other interventions for that class to repair the educational environment. If the school offers the student the option of withdrawing from a class in which a hostile environment occurred, the school should assist the student in making program or schedule changes and ensure that none of the changes adversely affect the student's academic record. Other measures may include, if appropriate, directing a harasser to apologize to the harassed student. If a hostile environment has affected an entire school or campus, an effective response may need to include dissemination of information, the issuance of new policy statements, or other steps that are designed to clearly communicate the message that the school does not tolerate harassment and will be responsive to any student who reports that conduct.

In some situations, a school may be required to provide other services to the student who was harassed if necessary to address the effects of the harassment on that student.[76] For example, if an instructor gives a student a low grade because the student failed to respond to his sexual advances, this constitutes *quid pro quo* harassment for which the school is liable under Title IX regardless of whether it knew of the harassment. Thus, the school may be required to make arrangements for an independent reassessment of the student's work, if feasible, and change the grade accordingly; make arrangements for the student to take the course again with a different instructor; provide tutoring; make tuition adjustments; offer reimbursement for professional counseling; or take other measures that are appropriate to the circumstances. As another example, if a school delays responding or responds inappropriately to information about harassment, such as a case in which the school ignores complaints by a student that he or she is being sexually harassed by a classmate, the school will be required to remedy the effects of the harassment that could have been prevented had the school responded promptly and appropriately.

Finally, a school should take steps to prevent any further harassment[77] and to prevent any retaliation against the student who made the complaint (or was the subject of the harassment), against a person who filed a complaint on behalf of a student, or against those who provided information as witnesses.[78] At a minimum, this includes making sure that the harassed students and their parents know how to report any subsequent problems and making follow-up inquiries to see if there have been any new incidents or any retaliation. To prevent recurrences, counseling for the harasser may be appropriate to ensure that he or she understands what constitutes harassment and the effects it can have. In addition, depending on how widespread the harassment was and whether there have been any prior incidents, the school may need to provide training for the larger school community to ensure that students, parents, and teachers can recognize harassment if it recurs and know how to respond.[79]

*Requests by the Harassed Student for Confidentiality*

The scope of a reasonable response also may depend upon whether a student, or parent of a minor student, reporting harassment asks that the student's name not be disclosed to the harasser or that nothing be done about the alleged harassment. In all cases a school should discuss confidentiality standards and concerns with the complainant initially. The school should inform the student that the request may limit the school's ability to respond. The school also should tell the student that Title IX prohibits retaliation and that, if he or she is afraid of reprisals from the alleged harasser, the school will take steps to try to prevent retaliation and will take strong responsive actions if retaliation occurs. If the student continues to ask that his or her name not be revealed, the school should take all reasonable steps to investigate and respond to the complaint consistent with that request as long as doing so does not preclude the school from responding effectively to the harassment and preventing harassment of other students. Thus, for example, a reasonable response would not require disciplinary action against an alleged harasser if a student, who was the only student harassed, insists that his or her name not be revealed, and the alleged harasser could not respond to the charges of sexual harassment without that information.

At the same time, a school should evaluate the confidentiality request in the context of its responsibility to provide a safe and nondiscriminatory environment for all students. The factors a school may consider in this regard include the seriousness of the alleged harassment, the age of the student harassed, whether there have been other complaints or reports of harassment against the alleged harasser, and the rights of the accused individual to receive information about the accuser and the allegations if a formal proceeding with sanctions may result.[80]

Although a student's request to have his or her name withheld may limit the school's ability to respond fully to an individual complaint of harassment, other means may be available to address the harassment. There are steps a recipient can take to limit the effects of the alleged harassment and prevent its recurrence without initiating formal action against the alleged harasser or revealing the identity of the

complainant. Examples include conducting sexual harassment training for the school site or academic department where the problem occurred, taking a student survey concerning any problems with harassment, or implementing other systemic measures at the site or department where the alleged harassment has occurred.

In addition, by investigating the complaint to the extent possible—including by reporting it to the Title IX coordinator or other responsible school employee designated pursuant to Title IX—the school may learn about or be able to confirm a pattern of harassment based on claims by different students that they were harassed by the same individual. In some situations there may be prior reports by former students who now might be willing to come forward and be identified, thus providing a basis for further corrective action. In instances affecting a number of students (for example, a report from a student that an instructor has repeatedly made sexually explicit remarks about his or her personal life in front of an entire class), an individual can be put on notice of allegations of harassing behavior and counseled appropriately without revealing, even indirectly, the identity of the student who notified the school. Those steps can be very effective in preventing further harassment.

*Response to Other Types of Notice*

The previous two sections deal with situations in which a student or parent of a student who was harassed reports or complains of harassment or in which a responsible school employee or agent directly observes sexual harassment of a student. If a school learns of harassment through other means, for example if information about harassment is received from a third party (such as from a witness to an incident or an anonymous letter or telephone call), different factors will affect the school's response. These factors include the source and nature of the information; the seriousness of the alleged incident; the specificity of the information; the objectivity and credibility of the source of the report; whether any individuals can be identified who were subjected to the alleged harassment; and whether those individuals want to pursue the matter. If, based on these factors, it is reasonable for the school to investigate and it can confirm the allegations, the considerations described in the previous sections concerning interim measures and appropriate responsive action will apply.

For example, if a parent visiting a school observes a student repeatedly harassing a group of female students and reports this to school officials, school personnel can speak with the female students to confirm whether that conduct has occurred and whether they view it as unwelcome. If the school determines that the conduct created a hostile environment, it can take reasonable, age-appropriate steps to address the situation. If, on the other hand, the students in this example were to ask that their names not be disclosed or indicate that they do not want to pursue the matter, the considerations described in the previous section related to requests for confidentiality will shape the school's response.

In a contrasting example, a student newspaper at a large university may print an anonymous letter claiming that a professor is sexually harassing students in class on a daily basis, but the letter provides no clue as to the identity of the professor or the department in which the conduct is allegedly taking place. Due to the anonymous source and lack of specificity of the information, a school would not reasonably be able to investigate and confirm these allegations. However, in response to the anonymous letter, the school could submit a letter or article to the newspaper reiterating its policy against sexual harassment, encouraging persons who believe that they have been sexually harassed to come forward, and explaining how its grievance procedures work.

*Prevention*

A policy specifically prohibiting sexual harassment and separate grievance procedures for violations of that policy can help ensure that all students and employees understand the nature of sexual harassment and that the school will not tolerate it. Indeed, they might even bring conduct of a sexual nature to the school's attention so that the school can address it *before* it becomes sufficiently severe, persistent, or pervasive to create a hostile environment. Further, training for administrators, teachers, and staff and age-appropriate classroom information for students can help to ensure that they understand what types of conduct can cause sexual harassment and that they know how to respond.

Prompt and Equitable Grievance Procedures

Schools are required by Title IX to adopt and publish a policy against sex discrimination and grievance procedures providing for prompt and equitable resolution of complaints of discrimination on the basis of sex.[81] Accordingly, regardless of whether harassment occurred, a school violates this requirement of Title IX if it does not have those procedures and policy in place.[82]

A school's sex discrimination grievance procedures must apply to complaints of sex discrimination in the school's education programs and activities filed by students against school employees, other students, or third parties.[83] Title IX does not require a school to adopt a policy specifically prohibiting sexual harassment or to provide separate grievance procedures for sexual harassment complaints. However, its nondiscrimination policy and grievance procedures for handling discrimination complaints must provide effective means for preventing and responding to sexual harassment. Thus, if, because of the lack of a policy or procedure specifically addressing sexual harassment, students are unaware of what kind of conduct constitutes sexual harassment or that that conduct is prohibited sex discrimination, a school's general policy and procedures relating to sex discrimination complaints will not be considered effective.[84]

OCR has identified a number of elements in evaluating whether a school's grievance procedures are prompt and equitable, including whether the procedures provide for—

(1) Notice to students, parents of elementary and secondary students, and employees of the procedure, including where complaints may be filed;

(2) Application of the procedure to complaints alleging harassment carried out by employees, other students, or third parties;

(3) Adequate, reliable, and impartial investigation of complaints, including the opportunity to present witnesses and other evidence;

(4) Designated and reasonably prompt timeframes for the major stages of the complaint process;

(5) Notice to the parties of the outcome of the complaint;[85] and

(6) An assurance that the school will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.[86]

Many schools also provide an opportunity to appeal the findings or remedy or both. In addition, because retaliation is prohibited by Title IX, schools may want to include a provision in their procedures prohibiting retaliation against any individual who files a complaint or participates in a harassment inquiry.

Procedures adopted by schools will vary considerably in detail, specificity, and components, reflecting differences in audiences, school sizes and administrative structures, State or local legal requirements, and past experience. In addition, whether complaint resolutions are timely will vary depending on the complexity of the investigation and the severity and extent of the harassment. During the investigation it is a good practice for schools to inform students who have alleged harassment about the status of the investigation on a periodic basis.

A grievance procedure applicable to sexual harassment complaints cannot be prompt or equitable unless students know it exists, how it works, and how to file a complaint. Thus, the procedures should be written in language appropriate to the age of the school's students, easily understood, and widely disseminated. Distributing the procedures to administrators, or including them in the school's administrative or policy manual, may not by itself be an effective way of providing notice, as these publications are usually not widely circulated to and understood by all members of the school community. Many schools ensure adequate notice to students by having copies of the procedures available at various locations throughout the school or campus; publishing the procedures as a separate document; including a summary of the procedures in major publications issued by the school, such as handbooks and catalogs for students, parents of elementary and secondary students, faculty, and staff; and identifying individuals who can explain how the procedures work.

A school must designate at least one employee to coordinate its efforts to comply with and carry out its Title IX responsibilities.[87] The school must notify all of its students and employees of the name, office address, and telephone number of the employee or employees designated.[88] Because it is possible that an employee designated to handle Title IX complaints may him or herself engage in harassment, a school may want to designate more than one employee to be responsible for handling complaints in order to ensure that students have an effective means of reporting harassment.[89] While a school may choose to have a number of employees responsible for Title IX matters, it is also advisable to give one official responsibility for overall coordination and oversight of all sexual harassment complaints to ensure consistent practices and standards in handling complaints. Coordination of recordkeeping (for instance, in a confidential log maintained by the Title IX coordinator) will also ensure that the school can and will resolve recurring problems and identify students or employees who have multiple complaints filed against them.[90] Finally, the school must make sure that all designated employees have adequate training as to what conduct constitutes sexual harassment and are able to explain how the grievance procedure operates.[91]

Grievance procedures may include informal mechanisms for resolving sexual harassment complaints to be used if the parties agree to do so.[92] OCR has frequently advised schools, however, that it is not appropriate for a student who is complaining of harassment to be required to work out the problem directly with the individual alleged to be harassing him or her, and certainly not without appropriate involvement by the school (e.g., participation by a counselor, trained mediator, or, if appropriate, a teacher or administrator). In addition, the complainant must be notified of the right to end the informal process at any time and begin the formal stage of the complaint process. In some cases, such as alleged sexual assaults, mediation will not be appropriate even on a voluntary basis. Title IX also permits the use of a student disciplinary procedure not designed specifically for Title IX grievances to resolve sex discrimination complaints, as long as the procedure meets the requirement of affording a complainant a ''prompt and equitable'' resolution of the complaint.

In some instances, a complainant may allege harassing conduct that constitutes both sex discrimination and possible criminal conduct. Police investigations or reports may be useful in terms of fact-gathering. However, because legal standards for criminal conduct are different, police investigations or reports may not be determinative of whether harassment occurred under Title IX and do not relieve the school of its duty to respond promptly.[93] Similarly, schools are cautioned about using the results of insurance company investigations of sexual harassment allegations. The purpose of an insurance investigation is to assess liability under the insurance policy, and the applicable standards may well be different from those under Title IX. In addition, a school is not relieved of its responsibility to respond to a sexual harassment complaint filed under its grievance procedure by the fact that a complaint has been filed with OCR.[94]

Finally, a public school's employees may have certain due process rights under the United States Constitution. The Constitution also guarantees due process to students in public and State-supported schools who are accused of certain types of infractions. The rights established under Title IX must be interpreted consistently with any federally guaranteed rights involved in a complaint proceeding. In both public and private schools, additional or separate rights may be created for employees or students by State law, institutional regulations and policies, such as faculty or student handbooks, and collective bargaining agreements. Schools should be aware of these rights and their legal responsibilities to those accused of harassment. Indeed, procedures that ensure the Title IX rights of the complainant while at the same time according due process to both parties involved will lead to sound and supportable decisions. Schools should ensure that steps to accord due process rights do not restrict or unnecessarily delay the protections provided by Title IX to the complainant.

First Amendment

In cases of alleged harassment, the protections of the First Amendment must be considered if issues of speech or expression are involved.[95] Free speech rights apply in the classroom (e.g., classroom lectures and discussions)[96] and in all other education programs and activities of public schools (e.g., public meetings and speakers on campus; campus debates, school plays and other cultural events[97]; and student newspapers, journals and other publications[98]). In addition, First Amendment rights apply to the speech of students and teachers.[99]

Title IX is intended to protect students from sex discrimination, not to regulate the content of speech. OCR recognizes that the offensiveness of particular expression as perceived by some students, standing alone, is not a legally sufficient basis to establish a sexually hostile environment under Title IX.[100] In order to establish a violation of Title IX, the harassment must be sufficiently severe, persistent, or pervasive to limit a student's ability to participate in or benefit from the education program or to create a hostile or abusive educational environment.[101]

Moreover, in regulating the conduct of its students and its faculty to prevent or redress discrimination prohibited by Title IX (e.g., in responding to harassment that is sufficiently severe, persistent, or pervasive as to create a hostile environment), a school must formulate, interpret, and apply its rules so as to protect academic freedom and free speech rights. For instance, while the First Amendment may prohibit a

school from restricting the right of students to express opinions about one sex that may be considered derogatory, the school can take steps to denounce those opinions and ensure that competing views are heard. The age of the students involved and the location or forum may affect how the school can respond consistent with the First Amendment.[102] As an example of the application of free speech rights to allegations of sexual harassment, consider the following:

Example 1: In a college level creative writing class, a professor's required reading list includes excerpts from literary classics that contain descriptions of explicit sexual conduct, including scenes that depict women in submissive and demeaning roles. The professor also assigns students to write their own materials, which are read in class. Some of the student essays contain sexually derogatory themes about women. Several female students complain to the Dean of Students that the materials and related classroom discussion have created a sexually hostile environment for women in the class. What must the school do in response?

*Answer:* Academic discourse in this example is protected by the First Amendment even if it is offensive to individuals. Thus, Title IX would not require the school to discipline the professor or to censor the reading list or related class discussion.

Example 2: A group of male students repeatedly targets a female student for harassment during the bus ride home from school, including making explicit sexual comments about her body, passing around drawings that depict her engaging in sexual conduct, and, on several occasions, attempting to follow her home off the bus. The female student and her parents complain to the principal that the male students' conduct has created a hostile environment for girls on the bus and that they fear for their daughter's safety. What must the school do in response?

*Answer:* Threatening and intimidating actions targeted at a particular student or group of students, even though they contain elements of speech, are not protected by the First Amendment. The school must take reasonable and appropriate actions against the students, including disciplinary action if necessary, to remedy the hostile environment and prevent future harassment.

Footnotes

1. This Guidance does not address sexual harassment of employees, although that conduct may be prohibited by Title IX. If employees bring sexual harassment claims under Title IX, case law applicable to sexual harassment in the workplace under Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e–2(a), and Equal Employment Opportunity Commission (EEOC) guidelines will apply. *See* 28 CFR 42.604 (Procedures for Complaints of Employment Discrimination Filed Against Recipients of Federal Financial Assistance).

2. 20 U.S.C. 1681 *et seq.*, as amended; 34 CFR 106.1, 106.31(a)(b). In analyzing sexual harassment claims, the Department also applies, as appropriate to the educational context, many of the legal principles applicable to sexual harassment in the workplace developed under Title VII. *See Franklin* v. *Gwinnett County Public Schools,* 503 U.S. 60, 75 (1992) (applying Title VII principles in determining that a student was entitled to protection from sexual harassment by a teacher in school under Title IX); *Kinman* v. *Omaha Public School Dist.*, 94 F.3d 463, 469 (8th Cir. 1996) (applying Title VII principles in determining that a student was entitled to protection from hostile environment sexual harassment by a teacher in school under Title IX); *Doe* v. *Claiborne County,* 1996 WL 734583, *19 (6th Cir. December 26, 1996) (holding in a case involving allegations of hostile environment sexual harassment of a student by a teacher that Title VII agency principles apply to sexual harassment cases brought under Title IX); *Murray* v. *New York University College of Dentistry,* 57 F.3d 243, 249 (2nd Cir. 1995) (while finding notice lacking, court applied Title VII principles in assuming a Title IX cause of action for sexual harassment of a medical student by a patient visiting the school clinic); *Doe* v. *Petaluma City School Dist.,* 830 F.Supp. 1560, 1571–72 (N.D. Cal. 1993) (applying Title VII principles in determining that if school had notice of peer sexual harassment and failed to take appropriate corrective action, school liable under Title IX), *rev'd in part on other grounds,* 54 F.3d 1447 (9th Cir. 1995); *Kadiki* v. *Virginia Commonwealth University,* 892 F.Supp. 746, 749 (E.D. Va. 1995) (in Title IX case involving allegations of both *quid pro quo* and hostile environment sexual harassment, court indicated that Title VII standards should be applied).

In addition, many of the principles applicable to racial harassment under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.*, and Title VII also apply to sexual harassment under Title IX. Indeed, Title IX was modeled on Title VI, *Cannon* v. *University of Chicago,* 441 U.S. 677, 694 (1979). For information on racial harassment, see the Department's Notice of Investigative Guidance for Racial Harassment, 59 FR 11448 (1994).

3. Consistent with Supreme Court decisions, *see Franklin,* 503 U.S. at 75 (expressly ruling that the sexual harassment of a student by a teacher violates Title IX), the Department has interpreted Title IX as prohibiting sexual harassment for over a decade. *Kinman,* 94 F.3d at 469 (Title IX prohibits hostile environment sexual harassment of student by teacher). Moreover, it has been OCR's longstanding practice to apply Title IX to peer harassment. *See also Bosley* v. *Kearney R–1 School Dist.,* 904 F.Supp. 1006, 1023 (W.D. Mo. 1995); *Doe* v. *Petaluma City School Dist., Plaintiff's Motion for Reconsideration Granted,* 1996 WL 432298 (N.D. Cal. July 22, 1996) (reaffirming Title IX liability for peer harassment if the school knows of the hostile environment but fails to take remedial action); *Burrow* v. *Postville Community School District,* 929 F.Supp. 1193, 1205 (N.D. Iowa 1996) (student may bring Title IX cause of action against a school for its knowing failure to take appropriate remedial action in response to the hostile environment created by students at the school); *Oona R.–S.* v. *Santa Rosa City Schools,* 890 F.Supp. 1452 (N.D. Cal. 1995); *Davis* v. *Monroe County Bd. of Education,* 74 F.3d 1186, 1193 (11th Cir. 1996) (as Title VII is violated if a sexually hostile working environment is created by co-workers and tolerated by the employer, Title IX is violated if a sexually hostile educational environment is created by a fellow student or students and the supervising authorities knowingly failed to act to eliminate the harassment), *vacated, reh'g granted,* 91 F.3d 1418 (11th Cir. 1996); *cf. Murray,* 57 F.3d at 249 (while court finds no notice to school, assumes a Title IX cause of action for sexual harassment of a medical student by a patient visiting school clinic). *But see* note 27. Of course, OCR has interpreted Title IX as prohibiting *quid pro quo* harassment of students for many years. *See Alexander* v. *Yale University,* 459 F.Supp. 1, 4 (D.Conn. 1977), *aff'd,* 631 F.2d 178 (2nd Cir. 1980).

4. The term ''employee'' refers to employees and agents of a school. This includes persons with whom the school contracts to provide services for the school. *See Brown* v. *Hot, Sexy, and Safer Productions, Inc.,* 68 F.3d 525 (1st Cir. 1995) (Title IX sexual harassment claim brought for school's role in permitting contract consultant hired by it to create allegedly hostile environment).

In addition, while the standards applicable to peer sexual harassment are generally applicable to claims of student-on-student harassment, schools will be liable for the sexual harassment of one student by another student under the standards applicable to employee-on-student harassment if a student engages in sexual harassment as an agent or employee of a school. For instance, a school would be liable under the standards applicable to *quid pro quo* harassment if a student teaching assistant, who has been given the authority to assign grades, requires a student in his or her class to submit to sexual advances in order to obtain a certain grade in the class.

5. *Alexander,* 459 F.Supp. at 4 (a claim that academic advancement was conditioned upon submission to sexual demands constitutes a claim of sex discrimination in education); *Kadiki,* 892 F.Supp. at 752 (reexamination in a course conditioned on college student's agreeing to be spanked should she not attain a certain grade may constitute *quid pro quo* harassment); *see also Karibian* v. *Columbia University,* 14 F.3d 773, 777–79 (2nd Cir. 1994) (Title VII case).

6. *See e.g., Franklin,* 503 U.S. at 63 (conduct of a sexual nature found to support a sexual harassment claim under Title IX

included kissing, sexual intercourse); *Meritor Savings Bank FSB* v. *Vinson,* 477 U.S. 57, 60–61 (1986) (demands for sexual favors, sexual advances, fondling, indecent exposure, sexual intercourse, rape sufficient to raise hostile environment claim under Title VII); *Harris* v. *Forklift Systems, Inc.,* 510 U.S. 17, 114 S.Ct. 367 (1993) (sexually derogatory comments and innuendo may support a sexual harassment claim under Title VII); *Ellison* v. *Brady,* 924 F.2d 872, 873–74, 880 (9th Cir. 1991) (allegations sufficient to state a sexual harassment claim under Title VII included repeated requests for dates, letters making explicit references to sex and describing the harasser's feelings for plaintiff); *Lipsett* v. *University of Puerto Rico,* 864 F.2d 881, 903–4 (1st Cir. 1988) (sexually derogatory comments, posting of sexually explicit drawing of plaintiff, sexual advances may support sexual harassment claim); *Kadiki,* 892 F.Supp. at 751 (professor's spanking of a university student may constitute sexual conduct under Title IX); *Doe* v. *Petaluma,* 830 F.Supp. at 1564–65 (sexually derogatory taunts and innuendo can be the basis of a harassment claim); *Denver School Dist.* #1, OCR Case No. 08–92–1007 (same as to allegations of vulgar language and obscenities, pictures of nude women on office walls and desks, unwelcome touching, sexually offensive jokes, bribery to perform sexual acts, indecent exposure); *Nashoba Regional High School,* OCR Case No. 01–92–1377 (same as to year-long campaign of derogatory, sexually explicit graffiti and remarks directed at one student.)

7. *Davis,* 74 F.3d at 1194, *vacated, reh'g granted; Doe* v. *Petaluma,* 830 F.Supp. at 1571–73; *Moire* v. *Temple University School of Medicine,* 613 F.Supp. 1360, 1366 (E.D. Pa. 1985), *aff'd mem.,* 800 F.2d 1136 (3d Cir. 1986); *see also Vinson,* 477 U.S. at 67; *Lipsett,* 864 F.2d at 901; Racial Harassment Guidance, 59 FR 11449–50. *But see* note 27.

8. 34 CFR 106.8(b).

9. 20 U.S.C. 1687 (codification of Title IX portion of the Civil Rights Restoration Act of 1987).

10. *See also Shoreline School Dist.,* OCR Case No. 10–92–1002 (a teacher's patting student on arm, shoulder, and back, and restraining the student when he was out of control, not conduct of a sexual nature); *Dartmouth Public Schools,* OCR Case No. 01–90–1058 (same as to contact between high school coach and students); *San Francisco State University,* OCR Case No. 09–94–2038 (same as to faculty advisor placing her arm around graduate student's shoulder in posing for a picture); *Analy Union High School Dist.,* OCR Case No. 09–92–1249 (same as to drama instructor who put his arms around both male and female students who confided in him.)

11. *Cf. John Does 1* v. *Covington County School Bd.,* 884 F.Supp. 462, 464–65 (M.D. Ala. 1995) (male students alleging that teacher sexually harassed and abused them stated cause of action under Title IX).

12. Title IX and the regulations implementing it prohibit discrimination ''on the basis of sex;'' they do not restrict sexual harassment to those circumstances in which the harasser only harasses members of the opposite sex in incidents involving either *quid pro quo* or hostile environment sexual harassment. *See* 34 CFR 106.31. In order for hostile environment harassment to be actionable under Title IX, it must create a hostile or abusive environment. This can occur when a student or employee harasses a member of the same sex. *See Kinman,* 94 F.3d at 468 (female student's alleging sexual harassment by female teacher sufficient to raise a claim under Title IX); *Doe* v. *Petaluma,* 830 F.Supp. at 1564–65, 1575 (female junior high school student alleging sexual harassment by other students, including both boys and girls, sufficient to raise claim under Title IX); *John Does 1,* 884 F.Supp. at 465 (same as to male students' allegations of sexual harassment and abuse by male teacher.) It can also occur in certain situations if the harassment is directed at students of both sexes. *Chiapuzo* v. *BLT Operating Co.,* 826 F.Supp. 1334 (D. Wyo. 1993) (court found that such harassment could violate Title VII).

In many circumstances, harassing conduct will be on the basis of sex because the student would not have been subjected to it at all had he or she been a member of the opposite sex; e.g., if a female student is repeatedly propositioned by a male student or employee (or, for that matter, if a male student is repeatedly propositioned by a male student or employee). In other circumstances, harassing conduct will be on the basis of sex if the student would not have been affected by it in the same way or to the same extent had he or she been a member of the opposite sex; e.g., pornography and sexually explicit jokes in a mostly male shop class are likely to affect the few girls in the class more than it will most of the boys.

In yet other circumstances, the conduct will be on the basis of sex in that the student's sex was a factor in or affected the nature of the harasser's conduct or both. Thus, in *Chiapuzo,* a supervisor made demeaning remarks to both partners of a married couple working for him, e.g., as to sexual acts he wanted to engage in with the wife and how he would be a better lover than the husband. In both cases, according to the court, the remarks were gender-driven in that they were made with an intent to demean each member of the couple because of his or her respective sex. *See also Steiner* v. *Showboat Operating Co.,* 25 F.3d 1459, 1463–64 (9th Cir. 1994), *cert. denied,* 115 S.Ct. 733 (1995) (Title VII case).

13. *Nashoba Regional High School,* OCR Case No. 01–92–1397. In *Conejo Valley School Dist.,* OCR Case No. 09–93–1305, female students allegedly taunted another female student about engaging in sexual activity; OCR found that the alleged comments were sexually explicit and, if true, would be sufficiently severe, persistent, and pervasive to create a hostile environment.

14. *Williamson* v. *A.G. Edwards & Sons, Inc.,* 876 F.2d 69 (8th Cir. 1989, *cert. denied* 493 U.S. 1089 (1990) (Title VII case); *DeSantis* v. *Pacific Tel. & Tel. Co., Inc.,* 608 F.2d 327 (9th Cir. 1979) (same); *Blum* v. *Gulf Oil Corp.,* 597 F.2d 936 (5th Cir. 1979) (same).

15. *See Nabozny* v. *Podlesny,* 92 F.3d 446 (7th Cir. 1996) (holding that a gay student could maintain claims alleging discrimination based on both gender and sexual orientation under the Equal Protection Clause of the United States Constitution in case in which school district officials allegedly failed to protect the student to the same extent that other students were protected from harassment and harm by other students due to the student's gender and sexual orientation).

16. *See Vinson,* 477 U.S. at 65–66; *Harris,* 114 S.Ct. at 370–371; *see also Hicks* v. *Gates Rubber Co.,* 833 F.2d 1406, 1416 (10th Cir. 1987) (Title VII case); *McKinney* v. *Dole,* 765 F.2d 1129, 1138 (D.C. Cir. 1985) (Title VII case; physical, but non-sexual, assault could be sex-based harassment if shown to be unequal treatment that would not have taken place but for the employee's sex); *Cline* v. *General Electric Capital Auto Lease, Inc.,* 757 F.Supp. 923 (N.D. Ill. 1991) (Title VII case).

17. *See Harris,* 114 S.Ct. at 370–371; *Andrews* v. *City of Philadelphia,* 895 F.2d 1469, 1485–86 (3rd Cir. 1990) (Title VII case; court directed trial court to consider sexual conduct as well as theft of female employees' files and work, destruction of property, and anonymous phone calls in determining if there had been sex discrimination); *see also Hall* v. *Gus Construction Co.,* 842 F.2d 1010, 1014 (8th Cir. 1988) (Title VII case); *Hicks,* 833 F.2d at 1415; *Eden Prairie Schools, Dist.* #272, OCR Case No. 05–92–1174 (the boys made lewd comments about male anatomy *and* tormented the girls by pretending to stab them with rubber knives; while the stabbing was not sexual conduct, it was directed at them because of their sex, i.e., because they were girls.

18. The Supreme Court has ruled that agency principles apply in determining an employer's liability under Title VII for the harassment of its employees by supervisors. *See Vinson,* 477 U.S. at 72. These principles would govern in Title IX cases involving employees who are harassed by their supervisors. *See* 28 CFR 42.604 (regulations providing for handling employment discrimination complaints by Federal agencies; requiring agencies to apply Title VII law if applicable). These same principles should govern the liability of educational institutions under Title IX for the harassment of students by teachers and other school employees in positions of authority. *See Franklin,* 503 U.S. at 75.

19. The Supreme Court in *Vinson* did not alter the standard developed in the lower Federal courts whereby an institution is absolutely liable for *quid pro quo* sexual harassment whether or not it knew, should have known, or approved of the harassment at issue. 477 U.S. at 70–71; *see also Lipsett,* 864 F.2d at 901; EEOC Notice N–915–050, March 1990, Policy Guidance on Current Issues of Sexual Harassment, at p. 21. This standard applies in the school context as well. *Kadiki,* 892 F.Supp. at 752 (for the purposes of *quid pro quo* harassment of a student, professor is in similar position as workplace supervisor).

20. *Kadiki,* 892 F.Supp. at 754–755; *cf. Martin* v. *Cavalier Hotel Corp.,* 48 F.3d 1343, 1351 n.3 (4th Cir. 1995) (Title VII case); *Karibian,* 14 F.3d at 777–78; *Henson* v. *City of Dundee,* 682 F.2d 897, 910 (11th Cir. 1982) (Title VII case).

21. *See* note 4.

22. Restatement (Second) Agency § 219(2)(d); *Martin,* 48 F.3d at 1352 (finding an employer liable under Title VII for sexual harassment of an employee in case in which the Manager used his apparent authority to commit the harassment; the Manager was delegated full authority to hire, fire, promote, and discipline employees and used the authority to accomplish the harassment; and company policy required employees to report harassment to the Manager with no other grievance process made available to them).

23. *See* Restatement (Second) of Agency § 219(2)(d); EEOC Policy Guidance on Current Issues of Sexual Harassment at p. 28; *Karibian,* 14 F.3d at 780; *Hirschfeld* v. *New Mexico Corrections Dept.,* 916 F.2d 572, 579 (10th Cir. 1990) (Title VII case); *Martin,* 48 F.3d at 1352. *But see Rosa H* v. *San Elizario Ind. School Dist.,* 1997 U.S. App. LEXIS 2780 (5th Cir. Feb. 17, 1997). In *San Elizario* the Fifth Circuit reversed a jury finding that a school district was liable under Title IX for a hostile environment created by the school's male karate instructor, who repeatedly initiated sexual intercourse with a fifteen-year-old female karate student. The court held, contrary to OCR policy, that a school could not be found liable under Title IX pursuant to agency principles.

However, language in this and previous decisions indicates that Title IX law is evolving in the Fifth Circuit. When OCR investigates complaints involving schools in the Fifth Circuit (Texas, Louisiana, and Mississippi), it will in each case determine and follow the current applicable law. In light of the evolving case law in the Fifth Circuit, adhering to the standards in the Guidance may be the best way for schools in these States to ensure compliance with the requirements of Title IX. School personnel should also consider whether State, local, or other Federal authority affects their obligations in these areas.

24. *Karibian,* 14 F.3d at 780 (employer would be liable for hostile environment harassment in case in which allegations were that a supervisor coerced employee into a sexual relationship by, among other things, telling her she ''owed him' for all he was doing for her as her supervisor''); *Sparks* v. *Pilot Freight Carriers, Inc.,* 830 F.2d 1554, 1558–60 (11th Cir. 1987) (Title VII case holding employer liable for sexually hostile environment created by supervisor who repeatedly reminded the harassed employee that he could fire her if she did not comply with his sexual advances).

25. *Cf. Karibian,* 14 F.3d at 780.

26. *Id.*

27. The overwhelming majority of courts that have considered the issue of sexually hostile environments caused by peers have indicated that schools may be liable under Title IX for their knowing failure to take appropriate actions to remedy the hostile environment. *See* note 7 and peer hostile environment cases cited in note 3. However, one Federal Circuit Court of Appeals decision, *Rowinsky* v. *Bryan Independent School Dist.,* 80 F.3d 1006 (5th Cir. 1996), *cert. denied,* 117 S.Ct. 165 (1996), has held to the contrary. In that case, over a strong dissent, the court rejected the authority of other Federal courts and OCR's longstanding construction of Title IX and held that a school district is not liable under Title IX for peer harassment unless ''the school district itself directly discriminated based on sex,'' i.e., the school responded differently to sexual harassment or similar claims of girls versus boys. For cases specifically rejecting the *Rowinsky* interpretation, *see e.g., Doe* v. *Petaluma, Plaintiff's Motion for Reconsideration Granted,* 1996 WL 432298 *6 (N.D. Cal. 1996); *Burrow* v. *Postville Community School Dist.,* 929 F.Supp. at 1193.

OCR believes that the *Rowinsky* decision misinterprets Title IX. As explained in this Guidance, Title IX does not make a school responsible for the actions of the harassing student, but rather for its own discrimination in failing to take immediate and appropriate steps to remedy the hostile environment once a school official knows about it. If a student is sexually harassed by a fellow student, and a school official knows about it, but does not stop it, the school is permitting an atmosphere of sexual discrimination to permeate the educational program. The school is liable for its own action, or lack of action, in response to this discrimination. Notably, Title VII cases that hold that employers are responsible for remedying hostile environment harassment of one worker by a co-worker apply this same standard. *See, e.g., Ellison* v. *Brady,* 924 F.2d at 881–82; *Hall* v. *Gus Construction Co.,* 842 F.2d 1010 (8th Cir. 1988); *Hunter* v. Allis-Chalmers Corp., 797 F.2d 1417 (7th Cir. 1986); *Snell v. Suffolk,* 782 F.2d 1094 (2nd Cir. 1986); *Robinson* v. *Jacksonville Shipyards,* 760 F.Supp. 1486 (M.D. Fla. 1991).

Language in subsequent decisions indicates that Title IX law is evolving in the Fifth Circuit. When OCR investigates complaints involving schools in States in the Fifth Circuit (Texas, Louisiana, and Mississippi), it will in each case determine and follow the current applicable law. However, the existence of Fifth Circuit decisions that are inconsistent with OCR policy does not prohibit schools in these States from following the Guidance. In order to ensure students a safe and nondiscriminatory educational environment, the better practice is for these schools to follow the Guidance. Thus, schools should take prompt corrective action to address peer harassment of which they knew or should have known. Indeed, following the Guidance may be the safest way for schools in these States to ensure compliance with the requirements of Title IX.

28. *See* Restatement (Second) of Agency § 219(2)(b).

29. As with peer harassment by its own students, a school's liability for the harassment of its students by third parties is based on its obligation to provide an environment free of discrimination. *Murray,* 57 F.3d at 250 (student participating in university dental clinic providing services to the public alleged harassment by a patient; while the court ruled in defendant's favor because of lack of notice, it considered such a claim actionable under Title IX); Racial Harassment Investigative Guidance, 59 FR 11450 (referring to harassment by neighborhood teenagers, guest speaker, and parents). *See,* e.g., 29 CFR 1604.11(e); *Sparks* v. *Regional Medical Ctr.,* 792 F.Supp. 735, 738 n.1 (N.D. Ala. 1992) (Title VII case); *Powell* v. Las Vegas Hilton Corp., 841 F.Supp. 1024, 1027–28 (D. Nev. 1992) (Title VII case); *Magnuson* v. *Peak Technical Servs., Inc.,* 808 F.Supp. 500, 512–13 (E.D. Va. 1992) (Title VII case); *EEOC* v. *Sage Realty Corp.,* 507 F.Supp. 599, 611 (S.D.N.Y. 1981) (Title VII case); *cf. Dornhecker* v. *Malibu Grand Prix Corp.,* 828 F.2d 307 (5th Cir. 1987) (assuming Title VII required employer to respond appropriately to sexual harassment of an employee by a contractor, but finding employer's response sufficient). *See also* Restatement (Second) of Agency § 219(2)(b).

30. For example, if athletes from a visiting team harass the home school's students, the home school may not be able to discipline the athletes. However, it could encourage the other school to take appropriate action to prevent further incidents; if necessary, the home school may choose not to invite the other school back. *Cf. Danna* v. *New York Telephone Co.,* 752 F.Supp. 594, 611 (S.D.N.Y. 1990) (telephone company in violation of Title VII for not taking sufficient action to protect its own employee from sexually explicit graffiti at the airport where she was assigned to work, e.g., contacting airport management to see what remedial measures could be taken).

31. 34 CFR 106.8(b) and 106.9.

32. *See* Racial Harassment Investigative Guidance, 59 FR 11450; *Murray,* 57 F.3d at 249 (an employer is liable for the harassment of co-workers if the employer ''either provided no reasonable avenue for complaint or knew of the harassment but did nothing about it''.

33. EEOC Policy Guidance at p. 25 (''* * * in the absence of a strong, widely disseminated, and consistently enforced employer policy against sexual harassment, and an effective complaint procedure, employees could reasonably believe that a harassing supervisor's actions will be ignored, tolerated, or even condoned by upper management.'')

34. 34 CFR 106.8(b).

35. If OCR finds a violation of Title IX, it will seek to obtain an agreement with the school to voluntarily correct the violation. The agreement will set out the specific steps the school will take and provide for monitoring by OCR to ensure that the school complies with the agreement. Schools should note that the Supreme Court has held that monetary damages are available as a remedy in private lawsuits brought to redress violations of Title IX. *Franklin,* 503 U.S. at 76. Of course, a school's immediate and appropriate remedial actions are relevant in determining the nature and extent of the damages suffered by a plaintiff.

36. *Henson,* 682 F.2d at 903 (Title VII case).

37. [T]he fact that sex-related conduct was ''voluntary,'' in the sense that the complainant was not forced to participate against her will, is not a defense to a sexual harassment suit brought under Title VII * * *. The correct inquiry is whether [the

subject of the harassment] by her conduct indicated that the alleged sexual advances were unwelcome, not whether her actual participation in sexual intercourse was voluntary. *Vinson*, 477 U.S. at 68.

38. *Lipsett*, 864 F.2d at 898 (while, in some instances, a person may have responsibility for telling the harasser directly that the conduct is unwelcome, in other cases a ''consistent failure to respond to suggestive comments or gestures may be sufficient * * *.''); *Danna*, 752 F.Supp. at 612 (despite female employee's own foul language and participation in graffiti writing, her complaints to management indicated that the harassment was not welcome); *see also Carr* v. *Allison Gas Turbine Div., GMC*, 32 F.3d 1007, 1011 (7th Cir. 1994) (Title VII case; cursing and dirty jokes by female employee did not show that she welcomed the sexual harassment, given her frequent complaints about it: ''Even if * * * [the employee's] testimony that she talked and acted as she did [only] in an effort to be one of the boys' is * * * discounted, her words and conduct cannot be compared to those of the men and used to justify their conduct * * *. The asymmetry of positions must be considered. She was one woman; they were many men. Her use of [vulgar] terms * * * could not be deeply threatening.'').

39. *Reed* v. *Shepard*, 939 F.2d 484, 486–87, 491–92 (7th Cir. 1991) (no harassment found under Title VII in case in which female employee not only tolerated, but also participated in and instigated the suggestive joking activities about which she was now complaining); *Weinsheimer* v. *Rockwell Int'l Corp.*, 794 F.Supp. 1559, 1563–64 (M.D. Fla. 1990) (same, in case in which general shop banter was full of vulgarity and sexual innuendo by men and women alike, and plaintiff contributed her share to this atmosphere). However, even if a student participates in the sexual banter, OCR may in certain circumstances find that the conduct was nevertheless unwelcome if, for example, a teacher took an active role in the sexual banter and a student reasonably perceived that the teacher expected him or her to participate.

40. The school bears the burden of rebutting the presumption.

41. Of course, nothing in Title IX would prohibit a school from implementing policies prohibiting sexual conduct or sexual relationships between students and adult employees.

42. *See* note 41.

43. In *Harris*, the Supreme Court explained the requirement for considering the ''subjective perspective'' when determining the existence of a hostile environment. The Court stated: ''* * * if the victim does not subjectively perceive the environment to be abusive, the conduct has not actually altered the conditions of the victim's employment, and there is no Title VII violation.'' 114 S.Ct. at 370.

44. The Supreme Court used a ''reasonable person'' standard in *Harris*, 114 S.Ct. at 370–71 to determine whether sexual conduct constituted harassment. This standard has been applied under Title VII to take into account the sex of the subject of the harassment, *see, e.g., Ellison*, 924 F.2d at 878–79 (applying a ''reasonable women'' standard to sexual harassment), and has been adapted to sexual harassment in education, *Davis*, 74 F.3d at 1126 (relying on *Harris* to adopt an objective, reasonable person standard), *vacated, reh'g granted*; *Patricia H.* v. *Berkeley Unified School Dist.*, 830 F. Supp. 1288, 1296 (N.D. Cal. 1993) (adopting a ''reasonable victim'' standard and referring to OCR's use of it); Racial Harassment Guidance, 59 FR 11452 (the standard must take into account the characteristics and circumstances of victims on a case-by-case basis, particularly the victim's race and age).

45. *Harris*, 114 S.Ct. at 371; *See* Racial Harassment Guidance, 59 FR 11449 and 11452; *Brock* v. *United States*, 64 F.3d 1421, 1423 (9th Cir. 1995) (Title VII case); *Simon* v. *Morehouse Sch. of Medicine*, 908 F.Supp. 959, 969–970 (N.D. Ga. 1995) (Title VII case); *Al-Dabbagh* v. *Greenpeace, Inc.*, 873 F.Supp. 1105, 1111–12 (N.D. Ill. 1994) (Title VII case); *Watts* v. *N.Y.C. Police Dept.*, 724 F.Supp. 99, 104 (S.D.N.Y. 1989) (Title VII case).

46. *Davis*, 74 F.3d at 1126 (no Title IX violation unless the conduct has ''actually altered the conditions of [the student's] learning environment''), *vacated, reh'g granted*; *Lipsett*, 864 F.2d at 898 (''altered'' the educational environment); *Patricia H.*, 830 F. Supp. at 1297 (sexual harassment could be found where conduct interfered with student's ability to learn); *see also Andrews*, 895 F.2d at 1482 (Title VII case).

47. *Harris*, 114 S.Ct. at 371.

48. *See e.g., Doe* v *Petaluma*, 830 F. Supp at 1566 (student so upset about harassment by other students that she was forced to transfer several times, including finally to a private school); *Modesto City Schools*, OCR Case No. 09–93–1391 (evidence showed that one girl's grades dropped while the harassment was occurring); *Weaverville Elementary School*, OCR Case No. 09–91–1116 (students left school due to the harassment). *Compare with College of Alameda*, OCR Case No. 09–90–2104 (student not in instructor's class and *no* evidence of any effect on student's educational benefits or services, so no hostile environment).

49. *Doe* v. *Petaluma*, 830 F. Supp. at 1566.

50. *See Harris*, 114 S.Ct. at 371, in which the Court held that tangible harm is not required. In determining whether harm is sufficient, several factors are to be considered, including frequency, severity, whether the conduct was threatening or humiliating versus a mere offensive utterance, and whether it unreasonably interfered with work performance. No single factor is required; similarly, psychological harm, while relevant, is not required.

51. *See Modesto City Schools*, OCR Case No. 09–93–1391 (evidence showed that several girls were afraid to go to school because of the harassment).

52. *Summerfield Schools*, OCR Case No. 15–92–1029.

53. *See Waltman* v. *Int'l Paper Co.*, 875 F.2d 468, 477 (5th Cir. 1989) (Title VII case); *see also Hall*, 842 F.2d at 1015 (evidence of sexual harassment directed at others is relevant to show hostile environment under Title VII); Racial Harassment Investigative Guidance, 59 FR 11453.

54. *See, e.g., Andrews*, 895 F.2d at 1484 (''Harassment is pervasive when 'incidents of harassment occur either in concert or with regularity'.''); *Moylan* v. *Maries County*, 792 F.2d 746, 749 (8th Cir. 1986) (Title VII case); *Downes* v. *Federal Aviation Administration*, 775 F.2d 288, 293 (D.C. Cir. 1985) (same); *cf. Scott* v. *Sears, Roebuck and Co.*, 798 F.2d 210, 214 (7th Cir. 1986) (Title VII case; conduct was not pervasive or debilitating).

55. The U.S. Equal Employment Opportunity Commission (EEOC) has stated: ''The Commission will presume that the unwelcome, intentional touching of [an employee's] intimate body areas is sufficiently offensive to alter the conditions of her working environment and constitute a violation of Title VII. More so than in the case of verbal advances or remarks, a single unwelcome physical advance can seriously poison the victim's working environment.'' EEOC Policy Guidance on Current Issues of Sexual Harassment, p. 17. *See also Barrett* v. *Omaha National Bank*, 584 F. Supp. 22, 30 (D. Neb. 1983), *aff'd*, 726 F.2d 424 (8th Cir. 1984) (hostile environment created under Title VII by isolated events, i.e., occurring while traveling to and during a two-day conference, including the co-worker's talking to plaintiff about sexual activities and touching her in offensive manner while they were inside a vehicle from which she could not escape).

56. *See also Ursuline College*, OCR Case No. 05–91–2068 (A single incident of comments on a male student's muscles arguably not sexual; however, assuming they were, not severe enough to create a hostile environment).

57. *Patricia H.*, 830 F.Supp. at 1297 (''grave disparity in age and power'' between teacher and student contributed to the creation of a hostile environment); *Summerfield Schools*, OCR Case No. 15–92–1929 (''impact of the * * * remarks was heightened by the fact that the coach is an adult in a position of authority''); *cf. Doe* v. *Taylor I.S.D.*, 15 F.3d 443 (5th Cir. 1994), *cert. denied*, 115 S.Ct. 70 (1994) (Sec. 1983 case; in finding that a sexual relationship between a high school teacher and a student was unlawful, court considered the influence that the teacher had over the student by virtue of his position of authority).

58. *See, e.g., McKinney*, 765 F.2d at 1138–40; *Robinson*, 760 F. Supp. at 1522.

59. *Cf. Patricia H.*, 830 F. Supp. at 1297.

60. *See also Barrett*, 584 F. Supp. at 24 (harassment occurring in a car from which the plaintiff could not escape was deemed particularly severe).

61. *See also Hall*, 842 F.2d at 1015 (incidents of sexual harassment directed at other employees); *Hicks*, 833 F.2d at 1415–16 (same). *Cf. Midwest City-Del City Public Schools*, OCR Case No. 06–92–1012 (finding of racially hostile environment based in part on several racial incidents at school shortly before incidents in complaint, a number of which involved the same student involved in the complaint).

62. *See* note 17. In addition, incidents of racial or national origin harassment directed at a particular individual may also be aggregated with incidents of sexual or gender harassment directed at that individual in determining the existence of a hostile environment. *Hicks*, 833 F.2d at 1416;

*Jefferies* v. *Harris Community Action Ass'n,* 615 F.2d 1025, 1032 (5th Cir. 1980) (Title VII case).

63. In addition, even if there is no notice, schools may be liable for sexual harassment. *See* previous discussions of liability in situations involving *quid pro quo* harassment and hostile environment sexual harassment by employees in situations in which the employee acted with apparent authority or was aided in carrying out the harassment of students by his or her position of authority with the school.

64. *See Ellison* v. *Brady,* 924 F.2d 872, 881 (9th Cir. 1991), quoting *EEOC* v. *Hacienda Hotel,* 881 F.2d 1504, 1515–1516 (9th Cir. 1989) (Title VII cases); *Swentek* v. *USAir,* 830 F.2d 552, 558 (4th Cir. 1987), quoting *Katz* v. *Dole,* 709 F.2d at 255 (Title VII cases).

*But see Rosa H.* v. *San Elizario Indep. School Dist.,* 1997 U.S. App. LEXIS 2780 (5th Cir. Feb. 17, 1997) and note 23. In *San Elizario,* the Fifth Circuit held, among other things, that liability for hostile environment harassment cannot attach if the school has only constructive notice of the harassment. *See* note 23.

65. Whether an employee is an agent or responsible school employee, or whether it would be reasonable for a student to believe the employee is, even if the employee is not, will vary depending on factors such as the authority actually given to the employee and the age of the student.

With respect to the notice provisions applicable to schools under Title IX, one Federal Circuit Court of Appeals decision, *Canutillo Indep. School Dist.* v. *Leija,* 101 F.3d 393, 398–400 (5th Cir. 1996), has held, contrary to OCR policy, that a school district was not liable in a case in which one of its teachers sexually molested a second grade student, because the student and her mother only reported the harassment to her homeroom teacher. Notwithstanding that a school handbook instructed students and parents to report complaints to the child's primary or homeroom teacher, the court held that notice must be given to ''someone with authority to take remedial action.'' *See also Rosa H.* v. *San Elizario Indep. School Dist.,* 1997 U.S. App. LEXIS 2780 (5th Cir. Feb. 17, 1997), and notes 23 and 64. In *San Elizario,* the Fifth Circuit held, among other things, that although the fifteen-year-old student, whose karate instructor had repeatedly initiated sexual intercourse, ''was subject to discrimination on the basis of sex,'' a school district is only liable if an employee who has been invested by the school board with supervisory power over the offending employee actually knew of the abuse, had the power to end the abuse, and failed to do so.

Based on these and other decisions, Title IX law is evolving in the Fifth Circuit. When OCR investigates complaints involving schools in States in the Fifth Circuit (Texas, Louisiana, and Mississippi), it will in each case determine and follow the current applicable law. However, the existence of Fifth Circuit decisions that are inconsistent with OCR policy does not prohibit schools in these States from following the Guidance. In order to ensure students a safe and nondiscriminatory educational environment, it is the better practice for these schools to follow the Guidance. For example, the better practice is for schools to ensure that teachers and other personnel recognize and report sexual harassment of students to the appropriate school staff so that schools can take prompt corrective action and ensure a safe educational environment. In addition, the Guidance makes clear that providing students with several avenues to report sexual harassment is a very helpful means for addressing and preventing sexually harassing conduct in the first place. Schools in States in the Fifth Circuit should also consider whether State, local or other Federal laws may affect their responsibilities in this regard.

66. Racial Harassment Guidance, 59 FR 11450 (discussing how a school may receive notice).

67. *See Yates* v. *Avco Corp.,* 819 F.2d 630, 634–36 (6th Cir. 1987) (Title VII case); *Katz* v. *Dole,* 709 F.2d 251, 256 (4th Cir. 1983) (same); *See also* Racial Harassment Investigative Guidance, 59 FR 11450.

68. *Cf. Katz,* 709 F.2d at 256 (the employer ''should have been aware of the * * * problem both because of its pervasive character and because of Katz' specific complaints * * *''); *Smolsky* v. *Consolidated Rail Corp.,* 780 F. Supp. 283, 293 (E.D. Pa. 1991), *reconsideration denied,* 785 F. Supp. 71 (E.D. Pa. 1992) (''where the harassment is apparent to all others in the work place, supervisors and coworkers, this may be sufficient to put the employer on notice of the sexual harassment'' under Title VII); *Jensen* v. *Eveleth Taconite Co.,* 824 F. Supp. 847, 887 (D. Minn. 1993) (Title VII case; ''[s]exual harassment * * * was so pervasive that an inference of knowledge arises * * *. The acts of sexual harassment detailed herein were too common and continuous to have escaped Eveleth Mines had its management been reasonably alert''); *Cummings* v. *Walsh Construction Co.,* 561 F. Supp. 872, 878 (S.D. Ga. 1983) (''* * * allegations not only of the [employee] registering her complaints with her foreman * * * but also that sexual harassment was so widespread that defendant had constructive notice of it'' under Title VII); *but see Murray,* 57 F.3d at 250–51 (that other students knew of the conduct was not enough to charge the school with notice, particularly in case in which these students may not have been aware that the conduct was offensive or abusive).

69. Schools have an obligation to ensure that the educational environment is free of discrimination and cannot fulfill this obligation without determining if sexual harassment complaints have merit.

70. In some situations, for example, if a playground supervisor observes a young student repeatedly engaging in conduct toward other students that is clearly unacceptable under the school's policies, it may be appropriate for the school to intervene without contacting the other students. It may still be necessary for the school to talk with the students (and parents of elementary and secondary students) afterwards, e.g., to determine the extent of the harassment and how it affected them.

71. *Cf. Bundy* v. *Jackson,* 641 F.2d 934, 947 (D.C. Cir. 1981) (employers should take corrective and preventive measures under Title VII); *accord, Jones* v. *Flagship Int'l,* 793 F.2d 714, 719–720 (5th Cir. 1986) (employer should take prompt remedial action under Title VII). Racial Harassment Investigative Guidance, 59 FR 11450.

72. *Waltman* v. *Int'l Paper Co.,* 875 F.2d at 479 (appropriateness of employer's remedial action under Title VII will depend on the severity and persistence of the harassment and the effectiveness of any initial remedial steps); *Dornhecker* v. *Malibu Grand Prix Corp.,* 828 F.2d 307, 309–10 (5th Cir. 1987) (Title VII case; employer arranged for victim to no longer work with alleged harasser).

73. *Intlekofer* v. *Turnage,* 973 F.2d 773 (9th Cir. 1992) (Title VII case) (holding that the employer's response was insufficient and that more severe disciplinary action was necessary in situations in which counseling, separating the parties, and warnings of possible discipline were ineffective in ending the harassing behavior).

74. Offering assistance in changing living arrangements is one of the actions required of colleges and universities by the Campus Security Act in cases of rape and sexual assault. *See* 20 U.S.C. 1092(f).

75. *See* note 30.

76. University of California at Santa Cruz, OCR Case No. 09–93–2141 (extensive individual and group counseling); *Eden Prairie Schools, Dist.* #272, OCR Case No. 05–92–1174 (counseling).

77. Even if the harassment stops without the school's involvement, the school may still need to take steps to prevent or deter any future harassment—to inform the school community that harassment will not be tolerated. *Fuller* v. *City of Oakland,* 47 F.3d 1522, 1528–29 (9th Cir. 1995).

78. 34 CFR 106.8(b) and 106.71, incorporating by reference 34 CFR 100.7(e). Title IX prohibits intimidation, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX.

79. *Tacoma School Dist. No. 10,* OCR Case No. 10–94–1079 (due to the large number of students harassed by an employee, the extended period of time over which the harassment occurred, and the failure of several of the students to report the harassment, school committed as part of corrective action plan to providing training for students); *Los Medanos College,* OCR Case No. 09–84–2092 (as part of corrective action plan, school committed to providing sexual harassment seminar for campus employees); *Sacramento City Unified School Dist.,* OCR Case No. 09–83–1063 (same as to workshops for management and administrative personnel, in-service training for non-management personnel).

80. In addition, if information about the incident is contained in an ''education record'' of the student alleging the harassment, as defined in the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, the school should consider whether FERPA would prohibit the school from disclosing information without the student's consent. *Id.* In evaluating whether FERPA would limit disclosure, the Department does not interpret

FERPA to override any federally protected due process rights of a school employee accused of harassment.

81. 34 CFR 106.8(b). This requirement has been part of the Title IX regulations since their inception in 1975. Thus, schools have been required to have these procedures in place since that time. At the elementary and secondary level, this responsibility generally lies with the school district. At the postsecondary level, there may be a procedure for a particular campus or college, or for an entire university system.

82. *Fenton Community High School Dist.* # 100, OCR Case 05–92–1104.

83. While a school is required to have a grievance procedure under which complaints of sex discrimination (including sexual harassment) can be filed, the same procedure may also be used to address other forms of discrimination.

84. *See Vinson,* 477 U.S. at 72–73.

85. It is the Department's current position under the Family Educational Rights and Privacy Act (FERPA) that a school cannot release information to a complainant regarding disciplinary action imposed on a student found guilty of harassment if that information is contained in a student's education record unless—(1) the information directly relates to the complainant (e.g., an order requiring the student harasser not to have contact with the complainant); or (2) the harassment involves a crime of violence or a sex offense in a postsecondary institution. *See* note 80. If the alleged harasser is a teacher, administrator, or other non-student employee, FERPA would not limit the school's ability to inform the complainant of any disciplinary action taken.

86. The section in the Guidance on ''Recipient's Response'' provides examples of reasonable and appropriate corrective action.

87. 34 CFR 106.8(a).

88. *Id.*

89. *See Vinson,* 477 U.S. at 72–73.

90. *University of California, Santa Cruz,* OCR Case No. 09–93–2141; *Sonoma State University,* OCR Case No. 09–93–2131. This is true for formal as well as informal complaints. *See University of Maine at Machias,* OCR Case No. 01–94–6001 (school's new procedures not found in violation of Title IX in part because they require written records for informal as well as formal resolutions). These records need not be kept in a student's or employee's individual file, but instead may be kept in a central confidential location.

91. For example, in *Cape Cod Community College,* OCR Case No. 01–93–2047, the College was found to have violated Title IX in part because the person identified by the school as the Title IX coordinator was unfamiliar with Title IX, had no training, and did not even realize he was the coordinator.

92. Indeed, in *University of Maine at Machias,* OCR Case No. 01–94–6001, OCR found the school's procedures to be inadequate because only formal complaints were investigated. While a school isn't required to have an established procedure for resolving informal complaints, they nevertheless must be addressed in some way. However, if there are indications that the same individual may be harassing others, then it may not be appropriate to resolve an informal complaint without taking steps to address the entire situation.

93. *Academy School Dist. No. 20,* OCR Case No. 08–93–1023 (school's response determined to be insufficient in case in which it stopped its investigation after complaint filed with police); *Mills Public School Dist.,* OCR Case No. 01–93–1123 (not sufficient for school to wait until end of police investigation).

94. *Cf. EEOC* v. *Board of Governors of State Colleges and Universities,* 957 F.2d 424 (7th Cir.) (Title VII case), *cert. denied,* 113 S.Ct. 299 (1992); *Johnson* v. *Palma,* 931 F.2d 203 (2nd Cir. 1991) (same).

95. The First Amendment applies to entities and individuals that are State actors. The receipt of Federal funds by private schools does not directly subject those schools to the U.S. Constitution. *See Rendell-Baker* v. *Kohn,* 457 U.S. 830, 840 (1982). However, all actions taken by OCR must comport with First Amendment principles, even in cases involving private schools that are not directly subject to the First Amendment.

96. *See, e.g., George Mason University,* OCR Case No. 03–94–2086 (law professor's use of a racially derogatory word, as part of an instructional hypothetical regarding verbal torts, did not constitute racial harassment); *Portland School Dist. 1J,* OCR Case No. 10–94–1117 (reading teacher's choice to substitute a less offensive term for a racial slur when reading an historical novel aloud in class constituted an academic decision on presentation of curriculum, not racial harassment).

97. *See Iota Xi Chapter of Sigma Chi Fraternity* v. *George Mason University,* 993 F.2d 386 (4th Cir. 1993) (fraternity skit in which white male student dressed as an offensive caricature of a black female constituted student expression).

98. *See Florida Agricultural and Mechanical University,* OCR Case No. 04–92–2054 (no discrimination in case in which campus newspaper, which welcomed individual opinions of all sorts, printed article expressing one student's viewpoint on white students on campus).

99. *Tinker* v. *Des Moines Indep. Community Sch. Dist.,* 393 U.S. 503, 506 (1969) (neither students nor teachers shed their constitutional rights to freedom of expression at the schoolhouse gates); *Cf. Cohen* v. *San Bernardino Valley College,* (college professor could not be punished for his longstanding teaching methods, which included discussion of controversial subjects such as obscenity and consensual sex with children, under an unconstitutionally vague sexual harassment policy); *George Mason University,* OCR Case No. 03–94–2086 (law professor's use of a racially derogatory word, as part of an instructional hypothetical regarding verbal torts, did not constitute racial harassment).

100. *See, e.g., University of Illinois,* OCR Case No. 05–94–2104 (fact that university's use of Native American symbols was offensive to some Native American students and employees was not dispositive, in and of itself, in assessing a racially hostile environment claim under Title VI).

101. *See Vinson,* 477 U.S. at 67 (the ''mere utterance of an ethnic or racial epithet which engenders offensive feelings in an employee'' would not affect the conditions of employment to a sufficient degree to violate Title VII), quoting *Henson,* 682 F.2d at 904; *cf. R.A.V.* v. *City of St. Paul,* 505 U.S. 377, 389 (1992) (citing with approval EEOC's sexual harassment guidelines).

102. *Compare Bethel School Dist. No. 403* v. *Fraser,* 478 U.S. 675, 685 (1986) (Court upheld discipline of high school student for making lewd speech to student assembly, noting that ''[t]he undoubted freedom to advocate unpopular and controversial issues in schools and classrooms must be balanced against the society's countervailing interest in teaching students the boundaries of socially appropriate behavior.''), *with Iota XI* 993 F.2d 386 (holding that, notwithstanding a university's mission to create a culturally diverse learning environment and its substantial interest in maintaining a campus free of discrimination, it could not punish students who engaged in an offensive skit with racist and sexist overtones).

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Federal Register

Thursday
March 13, 1997

## Part VIII

# Department of the Interior

**Fish and Wildlife Service**

**50 CFR Part 20**

**Migratory Bird Hunting; Proposed 1997-1998 Migratory Game Bird Hunting Regulations (Preliminary) With Requests for Indian Tribal Proposals; Proposed Rule**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 20**

**RIN 1018-AE14**

## Migratory Bird Hunting; Proposed 1997–1998 Migratory Game Bird Hunting Regulations (Preliminary) with Requests for Indian Tribal Proposals

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (hereinafter the Service) proposes to establish annual hunting regulations for certain migratory game birds. The Service also requests proposals from Indian tribes that wish to establish special migratory bird hunting regulations. The establishment of these regulations will permit the taking of the designated species during the 1997–98 hunting season. The Service annually prescribes outside limits (frameworks) within which States may select hunting seasons. The Service has also employed guidelines to establish special migratory bird hunting regulations on Federal Indian reservations and ceded lands. These seasons provide hunting opportunities for recreation and sustenance; aid Federal, State, and tribal governments in the management of migratory game birds; and are designed to permit harvests at levels compatible with migratory bird population status and habitat conditions.

**DATES:** Tribes should submit proposals and related comments by June 2, 1997. The comment period for proposed early-season frameworks will end on July 25, 1997; and for proposed late-season frameworks on September 4, 1997. The Service will hold a public hearing for early-season frameworks on June 26, 1997, at 9 a.m. and late-season frameworks on August 7, 1997, at 9 a.m.

**ADDRESSES:** The Service will hold both public hearings in the Auditorium, Department of the Interior Building, 1849 C Street NW., Washington, DC. The public may submit written comments on the proposals and notice of intention to testify at either hearing to the Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634—ARLSQ, 1849 C Street, NW., Washington, DC 20240. All comments received, including names and addresses, will become part of the public record. The public may inspect comments received during normal business hours in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

**FOR FURTHER INFORMATION CONTACT:** Ron W. Kokel at: Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634—ARLSQ, 1849 C Street, NW., Washington, DC 20240 (703) 358–1714.

**SUPPLEMENTARY INFORMATION:** For administrative purposes, this document consolidates the notice of intent and request for tribal proposals with the preliminary proposals for the annual regulations-development process. The Service will publish the remaining proposed and final rulemaking documents separately. For inquiries on tribal guidelines and proposals, please contact the following personnel.

—Region 1—Brad Bortner, U.S. Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181; (503) 231–6164.

—Region 2—Jeff Haskins, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103; (505) 248–7885.

—Region 3—Steve Wilds, U.S. Fish and Wildlife Service, Federal Building, One Federal Drive, Fort Snelling, Minnesota 55111–4056; (612) 725–3313.

—Region 4—Frank Bowers, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Room 324, Atlanta, Georgia 30345; (404) 679–4000.

—Region 5—George Haas, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035–9589; (413) 253–8576.

—Region 6—John Cornely, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225; (303) 236–8145.

—Region 7—Robert Leedy, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503; (907) 786–3423.

### Notice of Intent to Establish Open Seasons

This notice announces the intention of the Director, U.S. Fish and Wildlife Service, to establish open hunting seasons and daily bag and possession limits for certain designated groups or species of migratory game birds for 1997–1998 in the contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands, under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K of 50 CFR part 20.

''Migratory game birds'' are those bird species so designated in conventions between the United States and several foreign nations for the protection and management of these birds. All other birds designated as migratory (under 10.13 of Subpart B of 50 CFR Part 10) in the aforementioned conventions may not be hunted. For the 1997–98 hunting season, the Service will propose regulations for certain designated members of the avian families Anatidae (ducks, geese, and swans); Columbidae (doves and pigeons); Gruidae (cranes); Rallidae (rails, coots, moorhens, and gallinules); and Scolopacidae (woodcock and snipe). These proposals are described under Proposed 1997–98 Migratory Game Bird Hunting Regulations (Preliminary) in this document. Definitions of waterfowl flyways and mourning dove management units, as well as a description of the data used in and the factors affecting the regulatory process, were published in the March 14, 1990, Federal Register (55 FR 9618).

### Regulatory Schedule for 1997–1998

This is the first in a series of proposed and final rulemaking documents for migratory game bird hunting regulations. The Service will make proposals relating to the harvest of migratory game birds initiated after publication of this proposed rulemaking available for public review in supplemental proposed rulemakings published in the Federal Register. Also, the Service will publish additional supplemental proposals for public comment in the Federal Register as population, habitat, harvest, and other information become available.

Because of the late dates when certain portions of these data become available, the Service anticipates that comment periods on some proposals will be necessarily abbreviated. Special circumstances limit the amount of time which the Service can allow for public comment on these regulations. Specifically, two considerations compress the time for the rulemaking process: the need, on one hand, to establish final rules at a time early enough in the summer to allow resource agencies to select and publish season dates and bag limits prior to the hunting seasons and, on the other hand, the lack of current data on the status of most migratory game birds until later in the summer.

Because the process is strongly influenced by the times when information is available for consideration, the overall regulations process is divided into two segments. Early seasons are those seasons that generally open prior to October 1, and include seasons in Alaska, Hawaii, Puerto Rico, and the Virgin Islands. Late seasons are those seasons opening in the remainder of the United States about

October 1 and later, and include most of the waterfowl seasons.

Major steps in the 1997–1998 regulatory cycle relating to public hearings and Federal Register notifications are illustrated in the accompanying diagram. Dates shown relative to publication of Federal Register documents are target dates.

Sections of this and subsequent documents which outline hunting frameworks and guidelines are organized under numbered headings. These headings are:

1. Ducks
2. Sea Ducks
3. Mergansers
4. Canada Geese
5. White-fronted Geese
6. Brant
7. Snow and Ross's (Light) Geese
8. Swans
9. Sandhill Cranes
10. Coots
11. Moorhens and Gallinules
12. Rails
13. Snipe
14. Woodcock
15. Band-tailed Pigeons
16. Mourning Doves
17. White-winged and White-tipped Doves
18. Alaska
19. Hawaii
20. Puerto Rico
21. Virgin Islands
22. Falconry
23. Other

Later sections of this and subsequent documents will refer only to numbered items requiring attention. Therefore, we will omit those items requiring no attention and remaining numbered items will be discontinuous and appear incomplete.

## Public Hearings

Two public hearings pertaining to 1997–1998 migratory game bird hunting regulations are scheduled. The Service will conduct both hearings in accordance with 455 DM 1 of the Departmental Manual. On June 26, the Service will hold a public hearing at 9 a.m. in the Auditorium of the Department of the Interior Building, 1849 C Street NW., Washington, DC. This hearing will review the status of migratory shore and upland game birds and discuss proposed hunting regulations for these species plus regulations for migratory game birds in Alaska, Hawaii, Puerto Rico, and the Virgin Islands; special September waterfowl seasons in designated States; special sea duck seasons in the Atlantic Flyway; extended falconry seasons; and proposed regulatory alternatives for the 1997–98 duck hunting season. On August 7, the Service will hold a public hearing at 9 a.m. in the Auditorium of the Department of the Interior Building, address above. This hearing will review the status and proposed regulations for waterfowl not previously discussed at the June 26 public hearing. The public is invited to participate in both hearings. Persons wishing to make a statement at these hearings should write to the address indicated under the caption **ADDRESSES**.

## Requests for Tribal Proposals

### *Background*

Beginning with the 1985–86 hunting season, the Service has employed guidelines described in the June 4, 1985, Federal Register (50 FR 23467) to establish special migratory bird hunting regulations on Federal Indian reservations (including off-reservation trust lands) and ceded lands. The Service developed these guidelines in response to tribal requests for Service recognition of their reserved hunting rights, and for some tribes, recognition of their authority to regulate hunting by both tribal and nontribal members throughout their reservations. The guidelines include possibilities for:

(1) on-reservation hunting by both tribal and nontribal members, with hunting by nontribal members on some reservations to take place within Federal frameworks, but on dates different from those selected by the surrounding State(s);

(2) on-reservation hunting by tribal members only, outside of usual Federal frameworks for season dates and length, and for daily bag and possession limits; and

(3) off-reservation hunting by tribal members on ceded lands, outside of usual framework dates and season length, with some added flexibility in daily bag and possession limits.

In all cases, the regulations established under the guidelines would have to be consistent with the annual March 10 to September 1 closed season mandated by the 1916 Convention Between the United States and Great Britain (for Canada) for the Protection of Migratory Birds (Convention). The guidelines are capable of application to those tribes that have reserved hunting rights on Federal Indian reservations (including off-reservation trust lands) and ceded lands. They also apply to the establishment of migratory bird hunting regulations for nontribal members on all lands within the exterior boundaries of reservations where tribes have full wildlife management authority over such hunting, or where the tribes and affected States otherwise have reached agreement over hunting by nontribal members on non-Indian lands.

Tribes usually have the authority to regulate migratory bird hunting by nonmembers on Indian-owned reservation lands, subject to Service approval. The question of jurisdiction is more complex on reservations that include lands owned by non-Indians, especially when the surrounding States have established or intend to establish regulations governing hunting by non-Indians on these lands. In such cases, the Service encourages the tribes and States to reach agreement on regulations that would apply throughout the reservations. When appropriate, the Service will consult with a tribe and State with the aim of facilitating an accord. The Service also will consult jointly with tribal and State officials in the affected States where tribes may wish to establish special hunting regulations for tribal members on ceded lands. As explained in previous rulemaking documents, it is incumbent upon the tribe and/or the State to put forward a request for consultation as a result of the proposal being published in the Federal Register. The Service will not presume to make a determination, without being advised by a tribe or a State, that any issue is/is not worthy of formal consultation.

One of the guidelines provides for the continuation of harvest of migratory game birds by tribal members on reservations where it is a customary practice. The Service does not oppose this harvest, provided it does not take place during the closed season required by the Convention, and it is not so large as to adversely affect the status of the migratory bird resource. For several years, the Service has reached annual agreement with tribes for hunting by tribal members on their lands or on lands where they have reserved hunting rights. The Service will continue to consult with tribes that wish to reach a mutual agreement on hunting regulations for on-reservation hunting by tribal members.

The guidelines should not be viewed as inflexible. Nevertheless, the Service believes that they provide appropriate opportunity to accommodate the reserved hunting rights and management authority of Indian tribes while ensuring that the migratory bird resource receives necessary protection. The conservation of this important international resource is paramount. Use of the guidelines is not required if a tribe wishes to observe the hunting regulations established by the State(s) in which the reservation is located.

*Details Needed in Tribal Proposals*

Tribes that wish to use the guidelines to establish special hunting regulations for the 1997–98 hunting season must submit a proposal that includes:

(1) the requested hunting season dates and other details regarding regulations to be observed;

(2) harvest anticipated under the requested regulations;

(3) methods that will be employed to measure or monitor harvest (mail-questionnaire survey, bag checks, etc.);

(4) steps that will be taken to limit level of harvest, where it could be shown that failure to limit such harvest would seriously impact the migratory bird resource; and

(5) tribal capabilities to establish and enforce migratory bird hunting regulations.

A tribe that desires the earliest possible opening of the waterfowl season should specify this in the proposal, rather than request a date that might not be within the final Federal frameworks. Similarly, unless a tribe wishes to set more restrictive regulations than Federal regulations will permit, the proposal should request the same daily bag and possession limits and season length for ducks and geese that Federal regulations are likely to permit the States in the Flyway in which the reservation is located.

*Tribal Proposal Procedures*

The Service will publish pertinent details in tribal proposals for public review in later Federal Register documents. Because of the time required for Service and public review, Indian tribes that desire special migratory bird hunting regulations for the 1997–98 hunting season should submit their proposals as soon as possible, but no later than June 2, 1997. Tribes should direct inquiries regarding the guidelines and proposals to the appropriate Service Regional Office listed under the caption **SUPPLEMENTARY INFORMATION**. Tribes that request special hunting regulations for tribal members on ceded lands should send a courtesy copy of the proposal to officials in the affected State(s).

Public Comments Solicited

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons are invited to submit written comments, suggestions, or recommendations regarding the proposed regulations. Promulgation of final migratory game bird hunting regulations will take into consideration all comments received by the Service. Such comments, and any additional information received, may lead to final regulations that differ from these proposals. Interested persons are invited to participate in this rulemaking by submitting written comments to the address indicated under the caption **ADDRESSES**.

The public may inspect comments received on the proposed annual regulations during normal business hours at the Service's office in room 634, 4401 North Fairfax Drive, Arlington, Virginia. For each series of proposed rulemakings, the Service will establish specific comment periods. The Service will consider, but possibly may not respond in detail to, each comment. As in the past, the Service will summarize all comments received during the comment period and respond to them after the closing date.

Flyway Council Meetings

Departmental representatives will be present at the following winter meetings of the various Flyway Councils:

*DATE:* March 14, 1997

—Central Flyway Council, 8:00 a.m.

*DATE:* March 15, 1997

—National Waterfowl Council, 3:30 p.m.

*DATE:* March 16, 1997

—Atlantic Flyway Council, 8:00 a.m.

—Mississippi Flyway Council, 8:30 a.m.

—Pacific Flyway Council, 1:00 p.m.

The Council meetings will be held at the Omni Shoreham Hotel, 2500 Calvert Street, NW., Washington, DC.

NEPA Consideration

NEPA considerations are covered by the programmatic document, ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88-14),'' filed with the Environmental Protection Agency on June 9, 1988. Notice of Availability was published in the Federal Register on June 16, 1988 (53 FR 22582). The Service's Record of Decision was published on August 18, 1988 (53 FR 31341). In addition, an August 1985 environmental assessment entitled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available from the Service at the address indicated under the caption **ADDRESSES**.

Endangered Species Act Consideration

Prior to issuance of the 1997–98 migratory game bird hunting regulations, the Service will consider provisions of the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531–1543; hereinafter the Act) to ensure that hunting is not likely to jeopardize the continued existence of any species designated as endangered or threatened or modify or destroy its critical habitat and is consistent with conservation programs for those species. Consultations under Section 7 of this Act may cause the Service to change proposals in this and future supplemental proposed rulemaking documents.

Executive Order (E.O.) 12866

This rule is economically significant and was reviewed by the Office of Management and Budget (OMB) under E.O. 12866.

Regulatory Flexibility Act

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The economic impacts of the annual hunting regulations on small business entities were analyzed in detail and a Small Entity Flexibility Analysis (Analysis) was issued by the Service in 1996. The Analysis documented the significant beneficial economic effect on a substantial number of small entities. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The Analysis utilized the 1991 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns from which it was estimated that migratory bird hunters would spend between $254 and $592 million at small businesses in 1996.

Copies of the Analysis are available upon request from the Office of Migratory Bird Management. The address is indicated under the caption **ADDRESSES**.

Paperwork Reduction Act

The Department examined these regulations under the Paperwork Reduction Act of 1995 and found no information collection requirements.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1997-98 hunting season are authorized under 16 U.S.C. 703–711, 16 U.S.C. 712, and 16 U.S.C. 742 a—j.

Dated: March 5, 1997.

Don Barry,

*Deputy Assistant Secretary for Fish and Wildlife and Parks.*

**Proposed 1997–1998 Migratory Game Bird Hunting Regulations (Preliminary)**

Pending current information on populations, harvest, and habitat conditions, and receipt of recommendations from the four Flyway Councils, specific framework proposals (including opening and closing dates, seasons lengths, and bag limits) may be deferred. Unless otherwise specified, no change from the final 1996–97 frameworks of August 29 and September 26, 1996, (61 FR 45836 and 50662) is proposed. Specific preliminary proposals that vary from the 1996–97 frameworks and issues requiring early discussion, action, or the attention of the States or tribes are contained below:

1. Ducks

*A. Harvest Strategy Considerations*

The annual process of setting duck-hunting regulations in the United States is based on a system of resource monitoring, data analyses, and rulemaking. Each year, monitoring activities such as aerial surveys and hunter questionnaires provide information on harvest levels, population size, and habitat conditions on the breeding grounds. Data collected from these monitoring programs are analyzed each year, and proposals for duck-hunting regulations are developed by the Flyway Councils, States, and the Service. After extensive public review, the Service announces a regulatory framework within which States can set their hunting seasons.

By and large, this process has generally worked well. For most duck species, population levels and associated hunting opportunities have been maintained in the face of variable environmental conditions and permanent landscape changes. Despite this success, however, the annual process of setting regulations often has been controversial. Debates over appropriate regulations are frequent among hunters, managers, and the public-at-large. The controversy typically stems from disagreements about the role of harvest in population dynamics. As a consequence, managers are unsure about how much regulations should be restricted when populations are declining, how much they can be liberalized when populations are increasing, and when those regulatory changes should occur.

To help answer these questions, the Service, in cooperation with the Flyway Councils, introduced the concept of Adaptive Harvest Management (AHM) in 1995. AHM should help managers better understand the impacts of regulations on harvest and population levels, thereby improving the ability to provide maximum hunting opportunities consistent with long-term resource maintenance. AHM also is intended to provide a more objective, better informed, and less contentious decision-making process, as well as a formal and coherent framework for addressing controversial harvest-management issues.

Key components of AHM are agreement on the goals of harvest management, a limited number of regulatory alternatives or options, and alternative models of population dynamics. The alternative models reflect disagreement among managers regarding the effects of hunting regulations on harvest and population size. With AHM, the setting of hunting regulations involves a repetitive process:

(1) each year, an optimal regulation is identified based on population and habitat status, and on the relative ability of alternative models to mimic population dynamics;

(2) after the regulatory decision is made, each population model is used to predict breeding population size the following year;

(3) when monitoring data become available, models that more accurately predict observed population size gain credibility, while those models that are poor predictors lose credibility; and

(4) the new assessments of model credibility are used to start another iteration of the process.

A technical working group representing the Service, the four Flyway Councils, and the Canadian Wildlife Service was established in 1992 to assist with implementation of AHM. The working group continues to meet at least once a year to pursue AHM conceptual development and to consider technical and communication issues for the current regulatory cycle. The working group met in December 1996 to address issues and concerns raised during the 1996 regulatory process. The working group's role continues to be strictly advisory and should not be misconstrued as a substitute for any existing technical or decision-making body.

The working group continues to express concern about what may be unrealistic expectations among managers and the public regarding the scope and speed of AHM implementation. The working group emphasizes that AHM has highlighted many unresolved issues in waterfowl harvest management, and that adequate time is needed to address these issues in a comprehensive and coherent manner. In the interim, the Service is interested in working with its partners to foster agreement on technical issues of highest priority and realistic timetables for action. The Service believes strongly that the success of AHM will depend on a commitment to careful and methodical implementation.

Implementation of AHM began in 1995 with a focus on midcontinent mallards. The Service believes this focus is appropriate because mallards are the most abundant and heavily harvested duck species, and because the status of mallards is closely related to the status of many other duck stocks. Nonetheless, the Service continues to work toward a more formal AHM framework for other ducks, including mallards in eastern breeding areas, northern pintails, canvasbacks, and black ducks. Ultimately, however, managers face a number of practical constraints (e.g., available data, quality of monitoring programs, complexity of assessment procedures) and development of a general AHM framework for all duck stocks likely is not feasible. The Service believes that the following questions should be addressed when considering whether a regulatory approach different than that for mallards is warranted:

(1) How much does the duck stock differ from mallards in terms of population dynamics (i.e., responses to environmental conditions and harvest) and vulnerability to harvest?

(2) What are the relative costs (i.e., monitoring and assessment) and benefits (i.e., increased hunting opportunity and improved ability to attain population goals) of managing the duck stock independently from mallards?

(3) What is the ability of hunters to harvest selectively?

(4) Do hunters prefer the maximum hunting opportunity afforded by complex regulations, or simpler hunting regulations that offer less hunting opportunity?

Although these issues always have been considered before implementing stock-specific harvest strategies, the Service is interested in developing formal assessments before considering significant changes to existing harvest strategies for duck species other than mallards.

In July 1996, the four Flyway Councils passed a joint recommendation regarding development of regulatory alternatives for AHM. This recommendation stressed the importance of refining the current

alternatives and provided guidelines for considering modifications. Following the July Council meetings, the AHM working group prepared a mail survey requesting further clarification from Council members regarding their concerns about the current alternatives. Copies of the joint recommendation and of the survey results are available upon request from the Office of Migratory Bird Management at the address indicated under the caption **ADDRESSES**.

Based on input from the Flyway Councils, the working group developed a recommended set of regulatory alternatives for the 1997–98 hunting season. Significant changes from last year's alternatives would include: (1) the addition of a very restrictive alternative; (2) additional days and a higher total-duck daily bag limit in the moderate and liberal alternatives; and (3) an increase in the bag limit of hen mallards in the moderate and liberal alternatives. See the attached table for a complete description of the recommended alternatives. The working group provided the following explanations and rationale for these alternatives:

(1) the range and number of regulatory alternatives was expanded to decrease the probability of closed seasons and to take greater advantage of available hunting opportunity at high population levels; however, even the very restrictive option would be too liberal for some combinations of population size and pond numbers due to the emphasis placed on reaching the goal of the North American Waterfowl Management Plan at very low population sizes; in addition, more days and a higher daily bag limit in the liberal option tends to produce more conservative regulatory choices at low population sizes;

(2) recommended maximum and minimum season lengths and bag limits largely reflect the reported desires of most Flyway Council members; differences in season length and bag limits among Flyways generally maintain proportional differences during the last two decades;

(3) total bag limits under the moderate and liberal alternatives would be increased to provide additional hunting opportunity for species not restricted within the overall bag; this change would allow additional harvest of abundant species like gadwall, teal, and shoveler above and beyond that realized from additional days in the season;

(4) the increase in bag limits of hen mallards is recommended to address States' concern about overly-restrictive regulations, while recognizing there are biological and sociological arguments for maintaining sex-specific bag limits; the working group also recognized, however, that hen harvest rates are lower than those for males and that many hunters are adverse to shooting hens, irrespective of what regulations allow; and

(5) some simplification in regulations would be achieved by assigning the same basic bag limits to the very restrictive and restrictive alternatives, and to the moderate and liberal alternatives; this also would provide a better basis to investigate the independent effects of season length and bag limit.

Final estimates of harvest rates (i.e., the proportion of the fall flight harvested) expected from the recommended regulatory alternatives will be available in the near future. Predictions will be based on estimates of harvest rates realized in the recent past, Flyway-specific analyses that predict the effect of changing days and bag limits, and the long-term declines in hunter numbers. Preliminary estimates of mean harvest rates for adult male mallards are provided in the following table. Harvest rates of females would be about 30% lower than those for males. The selection of the appropriate alternative for the 1997–98 hunting season would depend on breeding population and production estimates, which will be available in late July.

| Alternative | Harvest rates (percent) |
|---|---|
| Very restrictive | 4.5 |
| Restrictive | 7.1 |
| Moderate | 9.2 |
| Liberal | 12.2 |

The Service will offer its proposal for regulatory alternatives for ducks in the Federal Register in late May, with a public comment period to end on or about June 27, 1997. Final regulatory alternatives will be published in the Federal Register on or about July 15, 1997.

*G. Special Seasons/Species Management*

i. Canvasback

Since 1994, the Service has followed a harvest-management strategy for canvasbacks which considers population levels, potential for recruitment, and expected harvest by hunters. The plan permits an open season on canvasbacks with a 1-bird daily bag limit nationwide when the above factors are sufficient to maintain a spring population size of 500,000 birds. Each year, the Service reviews harvest and population-status information to evaluate the effectiveness of the harvest strategy. This information is not yet available for 1997. The Service proposes no change in the strategy employed for deciding on regulations governing the harvest of canvasbacks.

ii. September Teal/Wood Duck Seasons

The Service continues to stress the importance of improving wood duck population monitoring programs. Such programs are necessary to ensure maintenance of our regular season approach to managing this species. The Wood Duck Population Monitoring Initiative (Initiative), completed in 1996, will provide managers with an assessment of the geographic scale at which we can adequately monitor population levels or trends, productivity, and survival and recovery rates. The draft final report for the Initiative is currently being reviewed by Flyway Council Technical Sections and Service cooperators. Publication of the final report is scheduled for July 1997.

Decisions regarding the appropriateness of September teal/wood duck seasons will be made in cooperation with the Flyway Councils after the assessment of wood duck monitoring programs is completed. Until such time, the Service does not propose changes to these seasons in Kentucky, Tennessee, and Florida or to expand such seasons elsewhere.

iii. High Plains Mallard Management Unit

The Service is expecting the report on the High Plains Mallard Management Unit from the Central Flyway Council. Prompt completion of the report is encouraged prior to this summer's regulatory decisions.

iv. Black Ducks

The wintering population of black ducks appears to have stabilized over the last decade during which restrictive regulations have been in effect. Recent Midwinter Waterfowl Survey estimates have been slightly more than 300,000 for the Atlantic and Mississippi Flyways combined. Black duck populations remain below the North American Waterfowl Management Plan goal of 385,000.

Current black duck harvest restrictions are based on guidelines outlined in the 1983 Environmental Assessment, which requested that States voluntarily reduce their harvest by 25% from 1977–81 levels. To date, both Flyways and individual States have met or exceeded this goal. Beginning in 1994, with the return of more liberal duck seasons, black duck harvests have

increased. The Service is concerned that these longer seasons may result in higher harvests and may have a negative impact upon black duck recovery.

Recent survival analyses from banding programs have not definitively answered questions regarding the impacts of harvest, but do not rule out the possibility of additive effects on the dynamics of black duck populations. To help clarify the role of harvest, the Black Duck Joint Venture Committee indicated that a higher priority should be placed on achieving preseason banding goals. The Service requests input from the Atlantic and Mississippi Flyway Councils.

v. Youth Hunt

This past year, the Service offered States the opportunity to establish a special ''Youth Waterfowl Hunting Day.'' The one-day season was intended to introduce youth to the concepts of ethical utilization and stewardship of waterfowl and other natural resources, encourage youngsters and adults to experience the outdoors together, and contribute to our Nation's migratory bird conservation efforts. The Service is currently evaluating this opportunity and is committed to working with the States and the Flyway Councils prior to any similar proposal for a youth hunt this year.

4. Canada Geese

In 1995, the regular season on Atlantic Population (AP) Canada geese was closed due to dramatic declines in the breeding population from 118,000 pairs in 1988 to 29,000 pairs in 1995. In 1996, the spring breeding survey in northern Quebec recorded an increase to 46,000 pairs. However, habitat conditions at the time of the survey last spring were not favorable for nesting and productivity of AP Canada geese was believed to have been below average. While the impact of last year's poor production may not affect this year's spring survey, this ''missing'' year class will impact production in future years.

An Action Plan approved by the Atlantic Flyway Council last year calls for a return to 60,000 breeding pairs and evidence of a sustained population recovery before hunting seasons are resumed. The overall population objective for the AP is 150,000 pairs in the Ungava Region. Further, the Action Plan for the next five years (1997–2001) calls for an ambitious commitment to fund monitoring programs, measure productivity, initiate breeding ground banding, and implement surveys to measure subsistence harvest. The Service, the Canadian Wildlife Service, States and Provinces have been asked to participate in this effort to improve our management database on AP Canada Geese. Copies of the Action Plan are available upon request from the Office of Migratory Bird Management at the address indicated under the caption **ADDRESSES**.

Last year, several questions arose regarding the population status and harvest of a ''Maritime'' or ''North Atlantic'' Population of Canada geese. This stock of birds was not identified separately from the AP in previous Flyway management plans primarily because little survey information exists to monitor the status or differentiate the harvest of this stock from AP birds. Currently, the Atlantic Flyway has agreed to begin the task of setting up the appropriate surveys necessary to delineate this stock of birds and determine whether it should be managed separately from the AP in the future.

14. Woodcock

The Service is increasingly concerned about the gradual long-term declines in woodcock populations in the Eastern and Central Management Regions. Although habitat change appears to be the primary cause of the declines, the Service believes that hunting regulations should be commensurate with the status of woodcock populations and rates of decline. The Service seeks active participation by the Atlantic, Mississippi, and Central Flyway Councils in the development of short- and long-term harvest management strategies for woodcock, which identify the circumstances under which changes in harvest opportunity should be implemented and what those changes should be. Should the 1997 population data reflect the continuing decline, without other compelling information, harvest restrictions are likely.

23. Other

*A. Compensatory Days*

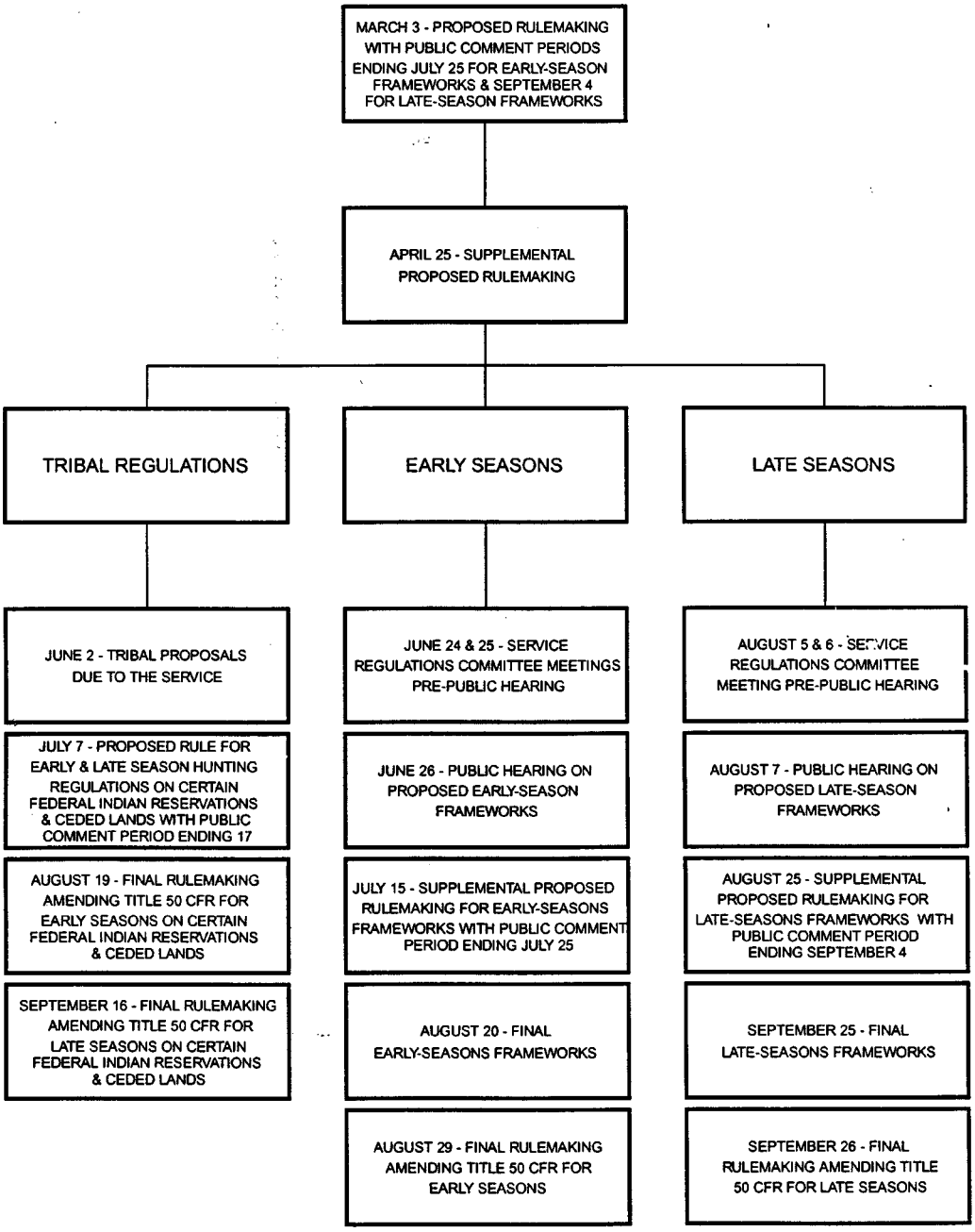
In some states, state law or constitutional provisions prohibit Sunday hunting. These states have asked the Service to allow them to ''add on'' days to ''compensate'' their hunters for these lost days. In the past, the Service has maintained the policy that there is no biological basis for prohibiting hunting on Sundays and believed this problem was an individual State issue, which could best be resolved by each State removing their self-imposed restrictions (September 24, 1993, Federal Register, 58 FR 50188). However, two years ago during the early-season regulations meeting, June 21, 1995, the Service agreed to work with the Atlantic Flyway Council to review and clarify various technical and policy concerns relating to the issue of offering compensatory days to those States that restrict Sunday hunting. Subsequently, on December 18, 1996, in Hadley, Massachusetts, the Service met with several Atlantic Flyway Council representatives to continue its efforts to resolve this issue. Although no final decisions were made, the Service did express its empathy with the problem and the difficulty States have in resolving this issue at the individual State level. During the 1997–1998 regulatory cycle, the Service will continue to work with the Atlantic Flyway Council to address several policy and technical concerns and to explore potential solutions and appropriate guidelines and/or criteria.

*B. Bird Banding*

About 10 years ago, the Service began a carefully-planned effort to increase band-reporting rates, the proportion of bands recovered by hunters that are reported to the Bird Banding Laboratory (now part of the U.S. Geological Survey's Biological Resources Division). In the initial phase, current band-reporting rates were estimated and sources of variability identified. The second phase is a large-scale effort to increase band-reporting rates, with associated studies designed to assess the magnitude of the increase. This phase was begun in 1993 using bands inscribed with a more complete return address. In 1995, the Service, in conjunction with the Bird Banding Laboratory, conducted a study of the effects of using a toll-free telephone number on the reporting of bands from mallard ducks recovered by hunters. In 1996, bands with the 1–800–327-BAND phone number were placed on most preseason-banded mallards. The new toll-free number was advertised in State regulation brochures and magazines. In 1997, plans are to place the new bands on most preseason-banded ducks and geese. The goal is to have the phone number widely disseminated so that the transition time to this new way of reporting bands is as short a period as possible. The Service requests that State assist in advertising the new phone number and suggests the inclusion of the number in all State waterfowl regulations brochures. Other outreach efforts by the States, such as inclusion of the number in State magazines and other information and education efforts is encouraged.

BILLING CODE 4310–55-F

# 1997 SCHEDULE OF REGULATIONS MEETINGS AND FEDERAL REGISTER PUBLICATIONS




DATES SHOWN RELATIVE TO PUBLICATION OF FEDERAL REGISTER DOCUMENTS ARE TARGET DATES

## POSSIBLE REGULATORY ALTERNATIVES FOR DUCK HUNTING DURING THE 1997-98 SEASON

| | ATLANTIC FLYWAY | | | | MISSISSIPPI FLYWAY | | | | CENTRAL FLYWAY (a) | | | | PACIFIC FLYWAY (b)(c) | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | VERY RES | RES | MOD | LIB | VERY RES | RES | MOD | LIB | VERY RES | RES | MOD | LIB | VERY RES | RES | MOD | LIB |
| Begining Shooting Time | 1/2 hr. before sunrise | 1/2 hr. before sunrise | 1/2 hr. before sunrise | 1/2 hr. before sunrise | 1/2 hr. before sunrise | 1/2 hr. before sunrise | 1/2 hr. before sunrise | 1/2 hr. before sunrise | 1/2 hr. before sunrise | 1/2 hr. before sunrise | 1/2 hr. before sunrise | 1/2 hr. before sunrise | 1/2 hr. before sunrise | 1/2 hr. before sunrise | 1/2 hr. before sunrise | 1/2 hr. before sunrise |
| Ending Shooting Time | Sunset | Sunset | Sunset | Sunset | Sunset | Sunset | Sunset | Sunset | Sunset | Sunset | Sunset | Sunset | Sunset | Sunset | Sunset | Sunset |
| Opening Date | Oct. 1 | Oct. 1 | Oct. 1 | Oct. 1 | Sat. nearest Oct. 1 | Sat. nearest Oct. 1 | Sat. nearest Oct. 1 | Sat. nearest Oct. 1 | Sat. nearest Oct. 1 | Sat. nearest Oct. 1 | Sat. nearest Oct. 1 | Sat. nearest Oct. 1 | Sat. nearest Oct. 1 | Sat. nearest Oct. 1 | Sat. nearest Oct. 1 | Sat. nearest Oct. 1 |
| Closing Date | Jan. 20 | Jan. 20 | Jan. 20 | Jan. 20 | Sun. nearest Jan. 20 | Sun. nearest Jan. 20 | Sun. nearest Jan. 20 | Sun. nearest Jan. 20 | Sun. nearest Jan. 20 | Sun. nearest Jan. 20 | Sun. nearest Jan. 20 | Sun. nearest Jan. 20 | Sun. nearest Jan. 20 | Sun. nearest Jan. 20 | Sun. nearest Jan. 20 | Sun. nearest Jan. 20 |
| Season Length | 20 | 30 | 45 | 60 | 20 | 30 | 45 | 60 | 25 | 39 | 60 | 74 | 38 | 59 | 86 | 107 |
| Daily Bag/ Possession | 3<br>6 | 3<br>6 | 6<br>12 | 6<br>12 | 3<br>6 | 3<br>6 | 6<br>12 | 6<br>12 | 3<br>6 | 3<br>6 | 6<br>12 | 6<br>12 | 4<br>8 | 4<br>8 | 7<br>14 | 7<br>14 |
| **Species/Sex Limits within the Overall Daily Bag Limit** | | | | | | | | | | | | | | | | |
| Mallard (Total/Female) | 3/1 | 3/1 | 4/2 | 4/2 | 2/1 | 2/1 | 4/1 | 4/2 | 3/1 | 3/1 | 5/1 | 5/2 | 3/1 | 3/1 | 5/2 | 7/2 |
| Pintail | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 2 | 2 |
| Black Duck | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | - | - | - | - | - | - | - | - |
| H. Merganser | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | - | - | - | - |
| Canvasback | ← | | | | 0 or 1, according to the Service's Interim Canvasback Harvest-Management Strategy | | | | | | | | | | | → |
| Redhead | 2 | 2 | 2 | 2 | 1 | 1 | 2 | 2 | 1 | 1 | 2 | 2 | 2 | 2 | 2 | 2 |
| Wood Duck | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | 2 | - | - | - | - |
| Whistling Ducks | 1 | 1 | 1 | 1 | - | - | - | - | - | - | - | - | - | - | - | - |
| Harlequin | Closed | Closed | Closed | Closed | - | - | - | - | - | - | - | - | - | - | - | - |
| Mottled Duck | 1 | 1 | 1 | 1 | 3 | 3 | 3 | 3 | 1 | 1 | 1 | 1 | - | - | - | - |

(a) In the High Plains Mallard Management Unit, all regulations would be the same as the remainder of the Central Flyway with the exception of season length. Additional days would be allowed under the various options as follows: very restrictive - 8, restrictive - 12, moderate and liberal - 23. Under all options, additional days must be on or after the Saturday nearest December 10.

(b) In the Columbia Basin Mallard Mangement Unit, all regulations would be the same as the remainder of the Pacific Flyway, with the exception of season length. Under all options except the liberal option, an additional 7 days would be allowed.

(c) In Alaska, framework dates, bag limits, and season length would be different than the remainder of the Pacific Flyway. The bag limit would be 5-7 under the very restrictive and restrictive options, and 8-10 under the moderate and liberal options. There would be no restrictions on pintails, and canvasback limits would follow those for the remainder of the Pacific Flyway. Under all options, season length would be 107 days and framework dates would be Sep 1 - Jan 26.

[FR Doc. 97-6486 Filed 3-12-97; 8:45 am]
BILLING CODE 4310-55-C

Federal Register

Thursday
March 13, 1997

## Part IX

# The President

**Executive Order 13038—Advisory Committee on Public Interest Obligations of Digital Television Broadcasters**

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# Presidential Documents

Title 3—

The President

Executive Order 13038 of March 11, 1997

## Advisory Committee on Public Interest Obligations of Digital Television Broadcasters

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (the ''Act''), and in order to establish an advisory committee on the public interest obligations of digital television broadcasters, it is hereby ordered as follows:

Section 1. *Establishment.* There is established the ''Advisory Committee on the Public Interest Obligations of Digital Television Broadcasters'' (''Committee''). The Committee shall consist of not more than 15 members appointed by the President. Members shall be chosen from the private sector, including members of the commercial and noncommercial broadcasting industry, computer industries, producers, academic institutions, public interest organizations, and the advertising community. The President shall designate a Chair from among the members of the Committee.

Sec. 2. *Functions.* On or before June 1, 1998, the Committee shall report to the Vice President on the public interest obligations digital television broadcasters should assume. For the purpose of carrying out its functions the Committee may, in consultation with the Assistant Secretary of Commerce for Communications and Information, hold meetings at such times and places as the Committee may find advisable.

Sec. 3. *Administration.* (a) To the extent permitted by law, the heads of executive departments, agencies, and independent instrumentalities shall provide the Committee, upon request, with such information as it may require for the purpose of carrying out its functions.

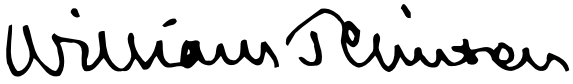
(b) Upon request of the Chair of the Committee, the head of any executive department, agency, or instrumentality shall, to the extent permitted by law and subject to the discretion of such head, (1) make any of the facilities and services of such department, agency, or instrumentality available to the Committee; and (2) detail any of the personnel of such department, agency, or instrumentality to the Committee to assist the Committee in carrying out its duties.

(c) Members of the Committee shall serve without compensation for their work on the Committee. While engaged in the work of the Committee, members appointed from the private sector may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law and as the Chair, in consultation with the Assistant Secretary of Commerce for Communications and Information, may allow as needed, for persons serving intermittently in the Government service (5 U.S.C. 5701–5707), to the extent funds are available for such purposes.

(d) To the extent permitted by law and subject to the availability of appropriations, the Department of Commerce shall provide the Committee with administrative services, staff, and other support services necessary for performance of the Committee's functions.

(e) The Assistant Secretary of Commerce for Communications and Information, or his designee, shall perform the functions of the President under the Act, except that of reporting to the Congress, in accordance with the guidelines and procedures established by the Administrator of General Services.

Sec. 4. *General.* The Committee shall terminate 30 days after submitting its report, unless extended by the President.



THE WHITE HOUSE,
*March 11, 1997.*

[FR Doc. 97–6571
Filed 3–12–97; 8:45 am]
Billing code 3195–01–P

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