4–14–97
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Monday
April 14, 1997

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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

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3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: April 15, 1997 at 9:00 am

WHERE: Office of the Federal Register
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Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

For additional briefings see the announcement in Reader Aids

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Separate Parts In This Issue

Reader Aids

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

Electronic Bulletin Board

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Federal Register
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Monday, April 14, 1997

Presidential Documents

Title 3—

The President

Proclamation 6984 of April 9, 1997

National D.A.R.E. Day, 1997

By the President of the United States of America

A Proclamation

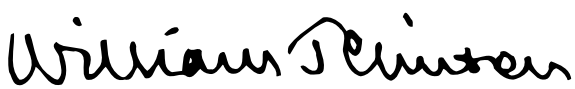
Today we honor Drug Abuse Resistance Education (D.A.R.E.), the largest and most widely recognized substance abuse prevention and safety-promotion curriculum in the Nation. First developed in 1983, D.A.R.E. has continued to improve its methods as research findings have increased our knowledge of effective substance abuse prevention among school-age youth. More than 70 percent of America's school districts have adopted the program, and over 8,000 cooperative partnerships between law enforcement agencies and school districts now exist across the country. By virtue of D.A.R.E.'s expansive use and national impact, this acronym has achieved broad name recognition in association with substance abuse prevention, making the D.A.R.E. officer one of the most recognizable symbols for community policing and prevention.

Students, parents, police officers, and school administrators have long been familiar with the benefits of the D.A.R.E. program, and research has shown that ongoing reinforcement of drug prevention skills is critical in decreasing the likelihood of drug use by our youth.

Today and throughout the year, let us recognize D.A.R.E. as a model of partnership between educators, law enforcement, parents, and students, and let us commend D.A.R.E. officers for their dedicated efforts to help educate the children of America about the importance of remaining drug free.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 10, 1997, as National D.A.R.E. Day. I call upon our youth, parents, and educators, and all the people of the United States to observe this day with appropriate activities.

IN WITNESS WHEREOF, I have hereunto set my hand this ninth day of April, in the year of our Lord nineteen hundred and ninety-seven, and of the Independence of the United States of America the two hundred and twenty-first.



[FR Doc. 97–9699
Filed 4–11–97; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Executive Order 13042 of April 9, 1997

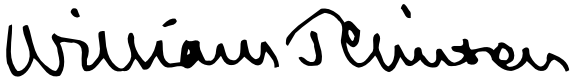
Implementing for the United States Article VIII of the Agreement Establishing the World Trade Organization Concerning Legal Capacity and Privileges and Immunities

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 101(b) of the Uruguay Round Agreements Act (Public Law 103-465) and section 1 of the International Organizations Immunities Act (22 U.S.C. 288), I hereby implement for the United States the provisions of Article VIII of the Agreement Establishing the World Trade Organization.

Section 1. The provisions of the Convention on the Privileges and Immunities of the Specialized Agencies (U.N. General Assembly Resolution 179 (II) of November 21, 1947, 33 U.N.T.S. 261) shall apply to the World Trade Organization, its officials, and the representatives of its members, provided: (1) sections 19(b) and 15, regarding immunity from taxation, and sections 13(d) and section 20, regarding immunity from national service obligations, shall not apply to U.S. nationals and aliens admitted for permanent residence; (2) with respect to section 13(d) and section 19(c), regarding exemption from immigration restrictions and alien registration requirements, World Trade Organization officials and representatives of its members shall be entitled to the same, and no greater, privileges, exemptions, and immunities as are accorded under similar circumstances to officers and employees of foreign governments, and members of their families; (3) with respect to section 9(a) regarding exemption from taxation, such exemption shall not extend to taxes levied on real property, or that portion of real property, which is not used for the purposes of the World Trade Organization. The leasing or renting by the World Trade Organization of its property to another entity or person to generate revenue shall not be considered a use for the purposes of the World Trade Organization. Whether property or portions thereof are used for the purposes of the World Trade Organization shall be determined within the sole discretion of the Secretary of State or the Secretary's designee; (4) with respect to section 25(2)(II) regarding approval of orders to leave the United States, ''Foreign Minister'' shall mean the Secretary of State or the Secretary's designee.

Sec. 2. In addition and without impairment to the protections extended above, having found that the World Trade Organization is a public international organization in which the United States participates within the meaning of the International Organizations Immunities Act, I hereby designate the World Trade Organization as a public international organization entitled to enjoy the privileges, exemptions, and immunities conferred by that Act, except that section 6 of that Act, providing exemption from property tax imposed by, or under the authority of, any Act of Congress, shall not extend to taxes levied on property, or that portion of property, that is not used for the purposes of the World Trade Organization. The leasing or renting by the World Trade Organization of its property to another entity or person to generate revenue shall not be considered a use for the purposes of the World Trade Organization. Whether property or portions thereof are used for the purposes of the World Trade Organization shall be determined within the sole discretion of the Secretary of State or the Secretary's designee. This designation is not intended to abridge in any respect privileges, exemp-

tions, or immunities that the World Trade Organization otherwise enjoys or may acquire by international agreements or by congressional action.



THE WHITE HOUSE,
April 9, 1997.

[FR Doc. 97–9700
Filed 4–11–97; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register
Vol. 62, No. 71
Monday, April 14, 1997

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1655

Thrift Savings Plan Loans

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Final rule.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is adopting as final the Board's interim Thrift Savings Plan (TSP) loan regulations without change.

DATES: This final rule is effective April 14, 1997.

FOR FURTHER INFORMATION CONTACT: Patrick J. Forrest on (202) 942–1662.

SUPPLEMENTARY INFORMATION: The Board administers the Thrift Savings Plan (TSP), a defined contribution plan for Federal employees established by the Federal Employees' Retirement System Act of 1986, Pub. L. 99–335, 100 Stat. 514, codified as amended, largely at 5 U.S.C. 8401–8479.

On January 10, 1990, the Board published an interim rule with request for comments in the **Federal Register** (55 FR 978) which created 5 CFR part 1655 to govern the TSP loan program. On November 18, 1996, the Board published an interim rule with request for comments in the **Federal Register** (61 FR 58754) which amended the interim loan regulations to conform them with the Thrift Savings Plan Act of 1996, Pub. L. 104–208, and to codify improvements made to TSP loan procedures since 1990. The Board received no comments on either interim rule; therefore, we are adopting the interim regulations as final without change.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only employees of the United States Government.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4, section 201, 109 Stat. 48, 64, the effect of these regulations on State, local, and tribal governments and on the private sector has been assessed. These regulations will not compel the expenditure in any one year of $100 million or more by any State, local, or tribal governments in the aggregate or by the private sector. Therefore, a statement under section 202, 109 Stat. 48, 64–65, is not required.

Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), the Board 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 United States prior to publication of this rule in today's **Federal Register**. This rule is not a major rule as defined at 5 U.S.C. 804(2).

Federal Retirement Thrift Investment Board

Roger W. Mehle,

Executive Director.

Accordingly, the interim rule adding 5 CFR part 1655 which was published at 55 FR 978 on January 10, 1990, and the portion of the interim rule amending 5 CFR part 1655 which was published at 61 FR 58754 on November 18, 1996, are adopted as final without change.

[FR Doc. 97–9533 Filed 4–11–97; 8:45 am]

BILLING CODE 6760–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 56 and 70

[Docket No. PY–97–001]

Egg, Poultry, and Rabbit Grading Increase in Fees and Charges

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is increasing the fees and charges for Federal voluntary egg, poultry, and rabbit grading. These fees and charges are increased to cover the increase in salaries of Federal employees, salary increases of State employees cooperatively utilized in administering the programs, and other increased Agency costs.

EFFECTIVE DATE: May 1, 1997.

FOR FURTHER INFORMATION CONTACT: Douglas C. Bailey, Chief, Standardization Branch, (202) 720–3506.

SUPPLEMENTARY INFORMATION: This rule has been determined not-significant for purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget (OMB).

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

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

There are more than 400 users of the Poultry Division's grading services. Many of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.601). This rule raises the fees charged to all businesses for voluntary grading services for eggs, poultry, and rabbits. The AMS estimates that overall this rule will yield an additional $1.2 million during fiscal year (FY) 1998. Without the fee increase, anticipated revenue will not cover program costs and projected FY 98 revenues for grading services are $21.7 million with costs projected at $23.1 million. Trust fund balances would be below appropriate levels. With a fee increase, projected FY 98 revenues are $22.9 million with costs projected at $23.1 million. The hourly resident rate will increase by approximately 5.5 percent while the hourly nonresident rate for grading service will increase by approximately 15.8 percent. The costs to

entities will be proportional to their use of service, so that costs are shared equitably by all users. Furthermore, entities are under no obligation to use these grading services.

The AMS has certified that this action will not have a significant impact on a substantial number of small entities, as defined in the RFA (5 U.S.C. 601).

The information collection requirements that appear in the sections amended by this rule have been previously approved by OMB and assigned OMB Control Numbers under the Paperwork Reduction Act of 1980 as follows: § 56.52(a)(4)—No. 0581–0128; and § 70.77(a)(4)—No. 0581–0127.

Background

The Agricultural Marketing Act (AMA) of 1946 authorizes official grading and certification on a user-fee basis of eggs, poultry, and rabbits. The AMA provides that reasonable fees be collected from the user of the program services to cover, as nearly as practicable, the costs of services rendered. AMS regularly reviews these programs to determine if fees are adequate and if costs are reasonable. This rule will amend the schedule for fees and charges for grading services rendered to the egg, poultry, and rabbit industries to reflect the costs currently associated with the program.

In 1995 the egg products inspection program was transferred to the Food Safety and Inspection Service. In order to offset the loss of efficiencies and to avoid an increase in user fees for the remaining shell egg and poultry grading programs, AMS took several streamlining actions in supervisory and support activities. These actions included reducing the number of supervisory visits; consolidating and closing submanagement offices; consolidating the billing and support functions into two regional offices; realigning regional boundaries; and substantially reducing the Washington, DC headquarters staff. As a result, no fee increase was necessary due to the reorganization. However, increased salaries and other costs and a substantial shift from resident to nonresident grading services now require an increase in fees.

Employee salaries and benefits are major program costs that account for approximately 82 percent of the total operating budget. Materially affecting program costs were general and locality salary increases for Federal employees which, depending on locality, ranged from 3.09 to 6.25 percent in January 1995, 2.39 to 2.87 percent in January 1996, and 2.24 to 4.66 percent in January 1997. Also, from November 1994 through September 1997, salaries and fringe benefits of federally licensed State employees will have increased by about 7 percent. Further, since October 1993, standardization program costs must be recovered from grading program user fees. As a result, the hourly resident rate for grading services will increase by approximately 5.5 percent. The hourly resident rate covers graders' salaries, fringe benefits, and related costs.

Another factor affecting the current fee structure is the shift from resident to nonresident grading services. Historically, the majority of shell egg and poultry grading has been done on a resident basis according to the official U.S. quality grade standards. Today, however, a growing volume of shell eggs and poultry is being traded according to product-specific purchase specifications where USDA certification is required, and this work is done increasingly on a nonresident fee basis. This shift has increased the proportion of overhead costs necessary to administer the nonresident services. As a result, users of nonresident services are not supporting their share of the program's overhead costs under the present fee structure. For this reason, the hourly nonresident rate for grading service will increase by approximately 15.8 percent.

A recent review of the current fee schedule, effective since November 1, 1994, revealed that anticipated revenue will not adequately cover increasing program costs. Without a fee increase, projected FY 98 revenues for grading services are $21.7 million with costs projected at $23.1 million, and trust fund balances would be below appropriate levels. With a fee increase, projected FY 98 revenues are $22.9 million with costs projected at $23.1 million.

Service	Revised
Resident shell egg and poultry grading	
Administrative charges (supervision, other overhead and administrative costs) assessed on the volume of product handled:	
Per pound of poultry	.00033
Per 30-dozen case of shell eggs	.038
Minimum per month	225
Maximum per month	2,250
Nonresident shell egg and poultry grading and Resident rabbit grading	
Administrative charge based on 25% of grader's salary, minimum per month	225
Nonresident fee basis poultry, shell egg and rabbit grading	
Regular time, rate per hour	38.96
Saturdays, Sundays, and legal holidays, rate per hour	43.24
Appeal grading and Review of grader's decision	
Rate per hour	30.56
Inauguration of resident grading service	310

Comments

Based on an analysis of costs to provide these services, a proposed rule to increase the fees for these services was published in the **Federal Register** (62 FR 4662) on January 31, 1997. Comments on the proposed rule were solicited from interested parties until March 3, 1997.

During the 30-day comment period, the Agency received five comments in opposition to the proposal; three from egg producers, one from a national egg industry organization, and one from a poultry processor. They expressed a general concern about the cost of the grading program. Several commentors encouraged AMS to find and implement additional cost-saving measures in lieu of a fee increase. Although AMS has implemented significant cost-saving actions over the past several years as described above and remains committed to controlling program costs wherever possible, implementation of the proposed fee increases remains necessary to ensure the financial stability of the grading program.

Pursuant to 5 U.S.C. 553, it is found and determined that good cause exists for not postponing the effective date of the action until 30 days after publication in the **Federal Register**, because the proposed fees need to be implemented on an expedited basis in order to avoid financial losses in the grading program this fiscal year. Also, the effective date of the fee increase will be set to coincide with the next billing cycle beginning on May 1, 1997.

List of Subjects

7 CFR Part 56

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

7 CFR Part 70

Food grades and standards, Food labeling, Poultry and poultry products, Rabbits and rabbit products, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, title 7, Code of Federal Regulations, parts 56 and 70 is amended as follows:

PART 56—GRADING OF SHELL EGGS

1. The authority citation for part 56 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. Section 56.46 is amended by revising paragraphs (b) and (c) to read as follows:

§ 56.46 On a fee basis.

* * * * *

(b) Fees for grading services will be based on the time required to perform the services. The hourly charge shall be $38.96 and shall include the time actually required to perform the grading, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $43.24 per hour. Information on legal holidays is available from the Supervisor.

3. Section 56.47 is revised to read as follows:

§ 56.47 Fees for appeal grading or review of a grader's decision.

The cost of an appeal grading or review of a grader's decision shall be borne by the appellant at an hourly rate of $30.56 for the time spent in performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading or review of a grader's decision discloses that a material error was made in the original determination, no fee or expenses will be charged.

4. Section 56.52 is amended by revising paragraph (a)(4) to read as follows:

§ 56.52 Continuous grading performed on resident basis.

* * * * *

(a) * * *

(4) An administrative service charge based upon the aggregate number of 30-dozen cases of all shell eggs handled in the plant per billing period multiplied by $0.038, except that the minimum charge per billing period shall be $225 and the maximum charge shall be $2,250. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

5. Section 56.54 is amended by revising paragraph (a)(2) to read as follows:

§ 56.54 Charges for continuous grading performed on a nonresident basis.

* * * * *

(a) * * *

(2) An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $225 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS

6. The authority citation for part 70 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

7. Section 70.71 is amended by revising paragraphs (b) and (c) to read as follows:

§ 70.71 On a fee basis.

* * * * *

(b) Fees for grading services will be based on the time required to perform such services for class, quality, quantity (weight test), or condition, whether ready-to-cook poultry, ready-to-cook rabbits, or specified poultry food products are involved. The hourly charge shall be $38.96 and shall include the time actually required to perform the work, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $43.24 per hour. Information on legal holidays is available from the Supervisor.

8. Section 70.72 is revised to read as follows:

§ 70.72 Fees for appeal grading, or examination or review of a grader's decision.

The costs of an appeal grading, or examination or review of a grader's decision, will be borne by the appellant at an hourly rate of $30.56 for the time spent in performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading, or examination or review of a grader's decision, discloses that a material error was made in the original determination, no fee or expenses will be charged.

9. Section 70.76 is amended by revising paragraph (a)(2) to read as follows:

§ 70.76 Charges for continuous poultry grading performed on a nonresident basis.

* * * * *

(a) * * *

(2) An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $225 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

10. Section 70.77 is amended by revising paragraphs (a)(4) and (a)(5) to read as follows:

§ 70.77 Charges for continuous poultry or rabbit grading performed on a resident basis.

* * * * *

(a) * * *

(4) For poultry grading: An administrative service charge based upon the aggregate weight of the total volume of all live and ready-to-cook poultry handled in the plant per billing period computed in accordance with the following: Total pounds per billing period multiplied by $0.00033, except that the minimum charge per billing period shall be $225 and the maximum charge shall be $2,250. The minimum charge also applies where an approved application is in effect and no product is handled.

(5) For rabbit grading: An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $225 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

Dated: April 7, 1997.

Lon Hatamiya,

Administrator.

[FR Doc. 97–9478 Filed 4–11–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 946

[Docket No. FV97–946–1 IFR]

Irish Potatoes Grown in Washington; Amended Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule decreases the assessment rate established for the State of Washington Potato Committee (Committee) under Marketing Order No. 946 for the 1997–98 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of Irish potatoes grown in Washington.

Authorization to assess potato handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program.

DATES: Effective on July 1, 1997. Comments received by May 14, 1997, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, FAX 202–720–5698. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Martha Sue Clark, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone 202–720–9918; FAX 202–720–5698, or Dennis L. West, Northwest Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, Green-Wyatt Federal Building, room 369, 1220 Southwest Third Avenue, Portland, OR 97204; telephone 503–326–2724; FAX 503–326–7440. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone 202–720–2491; FAX 202–720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 113 and Order No. 946, both as amended (7 CFR part 946) regulating the handling of Irish potatoes grown in Washington, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, Washington potato handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable potatoes beginning July 1, 1997, and continuing until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This rule decreases the assessment rate established for the Committee for the 1997–98 and subsequent fiscal periods from $0.003 to $0.002 per hundredweight.

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

For the 1996–97 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on February 7, 1997, and unanimously recommended 1997–98 expenditures of $44,400 and an assessment rate of $0.002 per hundredweight of potatoes. In comparison, last year's budgeted expenditures were $42,500. The assessment rate of $0.002 is $0.001 less than the rate currently in effect. As the Committee's reserve exceeds the amount authorized in the order of two fiscal periods' operational expenses, the Committee voted to lower its assessment rate and use more of the reserve to cover its expenses. The Committee discussed alternatives to this rule, including alternative expenditure levels, but recommended that the major expenditures for the 1997–98 fiscal period should include $18,800 for an agreement with the Washington State Potato Commission to provide miscellaneous services to the Committee and $6,000 for compliance audits. Budgeted expenses for these items in 1996–97 were $17,400 and $6,000, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Washington potatoes. Potato shipments for the year are estimated at 10,000,000 hundredweight, which should provide $20,000 in assessment income. Income derived from handler assessments, along with funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

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

There are approximately 450 producers of Washington potatoes in the production area and approximately 40 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000 and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of Washington potato producers and handlers may be classified as small entities.

This rule decreases the assessment rate established for the Committee and collected from handlers for the 1997–98 and subsequent fiscal periods from $0.003 to $0.002 per hundredweight. The Committee unanimously recommended 1997–98 expenditures of $44,400 and an assessment rate of $0.002 per hundredweight of potatoes. The assessment rate of $0.002 is $0.001 less than the rate currently in effect. As the Committee's reserve exceeds the amount authorized in the order of two fiscal periods' operational expenses, the Committee voted to lower its assessment rate and use more of the reserve to cover its expenses.

The Committee discussed alternatives to this rule, including alternative expenditure levels, but recommended that the major expenditures for the 1997–98 fiscal period should include $18,800 for an agreement with the Washington State Potato Commission to provide miscellaneous services to the Committee and $6,000 for compliance audits. The Committee also discussed the alternative of not decreasing the assessment rate. However, it decided against this course of action because continuation of the higher rate would not allow it to bring its operating reserve in line with the maximum amount authorized under the order. The reduced assessment rate will require the Committee to use more of its reserve for authorized expenses, and help bring the reserve within authorized levels.

Potato shipments for the year are estimated at 10,000,000 hundredweight, which should provide $20,000 in assessment income. Income derived from handler assessments, along with funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

Recent price information indicates that the grower price for the 1997–98 marketing season will range between $5.00 and $8.00 per hundredweight of potatoes. Therefore, the estimated assessment revenue for the 1997–98 fiscal period as a percentage of total grower revenue will range between .025 and .04 percent.

This action will reduce the assessment obligation imposed on handlers. While this rule will impose some additional costs on handlers, the costs are minimal and in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers.

However, these costs will be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the Washington potato industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the February 7, 1997, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action will not impose any additional reporting or recordkeeping requirements on either small or large Washington potato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1997–98 fiscal period begins on July 1, 1997, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable potatoes handled during such fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 30-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 946

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 946 is amended as follows:

PART 946—IRISH POTATOES GROWN IN WASHINGTON

1. The authority citation for 7 CFR part 946 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 946.248 [Amended]

2. Section 946.248 is amended by removing ''July 1, 1996,'' and adding in its place ''July 1, 1997,'' and by removing ''$0.003'' and adding in its place ''$0.002.''

Dated: April 7, 1997.

Sharon Bomer Lauritsen,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 97–9477 Filed 4–11–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 956

[FV96–956–3 FR]

Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon; Establishment of Container Marking Requirements and Special Purpose Shipment Exemptions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule (1) establishes container marking requirements for all shipments of Walla Walla Sweet Onions, and (2) establishes exemptions from assessment and container marking requirements for certain special purpose shipments of Walla Walla Sweet Onions. This rule will contribute to the efficient marketing of Walla Walla Sweet Onions and assist in program compliance. This rule was recommended by the Walla Walla Sweet Onion Committee (Committee), the agency responsible for the local administration of the marketing order for sweet onions grown in the Walla Walla Valley.

EFFECTIVE DATE: This final rule becomes effective April 15, 1997.

FOR FURTHER INFORMATION CONTACT: Robert J. Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204–2807; telephone: (503) 326–2043; or George J. Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room

2525–S, Washington, DC 20090–6456; telephone: (202) 690–3919. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491; Fax (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 956 (7 CFR Part 956), regulating the handling of sweet onions grown in the Walla Walla Valley of southeast Washington and northeast Oregon, hereinafter referred to as the ''order.'' This order is authorized by 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. It is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with the 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.

The Committee meets regularly throughout each season to consider recommendations for implementation, modification, suspension, or termination of the regulatory requirements for Walla Walla Sweet Onions. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department reviews Committee recommendations in conjunction with information submitted by the Committee and from other industry and government sources.

This final rule (1) establishes container marking requirements for all shipments of Walla Walla Sweet Onions, and (2) establishes exemptions from assessment and container marking requirements for certain special purpose shipments of Walla Walla Sweet Onions. This rule will contribute to the efficient marketing of Walla Walla Sweet Onions and assist in program compliance, and was recommended by the Committee.

The Committee met twice to recommend adding container marking requirements and exemption for special purpose shipments to the marketing order's Subpart—Rules and Regulations provisions which are authorized in the order. Section 956.62 provides authority for the Committee, with the approval of the Secretary, to establish a method for fixing the markings of containers used in the packaging or handling of Walla Walla Sweet Onions. Further, based upon recommendations submitted by the Committee, § 956.63 provides authority for the Secretary to issue regulations in regard to assessment and container marking requirements to facilitate the handling of Walla Walla Sweet Onions for specified purposes.

The Committee met October 8, 1996, and recommended that all Walla Walla Sweet Onions produced in the production area and shipped to the fresh market be packed in containers marked with the ''Genuine Walla Walla Sweet Onion'' logo. The Committee also recommended exemption from assessments for sweet onions shipped to outlets specified in § 956.163.

At its next regularly scheduled meeting on November 12, 1996, the Committee reconfirmed the recommendations to establish container marking requirements and exempt specified shipments from assessments. At that meeting, the Committee also recommended exempting shipments specified in § 956.163 from container marking requirements. This rule combines the recommendations from the two Committee meetings into one rulemaking action.

The first action establishes container marking requirements in § 956.162. When the Walla Walla Sweet Onion industry began the process of formulating the order, a primary objective was to help promote product identity at wholesale, retail, and consumer levels, while at the same time deterring the marketing of non-sweet onions, or onions grown outside the production area, as Walla Walla Sweet Onions. The Committee is authorized to use a trademarked logo developed by the Walla Walla Sweet Onion Commission and the Walla Walla Area Chamber of Commerce. The logo was developed and patented by the Walla Walla Sweet Onion Commission in December 1991, and currently is widely recognized by the onion industry.

The logo has been used by the Committee on promotional material and correspondence since the Committee obtained the license to use it on April 19, 1996. During both the subcommittee and the regular Committee meetings held to develop the recommendation for the regulation specified in § 956.162, all participants agreed that containers of Walla Walla Sweet Onions should be marked with the Committee's registered logo. Discussion during the meetings indicated that product identity, just as it was during the formulation of the order, continues to be a primary concern for both promotional and compliance purposes, and that effort should be made to add specific container marking regulations.

Committee members and other industry members agree that the use of the widely recognized logo will have a positive effect on the economic returns for the entire industry. One of the major problems for this industry has been the marketing of non-Walla Walla Sweet Onions, grown either in the traditional production area or outside of it, as Walla Walla Sweet Onions. It is the Committee's belief that, buyers, having purchased onions represented to them as being Walla Walla Sweet Onions, will rarely return to purchase more due to the lack of confidence such a sale fostered. This had, and still has, the effect of curtailing demand and reducing returns to producers.

Some of the handler members on the Committee recommended that this regulation allow handlers a period of time to utilize current packaging inventory before being required to use containers marked with the Committee's logo. These individuals expressed concern that some handlers may have significant container inventory with pre-printed graphics and other markings. Comments by handlers at the meeting indicated that the expense and burden of disposing of their container inventory, or, alternatively, adding decals, stickers, or stamps to the existing containers would be significant. The Committee agrees that, although handlers should make every effort to begin using the logo on containers as soon as possible, a grace period of two crop years allows adequate time for handlers to exhaust current container inventories. Section 956.162(b) provides such a grace period, subject to

Committee verification of handler container inventories.

The Committee recommended that the logo be clearly displayed as either a decal or an imprint on all containers, and that there should be no specific requirements for the size and color of the markings. As it is a common industry practice to ship onions in field pack bulk bins containing more than 500 pounds net weight from the field to road-side stands and farmers' markets where they are bagged for resale, the Committee recommended that the container marking requirements should not apply to shipments to these two small outlets. This exemption is specified in § 956.162(b). The proposed rule on this action incorrectly stated that this exemption was specified in § 956.163.

The container marking requirements will contribute to the efficient marketing of Walla Walla Sweet Onions by ensuring better product identification, building buyer confidence, increasing returns to the industry, and enhancing Committee compliance efforts. During the shipping season, the Committee manager frequently visits handling operations to ensure that these operations are complying with marketing order requirements. Requiring that the registered logo be displayed on the container will decrease the amount of time the manager spends tracing and tracking these onions to ensure that they are not non-sweet onions, or onions from outside the production area, being sold as Walla Walla Sweet Onions.

When considering § 956.163, which provides exemptions for shipments made to certain non-fresh use outlets, Committee members stated that most Walla Walla Sweet Onions are shipped into the fresh market. However, a small percentage of the onions are utilized for other purposes, including relief and charitable organizations, livestock feed, planting and plants, salad onions, processing, disposal of culls, and seed. For the exemption to apply to shipments made to relief or charitable organizations, the Committee included a provision in its recommendation that such shipments must be donated and not sold.

Section 956.163 clearly indicates which shipments are exempted from assessments and container marking requirements. This is intended to lessen the chance of confusion on the part of the regulated industry and alleviate potential administrative and compliance problems for the Committee, thereby facilitating the marketing of Walla Walla Sweet Onions.

Notice of this action was published in the **Federal Register** (62 FR 5933) on February 10, 1977. Interested persons were invited to submit written comments. The deadline for such comments ended March 12, 1997. No comments were received.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, the AMS has prepared this final regulatory flexibility analysis.

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 approximately 35 handlers of Walla Walla Sweet Onions subject to regulation under the order and approximately 60 producers in the regulated production area. Small agricultural service firms 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 whose annual receipts are less than $500,000.

The region in which Walla Walla Sweet Onions are produced is a relatively small production area, encompassing only a portion of Oregon's Umatilla County and Washington's Walla Walla County. Produced on an estimated 850 acres, the industry's total 1996 Walla Walla Sweet Onion pack-out approximated 20,106,200 pounds. Based on assessments collected on 50-pound cartons or sacks, Committee records for the 1996 season show that 18 handlers shipped 500 or fewer units, eight handlers shipped between 500 and 5,000 units, four handlers shipped between 5,000 and 50,000 units, and five handlers shipped between 50,000 and 100,000 units.

Information provided by the Department's Fresh Fruit and Vegetable Market News officials in Yakima, Washington, indicates that 1996 F.O.B. prices on jumbo Walla Walla Sweet Onions, packed in 50-pound cartons, ranged from a high of $16.00 early in the season to a low at the end of the season of $10.00. On the other end of the scale, medium Walla Walla Sweet Onions, packed in 50-pound mesh sacks, ranged from early season, high returns of $14.00 per sack down to a low at the season's conclusion of $6.00 per sack. Handlers have stated that packing costs average between $4.00 and $5.00 per 50-pound carton, and around $3.00 per 50-pound sack. Committee records indicate that individual farms currently have acreage dedicated to the production of Walla Walla Sweet Onions in the range from 1 to 160 acres.

About 25 of the 35 regulated handlers of Walla Walla Sweet Onions are also producers and generally pack their own onions in the field while harvesting them. These onions are usually marketed direct to consumers through road-side stands and farmers' markets or through mail order sales. Only about 10 of these handlers own and operate commercially sized packing facilities and market the majority of their onions through large wholesale and retail outlets. Based on current information, the majority of Walla Walla Sweet Onion handlers and producers may be classified as small entities.

The only alternative to the proposal discussed at the meetings was to not recommend the rulemaking action at all. The Committee determined that such an alternative would not be acceptable to the industry because of the significant benefits expected as a result of these regulations. Without container marking requirements, the Committee believes that the current marketing and compliance problems, basic reasons behind the promulgation of the marketing order, will not be alleviated. As for the foregoing special purpose shipment exemptions, the Committee concluded that the absence of a list of shipments exempt from assessments and container marking requirements would perpetuate confusion and compliance problems, as well as increase the economic, reporting and recordkeeping burden on handlers.

This final rule provides that containers of Walla Walla Sweet Onions for shipment to fresh markets be marked with the Committee's registered logo, and that specified shipments of Walla Walla Sweet Onions be exempt from such container marking requirements and from assessments. This action will not impose any additional reporting or recordkeeping requirements on either small or large handlers of Walla Walla Sweet Onions. Additionally, the benefits of this rule are not expected to be disproportionately greater or less for small handlers or producers than for larger entities.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public

sector agencies. The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

The Committee's meetings were widely publicized throughout the production area. All interested persons were invited to attend the meetings. The Committee actively seeks participation in its deliberations at all of its meetings. Both the October 8 and November 12, 1996, meetings were open to the public and representatives of both large and small entities expressed their views on these and related issues. The majority of the Committee, composed of six producers and three handlers, as well as a public member and respective alternates for each position, represent small entities. Additionally, in the proposed rule published in the **Federal Register** (62 FR 5933) on February 10, 1997, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses. A copy of the proposal was also made available on the Internet by the U. S. Government Printing Office. The comment period ended March 12, 1997, and no comments were received concerning the impacts of this action on small businesses.

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

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The 1997 shipping season begins in June; (2) handlers are well aware of this action which was discussed at two open public meetings which were widely publicized in the production area; and (3) a proposed rule was published on this action and provided for a 30-day comment period. No comments were received.

List of Subjects in 7 CFR Part 956

Marketing agreements, Onions, Reporting and record keeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 956 is amended as follows:

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

1. The authority citation for 7 CFR Part 956 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. New sections 956.162 and 956.163 are added to Subpart—Rules and Regulations to read as follows:

§ 956.162 Container markings.

Effective April 15, 1997, no handler shall ship any container of Walla Walla Sweet Onions except in accordance with the following terms and provisions:

(a) Each container of Walla Walla Sweet Onions shall be conspicuously marked with the ''Genuine Walla Walla Sweet Onion'' logo. The marking may be in the form of a decal or a stamped imprint of any color and size: *Provided,* That the decal or stamped imprint must be placed in plain sight and easy to read.

(b) Walla Walla Sweet Onions may be handled not subject to the marking requirements of this section when handlers ship such onions pursuant to § 956.163, or ship such onions in field packed bulk bins containing more than 500 pounds net weight for sale to roadside stands and farmers' market operators for repacking and direct consumer sale: *Provided,* That subject to Committee verification of handler container inventories, handlers may use their existing inventories of unmarked containers until April 15, 1999.

§ 956.163 Handling for specified purposes.

(a) Assessment and container marking requirements specified in this part shall not be applicable to shipments of onions for any of the following purposes:

(1) Shipments of Walla Walla Sweet Onions for relief or to charitable institutions: *Provided,* That such shipments must be donated and not sold in order for this exemption to apply;

(2) Shipments of Walla Walla Sweet Onions for livestock feed;

(3) Shipments of Walla Walla Sweet Onions for planting and for plants;

(4) Shipments of Walla Walla Sweet Onions as salad onions;

(5) Shipments of Walla Walla Sweet Onions for all processing uses including, pickling, peeling, dehydration, juicing, or other processing;

(6) Shipments of Walla Walla Sweet Onions for disposal;

(7) Shipments of Walla Walla Sweet Onions for seed.

(b) [Reserved]

Dated: April 7, 1997.

Sharon Bomer Lauritsen,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 97–9479 Filed 4–11–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 982

[Docket No. FV96–982–2 FIR]

Hazelnuts Grown in Oregon and Washington; Establishment of Interim and Final Free and Restricted Percentages for the 1996–97 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule which established interim and final free and restricted percentages for domestic inshell hazelnuts for the 1996–97 marketing year under the Federal marketing order for hazelnuts grown in Oregon and Washington. The percentages allocate the quantity of domestically produced hazelnuts which may be marketed in the domestic inshell market. The percentages are intended to stabilize the supply of domestic inshell hazelnuts to meet the limited domestic demand for such hazelnuts and provide reasonable returns to producers. This rule was recommended unanimously by the Hazelnut Marketing Board (Board), which is the agency responsible for local administration of the order.

EFFECTIVE DATE: May 14, 1997.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Fruit and Vegetable Division, Agricultural Marketing Service, USDA, 1220 SW Third Ave., Room 369, Portland, OR 97204; telephone (503) 326–2055 or Mark A. Slupek, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone (202) 205–2830. 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 No. 115 and Order No. 982 (7 CFR part 982), both as amended, regulating the handling of hazelnuts grown in Oregon and Washington, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is intended that this action apply to all merchantable hazelnuts handled during the 1996–97 marketing year (July 1, 1996—June 30, 1997). This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. 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.

This rule establishes marketing percentages which allocate the quantity of inshell hazelnuts that may be marketed in domestic markets. The Board is required to meet prior to September 20 of each marketing year to compute its marketing policy for that year and compute and announce an inshell trade demand if it determines that volume regulations would tend to effectuate the declared policy of the Act. The Board also computes and announces preliminary free and restricted percentages for that year.

The inshell trade demand is the amount of inshell hazelnuts that handlers may ship to the domestic market throughout the marketing season. The order specifies that the inshell trade demand be computed by averaging the preceding three ''normal'' years' trade acquisitions of inshell hazelnuts, rounded to the nearest whole number. The Board may increase the three-year average by up to 25 percent, if market conditions warrant an increase. The Board's authority to recommend volume regulations and the computations used to determine released percentages are specified in § 982.40 of the order.

The National Agricultural Statistics Service (NASS) estimated hazelnut production at 20,000 tons for the Oregon and Washington area. After discussion, the consensus of the Board was to use the NASS estimate as the basis for the preliminary, interim final and final free and restricted percentage computations.

The majority of domestic inshell hazelnuts are marketed in October, November, and December. By November, the marketing season is well under way.

The quantity marketed is broken down into free and restricted percentages to make available hazelnuts which may be marketed in domestic inshell markets (free) and hazelnuts which are exported, shelled or otherwise disposed of (restricted). The preliminary free percentage releases 80 percent of the adjusted inshell trade demand. The preliminary free percentage is expressed as a percentage of the total supply subject to regulation (supply) and is based on the preliminary crop estimate. The Board used the NASS crop estimate of 20,000 tons.

At its August 29, 1996, meeting, the Board computed and announced preliminary free and restricted percentages of 16 percent and 84 percent, respectively. The purpose of releasing only 80 percent of the inshell trade demand under the preliminary percentage was to guard against underestimates of crop size. The preliminary free percentage released 3,238 tons of hazelnuts from the 1996 supply for domestic inshell use. The preliminary restricted percentage of the 1996 supply for export and kernel markets totaled 13,007 tons.

Under the order, the Board must meet a second time, on or before November 15, to recommend interim final and final percentages. The Board uses then current crop estimates to calculate the interim final and final percentages. The interim final percentages are calculated in the same way as the preliminary percentages and release the remaining 20 percent (to total 100 percent of the inshell trade demand) previously computed by the Board. Final free and restricted percentages may release up to an additional 15 percent of the average of the preceding three years' trade acquisitions to provide an adequate carryover into the following season. The final free and restricted percentages must be effective by June 1, at least 30 days prior to the end of the marketing year, June 30. The final free and restricted percentages can be made effective earlier, if recommended by the Board and approved by the Secretary. Revisions in this marketing policy can be made until February 15 of each marketing year, but the inshell trade demand can only be revised upward, consistent with § 982.40(e).

The Board met on November 12, 1996, and reviewed and approved an amended marketing policy. The Board recommended that the three-year average trade acquisition figure of 4,513 tons be increased by 100 tons to provide product for an experimental marketing program using roasted inshell hazelnuts. The Board also recommended the establishment of interim final and final free and restricted percentages. Interim final percentages were recommended at 20 percent free and 80 percent restricted. The interim final percentage makes an additional 809 tons of inshell hazelnuts available for the domestic inshell market including roasted product. The interim final marketing percentages are based on the industry's final production estimates (20,000 tons) and release 4,047 tons to the domestic inshell market from the 1996 supply subject to regulation. The interim final restricted percentage resulted in a restricted obligation of 13,007 tons.

The final free and restricted percentages were recommended at 23 percent and 77 percent, respectively. The Board also recommended that the final percentages be effective on June 1, 1997. The established final marketing percentages release for domestic inshell use an additional 677 tons from the supply subject to regulation. Thus, a total of 4,724 tons of inshell hazelnuts will be released from the 1996 supply for domestic inshell use.

The marketing percentages are based on the Board's production estimates and the following supply and demand information for the 1996–97 marketing year:

Inshell supply	Tons
(1) Total production (NASS estimate)	20,000

Inshell supply	Tons
(2) Less substandard, farm use (disappearance)	1,362
(3) Merchantable production (the Board's adjusted crop estimate)	18,638
(4) Plus undeclared carryin as of July 1, 1996, subject to regulation	1,668
(5) Supply subject to regulation (Item 3 plus Item 4)	20,306
Inshell Trade Demand	
(6) Average trade acquisitions of inshell hazelnuts for three prior years	4,513
(7) Increase to encourage increased sales (2.2 percent of Item 6)	100
(8) Less declared carryin as of July 1, 1996, not subject to regulation	566
(9) Adjusted Inshell Trade Demand	4,047
(10) 15 percent of the average trade acquisitions of inshell hazelnuts for three prior years (Item 6)	677
(11) Adjusted Inshell Trade Demand plus 15 percent for carryout (Item 9 plus Item 10)	4,724

Percentages	Free	Restricted
(12) Interim final percentages (Item 9 divided by Item 5)×100	20	80
(13) Final percentages (Item 11 divided by Item 5)×100	23	77

In addition to complying with the provisions of the marketing order, the Board also considered the Department's 1982 ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' (Guidelines) when making its computations in the marketing policy. This volume control regulation provides a method to collectively limit the supply of inshell hazelnuts available for sale in domestic markets. The Guidelines provide that the domestic inshell market has available a quantity equal to 110 percent of prior years' shipments before secondary market allocations are approved. This provides for plentiful supplies for consumers and for market expansion, while retaining the mechanism for dealing with oversupply situation. At its November 12, 1996, meeting, the Board recommended that an increase of 2.2 percent (100 tons) for market expansion be included in the inshell trade demand which was used to compute the interim percentages. The established final percentages are based on the final inshell trade demand, and will make available an additional 677 tons for desirable carryout. The total free supply for the 1996–97 marketing year is 5,290 tons of hazelnuts, which is the final trade demand of 4,724 tons plus the declared carryin of 566 tons. This amount is 117 percent of prior years' sales and exceeds the goal of the Guidelines.

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

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 approximately 1,000 producers of hazelnuts in the production area and approximately 23 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. Using this criteria, virtually all of the producers are small agricultural producers and an estimated 20 of the 23 handlers are small agricultural service firms. Thus, the majority of hazelnut producers and handlers may be classified as small entities.

Board meetings are widely publicized in advance of the meetings and are held in a location central to the production area. The meetings are open to all industry members and other interested persons—who are encouraged to participate in the deliberations and voice their opinions on topics under discussion. Thus, Board recommendations can be considered to represent the interests of small business entities in the industry.

Many years of marketing experience led to the development of the current volume control procedures. These procedures have helped the industry solve its marketing problems by keeping inshell supplies in balance with domestic needs. The current volume control procedures fully supply the domestic inshell market, provide for market expansion, and help prevent oversupplies in that market.

Industry statistics show that total hazelnut production has varied widely over the last ten years, from a low of 13,000 tons in 1989 to a high of 41,000 tons in 1993. Average production has been around 24,000 tons. As crop size has fluctuated, volume regulations have contributed towards orderly marketing and market stability, and have helped moderate the variation in returns for all growers and handlers, both large and small. For instance, production in the shortest crop year (1989) was 54 percent of the ten-year average (1985–1995). Production in the biggest crop year (1993) was 170 percent of the ten-year average. The percentage releases provide all handlers with the opportunity to benefit from the most profitable domestic inshell market. That market is available to all handlers, regardless of handler size.

NASS statistics show that the grower price per pound has increased steadily over the last four years from $.28 in 1992 to $.46 in 1995.

While the level of benefits of this rulemaking are difficult to quantify, it is clear that the stabilizing effects of the volume regulations are still required in order to help both small and large handlers to maintain and expand markets even though hazelnut supplies fluctuate widely from season to season.

Hazelnuts produced under the order comprise virtually all of the hazelnuts produced in the U.S. This production represents approximately 3 percent of total U.S. tree nut production and approximately 3 percent of the world's hazelnut production.

This volume control regulation provides a method for the U.S. hazelnut industry to limit the supply of domestic inshell hazelnuts available for sale in the U.S. Section 982.40 of the order establishes a procedure and computations for the Board to follow in recommending to the Secretary the

preliminary, interim final, and final quantities of hazelnuts to be released to the free and restricted markets each marketing year. The program results in plentiful supplies for consumers and for market expansion while retaining the mechanism for dealing with oversupply situations.

The marketing order authority for regulating the quantity of hazelnuts marketed is intended to stabilize markets, in the interest of producers, handlers, and consumers. The restricted percentage limits the amount of the crop that goes into the primary market (domestic inshell market) so that this market is adequately supplied. Inshell hazelnuts sold to the domestic market provide higher returns to the industry than are obtained from shelling. The domestic inshell market is quite small and prone to oversupply in the absence of volume regulation. The excess that is not needed for the primary market is set aside and sold into noncompetitive market channels where such sales will not depress primary market prices. The quantity control authority provides the industry with a framework for softening the extremes in supply and prices that can occur with agricultural commodities, like hazelnuts, subject to the vagaries of nature.

Currently, U.S. hazelnut production can be successfully allocated between the inshell domestic and secondary markets. One of the best secondary markets for hazelnuts is the export market. Inshell hazelnuts produced under the marketing order compete well in export markets because of the high quality of U.S. hazelnuts. Europe, and Germany in particular, is the major export market for U.S. produced inshell hazelnuts. A third market is for shelled hazelnuts sold domestically. Domestically produced kernels generally command a higher price in the domestic market than imported kernels. The industry is continuing its efforts to develop and expand secondary markets, especially the domestic kernel (shelled) market. Small business entities, both producers and handlers, benefit from the expansion efforts resulting from this program.

The critical marketing problem confronting the hazelnut industry is that the available supply for the 1996–97 marketing year far exceeds domestic inshell market needs. The quantity needed for the domestic inshell market during the 1996–97 marketing year (4,724 tons) is less than one-fourth of the supply subject to regulation (20,306 tons). Hence, the Board determined that volume regulation was needed to stabilize supplies and prices. Without the supply correction fostered by regulation in 1996–97, the Board believed that weak marketing conditions and price cutting would cause the industry's economic condition to deteriorate.

In considering quantity control for the 1996–97 marketing year, the Board considered the estimated tonnage of merchantable hazelnuts expected to be produced during the 1996–97 marketing year, the estimated tonnage of inshell hazelnuts carried in from the previous marketing year available for marketing as inshell hazelnuts during 1996–97, all available information on possible markets for the crop taking into consideration anticipated imports, inventory in marketing channels, prices, competing nut supplies, and other economic conditions which could impact the marketing of the 1996–97 inshell hazelnut crop. This all resulted in the Board's recommendation to limit the amount of the 1996–97 crop going into the domestic inshell market and the marketing percentage computation table set forth earlier in this document.

No change has occurred in the relationship between supply and demand since the interim final rule was issued, and that rule made a sufficient volume of free hazelnuts available for the domestic inshell market. Hence, a release of additional supplies at this time of the season would make more hazelnuts available for this market than are needed, resulting in disorderly marketing conditions. Also, the additional supplies could adversely impact the marketing of the upcoming crop.

It is the Department's view that the marketing percentages recommended by the Board, and established by the Department, for the 1996–97 marketing year have provided all members of the industry, both large and small, with a means for stabilizing supplies and prices, and for maintaining and expanding markets for hazelnuts.

There are some reporting, recordkeeping and other compliance requirements under the marketing order. The reporting and recordkeeping burdens are the minimum necessary for compliance purposes and for developing statistical data for maintenance of the program. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. As with other, similar marketing order programs, reports and forms are periodically studied to reduce or eliminate duplicate information collection burdens by industry and public sector agencies. This final rule does not change those requirements.

As noted in the initial regulatory flexibility analysis, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this regulation.

The interim final rule was issued by the Department on December 31, 1996; put on public display at the Office of the Federal Register on January 7, 1997; and published in the **Federal Register** (62 FR 1035, January 8, 1997), with an effective date of January 9, 1997. The Board manager mailed information concerning that action to all known industry members, and it was also made available through the Internet by the Office of the Federal Register. That rule provided a 30-day comment period which ended February 7, 1997. No comments were received concerning either the interim final rule or the initial regulatory flexibility analysis.

After consideration of all relevant material presented, including the Board's recommendation, and other information, it is found that finalizing the interim final rule, without change, as published in the **Federal Register** (62 FR 1035, January 8, 1997), will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 982

Filberts, Hazelnuts, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 982 is amended as follows:

PART 982—HAZELNUTS GROWN IN OREGON AND WASHINGTON

Accordingly, the interim final rule amending 7 CFR part 982 which was published at 62 FR 1035 on January 8, 1997, is adopted as a final rule without change.

Dated: April 8, 1997.

Sharon Bomer Lauritsen,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 97–9568 Filed 4–11–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[FV97–989–1IFR]

Raisins Produced From Grapes Grown In California; Final Free and Reserve Percentages for the 1996–97 Crop Year for Natural (Sun-Dried) Seedless Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule establishes final free and reserve percentages for 1996–97 crop Natural (sun-dried) Seedless raisins. The percentages are 86 percent free and 14 percent reserve. These percentages are intended to stabilize supplies and prices, and strengthen market conditions. This rule was recommended by the Raisin Administrative Committee (Committee), the body which locally administers the marketing order.

DATES: This interim final rule becomes effective April 15, 1997, and applies to all Natural (sun-dried) Seedless raisins acquired from the beginning of the 1996–97 crop year. Comments received by May 14, 1997 will be considered prior to any finalization of this interim final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456, or faxed to 202–720–5698. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Richard P. Van Diest, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: 209–487–5901 or Mark A. Slupek, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2523–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: 202–205–2830. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491; Fax # (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under marketing agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order provisions now in effect, final free and reserve percentages may be established for raisins acquired by handlers during the crop year. This rule establishes final free and reserve percentages for Natural (sun-dried) Seedless raisins for the 1996–97 crop year, beginning August 1, 1996, through July 31, 1997. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

The order prescribes procedures for computing trade demands and preliminary and final percentages that establish the amount of raisins that can be marketed throughout the season. The regulations apply to all handlers of California raisins. Raisins in the free percentage category may be shipped immediately to any market, while reserve raisins must be held by handlers in a reserve pool for the account of the Committee, which is responsible for local administration of the order. Under the order, reserve raisins may be: Sold at a later date by the Committee to handlers for free use or to replace part of the free raisins they exported; used in diversion programs; exported to authorized countries; carried over as a hedge against a short crop the following year; or disposed of in other outlets noncompetitive with those for free tonnage raisins.

While this rule may restrict the amount of Natural (sun-dried) Seedless raisins that enter domestic markets, final free and reserve percentages are intended to promote stronger marketing conditions, to stabilize prices and supplies, and to improve grower returns. In addition to the quantity of raisins released under the preliminary percentages and the final percentages, the order specifies methods to make available additional raisins to handlers by requiring sales of reserve pool raisins for use as free tonnage raisins under ''10 plus 10'' offers, and authorizing sales of reserve raisins under certain conditions, such as a national emergency, crop failure, change of economic or marketing conditions, or if free tonnage shipments during the current crop year exceed shipments of the prior crop year by more than 5 percent.

The Department's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. This goal is met by the establishment of a final percentage which releases 100 percent of the computed trade demand and the additional release of reserve raisins to handlers under ''10 plus 10'' offers. The ''10 plus 10'' offers are two simultaneous offers of reserve pool raisins which are made available to handlers each season. For each such offer, a quantity of raisins equal to 10 percent of the prior year's shipments is made available for free use. Approximately 59,000 tons of Natural (sun-dried) Seedless were purchased by handlers for free use pursuant to these offers. The quantity available for primary market under this rule would be about 406,000 tons natural condition raisins or 381,000 tons packed raisins. This is 129 percent of the quantity shipped in 1995.

Pursuant to section 989.54(a) of the order, the Committee met on August 15, 1996, to review shipment data, inventory data, and the 1995 crop conditions for raisins of all varietal types. The Committee computed a trade demand for each varietal type for which a free tonnage percentage might be recommended. The trade demand is 90 percent of the prior year's shipments of free tonnage and reserve tonnage raisins sold for free use for each varietal type into all market outlets, adjusted by subtracting the carrying of each varietal type on August 1 of the current crop year and by adding to the trade demand the desirable carryout for each varietal type at the end of that crop year. As specified in section 989.154, the desirable carryout for each varietal type shall be equal to the shipments of free

tonnage raisins of the prior crop year during the months of August and September. If the prior year's shipments are limited because of crop conditions, the total shipments during that period of time during one of the three years preceding the prior crop year may be used. In accordance with these provisions, the Committee computed and announced a 1996–97 trade demand of 232,765 tons for Natural (sun-dried) Seedless raisins.

As required under section 989.54(b) of the order, the Committee met on October 3, 1996, and computed and announced a preliminary crop estimate and preliminary free and reserve percentages for Natural (sun-dried) Seedless raisins which released 85 percent of the trade demand. On October 3, 1996, the Committee's crop estimate and preliminary free and reserve percentages were as follows: 272,034 tons, and 73 percent free and 27 percent reserve.

Also at that meeting, the Committee computed and announced preliminary crop estimates and preliminary free and reserve percentages for Dipped Seedless, Oleate and Related Seedless, Golden Seedless, Zante Currant, Sultana, Muscat, Monukka, and Other Seedless raisins. The Committee determined, however, that volume control percentages only were warranted for Natural (sun-dried) Seedless raisins. It determined that the supplies of the other varietal types would be less than or close enough to the computed trade demands for each of these varietal types. These varietal types are produced in much smaller quantities than Natural (sun-dried) Seedless raisins. In view of these factors, volume control percentages either would not be necessary to maintain market stability or would not be economically practical for the other variety types.

Pursuant to section 989.54(c), the Committee may adopt interim free and reserve percentages. Interim percentages may release less than the computed trade demand for each varietal type. Interim percentages for Natural (sun-dried) Seedless raisins of 85.75 percent free and 14.25 percent reserve were announced by the Committee on February 3, 1997. The Committee considered its final estimate of 270,999 tons of 1966–97 production of Natural (sun-dried) Seedless raisins when it established the interim percentages. That action released most, but not all, of the computed trade demand for Natural (sun-dried) Seedless raisins.

In addition, under section 989.54(d) of the order, the Committee is required to recommend to the Secretary, no later than February 15 of each crop year, final free and reserve percentages which, when applied to the final production estimate of a varietal type, will tend to release the full trade demand for any varietal type. The Committee met on February 3, 1997, for this purpose.

The computed trade demand (232,765 tons) is 90 percent of the prior year's shipments of free tonnage and reserve tonnage raisins sold for free use into all market outlets (282,289 tons), adjusted by subtracting the carrying of each varietal type on August 1 of the current crop year (113,697 tons) and by adding to the trade demand the desirable carryout for each varietal type at the end of that crop year (64,173 tons). No information was presented between the August 15, 1996, meeting and the February 3, 1997, meeting to cause the Committee to make any change to the computed trade demand. Thus, the Committee divided the computed trade demand of 232,765 tons by the final production estimate (270,999 tons) and recommended a final free percentage of 86 percent and a final reserve percentage of 14 percent.

The free and reserve percentages established by this interim final rule will apply uniformly to all handlers in the industry, whether small or large, and there are no known additional costs incurred by small handlers. Although raisin markets are limited, they are available to all handlers, regardless of size. The stabilizing effects of the percentages impact both small and large handlers positively by helping them maintain and expand markets.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

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 approximately 20 handlers of California raisins who are subject to regulation under the raisin marketing order and approximately 4,500 producers of raisins in the regulated area. Small agricultural service firms, which includes handlers, have been denied 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. No more than 8 handlers, and a majority of producers, of California raisins may be classified as small entities. Twelve of the 20 handlers subject to regulation have annual sales estimated to be at least $5,000,000, and the remaining 8 handlers have sales less than $5,000,000, excluding receipts from any other sources.

Committee and subcommittee meetings are widely publicized in advance and are held in a location central to the production area. The meetings are open to all industry members (including small business entities) and other interested persons—who are encouraged to participate in the deliberations and voice their opinions on topics under discussion. Thus, Committee recommendations can be considered to represent the interests of small business entities in the industry.

Many years of marketing experience led to the development of the current volume control procedures. These procedures have helped the industry address its marketing problems by keeping supplies in balance with domestic and export market needs, and strengthening market conditions. The current volume control procedures fully supply the domestic and export markets, provide for market expansion, and help prevent oversupplies in the domestic market.

In discussing the possibility of marketing percentages for the 1996–97 crop year, the Committee considered: (1) The estimated tonnage held by producers, handlers, and for the account of the Committee at the beginning of the crop year (113,697 tons); (2) the estimated tonnage of standard raisins which will be produced in 1996–97 (270,999 tons); (3) the trade demand for raisins in free tonnage outlets in 1996–97 (232,765 tons); (4) the estimated desirable carryout at the end of the 1996–97 crop year for free tonnage (64,173 tons); (5) the estimated world raisin supply and demand situation; (6) the current prices being received and the probable level of prices to be received for raisins by producers and handlers; and (7) the trend and level of consumer income.

The Committee's review of the factors resulted in the computation and announcement in October 1997 of preliminary free and reserve percentages for Natural (sun-dried) Seedless raisins. This varietal type is the major commercial varietal type produced in California. Although the 1996–97 crop was estimated to be down from previous crop years, the total supply available for

marketing (270,999 tons) exceeded the computed trade demand (232,765 tons) by a large enough quantity (38,234 tons) to support limiting the quantity available for sale in free tonnage markets by placing a portion of the crop aside to be sold when demand improved in the current or subsequent season.

This rule establishes free and reserve percentages for Natural (sun-dried) Seedless raisins in accordance with the volume control provisions in section 989.54. Raisins in the free percentage category may be shipped immediately to any market, while reserve raisins must be held by handlers in a reserve pool for the account of the Committee, which is responsible for local administration of the order. Under the order, reserve raisins may be: Sold at a later date by the Committee to handlers for free use or to replace part of the free use raisins they exported: used in diversion programs; exported to authorized countries; carried over as a hedge against a short crop the following year; or disposed of in other outlets noncompetitive with those for free tonnage raisins. The percentage releases provide all handlers with the opportunity to benefit from the most profitable domestic market. That market is available to all handlers, regardless of handler size.

Raisin variety grapes can be marketed as fresh grapes, crushed for use in the production of wine or juice concentrate, or dried into raisins. Annual fluctuations in the fresh grape, wine, and concentrate markets cause fluctuations in raisin supply. These supply fluctuations can cause producer price instability and disorderly market conditions. Volume control is helpful to the raisin industry because it lessens the impact of such fluctuations and contributes to orderly marketing. Industry statistics show that Natural (sun-dried) Seedless raisin receipts have varied widely over the last ten years, from a low of 325,911 tons in 1995 to a high of 395,501 tons in 1989. Average receipts for the last 10 years have been around 365,000 tons. As crop size has fluctuated, volume regulations have contributed toward orderly marketing and market stability, and have helped moderate the variation in returns for all growers and handlers, both large and small. For instance, handler receipts in the shortest crop year (1995) were 89 percent of the ten-year average (1986–1995). Handler receipts in the biggest crop year (1989) were 108 percent of the ten-year average.

Free and reserve percentages are established by variety, and only in years when the supply exceeds the trade demand by a large enough margin that the Committee believes volume control is necessary to maintain market stability. Accordingly, in assessing whether to apply volume control regulation or, as an alternative, not to apply such regulation, the Committee recommended only one of the 9 raisin varietal types defined under the marketing order for volume control regulation this season.

As mentioned earlier, the Department's ''Guidelines for Fruit, Vegetable, and Speciality Crop Marketing Orders'' specify that 110 percent of recent years' sales should be made available to primary markets each season before recommendations for volume regulation are approved. The quantity available under this rule is 129 percent of the quantity shipped in 1995.

The free and reserve percentages established by this rule release the full trade demand and apply uniformly to all handlers in the industry, regardless of size. There are no known additional costs incurred by small handlers that are not incurred by large handlers. The stabilizing effects of the percentages impact all handlers positively by helping them maintain and expand markets, despite seasonal supply fluctuations. Likewise, price stability positively impacts all producers by allowing them to better anticipate the revenues their raisins will generate.

While the level of benefits of this rulemaking are difficult to quantify, the stabilizing effects of the volume regulations impact both small and large handlers positively by helping them maintain markets even though raisin supplies fluctuate widely from season to season.

There are some reporting, recordkeeping and other compliance requirements under the marketing order. The reporting and recordkeeping burdens are necessary for compliance purposes and for developing statistical data for maintenance of the program. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. As with other, similar marketing order programs, reports and forms are periodically studied to reduce or eliminate duplicate information collection burdens by industry and public sector agencies. This interim final rule does not change those requirements.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this regulation.

A 30-day comment period is provided to allow interested persons to respond to this rule. All written comments received within the comment period regarding this action or its effect on small business entities will be considered prior to finalization of this rule.

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

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) The relevant provisions of this part require that the percentages designated herein for the 1996–97 crop year apply to all Natural (sun-dried) Seedless raisins acquired from the beginning of that crop year; (2) handlers are currently marketing 1996–97 crop raisins of the Natural (sun-dried) Seedless varietal type and this action should be taken promptly to achieve the intended purpose of making the full trade demand quantity computed by the Committee available to handlers; (3) handlers are aware of this action, which the Committee unanimously recommended at an open meeting, and need no additional time to comply with these percentages; and (4) this interim final rule provides a 30-day comment period and any comments received will be considered prior to finalization of this interim final rule.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 989 is amended to read as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 989 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 989.250 is added to Subpart—Supplementary Regulations to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 989.250 Final free and reserve percentages for the 1996–97 crop year.

The final percentages for standard Natural (sun-dried) Seedless raisins

acquired by handlers during the crop year beginning on August 1, 1996, which shall be free tonnage and reserve tonnage, respectively, are designated as follows:

Varietal type	Free percentage	Reserve percentage
Natural (sun-dried) Seedless	86	14

Dated: April 7, 1997.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97–9476 Filed 4–11–97; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1208

[FV–97–701FR]

Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order; Referendum Procedures

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule provides procedures that the Department of Agriculture (Department) will use in conducting the referendum to determine whether to continue the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order (Order). In order to continue, the program must be approved by a simple majority of the qualified handlers voting in the referendum.

EFFECTIVE DATE: This rule is effective from May 14, 1997 through August 15, 1997.

FOR FURTHER INFORMATION CONTACT: Sonia N. Jimenez, Research and Promotion Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2535–S, Washington, DC 20090–6456, telephone (202) 720–9916 or (888) 720–9917.

SUPPLEMENTARY INFORMATION: This rule is issued under the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Act of 1993 (7 U.S.C. 6801 *et seq.*), hereinafter referred to as the Act, and the Order.

This rule provides the procedures under which the referendum will be conducted.

Executive Order 12988

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

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 8 of the Act, after an Order is implemented, a person subject to the Order may file a petition with the Secretary stating that the Order or any provision of the Order, or any obligation imposed in connection with the Order, is not in accordance with law and requesting a modification of the Order or an exemption from the Order. The petitioner is afforded the opportunity for a hearing on the petition. After such hearing, the Secretary will make a ruling on the petition. The Act provides that the district courts of the United States in any district in which a person who is a petitioner resides or carries on business are vested with jurisdiction to review the Secretary's ruling on the petition, if a complaint for that purpose is filed within 20 days after the date of the entry of the ruling.

Executive Order 12866 and Regulatory Flexibility Act

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

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agency has examined the impact of this rule on small entities. Accordingly, we have performed this Final Regulatory Flexibility Analysis.

The Act, which authorizes the creation of a generic program of promotion and information for fresh cut flowers and greens, became effective on December 14, 1993.

Section 7 of the Act provides that the Secretary of Agriculture (Secretary) shall conduct a referendum not later than 3 years after the issuance of an order to ascertain whether the order then in effect shall be continued. The Order was issued on December 29, 1994. Paragraph (a)(2) of section 7 of the Act requires that the Order be approved by a simple majority of all votes cast in the referendum. In addition, paragraph (b) of section 7 of the Act specifies that each qualified handler eligible to vote in the referendum shall be entitled to cast one vote for each separate facility of the person that is an eligible separate facility. Eligible separate facility is defined in paragraph (b)(2) of section 7 of the Act as a handling or marketing facility of a qualified handler that is physically located away from other facilities of the qualified handler or that the business function of the separate facility is substantially different from the functions of other facilities owned or operated by the qualified handler and the annual sales of cut flowers and cut greens to retailers and exempt handlers from the facility are $750,000 or more annually.

Only those wholesale handlers (including but not limited to, wholesale jobbers, bouquet and floral article manufacturers, auction houses that clear the sale of cut flowers and greens, and retail distribution centers), producers and importers who have annual sales of $750,000 or more of fresh cut flowers and greens and who sell those products to exempt handlers, retailers, or consumers are considered qualified handlers and assessed under the Order.

The referendum procedures provide definitions of who is eligible to vote and instructions for referendum agents regarding subagents, publicity for the referendum and the results, ballots, voting, ballot handling and tabulation, reporting, and confidentiality of referendum materials. The representative period for establishing voter eligibility for the referendum will be announced by the Secretary in a separate referendum order published later in the **Federal Register**.

There are approximately 525 wholesale handlers, 84 importers, and 83 producers who are qualified handlers. Small agricultural service firms, which include the qualified handlers covered under the Order, have been defined by the Small Business Administration (SBA) (13 CFR 121.601) as those whose annual receipts are less than $5 million. Only 127 qualified handlers have been identified to have $5 million in annual sales.

It is concluded that the majority of qualified handlers may be classified as small entities.

Statistics reported by the National Agricultural Statistics Service show that in 1995 sales of domestic cut flowers and cut greens totaled approximately $521.3 million at the wholesale level. The leading producing states by wholesale value are California, with about 49 percent of the total of flower and cut green production, followed by Florida, Colorado and Hawaii. Sales information for 1996 will not be available until after publication of this rule.

Exports in 1996 of U.S. cut flowers were valued at $29.4 million, with about 52 percent of the value from exports to Canada, and 16 percent from exports to the Netherlands, about 14 percent from exports to Germany, and 13 percent

from exports to Japan. Exports of cut greens are not reported by the Bureau of the Census as a separate item; they are included in a ''basket'' export category that includes other types of fresh cut plant exports such as branches without flowers or buds, evergreens, and grasses, which are suitable for ornamental purposes. In 1996 the value of these exports was $52.0 million. In 1995, the value of exports was $45.8 million.

The value of imports of cut flowers in 1996 was $557.7 million. Major countries exporting cut flowers to the United States, by value, are Colombia which accounts for about 66 percent of the value, followed by the Netherlands (10 percent), Ecuador (12 percent), Costa Rica (3 percent), and Mexico (3 percent). Imports of cut greens are reported in a category that includes some other fresh cut plant items suitable for ornamental purposes such as grasses, branches without flowers or buds, and other plant parts, but excludes fresh evergreens. In 1996 this ''basket category'' of imports had a value of $27.6 million. The value of imports of cut flowers in 1995 was $495.2 million with a ''basket category'' of $24.1 million.

This rule provides the procedures under which qualified handlers may vote on whether they want the fresh cut flowers and fresh cut greens promotion and information program to be continued. Qualified handlers of $750,000 or more in annual gross sales are eligible to vote in the referendum. There are approximately 692 eligible voters representing approximately 923 votes some of which represent separate facilities. It will take an average of 15 minutes for each voter to read the voting instructions and complete the referendum ballot. The total burden on the total number of voters will be 77 hours.

The Department is keeping all these individuals informed throughout the referendum process to ensure that they are aware of and are able to participate in the process. In addition, trade associations and related industry media will receive news releases and other information regarding the referendum process.

Voting in the referendum is optional. However, if qualified handlers choose to vote, the burden of voting will be offset by the benefits of having the opportunity to vote on whether they want to continue the program or not.

The Department considered requiring eligible voters to vote in person at various Department offices across the country. However, conducting the referendum from one central location by mail ballot is more cost effective for this program. Also, the Department will provide easy access to information for potential voters through a toll free telephone line. A referendum will be conducted in June to maximize industry participation.

Lastly, in the initial regulatory flexibility analysis comments were requested regarding the impact of the rule on small entities. No such comments were received.

Paperwork Reduction Act

In accordance with the Office of Management and Budget (OMB) regulations (5 CFR Part 1320) which implements the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the referendum ballot has been approved by the Office of Management and Budget (OMB) and has been assigned OMB number 0581–0093. It is estimated that there are 692 qualified handlers, representing 923 votes, who will be eligible to vote in the referendum. It will take an average of 15 minutes for each voter to read the voting instructions and complete the referendum ballot. The total burden on the total number of voters will be 77 hours.

Background

The Act authorized the Secretary to establish a national cut flowers and cut greens promotion and consumer information program. The program is funded by an assessment of ½ percent of gross sales of cut flowers and greens which is levied on qualified handlers. The program is administered by the National PromoFlor Council (Council) under the supervision of the Department of Agriculture (Department).

Assessments are used to pay for: Research, promotion, and consumer information; administration, maintenance, and functioning of the Board; and expenses incurred by the Secretary in implementing and administering the Order, including referendum costs.

Section 7 of the Act requires that a referendum be conducted not later than 3 years after the issuance of the Order among eligible qualified handlers of fresh cut flowers and fresh cut greens to determine whether they favor continuance of the Order. The Order shall continue in effect if it is approved by a simple majority of qualified handlers voting in the referendum.

In accordance with section 3(4) of the Act, qualified handler is defined in the Order as a person operating in the cut flowers and greens marketing system that sells domestic or imported cut flowers and greens to retailers and exempt handlers and whose annual sales of cut flowers and greens to retailers and exempt handlers are $750,000 or more. The term also includes, but is not limited to, the following entities when they have the requisite volume of $750,000 sales of cut flowers and greens a year: A wholesale handler; a manufacturer of bouquets or floral articles for sale to retailers if the cut flowers and greens used are a substantial portion of the value of the manufactured floral article; an auction house that clears the sale of cut flowers and greens to retailers and exempt handlers through a central clearinghouse; a distribution center that is owned or controlled by a retailer if the predominant retail business activity is floral sales; an importer whose principal activity is the importation of cut flowers and greens into the United States and sells to retailers and exempt handlers or directly to consumers; and a producer that sells cut flowers and cut greens directly to retailers or consumers.

Paragraph (b) of section 7 of the Act specifies that each qualified handler eligible to vote in the referendum shall be entitled to cast one vote for each separate facility of the person that is an eligible separate facility. Eligible separate facility is defined in paragraph (b)(2) of section 7 of the Act as a handling or marketing facility of a qualified handler that is physically located away from other facilities of the qualified handler or that the business function of the separate facility is substantially different from the functions of other facilities owned or operated by the qualified handler and the annual sales of cut flowers and cut greens to retailers and exempt handlers from the facility are $750,000 or more annually.

This rule provides the procedures under which fresh cut flowers and greens qualified handlers may vote on whether they want the fresh cut flowers and greens promotion and consumer information program to continue. Qualified handlers of $750,000 gross sales annually can vote in the referendum. There are approximately 692 eligible voters representing approximately 923 votes.

This rule adds a new subpart which establishes procedures to be used in the referendum. This subpart will be in effect for the referendum period only and will not be part of the Code of Federal Regulations. This subpart covers definitions, voting, instructions, use of subagents, ballots, the referendum report, and confidentiality of information.

A proposed rule was published in the March 19, 1997, issue of the **Federal Register** (62 FR 12976). Ten comments were received and are addressed in this rule. The comments were from qualified

handlers and the National PromoFlor Council.

A comment was received from a cut flowers and greens wholesale handler. The commentor expressed the view that it would be unconstitutional for a company to qualify for more than one vote because the company has decided to distribute their product through multiple locations instead of one central location. The commentor opposes multiple votes for a single company.

As previously explained in this rule, paragraph (b) of section 7 of the Act specifies that each qualified handler eligible to vote in the referendum shall be entitled to cast one vote for each separate facility that is an eligible separate facility. Separate facility is defined in the Act as a handling or marketing facility of a qualified handler that is physically located away from other facilities of the qualified handler or that the business function of the separate facility is substantially different from the functions of other facilities owned or operated by the qualified handler and the annual sales of cut flowers and greens to retailers and exempt handlers from the facility are $750,000 or more annually.

A facility may be located separately from the main operation of the qualified handlers or the function of the facility may be substantially different in order to qualify under the definition of separate facility. Each separate facility must handle $750,000 annually in sales to retailers and exempted handlers. The concept of one vote per facility is not unknown for this type of program and referendum. It became part of the legislation authorizing this program. Alternatively, the statute could have, but did not, provide for a weighted vote, under which both the number of votes and annual sales volume of voters, for and against continuation of the program, would have been tabulated.

The commentor also stated that the Council forces companies under $750,000 annual sales to pay the assessment because the companies that they buy from are forced to pay the assessment. In addition, the commentor stated that it is unconstitutional to force people to pay their tax and not allow them a vote.

The Act requires qualified handlers of $750,000 annual sales to pay the assessment. Exempt handlers are not required to pay the assessment. It is a business decision between the parties involved, and not a statutory requirement or provision, as to whether the qualified handler passes the cost to the exempt handler and whether the exempt handler pays that charge. Each qualified handler as defined under the Act is eligible to vote in the referendum.

The commentor requested the USDA to stop the Council from using funds to influence the vote in the referendum. Funds collected under this program may not be used for activities that are not authorized under the Act. The Department monitors activities in this area very carefully. The Council may explain what the program is doing and its impact on sales. It may also encourage the industry to vote. However, it may not encourage the industry to vote in a particular way.

Finally, the commentor requested a definition of qualified handler in the voting process. The definition of qualified handlers used for the referendum is the same used for determining who is qualified under the program. The status of the handler, i.e., paying or not paying assessments, against or in favor of the program, does not affect the definition of who is a qualified handler under the program and eligible to vote. Every qualified handler as defined in the Act and the Order is eligible to vote in the referendum.

Five commentors stated that the timing for the referendum is unfortunate in that it falls within the peak sales months for the industry. In addition, the commentors stated that the period from July to September is ideal for all qualified handlers to have the time to adequately evaluate the impact of the program. Furthermore, the commentors requested that the referendum be conducted in September.

The Council, however, submitted a comment in favor of holding the referendum in June for the following reasons: timely preparation and submission of a 1998 budget for the Department's approval prior to the start of the new fiscal period; a June referendum will allow the Council to buy media in the ''up front market'' when the selection of commercial slots is better and the prices are discounted; a June referendum will allow the Council to produce these commercials in an area at a considerable savings; the handlers are ready for a referendum; the Council is reporting to the industry the effects of the program and the return on investment to handlers; qualified handlers feel well informed about the program and are prepared to make an informed decision; the Council communicates its programs twice a month through its newsletter; qualified handlers have received video tapes and an annual report with information about the program; almost every trade publication has carried information about the Council for the last year; the Council is present at every major show and convention to answer questions; and the Council has a toll free number to answer questions.

The Department agrees that the referendum must be conducted during a period that maximizes voting representation. June is after the peak period of Secretary's Day and Mother's Day. In addition, if the program is supported in the referendum, conducting the referendum in June will allow enough time for the Council to plan a budget and marketing plan for the 1998 fiscal year which begins on October 1, 1997. The Department believes that conducting the referendum in June will maximize participation in the referendum and will assist the Council in the planning of next year's program in the event the program is approved in the referendum. In addition, the industry is familiar with the program which has been in effect since December 1994 and has had time to form a view on whether the program should continue. Further, voting is not a time-consuming process.

One commentor stated that qualified handlers that paid assessments in the past and are out of business or whose businesses have changed and are no longer qualified handlers should be allowed to vote in the referendum.

A qualified handlers whose gross sales of fresh cut flowers and greens were $750,000 during the representative period and who is a qualified handler at the time of the referendum, is eligible to vote. The representative period, the period used to determine who is an eligible qualified handler for referendum purposes, will be announced in a referendum order that will be published separately in the **Federal Register**. A handler who is not a qualified handler at the time of the referendum should not be eligible to vote because this individual is not currently covered by the program and is not required to pay assessments into the program.

Two of the comments received addressed issues not directly related to the referendum procedures. Instead they related to the program in general including the financial impact of assessments.

Accordingly, no changes to the text of the regulation as proposed are made in this final rule. After consideration of all relevant material presented, it is found that this final rule effectuates the declared policy of the Act.

List of Subjects in 7 CFR Part 1208

Administrative practice and procedure, Advertising, Consumer information, Marketing agreements, Cut

flowers, Cut greens, Promotion, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, Title 7 of Chapter XI of the Code of Federal Regulations is amended as follows:

1. Part 1208 is amended by adding a new subpart C to read as follows:

PART 1208—FRESH CUT FLOWERS AND FRESH CUT GREENS PROMOTION AND INFORMATION ORDER

Subpart C—Procedure for the Conduct of Referenda in Connection With the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order

Sec.

Authority: 7 U.S.C. 6801 *et seq.*

Subpart C—Procedure for the Conduct of Referenda in Connection With the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order

§ 1208.200 General.

A referendum to determine whether qualified handlers favor continuance of the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order shall be conducted in accordance with these procedures.

§ 1208.201 Definitions.

Unless otherwise defined below, the definition of terms used in these procedures shall have the same meaning as the definitions in the Order.

(a) *Administrator* means the Administrator of the Agricultural Marketing Service, with power to redelegate, or any officer or employee of the Department to whom authority has been delegated or may hereafter be delegated to act in the Administrator's stead.

(b) *Order* means the Fresh Cut Flowers and Fresh Cut Greens Promotion and Information Order.

(c) *Referendum agent* or agent means the individual or individuals designated by the Secretary to conduct the referendum.

(d) *Representative period* means the period designated by the Secretary.

(e) *Person* means any individual, group of individuals, firm, partnership, corporation, joint stock company, association, society, cooperative, or any other legal entity. For the purpose of this definition, the term ''partnership'' includes, but is not limited to:

(1) A husband and wife who has title to, or leasehold interest in, fresh cut flowers and greens facilities and equipment as tenants in common, joint tenants, tenants by the entirety, or, under community property laws, as community property, and

(2) So-called ''joint ventures'', wherein one or more parties to the agreement, informal or otherwise, contributed capital and others contributed labor, management, equipment, or other services, or any variation of such contributions by two or more parties so that it results in the handling of fresh cut flowers and greens and the authority to transfer title to the fresh cut flowers and greens handled.

(f) *Eligible qualified handler* means a person who is a qualified handler under § 1208.16 of the Order that operates in the cut flowers and greens marketing system and sells domestic or imported cut flowers and greens to retailers and exempt handlers and has annual sales of cut flowers and greens to retailers and exempt handlers that are $750,000 or more.

(g) *Separate facility* means a handling or marketing facility of a qualified handler that is physically located away from other facilities of the qualified handler or that the business function of the separate facility is substantially different from the functions of other facilities owned or operated by the qualified handler and the annual sales of cut flowers and cut greens to retailers and exempt handlers from the facility are $750,000 or more annually.

§ 1208.202 Voting.

(a) Each person who is an eligible qualified handler as defined in this subpart, at the time of the referendum and during the representative period, shall be entitled to cast one vote for each separate facility of the person that is an eligible separate facility.

(b) Proxy voting is not authorized, but an officer or employee of an eligible qualified handler, or an administrator, executor, or trustee of an eligible qualified handler entity may cast a ballot on behalf of such qualified handler entity. Any individual so voting in a referendum shall certify that such individual is an officer or employee of the eligible qualified handler, or an administrator, executor, or trustee of an eligible qualified handler entity, and that such individual has the authority to take such action. Upon request of the referendum agent, the individual shall submit adequate evidence of such authority.

(c) All ballots are to be cast by mail.

§ 1208.203 Instructions.

The referendum agent shall conduct the referendum, in the manner herein provided, under the supervision of the Administrator. The Administrator may prescribe additional instructions, not inconsistent with the provisions hereof, to govern the procedure to be followed by the referendum agent. Such agent shall:

(a) Determine the time of commencement and termination of the period during which ballots may be cast.

(b) Provide ballots and related material to be used in the referendum. Ballot material shall provide for recording essential information including that needed for ascertaining whether the person voting, or on whose behalf the vote is cast, is an eligible voter;

(c) Give reasonable advance public notice of the referendum:

(1) By utilizing available media or public information sources, without incurring advertising expense, to publicize the dates, places, method of voting, eligibility requirements, and other pertinent information. Such sources of publicity may include, but are not limited to, print and radio; and

(2) By such other means as the agent may deem advisable.

(d) Mail to eligible qualified handlers, whose names and addresses are known to the referendum agent, the instructions on voting, a ballot, and a summary of the terms and conditions of the Order. No person who claims to be eligible to vote shall be refused a ballot.

(e) At the end of the voting period, collect, open, number, and review the ballots and tabulate the results in the presence of an agent of the Office of Inspector General.

(f) Prepare a report on the referendum.

(g) Announce the results to the public.

§ 1208.204 Subagents.

The referendum agent may appoint any individual or individuals deemed necessary or desirable to assist the agent in performing such agent's functions hereunder. Each individual so appointed may be authorized by the agent to perform any or all of the functions which, in the absence of such appointment, shall be performed by the agent.

§ 1208.205 Ballots.

The referendum agent and subagents shall accept all ballots cast; but, should they, or any of them, deem that a ballot should be questioned for any reason, the agent or subagent shall endorse above

their signature, on the ballot, a statement to the effect that such ballot was questioned, by whom questioned, the reasons therefore, the results of any investigations made with respect thereto, and the disposition thereof. Ballots invalid under this subpart shall not be counted.

§ 1208.206 Referendum report.

Except as otherwise directed, the referendum agent shall prepare and submit to the Administrator a report on results of the referendum, the manner in which it was conducted, the extent and kind of public notice given, and other information pertinent to analysis of the referendum and its results.

§ 1208.207 Confidential information.

The ballots and other information or reports that reveal, or tend to reveal, the vote of any person covered under the Act and the voting list shall be held confidential and shall not be disclosed.

Dated: April 8, 1997.

Sharon Bomer Lauritsen,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 97–9569 Filed 4–11–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1710

RIN 0572–AB30

Pre-Loan Procedures for Electric Loans

AGENCY: Rural Utilities Service, USDA.

ACTION: Direct final rule; confirmation of effective date.

SUMMMARY: On Thursday, February 20, 1997 the Rural Utilities Service (RUS) published a direct final rule. (See 62 FR 7663). The direct final rule notified the public of RUS' intention to issue a minor amendment to its pre-loan procedures that will clarify that use of a conventional utility indenture as a security instrument for loans to power supply borrowers is permissible. The rule will also enhance loan security and by conforming more closely to private lending practice, allow easier access to private sector financing.

We did not receive any written adverse comments or any written notice of intent to submit adverse comments in response to the direct final rule.

EFFECTIVE DATE: The effective date of the direct final rule is confirmed as April 7, 1997.

FOR FURTHER INFORMATION CONTACT: F. Lamont Heppe, Jr., Director, Program Support and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, Room 4036–S, 1400 Independence Avenue, SW., STOP 1522, Washington, DC 20250–1522. Telephone: 202 720–0736. FAX: 202 720–4120. E-mail: fheppe@rus.usda.gov.

Authority: 7 U.S.C. 901–950(b); Pub. L. 99–591, 100 Stat. 3341; Pub. L. 103–354, 108 Stat 3178 (7 U.S.C. 6941 *et seq.*).

Dated: April 7, 1997.

Wally Beyer,

Administrator, Rural Utilities Service.

[FR Doc. 97–9474 Filed 4–11–97; 8:45 am]

BILLING CODE 3410–15–P

FARM CREDIT ADMINISTRATION

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

RIN 3052–AB61

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

AGENCY: Farm Credit Administration.

ACTION: Final rule and notice of effective date.

SUMMARY: The Farm Credit Administration (FCA or Agency) through the Farm Credit Administration Board adopts as final without change an interim rule that updates the regulations in parts 600, 603, 611, 614, 615, 618, and 619. This rule eliminates unnecessary, outdated, duplicative, or burdensome regulatory requirements, replaces outdated regulatory language with more current terminology, and clarifies the intended meaning of certain regulatory provisions.

EFFECTIVE DATE: March 4, 1997.

FOR FURTHER INFORMATION CONTACT:

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

or

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

SUPPLEMENTARY INFORMATION: On December 20, 1996, the FCA published an interim rule with request for public comments (61 FR 67181). The interim rule is part of the FCA's ongoing efforts to streamline the regulatory process and reduce regulatory burden. The regulatory changes made in parts 600, 603, 611, 614, 615, 618, and 619 update the regulatory language with more current terminology, remove contradictions between the regulations and the Farm Credit Act of 1971, as amended (Act), clarify certain regulations, and eliminate regulations or sections of regulations that are burdensome or unnecessary. These changes cover a wide variety of technical issues, such as bylaw amendments, Federal records retention, liquidation of associations and banks, interest rate programs, loan servicing requirements, purchasing automobiles through the General Services Administration, retirement of eligible borrower stock, the definition of banks for cooperatives, disclosure of data regarding borrowers to credit bureaus, disposal of obsolete records, Farm Credit System (System) institution employees being summoned as witnesses, and issues on borrower rights and agricultural credit banks.

The public comment period closed on January 31, 1997. The FCA received two comments on the interim rule, both from System institutions. One commenter thanked the FCA for clarifying an issue regarding release of borrower information to consumer reporting agencies at § 618.8320. The comment letter stated that the change would eliminate uncertainty in a sensitive area of lending operations and result in benefits to borrowers and the System.

The other comment received responded to the FCA's request that institutions inform the Agency of any Federal records still in their possession. The commenter stated that they do not have any of the records referred to in the previous FCA regulation at § 618.8390. As noted in the preamble to the interim rule, the FCA's goal is to identify all Federal records still retained by System institutions so that they can either be destroyed (at the institution's discretion) or archived, as appropriate. Additional guidance on the maintenance and disposition of Federal records will be provided by the Agency in the near future.

The FCA Board adopts the interim rule amending 12 CFR parts 600, 603, 611, 614, 615, 618, and 619, which was published at 61 FR 67181 on December 20, 1996, as final without change.

List of Subjects

12 CFR Part 600

Organization and functions (Government agencies).

12 CFR Part 603

Privacy.

12 CFR Part 611

Agriculture, Banks, Banking, Rural areas.

12 CFR Part 614

Agriculture, Banks, Banking, Flood insurance, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 615

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

12 CFR Part 618

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

12 CFR Part 619

Agriculture, Banks, Banking, Rural areas.

Dated: April 8, 1997.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 97–9473 Filed 4–11–97; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–AWP–21]

Establishment of Class E Airspace; Truckee, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a Class E airspace area at Truckee, CA. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 19 has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Truckee-Tahoe Airport, Truckee, CA.

EFFECTIVE DATE: 0901 UTC May 22, 1997.

FOR FURTHER INFORMATION CONTACT: William Buck, Airspace Specialist, Operations Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6556.

SUPPLEMENTARY INFORMATION:

History

On March 11, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing a Class E airspace area at Truckee, CA (62 FR 11128). This action will provide adequate controlled airspace to accommodate a GPS SIAP to RWY 19 at Truckee-Tahoe Airport, Truckee, CA.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designations 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 designations listed in this document will be published subsequently in this Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes a Class E airspace area at Truckee, CA. The development of a GPS SIAP to RWY 19 has made this action necessary. The effect of this action will provide adequate airspace for aircraft executing the GPS RWY 19 SIAP at Truckee-Tahoe Airport, Truckee, CA.

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. Therefore, this regulation—(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 10034; 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.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the 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 area extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA 3% Truckee, CA [New]

Truckee-Tahoe Airport, CA
(Lat. 39°19′12″ N, long. 120°08′22″ W)
Homewood Seaplane Base, CA
(Lat. 39°05′12″ N, long. 120°09′37″ W)
Sierraville Dearwater Airport, CA
(Lat 39°34′52″ N, long. 120°21′16″ W)

That airspace extending upward from 700 feet above the surface beginning at 39°10′00″ N, long. 119°56′00″ W; to lat. 39°02′00″ N, long 120°20′00″ W; to lat 39°02′00″ N, long. 120°34′00″ W; to lat. 39°21′00″ N, long. 120°34′00″ W; to lat. 39°21′00″ N, long. 120°42′00″ W; to lat. 39°35′00″ N, 120°42′00″ W; to lat. 39°35′00″ N, long 120°23′00″ W; to lat. 39°40′00″ N, long. 120°16′00″ W; to lat. 39°40′00″ N, long. 119°56′00″ W, thence to the point of beginning, excluding the Reno, NV, Class C and Class E airspace areas, and excluding that airspace within a 1-mile radius of the Homewood Seaplane Base and a 2-mile radius of the Sierraville Dearwater Airport.

* * * * *

Issued in Los Angeles, California, on April 2, 1997.

Sabra W. Kaulia,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 97–9577 Filed 4–11–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AWP–5]

Revision of Class E Airspace; San Francisco, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace area at San Francisco, CA by revoking the surface area for Alameda NAS (Nimitz Field), CA. A review of airspace classification and air traffic procedures has made this action necessary. The intended effect of this action is to revoke controlled airspace since the purpose and requirements for the surface area no longer exist at Alameda NAS (Nimitz Field), CA.

EFFECTIVE DATE: 0901 UTC May 22, 1997.

FOR FURTHER INFORMATION CONTACT: William Buck, Airspace Specialist, Operations Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725–6556.

SUPPLEMENTARY INFORMATION:

History

On February 12, 1997, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR part 71) by revising the Class E airspace area at San Francisco, CA (62 FR 6507). This action will revoke the surface area for Alameda NAS (Nimitz Field), CA since the purpose and requirements for controlled airspace no longer exist.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposals to the FAA. No comments to the proposals were received. Class E airspace designations 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 designations listed in this document will be published subsequently in this Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revises the Class E airspace area at San Francisco, CA by revoking the surface area for Alameda NAS (Nimitz Field), CA. The base closure of Alameda Naval Air Station (NAS) has made this action necessary. The intended effect of this action is to revoke controlled airspace since the purpose and requirements for the surface area no longer exist at Alameda NAS (Nimitz Field), CA.

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. Therefore, this regulation—(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 10034; 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.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the 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.

* * * * *

AWP CA E5 San Francisco, CA [Revised]

San Francisco International, CA
(Lat. 37°37′08″ N, long. 122°22′29″ W)
Metropolitan Oakland International Airport, CA
(Lat. 37°43′17″ N, long. 122°13′15″ W)

That airspace extending upward from 700 feet above the surface bounded on the north by lat. 38°02′00″ N, on the east by long. 121°52′04″ W, on the south by lat. 37°30′00″ N, and on the west by a line extending from lat. 37°30′00″ N, long. 122°27′04″ W; to lat. 37°34′00″ N, long. 122°31′04″ W; to lat. 37°55′00″ N, long. 122°31′04″ W; to lat. 38°02′00″ N, long. 122°40′04″ W. That airspace extending upward from 1,200 feet above the surface bounded on the north by lat. 38°02′00″ N, on the east by line extending from lat. 38°02′00″ N, long. 121°37′04″ N, long. 121°37′04″ W; to lat. 37°38′00″ N, long. 121°37′04″ W; to lat. 37°38′00″ N, long. 121°50′04″ W; to lat. 37°30′00″ W, long. 121°50′04″ W; on the south by lat. 37°30′00″ N, and on the west by the east edges of V–27 and V–199.

* * * * *

Issued in Los Angeles, California, on March 28, 1997.

George D. Williams,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 97–9412 Filed 4–11–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AWP–8]

Amendment of Class E Airspace; Willcox, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace area at Willcox, AZ. An airspace review of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 21/3 to Cochise County Airport has made action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations as Cochise County Airport, Willcox, AZ.

EFFECTIVE DATE: 0901 UTC May 22, 1997.

FOR FURTHER INFORMATION CONTACT: William Buck, Airspace Specialist, Operations Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6556.

SUPPLEMENTARY INFORMATION:

History

On March 3, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending the Class E airspace area at Willcox, AZ (62 FR 9398). This action will provide adequate controlled airspace to accommodate a GPS SIAP to RWY 21/3 at Cochise County Airport, Willcox, AZ.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designations 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 designations listed in this document will be published subsequently in this Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR pat 71) amends the Class E airspace area at Willcox, AZ. An airspace review of the GPS SIAP's at Cochise County Airport has made this action necessary. The effect of this action will provide adequate airspace for aircraft executing the GPS RWY 21/3 SIAP at Cochise County Airport, Willcox, AZ.

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. Therefore, this regulation—(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 10034; 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.

List of Subjects in 24 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the 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 area extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP AZ E5 Willcox, AZ [Revised]

Cochise County Airport, AZ
(lat. 32°14′39″ N, long. 109°53′38″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Cochise County Airport and within 5 miles each side of the 225° bearing from the Cochise Country Airport extending from the 6.5-mile radius to 14.5 miles southwest of the Cochise Country Airport and within 5.5 miles southeast and 4.5 miles northwest of the 055° bearing from the Cochise County Airport, extending from the 6.5-mile radius to 14.5 miles northeast of the Cochise County Airport.

Issued in Los Angeles, California, on March 28, 1997.

George A. Williams,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 97–9414 Filed 4–11–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–AEA–12]

Amendment to Class E Airspace; Hudson, NY; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects an error in the geographic coordinates of a final rule that was published in the **Federal Register** on February 13, 1997 (62 FR 6710), Airspace Docket No. 96–AEA–12. The final rule amended Class E airspace at Hudson, NY.

EFFECTIVE DATE: April 14, 1997.

FOR FURTHER INFORMATION CONTACT: Michael J. Sammartino, Air Traffic Division, Operations Branch, AEA–530, Federal Aviation Administration, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430; telephone: (718) 553–4530.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 97–3670, Airspace Docket 96–AEA–12, published on February 13, 1997 (62 FR 6710) amended the Class E airspace at Hudson, NY. An error was discovered in the geographic coordinates for Philmont NDB. This action corrects that error.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the geographic coordinates for the Philmont NDB for the Class E airspace at Hudson, NY, incorporated by reference in § 71.1, as published in the **Federal Register** on February 13, 1997 (61 FR 6710), (**Federal Register** Document (97–3670) is corrected as follows:

§ 71.1 [Corrected]

AEA NY E5 Hudson, NY [Corrected]

On page 6710 in column 3, under Philmont NDB, first line, correct
(Lat. 42°15′10″ N, long. 73°43′37″ W)'' to read
(Lat. 42°15′10″ N, long. 73°43′23″ W)''.

Issued in Jamaica, New York on April 2, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–9415 Filed 4–11–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 254

RIN 1010–AB81

Response Plan for Facilities Located Seaward of the Coast Line; Correction

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Correction to final rule.

SUMMARY: This document corrects the regulation published in the **Federal Register** on March 25, 1997 (62 FR 13991). Section 254.9 of the final regulation (62 FR 13999) is revised to correct the address of the MMS Information Collection Clearance Officer.

EFFECTIVE DATE: June 23, 1997.

FOR FURTHER INFORMATION CONTACT: Larry A. Ake, Engineering and Research Branch, at (703) 787–1567.

SUPPLEMENTARY INFORMATION: MMS published a final rule on March 25, 1997 (62 FR 13991) which revised the current interim final rule governing response plans for facilities located seaward of the coast line. The rule will bring MMS regulations into conformance with the Oil Pollution Act of 1990 (OPA).

Need for Correction

As published, the final regulation at § 254.9 contains and incorrect address for the MMS Information Collection Clearance Officer.

Correction of Publication

Accordingly, the publication on March 25, 1997, of the final regulation, which was the subject of FR Doc 97–7279 is corrected as follows:

§ 254.9 [Corrected]

On page 13999, in the second column, § 254.9 is corrected by revising paragraph (d) to read as follows:

§ 254.9 Authority for information collection.

* * * * *

(d) Send comments regarding any aspect of the collection of information under this part, including suggestions for reducing the burden, to the Information Collection Clearance Officer, Minerals Management Service, Mail Stop 4230, Department of the Interior, 1849 C Streets, NW, Washington, DC 20240; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Department of the Interior (1010–0091), 725 17th Street, NW, Washington, DC 20503.

William S. Cook,

Acting Chief, Engineering and Operations Division.

[FR Doc. 97–9468 Filed 4–11–97; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD08–97–010]

RIN 2115–AE46

Special Local Regulation; Salute to the Queen; Ohio River Mile 469.9–472.4, Cincinnati, Ohio

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: A special local regulation is being adopted for the marine event Salute to the Queen at Ohio River miles 469.9—472.4. This event will be held on May 2, 1997, from 7:00 a.m. until 10:00 a.m. at Cincinnati, Ohio. During this event, no vessel will be allowed to transit this area without permission from the Coast Guard on scene Patrol Commander. This regulation is needed to provide for the safety of life on navigable waters during the event.

DATES: This regulation is effective from 7 a.m. until 10 a.m., on May 2, 1997.

FOR FURTHER INFORMATION CONTACT: LT Jeffrey W. Johnson, Chief, Port Operations Department, USCG Marine Safety Office, Louisville, Kentucky at (502) 582–5194 ext. 39.

SUPPLEMENTARY INFORMATION:

Regulatory History

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking for this regulation has not been published, and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would be impracticable. The details of the event were not finalized in sufficient time to publish the proposed rule in advance of the event or to provide for a delayed effective date.

Background and Purpose

The marine event requiring this regulation is a parade of small craft and passenger vessels to celebrate the 50th Anniversary homecoming of the passenger vessel Delta Queen, to the Cincinnati, Ohio river port. The navigational channel will be used for the duration of the parade. The event is sponsored by Greater Cincinnati Tall Stacks Commission, Inc.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary because of the event's short duration and limited area.

Small Entities

For the reasons stated above, the Coast Guard believes that there will not be a significant economic impact on a substantial number of small entities. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary rule will not have a significant economic impact on a substantial number of small entities because of the event's short duration and limited area.

Collection of Information

This rule contains no information collection requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq).*

Federalism Assessment

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

Environmental Assessment

The Coast Guard considered the environmental impact of this rule and concluded that under section 2.B.2.C. of Commandant Instruction M16475.1B, (as revised by 61 FR 13563; March 27, 1996) this rule is excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

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

Temporary Regulation

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

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

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

2. A temporary section 100.35–T08–010 is added to read as follows:

§ 100.35–T08–010 Ohio River at Cincinnati, Ohio

(a) *Regulated area:* Ohio River Mile 469.9–472.4.

(b) *Special local regulation:* All persons and/or vessels not registered with the sponsors as participants or official patrol vessels are considered spectators. ''Participants'' are those persons and/or vessels identified by the sponsor as taking part in the event. The ''official patrol'' consists of any Coast Guard, public, state or local law enforcement and/or sponsor provided vessel assigned to patrol the event. The Coast Guard ''Patrol Commander'' is a Coast Guard commissioned, warrant, or petty officer who has been designated by Commanding Officer, Coast Guard Marine Safety Office, Louisville.

(1) No vessel shall transit, anchor, block, loiter in, or impede the through transit of participants or official patrol vessels in the regulated area during effective dates and times, unless cleared for such entry by or through an official patrol vessel.

(2) When hailed and/or signaled by an official patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions given; failure to do so may result in a citation.

(3) The Patrol Commander is empowered to forbid and control the movement of all vessels in the regulated area. The Patrol Commander may terminate the event at any time it is deemed necessary for the protection of life and/or property and can be reached on VHF–FM Channel 16 by using the call sign ''PATCOM''.

(c) This regulation will be effective from 7:00 a.m. to 10:00 a.m. May 2, 1997.

Dated: April 2, 1997.

T.W. Josiah,

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

[FR Doc. 97–9539 Filed 4–11–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07 97–012]

RIN 2115–AE46

Special Local Regulations: Fort Lauderdale, Florida

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Special local regulations are being adopted for the 1997 Shell Air & Sea Show. The event will be held on May 2, 1997 from 10 a.m. until 1 p.m. EDT, May 3, 1997 from 10 a.m. to 5 p.m. EDT, May 4, 1997 from 10 a.m. to 5 p.m. EDT on the Atlantic Ocean off Fort Lauderdale Beach, Florida. The regulations are needed to provide for the safety of life on navigable waters during the event because of the expected concentration of spectator craft.

DATES: These regulations are effective from: 9:30 a.m. to 1:30 p.m. EDT on May 2, 1997, 9:30 a.m. to 5:30 p.m. EDT on May 3, 1997, and 9:30 a.m. to 5:30 p.m. EDT on May 4, 1997.

FOR FURTHER INFORMATION CONTACT: QMC T.E. KJERULFF Coast Guard Group Miami, Florida at (305) 535–4448.

SUPPLEMENTARY INFORMATION:

Background and Purpose

The 1997 Shell Air and Sea Show will take place in the Atlantic Ocean from Fort Lauderdale Beach out to ½ nautical mile off shore, between Oakland Park Boulevard and the 17th Street Causeway. There will be approximately 18 participating racers in ski boats, jet skis, and off shore racing powerboats. In addition, various military aircraft, including high performance aircraft, will be operating at high speeds and low altitudes in the area directly above the regulated area.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for these regulations and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to national safety interests since immediate action is needed to minimize potential danger to the public due to the anticipated concentration of spectator craft. Following normal rulemaking procedures would have been impracticable, as there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date, because the final information regarding which military aircraft would participate, was only determined the week of March 17, 1997.

Regulatory Evaluation

This regulation is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Entry into the regulated area is prohibited for only 4.0 hours on the first day of the event, and 8.0 hours on second and third days of the event.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632).

The Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that this rule will not have a significant economic impact on a substantial number of small entities because it will be in effect for a maximum of eight hours in a limited area.

Collection of Information

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

Federalism

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

Environmental Assessment

The Coast Guard has considered the environmental impact of this action consistent with Section 2.B.2 of Commandant Instruction M16475.1B. In accordance with that section, this action has been environmentally assessed (EA completed), and the Coast Guard has determined that it will not significantly affect the quality of the human environment. An environmental assessment and finding of no significant impact have been prepared and are available in the docket for inspection and copying.

List of Subjects in 33 CFR Part 100

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

Special Local Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

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

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

2. A temporary section 100.35T–07–012 is added to read as follows:

§ 100.35T–07–012 Fort Lauderdale, FL.

(a) *Regulated Area.* All waters of the Atlantic Ocean west of a line drawn from 26–10.51N, 080–05.50W to 26–06.50N, 080–05.50W. All coordinates referenced use Datum: NAD 83.

(b) *Regulations.* (1) Entry into the regulated area by other than event participants is prohibited unless otherwise authorized by the Patrol Commander.

(2) All vessels shall immediately follow any specific instructions given by event patrol craft and exercise extreme caution while operating in or near the regulated area. A succession of no fewer than 5 short whistle or horn blasts from a patrol vessel will be the signal for any non-participating vessels to stop immediately. The display of an orange distress smoke signal from a patrol vessel will be the signal for any and all vessels to stop immediately.

(3) After the termination of the 1997 Shell Air & Sea Show event for each

respective day, all vessels may resume normal operations.

(c) *Effective Dates.* These regulations become effective on: (1) May 2, 1997 at 9:30 a.m. and terminate at 1:30 p.m. EDT, (2) May 3, 1997 at 9:30 a.m. and terminate at 5:30 p.m. EDT, (3) May 4, 1997 at 9:30 a.m. and terminate at 5:30 p.m. EDT.

Dated: April 4, 1997.

J.W. Lockwood,

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

[FR Doc. 97–9540 Filed 4–11–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 151

[CGD 97–015]

RIN 2115–AF43

Antarctic Treaty Environmental Protection Protocol

AGENCY: Coast Guard, DOT.

ACTION: Direct final rule.

SUMMARY: By this direct final rule, the Coast Guard is establishing regulations to implement the Antarctic Science, Tourism, and Conservation Act of 1996. These regulations should guide U.S. owned and/or operated vessels to properly prepare for voyages in the Antarctic. This rule will harmonize U.S. regulations with international standards, and improve preparedness to respond to a spill.

DATES: This rule is effective on September 30, 1997, unless the Coast Guard receives written adverse comments or written notice of intent to submit adverse comments on or before June 30, 1997. If the effective date of this action is delayed due to adverse comments, timely notice will be published in the **Federal Register.**

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 97–015), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

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

FOR FURTHER INFORMATION CONTACT: LCDR Ray Perry, Project Manager, Office of Environmental Standards (G–MSO), telephone (202) 267–2714.

SUPPLEMENTARY INFORMATION:

Request for Comments

Any comments must identify the name and address of the person submitting the comment, specify the rulemaking docket (CGD 97–015) and the specific section of this rule to which each comment applies, and give the reason for each specific comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

Regulatory Information

The Coast Guard is publishing a direct final rule, the procedures of which are outlined in 33 CFR 1.05–55, because no adverse comments are anticipated. If no adverse comments or any written notice of intent to submit adverse comment are received within the specified comment period, this rule will become effective as stated in the **DATES** section. In that case, at least 30 days prior to the effective date, the Coast Guard will publish a notice in the **Federal Register** stating that no adverse comment was received and confirming that this rule will become effective as scheduled. However, if the Coast Guard receives written adverse comment or written notice of intent to submit adverse comment, the Coast Guard will publish a notice in the final rule section of the **Federal Register** to announce withdrawal of all or part of this direct final rule. If adverse comments apply to only part of this rule, and it is possible to remove that part without defeating the purpose of this rule, the Coast Guard may adopt as final those parts of this rule on which no adverse comments were received. The part of this rule that was the subject of adverse comment will be withdrawn. If the Coast Guard decides to proceed with a rulemaking following receipt of adverse comments, a separate Notice of Proposed Rulemaking (NPRM) will be published and a new opportunity for comment provided.

A comment is considered ''adverse'' if the comment explains why this rule would be inappropriate, including a challenge to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment that requests additional rulemaking on this or another subject will not be treated as ''adverse.''

Background and Purpose

On October 2, 1996, the Antarctic Science, Tourism, and Conservation Act of 1996 became law (Pub. L. 104–227). This Act implements the Protocol on Environmental Protection to the Antarctic Treaty done at Madrid on October 4, 1991 (30 I.L.M. 1455). The Act authorizes three agencies to issue implementing regulations: The National Science Foundation (NSF), the EPA, and the Coast Guard. The Coast Guard is issuing this rule with the concurrence of the NSF in accordance with the Act. The Coast Guard may issue such regulations as are necessary and appropriate to implement Annex IV to the Protocol and Article 15 of the Protocol with respect to vessels. Annex IV to the Protocol, Prevention of Marine Pollution, resembles in many respects MARPOL 73/78. Article 15 of the Protocol, Emergency Response Action, requires that each party provide for prompt and effective response actions to such emergencies as might arise from activities in the Antarctic, and the establishment of contingency plans for response to incidents with potential adverse effects on the Antarctic environment. For the most part, the requirements under the Protocol are already implemented in the U.S. under the Act to Prevent Pollution from Ships (33 U.S.C. 1901, *et seq.*). However, two gaps between the existing regulations and the statutory requirements of the Act exist and are addressed in this rulemaking.

Discussion of Rules

These rules will require owners and operators of vessels under U.S. jurisdiction and operating in the waters below 60 degrees south latitude to comply with standards specified in the Protocol regarding sewage, and to amend their shipboard oil pollution emergency plans (SOPEP) to indicate the need to contact Antarctic stations that might be affected. This rule reflects international requirements under the Protocol. Changes to 33 CFR 151.26 would implement the provisions of Article 15 of the Protocol addressing response to pollution from vessels. A new section 151.79 is added to implement the provisions of Annex IV of the Protocol addressing prevention of pollution by sewage from vessels.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of

Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This rule will affect approximately 23 vessels, all of which are greater than 400 gross tons.

Industry Costs

Regulations (33 CFR 151.26) already require SOPEP. Vessel owners and operators will face additional costs associated with amending their SOPEP for each vessel. The amount of cost incurred will vary depending on whether the vessel has a SOPEP currently developed. For 1997, there are approximately 13 privately owned vessels operating in Antarctica that would be addressed under these regulations. All 13 vessels are flagged from states requiring SOPEP. The amendments that need to be incorporated into a vessel's current SOPEP will be approximately 5 to 10 pages. It has been assumed that it will take no more than 5 days to write the amendments. The price per page of these additions is approximately $100 to $140 ($35/hr.*40hr./week)/10), with minimal additional photocopying expenses to provide duplicate copies to the appropriate people. Therefore, the estimated total cost for incorporating the new SOPEP amendments ranges from $500 to $1,400 per plan.

The SOPEP amendments do not require equipment to be carried. They simply require vessel owners to develop plans for a prompt and effective response to emergencies which might arise in the performance of their vessel activities in Antarctica. However, for the purpose of this estimate, the Coast Guard assumes that each vessel complying with the SOPEP amendments would most likely choose to carry one of the following:

Item	Cost per vessel*
1. 200 feet of sorbent boom	$782
2. 2 cases of sorbent pillows (approx. 50 pillows)	144
3. 200 feet of sorbent sweeps (approx. 30 lbs.)	136
4. 3 bags of geniesorb oil sorbent (approx. 120 lbs.)	60

*All costs are based on: 1995 World Catalog of Oil Spill Response Products, 5th Edition. These costs are purely optional and therefore have not been added to the estimated total industrial cost.

Government Costs

The Government will incur costs associated with the inclusion of public vessels in this rule. An agency whose public vessels travel to Antarctica will now also be required to develop a plan or update its vessels' current plan to reflect the new amendments. There are approximately 10 publicly owned vessels that operate in Antarctica during any one season. It is estimated that it will take no more than 15 days to create a plan from scratch. The total length of the plan (including the new amendments) should range from 15 to 30 pages. However, if the public vessel is only incorporating the new amendments to an existing plan, only approximately 5 to 10 pages of additional text would be expected. The price per page of text is approximately $100 to $140 (($35/hr. * 40hr./week) /10), with minimal additional copying expenses to provide duplicate copies to the appropriate people. Therefore, the estimated total cost for creating a new plan would range from $1,500 to $4,200 per plan. The estimated cost for incorporating the amendments to the preexisting plans ranges from $500 to $1,400 per plan.

These amendments do not require equipment to be carried. They simply require vessel owners to develop plans for a prompt and effective response emergencies which arise in the performance of their vessel activities in Antarctica. However, for the purpose of this estimate, the Coast Guard assumes that each vessel complying with the amendments would most likely choose to carry one of the following:

Item	Cost per vessel*
1. 200 feet of sorbent boom	$782
2. 2 cases of sorbent pillows (approx. 50 pillows)	144
3. 200 feet of sorbent sweeps (approx. 30 lbs.)	136
4. 3 bags of geniesorb oil sorbent (approx. 120 lbs.)	60

*All costs are based on: 1995 World Catalog of Oil Spill Response Products, 5th Edition. These costs are purely optional and therefore have not been added to the estimated total government cost.

Industry and Government Costs and Benefits

The total cost of this rule will depend on the number of plans developed to comply with this rulemaking. However, to satisfy every requirement the total cost of this DFR will still not exceed $60,200 (see table below).

Total cost	Number of vessels	Cost per plan
Industry Cost	13	$1,400
Government Cost	10	**4,200
Total Industry Cost: (13*$1,400)=$18,200		
Total Government Cost: (10*$4,200) = $42,000		
Total Cost: $60,200		

**This number represents the cost to originate a plan where no plan currently exists.

The primary benefit of this rulemaking is to harmonize U.S. regulations with international standards.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C.601 *et seq.*), the Coast Guard must consider the economic impact on small entities of a rule for which a general notice of proposed rulemaking is required. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

The Coast Guard intends to implement the Protocol without dictating prescriptive requirements. All 13 privately owned vessels operating in Antarctica in 1995 and impacted by this rulemaking are small entities. The Coast Guard anticipates all privately owned vessels impacted will be small entities, and that they will meet the intent of these requirements without incurring a significant cost or bearing a competitive disadvantage. On this factual basis, the Coast Guard finds that this rule will not have a significant economic impact on a substantial number of small entities. Any comments submitted in response to this finding will be evaluated under the criteria described earlier in the preamble for comments.

Assistance for Small Entities

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, the Coast Guard will provide assistance to small entities to determine how this rule applies to them. If you are a small business and need assistance understanding the provisions of this rule, please contact

LCDR Ray Perry, Project Manager, Officer of Environmental Standards (G–MSO), telephone (202) 267–2714.

Collection of Information

This rule contains no new collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). However, owners and operators of privately owned vessels will incur an additional collection of information burden in amending their existing SOPEP. The total increase in burden hours over those previously approved by OMB under collection approval 2115–0595 will depend on the number of vessels operating in the Antarctic region. However, the additional burden hours will be relatively small, and are not dependent on the number of vessels each company owns since one plan can cover numerous vessels. The amount of time needed to update a SOPEP to meet the new requirements could be as minimal as 8 person hours.

Federalism

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under paragraph 2.B.2.e(34) (a) and (d) of Commandant Instruction M16475.lB. (as revised by 59 FR 38654, July 29, 1994), this rule is categorically excluded from further environmental documentation. This rulemaking is intended to align existing regulations with the statutory requirements which address pollution from vessels and responses to pollution incidents. Based on the available data, this rulemaking is not expected to have a significant impact on the environment. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 151

Administrative practice and procedure, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control, Sewage disposal, Vessels.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 151 as follows:

PART 151—VESSELS CARRYING OIL, NOXIOUS LIQUID SUBSTANCES, GARBAGE, MUNICIPAL OR COMMERCIAL WASTE, AND BALLAST WATER

1. The authority citation for part 151 is revised to read as follows:

Authority: 33 U.S.C. 1321(j)(1)(C) and 1903(b); Pub. L. 104–227 (110 Stat. 3034), E.O. 12777, 3 CFR, 1991 Comp. p. 351; 49 CFR 1.46.

2. The heading to subpart A is revised to read as follows:

Subpart A—Implementation of MARPOL 73/78 and the Protocol on Environmental Protection to the Antarctic Treaty as it Pertains to Pollution from Ships

§ 151.01 [Amended]

3. In § 151.01, at the end of the paragraph preceding the note, add the sentence ''This subpart also implements the Antarctic Science, Tourism, and Conservation Act of 1996, and the Protocol on Environmental Protection to the Antarctic Treaty done at Madrid on October 4, 1991.''

§ 151.03 [Amended]

4. In § 151.03, at the end before the period, add the phrase ''unless otherwise indicated.''

5. Section 151.05 is amended by adding the following definition in alphabetical order to read as follows:

§ 151.05 Definitions.

* * * * *

Antarctica means the area south of 60 degrees south latitude.

* * * * *

6. In § 151.09, add a new paragraph(e), to read as follows:

* * * * *

(e) Section 151.26(b)(5) applies to all vessels subject to the jurisdiction of the United States and operating in Antarctica.

7. In § 151.26, paragraph(b)(1)(i), introductory text, is revised, paragraph(b)(3)(iii)(C) is added, and paragraph(b)(5) is revised to read as follows:

§ 151.26 Shipboard oil pollution emergency plans.

* * * * *

(b) * * *

(1) * * *

(i) Introductory text. The introductory text of the plan must contain the following language (For ships operating in Antarctica, the introductory text of the plan must contain the following language *and* explain that they are in accordance with the Protocol on Environmental Protection to the Antarctic Treaty):

* * * * *

(3) * * *

(iii) * * *

(C) For Antarctica, in addition to compliance with paragraph (b)(3)(iii)(B) of this section, reports shall also be directed to any Antarctic station that may be affected.

* * * * *

(5) *National and Local Coordination.*

(i) This section of the plan must contain information to assist the master in initiating action by the coastal State, local government, or other involved parties. This information must include guidance to assist the master with organizing a response to the incident should a response not be organized by the shore authorities. Detailed information for specific areas may be included as appendices to the plan.

(ii) For Antarctica, a vessel owner or operator must include a plan for prompt and effective response action to such emergencies as might arise in the performance of its vessel's activities.

(iii) To comply with paragraph (b)(5)(ii) of this section, an agency of the United States government may promulgate a directive providing for prompt and effective response by the agency's public vessels operating in Antarctica.

* * * * *

8. The sub-heading, ''GARBAGE POLLUTION'' under subpart A is revised to read as follows:

GARBAGE POLLUTION AND SEWAGE

9. New § 151.79 is added to read as follows:

§ 151.79 Operating requirements: Discharge of sewage within Antarctica.

(a) A vessel certified to carry more than 10 persons must not discharge untreated sewage into the sea within 12 nautical miles of Antarctic land or ice shelves; beyond such distance, sewage stored in a holding tank must not be discharged instantaneously but at a moderate rate and, where practicable, while the ship is en route at a speed of no less than 4 knots. For purposes of this section, ''sewage'' means:

(1) Drainage and other wastes from any form of toilets, urinals, and WC scuppers;

(2) Drainage from medical premises (dispensary, sick bay, etc.) via wash basins, wash tubs, and scuppers located in such premises;

(3) Drainage from spaces containing living animals; or

(4) Other waste waters when mixed with the drainages defined above.

(b) Paragraph (a) of this section does not apply to a warship, naval auxiliary,

or other ship owned or operated by the United States and used only in government non-commercial service.

(c) Paragraph (a) of this section does not apply in cases of an emergency relating to the safety of a ship and those on board or saving life at sea. Notice of an activity, otherwise prohibited under paragraph (a) of this section, undertaken in case of an emergency shall be reported immediately to the National Response Center (NRC) toll free number 800–424–8802.

Dated: April 4, 1997.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 97–9388 Filed 4–11–97; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN–176–2–9708a; FRL–5806–7]

Approval and Promulgation of Implementation Plans, Tennessee: Approval of Revisions to the Tennessee SIP Regarding Volatile Organic Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this document, EPA is acting on revisions to the Tennessee State Implementation Plan (SIP) which were submitted to EPA by Tennessee, through the Tennessee Department of Air Pollution Control (TDAPC), on June 3, 1996. The submittal contains revisions to the VOC definition in the construction permits chapter, amends the stage II vapor recovery portion of the VOC chapter, and revises a conversion factor contained in the performance standards for continuous emissions monitoring chapter.

DATES: This final rule is effective June 13, 1997 unless adverse or critical comments are received by May 14, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to William Denman at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file TN176–02–9708. The Region 4 office may have additional background documents not available at the other locations.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303, William Denman, 404/562–9030.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, L & C Annex, 9th Floor, 401 Church Street, Nashville, Tennessee 37243–1531, 615/532–0554.

FOR FURTHER INFORMATION CONTACT: William Denman 404/562–9030.

SUPPLEMENTARY INFORMATION: On June 3, 1996, the Tennessee Department of Air Pollution Control (TDAPC) submitted a request to the EPA to incorporate revisions to chapters 1200–3–9 ''Construction and Operating Permits'' and 1200–3–18 ''Volatile Organic Compounds.'' The revisions to chapter 1200–3–9 amended the definition for volatile organic compounds in paragraph 1200–3–9–.01(4)(b)(29). The revision added acetone, parachlorobenzotrifluoride (PCBTF), and cyclic, branched, or linear completely methylated siloxanes (VMS) to its list of VOCs which have been determined to have negligible photochemical reactivity. The list of exempt compounds is contained in subparagraph 1200–3–9–.01(4)(b)(29)(I). The compounds PCBTF and VMS were added to the list of exempt VOC's on October 5, 1994, (59 FR 50693) and acetone was added to the list of exempt VOC's on June 16, 1995, (60 FR 31633). In addition, compounds CFC–113, HCFC–22, and HFC–23 were amended to be consistent with the federal definition.

The revisions to chapter 1200–3–18 amended sections 1200–3–18–.24 ''Gasoline Dispensing Facilities—Stage I and Stage II Vapor Recovery'' and 1200–3–18.86 ''Performance Specifications for Continuous Emissions Monitoring of Total Hydrocarbons.''

1200–3–18–.24: The revisions to 1200–3–18–.24(1)(d) added the dispensing of gasoline for only refueling of aircraft or marine vessels as an activity exempt from the requirements of 1200–3–18–.24(3)(c). This provision requires a vapor recovery system, certified by the California Air Resources Board, to be installed and operated to recover gasoline vapors. The revisions to 1200–3–18–.24(3)(c)(2)(I) were made to be consistent with EPA guidance to prevent the use of a dual-hose Stage II system at automobile assembly plants in lieu of coaxial hoses.

1200–3–18–.86: The revision to 1200–3–18–.86(11)(c) was made to correct the conversion factor which accounts for the conversion of units when calculating the total hydrocarbon concentration levels for the initial compliance certification. The correct conversion factor is 5.183×10^{-2}.

Final Action

The EPA is approving the aforementioned revisions because they are consistent with federal requirements. This rulemaking is being published without a prior proposal for approval because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective June 13, 1997 unless, by May 14, 1997, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the separate proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective June 13, 1997.

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

I. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR

2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

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

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

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

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

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 13, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone.

Dated: March 25, 1997.

A. Stanley Meiburg,

Acting Regional Administrator.

Part 52 of chapter I, title 40, *Code of Federal Regulations,* is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart RR—Tennessee

§ 52.2219 [Removed and reserved]

2. Section 52.2219 is removed and reserved.

3. Section 52.2220 is amended by adding paragraph (c)(150) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(150) Revisions to chapters 1200–3–9 ''Construction and Operating Permits'' and 1200–3–18 ''Volatile Organic Compounds'' were submitted by the Tennessee Department of Air Pollution Control (TDAPC) to EPA on June 3, 1996.

(i) Incorporation by reference.

(A) State of Tennessee regulation 1200–3–9 ''Construction and Operating Permits'', subpart 1200–3–9–.01(4)(b)(29)(i) effective on August 14, 1996.

(B) State of Tennessee regulation 1200–3–18 ''Volatile Organic Compounds'', subparts 1200–3–18–.24(1)(d), 1200–3–18–.24(3)(c)(2)(i) and 1200–3–18–.86(11)(c) effective August 10, 1996.

(ii) Other material. None.

[FR Doc. 97–9506 Filed 4–11–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OR–14–1–5535; FRL–5807–4]

Approval and Promulgation of State Implementation Plans: Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a revision to the State Implementation Plan (SIP) submitted by the State of Oregon for the purpose of bringing about the attainment of the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10). The implementation plan was submitted by the state to satisfy certain Federal requirements for an approvable moderate nonattainment area PM–10 SIP for the Klamath Falls, Oregon, PM–10 nonattainment area.

EFFECTIVE DATE: April 14, 1997.

ADDRESSES: Copies of the state's request and other information supporting this action are available for inspection during normal business hours at the following locations: EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101; EPA Oregon Operations Office, 811 SW Sixth Avenue, Third Floor, Portland, Oregon 97204; and the Oregon Department of Environmental Quality, 811 SW Sixth Avenue, Portland, Oregon 97204–1390.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, EPA, 401 M Street SW, Washington, D.C. 20460, as well as at the above addresses.

FOR FURTHER INFORMATION CONTACT: Rindy Ramos, EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553–6510.

SUPPLEMENTARY INFORMATION:

I. Background

The area within the Klamath Falls, Oregon, Urban Growth Boundary (UGB), was designated nonattainment for PM–10 and classified as moderate under Sections 107(d)(4)(B) and 188(a) of the Clean Air Act (CAA), upon enactment of the Clean Air Act Amendments (CAAA) of 1990.[1] See 56 FR 56694 (November 6, 1991) and 40 CFR 81.338. The air quality planning requirements for moderate PM–10 nonattainment areas are set out in Subparts 1 and 4 of Title I of the Act.[2] EPA has issued a ''General Preamble'' describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under Title I of the Act, including those state submittals containing moderate PM–10 nonattainment area SIP requirements (see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). The General Preamble provides a detailed discussion of EPA's interpretation of the Title I requirements. In this rulemaking action for the PM–10 SIP for the Klamath Falls nonattainment area, EPA's proposed action is consistent with its interpretations, discussed in the General Preamble, and takes into consideration the specific factual issues presented in the SIP. Additional information supporting EPA's action on this particular area is available for inspection at the addresses indicated above.

Those states containing initial moderate PM–10 nonattainment areas (those areas designated nonattainment under Section 107(d)(4)(B)) were required to submit, among other things, the following provisions by November 15, 1991:

1. Provisions to assure that Reasonably Available Control Measures (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of Reasonably Available Control Technology shall be implemented no later than December 10, 1993;

2. Either a demonstration (including air quality modeling) that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994, or a demonstration that attainment by that date is impracticable;

3. Quantitative milestones which are to be achieved every 3 years and which demonstrate Reasonable Further Progress (RFP) toward attainment by December 31, 1994; and

4. Provisions to assure that the control requirements applicable to major stationary sources of PM–10 also apply to major stationary sources of PM–10 precursors except where the Administrator determines that such sources do not contribute significantly to PM–10 levels which exceed the NAAQS in the area. See Sections 172(c), 188, and 189 of the Act.

States with initial moderate PM–10 nonattainment areas were required to: 1) submit a permit program for the construction and operation of new and modified major stationary sources of PM–10 by June 30, 1992 (see Section 189(a)); and 2) submit contingency measures by November 15, 1993, which were to become effective without further action by the state or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM–10 NAAQS by the applicable statutory deadline (see Section 172(c)(9) and 57 FR 13543–13544). Oregon has made submittals in response to both of the above described requirements. EPA intends to address that submittal containing the new source review permit program in a separate action.

To address the CAAA of 1990, Oregon submitted a PM–10 nonattainment area SIP for Klamath Falls, Oregon, on November 15, 1991. A subsequent revision to the plan was submitted to EPA on September 22, 1995. EPA reviewed the November 15, 1991, and September 22, 1995, SIP revisions according to its interpretation of subpart 1 and 4 of Part D of Title I of the Act. EPA concluded from its review that the SIP met the applicable requirements of the Act and EPA, therefore, solicited public comment on its proposed approval. See the June 5, 1996, **Federal Register** document at 61 FR 28531 and its accompanying Technical Support Document (TSD). The June 5, 1996, document also indicated that anyone wishing to comment should do so by July 5, 1996.

On July 12, 1996, in response to the June 5, 1996, **Federal Register** document, EPA received comments from three parties. It is EPA's opinion, however, that the majority of these comments are beyond the scope of EPA's proposed action. Many of the comments focus on issues associated with a former Weyerhaeuser Company facility (currently owned by Collins Products LLC) located outside the designated nonattainment area. While the commenters raise several concerns with this facility, most of them do not apply to EPA's approval of the nonattainment area plan. As explained in more detail in the Response to Comment Document for this action, EPA is currently working with the State of Oregon to resolve issues associated with the facility.

EPA has thoroughly considered the comments in determining the appropriate action on the Klamath Falls PM–10 Control Plan. A summary of EPA's review of the comments is presented in the ''Response to Comments'' section below. A more detailed Response to Comment Document is available for public review at the above addresses.

EPA is approving the Klamath Falls SIP as described in the June 5, 1996, **Federal Register** document at 61 FR 28531 and its accompanying (TSD). The following is a review of those comments received during the public comment period.

II. Response to Comments

A. Area Designation

The commenters all stated that the boundary for the nonattainment area should be enlarged to include sources currently external to the Urban Growth Boundary (UGB). One group of commenters provided the following:

> NAAQS standards were the original keystone of the CAA. All ''areas''[2] containing a site for which air quality data show a violation of NAAQS were originally designated as non-attainment by Congress. § 107(d)(4)(B)(2) [sic]. Klamath Falls was classified as a moderate PM–10 non-attainment area by operation of law.

[1] The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Pub. L. No. 101–549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended (''the Act''). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. 7401, *et seq.*

[2] Subpart 1 contains provisions applicable to nonattainment areas generally and Subpart 4 contains provisions specifically applicable to PM–10 nonattainment areas. At times, Subpart 1 and Subpart 4 overlap or may conflict. EPA has attempted to clarify the relationship among these provisions in the ''General Preamble'' document and, as appropriate, in today's notice and supporting information.

[2] Congress' use of the word area does not mean nonattainment area. The use of the word ''area'' must be given its plain meaning. The definition of ''area'' is not found in the act. When referring to non-attainment area, the act is using the definition found at § 171(2). The word area cannot logically

mean non-attainment area. This would be circular.

These same commenters contend that ''the urban growth boundary is an arbitrary land classification distinction.'' The comment states: ''The 1986 modeling fails to satisfy 40 CFR part 51, appendix W. The SIP modeling should have included a 'land use classification procedure or a population based procedure to determine whether the character' of the area was primarily urban or rural.''

The first comment implies that Klamath Falls was designated nonattainment for PM–10 in accordance with section 107(d)(4)(B)(ii) of the Clean Air Act (CAA). This is not entirely correct. Klamath Falls was designated nonattainment in accordance with section 107(d)(4)(B)(i). This section of the CAA states:

(i) each area identified in 52 **Federal Register** 29383 (Aug. 7, 1987) as a Group 1 area (except to the extent that such identification was modified by the Administrator before November 15, 1990) is designated nonattainment for PM–10.

EPA believes it is important to point out that the Klamath Falls nonattainment boundaries were established, as were the boundaries for all the initial PM–10 nonattainment areas, through a public notice process which provided an opportunity for comment on the appropriateness of the boundary description. In the August 7, 1987, **Federal Register** document, Klamath Falls was identified by EPA as a PM–10 area of concern and categorized as a Group 1 area. EPA did not receive any comments questioning this action. Subsequently, on October 31, 1990, the area of concern was further defined as the area within the urban growth boundary. See 55 FR 45799. Therefore, upon passage of the Clean Air Act Amendments on November 15, 1990, the existing Klamath Falls Group 1 area, as defined by the urban growth boundary, was designated nonattainment and classified as a moderate PM–10 nonattainment area by operation of law. See 56 FR 56694 at 56705–56706, 56820 (Nov. 6, 1991) (document announcing formal codification of initial PM–10 nonattainment areas in 40 CFR part 81).

On March 15, 1991 (56 FR 11101), prior to the November 6, 1991, formal codification document, EPA announced all the designations and classifications occurring for PM–10 by operation of law upon enactment of the Clean Air Act (the ''initial PM–10 nonattainment areas''). In this **Federal Register** document EPA provided, among other things, an opportunity for the public to comment on EPA's announcement. EPA requested public comment on the announcement in order to facilitate public participation and avoid errors. EPA did not receive any comments disputing the extent and description (i.e., the boundary) of the Klamath Falls nonattainment area.

Furthermore, Oregon Administrative Rule (OAR) 340–31–500(10) contains a legal description of the Klamath Falls UGB. This rule is part of the federally-approved SIP.

EPA is not sure what distinction the commenter is attempting to draw in the context of section 107(d) between the word ''area'' and the phrase ''nonattainment area.'' That section itself defines a nonattainment area as, among other things, any area that does not meet, i.e., is violating, the national ambient air quality standard for any pollutant. Section 107(d)(1)(A)(i). Other provisions in section 107(d) determine the process by which particular areas are officially designated as nonattainment. Indeed, the definition in section 171(2) essentially refers back to the section 107(d) definition.

The comment on the urban vs. rural land use classification in section 8.2.8 of EPA's Guideline on Air Quality Models (Revised) is not relevant either to issues regarding the determination of the appropriate boundaries of the nonattainment area, or the method of modeling used to demonstrate attainment. Receptor, not dispersion modeling, is used to demonstrate attainment with the NAAQS. Section 8.2.8 was written primarily in the context of the Prevention of Significant Deterioration program. It was written to determine the dispersion coefficient when modeling a single source and not for the purpose of determining the nonattainment boundaries of an area.

B. Weyerhaeuser (Collins Products LLC) Issues

The primary issues associated with the Weyerhaeuser facility presented by a commenter include, but are not limited to: (1) dispersion modeling showing significant impacts at the Peterson School monitoring site, (2) dispersion modeling showing exceedances of the 24-hour NAAQS outside of the UGB, and (3) exclusion of Weyerhaeuser's PM–10 emissions from the plan's emission inventory. Each of these issues is addressed generally below and in more detail in the Response to Comment document.

1. Weyerhaeuser's Modeled Impacts at Peterson School

One commenter refers to two modeling analyses, one conducted in 1992 and one conducted in 1994, which indicated the facility had a significant impact at Peterson School and its emissions contributed to an exceedance of the NAAQS at an unmonitored location. Another modeling analysis, not referenced by the commenter, was conducted in 1995.

The 1992 and 1994 modeling analyses performed to assess Weyerhaeuser's impact at the Peterson School monitoring site have been superseded by a modeling analysis conducted in 1995. The modeling analysis in 1995 was performed to satisfy the SIP commitment that Weyerhaeuser's emissions be dispersion modeled ''to determine whether emissions from the Weyerhaeuser facility have a significant impact (annual average impact of 1 $\mu g/m^3$, or 24-hour impact of 5 $\mu g/m^3$) at the maximum concentration point within the nonattainment area (Peterson School monitoring site).'' [3] The 1995 analysis was also performed to address deficiencies with the 1992 and 1994 analyses. Therefore, because the 1992 and the 1994 modeling analyses have been superseded, the comments received concerning the 1992 and the 1994 modeling analyses performed by either Weyerhaeuser or by the Oregon Department of Environmental Quality (ODEQ) are no longer relevant.

The 1995 analysis, summarized in an ODEQ August 4, 1995, memorandum, indicates that, on exceedance days, the Weyerhaeuser facility does not have a significant impact at the Peterson School monitoring site. Included in this analysis is the facility's current permitted allowable emissions, emission credits, and plant fugitive emissions. These allowable emissions are reflected in the facility's Air Contaminant Discharge Permit, issued on November 20, 1995. Through the state's operating permit program, this permit is part of the federally approved SIP.

This 1995 analysis indicates that the facility's current permitted emissions do not have a significant impact on the Peterson School site during exceedance days.

2. Weyerhaeuser's Modeled Impact at an Unmonitored Location

One commenter contends:

that there are presently exceedances within the Klamath area which may preclude redesignation. § 172(c)(1) provides that an approvable SIP ''shall provide for the attainment of the national primary ambient air quality standards.''

[3] State Implementation Plan for PM–10 in Klamath Falls, October 1991, Section 4.12.3.2.

EPA believes that the comment alludes to a modeled violation of the NAAQS at a location outside of the designated nonattainment area boundary. Specifically, preliminary dispersion modeling information indicates that the Weyerhaeuser Klamath Falls facility is causing a violation of the NAAQS at an unmonitored site outside the nonattainment area. The modeled violation of the NAAQS outside of the nonattainment area and the approvability of the Klamath Falls PM–10 Control Plan by EPA, are two separate issues. This rulemaking action concerns only the latter issue.

Nevertheless, to address the comment concerning the modeled violation, it is useful to note that the State of Oregon, with input from EPA, is currently working with Collins Products LLC to mitigate the modeled NAAQS violation. Further, as discussed in the June 5, 1996, **Federal Register** document (61 FR 28531) and the TSD for that notice, any violation of the NAAQS outside of an existing nonattainment area would be subject to its own planning requirements, analysis, and potential control measures.

3. Exclusion of Emissions

Both the 1991 version and the 1995 revision of the proposed Klamath Falls PM–10 SIP, to some degree, discuss Weyerhaeuser's emissions. As required by the nonattainment area plan, and as discussed in the TSD to the June 5, 1996, **Federal Register** document; the Response to Comments Document for this action; and elsewhere in this document, Weyerhaeuser evaluated its impact at the Peterson School monitoring site.

C. Slash Burning Emissions

EPA received comments from two commenters indicating that PM–10 emissions from slash burning are not properly quantified. One of the commenters contends that:

> DEQ's emission inventory for Klamath County tallies slash burning as the single largest source of emissions
>
> and, given that, wonders how EPA can
>
> * * * support a plan that considers slash to be a 0% contributor when DEQ's own records show that over 3,000 [4] tpy come from slash.

[4] This figure is from 1987–88 using DEQ's emission factor applied to State Forestry Smoke Management Annual Report data.

As the commenter indicates, these emission estimates are on a county-wide basis and as such do not accurately reflect emissions generated from within the nonattainment area or the area in close proximity to the nonattainment area. For comparison purposes, the county is 6,135 square miles, whereas the nonattainment area is only approximately 70 square miles. In addition, specific information linking slash burning days with monitored exceedance days is not presented.

However, to address the potential impacts of forestry slash burning, a voluntary smoke management plan was developed and implemented. This plan establishes a Special Protection Zone (SPZ) around the nonattainment area. This SPZ restricts prescribed burning within a 20 miles radius of Klamath Falls during the winter residential wood burning season. As previously stated, exceedances of the 24-hour NAAQS have historically occurred during the wood burning season. To supplement the voluntary smoke management plan, a Memorandum of Understanding was signed by and between several timber companies, several national forests, the Oregon Department of Forestry, and the Bureau of Land Management. As discussed in the June 5, 1996, **Federal Register** document and its TSD, EPA believes these steps adequately address the potential impacts of slash burning on the nonattainment area.

D. Control Measures

It is one commenter's position that * * * reduction in emissions do not 'result from' implementation of the plan. § 107(d)(3)(E)(iii).''

1. Mandatory Residential Woodburning Curtailment Program

It is one commenter's belief that a lack of exceedances of the 24-hour NAAQS since January 1991, is

> * * * not a measure of the success of the mandatory woodstove curtailment program, but rather the accumulation of a number of significant changes that have been occurring. The most significant changes occurred at Weyco [Weyerhaeuser] * * *

Because the mandatory curtailment program (a voluntary program had been in place for several years) was implemented November 1, 1991, it is this commenter's opinion that the first complete year where reductions from the mandatory program would have occurred is in 1992.

It is EPA's opinion that the chosen control strategies, which include the mandatory curtailment program, have brought the area into attainment with the NAAQS. This is discussed in more detail in the June 5, 1996, **Federal Register** document, the TSD to that document, and the Response to Comment Document for this document.

Based on ambient monitoring, the last seven exceedances of the 24-hour NAAQS occurred in 1991. All of the exceedances occurred in January of that year. On October 31, 1991, one day before the mandatory curtailment program was implemented, a monitored value of 136 $\mu g/m^3$ was recorded. On November 1, 1991, the mandatory curtailment program was implemented, and, during the 1991/1992 woodburning season, the highest monitored value was 133 $\mu g/m^3$. During November and December of 1991, there were no monitored exceedances of the 24-hour NAAQS, thus, indicating that emission reductions were being achieved by the end of 1991. In mid-1992, Weyerhaeuser's five hog fuel boilers were taken out of service. This is after completion of a successful woodburning season (November 1991 through February 1992) without any exceedances of the NAAQS. Therefore, it is not unreasonable for EPA to believe that improvement in air quality is due to implementation of the control measures. As discussed in the TSD to the June 5, 1996, **Federal Register** document, ODEQ has conducted compliance surveys and documented the effectiveness of the program.

However, EPA also recognizes that the Weyerhaeuser facility has reduced its actual PM–10 emissions and has taken a reduction in its allowable emissions of over 600 tons since 1992. The facility is currently permitted at 111 pounds per hour, a substantial reduction from its previous limit.

2. Open Burning

The nonattainment area plan does not request credit for its open burning control measures. It is one commenter's opinion that this is not appropriate because significant open burning emissions existed in the baseline period.

It is the state's prerogative to request credit for a specific control measure. In regard to open burning, the plan does contain open burning restrictions, but ODEQ chose not to request emission reduction credits for the reductions resulting from the open burning control measure. Nevertheless, emission reductions from the plan's control measures will be realized and remain enforceable.

E. Attainment Demonstration Method

ODEQ conducted an attainment demonstration based upon receptor modeling proportional roll-back calculations to estimate the emission reductions required in 1994 to achieve the NAAQS. One commenter does not agree with this method and states: ''The SIP ignores the results of the dispersion

model [1992 modeling], uses an inappropriate rollback model with faulty emission inputs and attempts to use a receptor model for validation.'' The commenter further states the SIP violates the CAA because two documents contained in Section 3.2 of 40 CFR Part 51, Appendix W, were not used to justify the use of rollback.

The same commenter provided a chart (Attachment D) relating ''total wood production at Weyerhaeuser and PM–10 readings at Peterson School'' and states that the correlation coefficient (R square value) is 0.94 using linear regression in an attempt to demonstrate that Weyerhaeuser was a dominant contributor to exceedances at Peterson School.

As noted elsewhere, the 1992 modeling analysis has been superseded by a modeling analysis conducted in 1995 and, therefore, the 1992 analysis is no longer relevant.

As previously stated, the initial moderate PM–10 nonattainment areas were required to submit a demonstration (including air quality modeling) showing that the plan would provide for attainment as expeditiously as practicable but no later than December 31, 1994 (see Section 189(a)(1)(B) of the Act). The General Preamble sets out EPA's guidance on the use of modeling for moderate area attainment demonstrations (see 57 FR 13539). Alternatively, the state had to show attainment by December 31, 1994, or that attainment was impracticable.

Generally, EPA recommends that attainment be demonstrated according to the PM–10 SIP Development Guideline (June 1987), which presents three methods. Federal regulations require demonstration of attainment ''by means of a proportional model or dispersion model or other procedure which is shown to be adequate and appropriate for such purposes'' (40 CFR 51.112). The preferred method is the use of both dispersion and receptor modeling in combination. The regulation and the guideline also allow the use of dispersion modeling alone, or the use of two receptor models in combination with proportional rollback.

As indicated in the General Preamble, 57 FR at 13539, EPA has developed a supplemental attainment demonstration policy for initial PM–10 nonattainment areas such as Klamath Falls. The Preamble provides additional flexibility in meeting the PM–10 attainment demonstration requirements. An earlier April 2, 1991, memorandum titled, ''PM–10 Moderate Area SIP Guidance: Final Staff Work Product,'' contained ''Attachment 5'' describing the same policy. The policy explains that in certain circumstances a modified attainment demonstration may be appropriate on a case-by-case basis. It may be reasonable to accept a modified attainment demonstration in cases where ''time constraints, inadequate resources, inadequate data bases, lack of a model for some unique situations, and other unavoidable circumstances would leave an area unable to submit an attainment demonstration'' by November 15, 1991. The policy further explains that its application is reserved for those initial PM–10 nonattainment areas that have ''completed the technical analysis * * * and made a good-faith effort to submit a final SIP by their November 15, 1991, due date.''

During development of the Klamath Falls initial moderate area PM–10 attainment plan, ODEQ did not use dispersion modeling to estimate the design values or in the attainment and maintenance demonstrations. This was due to: (1) the lack of adequate historical meteorological data, (2) the late receipt in the development process of spatially resolved emission inventory data needed for modeling, (3) the fact that the intense and extremely shallow inversions and calm winds in the area (typical wind speeds during exceedances days are less than one meter per second) are not conducive to dispersion modeling (EPA does not have and has not developed an approved guideline model for conditions of this type), and (4) the fact that on winter days, when worst case air quality conditions occur, the airshed is heavily dominated by emissions from woodstoves, fireplaces, and road sanding.

The Klamath Falls PM–10 attainment demonstration is based upon receptor modeling proportional roll-back calculations to estimate the emission reductions required in 1994 to achieve the NAAQS. Emission inventory estimates were reconciled with Chemical Mass Balance (CMB—version 7.0) receptor modeling. Results from two emission estimation methods—emission inventory and receptor modeling—are in agreement that woodsmoke and soil dust are the major sources of emissions on exceedance days. According to the emission inventory, woodsmoke equals 80% and soil dust equals 8% of total PM–10 particulate. According to the CMB analysis, woodsmoke equals 82% and soil dust equals 10.9% of particulate. This issue is discussed in more detail in the TSD for the June 5, 1996, **Federal Register** document (see 61 FR 28537).

EPA guidance on CMB modeling specifies that the apportionment should account for at least 80% of the measured aerosol mass. ODEQ's analysis accounted for 96% of the mass.

The comment that the two documents (*Interim Procedures for Evaluating Air Quality Models* and *Protocol for Determining the Best Performing Model*) contained in Section 3.2 of 40 CFR part 51, appendix W are not used to justify the use of roll-back is correct. This is because the documents are intended to be used to evaluate the performance of dispersion models not receptor models.

Because the input data for the graph presented in Attachment D were not provided, EPA was not able to verify the correlation. In addition, the graph presented in Attachment D, entitled ''ANNUAL PM10 VS WEYCO LUMBER PRODUCTION'', shows lumber production (board feet $\times$ 100,000) on the Y axis, and annual PM–10 concentrations ($\mu g/m^3$) on the X axis. The labeling of the X and Y axes appear to be in error. For example the graph indicates that, when lumber production is approximately 70 $\times$ 100,000 board feet, annual PM–10 concentrations should be approximately 200 $\mu g/m^3$. This value appears to be in error because monitored annual PM–10 concentrations have never been above 73 $\mu g/m^3$. Furthermore, the graph does not consider implementation of the area's control measures (e.g., woodsmoke curtailment, road dust measures, woodstove changeout), which significantly reduced emissions over the same time period covered by the graph, and the resulting improvement in air quality due to implementation of the selected control measures.

Therefore, it is EPA's opinion that the graph presented in Attachment D is inconclusive evidence that Weyerhaeuser was (is) a dominant contributor to exceedances at Peterson School. In conclusion, because ODEQ followed EPA guidance, used the approved EPA chemical mass balance model, and because the CMB results were verified by the emission inventory, EPA is satisfied that the source apportionment provided by ODEQ in the Klamath Falls SIP is adequate.

EPA believes this conclusion is strengthened by the fact that, since implementation of the control strategies in 1991, the area has not exceeded the PM–10 NAAQS and has, based on monitored values, met the CAA attainment date of December 31, 1994.

F. Contingency Measures

It is one commenter's opinion that the SIP's contingency plan ''is flawed,'' ''the contingency section of the CAA has been violated,'' and the measures do not ''protect against backsliding.'' These comments are made in regard to the

plan's contingency measure applicable to the Weyerhaeuser facility.

EPA disagrees that the contingency section of the CAA has been violated. All moderate area SIPs, due November 15, 1991, were required to contain contingency measures that would be immediately implemented upon a determination by EPA that an area failed to make RFP or to attain the standard by the applicable attainment date. Besides a contingency measure applicable to the Weyerhaeuser facility (see OAR 340–21–200), the nonattainment area plan also contains contingency measures applicable to woodstoves, industrial sources located inside the nonattainment area, and numerous road dust control measures. These measures were reviewed and discussed in detail in the TSD for the June 5, 1996, **Federal Register** document. The attainment date for the Klamath Falls nonattainment area was December 31, 1994. Based on monitored air quality data, the Klamath Falls PM–10 nonattainment area has demonstrated RFP and attained the PM–10 NAAQS. Air quality monitors located within the designated nonattainment area boundary have not recorded an exceedance of the NAAQS since 1991.

In light of all the above, EPA believes the Klamath Falls SIP does provide for ''meaningful contingency planning'' that meets the requirements of the Act.

III. This Action

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565–13566). In this action, EPA is approving the plan revisions submitted to EPA on November 15, 1991, and September 22, 1995. EPA has determined that the submittals meet all of the applicable requirements of the Act due on November 15, 1991, with respect to moderate area PM–10 submittals. Also, EPA is granting the exclusion from PM–10 control requirements applicable to major stationary sources of PM–10 precursors. In addition, EPA is approving the SIP revision submitted on November 15, 1991, as meeting the requirement for contingency measures.

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

IV. Effective Date

Pursuant to Section 553(d)(3) of the Administrative Procedures Act (APA), this final rule is effective April 14, 1997. Section 553(d)(3) of the APA allows EPA to waive the requirement that a rule be published 30 days before the effective date if EPA determines there is ''good cause'' and publishes the grounds for such a finding with the rule. Under section 553(d)(3), EPA must balance the necessity for immediate federal enforceability of these SIP revisions against principles of fundamental fairness which require that all affected persons be afforded a reasonable time to prepare for the effective date of a new rule. *United States* v. *Gavrilovic*, 551 F 2d 1099, 1105 (8th Cir. 1977). The purpose of the requirement for a rule to be published 30 days before the effective date of the rule is to give all affected persons a reasonable time to prepare for the effective date of a new rule. Id.

EPA has determined good cause exists to make this **Federal Register** document effective upon publication. The rules made federally enforceable by this **Federal Register** document have been enforceable as a matter of state law for more than five years. In addition, the PM–10 emission inventory contained in the Klamath Falls PM–10 Control Plan must be federally approved before the Oregon Department of Transportation can make conformity determinations for several transportation projects in Klamath Falls which will benefit the general public. The imposition of the 30-day delay in the effective date of this SIP revision would require some of these projects to be postponed for an additional 30 days. Therefore, EPA believes the 30-day publication period would cause undue burdens to the public, and to affected governmental and transportation planning agencies.

Thus, EPA has determined that good cause exists to make these SIP revisions immediately effective and that the principles of fundamental fairness are met because all known affected persons have been afforded a reasonable time to prepare for the effective date of these SIP revisions. Accordingly, pursuant to section 553(d)(3) of the APA, this Oregon SIP revision approval is effective upon publication in the **Federal Register**.

VI. Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

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

SIP approvals under section 110 and subchapter I, part D, of the Clean Air Act do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

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

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

Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 13, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2), 42 U.S.C. 7607(b)(2))

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter.

Note: Incorporation by reference of the Implementation Plan for the State of Oregon was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: March 28, 1997.

Chuck Clarke,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart MM—Oregon

2. Section 52.1970 is amended by adding paragraph (c)(119) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(119) November 15, 1991, and September 20, 1995, letters from the Director, Oregon Department of Environmental Quality, to the Region 10 Regional Administrator, EPA, submitting the PM–10 Klamath Falls, Oregon, PM–10 Control Plan and amendments as revisions to its SIP.

(i) Incorporation by reference.

(A) State Implementation Plan for PM–10 in Klamath Falls, dated October 1991 and revised August 1995; and Appendix 4: Ordinances and Commitments, Ordinance No. 6630 (adopted September 16, 1991), and Ordinance No. 63 (adopted July 31, 1991)—Chapters 170 and 406.

[FR Doc. 97–9508 Filed 4–11–97; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

48 CFR Part 1401

RIN 1090–AA60

Department of the Interior Acquisition Regulation; Regulatory Streamlining

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: In the interests of streamlining processes and improving relationships with contractors, the Department of the Interior (DOI) is issuing this final rule which amends 48 CFR Chapter 14 by revising and updating the Department of the Interior Acquisition Regulation (DIAR).

EFFECTIVE DATE: May 14, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Mary L. McGarvey at (202) 208–3158, Department of the Interior, Office of Acquisition and Property Management, 1849 C. Street N.W. (MS5522 MIB), Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION:

A. Background

Under the auspices of the National Performance Review, a thorough review of the DIAR was conducted. The review revealed unnecessary and outdated regulations, and some excessively burdensome procedures.

In the interests of streamlining processes and improving relationships with contractors, essential portions of the DIAR are being revised, retained and/or removed in 48 CFR, where appropriate. The review identified four Sections in Subpart 1401.3 to be removed from 48 CFR. Specifically, Sections 1401.301 Policy; 1401.301–70 Definitions; 1401.302 Limitations; and 1401.304 Agency control and compliance procedures were removed from 48 CFR. In Subpart 1401.6 Contracting Authority and Responsibilities all ten sections are being removed from 48 CFR. We changed titles, rewrote language, and eliminated redundant FAR material from the Sections and retained them in the Department of the Interior Acquisition Regulation. Subpart 1401.1 Purpose, Authority, Issuance including section 1401.106 OMB approval under the Paperwork Reduction Act and Section 1401.303 Publication and codification of Subpart 1401.3 Agency Acquisition Regulations are revised and retained in 48 CFR Chapter 14.

Required Determinations

The Department believes that public comment is unnecessary because the revised material implements standard Government operating procedures. Therefore, in accordance with 5 U.S.C. 553(b)(B), the Department finds good cause to publish this document as a final rule. This rule was not subject to Office of Management and Budget review under Executive Order 12866. This rule does not contain a collection of information subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq). In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Department determined that this rule will not have a significant economic impact on a substantial number of small entities because no requirements are being added for small businesses and no protections are being withdrawn. The Department has determined that this rule does not constitute a major Federal action having a significant impact on the human environment under the National Environmental Policy Act of 1969. The Department has certified that this rule meets the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

List of Subjects in 48 CFR Part 1401

Government procurement, Reporting and recordkeeping requirements.

Dated: April 4, 1997.

Mary Ann Lawler,

Acting Assistant Secretary—Policy, Management and Budget.

Chapter 14 of Title 48 of the Code of Federal Regulations is amended as follows:

1. The authority citation for 48 CFR part 1401 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

2. Subpart 1401.1 is revised to read as follows:

Subpart 1401.1—Purpose, Authority, Issuance

1401.106 OMB approval under the Paperwork Reduction Act.

The information collection and recordkeeping requirements have been approved by the Office of Management and Budget (OMB) as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). The following OMB control numbers apply:

DIAR segment	OMB control No.
1452.225–70	1084–0018
1452.226–70	1084–0019

3. Subpart 1401.3 is revised to read as follows:

Subpart 1401.3—Agency Acquisition Regulations

1401.303 Publication and codification.

(a)(1) Implementing and supplementing regulations issued under the DIAR System are codified under Chapter 14 in Title 48, Code of Federal Regulations and shall parallel the FAR in format, arrangement, and numbering system.

(2)(i) Departmentwide regulations are assigned parts 1401 through 1499 under 48 CFR, Chapter 14.

(ii) Where material in the FAR requires no implementation, there will be no corresponding number in the DIAR. Thus, there are gaps in the DIAR sequence of numbers where the FAR, as written, is deemed adequate. Supplementary material shall be numbered as specified in FAR 1.303.

(3)(i) Bureauwide regulations are authorized for codification in Appendices to Chapter 14 as assigned by the Director, PAM.

(ii) Regulations implementing the FAR or DIAR are numbered using parts 1401 through 1479. Supplementary material is numbered using parts 1480 through 1499. Numbers for implementing or supplementing regulations by bureaus/offices are preceded by a prefix to the number 14 (indicating Chapter 14—DIAR) for the organization indicated by lettered appendices as follows:

(A) Bureau of Indian Affairs—BIA
(B) Bureau of Reclamation—WBR
(C) Interior Service Center—ISC
(D) Bureau of Land Management—LLM
(E) U.S. Geological Survey—WGS
(F) Office of Surface Mining Reclamation & Enforcement—LSM
(G) U.S. Minerals Management Service—LMS
(H) National Park Service—FNP
(I) U.S. Fish and Wildlife Service—FWS

(e.g., FAR 1.3 then DIAR 1401.3 [Department level] then in Appendix A, BIA 1401.3 [Bureau level])

(b) [Reserved]

Subpart 1401.6—[Removed]

4. Subpart 1401.6 is removed.

[FR Doc. 97–9471 Filed 4–11–97; 8:45 am]
BILLING CODE 4310–RF–M

Proposed Rules

Federal Register
Vol. 62, No. 71
Monday, April 14, 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

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 96–066–1]

Importation of Sliced and Pre-Packaged Dry-Cured Pork Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to allow dry-cured pork products that have been sliced and packaged prior to shipment to the United States to be imported into the United States under specified conditions. This action would relieve some restrictions on the importation of pork into the United States without presenting a significant risk of introducing any serious communicable diseases of animals.

DATES: Consideration will be given only to comments received on or before June 13, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96–066–1, Regulatory Analysis and Development, PPD, APHIS, Suite 4C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Julia Sturm, Supervisory Staff Officer, Products Program, National Center for Import and Export, VS, APHIS, Suite 3B66, 4700 River Road Unit 40, Riverdale, MD 20737–1231, (301) 734–3277; or E-mail: jsturm@.aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation into the United States of specified animals and animal products to prevent the introduction of various animal diseases, including rinderpest, foot-and-mouth disease, bovine spongiform encephalopathy, hog cholera, African swine fever, and swine vesicular disease, into the United States. These are dangerous and destructive communicable diseases of ruminants and swine.

Under the regulations, certain animal products—whole hams, pork shoulders, and pork loins—from countries where foot-and-mouth disease, rinderpest, African swine fever, hog cholera, or swine vesicular disease exists may be imported into the United States only under certain conditions. To be eligible for importation, these products must have been dry-cured and otherwise handled in accordance with procedures specified in § 94.17 of the regulations. However, under our current regulations, these same products are not eligible for importation if they have been sliced and packaged prior to shipment. We have prohibited importation of sliced and packaged dry-cured hams, pork shoulders, and pork loins because it is difficult to verify the origin of the meat and how it has been processed. Without this information, we cannot easily determine whether the meat has been treated and otherwise handled in a manner that ensures it is free of disease agents.

The Italian Ministry of Health has petitioned us to allow presliced and prepackaged dry-cured pork to be imported into the United States from countries where foot-and-mouth disease, rinderpest, swine vesicular disease, African swine fever, and hog cholera exist, if the meat would, except for its having been sliced and packaged, meet all current requirements for importation. The Italian Ministry proposed various inspection, recordkeeping, and labeling requirements that would allow verification of the meat's origin, treatment, and handling.

We have carefully considered this petition, and concluded that presliced and prepackaged dry-cured pork can be imported into the United States without undue risk, under conditions explained in this document. We are therefore proposing to amend our regulations to allow such importations.

Under our proposed rule, to be eligible for importation, presliced and prepackaged dry-cured ham, pork shoulder, and pork loin must come from whole dry-cured hams, pork shoulders, and pork loins that meet the requirements of current § 94.17. After the whole hams, pork shoulders, and pork loins have been dry-cured in accordance with § 94.17(i), they must be transferred to an approved slicing/packaging facility. The slicing/packaging facility must be located within the same region of the same country as the establishment where the whole hams, pork shoulders, and pork loins were dry-cured (see proposed § 94.17(p)). In the future, under the regulations in 9 CFR part 94, some countries may be divided into different regions, based on whether an animal disease is present in a region and the level of disease risk presented by animals and products exported from that region. If a country is divided into two or more regions for disease risk classification with respect to foot-and-mouth disease, rinderpest, African swine fever, hog cholera, or swine vesicular disease, having the dry-curing establishment and the slicing/packaging facility in the same region of the same country would ensure that meat in transit from the processing facility to the slicing/packaging facility would not be exposed and possibly contaminated with disease agents of concern.

The slicing/packaging facility must, under our proposed rule, be approved by the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture (see proposed § 94.17(p)(1)(i)).[1] APHIS inspections are designed to ensure that meat and meat products imported into the United States present negligible pest or disease risk to livestock in this country.

Under our proposed rule, the operators of slicing/packaging facilities would be required to sign cooperative service agreements with APHIS, and be current in paying all costs for an APHIS representative to inspect their

[1] In addition, pork and pork products, as a condition of entry into the United States, must meet all requirements of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and regulations promulgated thereunder by the Food Safety Inspection Service (FSIS) of the U.S. Department of Agriculture. FSIS regulations require that meat and meat products be prepared only in FSIS-approved establishments (see 7 CFR part 327).

establishments (see proposed §§ 94.17(p)(1)(vi) and 94.17(p)(1)(vii)). Slicing/packaging facilities would also be required to allow APHIS personnel, or persons authorized by APHIS, to inspect the facility and facility records without notice (see proposed § 94.17(p)(1)(viii)). These proposed requirements are virtually identical to the requirements in our regulations that now apply to facilities that process whole hams, pork shoulders, and pork loins. The proposed cooperative service agreement requirements are designed to ensure that slicing/packaging facilities are not only in compliance with the regulations, but that the costs of compliance are born by the facilities or their representatives, not by APHIS.

At slicing/packaging facilities, a full-time salaried veterinarian employed by the national veterinary service of the government of the country of origin, would be required, under our proposed rule, to inspect each lot of dry-cured hams, pork shoulders, and pork loins arriving at the facility and intended for export to the United States (see proposed § 94.17(p)(2)(i). The veterinarian would have to inspect the pork products prior to slicing and packaging, and would have to certify, in writing, that the products meet all the requirements of § 94.17 of the regulations. Such certification would be part of the records maintained by the slicing/packaging facility.

Under our proposed rule, we would also require the entire slicing and packaging process to be personally and continuously supervised by either a full-time veterinarian employed by the national government of the country of origin, or, if the government of the country of origin recognizes a local consortium as responsible for product quality, by an authorized representative of the recognized consortium (see proposed § 94.17(p)(2)(ii)). In most countries where dry-cured pork products are produced in accordance with § 94.17, local consortia are responsible for ensuring product quality.

The individual supervising the slicing and packaging process would be required to certify, in records maintained by the slicing/packaging facility, that the sliced and packaged dry-cured hams, pork shoulders, and pork loins are the products from the same whole hams, shoulders, and loins inspected by the veterinarian at the time they entered the facility (see proposed § 94.17(p)(2)(ii)). The individual supervising slicing and packaging would also be required to certify, in records maintained by the slicing/packaging facility, that the meat was sliced and packaged in accordance with our regulations. Under our proposed regulations, any document or form of certification would be acceptable as long as it is in English. These certifications are necessary to help ensure that sliced and packaged dry-cured pork products shipped to the United States are eligible for importation.

We are also proposing to prohibit pork products intended for importation into the United States from being in the slicing/packaging facility at the same time as pork products not intended for importation into the United States (see proposed § 94.17(p)(1)(x)). Local consumers and other importing countries may not require these types of pork products to be dry-cured for as long as products destined for the United States. After meat has been sliced and packaged, it is no longer possible to determine how long it was dry-cured. Our requirements are therefore intended to prevent products intended for importation into the United States from being commingled with other products. Under our proposal, however, slicing/packaging facilities could handle other products at times when they were not handling pork products intended for importation into the United States.

We are proposing to require that slicing/packaging facilities be in a separate building, physically detached from facilities where whole hams, pork shoulders, or pork loins are dry-cured (see proposed § 94.17(p)(1)(ii). This is intended to ensure that dry-cured pork products intended for importation into the United States are not contaminated. We are also proposing to require that all areas in slicing/packaging facilities where pork and pork products are handled, such as holding areas and slicing and packaging areas, be cleaned and disinfected. All equipment used to handle pork and pork products, such as containers, work surfaces, slicing machines, and packaging equipment, would also have to be cleaned and disinfected. Cleaning and disinfecting of these areas and this equipment would be required after sliced and packaged pork products not eligible for export to the United States have left the facility, and before whole pork products intended for importation into the United States enter the facility for slicing and packaging (see § 94.17(p)(1)(iii)). Cleaning and disinfecting must be adequate to ensure that disease agents of concern are killed or inactivated, and that pork products intended for importation into the United States are not contaminated.

In addition, we are proposing to require that workers in slicing/packaging facilities take precautions to ensure that they do not contaminate dry-cured pork in the facility with any diseases of concern (see proposed § 94.17(p)(1)(ix)). We are proposing to require that workers who handle dry-cured hams, pork shoulders, and pork loins in a slicing/packaging facility either shower and put on a full set of clean clothes, or wait 24 hours after handling other pork or pork products before handling dry-cured pork hams, pork shoulders, or pork loins in the facility that are intended for importation into the United States. This is the same requirement that now applies to workers in establishments where fresh hams, pork shoulders, and pork loins are dry-cured in accordance with our regulations (see current § 94.17(h)).

Under our proposed regulations, slicing/packaging facilities would have to maintain original records on each lot of dry-cured hams, pork shoulders, and pork loins entering the facility intended for importation into the United States (see proposed §§ 94.17(p)(1)(iv) and 94.17(p)(1)(v)). Records, which would have to be kept for a minimum of 2 years, would have to include the establishment numbers of all three facilities where the meat was handled—the slaughtering establishment, the dry-curing establishment, and the slicing/packaging facility. Records would also have to include the date dry-curing of the pork started, the date dry-curing was completed, and the date the dry-cured meat was sliced and packaged. We propose to require that the records maintained at slicing/packaging facilities include the certificate issued by the veterinarian at the facility and the certification by either the veterinarian or the consortium representative. Records would, in addition, have to be kept under lock and key, with access restricted to officials of the national government of the country of origin, officials of the United States Government, and persons maintaining the records. Product labels[2] would be required to show the date processing began under § 94.17(i) and the date of slicing and packaging (see proposed § 94.17(p)(2)(iii)). These proposed recordkeeping and labeling requirements are intended to ensure that the presliced and prepackaged pork products fully comply with our regulations. These proposed requirements would also allow us to trace nonconforming products back to their source and help us better enforce our regulations. We also considered requiring the lot number of the meat to

[2] FSIS must also approve all labels for meat and meat food products (see 9 CFR part 317).

appear on the label, or requiring that meat from only 1 lot be in a package. However, current industry practice is to label packages with the lot number and to package only meat from one lot in a package. Under these circumstances, it appears unnecessary to include either requirement in our proposed regulations.

We believe this proposed system of inspections, recordkeeping and labeling would provide us with the information we need to ensure that sliced and packaged dry-cured hams, pork shoulders, and pork loins from countries where various animal diseases exist would not pose a significant disease or pest risk to livestock in the United States.

Miscellaneous

We are proposing to amend § 94.17(n) to update the term ''trust fund agreement'' by replacing it with the term ''cooperative service agreement.'' Cooperative service agreement is the new name for the type of agreement formerly known as a trust fund agreement.

We are also proposing to amend § 94.17(g). This section currently requires that facilities that dry-cure whole pork hams, pork shoulders, and pork loins must have signed an agreement with APHIS ''within 12 months'' prior to receiving pork hams, pork shoulders, or pork loins for processing. We have found this requirement to be unnecessary. Facilities must maintain a current cooperative service agreement with APHIS under § 94.17(n), and facilities are subject to unannounced inspections under § 94.17(l). We have found these requirements sufficient to ensure that dry-curing facilities comply with the requirements of § 94.17.

Executive Order 12866 and Regulatory Flexibility Act

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

In accordance with 5 U.S.C. 603, we have performed an Initial Regulatory Flexibility Analysis, which is set out below, regarding the impact of this proposed rule on small entities. However, we do not currently have all the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments. In particular, we are interested in determining: (1) The quantity of specialty dry-cured hams produced domestically; (2) the quantity of potential imports; and (3) the degree to which imported presliced and prepackaged dry-cured pork products would displace existing imported or domestic products.

This proposed rule would amend the regulations regarding importation of dry-cured pork products from countries where certain diseases of concern exist, by providing that certain sliced and packaged products may be imported into the United States under specified conditions. We have prohibited the importation of sliced and packaged dry-cured hams, pork shoulders, and pork loins because of the difficulty in verifying the origin of sliced and packaged meat and in determining how the meat has been processed. This proposal would establish inspections, recordkeeping, and labeling requirements that would allow verification of the meat's origin, treatment, and handling. We believe this action would relieve some restrictions on the importation of dry-cured pork into the United States without presenting a significant risk of introducing any serious communicable diseases of animals.

The dry-cured pork products covered by the proposed rule are specialty products, such as Parma hams from Italy. These products are similar to other dry-cured pork products consumed in the United States, some imported from other countries and some produced domestically. Currently, only whole dry-cured pork hams, pork shoulders, and pork loins are being imported into the United States. Slightly less than 3 million pounds of such whole products were imported in 1995, the most recent year for which figures are available. Presliced and prepackaged dry-cured pork products are not being imported into the United States at this time.

We estimate that fewer than 15 domestic companies produce dry-cured pork products similar to those covered by this proposed rule as a primary or major product line. At least two of these companies are very large, and these types of products constitute only a small fraction of their overall business. Of the others, four are subsidiaries of Italian or Swiss companies.

There are also a number of other producers of cured and smoked hams who may produce similar products. If they do, adopting the proposed rule could affect them. In addition, there are approximately 10 domestic establishments that buy cured hams and trim and dress them for resale. Some of the resulting products might be similar to the presliced and prepackaged products covered by this proposed rule. If so, these businesses could also be affected if the proposed rule is adopted.

This proposed rule contains various recordkeeping and reporting requirements. These requirements are described in this document under the heading **''PAPERWORK REDUCTION ACT.''**

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 96–066–1. Please send a copy of your comments to: (1) Docket No. 96–066–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This rule would require that, to be eligible for importation into the United States, presliced and prepackaged dry-cured pork hams, pork shoulders, and pork loins from countries where rinderpest, foot-and-mouth disease, African swine fever, hog cholera, or swine vesicular disease exists, must be processed and sliced and packaged in the country of origin under specific conditions. This rule would also introduce various information collection requirements to enable us to accurately assess whether products presented for importation comply with all applicable regulations. We are soliciting comments from the public concerning our proposed information collection and recordkeeping requirements. We need this outside input to help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's

functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected;

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.083 hours per response.

Respondents: Government veterinarians, consortium representatives, slicing/packaging facility personnel.

Estimated number of respondents: 6.

Estimated number of responses per respondent: 76.

Estimated total annual burden on respondents: 38 hours.

Copies of this information collection can be obtained from: Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250.

Regulatory Reform

This action is part of the President's Regulatory Reform Initiative, which directs agencies to remove obsolete and unnecessary regulations and to find less burdensome ways to achieve regulatory goals.

List of Subjects in 9 CFR part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, 9 CFR part 94 would be amended as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS.

1. The authority citation for part 94 would continue to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, and 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.2(d).

2. Section 94.17 would be amended as follows:

a. The introductory text would be revised to read as set forth below.

b. In paragraph (d), by adding the word ''whole'' immediately before the word ''ham,''.

c. In paragraph (e), by adding the word ''whole'' immediately after the words ''was processed''; and in footnote 1, by removing the words ''9 CFR part 301, *et seq.*'' and adding the words ''9 CFR, Chapter III'' in their place.

d. In paragraph (f), by adding the word ''whole'' immediately after the words ''was processed''.

e. In paragraph (g), by adding the word ''whole'' immediately after the words ''was processed'', and by removing the words ''within 12 months''.

f. In paragraph (h), and in the introductory text of paragraph (i), by adding the word ''whole'' immediately after the words ''was processed''.

g. In paragraphs (j)(1), (j)(2), (j)(3), (k), (l), and (n), by adding the word ''whole'' immediately after the first word ''The'' in each paragraph.

h. In paragraph (j)(2), by adding the word ''whole'' immediately before the words ''dry-cured pork shoulder''.

i. In paragraph (n), by removing the words ''trust fund agreement'' and adding the words ''cooperative service agreement'' in its place each time it appears.

j. A new paragraph (p) would be added to read as set forth below.

§ 94.17 Dry-cured pork products from countries where foot-and-mouth disease, rinderpest, African swine fever, hog cholera, or swine vesicular disease exists.

Notwithstanding any other provisions in this part, dry-cured ham, pork shoulder, or pork loin, whether whole or sliced and packaged, shall not be prohibited from being imported into the United States if it meets the following conditions:

* * * * *

(p) Whole hams, pork shoulders, and pork loins that have been dry-cured in accordance with paragraph (i) of this section may be transported to a facility in the same country for slicing and packaging in accordance with this paragraph; *provided that,* if the country is divided into two or more regions for disease classification with respect to foot-and-mouth disease, rinderpest, African swine fever, hog cholera, or swine vesicular disease, the slicing/packaging facility must be in the same region of the country as the dry-curing facility.

(1) *The slicing/packaging facility.* (i) The slicing/packaging facility [2] must be inspected, prior to slicing and packaging any hams, pork shoulders, or pork loins in accordance with this paragraph, by an APHIS representative and determined by the Administrator to be capable of meeting the provisions of this paragraph.

(ii) The slicing/packaging facility must be in a separate building, physically detached from the facility where the whole ham, pork shoulder, or pork loin was dry-cured in accordance with paragraph (i) of this section.

(iii) The slicing/packaging facility, including all equipment used to handle pork and pork products, such as containers, work surfaces, slicing machines, and packaging equipment, must be cleaned and disinfected after sliced and packaged pork products that are not eligible for export to the United States leave the facility, and before whole dry-cured hams, pork shoulders, or pork intended for importation into the United States enter the facility for slicing and packaging. Cleaning and disinfecting must be adequate to ensure that disease agents of concern are killed or inactivated, and that pork products intended for importation into the United States are not contaminated.

(iv) The slicing/packaging facility must maintain under lock and key for a minimum of 2 years, original records on each lot of whole dry-cured hams, pork shoulders, and pork loins entering the facility for slicing and packaging under this section, including:

(A) The approval number of the facility where the whole ham, shoulder, or loin was dry-cured in accordance with paragraph (i) of this section;

(B) The date the whole ham, shoulder, or loin started dry-curing;

(C) The date the whole ham, shoulder, or loin completed dry-curing;

(D) The date the whole ham, shoulder, or loin was sliced and packaged; and

(E) A copy of all certifications required under paragraph (p) of this section.

(v) Access to records required to be maintained under paragraph (p) of this section must be restricted to officials of the national government of the country of origin, representatives of the United States Government, and persons maintaining the records.

(vi) The operator of the slicing/packaging facility must have signed a cooperative service agreement with APHIS prior to receipt of the whole dry-cured hams, pork shoulders, or pork loins for slicing and packaging, stating that all hams, pork shoulders, or pork

[2] See footnote 1 in § 94.17(e).

loins sliced and packaged at the facility for importation into the United States will be sliced and packaged only in accordance with this section.

(vii) The operator of the slicing/packaging facility must be current, in accordance with the terms of the cooperative service agreement signed with APHIS, in paying all costs for an APHIS representative to inspect the establishment, including travel, salary, subsistence, administrative overhead, and other incidental expenses.

(viii) The slicing/packaging facility must allow the unannounced entry into the establishment of APHIS representatives, or other persons authorized by the Administrator, for the purpose of inspecting the establishment and records of the establishment.

(ix) Workers at the slicing/packaging facility who handle pork or pork products in the facility must shower and put on a full set of clean clothes, or wait 24 hours after handling pork or pork products that are not eligible for importation into the United States, before handling dry-cured hams, pork shoulders, or pork loins in the slicing/packaging facility that are intended for importation into the United States.

(x) Pork products intended for importation into the United States may not be in the slicing/packaging facility at the same time as pork products not intended for exportation to the United States.

(2) *Slicing and packaging and labeling procedures.*

(i) A full-time salaried veterinarian employed by the national government of the country of origin must inspect each lot of whole dry-cured hams, pork shoulders, and pork loins at the slicing/packaging facility, before slicing is begun, and must certify in English that it is eligible for importation into the United States in accordance with this section; and

(ii) Either a full-time salaried veterinarian employed by the national government of the country of origin, or, if the national government of the country of origin recognizes a local consortium as responsible for product quality, a representative of that local consortium, must certify in English that he or she personally supervised the entire process of slicing and packaging each lot of dry-cured hams, pork shoulders, and pork loins at the slicing/packaging facility; that each lot of dry-cured hams, pork shoulders, and pork loins was sliced and packaged in accordance with the requirements of this paragraph; and that the sliced and packaged pork ham, shoulder, or loin is the same dry-cured ham, pork shoulder, or pork loin certified under paragraph (p)(2)(i).

(iii) The sliced and packaged dry-cured pork ham, pork shoulder, or pork loin must be labeled with the date that processing of the meat under paragraph (i) of this section began, and with the date the meat was sliced and packaged.

(Approved by the Office of Management and Budget under control number 0579–0015)

Done in Washington, DC, this 8th day of April 1997.

Donald W. Luchsinger,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–9573 Filed 4–11–97; 8:45 am]

BILLING CODE 3410–34–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 361

RIN 3064–AB95

Minority and Women Outreach Program—Contracting; and Individuals With Disabilities Outreach Program

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The FDIC proposes for public comment amendments to its regulations to provide that the FDIC certify the eligibility of businesses and law firms for the minority and women's contracting program. The formal certification procedure, similar to what the former Resolution Trust Corporation had in place, would replace the current self-certification of minority and women owned businesses and law firms. This amendment will also establish an outreach program for individuals with disabilities.

DATES: Comments must be submitted on or before June 13, 1997.

ADDRESSES: Send written comments to Jerry L. Langley, Executive Secretary, FDIC, 550 17th Street, NW., Washington, DC 20429. Comments may be hand-delivered to Room 400, 1776 F Street, NW., Washington, DC 20429 on business days between 8:30 a.m. and 5:00 p.m. [FAX number: (202)898–3838; Internet: comments@fdic.gov]. Comments will be available for inspection and photocopying at the FDIC's Reading Room, room 7118, 550 17th Street, NW., Washington, DC 20429, between 9:00 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Mary A. Terrell, Associate Director, Office of Diversity and Economic Opportunity, (202) 416–4322; Pamela H. Peters, Senior Attorney, Office of Diversity and Economic Opportunity, (202) 416–4325; or Gladys Gallagher, Counsel, Legal Division, (202) 898–3833.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Consistent with this proposed rule, the FDIC proposes to modify a collection of information already approved by the Office of Management and Budget (OMB), ''Forms Relating to FDIC Outside Counsel Services Contracting,'' OMB Clearance No. 3064–0122, by adding a new form, ''Minority and Women-Owned Law Firm Certification Form'' and a supporting documentation requirement. This collection of information revision has been submitted to OMB for review and approval pursuant to the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*). Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments should be addressed to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer Alexander Hunt, New Executive Office Building, Room 3208, Washington, DC 20503, with copies of such documents sent to Steven F. Hanft, Assistant Executive Secretary (Regulatory Analysis), FDIC, Room F–400, 550 17th Street, NW., Washington, DC 20429. 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 FDIC on the proposed regulation. A copy of a draft Minority and Women-Owned Law Firm Certification Form may be obtained, free of charge, by contacting Mary A. Terrell, at the address identified above.

The regulatory basis for the Minority and Women-Owned Law Firm

Certification Form is found in § 361.7(a)(2) of this proposed rule. A law firm that desires to be designated as a minority and/or women-owned law firm will be required to complete the certification and submit it to the FDIC's Office of Diversity and Economic Opportunity. In addition, such a law firm will be required to submit documentation supporting its minority or women-owned status. The information collected will be used by the FDIC as part of the certification process for law firms wishing to participate in the FDIC's minority and women-owned law firms outreach program.

The estimated annual reporting burden for the collection of information requirement in this rule is summarized as follows:

Number of Respondents: 400.

Number of Responses per Respondent: 1.

Frequency of Response: Once every two years.

Total Annual Responses: 200

Hours per Response: ½ hour for the certification form and 1½ hours to obtain the supporting documents.

Total Annual Burden Hours: 400

As noted above, this PRA notice and request for comment pertains to an already approved collection of information, ''Forms Relating to FDIC Outside Counsel Services Contracting'', OMB Clearance No. 3063–0122. On January 10, 1997, the FDIC published a notice and request for comment in 62 FR 1455 proposing a different change to the same collection of information. The earlier notice pertained to the addition to the collection of information of a Form 1600/05 and a Form 5200/01 in which law firms, their employees, agents and subcontractors who provide services for the FDIC make representations and certifications regarding their integrity, fitness and conflicts of interest required by 12 CFR Part 366 and authorize the release of information about themselves for verification purposes. The determination to be made pursuant to the Minority and Women-Owned Law Firm Certification Form for which the FDIC is currently requesting comment is unrelated to the determination to be made pursuant to Forms 1600/05 and 5200/01 for which the earlier comment was sought.

It is noted that in another collection of information already approved by OMB, ''Acquisition Services Information Requirements'', OMB Control No. 364–0072, the FDIC requests information about minority and women-owned status of businesses that provide the FDIC services other than legal services. No changes are being proposed in that collection at this time.

Regulatory Flexibility Act

The Board of Directors hereby certifies that the proposed regulation does not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This proposed regulation affects only those business and legal contractors who wish to provide services to the FDIC under its minority- and women-owned businesses contracting program.

The proposed formal certification program will require businesses and law firms who wish to participate in the program to complete an application and submit those documents and records which they maintain during the normal course of business. Such efforts will not require trained personnel or special equipment and should not have significant economic impact on participating businesses and law firms. Therefore, the provisions of the Act relating to an initial and final regulatory analysis (5 U.S.C. 603 and 604) do not apply here.

Background

1. Certification of Minority- and Women-Owned Businesses and Law Firms

Section 1216(c) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Pub. L. 101–73, 103 Stat. 183, required that the Federal Deposit Insurance Corporation (FDIC) and the Resolution Trust Corporation (RTC) prescribe regulations to establish and oversee a minority outreach program to ensure inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, including financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts entered into by the agency. According to FIRREA, minorities are defined as Asian American, Black American, Hispanic American and Native American.

The FDIC's Minority and Women Outreach Program-Contracting policy was published in the **Federal Register** at 57 FR 15004 on April 24, 1992. The FDIC currently requires businesses and law firms to either ''self-certify'' their minority or women ownership status, or submit a valid minority- and women-owned business (MWOB) certification received from a federal agency, designated state or authorized local agency. Based on this ''self-certification'' of their ownership status, MWOBs and MWOLFs have the opportunity to participate in the FDIC's minority and women contracting program.

On October 27, 1995, pursuant to the requirements of section 6 of the RTC Completion Act, Pub. L. 103–204 (December 17, 1993), the FDIC/RTC Transition Task Force (Transition Task Force) examined and presented Best Practices and Management Reform Recommendations (Best Practice Recommendations) on the operational differences and RTC management reforms related to minority and women's programs. The Transition Task Force examined the FDIC's and the RTC's certification process for MWOBs and MWOLFs, and recommended that the FDIC adopt a MWOB/MWOLF certification program similar to the RTC's which included a detailed document review and, when appropriate, on-site visits to verify a firm's MWOB/MWOLF status.

By replacing the ''self-certification'' program with a formal program, the FDIC is exercising its discretion and taking the necessary action to ensure that the minority and women contracting program benefits those for whom it has been designed.

The proposed amendment to the existing regulation is broad by design and is intended to announce that the FDIC has adopted a formal certification program. Detailed certification procedures will be incorporated into an FDIC directive that will further delineate the functions of various divisions and offices in the certification process. These procedures will require that MWOBs and MWOLFs complete the required business or legal registration/application package. MWOBs and MWOLFs will also be required to submit documentation, including but not limited to, articles of incorporation, bylaws, partnership and/or joint venture agreements, organizational charts, and lists of boards of directors showing minority and women ownership designations, to the ODEO.

In lieu of the accompanying documents, MWOBs and MWOLFs may submit current formal certifications from other federal agencies. However, the FDIC shall at all times reserve the right to request any information that is deemed necessary to certify the status of a firm.

Upon receipt of these documents, the ODEO will review the documents submitted. When appropriate, the ODEO may conduct on-site verifications based upon a contract award, legal engagement, or accumulated fees of

$50,000 or greater. Finally, the certification process and directive will also include an appeals process for those firms who have been denied MWOB/MWOLF status.

All businesses that have ''self-certified'' their MWOB status shall submit the required certification documents prior to responding to Requests for Proposals or during the contracting process. Law firms that have previously ''self-certified'' their MWOLF status shall submit the required certification documents at the time they apply for, or renew, their FDIC Legal Services Agreement. Certification for law firms and businesses will remain valid for a two-year period.

The establishment of the MWOB and MWOLF certification program will help foster and preserve the integrity of the FDIC's business and legal contracting activities. Additionally, the formal certification program will also serve to discourage fraudulent representations by businesses and law firms seeking to provide goods or services, or enter into contracts to provide goods or services, including legal services, to the FDIC in all of its capacities. The FDIC invites comment on whether the proposed rule, or some other alterative, would better achieve these objectives.

2. Individuals With Disabilities Outreach Program

Under section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (RCDRIA), 12 U.S.C. 4803, each federal banking agency is required to streamline and modify its regulations and policies in order to improve efficiency, reduce unnecessary costs, remove inconsistencies and outmoded and duplicative requirements, and to work jointly with other federal banking agencies to make uniform all regulations implementing common statutory or supervisory policies.

In response to the RCDRIA, the FDIC and the other federal banking agencies are working to ensure that the regulations mandated by FIRREA concerning minority and women outreach programs are uniform and consistent. The Office of Thrift Supervision (OTS) and the Office of the Comptroller of the Currency (OCC) have established outreach components to their contracting programs that include individuals with disabilities. The FDIC believes that establishing an outreach program for firms owned by individuals with disabilities complies with applicable law and also satisfies the RCDRIA uniformity requirements even though the FDIC outreach program for firms owned by individuals with disabilities is not identical to those established by the OTS and OCC.

This subpart does not treat individuals with disabilities as minorities, since FIRREA defines minorities as Asian American, Black American, Hispanic American, and Native American. However, the FDIC has authority pursuant to Section 9 (Third) of the Federal Deposit Insurance Act to establish an outreach program for firms owned and controlled by individuals with disabilities. The outreach program for individuals with disabilities is set forth in subpart B of part 361.

List of Subjects in 12 CFR Part 361

Government contracts, Individuals with disabilities, Lawyers, Legal services, Minority businesses, Reporting and recordkeeping requirements, Women.

For the reasons set out in the preamble, the Board of Directors of the Federal Deposit Insurance Corporation proposes to amend part 361 of chapter III of title 12 of the Code of Federal Regulations as follows:

PART 361—MINORITY AND WOMEN OUTREACH PROGRAM-CONTRACTING AND INDIVIDUALS WITH DISABILITIES OUTREACH PROGRAM

1. Part 361 is amended by revising the part heading as set forth above.

2. The authority citation for part 361 is removed.

2a. Part 361 is amended by designating §§ 361.1 through 361.11 as subpart A and adding the subpart heading to read as follows:

Subpart A—Minority and Women Outreach Program—Contracting

3. The authority citation for subpart A is added to read as follows:

Authority: 12 U.S.C. 1833e.

4. Section 361.7 is revised to read as follows:

§ 361.7 Minority and women owned business (MWOB) and minority and women owned law firms (MWOLF) certification.

(a)(1) Each firm requesting minority and/or women-owned business or law firm (MWOB/MWOLF) status must undergo a formal certification process to be determined and conducted by the FDIC.

(2) Each firm requesting designation as a minority and/or women-owned business or law firm must submit an application and requested certification documents, in accordance with procedures established by the FDIC, which demonstrates that the firm meets the criteria established in § 361.3(a). Upon receipt of a completed application, the FDIC will determine the eligibility of the firm for MWOB/MWOLF status.

(3) In lieu of the certification documents requested in paragraph (a)(2) of this section, the FDIC may accept a current federal agency's certification of a firm as a MWOB/MWOLF. However, the FDIC shall at all times reserve the right to request any information necessary to certify the status of a firm.

(b) All matters relating to MWOB/MWOLF status will be addressed by the FDIC Office of Diversity and Economic Opportunity, located at 801 17th Street, N.W., Washington, D.C. 20434.

5. A new subpart B, consisting of § 361.20, is added to part 361 to read as follows:

Subpart B—Individuals With Disabilities Outreach Program

Sec.
361.20 Outreach program for individuals with disabilities.

Subpart B—Individuals With Disabilities Outreach Program

Authority: 12 U.S.C. 1819(Tenth).

§ 361.20 Outreach program for individuals with disabilities.

(a) Purpose. This program has been established to ensure that persons with disabilities and firms owned by persons with disabilities are afforded the opportunity to participate in the FDIC's outreach activities. For purposes of this subpart, ''outreach'' shall mean those information and training activities designed to make firms aware of the FDIC's contracting opportunities.

(b) *Definition of individual with disabilities.* In administering this subpart, the FDIC may, in its sole discretion, use the definition of the term *individual with a disability* as found in the Rehabilitation Act of 1973, 29 U.S.C. 701 et seq., for outreach purposes. The FDIC is not subject to the Rehabilitation Act and its amendments, and merely looks to this definition in the Rehabilitation Act, because the definition is commonly understood and applied.

(c) *Outreach activities.* The outreach activities that the FDIC may undertake under this subpart include:

(1) The identification of business entities owned by individuals with disabilities who can provide goods and services to the FDIC;

(2) Distribution of information concerning third party contracting

opportunities directly and through trade associations representing business entities owned by individuals with disabilities;

(3) Participation in conventions, seminars and professional meetings attended predominately by individuals with disabilities; and

(4) Conducting seminars, meetings, workshops and other various activities to promote the inclusion of individuals with disabilities and the firms they own.

By Order of the Board of Directors.

Dated at Washington, D.C. this 25th day of March, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 97–9585 Filed 4–11–97; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–CE–46–AD]

RIN 2120–AA64

Airworthiness Directives; Jetstream Aircraft Limited Jetstream Models 3101 and 3201 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Jetstream Aircraft Limited (JAL) Jetstream Models 3101 and 3201 airplanes that have kit JK 2496 and modification JM 7537 installed. The proposed action would require installing magnetic latching relays on the ignition system. Reports of the auto-ignition system becoming disabled when switching from ground power to the airplane's internal power prompted the proposed action. The actions specified by the proposed AD are intended to prevent loss of the airplane's internal power connection to the auto-ignition system, which could cause loss of engine power and possible loss of the airplane.

DATES: Comments must be received on or before June 13, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92–CE–46–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Jetstream Aircraft Limited, Prestwick Airport, Ayrshire, KA9 2RW, Scotland; telephone (0292) 79888; facsimile (0292) 79703. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Rodriguez, Program Officer, Brussels Aircraft Certification Division, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium; telephone (322) 508.2715; facsimile (322) 230.6899.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 92–CE–46–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92–CE–46–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Events Leading to the Proposed Action

The Civil Airworthiness Authority (CAA), which is the airworthiness authority for the United Kingdom (UK), recently notified the FAA that an unsafe condition may exist on certain JAL Jetstream Models 3101 and 3201 airplanes, serial numbers 693 through 870, that have kit JK 2496 and modification JM 7537 installed. The CAA reports that the auto-ignition arming relays are disarming when the battery master switch is moved from ground power (GND) to off (OFF) to internal power (INT). These conditions, if not detected, could result in interruption of power supply to the auto-ignition system, disabling the re-start of the engine, leading to loss of power.

Related Service Information

JAL has issued Jetstream Service Bulletin No. 74–JM 7693A, Original Issue dated May 17, 1990; Revision No. 3 dated January 28, 1993, which specifies procedures for installing magnetic latching relays in the airplane's ignition system.

The CAA classified this service bulletin as mandatory in order to ensure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Determination

These airplane models are manufactured in the United Kingdom and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above.

The FAA has examined the findings of the CAA, reviewed all available information, including the service information referenced above; and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop in other JAL Jetstream Models 3101 and 3201 airplanes of the same type design that have kit JK 2496 and Modification JM 7537 installed, registered in the United States, the proposed AD would require installing magnetically latching relays with wiring changes. Accomplishment of the proposed installation would be in accordance with Jetstream Service Bulletin No. 74–JM 7693A, Original Issue dated May 17, 1990; Revision No. 3 dated January 28, 1993.

Cost Impact

The FAA estimates that 126 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 9 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. The manufacturer is providing the parts at no charge. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $68,040 or $540 per airplane.

Jetstream has informed the FAA it has received approximately 78 orders for the parts to accomplish the proposed action. If each set of parts is installed on an affected airplane the estimated cost to the owners/operators in the U.S. would be reduced from $68,040 to $25,920.

Regulatory Impact

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

For the reasons discussed above, I certify that this 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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Jetstream Aircraft Limited: Docket No. 92–CE–46–AD.

Applicability: Models 3101 and 3201 airplanes (serial numbers 693 through 870) that have kit JK 2496 and modification JM 7537 installed, certificated in any category.

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

Compliance: Required within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent loss of the airplane's internal power connection to the auto-ignition system, which could cause loss of engine power and possible loss of the airplane, accomplish the following:

(a) Install magnetically latching relays with wiring changes (quantity 2) in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of the Jetstream Service Bulletin (SB) No. 74–JM 7693A, Original Issue dated May 17, 1990; Revision 3, dated January 28, 1993.

(b) 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.

(c) An alternative method of compliance or adjustment of the compliance time 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.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to Jetstream Aircraft Limited, Prestwick Airport, Ayrshire, KA9 2RW, Scotland; telephone (0292) 79888; facsimile (0292) 79703; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri on April 7, 1997.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–9452 Filed 4–11–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–13–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747–400 series airplanes. This proposal would require replacing the cam assembly, cam bellcrank assembly, and thrust reverser control switch actuator on all four thrust levers with new components. This proposal is prompted by a report of an uncommanded automatic retraction of the leading edge flaps during takeoff. The actions specified by the proposed AD are intended to prevent such uncommanded automatic retraction, which could seriously degrade liftoff and climb capabilities, and result in near-stall conditions at a critical phase of the flight.

DATES: Comments must be received by May 22, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–13–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this

location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from 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.

FOR FURTHER INFORMATION CONTACT: Frank van Leynseele, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–2671; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–13–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–13–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA received a report indicating that an operator of a Boeing Model 747–400 series airplane aborted takeoff because of uncommanded automatic retraction of the leading edge flaps. When the throttles were advanced during takeoff, the reverse thrust levers were moved upward as they came into contact with objects placed on the central console. This movement was sufficient to activate the mechanical interlock in the reverse thrust levers, which resulted in an uncommanded automatic retraction of the Group A leading edge flaps while the airplane was on the takeoff roll. Such uncommanded automatic retraction, if not corrected, could seriously degrade liftoff and climb capabilities, and result in near-stall conditions at a critical phase of the flight.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–27A2356, dated December 5, 1996, which describes procedures for replacing the cam assembly, cam bellcrank assembly, and thrust reverser control switch actuator on all four thrust levers with new components. Accomplishment of the replacements will preclude uncommanded automatic retraction of the leading edge flaps during takeoff.

The alert service bulletin also describes procedures for operational tests of the thrust reverser, automatic throttle disconnect/reset and go-around switches, and Group A leading edge flaps during reverse thrust operation. These tests are conducted to ensure that the thrust reverser system operates properly.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require replacing the cam assembly, cam bellcrank assembly, and thrust reverser control switch actuator on all four thrust levers with new components. The actions would be required to be accomplished in accordance with the alert service bulletin described previously.

Differences Between Proposed Rule and Alert Service Bulletin

Operators should note that, although the alert service bulletin recommends accomplishing the replacements ''as soon as manpower and facilities are available,'' the FAA has determined that the proposed replacements should be accomplished within 18 months after the effective date of this AD. In developing an appropriate compliance time for this proposed AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the replacements (8 work hours). In light of all these factors, the FAA finds an 18-month compliance time for initiating the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

Cost Impact

There are approximately 394 Boeing Model 747–400 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 35 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 8 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost between $3,412 and $4,740 per airplane. Based on these figures, the cost impact of the proposed AD is estimated to be between $136,220 and $182,700, or between $3,892 and $5,220 per airplane.

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

Regulatory Impact

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

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

A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§39.13 [Amended]

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

Boeing: Docket 97–NM–13–AD.

Applicability: Model 747–400 series airplanes, line positions 696 through 1090 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent uncommanded automatic retraction of the leading edge flaps during takeoff, which would seriously degrade liftoff and climb capabilities, and could result in near-stall conditions, accomplish the following:

(a) Within 18 months after the effective date of this AD, accomplish the requirements of paragraph (a)(1) or (a)(2) of this AD, as applicable, in accordance with Boeing Alert Service Bulletin 747–27A2356, dated December 5, 1996.

(1) For Groups 1 and 2 airplanes, as listed in the alert service bulletin: Replace the cam assembly, cam bellcrank assembly, and thrust reverser control switch actuator on all four thrust levers with new components.

(2) For Groups 3 and 4 airplanes, as listed in the alert service bulletin: Replace the cam bellcrank assembly and thrust reverser control switch actuator on all four thrust levers with new components.

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

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

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

Issued in Renton, Washington, on April 7, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–9453 Filed 4–11–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASO–7]

Proposed Amendment of Class D Airspace; Miami Opa Locka Airport, FL and Hollywood, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class D airspace areas at Miami Opa Locka Airport, FL and Hollywood, FL. As a result of a recent airspace review of the Class D airspace areas at both locations, it was determined that additional controlled airspace extending upward from the surface is needed to accommodate instrument flight rules (IFR) operations at the Opa Locka and North Perry Airports.

DATES: Comments must be received on or before May 30, 1997.

ADDRESSES: Send comments on the proposals in triplicate to: Federal Aviation Administration, Docket No. 97–ASO–7, Manager, Operations Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT:

Benny L. McGlamery, Operations Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; Telephone (404)305–5570.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comment that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–ASO–7.'' The postcard will be date/time stamped and returned to the commenters. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Operations Branch, ASO–530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Class D airspace areas at Miami Opa Locka Airport, FL and Hollywood, FL. As a result of a recent airspace review of the Class D airspace areas at both locations, it was determined that additional controlled airspace extending upward from the surface is needed to accommodate IFR operations at the Opa Locka and North Perry Airports. Class D airspace designations are published in Paragraph 5000 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 D airspace designations listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 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 5000 Class D airspace.

* * * * *

ASO FL D Miami, Opa Locka Airport, FL [Revised]

Miami, Opa Locka Airport, FL
(lat. 25°54′26″ N, long. 80°16′48″ W)
North Perry Airport
(lat. 26°00′05″ N, long. 80°14′26″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.3-mile radius of Opa Locka Airport excluding that airspace south of 25°52′03″ N, and that portion north of a line connecting the 2 points of intersection with a 4-mile radius centered on the North Perry Airport. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ASO FL D Hollywood, FL [Revised]

Hollywood, North Perry Airport, FL
(lat. 26°00′05″N, long. 80°14′26″W)
Opa Locka Airport
(lat. 25°54′26″N, long. 80°16′48″W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4-mile radius of the North Perry Airport; excluding the portion north of the north boundary of the Miami, FL, Class B airspace area and that portion south of a line connecting the 2 points of intersection with a 4.3-mile circle centered on the Opa Locka Airport. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on April 3, 1997.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 97–9564 Filed 4–11–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AWP–15]

Proposed Revision of Class D and Class E Airspace; Los Angeles, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise Class D and Class E airspace areas at Los Angeles, CA. This action is a modification of the surface areas for the Los Angeles Hawthorne Municipal Airport, CA. A review of airspace classification and air traffic procedures has made this action necessary. The intended effect of this proposal is to reduce the complexity of the air traffic procedures and reduce the number of facilities controlling traffic within this area.

DATES: Comments must be received on or before May 31, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Operations Branch, AWP–530, Docket No. 97–AWP–15, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California, 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California, 90261.

An informal docket may also be examined during normal business at the Office of the Manager, Operations Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: William Buck, Airspace Specialist, Operations Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725–6556.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with the comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–AWP–15.'' The postcard will be date/time stamped and returned to the commenter. All communications

received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Operations Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Operations Branch, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise Class D and Class E airspace areas at Los Angeles Hawthorne Municipal Airport, CA. During airspace reclassification, the Hawthorne Airport Traffic Area (ATA) and the Los Angeles ATA were combined to form the Hawthorne Class D airspace. A review of airspace classification and air traffic procedures has made this action necessary. The intended effect of this proposal is to reduce the complexity of the air traffic procedures and reduce the number of facilities controlling traffic within this area. Class D airspace areas extending upward from the surface are published in Paragraph 5000 and Class E airspace designations for airspace areas designated as an extension to a Class D or Class E surface area are published in Paragraph 6004 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 D and Class E airspace designation listed in this document would be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(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 10034; 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 proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the 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 5000 Class D airspace.

* * * * *

AWP CA D Los Angeles, CA [Revised]

Jack Northrop Field/Hawthorne Municipal Airport, CA
(lat. 33°55′22″ N, long. 118°20′07″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 2.6-mile radius of the Jack Northrop Field/Hawthorne Municipal Airport and that airspace within the area bounded by lat. 33°53′19″ N., long. 118°22′03″ W.; to lat. 33°53′19″ N., long. 118°23′23″ W.; to lat. 33°55′59″ N., long. 118°25′55″ W.; to lat. 33°56′07″ N., long. 118°23′06″ W.; thence counterclockwise along the 2.6-mile radius of the Jack Northrop Field/Hawthorne Municipal Airport to lat. 33°53′19″ N., long. 118°22′03″ W.; and that airspace within the area bounded by lat. 33°57′16″ N., long. 118°17′58″ W., to lat. 33°57′22″ N., long. 118°15′33″ W.; to lat. 33°53′46″ N., long. 118°15′36″ W.; to lat. 33°53′16″ N., long. 118°15′40″ W., to lat. 33°53′28″ N., long. 118°17′58″ W.; thence counterclockwise along the 2.6-mile radius of the Jack Northrop Field/Hawthorne Municipal Airport to lat. 33°57′16″ N., long. 118°17′58″ W. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004 Class E airspace areas designated as an extension to a Class D or Class E surface area.

* * * * *

AWP CA E4 Los Angeles, CA [Revised]

Jack Northrop Field/Hawthorne Municipal Airport, CA
(lat. 33°55′22″ N, long. 118°20′07″ W)

That airspace extending upward from the surface beginning at lat. 33°57′22″ N., long. 118°15′33″ W.; to lat. 33°53′46″ N., long. 118°15′36″ W.; to lat. 33°53′54″ N., long. 118°12′26″ W.; to lat. 33°57′30″ N., long. 118°12′40″ W.; thence to the point of beginning. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Los Angeles, California, on March 28, 1997.

George D. Williams,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 97–9413 Filed 4–11–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASO–5]

Proposed Amendment to Class E Airspace; Titusville, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Titusville, FL. GPS RWY 15 and RWY 33 Standard Instrument Approach Procedures (SIAPs) have been developed for Arthur Dunn Air Park. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for IFR operations at the airport. The operating status of the airport will change from VFR to include IFR operations concurrent net with the publication of the SIAP.

DATES: Comments must be received on or before May 30, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal

Aviation Administration, Docket No. 97–ASO–5, Manager, Operations Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Benny L. McGlamery, Operations Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing seasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–ASO–5.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Operations Branch, ASO–530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Class E airspace area at Titusville, FL. GPS RWY 15 and RWY 33 SIAPs have been developed for Arthur Dunn Air Park. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for IFR operations at the airport. The operating status of the airport will change from VFR to include IFR operations concurrent with the publication of the SIAP. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface 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 would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

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

* * * * *

ASO FL E5 Titusville, FL [Revised]

Titusville, Space Center Executive Airport, FL
(lat. 28°30′50″ N, long. 80°47′58″ W)
NASA Shuttle Landing Facility
(lat. 28°36′54″ N, long. 80°41′40″ W)
Arthur Dunn Air Park
(lat. 28°37′21″ N, long. 80°50′11″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Space Center Executive Airport and within a 7.2-mile radius of NASA Shuttle Landing Facility and within a 6.3-mile radius of Arthur Dunn Air Park.

* * * * *

Issued in College Park, Georgia, on April 3, 1997.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 97–9563 Filed 4–11–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASO–4]

Proposed Amendment to Class E Airspace; Macon, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Macon, GA. Several Standard Instrument Approach Procedures (SIAPs) for Middle Georgia Regional Airport and Perry-Houston County Airport have been amended. As a result additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate these SIAPs and for IFR operations at the airports.

DATES: Comments must be received on or before May 30, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 97–ASO–4, Manager, Operations Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT:

Benny L. McGlamery, Operations Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5570.

SUPPLEMENTARY INFORMATION

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–ASO–4.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive pubic contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation administration, Manager, Operations Branch, ASO–530, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Class E airspace area at Macon, GA. Several SIAPs for Middle Georgia Regional Airport and Perry-Houston County Airport have been amended. As a result Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate these SIAPs and for IFR operations at the airports. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface 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 would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 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 extending upward from 700 feet above the surface of the earth.

* * * * *

ASO GA E5 Macon, GA [Revised]

Macon, Middle Georgia Regional Airport, GA
(lat. 32°41′35″ N, long. 83°38′58″ W)
Herbert Smart Downtown Airport
(lat. 32°49′22″ N, long. 83°33′44″ W)
Robons AFB
(lat. 32°38′25″ N, long. 83°35′31″ W)
Perry-Houston County Airport
(lat. 32°33′39″ N, long. 83°46′03″ W)
Vienna VORTAC
(lat. 32°12′48″ N, long. 83°29′50″ W)
Sofke NDB
(lat. 32°38′43″ N, long. 83°42′48″ W)
Bay Creek NDB
(lat. 32°27′27″ N, long. 83°45′57″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Herbert Smart Downtown Airport, and within a 7-mile radius of Middle Georgia Regional Airport, and within 2.8 miles each side of the 228° bearing from the Sofke NDB extending from the 7-mile radius 4.4 miles southwest of the NDB, and within a 7-mile radius of Robins AFB, and within a 6.5-mile radius of Perry-Houston County Airport and within 3.5 miles each side of the 178° bearing from the Bay Creek NDB extending from the 6.5-mile radius to 3.7 miles south of the NDB, and within 2.5 miles each side of the Vienna VORTAC 322° radial extending from the 6.5-mile radius to 14 miles northwest of the VORTAC.

* * * * *

Issued in College Park, Georgia, on April 3, 1997.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 97–9562 Filed 4–11–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

Training of Lessee and Contractor Employees Engaged in Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of public workshop.

SUMMARY: This notice announces a public workshop that the Minerals Management Service (MMS) will conduct to acquire information pertinent to a revision of training regulations in Subpart O, Training, of 30 CFR Part 250. The purpose of the workshop is to discuss the possible development of a performance-based training program for OCS oil and gas activities.

DATES: MMS will conduct the public workshop on June 10, 1997, from 8:00 a.m. to 5:30 p.m., at the location listed in the **ADDRESSES** section.

ADDRESSES: MMS will hold the workshop in the Conference Center of the Sheraton Crown Hotel, 15700 John F. Kennedy Boulevard, Houston, Texas 77032. For directions, please call the Sheraton at (281) 442–5100.

FOR FURTHER INFORMATION CONTACT: Wilbon Rhome, Operations Analysis Branch, (703) 787–1587; FAX (703) 787–1555; E-mail: Wilbon.Rhome@MMS.gov.

SUPPLEMENTARY INFORMATION: The goal of this workshop will be to develop useful performance measures or indicators to help MMS evaluate how to develop a comprehensive performance based training program. MMS will be seeking additional information and comments on the following OCS Performance Based Training Program paper:.

OCS Performance Based Training Program

Goal

The goal of a performance based training program will be to develop a procedure which ensures that operator, lessee, and contractor employees are trained in well-control or production safety system operations. This program will focus on training results and not on the process by which employees are trained.

Training

Operators and lessees are responsible for developing procedures to ensure that their workers (including contractors) are properly trained and can demonstrate their proficiency to MMS. Operators and lessees will determine the type of training, teaching methodology (classroom, computer, team, on-the job...), training length and frequency, and the subject matter content of their program.

Performance Measures and Indicators

Appropriate performance measures and indicators will be developed and implemented by MMS for use in evaluating the results of operators' or lessees' training programs. These measures may include the following:

MMS Written Testing

MMS may periodically test operator, lessee, or contract employees. Announced or unannounced tests will be given at a training site, office, or work location.

MMS Simulator and Hands-On Testing

MMS may periodically conduct well control simulator testing or production safety system equipment hands-on testing of operator, lessee, or contract employees. Announced or unannounced tests will be given at a training site, office, or work location.

Audits, Interviews or Cooperative Reviews

MMS representatives may meet with operator or lessee personnel on a periodic basis to ascertain the effectiveness of their training program. These meetings can be either announced or unannounced, and may include an evaluation of company training documents, procedures, or interviews of key personnel.

Incident of Noncompliance (INC), Civil Penalty, and Event Data

MMS may periodically analyze an operator's performance by evaluation INC, civil penalty, and event data. Event data includes information dealing with spills, fires, explosions, blowouts, fatalities, and injuries. This evaluation may analyze this information in relation to the following:

- Number of facilities (platform/rig).
- Production volumes.
- Location.
- Frequency.

Training Implementation Plans

If an analysis of performance measures or indicators reveals problems with an operator or lessee training program, the MMS may require submittal of a training implementation plan. This plan should include a strategy on how an operator or lessee intends to address training deficiencies and procedures on how to improve their training program.

MMS Evaluation of Training Program

If review of the training implementation plan, and performance measures and indicators show an ineffective training program, then appropriate corrective actions will be initiated by the MMS. Corrective actions may include the MMS requiring an operator to adopt specific training procedures or practices.

If you are interested in signing up as a speaker at this workshop, please contact us by May 1, 1997, to discuss your participation.

Registration

The workshop will not have a registration fee. However, to assess the probable number of participants, MMS requests participants to register by contacting Dayle Grover, Operations Analysis Branch at (703) 787–1032 or FAX (703) 787–1555.

Proceedings

Proceedings will be transcribed and copies will be available for purchase. Details for obtaining copies of the proceedings will be available during the workshop.

Dated: April 4, 1997.

William S. Cook,

Acting Chief, Engineering and Operations Division.

[FR Doc. 97–9469 Filed 4–11–97; 8:45 am]

BILLING CODE 4310–MR–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN–176–2–9708b; FRL–5806–6]

Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to the Tennessee SIP Regarding Volatile Organic Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State implementation plan (SIP) revision submitted by the State of Tennessee on June 3, 1996, which contains revisions to the VOC definition in the construction permits chapter, amends the stage II vapor recovery portion of the VOC chapter, and revises a conversion factor contained in the performance standards for continuous emissions monitoring chapter. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule

without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by May 14, 1997.

ADDRESSES: Written comments on this action should be addressed to William Denman at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. Reference file TN176–02–9708. The Region 4 office may have additional background documents not available at the other locations.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303, William Denman, 404/562–9030.

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, L & C Annex, 9th Floor, 401 Church Street, Nashville, Tennessee 37243–1531, 615/532–0554.

FOR FURTHER INFORMATION CONTACT: William Denman 404/562–9030.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: March 25, 1997.

A. Stanley Meiburg,

Acting Regional Administrator.

[FR Doc. 97–9507 Filed 4–11–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 94–2–7235; FRL–5810–7]

Approval and Promulgation of State Implementation Plans; California—South Coast

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision from the State of California demonstrating that the California Low Emission Vehicle (LEV) program qualifies as a substitute for the Clean Air Act Clean-Fuel Vehicle Fleet Program (CAA fleet program). The CAA fleet program provisions require states, in order to opt-out of the fleet program, to submit a substitute program for all or a portion of the program which achieves at least equal long-term emission reductions of ozone-producing and air toxic emissions. EPA is also proposing to approve a SIP revision for the South Coast, establishing a parking cash-out program as a contingency measure. The measure is part of the South Coast plan for attaining the national ambient air quality standards (NAAQS) for carbon monoxide (CO). The intended effect of proposing approval of these rules is to regulate emissions of volatile organic compound (VOC) and CO emissions in accordance with the CAA and regarding EPA actions on SIP submittals.

DATES: EPA requests that comments be received in writing on or before May 14, 1994.

ADDRESSES: Written comments should be submitted (in duplicate, if possible) to: Julia Barrow, Air Planning Office (AIR–2), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the SIP submissions and Technical Support Documentation are available for public inspection at EPA's San Francisco, Region 9 office on weekdays between 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Roxanne Johnson, Air Planning Office (AIR–2), Air Division, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, California, 94105–3901; tel. (415) 744–1225.

SUPPLEMENTARY INFORMATION: EPA proposes to approve two SIP revisions submitted by the State of California: (1) Executive Order G–125–145 supporting the State's opt-out from the Clean Air Act (CAA or Act) Clean-Fuel Fleet Vehicle Program (fleet program), and (2) South Coast Air Quality Management District (SCAQMD) Rule 1504, establishing a parking cash-out program as a contingency measure.

On February 14, 1995, the Administrator signed direct final approval of these two SIP revisions as part of a notice promulgating Federal implementation plans (FIPs) for California. On April 10, 1995, legislation was enacted mandating that these FIPs ''shall be rescinded and shall have no further force and effect'' (Pub. L. 104–6, Defense Supplemental Appropriation, H.R. 889), prior to publication of the FIP and SIP actions in the **Federal Register**. On August 21, 1995 (60 FR 43468), EPA announced the FIP rescission. EPA is in this action reissuing and proposing to approve the California SIP submissions to opt-out from the Federal fleet program and the contingency measure in SCAQMD Rule 1504.

Sections 182(c)(4)(A) and 246 of the Act require certain states, including California, to submit for EPA approval a SIP revision that includes measures to implement the Clean Fuel Fleet Program. Section 182(c)(4)(B) of the Act allows states to ''opt-out'' of the clean-fuel vehicle fleet program by submitting for EPA approval a SIP revision consisting of a program or programs that will result in at least equivalent long term reductions in ozone-producing and toxic air emissions.

On November 13, 1992, the California Air Resources Board (CARB) submitted a request to EPA to opt-out of the CAA fleet program. On November 29, 1993, EPA conditionally approved CARB's opt-out request (58 FR 62532). On November 7, 1994, CARB submitted as a SIP revision Executive Order G–125–145, formally adopting its request to opt-out of the CAA fleet program, and attaching supporting materials demonstrating that the State's LEV program achieves emission reductions at least as large as the CAA fleet program's requirement would have. On January 30, 1995, the revision was found to be complete pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51, Appendix V.[1] EPA now proposes to approve this submittal

[1] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

and remove the condition on the approval of California's opt-out of the CAA fleet program.

On May 13, 1994, the SCAQMD adopted Rule 1504, establishing a parking cash-out program for parking not owned by the employer. On July 8, 1994, Rule 1504 was submitted as a SIP revision to help meet the requirements of section 187(a)(3) of the Act, relating to carbon monoxide (CO) SIP contingency measures. On January 8, 1995, the revision became complete by operation of law.[2]

The rule serves as a contingency measure to be triggered if the South Coast CO SIP's annual estimates of vehicle miles traveled are exceeded or EPA makes a finding, which is required by the CAA, that the South Coast has failed to attain the CO NAAQS by the year 2000.

Regulatory Process

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

SIP approvals under sections 110 and 301(a) and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

Unfunded Mandates

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector or to State, Local, or tribal governments in the aggregate.

Through submission of this SIP or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being proposed for by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, Local, or tribal governments or to the private sector result from this action. EPA has also determined that this proposed action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

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

List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 31, 1997.

Felicia Marcus,

Regional Administrator.

[FR Doc. 97–9581 Filed 4–11–97; 8:45 am]

BILLING CODE 6560–50–P

[2] Section 110(k)(1)(B) provides that SIP revisions that have not been determined by EPA to be incomplete by 6 months after receipt shall on that date be deemed by operation of law to meet the minimum criteria for completeness. EPA's completeness rule is set forth in 40 CFR Part 51, Appendix V, which establishes the minimum criteria that a plan revision must meet before EPA is required to act on the submission.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 247

[SWH–FRL–5810–8]

RIN 2050–AE23

Comprehensive Guideline for Procurement of Products Containing Recovered Materials; Proposal To Designate Ink Jet Cartridges

AGENCY: Environmental Protection Agency.

ACTION: Notice of Data Availability.

SUMMARY: This notice summarizes information submitted in response to the Environmental Protection Agency's November 7, 1996 proposal to designate ink jet cartridges as a procurement item under section 6002 of the Resource Conservation and Recovery Act. Based on this new information, the Agency believes that there is insufficient evidence to support a designation at this time. As a result, the Agency has tentatively decided it will not include ink jet cartridges as a designated item in the final Comprehensive Procurement Guideline when it is promulgated. This notice summarizes the information available to the Agency and requests additional information from interested parties.

DATES: EPA will accept public comments on the information in this notice until May 14, 1997.

ADDRESSES: To comment on this notice, send an original and two copies of comments to: RCRA Information Center (5305W), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Reference docket number F–96–CP2P–FFFFF on the comments.

If any information is confidential, it should be identified as such. An original and two copies of Confidential Business Information (CBI) must be submitted under separate cover to: Document Control Officer (5305W), Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Documents related to the proposal to designate ink jet cartridges are available for viewing at the RCRA Information Center (RIC), which is located at: U.S. Environmental Protection Agency, 1235 Jefferson Davis Highway, Ground Floor, Crystal Gateway One, Arlington, VA 22202. The RIC is open from 9:00 a.m. to 4:00 p.m., Monday through Friday, except for Federal holidays. The public must make an appointment to review docket materials by calling (703) 603–9230. Copies cost $.15 per page.

FOR FURTHER INFORMATION CONTACT:

General procurement guidelines information: RCRA Hotline at (800) 424–9346, TDD (800) 553–7672 (hearing impaired) or, in the Washington, DC area at (703) 412–9810.

Proposed ink jet cartridge designation: Dana Arnold, (703) 308–7279.

SUPPLEMENTARY INFORMATION: On November 7, 1996, EPA proposed to designate ink jet cartridges as a procurement item under section 6002 of the Resource Conservation and Recovery Act (RCRA). (See 61 FR 57747.) Based on a preliminary evaluation of public comments and additional information submitted in response to the proposal, the Agency has tentatively concluded that the record does not support a designation of ink jet cartridges at this time.

I. Authority

42 U.S.C. 6912(a) and 6962; E.O. 12873, 58 FR 54911.

II. Background

Section 6002(e) of RCRA requires EPA to designate items that are or can be made with recovered materials and to recommend practices to assist procuring agencies in meeting their obligations with respect to designated items under RCRA section 6002. After EPA designates an item, RCRA requires that each procuring agency, when purchasing a designated item, must purchase that item composed of the highest percentage of recovered materials practicable.

Executive Order 12873 (the Executive Order) establishes the procedure for EPA to follow in implementing RCRA section 6002(e). Section 502 of the Executive Order directs EPA to issue a Comprehensive Procurement Guideline (CPG) that designates items that are or can be made with recovered materials. Concurrent with the CPG, EPA must publish its recommended procurement practices for purchasing designated items, including recovered materials content levels, in a related Recovered Materials Advisory Notice (RMAN). The Executive Order also directs EPA to update the CPG annually and to issue RMANs periodically to reflect changing market conditions. The first CPG was published on May 1, 1995 (60 FR 21370). It established eight product categories, including Non-Paper Office Products, and designated items within those categories.

On November 7, 1996 (61 FR 57747), EPA proposed to designate 13 additional items in the CPG (CPG II). The CPG II proposal included ink jet cartridges in the Non-Paper Office Products category. Ink jet cartridges are used in office equipment such as printers, facsimile machines, and plotters. They consist of plastic cases containing ink, a pump, filters, internal circuitry, and print heads (nozzles).

In the background documents for the proposed CPG II and the companion draft RMAN, EPA discussed why it had initially concluded that ink jet cartridges were items that are or may be produced with recovered materials content. EPA explained that spent ink jet cartridges could be refilled or remanufactured. Consequently, in Section G–7 of the companion draft RMAN (61 FR 57760), EPA's tentative recommendations suggested that, in order to procure ink jet cartridges, agencies adopt one or both of the following approaches. An agency could: (1) procure ink jet cartridge refilling services or (2) procure refilled ink jet cartridges. EPA further recommended that procuring agencies establish policies giving priority to refilling their spent ink jet cartridges and, if refilling services are unavailable or impractical, to purchase refilled ink jet cartridges.

III. Issues Raised by Commenters

Commenters raised a number of concerns in response to EPA's proposal to designate ink jet cartridges. These included the impact of the proposed ink jet cartridge designation on the solid waste stream, the performance of refilled ink jet cartridges, and product availability.

Subsequent to the close of the public comment period, EPA met with one of the commenters (a major manufacturer of ink jet equipment and ink jet cartridges) to discuss the proposed ink jet cartridge designation. Minutes of this meeting have been added to RCRA Docket F–96–CP2P–FFFFF to make the information received at the meeting available for public review. In addition, EPA contacted the U.S. General Services Administration's (GSA) Federal Supply Service to discuss GSA's public comments on the proposed ink jet cartridge designation and issues raised by the ink jet equipment manufacturers. A summary of information obtained during these conversations has also been added to RCRA Docket F–96-CP2P-FFFFF.

A. Impact on the Solid Waste Stream

One of the underlying purposes of the procurement guidelines program is to harness Federal purchasing power to develop markets for materials recovered from solid waste. As explained above, once EPA designates an item, RCRA section 6002 requires a procuring agency to purchase a designated item containing the highest percentage of recovered materials practical. This means that EPA's designations can help to create markets for recovered materials by creating markets for products made from those materials. Given this potential, an important element that EPA considers in its designation decision is whether designation of a particular item will significantly reduce discarded materials in the solid waste stream through the promotion of the recovery of materials, including post-consumer materials. Thus, when considering whether to designate an item, EPA examines the likely impact of the designation on the volume of solid waste generated and discarded annually.

In the background document for the proposed CPG II, ''Comprehensive Procurement Guideline (CPG) II—Supporting Analyses,'' EPA stated that ink jet cartridges are composed primarily of plastic, and plastics constituted 10 percent of municipal solid waste in 1994. Approximately 80 to 90 million ink jet cartridges are discarded annually. EPA was not able to quantify the amount of ink jet cartridges discarded by Federal agencies, however.

Commenters noted that ink jet cartridges weigh approximately 1.40 ounces, which would equate to 3,400–3,900 tons of plastic discards annually. The plastics comprising the largest fraction of the municipal solid waste stream are polyethylene terephthalate (PET), high density polyethylene (HDPE), low density polyethylene (LDPE), polyvinyl chloride (PVC), polypropylene (PP), and polystyrene (PS). Items designated in the original CPG contain one or more of these plastics, thus helping to create markets for these larger constituents of the plastics waste stream. By contrast, commenters stated that ink jet cartridges contain a specialty plastic and currently cannot be made with recovered materials. Therefore, designating ink jet cartridges would not create end-use markets for plastics recovered from municipal solid waste and would not have a significant impact on the solid waste stream.

In addition, it has been brought to EPA's attention that ink jet cartridge refill kits generate a larger volume of solid waste than discarded ink jet cartridges, including the packaging. The kits include plastic containers for the replacement ink, tools for puncturing the cartridges in order to add the ink, and plastic and paper packaging. According to the information provided to EPA through public comments, refill kits have a three to four times larger

share of the refill market than do vendors that refill and return ink jet cartridges to the user. Thus, the initial result of an ink jet cartridge designation could well be a net increase in solid waste, albeit a small increase when compared to the total amount of solid waste generated annually.

B. Performance

EPA's initial research indicated inconsistent quality among the ink jet cartridge refill kits and between the products of the ink jet cartridge refillers. EPA's research also indicated a lack of quality control standards for refillers and refill kits. Thus, while some refillers are able to produce refilled ink jet cartridges with acceptable performance characteristics, others have not been able to do so consistently. Because there are no testing or other quality control standards for procuring agencies to reference in their solicitations, the quality of refilled ink jet cartridges may be of concern.

Further, EPA's initial research indicated that users of refilled ink jet cartridges had sometimes experienced clogged nozzles and other performance problems. EPA has received additional information in the public comments that indicates performance problems have occurred. According to one commenter, refilled ink jet cartridges can create a number of problems, ranging from diminished ink quality to interference with the proper operation of the ink jet nozzle. Commenters also provided anecdotal information that faulty refilled ink jet cartridges can and have caused damage to the office equipment in which they were used. EPA discussed these performance concerns with GSA and found that, because GSA has offered refilled ink jet cartridges only recently, no record of customer satisfaction has been established. EPA seeks additional information about the performance of refilled ink jet cartridges, in particular the potential for damage to office equipment caused by the use of this item.

EPA also has received conflicting information about whether ink jet cartridges are designed to be refilled. Some original equipment manufacturers stated, in their public comments, that the components in ink jet cartridges are designed to last only for the supply of original ink. In other words, ink jet cartridges are designed to be disposable. However, there is evidence that ink jet cartridges can and are being refilled and can perform adequately, even if they are not performing identically to a new replacement ink jet cartridge.

C. Product Availability

EPA's initial research identified 24 companies that refill ink jet cartridges for customers nationwide. In its comments, a major manufacturer of new replacement ink jet cartridges questioned whether refillers offer national coverage, particularly to rural areas, although this manufacturer did not provide any hard evidence to the contrary. This manufacturer also commented that its products are available immediately, while refilled ink jet cartridges may not be available immediately. Again, the manufacturer did not substantiate this statement.

EPA has never limited its designations only to items that are available immediately in every part of the United States. Because the purpose of the federal buy-recycled program is to develop markets for products containing recovered materials, it has always been understood that these items might not be available to all procuring agencies in all instances. Rather, it is expected that, as procuring agencies seek to purchase products containing recovered materials, these items will become more widely and universally available. For this reason, RCRA section 6002 provides that procuring agencies are not required to buy an EPA-designated item containing recovered materials if that item is not available within a reasonable time. Nevertheless, the availability of refilling services and refilled ink jet cartridges is a consideration for EPA when designating ink jet cartridges. Therefore, EPA seeks additional information about the availability of refilled ink jet cartridges and refilling services.

IV. Conclusion

Usage of ink jet printers, facsimile machines, and plotters is increasing rapidly. The ink jet cartridge supplier industry also is evolving rapidly, as is the technology to refill ink jet cartridges. EPA believes that, consistent with the Agency's waste management hierarchy, which promotes waste prevention and recycling, ink jet cartridges should be designed to be refillable and/or recyclable, rather than disposable. However, these products must serve their intended purpose and perform in an acceptable manner. While the Agency acknowledges that some refilled ink jet cartridges may be of high quality, the questions about the performance of refilled cartridges discussed by commenters raise legitimate concerns that warrant further consideration before the Agency designates ink jet cartridges in the CPG. Moreover, designation of ink jet cartridges would not have a significant impact on the solid waste stream because the specialty plastic used in these cartridges cannot currently be made with recovered materials. There is, in addition, some concern that designation could actually result, in the near term, in a small increase in the generation of solid waste associated with ink jet cartridges. At this time, ink jet cartridge refill kits are generating more waste than discarded cartridges. Based on these factors, EPA has tentatively concluded that it is premature to designate ink jet cartridges at this time. EPA solicits comment on the information discussed in this notice and on the other newly docketed information referenced in this notice.

Dated: April 8, 1997.

David A. Bussard,

Acting Director, Office of Solid Waste.

[FR Doc. 97–9517 Filed 4–11–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[CS Docket No. 97–98; FCC 97–94]

Amendment of Rules and Policies Governing Pole Attachments

AGENCY: Federal Communications Commission

ACTION: Proposed rule.

SUMMARY: In 1987, the Commission adopted its current pole attachment formula for calculating the maximum just and reasonable rates utilities may charge cable operators for pole attachments. In this *Notice of Proposed Rulemaking,* we seek comment as to whether the current pole attachment formula should be modified or adjusted to eliminate certain anomalies and rate instabilities particular parties assert have occurred. Should altering the formula become necessary, we have tentatively proposed a modification that would improve the formula's accuracy. In addition, we propose changes to the formula to reflect the present accounting system that replaced the former rules in 1988. Finally, we propose a new conduit methodology that will determine the maximum just and reasonable rates utilities may charge cable operators and telecommunications service providers for their use of conduit systems.

DATES: Comments are due on or before May 12, 1997 and Reply Comments are due on or before June 12, 1997.

ADDRESSES: Office of the Secretary, Federal Communications Commission,

1919 M Street, N.W., Room 222, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael T. McMenamin, Cable Services Bureau, (202) 418–7200, TTY (202) 418–7172.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rulemaking*, CS Docket No. 97–98, adopted March 14, 1997 and released March 14, 1997. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 1919 M Street, NW, Washington, D.C. 20554. For copies in alternative formats, such as braille, audio cassette, or large print, please contact Sheila Ray at International Transcription Service.

Synopsis of the Notice of Proposed Rulemaking

1. This *Notice of Proposed Rulemaking* seeks comment on proposed modifications to the Commission's rules relating to the maximum just and reasonable rates utilities may charge for attachments made to a pole, duct, conduit or right-of-way. These attachments are referred to as ''pole attachments.'' We believe that a re-evaluation of this formula may be necessary to improve accuracy in the continued application of these rules to cable television systems and to telecommunications carriers pursuant to the Telecommunications Act of 1996, Public Law 104–104, 110 Stat. 56 (1996). We also propose amending the formula so that it reflects our current accounting rules that apply to telephone companies. Finally, in this *Notice,* we propose a conduit methodology that will determine the maximum just and reasonable rates utilities may charge cable systems and telecommunications carriers for their use of conduit systems. The proposed formula would apply to all telecommunications carriers pending the effectiveness of the new formula required by the 1996 Act.

2. On August 26, 1994, Southwestern Bell Telephone Company (''SWB'') filed a Petition for Clarification, or in the Alternative, a Waiver of our formula for computing maximum reasonable pole attachment rates. SWB argues that in Oklahoma, the Commission's pole attachment formula produces a negative net cost of a bare pole and other negative figures, resulting in negative rates. SWB asserts that these abnormal results arise as the original costs of the poles are depreciated over time, particularly since the cost of removing the pole at the end of its useful life is included in the original cost of the pole. Because the cost of removal can be high, SWB argues it has resulted in negative net pole investment for its poles in Oklahoma. SWB proposes to remedy the rate problem by extracting the cost of removing poles from the formula for calculating the accumulated depreciation used to determine pole attachment rates. This would increase the net pole investment SWB would use in applying the formula, thereby making SWB's pole attachment rates positive under that formula.

3. *Potential Adjustments to the Pole Attachment Formula*: As detailed below, we seek comment on the issues raised by SWB's petition. We also seek comment on aspects of the current formula that may require modification.

4. The Commission seeks comment as to whether over time, and with increased demand, the average pole height has increased to an average of 40 feet and whether the usable space presumption should also be changed from 13.5 feet to 11 feet. The Commission recognizes the National Electric Safety Code requirement that a 40 inch safety space must exist between electric lines and communication lines. We seek comment on the premise that the safety space emanates from a utility's requirement to comply with the NESC and should properly be assigned to the utility as part of its usable space. We also seek comment on the premise that the 40 inch safety space emanates from a utility's requirement to comply with the NESC and should properly be assigned to the utility as part of its usable space.

5. Poles of 30 feet or less are currently included in the calculation of cost of bare pole. We seek comment on whether including these smaller poles in the numerator and denominator of the cost of bare pole calculation results in a distorted determination of the actual costs of a bare pole. We also seek comment on this proposal and whether poles of 30 feet or less lack a sufficient amount of usable space to accommodate multiple attachments.

6. We seek comment as to the scope of the problem raised in SWB's petition. For instance, we seek comment on the number of jurisdictions where accumulated depreciation balances exceed the gross pole investment. We also seek comment on the rates being charged in such jurisdictions. When our formula defining the maximum just and reasonable rate for pole attachments is applied to poles with negative net asset values, the result is either extremely low pole attachment rates or negative rates. In this *Notice,* we suggest that if the frequency with which this problem occurs does not warrant the proposed adjustment to the pole attachment formula, then a case-by-case approach could be used. If commenters agree that the scope of the problem warrants an adjustment, we propose to do so.

7. This *Notice* proposes eliminating the anomalous effect by adjusting the current net investment approach to allow for the elimination of the net salvage amount (which is typically a negative amount) from the accumulated depreciation balance for poles at such time that the net asset value of poles becomes negative. Removal of the net salvage amount would, for the purpose of pole attachment rate calculation, restate the accumulated depreciation account to reflect only the depreciation of the pole investment, and would restore the net pole investment to a positive balance. The calculation of the appropriate amounts to recognize the continuing cost of pole ownership could then be made as currently provided in the formula. Each time a new rate is to be developed, the pole account should be examined before the accumulated depreciation balance is adjusted. If there is a positive balance, no adjustment to the accumulated depreciation account should be made. Alternatively, if the accumulated depreciation balance is negative our proposed adjustment should be made. We seek comment on whether the application of the appropriate factors to the net pole amount, adjusted as proposed, would provide a fair rate for sharing in the recovery of continuing expenses associated with pole ownership.

8. Further, in these instances we do not believe that it would be appropriate to continue to calculate a return on investment that has been fully recovered. Thus, we propose that the calculation of the return element should be made separately without removal of net salvage amounts. The return element would be computed on the basis of the unadjusted net pole balance and the result added (as a negative amount) to the carrying charges for administrative, maintenance, and tax expenses. We believe that the inclusion of this negative return element is reasonable and appropriate because the utility has, in effect, already recovered more than the original cost of its pole plant through depreciation charges. While this ''over-recovery'' is necessary to defray the costs of disposing of the poles when they are retired from service, the utility has the use of any over-recovered amounts until the disposal of the poles actually takes place. We seek comment

on our tentative conclusion that a utility's pole attachment rates should reflect this over-recovery, in the form of a negative return carrying charge. Moreover, we seek comment on our proposal to include only operating taxes, other than income taxes, in the rate formula.

9. In proposing the use of this adjustment methodology, we are concerned that because telephone and electric utilities install poles over time at various original costs and because net salvage estimates vary over time, the extraction of the net salvage effect from accumulated depreciation could prove to be difficult. In addition, current FCC and Federal Energy Regulatory Commission accounting reports do not provide information with respect to the net salvage effect. We seek comment on the feasibility of this methodology as proposed. Additionally, we seek comment on the effectiveness of the methodology for the development of fair pole attachment rates and on proposed modifications necessary to make this methodology effective in attaining this objective. Finally, commenters are requested to provide detailed assessments of the effects of this methodology on attachment rates. Based on our initial assessment of this proposed adjustment, we do not believe that the application of the adjustment where appropriate will have any significant impact on current pole attachment rates.

10. Alternatively, we seek comment on calculating pole attachment rates using gross book costs instead of net book costs. Under this approach the cost of a bare pole and most carrying charges are computed using gross book costs. *Prior to the Amendment of Rules and Policies Governing the Attachment of Cable Television Hardware to Utility Poles*, Report and Order, 2 FCC Rcd 4387 (1987), *recon.*, 4 FCC Rcd 468 (1989), the Commission had decided certain cases using gross book costs to calculate maximum reasonable pole attachment rates. The Commission also has stated that if both parties to a pole attachment complaint agree, the pole attachment rates may be computed using gross book costs. The use of gross book costs appears consistent with the legislative history supporting Section 224, which indicates that the Commission has significant discretion in selecting a methodology for determining just and reasonable pole attachment rates. We seek comment on this alternative to ensure a complete record on possible changes to the current formula. We note that because of the way administrative costs are allocated, the application of gross book costs may produce a slightly higher rate. We seek comment on whether this assumption is true and if so what the impact of this change would be.

11. *Proposed Conduit Methodology*. Section 224 provides that total conduit space and conduit space occupied by a cable operator or telecommunication provider is based on duct or conduit capacity. In addition, Section 224 states that: ''a rate is just and reasonable if it assures a utility the recovery of not less than the additional costs of providing pole attachments, nor more than an amount determined by multiplying the percentage of the total usable space, or the percentage of the total duct or conduit capacity * * *'' The usable space can be estimated based on the number of ducts or portion of a duct that a cable occupies. However, we have tentatively concluded that measuring the actual portion of duct space occupied by a cable would be difficult and would most likely lead to further disputes between the parties. Instead of attempting to measure the actual duct space occupied, we propose to adopt a new half-duct conduit methodology as was recently done by the Commission in the Memorandum Opinion and Hearing Designation Order of *Multimedia Cablevision, Inc.* v. *Southwestern Bell Telephone*, 11 FCC Rcd 11202 (September 3, 1996) (''Southwestern Bell''). In order to apply the half-duct formula, a determination of the cost per foot of one duct must be made, and then divided by one-half to produce a ''half-duct convention.'' This determines the maximum just and reasonable rate per duct foot that can be charged for cable attachments.

12. We seek comment on the proposed half-duct methodology. The Commission, in the *Southwestern Bell*, concluded that the half-duct methodology is the simplest and most reasonable approximation of the actual space occupied by an attacher. In addition, the Commission found that the half-duct methodology is the most straight forward approach to calculating a conduit attachment fee because it does not require the parties to prove the actual amount of the duct the cable operator occupies. We solicit comment on this approach which the Commission adopted in the *Southwestern Bell*. We also seek comment on any additional proposals that would provide a simple and administratively efficient conduit methodology.

Initial Regulatory Flexibility Analysis

12. As required by Section 603 of the Regulatory Flexibility Act (RFA), 5 U.S.C. § 603, as amended, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected significant economic impact on small entities by the policies and rules proposed in this *Notice*. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *Notice*, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of this *Notice* to be sent to the Chief Counsel for Advocacy of the Small Business Administration (''SBA'') in accordance with Section 603(a) of the RFA, 5 U.S.C. § 603(a).

13. *Need for Action and Objectives of the Proposed Rule*. In 1987, the Commission adopted its current pole attachment formula for calculating the maximum just and reasonable rates utilities may charge cable systems for pole attachments. In this *Notice*, we seek comment as to whether the current pole attachment formula should be modified or adjusted to eliminate certain anomalies and rate instabilities particular parties assert have occurred. We have also tentatively proposed such possible modifications to the formula, should altering the formula become necessary, that would improve the accuracy of the formula. In addition, we propose changes to the formula to reflect the present Part 32 accounting system that replaced the former Part 31 rules in 1988. Finally, we propose a new conduit methodology that will determine the maximum just and reasonable rates utilities may charge cable systems and telecommunications carriers for their attachments to conduit systems.

14. *Legal Basis*. The authority for the action as proposed for this rulemaking is contained in Sections 1, 4(i), 4(j), 224, 303 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 224, 303 and 403.

15. *Description and Estimate of the Number of Small Entities Impacted*. For the purposes of this *Notice*, the RFA defines a ''small business'' to be the same as a small business concern under the Small Business Act, 15 U.S.C. § 632, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). The SBA has defined a small business for Standard Industrial Classification (SIC) category 4813 (Telephone Communications,

except Radiotelephone) to be a small entity when it has fewer than 1500 employees, *See* 13 CFR § 121.201.

A. Utilities

16. *Total Number of Utilities Affected.* The decisions and rules adopted herein may have a significant effect on a substantial number of utility companies. Section 224 of the Statue defines a ''utility'' as ''any person who is a local exchange carrier or an electric, gas, water, steam, or other public utility, and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for any wire communications. Such term does not include any railroad, any person who is cooperatively organized, or any person owned by the Federal Government or any State.'' The SBA has provided the Commission with a list of utility firms which may be effected by this rulemaking. Based upon the SBA's list, the Commission seeks comment as to whether all of the following utility firms are relevant to Section 224.

1. Electric Utilities (SIC 4911, 4931 & 4939)

17. *Electric Services.* The SBA has developed a definition for small electric utility firms. The Census Bureau reports that a total of 1,379 electric utilities were in operation for at least one year at the end of 1992. According to SBA, a small electric utility is an entity whose gross revenues did not exceed five million dollars in 1992. The Census Bureau reported that 447 of the 1,379 firms listed had total revenues below five million dollars. *Electric and Other Services Combined.* The SBA has classified this entity as a utility whose business is primarily electric, less than 95%, in combination with some other type of service. The Census Bureau reports that a total of 135 such firms were in operation for at least one year at the end of 1992. The SBA's definition of a small electric and other services combined utility is a firm whose gross revenues did not exceed five million dollars in 1992. The Census Bureau reported that 45 of the 135 firms listed had total revenues below five million dollars. *Combination Utilities, Not Elsewhere Classified.* The SBA defines this utility has providing a combination of electric, gas, and other services which are not otherwise classified. The Census Bureau reports that a total of 79 such utilities were in operation for at least one year at the end of 1992. According to SBA's definition, a small combination utility is a firm whose gross revenues did not exceed five million dollars in 1992. The Census Bureau reported that 63 of the 79 firms listed had total revenues below five million dollars.

2. Gas Production and Distribution (SIC 4922, 4923, 4924, 4925 & 4932)

18. *Natural Gas Transmission.* The SBA's definition of a small natural gas transmitter is an entity who is engaged in the transmission and storage of natural gas. The Census Bureau reports that a total of 144 such firms were in operation for at least one year at the end of 1992. According to SBA's definition, a small natural gas transmitter is an entity whose gross revenues did not exceed five million dollars in 1992. The Census Bureau reported that 70 of the 144 firms listed had total revenues below five million dollars. *Natural Gas Transmission and Distribution.* The SBA has classified this entity as a utility who transmits and distributes natural gas for sale. The Census Bureau reports that a total of 126 such entities were in operation for at least one year at the end of 1992. The SBA's definition of a small natural gas transmitter and distributer is a firm whose gross revenues did not exceed five million dollars. The Census Bureau reported that 43 of the 126 firms listed had total revenues below five million dollars. *Natural Gas Distribution.* The SBA defines a natural gas distributor as an entity that distributes natural gas for sale. The Census Bureau reports that a total of 478 such firms were in operation for at least one year at the end of 1992. According to the SBA, a small natural gas distributor is an entity whose gross revenues did not exceed five million dollars in 1992. The Census Bureau reported that 267 of the 478 firms listed had total revenues below five million dollars. *Mixed, Manufactured, or Liquefied Petroleum Gas Production and/or Distribution.* The SBA has classified this entity as a utility who engages in the manufacturing and/or distribution of the sale of gas. These mixtures may include natural gas. The Census Bureau reports that a total of 43 such firms were in operation for at least one year at the end of 1992. The SBA's definition of a small mixed, manufactured or liquefied petroleum gas producer or distributor is a firm whose gross revenues did not exceed five million dollars in 1992. The Census Bureau reported that 31 of the 43 firms listed had total revenues below five million dollars. *Gas and Other Services Combined.* The SBA has classified this entity as a gas company whose business is less than 95% gas, in combination with other services. The Census Bureau reports that a total of 43 such firms were in operation for at least one year at the end of 1992. According to the SBA, a small gas and other services combined utility is a firm whose gross revenues did not exceed five million dollars in 1992. The Census Bureau reported that 24 of the 43 firms listed had total revenues below five million dollars.

3. Water Supply (SIC 4941)

19. *Water Supply.* The SBA defines a water utility as a firm who distributes and sells water for domestic, commercial and industrial use. The Census Bureau reports that a total of 3,169 water utilities were in operation for at least one year at the end of 1992. According to SBA's definition, a small water utility is a firm whose gross revenues did not exceed five million dollars in 1992. The Census Bureau reported that 3,065 of the 3,169 firms listed had total revenues below five million dollars.

4. Sanitary Systems (SIC 4952, 4953 & 4959)

20. *Sewerage Systems.* The SBA defines a sewage firm as a utility whose business is the collection and disposal of waste using sewage systems. The Census Bureau reports that a total of 410 such firms were in operation for at least one year at the end of 1992. According to SBA's definition, a small sewerage system is a firm whose gross revenues did not exceed five million dollars. The Census Bureau reported that 369 of the 410 firms listed had total revenues below five million dollars. *Refuse Systems.* The SBA defines a firm in the business of refuse as an establishment whose business is the collection and disposal of refuse ''by processing or destruction or in the operation of incinerators, waste treatment plants, landfills, or other sites for disposal of such materials.'' The Census Bureau reports that a total of 2,287 such firms were in operation for at least one year at the end of 1992. According to SBA's definition, a small refuse system is a firm whose gross revenues did not exceed six million dollars. The Census Bureau reported that 1,908 of the 2,287 firms listed had total revenues below six million dollars. *Sanitary Services, Not Elsewhere Classified.* The SBA defines these firms as engaged in sanitary services. The Census Bureau reports that a total of 1,214 such firms were in operation for at least one year at the end of 1992. According to SBA's definition, a small sanitary service firms gross revenues did not exceed five million dollars. The Census Bureau reported that 1,173 of the 1,214 firms listed had total revenues below five million dollars.

5. Steam and Air Conditioning Supply (SIC 4961)

21. *Steam and Air Conditioning Supply.* The SBA defines a steam and air conditioning supply utility as a firm who produces and/or sells steam and heated or cooled air. The Census Bureau reports that a total of 55 such firms were in operation for at least one year at the end of 1992. According to SBA's definition, a steam and air conditioning supply utility is a firm whose gross revenues did not exceed nine million dollars. The Census Bureau reported that 30 of the 55 firms listed had total revenues below nine million dollars.

6. Irrigation Systems (SIC 4971)

22. *Irrigation Systems.* The SBA defines irrigation systems as firms who operate water supply systems for the purpose of irrigation. The Census Bureau reports that a total of 297 firms were in operation for at least one year at the end of 1992. According to SBA's definition, an irrigation service is a firm whose gross revenues did not exceed five million dollars. The Census Bureau reported that 286 of the 297 firms listed had total revenues below five million dollars.

B. Telephone Companies (SIC 4813)

23. *Total Number of Telephone Companies Affected.* Many of the decisions and rules adopted herein may have a significant effect on a substantial number of small telephone companies. The Census Bureau reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year, *See* United States Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size,* at Firm Size 1–123 (1995) (*1992 Census*). This number contains a variety of different categories of carriers, including local exchange carriers (LECs), interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not ''independently owned and operated'', *See* 15 U.S.C. § 632(a)(1). It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by this *Notice.* Below, we estimate the potential number of small entity telephone service firms or small incumbent LEC's that may be affected by this service category.

24. *Wireline Carriers and Service Providers.* SBA has developed a definition of small entities for telephone communications companies other than radiotelephone (wireless) companies. The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to SBA's definition, a small business telephone company other than a radiotelephone company is one employing fewer than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by the decisions or rules that come about from this *Notice.*

25. *Local Exchange Carriers.* Neither the Commission nor SBA has developed a definition of small providers of local exchange services (LECs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies (SIC 4813). The most reliable source of information regarding the number of LECs nationwide of which we are aware appears to be the data that we collect annually in connection with the Telecommunications Relay Service (TRS). According to our most recent data, 1,347 companies reported that they were engaged in the provision of local exchange services, See Federal Communications Commission, CCB, Industry Analysis Division, *Telecommunications Industry Revenue: TRS Fund Worksheet Data,* Tbl. 21 (Average Total Telecommunications Revenue Reported by Class of Carrier) (Feb. 1996) (*TRS Worksheet*). Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,347 small incumbent LECs that may be affected by this *Notice.*

26. *Interexchange Carriers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies (SIC 4813). The most reliable source of information regarding the number of IXCs nationwide of which we are aware appears to be the data that we collect annually in connection with TRS. According to our most recent data, 97 companies reported that they were engaged in the provision of interexchange services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 97 small entity IXCs that may be affected by the decisions and rules adopted in this *Notice.*

27. *Competitive Access Providers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of competitive access services (CAPs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies (SIC 4813). The most reliable source of information regarding the number of CAPs nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 30 companies reported that they were engaged in the provision of competitive access services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 30 small entity CAPs that may be affected by the decisions and rules adopted in this *Notice.*

28. *Wireless (Radiotelephone) Carriers.* Although wireless carriers have not historically affixed their equipment to utility poles, pursuant to the terms of the 1996 Act, such entities are entitled to do so with rates

consistent with the Commission's rules discussed herein. SBA has developed a definition of small entities for radiotelephone (wireless) companies. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992. According to SBA's definition, a small business radiotelephone company is one employing fewer than 1,500 persons. The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned and operated. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of radiotelephone carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,164 small entity radiotelephone companies that may be affected by this *Notice.*

29. *Cellular Service Carriers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of cellular services. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies (SIC 4813). The most reliable source of information regarding the number of cellular service carriers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 789 companies reported that they were engaged in the provision of cellular services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 789 small entity cellular service carriers that may be affected by the decisions and rules adopted in this *Notice.*

30. *Mobile Service Carriers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to mobile service carriers, such as paging companies. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of mobile service carriers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 117 companies reported that they were engaged in the provision of mobile services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of mobile service carriers that would qualify under SBA's definition. Consequently, we estimate that there are fewer than 117 small entity mobile service carriers that may be affected by the decisions and rules adopted in this *Notice.*

31. *Broadband PCS Licensees.* The broadband PCS spectrum is divided into six frequency blocks designated A through F. As set forth in 47 CFR § 24.720(b), the Commission has defined ''small entity'' in the auctions for Blocks C and F as a firm that had average gross revenues of less than $40 million in the three previous calendar years. Our definition of a ''small entity'' in the context of broadband PCS auctions has been approved by SBA, *See Implementation of Section 309(j) of the Communications Act—Competitive Bidding,* PP Docket No. 93–253, Fifth Report and Order, 9 FCC Rcd 5532, 5581–84 (1994).

The Commission has auctioned broadband PCS licenses in Blocks A, B, and C. We do not have sufficient data to determine how many small businesses bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auction. Based on this information, we conclude that the number of broadband PCS licensees affected by the decisions in this *Notice* includes, at a minimum, the 90 winning bidders that qualified as small entities in the Block C broadband PCS auction.

32. At present, no licenses have been awarded for Blocks D, E, and F of broadband PCS spectrum. Therefore, there are no small businesses currently providing these services. However, a total of 1,479 licenses will be awarded in the D, E, and F Block broadband PCS auctions, which are scheduled to begin on August 26, 1996. Of the 153 qualified bidders for the D,E, and F Block PCS auctions, 105 were small businesses, *See Auction of Broadband Personal Communications Services (D, E and F blocks),* Public Notice, DA 96–1400 (rel. August 20, 1996). Eligibility for the 493 F Block licenses is limited to entrepreneurs with average gross revenues of less than $125 million, *See Amendment of Parts 20 and 24 of the Commission's Rules—Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap,* WT Docket No. 96–59, *Amendment of the Commission's Cellular/PCS Cross-Ownership Rule,* Report and Order, GN Docket No. 90–314, FCC 96–278 (June 24, 1996). We cannot estimate, however, the number of these licenses that will be won by small entities under our definition, nor how many small entities will win D or E Block licenses. Given that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective D, E, and F Block licensees can be made, we assume for purposes of this FRFA, that all of the licenses in the D, E, and F Block Broadband PCS auctions may be awarded to small entities under our rules, which may be affected by the decisions and rules adopted in this Notice.

33. *SMR Licensees.* Pursuant to 47 CFR § 90.814(b)(1), the Commission has defined ''small entity'' in auctions for geographic area 800 MHz and 900 MHz SMR licenses as a firm that had average annual gross revenues of less than $15 million in the three previous calendar years. This definition of a ''small entity'' in the context of 800 MHz and 900 MHz SMR has been approved by the SBA, *See Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896–901 MHz and the 935–940 MHz Bands Allotted to the Specialized Mobile Radio Pool,* PR Docket No. 89–583, Second Order on Reconsideration and Seventh Report and Order, 11 FCC Rcd 2639, 2693–702 (1995); *Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band,* PR Docket No. 93–144, First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rulemaking, 11 FCC Rcd 1463 (1995). The rules adopted in this Order may apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of less than $15 million. We assume, for purposes of this FRFA, that all of the extended implementation authorizations may be held by small

entities, which may be affected by the decisions and rules adopted in this *Notice.*

34. The Commission recently held auctions for geographic area licenses in the 900 MHz SMR band. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. Based on this information, we conclude that the number of geographic area SMR licensees affected by the rule adopted in this Order includes these 60 small entities. No auctions have been held for 800 MHz geographic area SMR licenses. Therefore, no small entities currently hold these licenses. A total of 525 licenses will be awarded for the upper 200 channels in the 800 MHz geographic area SMR auction. However, the Commission has not yet determined how many licenses will be awarded for the lower 230 channels in the 800 MHz geographic area SMR auction. There is no basis, moreover, on which to estimate how many small entities will win these licenses. Given that nearly all radiotelephone companies have fewer than 1,000 employees and that no reliable estimate of the number of prospective 800 MHz licensees can be made, we assume, for purposes of this FRFA, that all of the licenses may be awarded to small entities who, thus, may be affected by the decisions in this *Notice*.

35. *Resellers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable definition under SBA rules is for all telephone communications companies (SIC 4812 and 4813). The most reliable source of information regarding the number of resellers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 206 companies reported that they were engaged in the resale of telephone services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 206 small entity resellers that may be affected by the decisions and rules adopted in this *Notice.*

C. Cable System Operators (SIC 4841)

36. *Cable Systems:* SBA has developed a definition of small entities for cable and other pay television services, which includes all such companies generating less than $11 million in revenue annually. This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Census Bureau, there were 1,323 such cable and other pay television services generating less than $11 million in revenue that were in operation for at least one year at the end of 1992.

37. The Commission has developed its own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a ''small cable company,'' is one serving fewer than 400,000 subscribers nationwide, *See* 47 CFR. § 76.901(e). Based on our most recent information, we estimate that there were 1,439 cable systems that qualified as small cable system operators at the end of 1995, *See* Paul Kagan Associates, Inc., *Cable TV Investor,* Feb. 29, 1996 (based on figures for Dec. 30, 1995). Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable systems. Consequently, we estimate that there are fewer than 1,439 small entity cable system operators that may be affected by the decisions and rules proposed in this *Notice*.

38. The Communications Act also contains a definition of a small cable system operator, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000'', *See* 47 U.S.C. § 543(m)(2). The Commission has determined that there are 61,700,000 subscribers in the United States. Therefore, we found that an operator serving fewer than 617,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate, *See* 47 CFR § 76.1403(b). Based on available data, we find that the number of cable systems serving 617,000 subscribers or less totals 1,450. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable systems under the definition in the Communications Act.

39. *Municipalities:* The term ''small governmental jurisdiction'' is defined as ''governments of * * * districts, with a population of less than fifty thousand'', *See* 5 U.S.C. § 601(5). There are 85,006 governmental entities in the United States. This number includes such entities as states, counties, cities, utility districts and school districts. We note that Section 224 of the Act specifically excludes any utility which is cooperatively organized, or any person owned by the Federal Government or any State. For this reason, we believe that Section 224 will have minimal if any affect upon small municipalities. Further, there are 18 States and the District of Columbia that regulate pole attachments pursuant to Section 224(c)(1). Of the 85,006 governmental entities, 38,978 are counties, cities and towns. The remainder are primarily utility districts, school districts, and states. Of the 38,978 counties, cities and towns, 37,566 or 96%, have populations of fewer than 50,000.

40. *Reporting, Recordkeeping, and other Compliance Requirements:* The rules proposed in this *Notice* may require a change in certain record keeping requirements to reflect modification of Part 31 to Part 32 accounting, as well as maintaining specific records if adjustments proposed are used by the pole owner for the development of attachment rates. We seek comment on this tentative conclusion. In addition, as proposed in this *Notice,* a pole owner may have to adjust his pole and conduit attachment rates.

41. *Significant Alternatives Which Minimize the Impact on Small Entities and which are Consistent with State Objectives:* The first possible option is to keep the rules in their current form, for which we have sought comment. The alternative would be to adjudicate anomalies resulting from the current pole attachment formula on a case-by-case basis, thereby minimizing impact on all interested parties. In addition, with respect to conduit methodology, we have proposed a methodology that relies on a rebuttable presumption that an attachment occupies one half of a duct space. This rebuttable presumption can be used by small entities to minimize the detail required to establish certain rates for use of conduit. If such methodology was more burdensome to a small entity, such entity could use its actual records for establishing the appropriate rate. We seek comment on these methodologies and any other potential impact of these proposals on small business entities. Finally, the *Notice* seeks to further minimize

burdens on small entities in conformance with the 1996 Act.

42. *Federal Rules which Overlap, Duplicate, or Conflict with the Commission's Proposal:* None.

Ordering Clauses

43. *It is ordered* that pursuant to Sections 1, 4(i), 4(j), 224, 303 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 224, 303 and 403, *Notice is hereby given* of the proposals described in this *Notice of Proposed Rulemaking.*

44. *It is further ordered* pursuant to Sections 4(i), 4(j), and 224 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), and 224, that the Petition for Clarification, or in the Alternative, a Waiver of Southwestern Bell Telephone Company *is dismissed*.

45. *It is further ordered* that the Secretary shall send a copy of this *Notice*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. 601, *et seq.* (1981).

List of Subjects in 47 CFR Part 1

Administrative practice and procedures, Communications common carriers, Investigations, Lawyers, Penalties, Reporting and recordkeeping requirements, Telecommunications.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–9515 Filed 4–11–97; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 62, No. 71

Monday, April 14, 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

Food and Consumer Service

Agency Information Collection Activities: Proposed Collection; Comment Request Form FCS–654, WIC Annual Participation Report

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Food and Consumer Service's (FCS) intention to request an extension for a currently approved information collection, the WIC Annual Participation Report.

DATES: Comments on this notice must be received by June 13, 1997.

ADDRESSES: 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 will have practical utility; (b) 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; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Patricia N. Daniels, Acting Director, Supplemental Food Programs Division, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

All responses to this notice will be summarized and included in the request for OMB approval, and will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection form and instructions should be directed to: Patricia N. Daniels, (703) 305–2749.

SUPPLEMENTARY INFORMATION:

Title: WIC Annual Participation Report.

OMB Number: 0584–0347.

Expiration Date: 8–31–97.

Type of Request: Extension of a Currently Approved Collection Form.

Abstract: Section 17(f)(1)(C)(vii) of the Child Nutrition Act of 1966 (CNA)(42 U.S.C. 1786(f)(1)(C)(vii)) provides that each State agency's plan of operation and administration shall include ''a plan for reaching and enrolling eligible women in the early months of pregnancy, including provisions to reach and enroll eligible migrants.'' Related requirements reflecting the need to target program benefits to individuals who are most at risk are found in sections 17(f)(1)(D)(7)(C) and 17(g)(4) of the CNA. Section 17(f)(1)(D)(7)(C) provides that information concerning the availability of program benefits shall be distributed ''in a manner designed to provide the information to potentially eligible individuals who are most in need of the benefits, including pregnant women in the early months of pregnancy.'' Additionally, section 17(g)(4) of the CNA provides ''[o]f the sums appropriated for any fiscal year for programs authorized under this section, not less than nine-tenths of 1 percent shall be available first for services to eligible members of migrants populations.'' WIC State agencies report their annual average participation by priority group (see 7 CFR 246.25(b)(2)) and their annual average migrant participation on the WIC Annual Participation Report to document that program benefits are targeted to persons eligible for the highest priority groups and to document service to migrant populations. FCS uses this data to monitor targeting success and to allocate funds to States; States use this data to monitor targeting success and to allocate caseload slots to local agencies.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1 hour 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.

Respondents: Directors or Administrators of WIC State and local agencies.

Estimated Number of Respondents: 2088 respondents.

Estimated Number of Responses per Respondent: One.

Estimated Total Annual Burden on Respondents: 2088 hours.

Dateed: April 4, 1997.

William E. Ludwig,

Administrator, Food and Consumer Service.

[FR Doc. 97–9570 Filed 4–11–97; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

Agency Information Collection Activities: Proposed Collection; Comment Request Form FCS–498, WIC Monthly Financial Management and Participation Report

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Food and Consumer Service's (FCS) intention to request an extension for a currently approved information collection, the WIC Monthly Financial Management and Participation Report.

DATES: Comments on this notice must be received by June 13, 1997.

ADDRESSES: 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 will have practical utility; (b) 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; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to:

Patricia N. Daniels, Acting Director, Supplemental Food Programs Division, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

All responses to this notice will be summarized and included in the request for OMB approval, and will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection form and instructions should be directed to: Patricia N. Daniels, (703) 305–2749.

SUPPLEMENTARY INFORMATION:

Title: WIC Monthly Financial Management and Participation Report.

OMB Number: 0584–0045.

Expiration Date: 8–31–97.

Type of Request: Extension of a Currently Approved Collection Form.

Abstract: Section 17(f)(4) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(4)) provides that ''State agencies shall submit monthly financial reports and participation data to the Secretary.'' (See 7 CFR 246.25(b)(1).) State agencies complete the WIC Monthly Financial Management and Participation Report to comply with this requirement. The States and FCS use the reported information for program monitoring, funds management, budget projections, monitoring caseload, policy development, and responding to requests from Congress and the interested public.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.5421 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.

Respondents: Directors or Administrators of WIC State and local agencies.

Estimated Number of Respondents: 2088 respondents.

Estimated Number of Responses per Respondent: Seventeen.

Estimated Total Annual Burden on Respondents: 19,242 hours.

Dated: April 4, 1997.

William E. Ludwig,

Administrator, Food and Consumer Service.

[FR Doc. 97–9571 Filed 4–11–97; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DEPARTMENT OF AGRICULTURE

Forest Service

[AZ-910–0777–61–241A]

Availability of Draft Environmental Impact Statement (DEIS) for the Cyprus Miami Mining Corporation Leach Facility Expansion Project, Gila County, AZ

AGENCY: Bureau of Land Management, Interior and Forest Service, Agriculture.

ACTION: Notice of availability.

SUMMARY: The Bureau of Land Management, Phoenix Field Office and the Tonto National Forest, in response to an Operating Plan filed by Cyprus Miami Mining Corporation (CMMC), have prepared a Draft Environmental Impact Statement (DEIS). The DEIS analyzes the environmental impacts of a proposed mining operation expansion, northwest of Miami, Arizona in Gila County. The Operating Plan proposal includes the development of three leach pad facilities, one waste rock disposal site, and associated facilities including access and utility corridors. The DEIS analyzes three alternatives in detail—the Proposed Action, Alternative A—Modified Development Sequence (Agency Preferred Alternative), and No Action. In summary, the DEIS (1) assesses the environmental impacts of the proposed expansion as described in the Proposed Action, Alternative A (Agency Preferred Alternative), and the No Action Alternative; (2) determines if there are beneficial, adverse, direct, indirect and cumulative impacts; and (3) identifies necessary mitigative measures. This DEIS was prepared to comply with the Council on Environmental Quality's regulations (40 CFR parts 1500–1508) for implementing the National Environmental Policy Act of 1969, 43 U.S.C.

ADDRESSES: Written comments and requests for copies of the draft EIS should be mailed to: Shela McFarlin, Project Manager, Bureau of Land Management, Arizona State Office, 222 North Central Avenue, Phoenix, AZ 85004–2203, or to Paul Stewart, Project Manager, Tonto National Forest, 2324 E. McDowell Rd., Phoenix, AZ 85006. Under Forest Service policy, names and addreses submitted in response to this solicitation, including the names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR Parts 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 60 days. Copies of the Draft EIS are available for public review at the following locations: BLM Arizona State Office, Public Room, 222 N. Central Avenue, Phoenix, AZ 85004; Tonto National Forest, Supervisor's Office, 2324 E. McDowell Rd., Phoenix, AZ 85006; BLM Phoenix Field Office, 2015 West Deer Valley Rd., Phoenix, AZ 85027; Tonto National Forest, Globe Ranger District, Six Shooter Cyn. Rd., Globe, AZ 85501; Cyprus Miami Mining Corp., Land Department, 4342 E. U.S. Hwy. 60/70, Claypool, AZ 85532; Arizona State University, Hayden Library, Government Documents, Tempe, AZ 85287–1006; Mesa Public Library, 64 E. 1St Street, Mesa, AZ 85201; Globe Public Library, 339 S. Broad, Globe, AZ 85501; Miami Memorial Library, 1052 Adonis Avenue, Miami, AZ 85539. The DEIS is available via the Internet (http://azwww.az.blm.gov./~cm/cm.htm).

FOR FURTHER INFORMATION CONTACT: Shela McFarlin, BLM Project Manager, (602) 417–9568; or Paul Stewart, Tonto National Forest Project Manager, (602) 225–5200.

DATES: Written comments must be postmarked by June 10, 1997 (or 60 days after the publication date in the **Federal Register** of the Notice of Availability by the Environmental Protection Agency). Written or oral comments may also be presented at the two public hearings to be held:

Wednesday, May 14, 1997—7:00–9:00 p.m.

Tri-Cities Fire Station, 4280 East Broadway, Claypool, AZ 85532

Thursday, May 15, 1997—7:00–9:00 p.m.

Mesa Community Center, 201 Center St., Palo Verde 1 Room, Mesa, AZ 85211

Michael A. Taylor,

Manager, BLM Phoenix Field Office.

Judith A. Miller,

Deputy Forest Supervisor, Tonto National Forest.

[FR Doc. 97–9620 Filed 4–11–97; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF AGRICULTURE

Forest Service

Hen Moose Timber Sale, Willamette National Forest, Linn County, Oregon

AGENCY: Forest Service, USDA.

ACTION: Cancellation Notice.

SUMMARY: On May 13, 1991, a Notice of Intent (NOI) to prepare an environmental impact statement (EIS) for the Hen Moose Timber Sale on the Sweet Home Ranger District of the Willamette National Forest was published in the **Federal Register** (56 FR 21985) and revised November 19, 1992 (57 FR 54563). A draft EIS was released for public comment December 1992. A Notice of Availability for the draft EIS was published in the **Federal Register** on December 11, 1992 (57 FR 58805). Forest Service has decided to cancel the environmental analysis process. There will be no final EIS for the Hen Moose Timber Sale. The NOI is hereby rescinded.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this Cancellation to Donna Short, Integrated Resource Management Assistant, Sweet Home Ranger District, 3225 Highway 20, Sweet Home, Oregon 97386, or phone (541) 367–5168.

Dated: April 4, 1997.

Darrel Kenops,

Forest Supervisor.

[FR Doc. 97–9513 Filed 4–11–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in the Arkansas (AR), Los Angeles (CA), and Ohio Valley (IN) Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: The United States Grain Standards Act, as amended (Act), provides that official agency designations will end not later than triennially and may be renewed. The designations of Arkansas Grain Inspection Service (Arkansas), Los Angeles Grain Inspection Service, Inc. (Los Angeles), and Ohio Valley Grain Inspection, Inc. (Ohio Valley), will end October 31, 1997, according to the Act. GIPSA is asking persons interested in providing official services in the Arkansas, Los Angeles, and Ohio Valley areas to submit an application for designation.

DATES: Applications must be postmarked or sent by telecopier (FAX) on or before May 30, 1997.

ADDRESSES: Applications must be submitted to USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, 1400 Independence Avenue, S.W., Washington, DC 20250–3604. Applications may be submitted by FAX on 202–690–2755. If an application is submitted by FAX, GIPSA reserves the right to request an original application. All applications will be made available for public inspection at this address located at 1400 Independence Avenue, S.W., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services. GIPSA designated Arkansas, main office located in Little Rock, Arkansas; Los Angeles, main office located in Los Angeles, California; and Ohio Valley, main office located in Newburgh, Indiana, to provide official inspection services under the Act on November 1, 1994.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in Section 7(f) of the Act. The designations of Arkansas, Los Angeles, and Ohio Valley end on October 31, 1997, according to the Act.

Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the States of Arkansas and Texas, is assigned to Arkansas.

In Arkansas:

Bounded on the North by the northern Arkansas State line from the western Benton County line east to the eastern Clay County line,

Bounded on the East by the eastern Clay, Greene, Lawrence, Jackson, Woodruff, Monroe, Arkansas, Desha, and Chicot County lines;

Bounded on the South by the southern Arkansas State line from the eastern Chicot County line west to the western Miller County line; and

Bounded on the West by the western Arkansas State line from the southern Miller County line north to the northern Benton County line.

Bowie and Cass Counties, Texas.

Arkansas' assigned geographic area does not include the following grain elevator inside Arkansas' area which has been and will continue to be serviced by the following official agency: Memphis Grain Inspection Service: Lockhart-Coleman Grain Company, Augusta, Woodruff County, Arkansas.

Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the State of California, is assigned to Los Angeles.

Bounded on the North by the Angeles National Forest southern boundary from State Route 2 east; the San Bernadino National Forest southern boundary east to State Route 79;

Bounded on the East by State Route 79 south to State Route 74;

Bounded on the South by State Route 74 west-southwest to Interstate 5; Interstate 5 northwest to Interstate 405; Interstate 405 northwest to State Route 55; State Route 55 northeast to Interstate 5; Interstate 5 northwest to State Route 91; State Route 91 west to State Route 11; and

Bounded on the West by State Route 11 north to U.S. Route 66; U.S. Route 66 west to Interstate 210; Interstate 210 northwest to State Route 2; State Route 2 north to the Angeles National Forest boundary.

Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the States of Indiana, Kentucky, and Tennessee, is assigned to Ohio Valley.

Daviess, Dubois, Gibson, Knox (except the area west of U.S. Route 41 (150) from Sullivan County south to U.S. Route 50), Pike, Posey, Vanderburgh, and Warrick Counties, Indiana.

Caldwell, Christian, Crittenden, Henderson, Hopkins (west of State Route 109 south of the Western Kentucky Parkway), Logan, Todd, Union, and Webster (west of Alternate

U.S. Route 41 and State Route 814) Counties, Kentucky.

Cheatham, Davidson, and Robertson Counties, Tennessee.

Interested persons, including Arkansas, Los Angeles, and Ohio Valley, are hereby given the opportunity to apply for designation to provide official services in the geographic areas specified above under the provisions of Section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Designation in the Arkansas, Los Angeles, and Ohio Valley areas is for the period beginning November 1, 1997, and ending October 31, 2000. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated.

AUTHORITY: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: April 8, 1997

Neil E. Porter

Director, Compliance Division

[FR Doc. 97–9574 Filed 4–11–97; 8:45 am]

BILLING CODE 3410–EN–F

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity to Comment on the Applicants for the Kansas Area

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: GIPSA requests comments on the applicants for designation to provide official services in the geographic area currently assigned to the Kansas State Grain Inspection Department (Kansas).

DATES: Comments must be postmarked, or sent by telecopier (FAX) or electronic mail by May 13, 1997.

ADDRESSES: Comments must be submitted in writing to USDA, GIPSA, FGIS, Janet M. Hart, Chief, Review Branch, Compliance Division, AG Code 3604, 1400 Independence Avenue, S.W., Washington, DC 20250–3604. Telecopier (FAX) users may send comments to the automatic telecopier machine at 202–690–2755, attention: Janet M. Hart. All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, S.W., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the March 5, 1997, **Federal Register** (62 FR 10022), GIPSA asked persons interested in providing official services in the geographic area assigned to Kansas to submit an application for designation. There were four applicants: Amarillo Grain Exchange, Inc., applied for designation to provide official services in the Kansas counties of Haskell, Morton, Seward, Stanton, Stevens, and Ulysses; the Kansas State Grain Inspection Department applied for designation to provide official services in the entire Kansas area (the area currently assigned to them); Kansas Grain Inspection Service, Inc., a proposed organization being formed by the Kansas Grain and Feed Association to function under a trust, that plans to establish its main office in Topeka, Kansas, applied for designation to provide official services in the entire State of Kansas; and the Missouri Department of Agriculture applied for designation to provide official services in the Kansas counties of Atchison, Doniphan, Johnson, Leavenworth, and Wyandotte.

GIPSA is publishing this notice to provide interested persons the opportunity to present comments concerning the applicants. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of these applicants. All comments must be submitted to the Compliance Division at the above address. Comments and other available information will be considered in making a final decision. GIPSA will publish notice of the final decision in the **Federal Register**, and GIPSA will send the applicants written notification of the decision.

AUTHORITY: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: April 9, 1997

Neil E. Porter

Director, Compliance Division

[FR Doc. 97–9572 Filed 4–11–97; 8:45 am]

BILLING CODE 3410–EN–F

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Arkansas Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Arkansas Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 8:00 p.m. on April 23, 1997, at the Holiday Inn West, 201 South Shackleford, Little Rock, Arkansas 72212. The purpose of the meeting is to plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 4, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–9465 Filed 4–11–97; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Pennsylvania Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Pennsylvania Advisory Committee to the Commission will convene at 12:30 p.m. and adjourn at 4:30 p.m. on Monday, May 19, 1997, at the U.S. Customs House, Conference Room 204, Second and Chestnut Streets, Philadelphia, Pennsylvania 19106. The purpose of the meeting is to plan project activity on affirmative action for Fiscal Year 1997 and to receive information from invited guests on affirmative action issues in Pennsylvania.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Joseph Fisher, 215–351–0750, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 4, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–9466 Filed 4–11–97; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the South Dakota Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the South Dakota Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 3:00 p.m. on Tuesday, May 13, 1997, at the Holiday Inn City Centre, 100 West 8th, Sioux Falls, South Dakota 57104. The purpose of the meeting is to plan a fair housing workshop.

Persons desiring additional information, or planning a presentation to the Committee, should contact Subcommittee Chairperson Marc S. Feinstein, 605–336–2880, or John Dulles, Director of the Rocky Mountain Regional Office, 303–866–1400 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 4, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–9467 Filed 4–11–97; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–401]

Calcium Hypochlorite From Japan; Termination of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Termination of Antidumping Duty Administrative Review.

SUMMARY: The Department of Commerce (the Department) is terminating the administrative review of the antidumping duty order on calcium hypochlorite from Japan. The review covers two producers/exporters of calcium hypochlorite, Nankai Chemical Industry Co., Ltd. and Tohoku Toshoh Chemical Co., Ltd. The review period is April 1, 1995 through March 31, 1996 (the POR).

EFFECTIVE DATE: April 14, 1997.

FOR FURTHER INFORMATION CONTACT: Cameron Cardozo or Maria MacKay, Office of Countervailing Duty/ Antidumping Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On April 18, 1985, the Department published in the **Federal Register** (50 FR 15470) the antidumping duty order on calcium hypochlorite from Japan. On April 3, 1996, the Department published a notice of ''Opportunity to Request Administrative Review'' (61 FR 14739) of this antidumping duty order for the period April 1, 1995 through March 31, 1996. On April 30, 1996, the petitioner, the Olin Corporation, requested an administrative review for two Japanese producers/exporters of calcium hypochlorite: Nankai Chemical Industry Co., Ltd. (Nankai) and Tohoku Tosoh Chemical Co., Ltd. (Tosoh). We published a notice of initiation of the review on these companies on May 24, 1996 (61 FR 26158).

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).

Scope of the Review

The merchandise covered by this administrative review is calcium hypochlorite. This merchandise is currently classifiable under item 2828.10.00.00 of the *Harmonized Tariff Schedule* (HTS). The HTS item number is provided for convenience and Customs purposes. The written description remains dispositive.

Termination of Administrative Review

Both Nankai and Tosoh responded that they had no shipments of the subject merchandise during the POR. We confirmed this information for both companies with the United States Customs Service. Therefore, in accordance with our practice, we are terminating this administrative review. *See e.g.*, Polychloroprene Rubber from Japan: Final Results of Antidumping Duty Administrative Review, 61 FR 67318 (December 20, 1996). The cash deposit rates for these firms will continue to be the rates established in the most recently completed administrative review. *See Calcium Hypochlorite from Japan: Final Results of Antidumping Duty Administrative Review*, 55 FR 50853 (December 11, 1990).

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)).

Dated: April 4, 1997.

Jeffrey P. Bialos,

Principal Deputy Assistant Secretary for Import Administration.

[FR Doc. 97–9550 Filed 4–11–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[C–412–811]

Notice of Court Decision: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 14, 1997.

SUMMARY: On February 10, 1997, the United States Court of International Trade (CIT) affirmed the International Trade Administration's remand determination that the Special Steels Business, a productive unit of the state-owned British Steel Corporation, was not a person or an artificial person and, therefore, was not capable of receiving a subsidy.

FOR FURTHER INFORMATION CONTACT: Roy Malmrose, AD/CVD Enforcement, Office I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–5414.

SUPPLEMENTARY INFORMATION: On January 27, 1993, in the *Final Affirmative Countervailing Duty Determination: Certain Hot Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom* (58 FR 6237), the International Trade Administration (ITA) determined that subsidies previously bestowed on the state-owned British Steel Corporation (BSC) passed through, in part, to United Engineering Steels, Ltd. (UES), a joint-venture

company, when UES purchased the Special Steels Business (SSB), one of BSC's productive units, in an arm's-length transaction. The ITA's determination was appealed. The ITA subsequently requested, and was granted, a remand in order to reconsider its final determination. On remand, the ITA adopted its reasoning in *Certain Steel Products From the United Kingdom*, 58 FR 37,393 (July 9, 1993), in which it determined that part of the price UES paid for the productive unit purchased from BSC constituted payment for prior subsidies. On June 7, 1994, in *Inland Steel Bar Co.* v. *United States*, 858 F. Supp. 179 (CIT 1994) (*Inland I*), the CIT overturned the ITA's determination that previously bestowed subsidies passed through with a productive unit sold in an arm's-length transaction to a private party.

In *Inland Steel Bar Co.* v. *United States*, 86 F.3d 1174 (Fed. Cir. 1996) (*Inland II*), the Federal Circuit reversed and remanded *Inland I*, concluding that the lower court had erred in holding that as a matter of law a subsidy could not pass through during an arm's-length transaction. The CIT subsequently remanded the case to the ITA to make a determination pursuant to *British Steel plc* v. *United States*, 879 F. Supp. 1254 (CIT 1995) (*British Steel I*), *appeals docketed*, Nos. 96–1401 to –06 (Fed. Cir. June 21, 1996), and *British Steel plc* v. *United States*, 924 F. Supp. 139 (CIT 1996) (*British Steel II*), *appeals docketed*, Nos. 96–1401 to –06 (Fed. Cir. June 21, 1996), whether the SSB was a productive unit capable of receiving subsidies. Pursuant to *British Steel I* and *British Steel II*, the ITA determined that the SSB was not a productive unit capable of receiving subsidies. This remand was affirmed by the CIT in *Inland Steel Bar Co.* v. *United States*, Slip Op. 97–18 (Feb. 10, 1997) (*Inland Steel III*).

In its decision in *Timken Co.* v. *United States*, 893 F.2d 337 (Fed. Cir. 1990), the United States Court of Appeals for the Federal Circuit held that, pursuant to 19 USC section 1516a(e), the Department must publish a notice of a court decision which is not ''in harmony'' with a Department determination, and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's opinion in *Inland Steel III* on February 10, 1997, constitutes a decision not in harmony with the Department's final affirmative determination. Publication of this notice fulfills the *Timken* requirement.

Accordingly, the Department will continue to suspend liquidation pending the expiration of the period of appeal, or, if appealed, upon a ''conclusive'' court decision. Absent an appeal, or, if appealed, upon a ''conclusive'' court decision affirming the CIT's opinion, the countervailing duty order will be revoked effective February 20, 1997.

Dated: March 27, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–9549 Filed 4–11–97; 8:45 am]

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DEPARTMENT OF COMMERCE

Internal Trade Administration

[C–122–404]

Live Swine From Canada; Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Countervailing Duty Administrative Review.

SUMMARY: On October 7, 1996, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results of administrative review of the countervailing duty order on live swine from Canada for the period April 1, 1994 through March 31, 1995 (61 FR52426). The Department has now completed this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended. For information on the net subsidy, see the *Final Results of Review* section of this notice. We will instruct the U.S. Customs Service to assess countervailing duties as detailed in the *Final Results of Review* section of this notice.

EFFECTIVE DATE: April 14, 1997.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Cameron Cardozo, Office of CVD/AD Enforcement VI, Import Administration International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION

Background

Pursuant to 19 C.F.R. section 355.22(a), reviews should cover only those producers or exporters of the subject merchandise for which a review was specifically requested. However, as explained in the preliminary results, the Department has determined that it is not practicable to conduct a company-specific review of this order because a large number of producers and exporters requested the review. Therefore, pursuant to section 777(e)(2)(B) of the Tariff Act of 1930, as amended, we are conducting a review of all producers and exporters of subject merchandise covered by this order on the basis of aggregate data. This review also covers the period April 1, 1994 through March 31, 1995, and 33 programs. On May 1, 1996, we extended the deadline for the final results of this review to no later than 180 days from the date of publication of the preliminary results. *See Live Swine from Canada; Extension of Time Limit for Countervailing Duty Administrative Review* (61 FR 19261).

Since the publication of the preliminary results on October 7, 1996 (61 FR 52426) the following events have occurred. We invited interested parties to comment on the preliminary results. On November 6, 1996, case briefs were submitted by the Government of Canada (GOC), the Government of Quebec (GOQ), and the Canadian Pork Council (CPC), (respondents), and the National Port Producers' Council (petitioners). On November 13, 1996, rebuttal briefs were submitted by the petitioners and the respondents. At the request of the GOQ and the CPC, the Department held a public hearing on December 11, 1996.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). The Department is conducting this administrative review in accordance with section 751(a) of the Act.

Scope of the Review

On August 29, 1996, the *Final Results of Changed Circumstances Countervailing Duty Administrative Review, and Partial Revocation* were published (61 FR 45402), in which we revoked the order, in part, effective April 1, 1991, with respect to slaughter sows and boars and weanlings from Canada, because this portion of the order was no longer of interest to domestic interested parties. As a result the merchandise now covered by the order and by this administrative review is live swine except U.S. Department of Agriculture certified purebred breeding swine, slaughter sows and boars and weanlings (weanlings are swine weighing up to 27 kilograms or 59.5 pounds). The merchandise subject to the

order is classifiable under the *Harmonized Tariff Schedule* (HTS) item numbers 0103.91.00 and 0103.92.00. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Verification

As provided in section 782(i) of the Act, we verified information submitted in the questionnaire responses. We followed standard verification procedures, including meeting with government and company officials, and examination of relevant accounting and original source documents. Our verification results are outlined in the public version of the verification report (*Verification Report*), which is on file in the Central Records Unit (Room B–009 of the Main Commerce Building).

Allocation Methodology

In the past, the Department has relied upon information from the U.S. Internal Revenue Service (IRS) on the industry-specific average useful life (AUL) of assets in determining the allocation period for non-recurring grant benefits. *See General Issues Appendix* appended to *Final Countervailing Duty Determination; Certain Steel Products from Austria*, 58 FR 37063, 37226 (July 9, 1993). However, in *British Steel plc.* v. *United States*, 879 F. Supp. 1254 (CIT 1995) (*British Steel*), the U.S. Court of International Trade (the Court) ruled against this allocation methodology. In accordance with the Court's remand order, the Department calculated a company-specific allocation period for non-recurring subsidies based on the AUL of non-renewable physical assets. This remand determination was affirmed by the Court on June 4, 1996, *British Steel*, 929 F. Supp. 426, 439 (CIT 1996).

The Department has decided to acquiesce to the Court's decision and, as such, we intend to determine the allocation for non-recurring subsidies using company-specific AUL data where reasonable and practicable. In this proceeding, the Department preliminarily determined that it is not reasonable and practicable to allocate nonrecurring grants using company-specific AUL data because it is not possible to apply a company-specific AUL in an aggregate case (such as the case at hand). We invited the parties to comment on the selection of this methodology and provide any other reasonable and practicable approaches for complying with the Court's ruling. The GOQ submitted comments on this issue. The GOQ agreed with the Department that it is not feasible to allocate nonrecurring grants using company-specific data in aggregate cases and that the U.S. Internal Revenue Service tax tables are appropriate for allocating nonrecurring grants in this review. However, the GOQ also stated that, in future proceedings conducted on an aggregate basis, the Department should seek suggestions from the parties as to more appropriate methodologies for calculating the allocation period. Accordingly, in this review, the Department is using the allocation period assigned to each grant in prior reviews of this order.

Calculation Methodology for Assessment and Cash Deposit Purposes

For the review period, we calculated the net subsidy on a country-wide basis by first calculating the subsidy rate for each program subject to the administrative review. We calculate the rate on a province by province basis. We then weight-averaged the rate received by each province using as the weight the province's share of total Canadian exports to the United States of market hogs. We then summed the individuals provinces' weighted-average rates to determine the subsidy rate from each program. To obtain the country-wide rate, we then summed the subsidy rates from all programs.

Analysis of Programs

Based upon the responses to our questionnaires, the results of verification, and written comments from the interested parties, we determine the following:

I. Programs Conferring Subsidies

A. Programs Previously Determined to Confer Subsidies

I. *Feed Freight Assistance Program:* In the preliminary results, we found that this program conferred countervailable subsidies on the subject merchandise. Our review of the record and our analysis of the comments submitted by the interested parties, summarized below, has led us to modify our findings from the preliminary results for this program. We have determined that the proper calculation methodology with respect to FFA benefits is the one that the Department has used to determine the benefit for the only other ''federal'' program, NTSP, in this review. Therefore, we are first calculating a benefit per kilogram of live swine within each province eligible for FFA assistance using each province's total production. Next, we are adjusting each province's rate per kilogram based on each province's share of exports to the United States of the subject merchandise. Finally, these individual provincial rates are summed to obtain a total national rate for the FFA program. Accordingly, the net subsidy for this program has changed from Can$0.0006 per kilogram to less than Can$0.0001 per kilogram.

2. *National Tripartite Stabilization Scheme for Hogs (NTSP):* In the preliminary results, we found that this program conferred countervailable subsidies on the subject merchandise. Our review of the record and our analysis of the comments submitted by the interested parties, summarized below, has led us to modify our findings from the preliminary results for this program. In our calculation of NTSP benefits to hog producers, we have excluded payments related to other NTSP commodity plans which, in our preliminary results, were inadvertently cumulated with those for hogs. We have recalculated the NTSP benefit applicable only to hog producers during the POR using the same methodology described in the *Preliminary Results* (61 FR at 52428). Accordingly, the net subsidy for the residual NTSP payments and the retroactive NTSP surplus has changed from Can$0.0172 to Can$0.0004 per kilogram. Also, the cash deposit for this program has been adjusted to zero to reflect that this program has been terminated and there are no residual benefits. *See Final Affirmative Countervailing Duty Determination: Certain Pasta from Turkey*, 61 FR 30366, 30370 (June 14, 1996) (*Pasta from Turkey*).

3. *British Columbia Farm Income Insurance Program (FIIP):* In the preliminary results, we found that this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change any findings or calculations. Accordingly, the net subsidy for this program of less than Can$0.0001 per kilogram remains unchanged from the preliminary results.

4. *Saskatchewan Hog Assured Returns Program (SHARP):* In the preliminary results, we found that this program conferred countervailable subsidies on the subject merchandise. Our review of the record and our analysis of the comments submitted by the interested parties, summarized below, has led us to modify our findings from the preliminary results for this program with regard to the cash deposit. The net subsidy for this program of Can$0.0028 per kilogram remains unchanged from the preliminary results. However, the cash deposit for this program has been adjusted to zero to reflect that this

program has been terminated and there are no residual benefits. *See Pasta from Turkey*.

5 *Saskatchewan Livestock Investment Tax Credit:* In the preliminary results, we found that this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change any findings or calculations. Accordingly, the net subsidy for this program of Can$0.0001 per kilogram remains unchanged from the preliminary results.

6 *Saskatchewan Livestock Facilities Tax Credit:* In the preliminary results, we found that this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change any findings or calculations. Accordingly, the net subsidy for this program of Can$0.0001 per kilogram remains unchanged from the preliminary results.

7 *Saskatchewan Interim Red Meat Production Equalization Program:* In the preliminary results, we found that this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change any findings or calculations. Accordingly, the net subsidy for this program of Can$0.0011 per kilogram remains unchanged from the preliminary results.

8. *Alberta Crow Benefit Offset Program (ACBOP):* In the preliminary results, we found that this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change any findings or calculations. Accordingly, the net subsidy for this program of Can$0.0010 per kilogram remains unchanged from the preliminary results.

9. *Ontario Livestock and Poultry and Honeybee Compensation Program:* In the preliminary results, we found that this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change any findings or calculations. Accordingly, the net subsidy for this program of less than Can$0.0001 per kilogram remains unchanged from the preliminary results.

10. *Ontario Export Sales Aid Program:* In the preliminary results, we found that this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change any findings or calculations. Accordingly, the net subsidy for this program of Can$0.0001 per kilogram remains unchanged from the preliminary results.

11. *Ontario Bear Damage to Livestock Compensation Program:* In the preliminary results, we found that this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change any findings or calculations. Accordingly, the net subsidy for this program of less than Can$0.0001 per kilogram remains unchanged from the preliminary results.

12. *New Brunswick Livestock Incentives Program:* In the preliminary results, we found that this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change any findings or calculations. Accordingly, the net subsidy for this program of less than Can$0.0001 per kilogram remains unchanged from the preliminary results.

13. *New Brunswick Swine Industry Financial Restructuring and Agricultural Development Act—Swine Assistance Program:* In the preliminary results, we found that this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change any findings or calculations. Accordingly, the net subsidy for this program of less than Can$0.0001 per kilogram remains unchanged from the preliminary results.

14. *New Brunswick Swine Assistance Policy on Boars:* In the preliminary results, we found that this program conferred countervailable subsidies on the subject merchandise. We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change any findings or calculations. Accordingly, the net subsidy for this program of less than Can$0.0001 per kilogram remains unchanged from the preliminary results.

B. New Programs Determined to Confer Subsidies

1. *National Transition Scheme for Hogs:* In the preliminary results, we found that this program conferred countervailable subsidies on the subject merchandise. Our review of the record and our analysis of the comments submitted by interested parties, summarized below, has led us to modify part of our preliminary determination on this program. The change concerns the cash deposit. The net subsidy for this program of Can$0.0042 per kilogram remains unchanged from the preliminary results. However, the cash deposit for this program has been adjusted to zero to reflect that this program has been terminated and there are no residual benefits. *See Pasta from Turkey*.

2. *Technology Innovation Program Under the Canada/Quebec Subsidiary Agreement on Agri-Food Development:* In the preliminary results, we found that this program conferred countervailable subsidies on the subject merchandise. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the preliminary results. Accordingly, the net subsidy for this program of less than Can$0.0001 per kilogram remains unchanged from the preliminary results.

II. Programs Found Not to Confer Subsidies

Research Program under the Canada/Quebec Subsidiary Agreement on Agri-Food Development: In the preliminary results, we found that this program did not confer subsidies during the POR. Our analysis of the comments submitted by the interested parties, summarized below, has not led us to change our findings from the preliminary results.

III. Programs Found To Be Not Used

In the preliminary results, we found that the producers and/or exporters of the subject merchandise did not apply for or receive benefits under the following programs:

A. Quebec Farm Income Stabilization Insurance Program (FISI);
B. Support for Strategic Alliances Program under the Canada/Quebec Subsidiary Agreement on Agri-Food Development;
C. Agricultural Products Board Program;
D. Federal Atlantic Livestock Feed Initiative;
E. Western Diversification Program;
F. Newfoundland Hog Price Support Program;
G. Newfoundland Hog Price Stabilization Program;
H. Newfoundland Weanling Bonus Incentive Policy;
I. Nova Scotia Improved Sire Policy;
J. Nova Scotia Swine Herd Health Policy;
K. Ontario Swine Sales Assistance Policy; and
L. Ontario Rabies Indemnification Program.

Our analysis of any comments submitted by the interested parties,

summarized below, has not led us to change our findings from the preliminary results.

IV. Programs Found To Be Terminated

In the preliminary results, we found the following programs to be terminated and that no residual benefits were provided:

A. Alberta Livestock and Beeyard Compensation Program;
B. British Columbia Special Hog Payment Program; and
C. British Columbia Swine Herd Improvement Program.

We received no comments on our preliminary results and our findings remain unchanged in these final results.

Analysis of Comments

Comment 1: The GOC and the CPC argue that the Department erroneously concluded that NTSP payments were made to hog producers during the period of review (POR). They argue that in calculating a benefit for this program, the Department mistakenly used the payout figure for all NTSP plans, which included miscellaneous post-termination adjustments under the NTSP for the Hogs' plan, adjustments under the other terminated NTSP plans, payouts under the active NTSP plans, and all surplus distributions to producers under all the various terminated plans categorized as ''tripartite payments'' in the Farm Cash Receipts (FCRs) data. They also argue that the adjustments to the NTSP for hogs resulted in the GOC collecting a net of Can$41,000 from hog producers during the POR. Therefore, they argue that the Department should find that there were no benefits to hog producers under the NTSP for hogs during the POR.

The petitioners contend that the GOC's supplemental questionnaire response dated June 3, 1996 at page 3 indicates that tripartite payments that had been held over from earlier fiscal years had been paid to live swine producers during the POR, and were accounted for in the FCRs. The petitioners also contend that the Department's September 23, 1996 *Verification Report* at page 4 states that representatives of Agriculture Canada explained not only that NTSP payouts had been made, but also that some NTSP payments remained outstanding. Thus, the petitioners contend that the Department verified that hog producers received NTSP payouts during the POR based on program activities that occurred throughout the life of the program. Therefore, the petitioners contend that the record established that hog producers received NTSP payouts during the POR and, further, that these payouts were substantial. Furthermore, the petitioners contend that because the GOC has failed to submit the NTSP Annual Report for the review period, which represents the official document that presumably would outline the nature and extent of the hog account closeout adjustments and their effect on NTSP payouts, the GOC's argument is deficient.

Department's Position: We agree, in part, with the GOC and the CPC, and, in part, with the petitioners. At verification, we reviewed the ''Tripartite Payments'' line item in the FCRs, which showed an aggregate figure for payments received by producers under all NTSP plans in each province. There was no breakdown by commodity. Therefore, we examined a GOC internal document entitled ''Tripartite Payments,'' which shows the payments to producers of all commodities covered by an NTSP plan in each province (Exhibit GOC–5 to the *Verification Report*). We also reviewed an internal document entitled ''Surplus Distribution—Producer,'' which shows the NTSP surplus distribution for all commodities in each province (Exhibit GOC–6 to the *Verification Report*). We selected provinces from Exhibit GOC–5 and GOC–6 to trace to the FCRs, because the totals from both of these documents were recorded in the FCRs ''Tripartite Payments'' line item. However, when calculating the NTSP benefit for the subject merchandise for the preliminary results, we inadvertently used the total tripartite payments listed in the FCRs. Therefore, in these final results, we have recalculated the NTSP benefit applicable only to hog producers during the POR using the same methodology described in the *Preliminary Results* (61 FR at 52428). To obtain the payouts made to hog producers during the POR, we summed the payments listed for hog producers in each province in Exhibit GOC–5 to the *Verification Report.*

However, consistent with the Department's practice, we did not offset the NTSP benefit to the hog producers by the premiums the hog producers paid during the POR, as argued by the respondents. In prior administrative reviews of *Live Swine*, we only countervailed two-thirds of the payments made to swine producers because the federal government and the provincial government contributed two-thirds of the premiums from which payments were made to the hog producers. We did not countervail the remaining one-third because it represented the producers premiums. Because we only countervail two-thirds of the payments, there is no reason to make any further adjustments to the payments to hog producers. *See, Live Swine from Canada; Notice of Preliminary Results of Countervailing Duty Administrative Reviews; Initiation and Preliminary Results of Changed Circumstances Review and Intent to Revoke Order in Part*, 61 FR 26879, 26883 (May 29, 1996) and *Live Swine from Canada; Final Results of Countervailing Duty Administrative Reviews*, 61 FR 52408 (October 7, 1996).

We agree with the petitioners that payments for closing entries of the NTSP hog plan were made during the POR, and we have calculated the benefit from these payments. However, we disagree with the petitioners that the GOC official's comment, *Verification Report* at 4, that some NTSP payments remained outstanding necessarily means payments to hog producers. There are NTSP plans for other commodities, which were still in effect, and for which there could be payments due in the future. However, we verified that the plan for hogs was no longer in effect and that there will be no payments made in the future under that plan.

Comment 2: The CPC contends that the Department stated in the preliminary results that it intended to calculate a benefit from the Feed Freight Assistance Program (FFA) using the same methodology applied in the sixth review (*See Live Swine from Canada; Final Results of Countervailing Duty Administrative Review:* 59 FR 12243 (March 16, 1994), (*Swine Sixth Review Results)).* However, the CPC claims that the methodology used in the instant review is inconsistent with that used in *Swine Sixth Review Results,* and constitutes a ministerial error. In *Swine Sixth Review Results,* the Department calculated ''production in kilos'' based on the total production of live swine in provinces eligible for FFA. In the preliminary results of this review, however, the Department calculated ''production in kilos'' for three provinces using only the live swine produced in the FFA eligible areas of the three provinces: British Columbia, Quebec, and Ontario. The CPC also states that the same ministerial error was made in *Swine Seventh, Eighth and Ninth Review Results,* which the Department corrected in an amended final notice (*Live Swine from Canada; Amended Final Results of Countervailing Duty Administrative Reviews,* 61 FR 58383; (November 14, 1996) (*Amended Swine Seventh, Eighth, and Ninth Review Results)).* As a result, the CPC contends that the Department should also correct this alleged error in the preliminary results of the current review.

The petitioners argue that the Department should affirm the calculation methodology that it used in the preliminary results because it correctly ''ties'' FFA receipts to the merchandise actually benefiting from the subsidy. In Ontario, Quebec, and British Columbia, only certain counties, and, therefore, only a percentage of swine production, are eligible to receive FFA assistance. Therefore, the petitioners argue that the Department should divide the amount of FFA assistance by the total weight of live swine produced in FFA-eligible areas rather than by total production in each province. According to the petitioners, tying FFA benefits that can only be received by a subset of producers in certain provinces to all production in those provinces would yield the same absurd result as tying provincial benefits to national production.

In rebuttal, the CPC argues that should the Department decide to revise its methodology, any revision must be consistent with the Department's calculation of the benefit from other ''national'' programs providing varying benefits to individual provinces, correctly tie the benefits to eligible production and exports. According to the CPC, the revised methodology, applied by the Department to all other programs available in more than one province, should calculate a benefit per kilo per province, and then calculate a weighted average rate per kilo based on each province's share to total exports. These individual provincial rates should then be added up to obtain a total national rate. The CPC submits that any revision to the FAA benefit calculation should conform to this standard methodology.

Department's Position: In consideration of the comments received on this issue, we have reexamined our FFA calculation methodology. We have determined that the proper calculation methodology to follow with respect to FFA benefits is the one that the Department has used in this review to determine the benefit for the only other ''national'' program, NTSP. Therefore, we first calculated a benefit per kilogram for each province eligible for FFA assistance using the provinces' total production of live swine. Next, we weighted each province's benefit by each province's share of total exports of the subject merchandise to the United States. Finally, these weighted provincial rates are summed to obtain the benefit for the FFA program on live swine.

We disagree with the petitioners regarding the use of an adjusted production figure in the denominator for Ontario, Quebec, and British Columbia. This review is conducted on an aggregate basis. In this case we have treated the provinces as we treat companies in a typical case. To calculate a country-wide rate, we weight-average each province's rate by its share of exports to the United States. To calculate the province's rate for the FFA program, we obtain the same result using two different methods: (1) We can calculate a rate for the counties receiving FAA benefits and a rate for the counties that received no FAA benefits, and then derive the weighted-average rate for the province, or (2) simply calculate a rate for the province by using the amount of FAA assistance in the numerator and total swine production in the denominator. We have adopted the latter method to calculate the FFA rate for each province.

Also, we addressed this same comment in *Swine Sixth Review Results* where we stated that ''[a]lthough we recognize that FAA availability is limited to certain areas within the participating provinces, we determine it is not appropriate to adjust provincial production downward. * * * We determine that adjusting the denominator as we did in the past results is overstating the FAA benefit.'' *Id.* at 12261. Therefore, for these final results, we have calculated FAA benefits as described above.

Comment 3: The GOQ argues that the Department's preliminary determination to countervail a portion of the Canada/Quebec Subsidiary Agreement on Agri-Food Development (Agri-Food Agreement) is contrary to the Department's administrative practice. The GOQ claims that in the last five administrative reviews of this order, the Department has found the Agri-Food Agreement, in its entirety, not countervailable because it is a research program in which the results are made publicly available. The only possible change with respect to the Agri-Food Agreement is the expiration of the original Agri-Food Agreement in 1991 and its replacement in 1993 with the current Agri-Food Agreement. According to the GOQ, this change cannot justify the Department's reconsideration of the Agri-Food Agreement in this review because the current Agri-Food Agreement was already in place during the ninth administrative review when the Department found the Agri-Food Agreement non-countervailable. The GOQ asserts that the Department's long-standing policy has been not to re-examine programs previously found not countervailable absent new information or evidence of changed circumstances. Because the Department found the Agri-food Agreement non-countervailable in the ninth review and no party submitted new information in this proceeding, the GOQ contends that the Department should have continued to find it not countervailable.

The GOQ claims that, although the Department erred in investigating the Agri-Food Agreement after finding it non-countervailable in all prior administrative reviews, the record evidence once again demonstrates that the Agri-Food agreement is not countervailable. Section 355.44(1) of the *1989 Proposed Regulations* reflects the Department's long-term practice that research and development programs, such as the Agri-Food Agreement and its components, are not countervailable if the research results are made publicly available. According to the GOQ, the Agri-Food Agreement is a single program and each of its components individually meet the requirements of section 355.44(1). Thus, the GOQ argues that, in the final results of this review, the Department should not find the Agri-Food Agreement or any of its components countervailable.

The CPC argues that the Department preliminarily determined that the Technology Innovation component of the Agri-Food Agreement is countervailable without first examining whether the results of the research generated by the funded projects are generally available, and that this analysis is not in accordance with either U.S. law or the Department's practice. The CPC claims that funding for this Agri-Food Agreement is shared 50/50 by the federal government and the province, and argues that in prior reviews the Department's analysis of similar jointly funded agreements have begun with a determination as to whether the research results were made publicly available. Only if research results were not made available has the Department then gone on to examine the source of funding. The CPC contends that this analysis is as long-standing as the Department's *1989 Proposed Regulations,* and as recent as the preliminary and final results of the seventh, eighth and ninth administrative reviews of this order. As a result, the CPC concludes that the Department should analyze the Agri-Food Agreement in accordance with U.S. law and its past practice, and should find that none of the components of Agri-Food are countervailable.

The petitioners contend that in an effort to avoid the question of the countervailability of the Technology Innovation component of the Agri-Food

Agreement, the GOQ and CPC attempt to argue that the Department's past treatment of the Agri-Food Agreement, as a whole, prevents the agency from revisiting one particular component of the program in the present review. The petitioners state that the Department's past findings of countervailability are limited to instances where it has examined the Agri-Food Agreement on an aggregate basis. However, the Department has never found the Technology Innovation component of the Agri-Food Agreement, by itself, to be not countervailable, and the Department's finding in the present case does not conflict with its past treatment of this subsidy. Also, the Department's prior finding of noncountervailability was limited to the previous Agri-Food Agreement. The petitioners allege that this review presents the first time that the Department has examined the current Agri-Food Agreement at verification. Thus, the petitioners claim the record in this review provides the Department with ample basis to ''reinvestigate'' the countervailability of the new Agri-Food Agreement.

The petitioners continue that the respondents are incorrect to argue that the Technology Innovation program should be considered non-countervailable because it constitutes a research program under which research results are made publicly available. According to the petitioners, U.S. law and past Department practice support the Department's decision to treat the Technology Innovation component of the Agri-Food Agreement as a regionally specific technical assistance program provided by the Canadian federal government to the designated geographic region of Quebec. In *Final Affirmative Countervailing Duty Determination; Fresh, Chilled, and Frozen Pork from Canada,* 54 FR 30774 (July 24, 1989) (*Pork Investigation*), the Department examined the separate components of the precursor Agri-Food program and determined that the federal government's contributions to the Technology component were countervailable because the program did not involve research and was limited to the region of Quebec. Consistent application of agency practice requires the Department to treat Technology Innovation as a technical assistance subsidy for production aid. According to the petitioner, the Technology Innovation program is designed principally to provide production support. Given that the Technology Innovation program does not constitute a research subsidy, the petitioners argue that the Department has correctly not examined the public availability of this program. Only when referring to the Agri-Food program in it entirety can the program be characterized generally as a ''research'' program. However, the petitioners conclude that the Department correctly rejected this approach and based its countervailability finding on the theory that the program is regionally specific.

Department's Position: We disagree with the GOQ and CPC. The Department's preliminary finding with respect to the countervailability of the Technology Innovation program in not inconsistent with prior Department practice. In fact, the Department examined the countervailability of the predecessor Agri-Food Agreement in the *Pork Investigation*. In that case, the Department also examined the separate components of that agreement (Research and Development, Technological Innovations and New Initiatives, Soil Conservation and Improvement) as three separate programs and determined that the Technological Innovations program was countervailable because the program did not involve research, and the funding, provided by the federal government, was limited to the region of Quebec. *See Pork Investigation* at 30779. In *Live Swine from Canada; Preliminary Results of Countervailing Duty Administrative Review* 55 FR 20812, 20814 (May 21, 1990) (*Swine Second and Third Review Results*), we stated again that the Agri-Food Agreement contained three programs: Research and Development, Technological Innovations, and Soil Conservation, and that the federal government's contributions were limited to Quebec, and therefore countervailable. We examined the Agri-Food Agreement again in the fourth and seventh, eighth, and ninth reviews (the program was not used in the fifth and sixth review). Although we consistently described the Agri-Food Agreement in terms of three programs under the same agreement, we examined individual projects as if they all were financed under the Research program rather than under the other two programs. *See, e.g. Swine Seventh, Eighth and Ninth Review Results* at 26887. Our understanding was inaccurate and does not reflect a determination that the Agri-Food Agreement is one program totally related to research, as the GOQ and the CPC suggest. Furthermore, the GOQ submitted no information on the record of the ninth review showing that a new Agri-Food Agreement was in effect. It was only during the instant review that the Department learned that a new Agri-Food Agreement was in force. The fact that a new Agri-Food Agreement is in force is sufficient evidence of changed circumstances in warrant a reexamination of our prior determinations. Because we determined that it was appropriate to reexamine the Agri-Food Agreement in this review, we are not constrained by our previous examinations in earlier reviews.

Moreover, the Department has discretion in determining whether to re-investigate a program previously found to be non-countervailable. The court of International Trade in affirming this discretion, stated that the Department is ''entitled to draw upon its own knowledge and expertise and facts capable of judicial notice.'' *PPG Indus., Inc.* v. *United States,* 746 F. Supp. 119, 135 (CIT 1990). As a result, we determined that it was appropriate to examine the countervailability of the 1993 Agri-Food Agreement. In line with this decision, the GOQ was offered an opportunity to claim green light or green box status under section 771(5B) of the Act. (*See* Department's Questionnaire, September 25, 1995, Section III.4 at III.4–2).

We disagree with the respondents' claim that the Agri-Food Agreement is nothing more than a research program. The language of the Agreement conveys much broader goals than simply the research and development of new products or processes. While research and development constitute a portion of the activities under this Agreement, the Agreement itself clearly denotes broader economic development objectives. In fact, the Agreement focuses on the agri-food industry, because ''agri-food development in Quebec continues to be a priority in the economic and regional development strategies of both governments.'' (See Canada-Quebec Subsidiary Agreement on Agri-Food Development, attached as Exhibit J to the GOQ Questionnaire Response, dated December 4, 1996, at 6.) According to the Agreement, the objectives of the two governments are as follows: ''(A) to intensify the economic and regional development of Quebec and to create an environment in which Quebec and its regions can achieve their economic potential..; (B) to consolidate and improve opportunities for employment and income..; (C) to facilitate consultation and coordination of the economic and regional development policies, programs, and activities of both governments..''. (*Id* at 5–6). The purpose of the Agreement is ''to promote cooperation and coordination of the efforts of the governments of Canada and Quebec with a view to strengthening the development,

competitiveness, and profitability of the agri-food industry.'' (*Id.* at 9).

As we stated in *Memorandum on Canada/Quebec Subsidiary Agreement on Agri-Food Development*, to the Acting Assistant Secretary from CVD/AD Team dated September 25, 1996, which is on file in CRU (*Agri-Food Memorandum*), we recognize that the Research program is a research and development program, and, therefore, we applied the public availability criterion to our analysis. However, when we analyzed the Technology Innovation program, we found that its application review process, eligibility requirements, purposes, and types of projects funded were more typical of a technological assistance program than of a research and development program.

Under the Technology Innovation program, the applications are reviewed by the Quebec Ministry of Agriculture (Ministere de l'Agriculture, des Pecheries et de l'Alimentation du Quebec (MAPAQ)), to see whether they meet the eligibility criteria and the objectives of the program. (See *Verification Report* at 29.) Any organization, agricultural operation, or individual associated with agricultural production is eligible under Testing and Experimentation, except for consulting firms, specialized educational institutions or research establishments; only groups of farms are eligible under Testing Networks. The type of project that can be funded deals ''with the introduction, final adjustment, or full-scale field testing of tools, specialized equipment, new techniques and practices, or agricultural management tools based on proven technical expertise'' for the Testing and Experimentation component; there is no specific requirement for the Testing Networks component. When we then look at the project assessment criteria, we find that ''Scientific and technical validity'' is only one of nine criteria used, with no particular weight given to any one of them. (See, Canada-Quebec Subsidiary Agreement on Agri-Food Development—Technology Innovation Program, attached as Exhibit L to the GOQ Questionnaire Response, dated December 4, 1996, at 14–15). Furthermore, it appears unusual that research institutions would be specifically excluded from applying for funds under this program, if it is as claimed, a research and development program. More importantly, it is not clear in this case whether the ''new technologies'' are newly developed technologies or technologies that are new to Quebec but may be widely used in other areas.

The GOQ contends that ''[t]he Technology Innovation component of Agri-Food provides grants for applied research projects in which concepts developed in laboratories are tested under actual farming conditions.'' There is no evidence in the record indicating the projects must be tied to ''concepts developed in laboratories'' or that the tested product, technology or process be in the experimental stage. Instead, the eligibility requirements seem to accommodate products already existing in the market and being tested for use in Quebec. The types of projects financed under this program seem to support this interpretation: ''Rotational grazing versus cow-calf production,'' ''Strip grazing versus dairy farming,'' ''Enhancing the competitiveness of the goat milk industry'' or ''Ventilation of pig barn using air diffuser and low-level exhaust.''

Our reasoning becomes even more clear when we compare the Technology Innovation program with the Research program. Under the Research program, the Conseil des Recherches en Peche et en Agro-Alimentaire du Quebec (CORPAQ) reviews the applications and administers the projects. This committee, which includes three university professors and a company researcher, is the same committee that evaluates all scientific research funded by the government in Quebec. CORPAQ screens a proposal for a project based on scientific merit; for the projects that are deemed eligible, a more detailed description of the project is requested which is evaluated by a second committee made up of experts specifically ''in the fields or research disciplines concerned.'' The scientific validity of the project appears to be the only criterion for the selection of the projects receiving the funding. Eligible applicants are universities under all three components of the Research program; under the Support for Partnership Research also private enterprises or associations may apply.

Testing obviously represents a stage in the research and development process. Any new product or process developed in a laboratory has to undergo testing to see whether or not the goals of the research have been achieved. However, when testing is isolated from the research process and conducted for other purposes, such as to adapt existing technologies to specific weather conditions, it is still testing, but it is no longer part of the research and development process. The fact that the Technology Innovation program does not emphasize the scientific value of the projects but seems to stress technical expertise, further buttresses our determination that this is a program providing technological assistance to farmers in order to speed up the adoption of cutting-edge technologies in Quebec.

Moreover, we verified that during the POR, this program was funded exclusively by the GOC. *See Verification Report* at page 29. Schedule C of the Agri-Food Agreement shows how funds were allocated to the three programs and clearly shows that, since its inception, the Technological Innovation program has been funded solely by the federal government. As a result, because assistance under the program is provided by the federal government to industries located within a designated geographical region of Canada (*i.e.*, Quebec), we determined that the federal contributions were countervailable. *See* section 771(5a)(D)(iv) of the Act and Statement of Administrative Action accompanying the URAA, reprinted in H.R. Doc. No. 316, 103d Cong., 2d Sess. 932 (1994) at 262.

With respect to the Research program, we did examine the public availability of the results of research projects for purposes of making a finding that the program is not countervailable. (*See Department's Position* on *Comment 4*). However, because we have determined that the Technological Innovation program is not a ''research'' program, our ''public availability'' test is inapplicable. Therefore, we continue to find that the Technological Innovation program of the Agri-Food Agreement provided a countervailable subsidy to live swine during the POR.

Comment 4: The petitioners allege that the Department erroneously declined to countervail benefits received under the Research component of the Agri-Food Agreement. The petitioners argue that the GOQ has failed to provide sufficient evidence to establish that the results of research projects will be published as required by the *1989 Proposed Regulations*. The petitioners also state that the respondents have not shown that the results of the research projects must be made public in all instances because the program allows recipients to obtain patent protection for the results of their research. Citing to *Final Affirmative Countervailing Duty Determination: Fresh and Chilled Atlantic Salmon from Norway*, 56 FR 7678, 7682 (February 25, 1991) (*Norwegian Salmon*), the petitioners assert that in instances where research projects are ongoing, the Department has required that the results are scheduled to be publicized. Petitioners argue that no such evidence exists on the record for this review. The petitioners also argue that the

Department's failure to countervail research grants under these circumstances would be inconsistent with Department practice and would create loopholes potentially allowing subsidizing governments to avoid countervailability by delaying decisions to publish the results of subsidized research until after the three-year allocation period has expired.

The GOC and CPC counter that the petitioners' argument inappropriately assumes that the GOC would fail to discharge its domestic and its international obligations fully and in good faith. The GOC cannot avoid or delay publication of Agri-Food Agreement research results without violating the terms of the Agri-Food Agreement itself. The GOC states that in the preliminary results, the Department found that the research results are published ''upon completion.'' In prior administrative reviews, the Department similarly has found that without exception the swine-related research results under the Agri-Food Agreement or its predecessor have also been made publicly available upon completion. Also, the CPC argues that the Department has verified that no researcher has ever exercised the option to patent research results, and in so doing to limit the extent of their publication. According to the CPC, the mere possibility of a future patent for one research project is insufficient proof that no results of research under this program will ever be made publicly available, citing *Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Germany*, 58 FR 37315, 37321–22 (July 9, 1993) (*German Steel*). Therefore, the GOC and CPC request that the Department affirm its determination that the Research component of the Agri-Food Agreement is not countervailable.

The GOQ argues that the Department's practice is not to countervail an uncompleted research project unless it is known at the time of the determination that the project results will not be disseminated publicly. The GOQ continues that the petitioners' position is based upon pure speculation about what might happen in the future. In any case, leaving aside the Department's determination that the Research component is a noncountervailable research program, the GOQ argues that the Research component is neither regional, nor *de jure* or *de facto* specific. As a result, the GOQ urges the Department to reject the petitioners' argument and confirm that the Research component is not countervailable.

Department's Position: We disagree with the petitioners. Although there is no schedule for publication as in *Norwegian Salmon*, we explained and documented in our *Verification Report* and *Agri-Food Memorandum* that the results of research projects funded under the Basic Research program are required by the terms of the Agri-Food Agreement to be published in an annual report upon completion. The Agri-Food Agreement states that ''the Government of Canada and the Government of Quebec agree to announce jointly all authorized projects, as well as project and program reports and results.'' However, no swine-related research projects were completed during the POR. We find it inappropriate to countervail these projects during the instant review because there are no results to determine whether they were made publicly available. The mere possibility of a future patent for the results of a research project is not sufficient evidence to justify a finding of countervailability of an entire research program, where there is a general requirement that research results be made publicly available. *See, e.g., German Steel* at 37321–22. Therefore, we reaffirm our preliminary determination that the Research program did not confer countervailable benefits on live swine during the POR. The determination that benefits under this program are countervailable could only be made if the swine-related projects were complete. It is only upon completion that we can know whether the results of research have been made publicly available. *See, e.g., Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Sweden* 58 FR 37385 (July 9, 1993).

Comment 5: The GOP argues that the Department preliminarily determined to examine the Agri-Food Agreement as three separate programs because it incorrectly assumed that there are distinct differences in the purposes, funding, eligibility requirements, and application and approval processes across the three components of the Agri-Food Agreement. The GOQ states that the Agri-Food Agreement is a single program with a single common purpose of ''strengthening the development, competitiveness and profitability of the agri-food industry.'' According to the GOQ, the agreement provides that funds may be transferred among the various components of the agreement. Therefore, the GOQ claims that since funds are fungible among the various components of the agreement, those components in practice have the same funding.

The GOQ further argues that the Agri-Food Agreement has a single administration. According to the GOQ, the budget for administration of the agreement is provided as a single component; there is no separate administrative budget for each operative component. Further, the GOQ claims that there are common eligibility requirements applicable to all three components that are set forth in the main text of the Agri-Food Agreement. The main text of the agreement establishes a single management committee with ultimate authority over project and contract approval for all three components.

Finally, the GOQ notes that in *Swine Seventh, Eighth and Ninth Review Results*, the Department cited to the *Final Affirmative Countervailing Duty Determination on Certain Fresh Atlantic Groundfish from Canada* 51 FR 10041, 10061 (March 24, 1986) (*Groundfish*) to distinguish between ''umbrella legislation'' and ''subsidiary agreement'' in its single program analysis of Canada's Farm Income Protection Act. The GOQ claims that, in *Groundfish*, the Department examined each subsidiary agreement under Canada's Economic and Regional Development Agreements (ERDA) as a single separate program. The GOQ states that the Agri-Food Agreement is a ''subsidiary agreement'' under the umbrella of ERDA. Therefore, the GOQ argues that pursuant to the rationale established in *Groundfish* and ratified in *Swine Seventh, Eighth and Ninth Review Results*, the Department should examine the Agri-Food Agreement as a single program.

The petitioners contend that the GOQ ignores that the shared purpose of the programs is too broad to meet the Department's legal standard. According to the petitioners, the Department has expressly rejected this type of broad purpose as the basis for treating independent subsidy programs as a single program, instead requiring commonality at the program-specific level. Finally, the Department has regularly examined component parts of subsidy programs similar to the umbrella program found in the Agri-Food program on an independent basis. *See, e.g., Final Affirmative Countervailing Duty Determination on Pure Magnesium and Alloy Magnesium from Canada* 57 FR 30946 (1992); *Final Affirmative Countervailing Duty Determination on Small Diameter Circular Seamless Carbon and Alloy Steel Standard Line and Pressure Pipe from Italy* 60 FR 31922 (1995).

Department's Position: We disagree with the GOQ. First, the Department has examined the components of the predecessor Agri-Food Agreement as separate programs in prior determinations. (*See Department's Position* on *Comment 3* above). Second, the instant review represents the first opportunity for the Department to examine the new Agri-Food Agreement. As extensively explained in the *Agri-Food Memorandum,* in this review, we examined the components of the Agri-Food Agreement as three separate programs because there are distinct differences in the purposes, funding, eligibility requirements, and application and approval procedures across the three components. The fact that the three components stem from the same agreement between federal and provincial government does not detract from this finding.

The GOQ claims that the Agri-Food Agreement has a single purpose of ''strengthening the development, competitiveness and profitability of the agri-food industry.'' This is correct; however, when we examine the program areas, we find that the purpose of each component is much more specific, as we outlined in the *Agri-Food Memorandum:* the purpose of the Research component is to create major leverage effects on research; the purpose of the Technological Innovation component is to speed up the rate of adoption and dissemination of technologies and production systems; and the purpose of the Strategic Alliance Support component is to stimulate cooperation and strageic alliances in the agri-food industry (*see* Appendices K, L, and M of the GOQ's December 4, 1995 questionnaire response).

With respect to funding, we agree that at the agreement level, the funding is contributed 50/50 by the two governments. However, at the program level, Schedule C of the Agreement shows that the funding for the Research program was provided by both the GOQ and the GOC, and the funding for the Technological Innovation and Strategic Alliance Support components was provided solely by the GOC.

With respect to the administration of these programs, while it is correct that the Agreement is administered by the management committee, individual ''management subcommittees'' were also established ''for the purpose of managing and administering each program under this Agreement . . .'' (Section 4.5(b) of the Agreement). With respect to the application process, each program has distinct application forms, application processes, and evaluation systems. As we have already indicated, applications under the Research program are processed by CORPAQ, applications under the Technological Innovation program are processed by MAPAQ, and application for the Strategic Alliance Support program are processed by Agriculture Canada. As outlined in the *Agri-Food Memorandum,* each program has different eligibility requirements. Each application is then reviewed by the management subcommittee for the corresponding program for final approval.

We also disagree with the GOQ's argument that, pursuant to the rationale established in *Groundfish* and ratified in *Swine Seventh, Eighth, and Ninth Review Results,* the Department should examine the *Agri-Food Agreement* as a single program. In *Groundfish* (at 10049), the Department stated that: ''ERDA subsidiary agreements establish programs, delineate administrative procedures and set up relative funding committees of the federal and provincial governments.'' Under both the Prince Edward Island subsidiary agreement and the New Brunswick subsidiary agreement, we found multiple programs. As a result, *Groundfish* does not support the GOQ's argument for treating subsidiary agreements as single programs.

The countervailing duty law does not mandate a specific standard for determining whether government actions under review should be treated as a single program or several programs. Under these circumstances, the Department has discretion and must base its determination on a reasonable interpretation of the facts on the record. The record shows that we extensively analyzed the information submitted by the GOQ's, as well as our determinations in prior cases, in reaching our determination that we should examine the components of the Agri-Food Agreement as separate programs. Consequently, we reject the GOQ's argument and reaffirm our position in the preliminary results of the instant review.

Comment 6: The GOQ states that the Department concluded that the Technology Innovation component of the Agri-Food Agreement is countervailable because it is a federal program that is limited to a single province and, thus, is regionally specific. The GOQ claims, however, that the statutory provision provides that the determination of whether a subsidy is regionally specific must be made in relation to ''the jurisdiction of the authority responsible for the subsidy * * *'' 19 U.S.C. § 1677(5A)(D)(iv). According to the GOQ, Quebec is the authority responsible for the Basic Research and Technology Innovation components. Both components are administered on a day-to-day basis exclusively by Quebec even though the GOC also provides funding for the program. Quebec is responsible for record keeping, application for grants, and decisions regarding which projects receive funding. Consequently, the GOQ states that Quebec, rather than Canada, should be viewed as the authority responsible for the Basic Research and Technology Innovation components of Agri-Food. Therefore, the GOQ argues that neither of the program components are regionally specific because they are available everywhere in Quebec.

The GOQ claims that because the Technology Innovation component is not regionally specific, in order to determine specificity the Department would have to determine whether the component is *de jure* or *de facto* specific. The GOQ argues that the Agri-Food Agreement is not *de jure* specific because the agreement provides that its benefits are available to all sectors of Quebec's agricultural economy, including food production, processing, storage and marketing. Also, the GOQ argues that an analysis of the four factors as set forth in section 355.43(b)(2) of the *1989 Proposed Regulations* show that the Technology Innovation component of the Agri-Food Agreement is neither *de jure* nor *de facto* specific. According to the GOQ, actual recipients are not limited in number, live swine are not a dominant or disproportionate user of the program, and there is no evidence that the authorities exercised discretion so as to favor the live swine industry.

The petitioners state that U.S. law and past Department practice support the decision to treat the Technology Innovation component of the Agri-Food Agreement as a regionally specific technical assistance program provided by the Canadian federal government to the designated geographic region of Quebec. The petitioners contend the Department examined the separate components of the precursor Agri-Food Agreement and determined that the federal government's contributions to the Technology Innovation component were countervailable because it did not involve research and was limited to the region of Quebec. *See Pork Investigation* at 30774, 30779. Thus, the petitioners contend that because the instant case examines the same program, consistent application of agency practice requires the Department to treat the Technology Innovation component of the Agri-Food

program as a technical assistance subsidy for production aid. Also, the GOQ is not ultimately responsible for administering the program. According to the petitioners, the Department verified that while the GOQ is responsible for administration, the critical issue of funding lies exclusively within the jurisdiction of the federal government. Therefore, it is irrelevant whether assistance is available everywhere in Quebec. The petitioners state that the Department's regional specificity inquiry in this case has focused correctly on the availability of Agri-Food assistance vis-a-vis all of Canada, not within particular provinces. The petitioners also contend that because the Department has based its countervailability finding on the theory that the Agri-Food Agreement is regionally specific, a *de facto* specificity analysis is irrelevant.

Department's Position: We disagree with the GOQ that the Technology Innovation program is not specific under section 771(5A)(D)(iv). The SAA makes clear that this provision codifies the Department's regional specificity test. It states that ''* * * subsidies provided by a central government to particular regions (including a province or a state) are specific regardless of the degree of availability or use within the region.'' SAA, at 932. Although the Agri-Food Agreement states that the GOC and the GOQ will each contribute 50 percent of the total cost of the agreement, Schedule C of the agreement shows the allocation of those funds to the three programs and clearly shows that since its inception, the Technology Innovation program has been funded solely by the federal government. Because the Department found that the assistance under this program is being provided by the federal government to industries located within a designated geographical region of Canada (*i.e.*, Quebec), we determine that the federal contributions are specific under section 771(5A)(D)(iv), and therefore, countervailable.

Contrary to the remainder of the GOQ's claim, section 771(5A)(D)(iv) does not require the Department to analyze the specificity of a subsidy in relation to the authority responsible for managing the subsidy program. The statutory language explicitly refers to ''the jurisdiction of the authority *providing* the subsidy.'' As discussed above, the record evidence demonstrates that the GOC not the GOQ provided all funding for the Technology Innovation program during the POR. Therefore, consistent with the statutory language, we have examined the specificity language, we have examined the specificity of the program from the perspective of the GOC as the source of funding. Because we determine the program to be specific under section 771(5A)(D)(iv), there is no need to conduct a *de jure* or *de facto* specificity analysis.

Comment 7: The GOQ argues that the Department should find that the Support for Strategic Alliances component of the Agri-Food Agreement is not countervailable because it funds studies with a view to developing markets and improving competitiveness, or developing knowledge and know-how, which is research. The GOQ claims that the research results under this component are specifically conditioned upon the applicant making available and disseminating the results of the projects. Therefore, the results are publicly available. According to the GOQ, the Department should make a noncountervailable determination in the instant review so as to avoid wasting resources reinvestigating this component in future reviews.

Department's Position: We disagree with the GOQ. We reviewed the Support for Strategic Alliance projects that were outstanding during the POR, and verified that none were related to live swine. Because the program was not used during the POR, we did not determine the countervailability of the program. If we find in a future review that projects related to live swine have been approved, we will examine the countervailability of this program.

Comment 8: The GOQ agrees with the Department's preliminary determination that the Basic Research components of the Agri-Food Agreement did not confer countervailable benefits on live swine during the POR. However, the GOQ argues that, because the Department preliminarily determined that the Basic Research component does not provide countervailable benefits to live swine, the Department should not continue to investigate this component in future reviews. Because the Department found that the Basic Research component was used during the POR, the Department's determination not to countervail that component is equivalent to a decision that the Basic Research component is not countervailable. According to the GOQ, it is well-established policy that the Department will not reinvestigate programs in future reviews that did not confer countervailable benefits in prior reviews absent new evidence or changed circumstances. The GOQ argues that the Department has abandoned this well established policy in its preliminary results of this review by announcing in advance that it will continue to reinvestigate the Basic Research component of the Agri-Food Agreement.

The GOQ states that the reason the Department gave for potentially reinvestigating the program was that in the future there might be a research project the results of which may not be published. However, the GOQ argues that the Department has verified at least twice that the results of Agri-Food projects are always published. Should a future research project not be published, it would constitute a change in the program and, according to the GOQ, it would be petitioner's burden to allege a change in the program. The GOQ contends that the Department cannot keep a noncountervaliable program open to investigation on the possibility that the program might change. Therefore, the Department should announce that it will not reinvestigate the program again absent substantial allegations of a change in the program or evidence that the results of a completed research program benefitting live swine were not published.

The petitioners contend that the GOQ is wrong in suggesting that a decision not to countervail a subsidy program in a particular review constitutes a *de facto* finding of noncountervailability. This argument ignores the fact-based nature of the Department's countervailing duty inquiry and also entirely overlooks the fact that the Department frquently delays making a countervailability finding when subsidy programs are not used. The petitioners assert that the Department should reject the GOQ's attempts to preclude the Department from considering the countervailability of the Basic Research component.

Department's Position: We disagree with the GOQ. It is the Department's practice to continue to review those research and development programs where there is an indication that all results may not be made publicly avaiable. *See e.g., Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Sweden*, 58 FR 37385 (July 9, 1993). In the case of the predecessor Agri-Food Agreement, we verified in the fourth and seventh administrative reviews that research results were made publicly available. The instant review provided the Department with its first opportunity to verify whether research results are made publicly available under the new Agri-Food Agreement. However, during the POR, none of the swine related projects were completed; therefore, it will not be known whether the results of the research are publicly available until completion of the project. Also, in the instant case, we verified that under Section 8 of the Research program

guidelines participants have the right to patent protection for the results of the research, if divulging the information will reduce the commercial value of those results. As a result, we will continue to examine the countervailability of these research grants in future reviews and upon completion will determine whether they are countervailable.

Comment 9: The GOQ argues that the Department should find that the Agri-Food Agreement was not used during the POR. The GOQ claims that the Agri-Food Agreement only benefits swine produced in Quebec, and there is no verified record evidence indicating that swine produced in Quebec, that are subject to the order, were exported to the United States during the POR. All market hogs must be sold through the Quebec Federation of Pork Producers. According to the GOQ, the record shows, and the Department verified, that no swine sold through the Federation were exported to the United States during the POR. U.S. import statistics that show imports from Quebec of 1,795 hogs include nonsubject merchandise, such as weanlings, sows and boars. Therefore, the GOQ argues that the Department should determine in its final results of this review that the Agri-Food Agreement was not used during the POR.

Department's Position: We disagree with the GOQ. The Department did not state that there were no exports of subject merchandise from Quebec to the United States during the POR. Official import statistics, provided by the GOC, show that Quebec exported 1,795 animals to the United States during the POR under the HTS numbers that cover live swine. We were unable to verify that these imports did not include imports of subject merchandise. Therefore, we have included exports from Quebec in all appropriate program benefits calculations, except FISI (*see Department's Position* on *Comment 12* below). As a result, the Department appropriately examined the Agri-Food Agreement during the POR.

Comment 10: The CPC argues that the Department should adjust the cash deposit rate to take into account the program terminations of the NTSP, the National Transition Scheme for Hogs (Transition Scheme), and the Saskatchewan Hog Assured Returns Program (SHARP). In the case of SHARP, the CPC states that the last date producers received benefits under SHARP was March 31, 1996, and the only other possible benefit continuing beyond that date is a minor potential liability of $3,124 in uncashed checks. Thus, they argue that this is a program-wide change and there is no possibility that measurable benefits of any significance will continue, therefore, the cash deposit rate should be adjusted. Second, the CPC claims that the NTSP for Hogs was terminated as of July 2, 1994, the entire NTSP surplus was distributed in two fiscal years, 1994/95 and 1995/96, and that no residual benefits may continue to be bestowed under this terminated program. They also claim that all payments were made either in fiscal year 1994/95 or in 1995/96 under the Transition Scheme, which was a temporary support program. Likewise, the CPC argues that these two programs meet the Department's criteria for a program-wide change qualifying for an adjustment in the cash deposit rate.

The petitioners state that according to section 355.50(d) of the Department's *1989 Proposed Regulations*, the cash deposit rate should be adjusted if: (1) the termination of a program constitutes a program-wide change and (2) no residual benefits can be bestowed under the terminated program. The petitioners contend that while the three programs have been terminated, record evidence clearly establishes that residual benefits may be provided under these programs; therefore, they do not meet the second condition that is required for a cash deposit rate adjustment.

With respect to SHARP, the petitioners point out that the final year in the SHARP three-year allocation period extends beyond the current review period, meaning that residual benefits will continue to be distributed to hog producers. In addition, even though there is a current agreement to use a three-year allocation period for SHARP benefits, there is no guarantee that this period will not be altered in the future, thereby allowing residual benefits to continue beyond the next review period. With respect to NTSP and the Transition Scheme, the petitioners assert that the record also establishes that residual benefits will continue past the current review period. Since the CPC acknowledged that NTSP and Transition Scheme payments will be made in the next review period, the petitioners state that it would be premature to modify the cash deposit rate for these two programs.

Also, the petitioners argue that the CPC incorrectly implies that since benefits under each of the three programs can be accounted for during either the POR or the subsequent period (1995–1996), the Department should find that no residual benefits exist. The petitioners state that there is nothing in section 355.50 to suggest that the Department should define residual benefits as anything other than benefits that will be received after an instant proceeding. Also, according to the petitioners, section 355.50(d) places a much more stringent burden of proof on respondents, requiring respondents to prove, with a degree of certainty, that residual benefits will not continue to be bestowed under a particular program, rather than to confirm all currently-planned future outlays.

Department's Position: We agree with the CPC. When a program that provides countervailable benefits has been terminated and all benefits have ceased to be bestowed prior to the preliminary results of review, the Department's practice is to adjust the cash deposit rate, unless a substitute program has been introduced. *See e.g., Pasta from Turkey* at 30370. The verified record evidence demonstrates that SHARP, NTSP, and the Transition Scheme were all terminated prior to the preliminary results of this review. *See Preliminary Results* at 52428–52429.

With respect to NTSP and the Transition Scheme, the information on the record for this review demonstrates that all benefits were paid out from these terminated programs during the 1994/95 and 1995/96 fiscal years. The last day of the 1995/96 fiscal year is March 31, 1996. We verified that the NTSP and the Transition Scheme programs paid out all residual benefits prior to the publication of our October 7, 1996 *Preliminary Results.* Furthermore, there is no evidence on the record that any substitute programs have been introduced for the NTSP and the Transition Scheme. Accordingly, consistent with our practice, we are adjusting the cash deposit rates for these programs.

With regard to SHARP, the last year of our three-year allocation of the SHARP deficit corresponds with the 1995/96 fiscal year. We verified that the only potential residual benefit are a contingent liability for uncashed checks of $3,124. (*Verification Report* at page 38). As a result, we determine that the residual benefit can be added to the allocated SHARP deficit for the instant review, thus leaving no residual benefits accruing after October 7, 1996, the date of the publication of the preliminary results of the instant review.

The Department is satisfied that the verified information described in the *Verification Report* and contained in the verification exhibits demonstrates that there are no residual benefits under these programs. All cash payments under NTSP and the Transition Scheme were made in 1994/95 and 1995/96. SHARP has a potential liability which

we have accounted for as discussed above. We disagree with the petitioners' claim that the Department should define residual benefits as any benefits received in the subsequent review. Because cash deposit rates apply to future entries, we adjust the cash deposit rate to zero only when we are satisfied that no residual benefits from a terminated program will be paid out subsequent to the issuance of the notice which establishes the new cash deposit rates. In this case, these conditions have been met since the three programs were terminated and cannot pay out residual benefits after the issuance of the *Preliminary Results* of *this* administrative review. Therefore, we are adjusting the cash deposit rate accordingly.

Comment 11: With respect to FISI, the GOQ argues that the Department has the discretion to determine that a program it has investigated is not countervailable, even when the Department concludes that the program was not used during the POR. The GOQ claims that the Department has used that discretion in past cases where it has determined that an investigated program was both unused and noncountervailable. *See e.g., Certain Refrigerator Compressors from the Republic of Singapore: Final Results of Countervailing Duty Administrative Review,* 61 FR 10315 (March 13, 1996) (*Singapore Compressors*). The GOQ argues that the Department should have concluded that FISI is not used *and* is not countervailable because the Department has a complete record, including a verification, showing that FISI is not countervailable.

The GOQ argues that the Department may not rely upon its decision in *Swine Sixth Review Results* in order to find FISI countervailable in this review or continue to investigate FISI in future reviews. The GOQ states that three binational panels found FISI to be non-countervailable. According to the GOQ, a binational panel decision is the equivalent of a valid and final judgment of a court of competent jurisdiction for the purpose of applying the doctrine of collateral estoppel. Since the Department lost the issue of FISI's countervailability before a binational panel, it is estopped from claiming that FISI is countervailable in the current review. In any case, the GOQ argues that the facts on the record in the instant review demonstrate that FISI is not countervailable based on the number of users, no dominant/disproportionate use, no GOQ discretion in conferring benefits, and integral linkage with Crop Insurance.

The petitioners contend that the GOQ's arguments do not rest on new factual information or evidence of changed circumstances that would warrant the Department's reexamination of the countervailability of FISI. Furthermore, the Department rejected the same collateral estoppel argument made by the GOQ concerning FISI in *Swine Seventh, Eighth, and Ninth Review Results.* The petitioners also contend that the GOQ has not offered any arguments that are responsive to the Department's earlier finding that FISI was not linked to crop insurance in *Swine Seventh, Eighth and Ninth Review Results.*

Department's Position: We disagree with the GOQ. The record evidence establishes that FISI was not used during the POR for exports of the subject merchandise to the United States. Therefore, we follow the Department's practice, which is not to examine the countervailability of programs that are not used during the POR. *See, e.g., Live Swine from Canada; Final Results of Countervailing Duty Administrative Reviews* (56 FR 10410, 10411; March 12, 1991). For this reason, all arguments advanced by the GOQ on the non-countervailability of FISI, including collateral estoppel, are moot.

We disagree with the GOQ's contention that the Department has exercised its discretion to determine that an investigated program was both unused and noncountervailable in *Singapore Compressors.* In *Singapore Compressors,* the program referred to by the GOQ did not provide benefits to the subject merchandise, and we specifically stated that ''the Department's regulations were not intended to require the Department to discuss programs which do not apply to subject merchandise.''

Comment 12: The GOQ states that the *Verification Report* does not accurately reflect the effort made by GOQ officials at verification to demonstrate that FISI and Crop Insurance are integrally linked. The GOQ contends that its officials proved that Crop Insurance, working together with FISI, is in fact an income insurance program. The two insurance systems, FISI and Crop Insurance, are integrally linked to work together to meet a common objective of providing income insurance. However, much of this information was not reported in the *Verification Report.* The GOQ requests that the Department amend its verification report to reflect accurately and completely what occurred at verification in this administrative review.

Department's Position: We disagree with the GOQ. The purpose of verification is to confirm the accuracy of the information already submitted on the record. This practice is clearly stated in the verification outline that the Department provides to the interested parties before conducting any verifications. During verification, the GOQ deemed it appropriate to elaborate in great detail on generic statements made in the response with respect to linkage. If this information had been provided in the GOQ's questionnaire responses, the Department might have issued a supplemental questionnaire and would have checked at verification on the accuracy of this previously submitted material. In this instance, however, the argumentation and documentation presented at verification clearly went beyond what had been stated and documented in the response. Verification is not intended to be an opportunity for respondents to argue their position, nor is it intended to be an opportunity for submission of new factual information, as stated in our verification outline.

Furthermore, in this case, the record evidence establishes, and the *Verification Report* documents, that the FISI program was not used during the POR for exports of the subject merchandise to the United States. Therefore, consistent with the Department's practice, we do not examine the countervailability, and therefore integral linkage, of programs that are not used in the POR by producers of the subject merchandise (*See Department's Position* on *Comment 11*). As a result, the issue of amending the *Verification Report* is moot as FISI was not used during the POR.

Comment 13: The petitioners contend that the Department partially relied on a finding that Quebec did not export live swine during the POR as a basis for concluding that the FISI program was not used during the POR. However, the petitioners state that review of the record evidence shows that the two Canadian Government agencies responsible for reporting Quebec export data have provided contradictory responses. The GOQ identified Quebec as a province that exported 1,795 hogs to the United States during the POR. Quebec, however, provided data suggesting that no live swine were exported to the United States during the POR. Since the Department has been unable to solve this discrepancy, according to the petitioners, the record does not support the conclusion that Quebec did not export live swine. Where a respondent has submitted data that is contradictory, the Department routinely makes assumptions about these data that are unfavorable to

respondents. The petitioners conclude that, under these circumstances, the Department should assume that Quebec exported live swine to the United States during the POR for purposes of analyzing the FISI program.

The GOQ and the CPC argue that, contrary to the petitioners' assertion, the Department's determination was not based upon a finding that there were no exports of live swine from Quebec during the POR; the determination was based on finding that FISI could not have benefited any live swine that might have been exported to the United States during the POR. The GOQ and the CPC state that the Department verified that all market hogs that could have benefited from FISI payments were sold to abattoirs in Canada. Therefore, the Department correctly found the FISHI could not have benefited any subject merchandise that might have been exported to the United States during the POR.

Department's Position: We disagree with the petitioners. The Department verified that all hogs receiving FISI payments during the POR were slaughtered in Canada. *See Verification Report* at page 32. As such, no *live* swine exported from Quebec received FISI payments. Accordingly, we determined that this program was not used. However, we also verified that there were exports of live swine from Quebec. As such, for those programs where assistance was provided during the POR to all live swine in Quebec, we properly calculated a subsidy rate for the POR. (*See* Memorandum to the File from Team A regarding the *Farm Income Stabilization Program* dated September 25, 1996, which is on file in the CRU.)

Final Results of Review

For the period April 1, 1994 through March 31, 1995, we determine the total net subsidy on live swine from Canada to be Can$0.0098 per kilogram.

The Department will instruct the U.S. Customs Service to assess countervailing duties of Can$0.0098 per kilogram on shipments of live swine from Canada exported on or after April 1, 1994 and on or before March 31, 1995.

The cash deposit is Can$0.0013 per kilogram, which is *de minimis.* Accordingly, the Department will also instruct the U.S. Customs Service to waive cash deposits on shipments of all live swine from Canada entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. The cash deposit rate is different than the assessment rate because, as explained above, we have taken into account program-wide changes in calculating the cash deposit rate (*see Pasta from Turkey*).

This notice 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 355.34(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 355.22.

Dated: April 7, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–9551 Filed 4–11–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Grant of Certificate of Interim Extension of the Term of U.S. Patent No. 4,197,297; CORLOPAM®

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of Term Extension.

SUMMARY: The Patent and Trademark Office has issued a certificate under 35 U.S.C. 156(d)(5) for a one-year interim extension of the term of U.S. Patent No. 4,197,297 that claims the active ingredient, fenoldopam mesylate, in the human drug product ''CORLOPAM®'' and methods of use of said active ingredient.

FOR INFORMATION CONTACT: Karin Tyson by telephone at (703) 305–9285; by mail marked to her attention and addressed to the Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231; or by fax marked to her attention at (703) 308–6916.

SUPPLEMENTARY INFORMATION: Section 156 of Title 35, United States Code, generally provides that the term of a patent may be extended for a period of up to 5 years if the patent claims a product, or a method of making or using a product, that has been subject to certain defined regulatory review. Under section 156, a patent is eligible for term extension only if regulatory review of the claimed product was completed before the original patent term expired.

On December 3, 1993, section 156 was amended by Pub. L. 103–179 to provide that if the owner of record of the patent or its agent reasonably expects the applicable regulatory review period to extend beyond the expiration of the patent, the owner or its agent may submit an application to the Commissioner of Patents and Trademarks for an interim extension of the patent term. If the Commissioner determines that, except for permission to market or use the product commercially, the patent would be eligible for a statutory extension of the patent term, the Commissioner shall issue to the applicant a certificate of interim extension for a period of not more than one year.

On March 21, 1997, Neurex Corporation, an agent of SmithKline Beecham Corporation, the owner of record of U.S. Patent No. 4,197,297, filed an application under 35 U.S.C. 156(d)(5) for interim extension of the term of U.S. Patent No. 4,197,297. The patent claims the active ingredient, fenoldopam mesylate, in the human drug product ''CORLOPAM®'' and methods of use of said active ingredient. The application indicates, and the Food and Drug Administration (FDA) has confirmed, that the product is currently undergoing a regulatory review under section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) before the FDA for permission to market or use the product commercially. The original term of the patent expires on April 8, 1997.

Review of the application indicates that, except for permission to market or use the product commercially, the subject patent would be eligible for an extension of the patent term under 35 U.S.C. 156. Since it is apparent that the regulatory review period may extend beyond the date of expiration of the patent, interim extension of the patent term under 35 U.S.C. 156(d)(5) is appropriate.

An interim extension under 35 U.S.C. 156(d)(5) of the term of U.S. Patent No. 4,197,297 is granted for a period of one year from the original expiration date of the patent.

Dated: April 7, 1997.

Bruce A. Lehman,

Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.

[FR Doc. 97–9555 Filed 4–11–97; 8:45 am]

BILLING CODE 3510–16–P

CONSUMER PRODUCT SAFETY COMMISSION

Submission for OMB Review; Comment Request—Follow-up Activities for Product-Related Injuries

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In the **Federal Register** of January 9, 1997 (62 FR 1325), the Consumer Product Safety Commission published a notice in accordance with provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) to announce the agency's intention to seek extension of approval of a collection of information conducted during follow-up activities for product-related injuries. By publication of this notice, the Commission announces that it has submitted to the Office of Management and Budget a request for reinstatement of approval of that collection of information without change through May 31, 2000.

Section 5(a) of the Consumer Product Safety Act (15 U.S.C. § 2054(a)) requires the Commission to collect information related to the cause and prevention of death, injury, and illness associated with consumer products, and to conduct continuing studies and investigations of deaths, injuries, diseases, and economic losses resulting from accidents involving consumer products. The Commission uses this information to support rulemaking proceedings, development and improvement of voluntary standards, information and education programs, and administrative and judicial proceedings to remove unsafe products from the marketplace and consumers' homes.

Persons who have been involved in or who have witnesses incidents associated with consumer products are an important source of information about deaths, injuries, and illnesses resulting from such incidents. From consumer complaints, newspaper accounts, death certificates, hospital emergency room reports, and other sources, the Commission selects a limited number of accidents for investigation. These investigations may involve face-to-face interviews with accident victims or witnesses, or telephone interviews with those persons.

Additional Details About the Request for Approval of a Collection of Information

Agency address: Consumer Product Safety Commission, Washington, D.C. 20207.

Title of information collection: Follow-Up Activities for Product-Related Injuries.

Type of request: Extension of approval.

Frequency of collection: One time for each respondent.

General description of respondents: Persons who have been involved in, or who have witnessed, incidents associated with consumer products.

Estimated number of respondents: Total 4,060: 2,200 to be interviewed by telephone; 700 to be interviewed at the incident site; 1,000 who fill out forms on the Commission's internet web site or in Commission publications; 160 to be interviewed by hot-line operators.

Estimated annual average number of hours per respondent: 0.34 hour for each telephone interview; 5.0 hours for each on-site interview; 0.2 hour to fill out a form; 0.025 hour for each hot-line interview.

Estimated total annual number of hours for all respondents: 4,452.

Comments: Comments on this request for reinstatement of approval of a collection of information should be sent within 30 days of publication of this notice to Victoria Wassmer, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; telephone: (202) 395–7340. Copies of the request for reinstatement of approval of a collection of information and supporting documentation are available from Robert E. Frye, Director, office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 504–0416, extension 2264.

Dated: April 9, 1997.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 97–9587 Filed 4–11–97; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The 1997 Summer Study Panel Meeting on Command, Control and Information, of the HQ USAF Scientific Advisory Board will meet on May 7, 1997 at the Pentagon, Washington, DC from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to gather information and receive briefing for the 1997 Summer Study topic on Expeditionary Forces.

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. 97–9480 Filed 4–11–97; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The 1997 Summer Study Panel Chairs Meeting of the USAF Scientific Advisory Board be permitted to conduct a closed meeting at Ramstein Air Base, Germany; Vicenza, Aviano, Italy; and Taszar, Hungary on May 14–19, 1997 from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to gather information and receive briefing for the 1997 Summer Study topic on Expeditionary Forces.

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. 97–9481 Filed 4–11–97; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The 1997 Summer Study Panel Meeting on Command, Control and Information, of the HQ USAF Scientific Advisory Board will meet at Eglin Air Force Base (AFB), MacDill AFB, Hurlburt AFB, and Northrop Grumman, Melbourne, FL on June 9–10, 1997 at from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to gather information and receive briefing for the 1997 Summer Study topic on Expeditionary Forces.

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. 97–9482 Filed 4–11–97; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The 1997 Summer Study Panel Meeting on Command, Control and Information, of the HQ USAF Scientific Advisory Board will meet on June 26–27, 1997 at the USAF Academy, Colorado Springs, Colorado and Peterson Air Force Base, Colorado from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to gather information and receive briefing for the 1997 Summer Study topic on Expeditionary Forces.

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. 97–9483 Filed 4–11–97; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Prepare an Environmental Impact Statement for The Proposed Disposal and Reuse of Naval Air Station South Weymouth, Massachusetts

SUMMARY: Pursuant to Council on Environmental Quality regulations (40 CFR Parts 1500–1508), implementing procedural provisions of the National Environmental Policy Act (NEPA), the Department of the Navy announces its intent to prepare an Environmental Impact Statement (EIS) for the proposed disposal and reuse of Naval Air Station (NAS) South Weymouth, Massachusetts.

In 1995, President Clinton and Congress accepted the recommendations of the Congressional Committee on Base Realignment and Closure (BRAC) to close NAS South Weymouth, Massachusetts. The proposed action to be considered and evaluated in the EIS is the disposal and reuse of the NAS South Weymouth property determined surplus to the needs of the federal government.

NAS South Weymouth, located in both Plymouth and Norfolk counties in Massachusetts, consists of approximately 1417 acres. It is situated in the three communities of Weymouth, Rockland, and Abington. A family housing area and a ten-acre parcel on the main base have been transferred to the U.S. Coast Guard. The remainder of NAS South Weymouth main base property will be available for redevelopment by the local communities.

Two off-base family housing areas are located in the city of Quincy. The disposal and reuse of these sites will be addressed in a separate environmental document. In addition, NAS South Weymouth owns and maintains a bombing target range on No Man's Island located approximately three miles from Martha's Vinyard in the Atlantic Ocean. No Man's Island will be transferred to the Department of the Interior for continued use as a natural wildlife area.

The NAS South Weymouth Reuse Committee acting as the Local Redevelopment Authority (LRA) has prepared a reuse plan for the NAS property. The plan represents a reasonable and likely redevelopment scenario based on the proposed zoning of the site. The EIS will evaluate environmental impacts or reuse, as well as of other reasonable possible redevelopment scenarios under current or other zoning classifications. Navy will also evaluate the no action alternative, defined as the retention of NAS South Weymouth by the federal government. Environmental issues that will be addressed in the EIS include air quality, water quality, wetland impacts, endangered species impacts, cultural resource impacts, and socioeconomic impacts.

ADDRESSES: The Navy will hold a public meeting to further identify the scope of issues to be addressed in the EIS. The meeting will be co-chaired by the Massachusetts Department of Environmental Protection, which is a cooperating agency in the preparation of the EIS. The meeting will be held on Tuesday, April 29, 1997, beginning at 7:30 p.m., at Hangar 1, NAS South Weymouth. Navy representatives will make a brief presentation, then members of the public will be asked to provide their comments. Agencies and the public are encouraged to provide written comments in addition to, or in lieu of, oral comments at the scoping meeting. To be most helpful, comments should clearly describe specific issues or topics which the EIS should address. Written comments must be postmarked by May 15, 1997, and should be mailed to Commanding Officer, Northern Division, Naval Facilities Engineering Command, Attn. Mr. Kurt Frederick (Code 202KF), 10 Industrial Highway, MSC 82, Lester, PA 19113. All statements, both oral and written, will become part of the public record on this action and will be given equal consideration.

FOR FURTHER INFORMATION CONTACT: Additional information concerning this notice may be obtained by contacting Mr. Kurt Frederick at (610) 595–0728, facsimile (610) 595–0778.

Dated: April 9, 1997.

D.E. Koenig,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 97–9537 Filed 4–11–97; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF EDUCATION

National Educational Research Policy and Priorities Board; Meeting

AGENCY: National Educational Research Policy and Priorities Board; Education.

ACTION: Notice of partially closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Executive Committee of the National Educational Research Policy and Priorities Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the open portions of the meeting. The public is being given less than 15 days notice of this meeting due to problems in scheduling this meeting.

DATES: April 16, 1997.

TIME: 9 a.m. to 3 p.m. (open); 3 p.m. to 4 p.m. (closed).

LOCATION: Room 100, 80 F St., NW., Washington, DC 20208–7564.

FOR FURTHER INFORMATION CONTACT: Thelma Leenhouts, Designated Federal Official, National Educational Research Policy and Priorities Board, Washington, D.C. 20208–7564. Tel.: (202) 219–2065; fax: (202) 219–1528; e-mail: Thelma__Leenhouts@ed.gov.

SUPPLEMENTARY INFORMATION: The National Educational Research Policy and Priorities Board is authorized by Section 921 of the Educational Research, Development, Dissemination,

and Improvement Act of 1994. The Board works collaboratively with the Assistant Secretary for the Office of Educational Research and Improvement to forge a national consensus with respect to a long-term agenda for educational research, development, and dissemination, and to provide advice and assistance to the Assistant Secretary in administering the duties of the Office.

The meeting of the Executive Committee is open to the public, except for a portion which will be closed from 3 to 4 p.m. The proposed agenda includes a review of the Board's work plan and budget, staff assignments, committee appointments, and discussion of the Regional Educational Laboratory initiative. The meeting will be closed to the public from 3 p.m. to 4 p.m. under the authority of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix I) and under exemptions (2) and (6) of Section 552b(c) of Title 5 U.S.C. (Pub. L. 94–409; 5 U.S.C. 552b(c)(6)) to discuss the procedure for the evaluation of the executive director. The Committee will consider matters that relate solely to the internal rules and practices of the Board and performance of the incumbent in this position, matters which would constitute a clearly unwarranted invasion of personal privacy if conducted in open session.

A final agenda will be available from the Board office on April 11, 1997.

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552(b) will be available to the public within 14 days of the meeting.

Records are kept of all Board proceedings and are available for public inspection at the office of the National Educational Research Policy and Priorities Board, Suite 100, 80 F St., NW., Washington, DC 20208–7564.

Dated: April 8, 1997.

Eve M. Bither,

Executive Director.

[FR Doc. 97–9526 Filed 4–11–97; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

National Educational Research Policy and Priorities Board; Teleconference

AGENCY: National Educational Research Policy and Priorities Board; Education.

ACTION: Notice of meeting by teleconference.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming teleconference of the National Educational Research Policy and Priorities Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the meeting. The public is being given less than 15 days notice of this meeting because the Board is required to make a response to an agency initiative within a limited time.

DATE: April 21, 1997.

TIME: 12 noon to 2 p.m.

LOCATION: Room 100, 80 F St., NW., Washington, DC 20208–7545.

FOR FURTHER INFORMATION CONTACT: Thelma Leenhouts, Designated Federal Official, National Educational Research Policy and Priorities Board, Washington, D.C. 20208–7564. Tel.: (202) 219–2065; fax: (202) 219–1528; e-mail: Thelma__Leenhouts@ed.gov.

SUPPLEMENTARY INFORMATION: The National Educational Research Policy and Priorities Board is authorized by Section 921 of the Educational Research, Development, Dissemination, and Improvement Act of 1944. The Board works collaboratively with the Assistant Secretary for the Office of Educational Research and Improvement to forge a national consensus with respect to a long-term agenda for educational research, development, and dissemination, and to provide advice and assistance to the Assistant Secretary in administering the duties of the Office.

The teleconference is open to the public. The proposed agenda will consider issues related to proposed national achievement tests for reading in grade four and mathematics in grade eight.

A final agenda will be available from the Board office on April 17, 1997. Records are kept of all Board proceedings and are available for public inspection at the office of the National Educational Research Policy and Priorities Board, Suite 100, 80 F St., NW., Washington, D.C. 20208–7564.

Dated: April 7, 1997.

Eve M. Bither,

Executive Director.

[FR Doc. 97–9527 Filed 4–11–97; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation.

DATES: Wednesday, May 7, 6:00 p.m.–9:30 p.m.

ADDRESSES: Information Resource Center, 105 Broadway, Oak Ridge, Tennessee.

FOR FURTHER INFORMATION CONTACT: Sandy Perkins, Site-Specific Advisory Board Coordinator, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, (423) 576–1590.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: The meeting will focus on conducting business topics for the Board. No technical presentations will be provided.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Sandy Perkins at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 8:30 am and 5:00 pm on Monday, Wednesday, and Friday; 8:30 am and 7:00 pm on Tuesday and Thursday; and 9:00 am and 1:00 pm on Saturday, or by writing to Sandy Perkins, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, or by calling her at (423) 576–1590.

Issued at Washington, DC. on April 9, 1997.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 97–9523 Filed 4–11–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Pantex Plant

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Pantex Plant.

DATE AND TIME: Tuesday, April 22, 1997: 10:00 a.m.–2:30 p.m.

ADDRESSES: Amarillo Association of Realtors, 5601 Enterprise Circle, Amarillo, Texas.

FOR FURTHER INFORMATION CONTACT: Tom Williams, Program Manager, Department of Energy, Amarillo Area Office, P.O. Box 30030, Amarillo, TX 79120 (806) 477–3121.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee: The Board provides input to the Department of Energy on Environmental Management strategic decisions that impact future use, risk management, economic development, and budget prioritization activities.

Tentative Agenda:

10:00 a.m. Welcome—Agenda Review—Approval of Minutes
10:10 a.m. Co-Chair Comments
10:20 a.m. Task Force Reports
—Environmental Restoration
—Transition
—Site Development
10:50 a.m. Subcommittee Reports
—Policy & Personnel
—Nominations & Membership
—Air Monitoring
11:20 a.m. Ex-Officio Reports
12:00 p.m. Lunch
12:30 p.m. Air Monitoring Talk by Joe Panketh
1:30 p.m. Updates—Occurrence Reports—DOE
2:30 p.m. Closing Remarks/Adjourn

Public Participation: The meeting is open to the public, and public comment will be invited throughout the meeting. Written statements may be filed with the Committee either before or after the meeting. Written comments will be accepted at the address above for 15 days after the date of the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Tom Williams' office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days in advance of the meeting due to programmatic issues that needed to be resolved.

Minutes: The minutes of this meeting will be available for public review and copying at the Pantex Public Reading Rooms located at the Amarillo College Lynn Library and Learning Center, 2201 South Washington, Amarillo, TX phone (806) 371–5400. Hours of operation are from 7:45 am to 10:00 pm, Monday through Thursday; 7:45 am to 5:00 pm on Friday; 8:30 am to 12:00 noon on Saturday; and 2:00 pm to 6:00 pm on Sunday, except for Federal holidays. Additionally, there is a Public Reading Room located at the Carson County Public Library, 401 Main Street, Panhandle, TX phone (806) 537–3742. Hours of operation are from 9:00 am to 7:00 pm on Monday; 9:00 am to 5:00 pm, Tuesday through Friday; and closed Saturday and Sunday as well as Federal Holidays. Minutes will also be available by writing or calling Tom Williams at the address or telephone number listed above.

Issued at Washington, DC on April 9, 1997.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 97–9524 Filed 4–11–97; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket No. 97–28–NG]

Panenergy Trading and Market Services, L.L.C.; Order Granting Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued DOE/FE Order No. 1266 on March 20, 1997, granting PanEnergy Trading and Market Services, L.L.C. long-term authorization to import up to 8,782 MMBtu (approximately 8,782 Mcf) of natural gas per day from Canada commencing November 1, 1997, and terminating October 31, 2007. The natural gas shall be imported at Niagara Falls, New York, under a supply arrangement with PanEnergy Marketing Limited Partnership.

This order is available for inspection and copying in the Office of Natural Gas & Petroleum Import and Export Activities Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0350, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., March 31, 1997.

Wayne E. Peters,

Manager, Natural Gas Regulation, Office of Natural Gas and Petroleum Import and Export Activities, Office of Fossil Energy.

[FR Doc. 97–9525 Filed 4–11–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–318–000]

Algonquin Gas Transmission Company; Notice of Application

April 8, 1997.

Take notice that on March 31, 1997, Algonquin Gas Transmission Company (Algonquin), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP97–318–000, an abbreviated application pursuant to Section 7(c) of the Natural Gas Act for authorization to construct and operate a lateral pipeline to connect Algonquin's existing pipeline system with facilities owned by the Taunton Municipal Light Plant (TMLP), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Algonquin proposes to construct and operate approximately 924 feet of 12-inch diameter pipeline lateral and appurtenant facilities from a point on Algonquin's existing G–10 system in the Town of Berkeley, Massachusetts, passing under the Taunton River, to Taunton, Massachusetts. Algonquin says the facilities are required to provide up to 27,000 MMBtu per day of transportation service for TMLP under

Algonquin's existing open access Rate Schedule AFT–CL, as modified.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 29, 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 protstants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that 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 procedures herein provided for, unless otherwise advised, it will be unnecessary for Algonquin to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–9494 Filed 4–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–171–002, RP97–170–002, RP97–139–001, RP97–173–001, RP97–162–001, RP97–167–002, RP97–166–001, RP97–114–002, RP97–153–001, RP97–147–001, RP97–161–002, RP97–104–001, RP97–144–001, RP97–154–002, RP97–140–001, RP97–152–001, RP97–151–001, RP97–155–001, RP97–105–001, RP97–179–002, RP97–136–001, RP97–150–002 RP97–143–001, RP97–159–002, RP97–146–001, RP97–156–002, RP97–163–001, and RP97–148–002 (Not Consolidated)]

ANR Pipeline Company, Blue Lake Gas Storage Company, Caprock Pipeline Company, Carnegie Interstate Pipeline Company, Cove Point LNG Limited Partnership, Columbia Gas Transmission Corporation, Columbia Gulf Transmission Company, Equitrans, L.P., Granite Gas Transmission Inc., High Island Offshore System, Iroquois Gas Transmission System, L.P., Kentucky West Virginia Gas Company; L.L.C., K N Wattenberg Transmission Ltd. Liability Co., Koch Gateway Pipeline Company, Louisiana-Nevada Transit Company, Michigan Gas Storage Company, Mid Louisiana Gas Company, Mobile Bay Pipeline Company, Nora Transmission Company, Ozark Gas Transmission System, Paiute Pipeline Company, Richfield Gas Storage System, T C P Gathering Company, Transcontinental Gas Pipe Line Corporation, U-T Offshore System, Viking Gas Transmission Company, WestGas Interstate, Inc., and Williston Basin Interstate Pipeline Company,; Notice of Proposed Changes in FERC Gas Tariffs

April 8, 1997.

Take notice that the applicants referenced above tendered for filing tariff sheets to comply with the Commission's directives in Order No. 587 and Order No. 587–B, to be effective June 1, 1997.

Each applicant states that its filing complies with the Commission's early order on its *pro forma* tariff filing and complies with the Commission's Order No. 587–B, issued on January 30, 1997, in Docket No. RM96–1–003, by incorporating by reference into its FERC Gas Tariff the Electronic Delivery Mechanism Standards promulgated by the GISB and adopted in Order No. 587–B.

Each applicant states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

The above-referenced dockets are being noticed together due to the large number of filings received. The filings are not being consolidated. Any party who wishes to file a protest must file a separate protest for each docket. The notice can be located in the Commission's CIPS under the lead filing ANR Pipeline Company, Docket No. RP97–171–002.

Any person desiring to protest said filings 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 April 22, 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 the filings are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–9500 Filed 4–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–326–000]

Arkansas Western Pipeline Company; Notice of Filing

April 8, 1997.

Take notice that on April 1, 1997, Arkansas Western Pipeline Company (AWP) tendered for filing a petition for waiver of certain business practice standards promulgated by the Gas Industry Standards Board and adopted by the Commission in Order Nos. 587 and 587–B.

AWP states that copies of the filing have been mailed to all of its jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Regulations. All such motions or protests should be filed on or before April 22, 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. 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. 97–9504 Filed 4–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–316–000]

Chandeleur Pipe Line Company; Notice of Application

April 8, 1997.

Take notice that on March 31, 1997, Chandeleur Pipe Line Company (Chandeleur), P.O. Box 740339, New Orleans, Louisiana 70176–0339, filed in Docket No. CP97–316–000 an application pursuant to Section 7(c) of the Natural Gas Act for authorization to construct, install and operate four miles of 24-inch pipeline in Jackson County, Mississippi, all as more fully set forth in the application on file with the Commission and open to public inspection.

Chandeleur proposes to construct four miles of 24-inch pipeline (Destin Extension) in order to connect Chandeleur's existing pipeline system with the interstate pipeline proposed to be constructed by Destin Pipeline Company, L.L.C. in Docket No. CP96–655–000. Chandeleur states that the Destin Extension will enhance the reliability of gas supplies attached to Chandeleur's system.

Chandeleur estimates the cost of the Destin Extension at $4,400,000. Chandeleur proposes to roll the costs of the Destin Extension into its existing open access transportation rates which would result in a rate increase of 3.2% to firm shippers.

Chandeleur requests that the Commission issue a preliminary order on all non-environmental issues by July 1, 1997, and a final order by November 30, 1997. Chandeleur states that it will coordinate construction of the Destin Extension with the facilities proposed to be constructed by Destin Pipeline Company.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 29, 1997, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that 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 Chandeleur to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–9493 Filed 4–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA97–568–000]

Consolidated Edison Company of New York, Inc.; Notice of Filing

April 4, 1997.

Take notice that on March 24, 1997, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing an amendment to Rate Schedule No. 145, an agreement with Vitol Gas & Electric LLC (VGE) for the sale and purchase of energy and capacity.

Con Edison states that a copy of this filing has been served by mail upon VGE.

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 Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests should be filed on or before April 18, 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. 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. 97–9530 Filed 4–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA97–567–000]

Consolidated Edison Company of New York, Inc.; Notice of Filing

April 4, 1997.

Take notice that on March 24, 1997, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing an amendment to Rate Schedule No. 151, an agreement with Enron Power Marketing Inc (EPMI) for the sale and purchase of energy and capacity.

Con Edison states that a copy of this filing has been served by mail upon EPMI.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests should be filed on or before April 18, 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. 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. 97–9531 Filed 4–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT97–19–000]

Equitrans, L.P.; Notice of Proposed Change in FERC Gas Tariff

April 8, 1997.

Take notice that on April 1, 1997, Equitrans, L.P. (Equitrans) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet, to become effective April 1, 1997.

Sixth Revised Sheet No. 401

Equitrans states that this filing is made to update Equitrans' index of customers. In Order No. 581 the Commission established a revised format for the Index of Customers to be included in the tariffs of interstate pipelines and required the pipelines to update the index on a quarterly basis to reflect changes in contract activity. Equitrans requests a waiver of the Commission's notice requirements to permit the tariff sheet to take effect on April 1, 1997, the first calendar quarter, in accordance with Order No. 581.

Equitrans states that a copy of its filing has been served upon its customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. All such motions or protests must be filed in accordance with 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. 97–9495 Filed 4–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP97–157–001 and RP97–322–000]

Gas Transports, Inc.; Notice of Proposed Changes in FERC Gas Tariff

April 8, 1997.

Take notice that on April 2, 1997, Gas Transport, Inc. (GTI) tendered for filing various tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1, with a proposed effective date of June 1, 1997.

GTI states that these tariff sheets reflect the requirements of Order No. 587, issued by the Commission in Docket No. RM96–1–000 on July 17, 1996.

GTI states that copies of its filing were served upon its jurisdictional customers and the Regulatory Commissions of the states of Ohio and West Virginia.

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 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All Such motions or protests must be filed on or before April 22, 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. 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. 97–9499 Filed 4–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–671–002]

National Fuel Gas Supply Corporation; Notice of Amendment

April 8, 1997.

Take notice that on April 3, 1997, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed an amendment to its pending application in Docket No. CP96–671–000 pursuant to Sections 7(b) and (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities in order to create additional firm transportation capacity from the Niagara import point to Leidy and Wharton, Pennsylvania, and permission and approval to abandon certain facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

National Fuel states that the purpose of the amendment is to eliminate from the application the facilities not needed to serve two firm shippers, Enron Capital & Trade Resources Corp. (Enron) and Union Pacific Fuels, Inc. (Union Pacific), whose services are not dependent upon authorization of the proposed SeaBoard project of Transcontinental Gas Pipe Line Corporation (Transco). Specifically, National Fuel proposes to: (1) eliminate from its application the request for authorization to replace compressor units 1–4 at the Ellisburg Compressor Station with a new 3,200 hp unit, and (2) submit the Amended and Restated Precedent Agreement between National Fuel and Enron Capital & Trade Resources.

National Fuel states that the original application sought authorization for facilities that would provide an additional 48,000 Dth per day of firm winter capacity and 21,344 Dth per day of firm non-winter capacity from the Niagara import point to the interconnections between the facilities of National Fuel and Transco at Leidy and Wharton, Pennsylvania. Of this additional capacity, 44,344 Dth/d was subscribed on a long-term basis by Enron and Renaissance Energy (U.S.), Inc. (Renaissance), both of which planned to use the additional capacity on National Fuel's system in combination with proposed SeaBoard capacity downstream on Transco's system. It is stated that National Fuel's original service agreement with each of Enron and Renaissance made the execution of a transportation service agreement with Transco a condition to the execution of a transportation agreement with National Fuel.

National Fuel states that on January 21, 1997, Transco advised the Commission that its proposed SeaBoard Project would not be placed in service until at least November 1, 1998.

It is stated that on January 30, 1997, National Fuel filed an amendment to its application (First Amendment), which advised the Commission that National Fuel and Union Pacific have executed a precedent agreement for the remaining 3,656 Dth/d of firm winter capacity to be created by National Fuel's 1997

Niagara Expansion Project. National Fuel states that the First Amendment also addressed a proposed change in compressor mode and horsepower at National Fuel's Ellisburg Compressor Station, and sought certificate authority for a meter replacement that had been described in the original application as an auxiliary facility.

National Fuel states that on March 14, 1997, it responded to a data request from the Commission seeking information about National Fuel's plans in light of Transco's announcement that the SeaBoard project would be delayed. National Fuel states that it advised the Commission that Enron and National Fuel had just entered into an Amended and Restated Precedent Agreement, under which the service to be rendered by National Fuel is not dependent upon the outcome of Transco's SeaBoard project or any other downstream facilities. National Fuel also clarified that its proposed service to Union Pacific is not depended on downstream facilities. National Fuel indicated that it intended to file an amendment to its application seeking a Commission order, on the earliest date possible, authorizing the construction of the facilities required by National Fuel to render firm service to Enron and Union Pacific, while the facilities required to serve Renaissance would remain tied to Transco's SeaBoard project.

According to National Fuel, the revised project is not dependent upon the outcome of Transcop's SeaBoard project, nor is it dependent upon the certification or construction of any downstream facilities.

National Fuel states that the service to be provided to Enron will be changed in two minor respects. First, Transco at Leidy is now designated as the primary delivery point with respect to all of Enron's maximum daily transportation quantity (MDT). Under the original agreement, the primary delivery point with respect to 5,300 Dth/d of Enron's MDT was to be Transco at Wharton, 12.2 miles from Leidy. Second, the agreement calls for the execution of two service agreements—one ten year service agreement with an MDT of 15,694 Dth/d and one eleven year service agreement with an MDT of 5,650 Dth/d—instead of one ten year service agreement with an MDT of 21,344 Dth/d. It is stated that the total quantity subscribed by Enron remains at 21,344 Dth/d; the effect of this change is that the primary term with respect to 5,650 Dth/d of Enron's capacity has been increased from ten to eleven years.

It is stated that neither the Enron nor the Union Pacific service will be dependent upon any other downstream facilities. National Fuel states that these customers have requested firm service to Leidy, Pennsylvania, a recognized market center. It is stated that National Fuel's firm shippers would have a number of options for the delivery of their gas at Leidy, including the sale of such gas to shippers with primary firm, secondary firm, released firm or interruptible capacity on Transco's system. In addition, National Fuel's firm shippers would be able to arrange the redelivery of their gas to other interstate pipelines (including CNG Transmission Corporation, Tennessee Gas Pipeline Company and Texas Eastern Transmission Corporation) at several secondary points in the Ellisburg-Leidy area, or elsewhere on National Fuel's system. In addition, National Fuel contends that the availability of storage in the Ellisburg-Leidy area provides another delivery option for National Fuel's shippers.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before April 17, 1997, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held with further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, or if the Commission on its own review of the matter finds that permission and approval for the proposed certificate and abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for National Fuel to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–9491 Filed 4–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–020]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

April 8, 1997.

Take notice that on April 3, 1997, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets to be effective April 1, 1997:

Fifth Revised Sheet No. 7A

Substitute Fifth Revised Sheet No. 7B
Fifth Revised Sheet No. 7C
Fifth Revised Sheet No. 7D
Third Revised Sheet No. 7E
First Revised Sheet No. 7G
First Revised Sheet No. 7G.01
First Revised Sheet No. 7H
Original Sheet No. 7I
Original Sheet No. 7J
Original Sheet No. 7K
Original Sheet No. 7L
Second Revised Sheet No. 8
Sheet No. 9–11

NGT states that these tariff sheets are filed herewith to reflect specific negotiated rate transactions commencing the month of April, 1997.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests must be filed as provided in § 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–9498 Filed 4–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–323–000]

Norteno Pipeline Company; Notice of Filing

April 8, 1997.

Take notice that on April 2, 1997, Noreteno Pipeline Company (Norteno) tendered for filing a petition for waiver of certain business practice standards promulgated by the Gas Industry Standards Board and adopted by the Commission in Order Nos. 587, 587–B and 587–C.

Norteno states that copies of the filing have been mailed to all of its jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.W., Washington, D.C. 20426, in accordance with Section 385.214 and 385.211 of the Commission's Regulations. All such motions or protests should be filed on or before April 22, 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. 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. 97–9501 Filed 4–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–187–007]

Northwest Pipeline Corporation; Notice of Compliance Filing

April 8, 1997.

Take notice that on April 3, 1997, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet, to become effective December 21, 1996:

1st Rev 2nd Sub Fourth Rev Sheet No. 231

Northwest states that this filing is submitted in compliance with the Commission's March 24, 1997 Letter Order. Northwest states that the proposed tariff sheet revises the pagination of 2nd Sub Fourth Rev Sheet No. 231 filed by Northwest on November 20, 1996.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for Public inspection in the public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–9496 Filed 4–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–407–009]

Questar Pipeline Company; Notice of Refund Report

April 8, 1997.

Take notice that on September 13, 1996, pursuant to the Commission's July 1, 1996, Order on Settlement and Rehearing in Docket No. RP95–407, 18 CFR 154.502 of the Commission's regulations and in accordance with paragraph III B(1) of its March 8, 1996, settlement in this proceeding, Questar Pipeline Company (Questar) submitted a refund report stating that on July 31, 1996, it refunded $7,084,897, and on August 17, 1996, it refunded $7,526, inclusive of interest to its customers.

Questar states that refunds and interest were calculated in accordance with 18 CFR 154.501 of the Commission's regulations. Refunds are for the period February 1, 1996, through June 30, 1996. Service rendered after June 30, 1996, was billed at the rates set out in the March 8, 1996, settlement.

Questar states that in accordance with paragraph III B(5) of the March 8, 1996 settlement, during July 1996, Questar adjusted the transportation gas balancing accounts of its Rate Schedule T–1 and T–2 shippers to reflect the reduction of its fuel reimbursement rate from 1.5 percent to 1.4 percent from February 1, 1996 through June 30, 1996. The 1.4 percent fuel reimbursement has been applied to transportation after June 30, 1996.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before April 15, 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. 97–9497 Filed 4–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–314–000]

Texas Gas Transmission Corporation; Notice of Application

April 8, 1997.

Take notice that on April 3, 1997, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP97–314–000, an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service with Florida Gas Transmission Company (FGT), which was authorized in Docket No. CP73–300, all as more fully set forth in the application on file with the Commission and open to public inspection.

Texas Gas proposes to abandon a transportation service with FGT because the service is no longer necessary or beneficial and both parties have agreed to terminate the transportation service.

Any person desiring to be heard or to make protest with reference to said application should on or before April 29, 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.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure provided for, unless otherwise advised, it will be unnecessary for Texas Gas to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–9492 Filed 4–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–325–000]

Texas-Ohio Pipeline, Inc.; Notice of Filing

April 8, 1997.

Take notice that on April 3, 1997, Texas-Ohio Pipeline, Inc. (Texas-Ohio) tendered for filing a petition for waiver of certain business practice standards promulgated by the Gas Industry Standards Board and adopted by the Commission in Order No. 587–C.

Texas-Ohio states that copies of the filing have been mailed to all of its jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Regulations. All such motions or protests should be filed on or before April 22, 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. 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. 97–9503 Filed 4–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–324–000]

WestGas InterState, Inc.; Notice of Filing

April 8, 1997.

Take notice that on April 3, 1997, WestGas InterState, Inc. (WGI) tendered for filing a petition for waiver of certain business practice standards promulgated by the Gas Industry Standards Board and adopted by the Commission in Order No. 587–C.

WGI states that copies of the filing have been mailed to all of its jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Regulations. All such motions or protests should be filed on or before April 22, 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. 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. 97–9502 Filed 4–11–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting; April 9, 1997

The following notice of meeting is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: April 16, 1997, 10 a.m.

PLACE: Room 2C, 888 First Street, N.E., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note: Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Lois D. Cashell, Secretary, Telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the reference and information center.

Consent Agenda—Hydro 673rd Meeting—April 16, 1997; Regular Meeting, 10:00 a.m.

CAH–1.
Omitted

CAH–2.
Docket No. P–3194, 014, Joseph M. Keating

CAH–3.
Docket No. P–10836, 006, Friends of the North Country, Inc.

CAH–4.
Docket No. P–8185, 024, Bluestone Energy Design, Inc.
Other Nos. P–8185, 031, Bluestone Energy Design, Inc.

CAH–5.
Docket No. P–2984, 025, S.D. Warren Company

CAH–6.
Docket No. P–10893, 002, HY Power Energy Company

Consent Agenda—Electric

CAE–1.
Docket No. ER97–1890, 000, Ocean State Power II
Other Nos. ER97–1899, 000, Ocean State Power

CAE–2.
Docket No. ER97–1932, 000, Competitive Utility Services Corporation
CAE–3.
Omitted
CAE–4.
Omitted
CAE–5.
Docket No. ER97–441, 002, The Power Company of America, L.P.
Other Nos. EC97–6, 002, The Power Company of America, L.P.
CAE–6.
Docket No. ER96–2637, 001, South Carolina Electric & Gas Company
Other Nos. FA96–49, 001, South Carolina Electric & Gas Company
CAE–7.
Docket No. OA96–153, 002, Arizona Public Service Company
CAE–8.
Omitted
CAE–9.
Docket No. ER97–649, 001, Northern States Power Company
CAE–10.
Docket No. EL97–22, 000, Truckee Donner Public Utility District
CAE–11.
Omitted
CAE–12.
Docket No. ER97–961, 001, Central Illinois Public Service Company

Consent Agenda—Gas and Oil

CAG–1.
Docket No. RP97–58, 002, East Tennessee Natural Gas Company
CAG–2.
Docket No. RP97–54, 001, Trailblazer Pipeline Company
Other Nos. RP97–54, 002, Trailblazer Pipeline Company
CAG–3.
Docket No. RP97–61, 001, Noram Gas Transmission Company
Other Nos. RP97–61, 002, Noram Gas Transmission Company
CAG–4.
Docket No. RP97–62, 001, Wyoming Interstate Company, Ltd.
Other Nos. RP97–62, 002, Wyoming Interstate Company, Ltd., RP97–265, 000, Wyoming Interstate Company, Ltd.
CAG–5.
Docket No. RP97–63, 001, Colorado Interstate Gas Company
Other Nos. RP97–63, 002, Colorado Interstate Gas Company
CAG–6.
Docket No. RP97–66, 001, Canyon Creek Compression Company
Other Nos. RP97–66, 002, Canyon Creek Compression Company, RP97–66, 003, Canyon Creek Compression Company
CAG–7.
Docket No. RP97–67, 001, Williams Natural Gas Company
Other Nos. RP97–67, 002, Williams Natural Gas Company
CAG–8.
Docket No. RP97–68, 001, Stingray Pipeline Company
Other Nos. RP97–68, 002, Stingray Pipeline Company
CAG–9.
Docket No. RP97–73, 001, Mississippi River Transmission Corporation
Other Nos. RP97–73, 002, Mississippi River Transmission Corporation
CAG–10.
Docket No. RP97–93, 001, Young Gas Storage Company, Ltd.
Other Nos. RP97–93, 002, Young Gas Storage Company, Ltd.
CAG–11.
Docket No. RP97–294, 000, Northwest Pipeline Corporation
CAG–12.
Docket No. RP95–197, 025, Transcontinental Gas Pipe Line Corporation
CAG–13.
Docket No. RP96–132, 003, Southern Natural Gas Company
CAG–14.
Docket No. RP96–283, 000, Columbia Gulf Transmission Company
Other Nos. RP96–283, 001, Columbia Gulf Transmission Company
CAG–15.
Docket No. RP97–59, 001, Midwestern Gas Transmission Company
Other Nos. RP97–59, 002, Midwestern Gas Transmission Company
CAG–16.
Docket No. RP97–60, 002, Tennessee Gas Pipeline Company
CAG–17.
Docket No. RP97–99, 001, Algonquin LNG, Inc.
CAG–18.
Docket No. RP97–280, 000, Petal Gas Storage Company
CAG–19.
Docket No. RP96–45, 004, Northern Border Pipeline Company
Other Nos. CP95–194, 000, Northern Border Pipeline Company
CAG–20.
Docket No. RP95–425, 001, Transwestern Pipeline Company
Other Nos. RP95–425, 002, Transwestern Pipeline Company, RP96–397, 001, Transwestern Pipeline Company, RP96–397, 002, Transwestern Pipeline Company
CAG–21.
Docket No. RP96–260, 000, Panhandle Eastern Pipe Line Company
Other Nos. RP96–260, 001, Panhandle Eastern Pipe Line Company, RP96–260, 002, Panhandle Eastern Pipe Line Company, RP96–260, 004, Panhandle Eastern Pipe Line Company
CAG–22.
Omitted
CAG–23.
Docket No. RP95–408, 013, Columbia Gas Transmission Corporation
CAG–24.
Docket No. RP95–363, 004, El Paso Natural Gas Company
Other Nos. RP95–363, 000, El Paso Natural Gas Company, RP95–363, 005, El Paso Natural Gas Company, RP97–82, 000, GPM Gas Corporation v. El Paso Natural Gas Company
CAG–25.
Docket No. RP95–167, 002, Indicated Shippers v. Sea Robin Pipeline Company
Other Nos. RP95–167, 001, Indicated Shippers v. Sea Robin Pipeline Company
CAG–26.
Docket No. RP93–151, et al. 024, Tennessee Gas Pipeline Company
CAG–27.
Docket No. RP97–72, 003, ANR Pipeline Company
Other Nos. RP97–72, 002, ANR Pipeline Company
CAG–28.
Docket No. RP97–11, 002, ANR Pipeline Company
CAG–29.
Docket No. RP96–173, 005, Williams Natural Gas Company
Other Nos. RP89–183, 072, Williams Natural Gas Company, RP96–400, 003, Williams Natural Gas Company
CAG–30.
Docket No. RP97–126, 002, Iroquois Gas Transmission System, L.P.
CAG–31.
Docket No. GP97–1, 000, Rocky Mountain Natural Gas Company
CAG–32.
Docket No. RP96–388, 000, Brooklyn Union Gas Company v. Transcontinental Gas Pipe Line Corporation
CAG–33.
Docket No. MG97–9, 000, El Paso Natural Gas Company
CAG–34.
Omitted
CAG–35.
Docket No. CP96–680, 001, Transcontinental Gas Pipe Line Corporation
CAG–36.
Docket No. RP96–322, 001, Southern Natural Gas Company
CAG–37.
Docket No. CP97–127, 000, Columbia Gas Transmission Corporation
CAG–38.
Docket No. CP96–541, 000, Southern Natural Gas Company

CAG–39.
Docket No. CP96–589, 000, Koch Gateway Pipeline Company
Other Nos. CP96–585, 000, Southern Natural Gas Company, CP96–620, 000, Koch Gateway Pipeline Company
CAG–40.
Docket No. CP96–776, 000, Williams Natural Gas Company
CAG–41.
Docket No. CP97–25, 000, Northern Natural Gas Company
CAG–42.
Omitted
CAG–43.
Docket No. CP96–696, 000, East Tennessee Natural Gas Company
CAG–44.
Docket No. CP96–704, 000, Gas Transport, Inc.
CAG–45.
Docket No. CP95–202, 000, Venice Gathering Company and Venice Energy Services Company
CAG–46.
Docket No. CP96–73, 000, Seahawk Shoreline System
CAG–47.
Docket No. CP97–49, 000, Questar Pipeline Company
CAG–48.
Docket No. CP97–118, 000, Indicated Land Owners v. Riverside Pipeline Company, L.P.
CAG–49.
Omitted
CAG–50.
Docket No. CP96–385, 000, Columbia Natural Resources, Inc.
Other Nos. CP96–386, 000, Columbia Gas Transmission Corporation, CP96–386, 001, Columbia Gas, Transmission Corporation, CP96–668, 000, Columbia Gas Transmission Corporation
CAG–51.
Docket No. CP95–516, 000, Enron Gulf Coast Gathering Limited Partnership
Other Nos. CP95–519, 000, Northern Natural Gas Company
CAG–52.
Docket No. CP96–121, 000, Markwest Hydrocarbon Partners, Ltd.
Other Nos. CP96–118, 000, Columbia Gas Transmission Corporation
CAG–53.
Docket No. CP97–134, 000, Markwest Hydrocarbon, Inc.
Other Nos. CP97–116, 000, Columbia Gas Transmission Corporation
CAG–54.
Docket No. CP94–183, 000, El Paso Natural Gas Company

Hydro Agenda

H–1.
Reserved

Electric Agenda

E–1.
Docket No. EC96–10, 000, Baltimore Gas and Electric Company and Potomac Electric Power Company
Other Nos. ER96–784, 000, Baltimore Gas and Electric Company and Potomac Electric Power Company, Opinion and Order on Proposed Merger.

Oil and Gas Agenda

I.
Pipeline Rate Matters
PR–1.
Reserved
II.
Pipeline Certificate Matters
PC–1.
Reserved

Lois D. Cashell,
Secretary.

[FR Doc. 97–9646 Filed 4–10–97; 11:59 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Office of Hearing and Appeals

Notice of Cases Filed with the Office of Hearings and Appeals; Week of March 10 Through March 14, 1997

During the week of March 10 through March 14, 1997, the appeals, applications, petitions or other requests listed in this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who will be aggrieved by the DOE action sought in any of these cases may file written comments on the application within ten days of publication of this Notice or the date of receipt of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585–0107.

Dated: April 4, 1997.

George B. Breznay,
Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS
[Week of March 10 through March 14, 1997]

Date	Name and location of applicant	Case No.	Type of submission
3/10/97	Allied Signal, Inc., Atlanta, GA	RR272–285	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The February 25, 1997 Decision and Order, Case No. RR272–247, issued to Allied Signal, Inc. would be modified regarding the firm's Application for Refund submitted in the Crude Oil refund proceeding.
3/11/97	Greenville Automatic Gas Co., Greenville, TX.	VEE–0043	Exception to the Reporting Requirements. If granted: Greenville Automatic Gas Co. would not be required to file Form EIA–782B Reseller's/Retailer's Monthly Petroleum Product Sales Report.
3/13/97	Personnel Security Hearing	VSO–0143	Request for Hearing Under 10 C.F.R. Part 710. If granted: An individual employed by the Department of Energy would receive a hearing under 10 C.F.R. Part 710.
3/13/97	Personnel Security Hearing	VSO–0144	Request for Hearing Under 10 C.F.R. Part 710. If granted: An individual employed by the Department of Energy would receive a hearing under 10 C.F.R. Part 710.
3/13/97	Personnel Security Review	VSA–0113	Request for Review of Opinion Under 10 C.F.R. Part 710. If granted: The February 3, 1997 Opinion of the Office of Hearings and Appeals, Case No. VSO–0113, would be reviewed at the request of an individual employed by the Department of Energy.

[FR Doc. 97–9519 Filed 4–11–97; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Cases Filed: Week of December 02 Through December 06, 1996

During the week of December 02 through December 06, 1996, the appeals, and applications, petitions or other requests listed in this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Any person who will be aggrieved by the DOE action sought in any of these cases may file written comments on the application within ten days of publication of this Notice or the date of receipt of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585–0107.

Dated: April 4, 1997.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of December 2 through December 6, 1996]

Date	Name and location of applicant	Case No.	Type of submission
09/07/94	Douglas County School District Rel, Castle Rock, Colorado.	RR272–269	Request for Modification/Recission in the Crude Oil Refund Proceeding. If granted: The July 12, 1994 Dismissal, Case No. RF272–82729, issued to Douglas County School District Rel regarding the firm's application for refund submitted in the Crude Oil refund proceeding would be modified.
12/02/96	Keci Corporation, Walnut Creek, California ...	VFA–0246	Appeal of an Information Request Denial. If granted: The September 25, 1996 Freedom of Information Request Denial issued by the Office of the Inspector General would be rescinded, and Keci Corporation would receive access to certain Department of Energy information.
12/02/96	Ezra A. Beattie, Sr., Amarillo, Texas	VFA–0247	Appeal of an Information Request Denial. If granted: The October 29, 1996 Freedom of Information Request Denial issued by the Office of the Inspector General would be rescinded, and Ezra A. Beattie, Sr. would receive access to certain DOE information.
12/04/96	Champion Spark Plug Co., Toledo, Ohio	RR272–270	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The September 15, 1994 Dismissal, Case No. RF272–93723, issued to Champion Spark Plug Co. Regarding the firm's application for refund submitted in the Crude Oil refund proceeding would be modified.
12/04/96	West Building Materials/Associated Distributors.	RR272–268	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The November 15, 1996 Dismissal, Case No. RG272–790, issued to West Building Materials/Associated Distributors regarding the firm's application for refund submitted in the Crude Oil refund proceeding would be modified.

[FR Doc. 97–9520 Filed 4–11–97; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders; Week of March 3 Through March 7, 1997

During the week of March 3 through March 7, 1997, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: April 4, 1997.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 23—Week of March 3 Through March 7, 1997

Appeals

Sheet Metal Workers' International Association, 3/5/97, VFA–0268

Sheet Metal Workers' International Association (Appellant) filed an Appeal of a Determination issued to it by the Department of Energy (DOE) in response to a request under the Freedom of Information Act (FOIA). In the request, the Appellant asked for apprentice registration forms and certified payroll records generated in connection with a contract to build a Clean Room. In its Determination, Oak Ridge Operations Office (Oak Ridge) found that the DOE

did not have any responsive documents in its possession. On appeal, the Appellant argued that the DOE must possess such documents because the Clean Room contract was a construction contract and under the Davis-Bacon Act, the agency was required to keep such records. The Office of Hearings and Appeals (OHA) found that the Clean Room contract had been classified as a service contract not covered by the Davis-Bacon Act. Therefore, OHA upheld Oak Ridge's Determination that the agency did not possess responsive documents. The OHA also found that the agency did not own any responsive documents under contract. Therefore, the DOE denied the Appeal.

Personnel Security Hearings

Personnel Security Hearing, 3/5/97, VSO–0114

A Hearing Officer found that an individual had not successfully mitigated security concerns arising from his providing false information and his pattern of keeping certain of his behavior secret. These behaviors tended to show that the individual was not honest, reliable, and trustworthy. Accordingly, the Hearing Officer recommended in the Opinion that the individual's access authorization not be restored.

Personnel Security Hearing, 3/6/97, VSO–0115

A Hearing Officer found that an individual had not successfully resolved security concerns arising from her mental illness. The behavior associated with her mental illness, including an attempted suicide, indicated that the mental illness causes a significant defect in the individual's judgment and reliability. Although the individual is now participating in a therapeutic program, she has not participated long enough to provide assurance that defects in her judgment and reliability will not recur. Accordingly, the Hearing Officer recommended in the Opinion that the individual's access authorization not be restored.

Refund Application

Kathleen Lanier, 3/7/97, RK272–4201

The DOE denied a supplemental crude oil refund application filed by Kathleen Lanier. The OHA determined that Ms. Lanier had no legally cognizable relationship to the original refund applicant, Golden Dawn Foods, Inc.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Apex Oil Co/Clark Oil Co/et al/Wright Industries, Inc	RF342–00047	3/7/97
Brink's Incorporated	RF272–86049	3/7/97
Crude Oil Supple Ref Dist	RB272–00102	3/3/97
Daniel Ruiz	RJ272–31	3/3/97
Effingham Equity et al	RG272–3	3/3/97
Indiana Brass, Incorporated	RK272–04127	3/3/97
J.B. Talley & Co., Inc. et al	RK272–4093	3/4/97
Nora Lee Elkins et al	RK272–4064	3/3/97
V.F. Warner & Son et al	RF272–97275	3/7/97
Virgil's, Inc. et al	RF272–86613	3/3/97
W.E. Bartholow & Son Const	RJ272–26	3/3/97
W.E. Bartholow & Son Const	RJ272–27	3/3/97
W.E. Bartholow & Son Const	RJ272–28	3/3/97
W.E. Bartholow & Son Const	RJ272–29	3/3/97
W.E. Bartholow & Son Const	RJ272–30	3/3/97

Dismissals

The following submissions were dismissed.

Name	Case No.
Borough of Cornwall	RF272–86140
Brader Hauling Service, Inc	RR272–283
Citizen Action	VFA–0269
City of Bedford Heights	RF272–86092
Owen's Oil Service	RF342–225
Ramsey Trucking, Inc	RK272–4038
Rio Stores, Inc	RK272–3824

[FR Doc. 97–9521 Filed 4–11–97; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders; Week of March 10 Through March 14, 1997

During the week of March 10 through March 14, 1997, the decision and order summarized below was issued with respect to appeal filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of this decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. The decision is also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system and on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: April 4, 1997.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 24—Week of March 10 Through March 14, 1997

Appeals

Quivira Mining Company, 3/13/97, VEA–0007

Quivira Mining Company filed an Appeal from a determination of the Environmental Restoration Division of the DOE's Albuquerque Operations Office, disallowing certain remedial action costs claimed pursuant to 10 C.F.R. Part 765. Quivira contended that it was entitled to revise its reported costs to claim (i) Depreciation on equipment that had already been expensed or fully depreciated and (ii) home office expenses that had been reallocated to the reclamation activities. The DOE rejected the Appeal, finding that the firm had not demonstrated that it was entitled to the claimed costs under the relevant statute and implementing regulations.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

C G ENTERPRISES, INC	RF272–97126	3/13/97
F & S FARMS, INC. ET AL	RK272–03644	3/10/97
FARMERS CO-OP ELEVATOR ET AL	RF272–76687	3/13/97
HLR, INC. (D/B/A RYERSON)	RG272–00891	3/10/97
JACK COOPER TRANSPORT CO., INC	RF272–86821	3/13/97
NASHUA EQUITY COOPERATIVE	RR272–284	3/10/97
RICKEL HOME CENTERS, INC	RK272–03783	3/13/97
SARA LEE GRAPHICS	RF272–86071	3/13/97
SPECIALIZED TRUCKING SVC., INC	RR272–00246	3/14/97
TEXACO, INC./CHAIN OIL CO.	RR321–197	3/10/97
WEAVER UNION ELE. SCHL. DIST. ET AL	RF272–79354	3/10/97

Dismissals

The following submissions were dismissed.

Name	Case No.
ARLINGTON SALVAGE & WRECKER CO.	RG272–914
BARTOO SAND & GRAVEL INC.	RG272–909
BLYTHE CONSTRUCTION, INC.	RG272–906
CONTINENTAL PAVING, INC.	RG272–919
HOERTIG IRON WORKS	RG272–890
ISSAC INDUSTRIES, INC.	RG272–849
MILITARY DISTRIBUTORS, INC.	RG272–835
NORTHLAND CONSTRUCTORS OF DULUTH	RG272–826
PARKER-NORTHWEST PAVING CO.	RG272–985
PATCHA EQUIPMENT CO.	RG272–822
PERRUCCI CONTRACTING CO., INC.	RG272–819
PERSONNEL SECURITY HEARING	VSO–0119
PERSONNEL SECURITY HEARING	VSO–0137
PYRAMID PAVING	RG272–818
ROCKVIEW DAIRIES, INC.	RG272–963
SOUTHEAST ATLANTIC CORP.	RG272–957
SOUTHLAND WASTE SYSTEMS OF JAX, INC.	RG272–956
STATES ROOFING & METAL CO., INC.	RG272–803
STEEL FABRICATORS	RG272–801

[FR Doc. 97–9522 Filed 4–11–97; 8:45 am]
BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5811–3]

Agency Information Collection Activities: Continuing Collection; Comment Request; Registration of Fuels and Fuel Additives

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Registration of Fuels and Fuel Additives (EPA ICR Number 309.09, OMB Control Number 2060–1050, expiration date: 6–30–97). Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 13, 1997.

ADDRESSES: Fuels and Energy Division, Office of Mobile Sources, Office of Air and Radiation, Mail Code 6406J, U.S. Environmental Protection Agency, Washington, DC 20460. A paper or electronic copy of the ICR may be obtained without charge by contacting the person listed below.

FOR FURTHER INFORMATION CONTACT: James W. Caldwell, (202) 233–9303, fax: (202) 233–9557, caldwell.jim@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentionally affected by this action are those which manufacture or import gasoline or diesel fuel, or manufacture or import an additive for gasoline or diesel fuel.

Title: Registration of Fuels and Fuel Additives, OMB Control Number 2060–0150, EPA ICR Number 309.09, Expiring: 6–30–97.

Abstract: In accordance with the regulations at 40 CFR 79, Subparts A, B, C, and D, Registration of Fuels and Fuel Additives, manufacturers (including importers) of gasoline and diesel fuel, and manufacturers (including importers) if additives for gasoline or diesel fuel, are required to have their products registered by EPA prior to their

introduction into commerce. Registration involves providing a chemical description of the fuel or additive, certain technical and marketing information, and any health-effects information in possession of the manufacturer. The development of health-effects data, as required by 40 CFR 79, Subpart F, is not included in this ICR due to upcoming changes in the requirements. Manufacturers are also required to submit periodic reports (annually for additives, quarterly and annually for fuels) on production volume and related information. The information is used to identify products whose evaporative or combustion emissions may pose an unreasonable risk to public health, thus meriting further investigation and potential regulation. The information is also used to ensure that gasoline additives comply with EPA requirements for protecting emission controls and controlling intake valve and injector deposits. The data have been used to construct a comprehensive data base on fuel and additive composition. These data have been useful in related assessments, such as the potential for dioxin emissions from motor vehicles. The Mine Safety and Health Administration of the Department of Labor restricts the use of diesel additives in mines to those registered by EPA. Most of the information is confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: There are approximately 100 fuel manufacturers, 1300 additive manufacturers, 800 registered fuels, and 6000 registered additives. For each additive, an annual report is required, at an estimated burden of one hour and cost of $52.60. For each fuel, quarterly and annual reports are required, at an estimated burden of one hour and cost of $52.60 for each report. EPA estimates that there will be 550 new additives registered each year, with a reporting burden 3 hours and $169.60 each. EPA estimates that there will be 200 additive update letters each year, with a burden of one hour and $43.00 each. EPA estimated that there will be 100 new gasoline and diesel fuels registered each year, with a burden of 3 hours and $169.60 each. EPA estimates that there will be fuel update letters each year, with a burden of one hour and $43.00 each. There are not capital and start-up costs. There are no operation and maintenance costs beyond copying and postage. The total annual estimated burden for industry is 12,900 hours and $722,000. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: April 3, 1997.

Charles N. Freed,

Director, Fuels and Energy Division.

[FR Doc. 97–9580 Filed 4–11–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5811–4]

Notice of New Program

AGENCY: Environmental Protection Agency (EPA).

SUMMARY: The Environmental Protection Agency is pleased to announce its Small Business Compliance Assistance Centers Program. This program is one of 25 regulatory reinvention initiatives proposed by President Clinton on March 16, 1995.

FOR FURTHER INFORMATION CONTACT: Lynn Vendinello at 202–564–7066. You may also forward your questions via the Internetto: vendinello.lynn@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Developed by EPA's Office of Compliance in partnership with industry, academic institutions, environmental groups, and other federal and state agencies, Compliance Assistance Centers are intended to help small and medium-sized businesses nationwide better understand and comply with federal environmental requirements. The centers also provide state and local government officials with industry-specific information on federal rules and pollution prevention technologies to help them improve their services to small businesses and to avoid duplication of effort among technical assistance providers.

Four Compliance Assistance Centers are currently up and running, serving the printing, metal finishing, automotive services and repair, and agriculture industries. Over the next year, four additional compliance assistance centers will be opened for transportation, local government, printed wiring board manufacturers, and chemical manufacturers. In addition, EPA is expanding its metal finishing center to cover organic coatings.

I. Why Compliance Assistance Centers

Some industry sectors are populated with small businesses many of whom have fewer than 10 employees. It is often very difficult for these businesses to keep on top of their environmental requirements, especially since historically the EPA has produced regulatory guidance on a media-specific basis (e.g., air, solid wastes, water) rather than on a industry-specific basis. Recognizing this, EPA and states have begun to produce industry-specific compliance guides and tools. Facilitating the transfer of information to small businesses about these industry-specific regulatory guides and enabling them to get answers to their questions about regulatory requirements is a goal of the Compliance Assistance Centers. By offering access to information via the communications medium that small businesses are most comfortable with (i.e. telephone, fax/back, e-mail or the Internet), small businesses can readily access the information they need to better understand their environmental requirements.

Similarly, state and local technical assistance providers and regulators are increasingly aiming to better understand

their business clients. They too are developing industry-specific compliance guides; however, an essential first step in developing industry-specific guides is knowing what has already been developed and what is underway. By serving as a focal point for the distribution and notification of sector-specific activities throughout the nation, the compliance assistance centers can potentially prevent the duplication of efforts of state and local assistance programs.

II. What Do the Centers Provide

Compliance Assistance Centers function as communication centers rather than physical ''walk-ins.'' Each center provides some or all of the following services via the Internet and toll-free telephone numbers:

- Easy access to industry-specific, multi-media federal regulations, interpretations, and compliance guides; also, certain state and local information;
- Compliance tools that can be used by small business, regulators, inspectors, and technical assistance providers to audit, determine emissions and wastes, and calculate the costs of compliance;
- Process-specific training for regulators and technical assistance providers who seek more in-depth knowledge of the businesses they regulate;
- A place to ask questions and get answers, through specialized conferences and forums, and access to experts who can answer compliance and technical questions;
- Databases of technologies and techniques that can help small businesses come into compliance, with an emphasis on pollution prevention methods that save money.

III. How To Reach the Centers

Following are the Internet addresses and contact names and telephone numbers for the four existing centers:

a. National Metal Finishing Resource Center

NMFRC provides technical assistance and information on environmental compliance and pollution prevention to the metal finishing industry.

Internet: http://www.nmfrc.org

Contacts: National Center for Manufacturing Science, Paul Chalmer, 313–995–4911; U.S. EPA, Scott Throwe, 202–564–7013.

b. Printer's National Compliance Assistance Center

PNEAC provides compliance assistance and pollution prevention information to the printing industry.

Internet: http://www.hazard.uiuc.edu/pneac/pneac.html

Contacts: Illinois Hazardous Waste Research and Information Center, Gary Miller, 217–333–8942; U.S. EPA, Doug Jamieson, 202–564–7041.

c. GreenLink™—the Automotive Compliance Information Assistance Center.

GreenLink™ provides compliance assistance to the automotive service industry. To obtain voice, facsimile, or mailed information, call the center's toll-free number, 1–888–GRN–LINK.

Internet: http://www.ccar-greenlink.org

Contacts: U.S. EPA, Everett Bishop, 202–564–7032; Coordinating Committee for Automotive Repair, Sherman Titens, 816–561–8388.

d. National Agriculture Compliance Assistance Center

This Center provides information to help producers of agricultural commodities and their supporting businesses meet their environmental requirements; prevent pollution before it occurs; and reduce costs by identifying flexible, common-sense ways to achieve compliance.

Internet: http://es.inel.gov/oeca/ag/aghmpg.html

Contacts: U.S. EPA, Ginah Mortensen, 913–551–7207 (fax: 913–551–7270).

IV. How to Get Involved With Future Centers

EPA has developed partnerships for the Transportation Compliance Assistance Center and the Printed Wiring Board Manufacturing Center. For more information, contact Virginia Lathrop (transportation) at 202–564–7057 and Keith Brown (PWB manufacturing) at 202–564–7124. EPA is currently developing the Chemical Manufacturing and Local Government Centers. If you are interested in learning more about the Chemical Manufacturing Center please contact Emily Chow at 202–564–7071. For more information on the Local Government Environmental Network, which will provide a central location for state and local access to federally-developed compliance assistance information related to local governments, contact Wendy Miller at 202–564–7102 or John Dombrowski at 202–564–7036.

Dated: April 4, 1997.

Elaine Stanley,

Director, Office of Compliance.

[FR Doc. 97–9579 Filed 4–11–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[PF–730; FRL–5599–7]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various agricultural commodities.

DATES: Comments, identified by the docket control number PF–730, must be received on or before May 14, 1997.

ADDRESSES: By mail submit written comments to: Public Response and Program Resources Branch, Field Operations Divison (7505C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne Miller, PM-23, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305-6224; e-mail: miller.joanne@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues

of certain pesticide chemicals in or on various raw agricultural commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports grantinig of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice, as well as the public version, has been established for this notice of filing under docket control number PF–730 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number (PF–730) and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

Authority: 21 U.S.C. 346a.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 2, 1997.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Below summaries of the pesticide petitions are printed. The summaries of the petitions were prepared by the petitioners. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. K-I Chemical, U.S.A. Inc.

PP 7F4821

EPA has received a pesticide petition (PP 7F4821) from K-I Chemical, U.S.A. Inc., 11 Martine Avenue, 9th Floor, White Plains, New York 10606, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C 346a, to amend 40 CFR part 180 by establishing a tolerance for residues of the herbicide fluthiacet-methyl: Acetic acid, [[2-chloro-4-fluoro-5-[(tetrahydro-3-oxo-1H,3H-[1,3,4]thiadiazolo[3,4-a] pyridazin-1-ylidene)amino]phenyl]thio]-methyl ester in or on the raw agricultural commodites field corn grain and sweet corn grain (K + CWHR) at 0.02 ppm and corn forage and fodder at 0.05 ppm. The proposed analytical method is gas chromatography using a nitrogen phosphorus detector and a large-bore fused silica column.

A. Fluthiacet-methyl uses:

Fluthiacet-methyl, Acetic acid, [[2-chloro-4-fluoro-5-[(tetrahydro-3-oxo-1H,3H-[1,3,4]thiadiazolo[3,4-a]pyridazin-1-ylidene)amino]phenyl]thio]-methyl ester, is a new herbicide active ingredient in the imide chemistry class. A petition for tolerance for fluthiacet-methyl in soybeans (Pesticide Petition Number 6F04614) submitted by Novartis Crop Protection, Inc. is pending EPA review. K-I, Chemical, U.S.A. has submitted a petition for tolerance in corn. Fluthiacet-methyl will be formulated as a 4.75% wettable powder, packaged in water-soluble bags, and sold under the trade name Action herbicide. Action is a highly selective herbicide for use in soybeans and corn postemergence, and is particularly effective in controlling velvetleaf. Control of other broadleaf weeds in corn and soybeans is enhanced and the spectrum of control is broadened when Action is tank mixed with other postemergence herbicides registered for use in these crops.

Action offers effective weed control at extremely low use rates. The maximum use rate per season is 0.0089 lb. active ingredient (3 oz. of formulated product) per acre consisting of a maximum of two applications. There is a wide application window extending in corn from the 2-leaf stage (leaves fully expanded with collars exposed) to 48 inches tall or prior to tasseling, whichever comes first, and the amount of Action to apply depends on the weed species and weed height. Tank mixing Action with other postemergence herbicides further reduces the amount required to control target weeds.

The purpose of this petition is to establish a tolerance for fluthiacet-methyl in field and sweet corn. The tolerance proposed in section 408(d)(2)(A)(vii) is:

Comodity	Part per million (ppm)
corn, sweet - grain (k + CWHR)	0.02 ppm
corn, field - grain	0.02 ppm
corn - forage and fodder	0.05 ppm

B. Fluthiacet-methyl Safety

In support of the pending petition for tolerance in soybeans, and hereby referenced by K-I Chemical, Novartis Crop Protection (Ciba) submitted a full battery of toxicology studies including, acute effects, chronic feeding, oncogenicity, teratogenicity, mutagenicity, and reproductive toxicity tests. The studies indicate that fluthiacet-methyl has a low order of acute toxicity with acute effects in catgegory III and IV, is not neurotoxic, does not pose a genotoxicity hazard, and is not a reproductive toxicant or a teratogen.

Potential exposure to fluthiacet-methyl via the diet or drinking water and through handling is very limited. Because of rapid environmental degradation, extremely low residues in food crops, and water-soluble packaging, considerable margins of safety exist for dietary exposure for all subgroups of the population and for worker exposure as well.

The following mammalian toxicity studies have been conducted to support the proposed tolerance for fluthiacet-methyl:

A rat acute oral study with an LD_{50} > 5,000 mg/kg.

A rabbit acute dermal study with an LD_{50} > 2,000 mg/kg.

A rat inhalation study with an LC_{50} > 5.05 mg/liter.

A primary eye irritation study in the rabbit showing moderate eye irritation.

A primary dermal irritation study in the rabbit showing no skin irritation.

A primary dermal sensitization study in the Guinea pig showing no sensitization.

28–day dermal toxicity study in rats with a NOEL equal to or higher than the limit dose of 1,000 mg/kg.

6–Week dietary toxicity study in dogs with a NOEL of 162 mg/kg/day in males

and 50 mg/kg/day in females based on decreased body weight gain and modest hematological changes.

90–day subchronic dietary toxicity study in rats with a NOEL of 6.2 mg/kg/day based on liver changes and hematological effects.

24–month combined chronic toxicity/carcinogenicity study in rats with a NOEL of 2.1 mg/kg/day. Based on reduced body weight development and changes in bone marrow, liver, pancreas and uterus the MTD was exceeded at 130 mg/kg/day.

A positive trend of adenomas of the pancreas in male rats treated at 130 mg/kg/day and above may be attributable to the increased survival of the rats treated at high doses.

18–month oncogenicity study in mice with a NOEL of 0.14 mg/kg/day. Based on liver changes, the MTD was reached at 1.2 mg/kg/day. The incidence of hepatocellular tumors was increased in males treated at 12 and 37 mg/kg/day.

Teratology study in rats with a maternal and developmental NOEL equal to or greater than 1,000 mg/kg/day.

Teratology study in rabbits with a maternal NOEL greater than or equal to 1,000 mg/kg/day and a fetal NOEL of 300 mg/kg based on a slight delay in fetal maturation.

2–generation reproduction study in rats with a NOEL of 36 mg/kg/day, based on liver lesions in parental animals and slightly reduced body weight development in parental animals and pups. The treatment had no effect on reproduction or fertility.

Acute neurotoxicity study in rats. Neurotoxic effects were not observed. The NOEL was 2,000 mg/kg.

90–day subchronic neurotoxicity study in rats. The NOEL was 0.5 mg/kg/day based on reduced body weight gain. No clinical or morphological signs of neurotoxicity were detected at any dose level.

In vitro gene mutation tests: Ames test - negative; Chinese hamster V79 test - negative; rat hepatocyte DNA repair test - negative; *E. Coli* letal DNA damage test - negative.

In vitro chromosomal aberration tests: Chinese hamster ovary - positive at cytotoxic doses; Chinese hamster lung - positive at cytotoxic doses; human lymphocyes - positive at cytotoxic doses.

In vivo chromosome aberration tests: Micronucleus assays in rat liver - negative; mouse bone marrow test - negative.

1. *Threshold effects.* Using the Guidelines for Carcinogenic Risk Assessment published September 24, 1986 (51 FR 33992), K-I Chemical believes the Agency will classify fluthiacet-methyl as a Group ''C'' carcinogen (possible human carcinogen) based on findings of benign and malignant liver tumors in male mice. These tumors most likely resulted from a chronic regenerative and proliferative response of the affected epithelial cells. This response is a non-genotoxic, threshold effect which is due to the accumulation of cytotoxic porphyrins. A positive trend of proliferative pancreatic changes in male rats is likely attributable to the increased survival of the rats in the high dose groups. The lesions observed are not uncommon in the rat strain used.

Because the effects observed are threshold effects, K-I Chemical believes that exposure to fluthiacet-methyl should be regulated using a margin of exposure approach. The RfD for fluthiacet-methyl can be defined at 0.0014 milligrams (mg)/kilogram(kg)/day based on an 18-month feeding study in mice with a No-Observed Effect Level (NOEL) of 0.14 mg/kg/day and an uncertainty factor of 100.

2. *Non-threshold effects.* Based on the results of an extensive program of genotoxicity studies, fluthiacet-methyl is not mutagenic *in vivo.* As outlined above, effects observed in toxicology studies are attributable to an epigenetic, cytotoxic mechanism, resulting in degenerative and inflammatory changes in the target organs. It is therefore justified that exposure to fluthiacet-methyl should be regulated using a margin of exposure approach.

3. *Aggregate exposure.* In this assessment, K-I Chemical has conservatively assumed that 100% of all soybeans and corn used for human consumption would contain residues of fluthiacet-methyl and all residues would be at the level of the proposed tolerances. The potential dietary exposure to fluthiacet-methyl was calculated on the basis of the proposed tolerance which is based on an LOQ of 0.01 ppm in soybeans and 0.02 ppm in corn (2x LOQ). The anticipated residues in milk, meat and eggs resulting from feeding the maximum allowable amount of soybean and corn commodities to cattle and poultry were calculated, and the resulting quantities were well below the analytical method LOQ. Therefore, tolerances for milk, meat and eggs are not required. Assuming 100% crop treated values, the chronic dietary exposure of the general U.S. population to fluthiacet-methyl would correspond to 2.3% of the RfD.

Other potential sources of exposure of the general population to residues of pesticides are residues in drinking water. Although fluthiacet-methyl has a slight to medium leaching potential; the risk of the parent compound to leach to deeper soil layers is negligible under practical conditions in view of the fast degradation of the product. For example, the soil metabolism half-life was extremely short, ranging from 1.1 days under aerobic conditions to 1.6 days under anaerobic conditions. Even in the event of very heavy rainfalls immediately after application, which could lead to a certain downward movement of the parent compound, parent fluthiacet-methyl continues to be degraded during the transport into deeper soil zones.

Considering the low application rate of fluthiacet-methyl, the strong soil binding characteristics of fluthiacet-methyl and its degradates, and the rapid degradation of fluthiacet-methyl in the soil, there is no risk of ground water contamination with fluthiacet-methyl or its metabolites. Thus, aggregate riskof exposure to fluthiacet-methyl does not include drinking water.

Fluthiacet-methyl is not registered for any other use and is only proposed for use on agricultural crops. Thus, there is no potential for non-occupational exposure other than consumption of treated commodities containing fluthiacet-methyl residue.

K-I Chemical also considered the potential for cumulative effects of fluthiacet-methyl and other substances. However, a cumulative exposure assessment is not appropriate at this time because there is no information available to indicate that effects of fluthiacet-methyl in mammals would be cumulative with those of another chemical compound. Thus K-I Chemical is considering only the potential risk of fluthiacet-methyl in its aggregate exposure assessment.

4. *Safety to the U.S. population.* Using the very conservative exposure assumptions described above coupled with toxicity data for fluthiacet-methyl, K-I Chemical calculated that aggregate, chronic exposure to fluthiacet-methyl will utilize no more than 2.3% of the RfD for the U.S. population. Because the actual anticipated residues are well below tolerance levels and the percent crop treated with fluthiacet-methyl is expected to be less than 25% of planted corn or soybeans, a more realistic estimate is that dietary exposure will likely be at least 20 times less than the conservative estimate previously noted (the margins of exposure will be accordingly higher). Exposures below 100 percent of the RfD are generally not of concern because the RfD represents the level at or below which daily aggregate dietary exposure over a

lifetime will not pose appreciable risks to human health.

Also the acute dietary risk to consumers will be far below any significant level; the lowest NOEL from a short term exposure scenario comes from the teratology study in rabbits with a NOEL of 300 mg/kg. This NOEL is 2,000-fold higher than the chronic NOEL which provides the basis for the RfD (see above). Acute dietary exposure estimates which are based on a combined food survey from 1989 to 1992 predict margins of exposure of at least one million for 99.9% of the general population and for women of child bearing age. Margins of exposure of 100 or more are generally considered satisfactory.

Therefore, K-I Chemical concludes that there is a reasonable certainty that no harm will result from aggregate exposure to fluthiacet-methyl residues.

5. *Safety to infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of fluthiacet-methyl, K-I Chemical considered data from developmental toxicity studies in the rat and rabbit and a 2-generation reproduction study in the rat. A slight delay in fetal maturation was observed in a teratology study in rabbits at a daily dose of 1,000 mg/kg. In a 2-generation reproduction study fluthiacet-methyl did not affect the reproductive performance of the parental animals or the physiological development of the pups. The NOEL was 500 ppm for maternal animals and their offspring, which is 50,000 fold higher than the RfD.

Reference dose. Using the same conservative exposure assumptions as was used for the general population, the percent of the RfD that will be utilized by aggregate exposure to residues of fluthiacet-methyl is as follows: 1.5% for nursing infants less than 1 year old, 5.9% for non-nursing infants, and 5.2% for children 1-6 years old. K-I Chemical concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to residues of fluthiacet-methyl.

6. *Estrogenic effects.* Based on the results of short-term, chronic, and reproductive toxicity studies there is no indication that fluthiacet-methyl might interfere with the endocrine system. Considering further the low environmental concentrations and the lack of bioaccumulation, there is no risk of endocrine disruption in humans or wildlife.

7. *Chemical residue.* There are no Codex maximum residue levels established for residues of fluthiacet-methyl on corn. The nature of the residues in corn and animals (goat and hen) is adequately understood following application of fluthiacet-methyl. Residues do not concentrate in processed commodities. K-I Chemical has submitted practical analytical methods (AG-603B and AG-624) for detecting and measuring the level of fluthiacet-methyl in or on corn and corn commodities and in animal tissues with a limit of detection that allows monitoring residues at or above the levels set for the proposed tolerance. The limit of quantitation of the crop method is 0.01 ppm in corn and corn commodities, 0.05 ppm in animal tissues and 0.01 ppm in milk. The crop method involves extraction, filtration, and solid phase clean up. Residue levels of fluthiacet-methyl are determined by gas chromatographic analysis utilizing a nitrogen phosphorus detector and a fused-silica column. The animal tissue method involves extraction, filtration, and partition. Determination of residue levels in animal tissues is by HPLC with UV detection via column switching using C1 and C18 columns. The analyte of interest in animal tissues and milk is the major animal metabolite CGA-300403. EPA can provide information on these methods to FDA. The methods will be available to anyone who is interested in pesticide residue enforcement from the Field Operations Division, EPA Office of Pesticide Programs.

The residue of concern in corn is fluthiacet-methyl per se. Twenty one field residue studies were conducted with corn grown in nineteen states. Fifteen of the studies were on field corn and six on sweet corn. Residues of fluthiacet-methyl in treated corn grain and ears were less than the method LOQ (<0.01 ppm). Residues in forage after the day of application were less than the proposed tolerance of 0.05 ppm. The proposed tolerances of 0.02 ppm in grain and 0.05 ppm in forage and fodder are adequate to cover residues likely to occur when Action herbicide is applied to corn as directed.

A feeding study in cattle has been submitted and tolerances for residues of fluthiacet-methyl in meat and milk will not be requested. The results from hen and goat metabolism studies, wherein fluthiacet-methyl was fed at exaggerated rates, showed that the transfer of fluthiacet-methyl residues from feed to tissues, milk and eggs is extremely low. No detectable residues of fluthiacet-methyl (or metabolite CGA-300403) would be expected in meat, milk, poultry, or eggs after feeding the maximum allowable amount of treated corn and soybeans. This conclusion is based on residue data from the corn and soybean metabolism and field residue chemistry studies coupled with the residue transfer from feed to tissues, milk and eggs obtained in the goat and hen metabolism studies.

In studies with processed corn fractions, no concentration of fluthiacet-methyl was observed and tolerances in processed commodities will not be required. In addition, confined rotational crop studies indicated that fluthiacet-methyl will not be taken up by rotational crops.

Analytical Method AG-603B has been submitted for analysis of residues of fluthiacet-methyl in soybeans and in corn and its processed fractions. This method can be provided to the FDA. Residue levels of fluthiacet-methyl are determined by gas chromatography and the limit of detection for the method is 0.01 ppm.

8. *Environmental fate.* Action degraded rapidly under laboratory and field conditions. Laboratory hydrolysis under basic conditions was T1/2 5 hours at pH 9 and stable under acidic conditions (T1/2 485 days at pH 5). The soil metabolism half-life was extremely short, ranging from 1.1 days under aerobic conditions to 1.6 days under anaerobic conditions. Photodegradation was rapid in soil (T1/2 0.5 days) and moderate in solution at pH 5 (5 days). Because of the extremely low use rate and very short half-life in the field, field dissipation experiments were conducted with radiolabeled chemical. After bare-ground application, the half-life of Action was 1 day in sandy loam and 1.8 days in clay loam. All degradates identified in the field were also identified in the laboratory studies.

Parent and aged leaching laboratory experiments showed that the mobility of Action ranged from slight to medium by soil type. Based on estimates of relative mobility (Koc), Action was classified as having medium mobility in sand and low mobility in loam, silt loam and clay. The major degradation products of Action were found to have high to low mobility classifications based on Koc estimations. Although the data suggest that some of the degradates are highly mobile a high degree of soil binding is expected based on results of the laboratory and the field experiments. Since weeds and crop will intercept the majority of this product when it is applied, and given the extremely low use rate and high degree of soil binding, Action herbicide is not expected to leach into groundwater.

2. Novartis Crop Protection

PP 6F4751

EPA has received a pesticide petition (PP 6F4751) from Novartis Crop Protection, Inc., P. O. Box 18300, Greensboro, North Carolina 27419, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR 180.368 by establishing a tolerance for residues of the herbicide metolachlor in or on the raw agricultural commodity tomatoes at 0.1 ppm. The proposed analytical method is available for enforcement purposes. Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, Novartis Crop Protection has submitted the following summary of information, data and arguments in support of their pesticide petition. This summary was prepared by Novartis Crop Protection and EPA has not fully evaluated the merits of the petition. EPA edited the summary to clarify that the conclusions and arguments were the petitioners and not necessarily EPA's and to remove certain extraneous material.

A. Metolachlor Uses

Metolachlor is a chloroacetanilide herbicide registered primarily for grass control on a wide variety of crops. It is proposed for use on tomatoes at a maximum rate of 3 lbs. active ingredient per acre depending on soil texture and organic matter content. One application may be made preplant incorporated, preplant before transplanting, post-directed or post-over-the-top. A 90–day preharvest interval is to be observed.

B. Metabolism and Analytical Method

1. *Metabolism*. The qualitative nature of the metabolism of metolachlor in plants and animals is well understood. Metabolism in plants involves conjugation of the chloroacetyl side chain with glutathione, with subsequent conversion to the cysteine and thiolactic acid conjugates. Oxidation to the corresponding sulfoxide derivatives occurs and cleavage of the side chain ether group, followed by conjugation with glucose. In animals, metolachlor is rapidly metabolized and almost totally eliminated in the excreta of rats, goats, and poultry. Metabolism in plants and animals proceeds through common Phase 1 intermediates and glutathione conjugation.

2. *Analytical methodology*. Novartis Crop Protection has submitted a practical analytical method involving extraction by acid reflux, filtration, partition and cleanup with analysis by gas chromatography using Nitrogen/Phosphorous (N/P) detection. The methodology converts residues of metolachlor into a mixture of CGA-37913 and CGA-49751. The limit of quantitation (LOQ) for the method is 0.03 ppm for CGA-37913 and 0.05 ppm for CGA-49751.

C. Magnitude of Residue

Thirteen field trials were conducted in major tomato production areas across the United States. Both tomato and its processed fractions were analyzed for residues of metolachlor, measured as CGA-37913 and CGA-49751. One application of metolachlor at 3.0 lbs. ai/A (1X) was made post-foliar to tomato transplants. Exaggerated rate applications (2X, 3X and 5X) were also made. Two of the 13 trials were used for processing into tomato commodity products. No residues (LOQ of 0.08 ppm) were found at the 1X rate in the RAC tomatoes. In processed commodities at the 1X rate of 3.0 lbs ai/A, residues of metolachlor were found below the method LOQ in tomato puree (0.4 ppm) and above the method LOQ in dry pomace and tomato paste (0.16 and 0.13 ppm, respectively). Because residues in tomato puree and paste (commodities listed in Table 1 of OPPTS 860.1000 as processed commodities of tomatoes) are less than 2X the LOQ of 0.08 ppm, tolerances are not required according to OPPTS 860.1520 (f)(3). No transfer of residues to beef and dairy cattle or poultry is expected from the use of metolachlor on tomatoes.

D. Codex Alimentarius Commission (CODEX)

There are no maximum residue levels (MRL's) established for residues of metolachlor in or on raw agricultural commodities.

E. Toxicological Profile of Metolachlor

1. *Acute toxicity*. Metolachlor has a low order of acute toxicity. The combined rat oral LD_{50} is 2,877 mg/kg. The acute rabbit dermal LD_{50} is > 2,000 mg/kg and the rat inhalation LD_{50} is > 4.33 mg/L. Metolachlor is not irritating to the skin and eye. It has been shown to be positive in guinea pigs for skin sensitization. End use formulations of metolachlor also have a low order of acute toxicity and cause slight skin and eye irritation.

2. *Subchronic toxicity*. Metolachlor was evaluated in a 21–day dermal toxicity study in the rabbit and a 6–month dietary study in dogs; NOELs of 100 mg/kg/day and 7.5 mg/kg/day were established in the rabbit and dog, respectively. The liver was identified as the main target organ.

3. *Chronic toxicity*. A 1–year dog study was conducted at dose levels of 0, 3.3, 9.7, or 32.7 mg/kg/day. The Agency-determined RfD for metolachlor is based on the 1 year dog study with a NOEL of 9.7 mg/kg/day. The RfD for metolachlor is established at 0.1 mg/kg/day using a 100-fold uncertainty factor. A combined chronic toxicity/oncogenicity study was also conducted in rats at dose levels of 0. 1.5, 15 or 150 mg/kg/day. The NOEL for systemic toxicity was 15 mg/kg/day.

4. *Developmental/Reproduction*. The developmental and teratogenic potential of metolachlor was investigated in rats and rabbits. The results indicate that metolachlor is not embyrotoxic or teratogenic in either species at maternally toxic doses. The NOEL for developmental toxicity for metolachlor was 360 mg/kg/day for both the rat and rabbit while the NOEL for maternal toxicity was established at 120 mg/kg/day in the rabbit and 360 mg/kg/day in the rat. A 2–generation reproduction study was conducted with metolachlor in rats at feeding levels of 0, 30, 300 and 1,000 ppm. The reproductive NOEL of 300 ppm (equivalent to 23.5 to 26 mg/kg/day) was based upon reduced pup weights in the F1a and F2a litters at the 1,000 ppm dose level(equivalent to 75.8 to 85.7 mg/kg/day). The NOEL for parental toxicity was equal to or greater than the 1,000 ppm dose level.

5. *Carcinogenicity*. An evaluation of the carcinogenic potential of metolachlor was made from two sets of oncogenicity studies conducted with metolachlor in rats and mice. Using the Guidelines for Carcinogenic Risk Assessment published September 24, 1986 (51 FR 33992) and the results of the November, 1994 Carcinogenic Peer Review, EPA has classified metolachlor as a Group C carcinogen and recommended using a Margin of Exposure (MOE) approach to quantify risk. This classification is based upon the marginal tumor response observed in livers of female rats treated with a high (cytotoxic) dose of metolachlor (3,000 ppm). The two studies conducted in mice were negative for oncogenicity.

6. *Genotoxicity*. Assays for genotoxicity were comprised of tests evaluating metolachlor's potential to induce point mutations (Salmonella assay and an L5178/TK+/- mouse lymphoma assay), chromosome aberrations (mouse micronucleus and a dominant lethal assay) and the ability to induce either unscheduled or scheduled DNA synthesis in rat hepatocytes or DNA damage or repair in human fibroblasts. The results indicate that metolachlor is not mutagenic or clastogenic and does not provoke unscheduled DNA synthesis.

F. Threshold Effects

1. *Chronic effects*. Based on the available chronic toxicity data, EPA has established the RfD for metolachlor at 0.1 mg/kg/day. The RfD for metolachlor is based on a 1–year feeding study in dogs with a No-Observed Effect Level (NOEL) of 9.7 mg/kg/day and an uncertainty factor of 100.

2. *Acute toxicity*. Based on the available acute toxicity data, it is believed metolachlor does not pose any acute dietary risks.

G. Non-threshold Effects

Carcinogenicity. Using its Guidelines for Carcinogenic Risk Assessment published September 24, 1986 (51 FR 33992), EPA has classified metolachlor as Group 'C' for carcinogenicity (possible human carcinogen) based on findings of a carcinogenic effect in the liver of the female rat. Because this carcinogenic response was only observed at the high dose of 3,000 ppm, a dose associated with evidence of liver damage, it is likely that this response occurred via a non-genotoxic, threshold-based mechanism. Therefore, EPA is regulating exposure to metolachlor using a margin of exposure approach. A NOEL of 15 mg/kg/day from the 2 year rat feeding study was determined to be appropriate for use in the Margin of Exposure carcinogenic risk assessment. However, because the chronic reference dose is lower (9.7 mg/kg/day) than the oncogenic NOEL (15 mg/kg/day), the EPA is using the Reference Dose for quantification of human risk.

H. Aggregate Exposure

1. *Dietary exposure*. For purposes of assessing the potential dietary exposure to metolachlor, aggregate exposure has been estimated based on the TMRC from the use of metolachlor in or on raw agricultural commodities for which tolerances have been previously established (40 CFR 180.368). The incremental effect on dietary risk resulting from the addition of tomatoes to the label was assessed by conservatively assuming that exposure would occur at the proposed tolerance level of 0.1 ppm with 100% of the crop treated. The TMRC is obtained by multiplying the tolerance level residue for all these raw agricultural commodities by the consumption data which estimates the amount of these products consumed by various population subgroups. Some of these raw agricultural commodities (e.g. corn forage and fodder, peanut hay) are fed to animals; thus exposure of humans to residues in these fed commodities might result if such residues are transferred to meat, milk, poultry, or eggs. Therefore, tolerances of 0.02 ppm for milk, meat and eggs and 0.2 ppm for kidney and 0.05 ppm for liver have been established for metolachlor. In conducting this exposure assessment, it has been conservatively assumed that 100% of all raw agricultural commodities for which tolerances have been established for metolachlor will contain metolachlor residues and those residues would be at the level of the tolerance--which results in an overestimation of human exposure.

2. *Drinking water*. Another potential source of exposure of the general population to residues of pesticides are residues in drinking water. Based on the available studies used by EPA to assess environmental exposure, it is not anticipated that exposure to residues of metolachlor in drinking water will exceed 20% of the RfD (0.02 mg/kg/day), a value upon which the Health Advisory Level of 70 ppb for metolachlor is based. In fact, based on experience with metolachlor, it is believed that metolachlor will be infrequently found in groundwater (less than 5% of the samples analyzed), and when found, it will be in the low ppb range.

3. *Non-dietary exposure*. Although metolachlor may be used on turf and ornamentals in a residential setting, that use represents less than 0.1 percent of the total herbicide market for residential turf and landscape uses. Currently, there are no acceptable, reliable exposure data available to assess any potential risks. However, given the small amount of material that is used, it is concluded that the potential for non-occupational exposure to the general population is unlikely.

I. Cumulative Effects

The potential for cumulative effects of metolachlor and other substances that have a common mechanism of toxicity has also been considered. It is concluded that consideration of a common mechanism of toxicity with other registered pesticides in this chemical class (chloroacetamides) is not appropriate. Since EPA itself has concluded that the carcinogenic potential of metolachlor is not the same as other registered chloroacetamide herbicides, based on differences in rodent metabolism (EPA Peer Review of metolachlor, 1994), it is believed that only metolachlor should be considered in an aggregate exposure assessment.

J. Safety Determinations

1. *U.S. population in general*. Using the conservative exposure assumptions described above, based on the completeness and reliability of the toxicity data, it is concluded that aggregate exposure to metolachlor will utilize 1.4 percent of the RfD for the U.S. population. EPA generally has no concern for exposures below 100 percent of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Therefore, it is concluded that there is a reasonable certainty that no harm will result from aggregate exposure to metolachlor or metolachlor residues.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of metolachlor, data from developmental toxicity studies in the rat and rabbit and a 2–generation reproduction study in the rat have been considered. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from chemical exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to a chemical on the reproductive capability of mating animals and data on systemic toxicity.

Developmental toxicity (reduced mean fetal body weight, reduced number of implantations/dam with resulting decreased litter size, and a slight increase in resorptions/dam with a resulting increase in post-implantation loss) was observed in studies conducted with metolachlor in rats and rabbits. The NOEL's for developmental effects in both rats and rabbits were established at 360 mg/kg/day. The developmental effect observed in the metolachlor rat study is believed to be a secondary effect resulting from maternal stress (lacrimation, salivation, decreased body weight gain and food consumption and death) observed at the limit dose of 1,000 mg/kg/day.

A 2-generation reproduction study was conducted with metolachlor at feeding levels of 0, 30, 300 and 1,000 ppm. The reproductive NOEL of 300 ppm (equivalent to 23.5 to 26 mg/kg/day) was based upon reduced pup weights in the F1a and F2a litters at the 1,000 ppm dose level (equivalent to 75.8 to 85.7 mg/kg/day). The NOEL for parental toxicity was equal to or greater than the 1,000 ppm dose level. FFDCA section 408 provides that EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database. Based on the current toxicological data requirements, the database relative to pre- and post-natal

effects for children is complete. Further, for the chemical metolachlor, the NOEL of 9.7 mg/kg/day from the metolachlor chronic dog study, which was used to calculate the RfD (discussed above), is already lower than the developmental NOEL's of 360 mg/kg/day from the metolachlor teratogenicity studies in rats and rabbits. In the metolachlor reproduction study, the lack of severity of the pup effects observed (decreased body weight) at the systemic LOEL (equivalent to 75.8 to 85.7 mg/kg/day) and the fact that the effects were observed at a dose that is nearly 10 times greater than the NOEL in the chronic dog study (9.7 mg/kg/day) suggest there is no additional sensitivity for infants and children. Therefore, it is concluded that an additional uncertainty factor is not warranted to protect the health of infants and children and that the RfD at 0.1 mg/kg/day based on the chronic dog study is appropriate for assessing aggregate risk to infants and children from use of metolachlor.

Using the conservative exposure assumptions described above, the percent of the RfD that will be utilized by aggregate exposure to residues of metolachlor including the proposed use on tomatoes is 1.1 percent for nursing infants less than 1 year old, 3.5 percent for non-nursing infants, 3.0 percent for children 1 to 6 years old and 2.2 percent for children 7 to 12 years old. Therefore, based on the completeness and reliability of the toxicity data and the conservative exposure assessment, it is concluded that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to metolachlor residues.

K. Estrogenic Effects

Metolachlor does not belong to a class of chemicals known or suspected of having adverse effects on the endocrine system. There is no evidence that metolachlor has any effect on endocrine function in developmental or reproduction studies. Furthermore, histological investigation of endocrine organs in the chronic dog, rat and mouse studies conducted with metolachlor did not indicate that the endocrine system is targeted by metolachlor, even at maximally tolerated doses administered for a lifetime. Although residues of metolachlor have been found in raw agricultural commodities, there is no evidence that metolachlor bioaccumulates in the environment.

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FEDERAL HOUSING FINANCE BOARD

[No. 97–N–2]

Notice of Federal Home Loan Bank Members Selected for Community Support Review

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 added a new Section 10(g) to the Federal Home Loan Bank Act of 1932 requiring that members of the Federal Home Loan Bank (FHLBank) System meet standards for community investment or service in order to maintain continued access to long-term FHLBank System advances. In compliance with this statutory change, the Federal Housing Finance Board (Housing Finance Board) promulgated Community Support regulations (12 CFR Part 936). Under the review process established in the regulations, the Housing Finance Board will select a certain number of members for review each quarter, so that all members that are subject to the Community Reinvestment Act of 1977, 12 U.S.C. § 2901 *et seq.*, (CRA), will be reviewed once every two years. The purpose of this Notice is to announce the names of the members selected for the fifth quarter review (1996–97 cycle) under the regulations. The Notice also conveys the dates by which members need to comply with the Community Support regulation review requirements and by which comments from the public must be received.

DATES: Due Date For Member Community Support Statements for Members Selected in Fifth Quarter Review: May 29, 1997.

Due Date For Public Comments on Members Selected in Fifth Quarter Review: May 29, 1997.

FOR FURTHER INFORMATION CONTACT: Mitchell Berns, Director, Office of Supervision, (202) 408–2562, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006. A telecommunications device for deaf persons (TDD) is available at (202) 408–2579.

SUPPLEMENTARY INFORMATION:

A. Selection for Community Support Review

The Housing Finance Board currently reviews all FHLBank System members that are subject to CRA approximately once every two years. Approximately one-eighth of the FHLBank members in each district will be selected for review by the Housing Finance Board each calendar quarter. To date, only members that are subject to CRA have been reviewed. In selecting members, the Housing Finance Board follows the chronological sequence of the members' CRA Evaluations post-July 1, 1990, to the greatest extent practicable, selecting one-eighth of each District's membership for review each calendar quarter. However, the Housing Finance Board will postpone review of new members until they have been System members for one year.

Selection for review is not, nor should it be construed as, any indication of either the financial condition or Community Support performance of the institutions listed.

B. List of FHLBank Members To Be Reviewed in the Fifth Quarter, Grouped by FHLBank District

Member	City	State
Federal Home Loan Bank of Boston—District 1 P.O. Box 9106 Boston, Massachusetts 02205–9106		
Lafayette American Bank and Trust Company	Bridgeport	CT
People's Bank	Bridgeport	CT
Maritime Bank and Trust Company	Essex	CT
Farmington Savings Bank	Farmington	CT
Glastonbury Bank & Trust	Glastonbury	CT
Savings Bank of Manchester	Manchester	CT
Liberty Bank	Middletown	CT
Naugatuck Savings Bank	Naugatuck	CT

Member	City	State
Citizens National Bank	Putnam	CT
Equity Bank	Wethersfield	CT
Windsor Federal Savings & Loan Association	Windsor	CT
Windsor Locks Savings & Loan Association	Windsor Locks	CT
Co-operative Bank of Concord	Concord	MA
Dedham Cooperative Bank	Dedham	MA
Bank of Fall River, a Co-operative Bank	Fall River	MA
Framingham Co-operative Bank	Framingham	MA
Benjamin Franklin Savings Bank	Franklin	MA
Dean Cooperative Bank	Franklin	MA
Gloucester Co-operative Bank	Gloucester	MA
Greenfield Savings Bank	Greenfield	MA
Family Bank, FSB	Haverhill	MA
Economy Co-operative Bank	Merrimac	MA
Mayflower Cooperative Bank	Middleboro	MA
Pacific National Bank of Nantucket	Nantucket	MA
Compass Bank for Savings	New Bedford	MA
North Shore Bank	Peabody	MA
Berkshire County Savings Bank	Pittsfield	MA
Pittsfield Cooperative Bank	Pittsfield	MA
Randolph Savings Bank	Randolph	MA
Sharon Co-operative Bank	Sharon	MA
Slade's Ferry Trust Company	Somerset	MA
Central Co-operative Bank	Somerville	MA
Savers Co-operative Bank	Southbridge	MA
Springfield Institution for Savings	Springfield	MA
Stoneham Co-operative Bank	Stoneham	MA
Martha's Vineyard Co-operative Bank	Vineyard Haven	MA
The Savings Bank	Wakefield	MA
Walpole Co-operative Bank	Walpole	MA
Ware Co-operative Bank	Ware	MA
United Cooperative Bank	West Springfield	MA
Westfield Savings Bank	Westfield	MA
Northern Bank and Trust Company	Woburn	MA
Woburn National Bank	Woburn	MA
Flagship Bank and Trust Company	Worcester	MA
Cushnoc Bank and Trust Company	Augusta	ME
United Bank	Bangor	ME
First National Bank of Damariscotta	Damariscotta	ME
Gardiner Savings Institution, FSB	Gardiner	ME
Machias Savings Bank	Machias	ME
Centerpoint Bank	Bedford	NH
Claremont Savings Bank	Claremont	NH
Merrimack County Savings Bank	Concord	NH
Mascoma Savings Bank, FSB	Lebanon	NH
Peoples Bank of Littleton	Littleton	NH
Lake Sunapee Bank, FSB	Newport	NH
Sugar River Savings Bank	Newport	NH
Olde Port Bank and Trust	Portsmouth	NH
Piscataqua Savings Bank	Portsmouth	NH
Domestic Bank	Cranston	RI
First Bank and Trust Company	Providence	RI
Rhode Island Hospital Trust National Bank	Providence	RI
Washington Trust Company	Westerly	RI
Bennington Co-op Savings and Loan	Bennington	VT
Factory Point National Bank	Manchester Center	VT
Connecticut River Bank	Springfield	VT
Passumpsic Savings Bank	St. Johnsbury	VT

Federal Home Loan Bank of New York—District 2
Seven World Trade Center
22nd Floor

New York, New York 10048–1185

Ocwen Federal Bank FSB	West Palm Beach	FL
First Savings Bank of New Jersey, SLA	Bayonne	NJ
American Savings Bank of New Jersey	Bloomfield	NJ
Clifton Savings Bank, S.L.A	Clifton	NJ
Collective Bank	Egg Harbor	NJ
Bridge View Bank	Englewood Cliffs	NJ
Sussex County State Bank	Franklin	NJ
The First National Bank of Hope	Hope	NJ
Skylands Community Bank	Independence Tsp	NJ
Little Falls Bank	Little Falls	NJ

Member	City	State
Metropolitan State Bank	Montville	NJ
Magyar Savings Bank	New Brunswick	NJ
Lusitania Savings Bank, FSB	Newark	NJ
Roebling Savings and Loan Association	Roebling	NJ
Franklin Savings Bank, SLA	Salem	NJ
Pulaski Savings Bank	Springfield	NJ
Monroe Savings Bank, SLA	Williamstown	NJ
Cayuga Bank	Auburn	NY
BSB Bank & Trust Company	Binghampton	NY
Ponce de Leon Federal Bank	Bronx	NY
Atlantic Liberty Savings, F.A	Brooklyn	NY
Olympian Bank	Brooklyn	NY
Bank of Castile	Castile	NY
Catskill Savings Bank	Catskill	NY
Cohoes Savings Bank	Cohoes	NY
Fulton Savings Bank	Fulton	NY
Continental Bank	Garden City	NY
Roosevelt Savings Bank	Garden City	NY
Astoria Federal Savings and Loan	Lake Success	NY
Financial Federal Savings Bank	Long Island City	NY
First Federal Savings of Middletown	Middletown	NY
Amalgamated Bank of New York	New York	NY
New York Federal Savings Bank	New York	NY
United Orient Bank	New York	NY
Community Capital Bank	New York City	NY
Rochester Community Savings Bank	Rochester	NY
Northfield Savings Bank	Staten Island	NY
OnBank	Syracuse	NY
Tarrytowns Bank, FSB	Tarrytown	NY
Columbia Federal Savings Bank	Woodhaven	NY
Bank & Trust of Puerto Rico	Hato Rey	PR
Roig Commercial Bank	Humacao	PR

Federal Home Loan Bank of Pittsburgh—District 3
601 Grant Street
Pittsburgh, Pennsylvania 15219–4455

Ninth Ward Savings Bank, FSB	Wilmington	DE
Wilmington Savings Fund Society	Wilmington	DE
C&G Savings Bank	Altoona	PA
Mid-State Bank and Trust Company	Altoona	PA
Ambler Savings & Loan Association	Ambler	PA
First Star Savings Bank	Bethlehem	PA
First FS&LA of Bucks County	Bristol	PA
Compass Bank	Broomall	PA
Sharon Savings Bank	Darby	PA
Laurel Bank	Ebensburg	PA
ESB Bank, F.S.B	Ellwood City	PA
County Savings Association	Essington	PA
Bank of Hanover and Trust Company	Hanover	PA
Hatboro Federal Savings	Hatboro	PA
First FS&LA of Hazleton	Hazleton	PA
Security Savings Association of Hazleton	Hazleton	PA
William Penn Savings and Loan Association	Levittown	PA
Willow Grove Bank	Maple Glen	PA
First Keystone Federal Savings Bank	Media	PA
Community Savings Bank	Monroeville	PA
Morton Savings and Loan Association	Morton	PA
Nesquehoning Savings Bank	Nesquehoning	PA
Commonwealth State Bank	Newtown	PA
Third Federal Savings Bank	Newtown	PA
Malvern Federal Savings Bank	Paoli	PA
First Savings Bank of Perkasie	Perkasie	PA
Crusader Savings Bank, FSB	Philadelphia	PA
Fox Chase Federal Savings Bank	Philadelphia	PA
Keystone Savings & Loan Association	Philadelphia	PA
Prime Bank	Philadelphia	PA
Second FS&LA of Philadelphia	Philadelphia	PA
Washington Savings Association	Philadelphia	PA
Bell FS&LA of Bellevue	Pittsburgh	PA
Great American FS&LA	Pittsburgh	PA
National City Bank of Pennsylvania	Pittsburgh	PA
Progressive Home FS&LA	Pittsburgh	PA
Patriot Bank	Pottstown	PA

Member	City	State
Mercer County State Bank	Sandy Lake	PA
North Penn Savings & Loan Association	Scranton	PA
Pennview Savings Bank	Souderton	PA
Slovenian Savings and Loan Association	Strabane	PA
First National Bank of West Chester	West Chester	PA
Bank of Iaeger	Iaeger	WV
Bank of Mount Hope, Inc	Mount Hope	WV
Community Bank of Parkersburg	Parkersburg	WV
Poca Valley Bank	Walton	WV

Federal Home Loan Bank of Atlanta—District 4
P.O. Box 105565
Atlanta, Georgia 30348

Covington County Bank	Andalusia	AL
United Bank	Atmore	AL
AmSouth Bank, N.A	Birmingham	AL
Peoples Bank of North Alabama	Cullman	AL
First American Bank	Decatur	AL
Citizens Bank	Enterprise	AL
Eufala Bank & Trust Company	Eufala	AL
Merchants Bank	Jackson	AL
Farmers and Merchants Bank	Lafayette	AL
Bank of Mobile	Mobile	AL
Colonial Bank	Montgomery	AL
Eagle Bank of Alabama	Opelika	AL
Bank of Red Bay	Red Bay	AL
Peoples Bank & Trust Company	Selma	AL
First Federal of the South	Sylacauga	AL
United Security Bank	Thomasville	AL
Century National Bank	Washington	DC
Citrus and Chemical Bank	Bartow	FL
Mackinac Savings Bank, FSB	Boynton Beach	FL
First Bank of Clewiston	Clewiston	FL
Bankers Savings Bank	Coral Gables	FL
Regent Bank	Davie	FL
Dunnellon State Bank	Dunnellon	FL
Gateway American Bank of Florida	Fort Lauderdale	FL
Gainesville State Bank	Gainesville	FL
Desjardins Federal Savings Bank	Hallandale	FL
Bank of Inverness	Inverness	FL
First Union National Bank of Florida Jacksonville FL	Jacksonville	FL
Monticello Bank	Jacksonville	FL
First Federal Savings Bank of Florida	Live Oak	FL
Helm Bank	Miami	FL
Peoples National Bank of Commerce	Miami	FL
FIRSTATE Financial, F.A	Orlando	FL
Bank at Ormond By-the-Sea	Ormond Beach	FL
First Community Bank of Palm Beach County	Pahokee	FL
SOUTHBank, a F.S.B	Palm Beach Gard	FL
Peoples First Community Bank	Panama City	FL
Citizens National Bank & Trust Company	Port Richey	FL
Century Bank, F.S.B	Sarasota	FL
Highlands Independent Bank	Sebring	FL
Raymond James Bank, FSB	St. Petersburg Bch	FL
Southern Exchange Bank	Tampa	FL
Prime Bank of Central Florida	Titusville	FL
United Southern Bank	Umatilla	FL
NBD Bank, FSB	Venice	FL
Sterling Bank, F.S.B	West Palm Beach	FL
Bank of Adairsville	Adairsville	GA
Farmers and Merchants Bank	Adel	GA
Montgomery County Bank	Ailey	GA
First State Bank and Trust Company	Albany	GA
First Colony Bank	Alpharetta	GA
Citizens Trust Bank	Atlanta	GA
First Union National Bank of Georgia	Atlanta	GA
Union County Bank	Blairsville	GA
Peoples Bank of Fannin County	Blue Ridge	GA
First National Bank of Haralson	Buchanan	GA
Southland Bank	Butler	GA
Bank of Chickamauga	Chickamauga	GA
Trust Company Bank of Columbus, N.A	Columbus	GA
Bank of Thomas County	Coolidge	GA

Member	City	State
Bank of Dahlonega	Dahlonega	GA
First Bank of Georgia	East Point	GA
Peoples Bank	Eatonton	GA
Bank of Ellaville	Ellaville	GA
Gainesville Bank and Trust	Gainesville	GA
First Citizens Bank	Glennville	GA
South Georgia Bank, FSB	Glennville	GA
Sunmark Community Bank	Hawkinsville	GA
Community Trust Bank	Hiran	GA
Westside Bank & Trust Company	Kennesaw	GA
Northeast Georgia Bank	Lavonia	GA
Peoples Bank	Lithonia	GA
Metter Banking Company	Metter	GA
Fayette County Bank	Peachtree City	GA
Family Federal Savings Bank	Pelham	GA
Crossroads Bank of Georgia	Perry	GA
Independent Bank and Trust Company	Powder Springs	GA
Effingham Bank & Trust	Rincon	GA
Citizens First Bank	Rome	GA
Farmers and Merchants Bank	Summerville	GA
Citizens Bank and Trust	Trenton	GA
Farmers and Merchants Bank	Washington	GA
Back and Middle River FS&LA, Inc	Baltimore	MD
Bay-Vanguard Federal Savings Bank	Baltimore	MD
Hull Federal Savings Bank	Baltimore	MD
Ideal Federal Savings Bank	Baltimore	MD
Northfield Federal Savings	Baltimore	MD
Provident Bank of Maryland	Baltimore	MD
Sterling Bank and Trust Company	Baltimore	MD
Vigilant Federal Savings & Loan Association	Baltimore	MD
F&M Bank—Allegiance	Bethesda	MD
Kent Savings and Loan Association, FA	Chestertown	MD
Cecil Federal Savings Bank	Elkton	MD
FWB Bank	Rockville	MD
Randolph Bank and Trust Company	Asheboro	NC
Rowan Savings Bank, SSB	China Grove	NC
Cabarrus Bank	Concord	NC
Central Carolina Bank and Trust Company	Durham	NC
Mechanics & Farmers Bank	Durham	NC
Macon Savings Bank, SSB	Franklin	NC
Hertford Savings Bank, SSB	Hertford	NC
Landis Savings Bank, S.S.B	Landis	NC
Industrial Federal Savings Bank	Lexington	NC
Lexington State Bank	Lexington	NC
Liberty Savings and Loan Association	Liberty	NC
First Savings and Loan Association	Mebane	NC
Mount Gilead Savings and Loan Association	Mount Gilead	NC
Unity Bank and Trust Company	Rocky Mount	NC
Taylorsville Savings Bank, SSB	Taylorsville	NC
Anson Savings Bank, SSB	Wadesboro	NC
Cooperative Bank for Savings, Inc., SSB	Wilmington	NC
Branch Banking and Trust Company	Winston-Salem	NC
Home Federal Savings & Loan Association	Bamberg	SC
Bank of Greeleyville	Greeleyville	SC
County Bank	Greenwood	SC
Greer State Bank	Greer	SC
Kingstree Federal Savings & Loan Association	Kingstree	SC
Bank of Clarendon	Manning	SC
Anderson Brothers Bank	Mullins	SC
Pickens Savings & Loan Association, F.A	Pickens	SC
Bank of Travelers Rest	Travelers Rest	SC
Bank of Alexandria	Alexandria	VA
Bank of Southside Virginia	Carson	VA
Jefferson National Bank	Charlottesville	VA
First FSB of Shenandoah Valley	Front Royal	VA
First Colonial Bank, FSB	Hopewell	VA
Imperial Savings and Loan Association	Martinsville	VA
Lee Bank and Trust Company	Pennington Gap	VA
Central Fidelity National Bank	Richmond	VA
Marathon Bank	Stephens City	VA
Farmers and Merchants Bank	Timberville	VA

Member	City	State
Federal Home Loan Bank of Cincinnati—District 5 P.O. Box 598 Cincinnati, Ohio 45201		
Farmers Bank and Trust Company	Bardstown	KY
Wilson and Muir Bank and Trust Company	Bardstown	KY
Bank of Marshall County	Benton	KY
Bank of Cadiz and Trust Company	Cadiz	KY
Bank of Columbia	Columbia	KY
First Federal Savings Bank	Cynthiana	KY
Harrison Deposit Bank and Trust Company	Cynthiana	KY
Pendleton Federal Savings Bank	Falmouth	KY
Fort Thomas Savings Bank	Fort Thomas	KY
Simpson County Bank, Inc	Franklin	KY
Fulton Bank	Fulton	KY
New Farmers National Bank of Glasgow	Glasgow	KY
First State Bank	Greenville	KY
Farmers Bank	Hardinsburg	KY
Peoples Bank and Trust Company of Hazard	Hazard	KY
Farmers Bank and Trust Company	Henderson	KY
Hopkinsville Federal Savings Bank	Hopkinsville	KY
THE BANK—Oldham County, Inc	LaGrange	KY
Leitchfield Deposit Bank & Trust Company	Leitchfield	KY
Central Bank and Trust Company	Lexington	KY
Great Financial Bank, F.S.B	Louisville	KY
Citizens Bank of Kentucky	Madisonville	KY
Farmers Bank and Trust Company	Madisonville	KY
Farmers Bank & Trust Company of Marion	Marion	KY
Bank of Marrowbone	Marrowbone	KY
Exchange Bank	Mayfield	KY
Monticello Banking Company	Monticello	KY
Pioneer Bank	Munfordville	KY
Citizens Bank	New Liberty	KY
Blue Grass FS&LA	Paris	KY
First Commonwealth Bank	Prestonburg	KY
Russell Federal Savings Bank	Russell	KY
Trans Financial Bank, FSB	Russellville	KY
Salt Lick Deposit Bank	Salt Lick	KY
Commerce Exchange Bank	Beachwood	OH
Belpre Savings Bank	Belpre	OH
Peoples Building and Loan Company	Blanchester	OH
First Bremen Bank	Bremen	OH
Cambridge Savings Bank	Cambridge	OH
Centennial Savings Bank	Cincinnati	OH
Eagle Savings Bank	Cincinnati	OH
Findlay Savings Bank	Cincinnati	OH
Guardian Savings Bank, F.S.B	Cincinnati	OH
Mercantile Savings Bank	Cincinnati	OH
Oakley Improved Building and Loan Company	Cincinnati	OH
Union Savings Bank	Cincinnati	OH
Westwood Homestead Savings Bank	Cincinnati	OH
Winton Savings and Loan Company	Cincinnati	OH
County Savings Bank	Columbus	OH
First Community Bank	Columbus	OH
Conneaut Savings & Loan Company	Conneaut	OH
Commercial Bank	Delphos	OH
Fort Jennings State Bank	Fort Jennings	OH
Germantown Federal Savings Bank	Germantown	OH
Lincoln Savings and Loan Association	Ironton	OH
Savings Bank of Ohio, FSB	Kent	OH
People's Building Loan and Savings Company	Lebanon	OH
Farmers and Savings Bank	Loudonville	OH
Lower Salem Commercial Bank	Lower Salem	OH
First Bank of Marietta	Marietta	OH
Marietta Savings Bank	Marietta	OH
Security FS&LA of Cleveland	Mayfield Heights	OH
Unity Savings Bank	McArthur	OH
Great Lakes Bank	Mentor	OH
American Savings and Loan Association	Middletown	OH
Farmers State Bank of New Washington	New Washington	OH
First National Bank	Orrville	OH
Chippewa Valley Bank	Rittman	OH
Mutual Federal Savings Bank	Sidney	OH
Strongsville Savings Bank	Strongsville	OH

Member	City	State
Central Federal Savings and Loan	Wellsville	OH
Peoples Savings and Loan Company	West Liberty	OH
Farmers State Bank	West Salem	OH
Wilmington Savings Bank	Wilmington	OH
Brighton Bank	Brighton	TN
Twin City Federal Savings Bank	Bristol	TN
Cumberland Bank	Carthage	TN
Guaranty Federal Savings Bank	Clarksville	TN
Highland FS&LA	Crossville	TN
Security Federal Savings Bank	Elizabethton	TN
Lauderdale County Bank	Halls	TN
Union Planters Bank of the Tennessee Valley	Harriman	TN
Citizens Bank	Hartsville	TN
Carroll Bank and Trust	Huntington	TN
First American Bank of Nashville	Kingsport	TN
First National Bank	Manchester	TN
Bank of Middleton	Middleton	TN
Home Banking Company	Selmer	TN
First National Bank	Shelbyville	TN
First State Bank of Fayette County	Somerville	TN

Federal Home Loan Bank of Indianapolis—District 6
P.O. Box 60
Indianapolis, Indiana 46205–0060

Bedford Federal Savings Bank	Bedford	IN
Franklin County National Bank	Brookville	IN
Montgomery Savings, F.A	Crawfordsville	IN
Decatur Bank and Trust Company	Decatur	IN
United Fidelity Bank, F.S.B	Evansville	IN
Springs Valley Bank and Trust Company	French Lick	IN
First Federal Savings Bank	Huntington	IN
Citizens Bank of Jasper	Jasper	IN
Campbell and Fetter Bank	Kendallville	IN
Progressive Federal Savings Bank	Lawrenceburg	IN
Madison First FS&LA	Madison	IN
Fidelity Federal Savings Bank	Marion	IN
State Bank of Markle	Markle	IN
First State Bank of Middlebury	Middlebury	IN
Pacesetter Bank of Montpelier	Montpelier	IN
Citizens Financial Services, FSB	Munster	IN
Community Bank of Southern Indiana, FSB	New Albany	IN
Regional Federal Savings Bank	New Albany	IN
Ameriana Savings Bank, F.S.B	New Castle	IN
Huntington National Bank of Indiana	Noblesville	IN
AmericanTrust Federal Savings Bank	Peru	IN
Spencer County Bank	Santa Claus	IN
Shelby County Savings Bank, FSB	Shelbyville	IN
Sobieski Federal Savings & Loan	South Bend	IN
Security Federal Bank, a F.S.B	St. John	IN
Terre Haute Savings Bank	Terre Haute	IN
United Federal Savings Bank of Vincennes	Vincennes	IN
Ann Arbor Commerce Bank	Ann Arbor	MI
Society Bank, Michigan	Ann Arbor	MI
Flagstar Bank, FSB	Bloomfield Hills	MI
Dearborn Federal Savings Bank	Dearborn	MI
MFC First National Bank	Escanaba	MI
Michigan National Bank	Farmington Hills	MI
Bank West, FSB	Grand Rapids	MI
AmeriBank, FSB	Holland	MI
Fidelity Savings Bank, FSB	Kalamazoo	MI
Bank of Lakeview	Lakeview	MI
Independent Bank South Michigan	Leslie	MI
State Savings Bank	Manistique	MI
Mason State Bank	Mason	MI
Alliance Banking Company	New Buffalo	MI
Sidney State Bank	Sidney	MI
First Bank	West Branch	MI

Federal Home Loan Bank of Chicago—District 7
111 East Wacker Drive
Suite 700
Chicago, Illinois 60601

Oxford Bank and Trust	Addison	IL

Member	City	State
Heartland Bank and Trust Company	Bloomington	IL
Peoples Bank of Kankakee County	Bourbonnais	IL
First American Bank	Carpentersville	IL
United Community Bank	Chatham	IL
Amalgamated Bank of Chicago	Chicago	IL
Austin Bank of Chicago	Chicago	IL
Community Bank of Lawndale	Chicago	IL
First Federal Savings of Hegewisch	Chicago	IL
LaSalle Bank NI	Chicago	IL
St. Paul Federal Bank for Savings	Chicago	IL
First Savings Bank of Danville	Danville	IL
First Mutual Bank, S.B	Decatur	IL
Clover Leaf Bank, SB	Edwardsville	IL
Illinois Guarantee Savings Bank	Effingham	IL
Washington Savings Bank	Effingham	IL
Elgin Federal Financial Center	Elgin	IL
Harris Bank-Frankfort	Frankfort	IL
Union Savings Bank	Freeport	IL
Central Trust & Savings Bank of Geneseo	Geneseo	IL
Hanover State Bank	Hanover	IL
Farmers State Bank and Trust Company	Jacksonville	IL
First Federal Savings & Loan of Kewanee	Kewanee	IL
Biltmore Investors Bank	Lake Forest	IL
Logan County Bank	Lincoln	IL
Twin Oaks Savings Bank	Marseilles	IL
Bank of Homewood	Matteson	IL
Okaw Building and Loan, s.b	Mattoon	IL
Blackhawk State Bank	Milan	IL
BankPlus, FSB	Morton	IL
Bank of Illinois	Mount Vernon	IL
George Washington Savings Bank	Oak Lawn	IL
Bank of Palmyra	Palmyra	IL
Pana Federal Savings and Loan Association	Pana	IL
Edgar County Bank & Trust Company	Paris	IL
First FS&LA of Pekin	Pekin	IL
Mercantile Trust and Savings Bank	Quincy	IL
State Street Bank and Trust Company	Quincy	IL
North County Savings Bank	Red Bud	IL
American Bank of Rock Island	Rock Island	IL
First Savanna Savings Bank	Savanna	IL
First State Bank of Shannon-Polo	Shannon	IL
First S&LA of South Holland	South Holland	IL
Charter Bank, S.B	Sparta	IL
Security Bank, s.b	Springfield	IL
Argo Federal Savings Bank, F.S.B	Summit	IL
Villa Park Trust and Savings Bank	Villa Park	IL
Citizens First State Bank	Walnut	IL
Hill-Dodge Banking Company	Warsaw	IL
Washburn Bank	Washburn	IL
State Bank of Waterloo	Waterloo	IL
Cardunal Savings Bank, FSB	West Dundee	IL
Jackson County Bank	Black River Falls	WI
First Ozaukee Savings Bank	Cedarburg	WI
State Bank of Cross Plains	Cross Plains	WI
First Federal Bank of Eau Claire, F.S.B	Eau Claire	WI
Community Bank of Elkhorn	Elkhorn	WI
Time Federal Savings Bank	Medford	WI
Security Bank, S.S.B	Milwaukee	WI
Tomahawk Community Bank, S.S.B	Tomahawk	WI
West Allis Savings Bank	West Allis	WI

Federal Home Loan Bank of Des Moines—District 8
907 Walnut Street
Des Moines, Iowa 50309

Security State Bank	Anamosa	IA
State Savings Bank	Baxter	IA
Valley Savings Bank, FSB	Burlington	IA
United Security Savings Bank, F.S.B	Cedar Rapids	IA
Citizens State Bank	Clarinda	IA
Cresco Union Savings Bank	Cresco	IA
DeWitt Bank and Trust Company	DeWitt	IA
Denver Savings Bank	Denver	IA
Hardin County Savings Bank	Eldora	IA

Member	City	State
Peoples State Bank	Elkader	IA
Peoples Trust and Savings Bank	Grand Junction	IA
Midstates Bank, N.A	Harlan	IA
Hills Bank and Trust Company	Hills	IA
First State Bank	Huxley	IA
Iowa Falls State Bank	Iowa Falls	IA
Citizens Bank	Leon	IA
Libertyville Savings Bank	Libertyville	IA
Maquoketa State Bank	Maquoketa	IA
Union State Bank	Monona	IA
Citizens State Bank	Monticello	IA
Mount Vernon Bank and Trust Company	Mount Vernon	IA
Community Bank of Muscatine	Muscatine	IA
Iowa State Bank	Orange City	IA
Horizon Federal Savings Bank	Oskaloosa	IA
Iowa Trust and Savings Bank	Oskaloosa	IA
Peoples Bank and Trust	Rock Valley	IA
Union State Bank	Rockwell City	IA
Security State Bank	Sheldon	IA
Fremont County Savings Bank	Sidney	IA
Bank Plus	Swea City	IA
Washington State Bank	Washington	IA
Magna Bank, FSB	Waterloo	IA
Sterling State Bank	Austin	MN
Currie State Bank	Currie	MN
State Bank of Delano	Delano	MN
Inter Savings Bank, FSB	Edina	MN
Farmers State Bank of Evansville	Evansville	MN
First United Bank	Faribault	MN
Fortress Bank	Houston	MN
Northern National Bank	International Falls	MN
Lake City Federal Savings & Loan Association	Lake City	MN
Lake Area Security Bank	Lindstrom	MN
Family Bank, FSB	Mankato	MN
Norwest Bank Minnesota, N.A	Minneapolis	MN
The American Bank of Nashwauk	Nashwauk	MN
State Bank of New Prague	New Prague	MN
Nicollet State Bank	Nicollet	MN
Citizens Savings Bank, FSB	St. Cloud	MN
St. James Federal Savings & Loan Association	St. James	MN
Roundbank	Waseca	MN
Community Bank Winsted	Winsted	MN
Citizens Bank of Amsterdam	Amsterdam	MO
Bank of Jacomo	Blue Springs	MO
Boonslick Bank	Boonville	MO
Community State Bank	Bowling Green	MO
Pony Express Bank	Braymer	MO
Mississippi County Savings & Loan Association	Charleston	MO
Clayco State Bank	Claycomo	MO
Union State Bank and Trust of Clinton	Clinton	MO
First National Bank and Trust Company	Columbia	MO
First Financial Bank of Mississippi County	East Prairie	MO
New Era Bank	Fredericktown	MO
Bank Star One	Fulton	MO
American Loan and Savings Association	Hannibal	MO
Central Trust Bank	Jefferson City	MO
Lafayette County Bank—Lexington/Wellington	Lexington	MO
Peoples Security Bank	Licking	MO
Regional Missouri Bank	Marceline	MO
Nodaway Valley Bank	Maryville	MO
Independent Farmers Bank	Maysville	MO
Heritage State Bank	Nevada	MO
Palmyra Saving & Building Association	Palmyra	MO
Perry County Savings Bank, FSB	Perryville	MO
The Citizens Bank of Pilot Grove	Pilot Grove	MO
Farmers Bank of Portageville	Portageville	MO
Pulaski Bank, a Federal Savings Bank	Saint Louis	MO
The Merchants and Farmers Bank of Salisbury	Salisbury	MO
Community Bank of Pettis County	Sedalia	MO
Empire Bank	Springfield	MO
Public Service Bank, a FSB	St. Louis	MO
Bank of the BootHeel	Steele	MO
American FS&LA of Sullivan	Sullivan	MO
Meramec Valley Bank	Valley Park	MO

Member	City	State
Bank of Washington	Washington	MO
Washington Savings Bank, FSB	Washington	MO
West Plains Savings and Loan Association	West Plains	MO
First and Farmers Bank	Portland	ND
First International Bank & Trust	Watford City	ND
Norwest Bank South Dakota, N.A	Sioux Falls	SD

Federal Home Loan Bank of Dallas—District 9
P.O. Box 619026
Dallas/Forth Worth, Texas 75261–9026

Bank of Cabot	Cabot	AR
Farmers Bank and Trust Company	Clarksville	AR
Arkansas Valley Bank	Dardanelle	AR
Bank of Eureka Springs	Eureka Springs	AR
Community Bank, FSB	Fayetteville	AR
McIlroy Bank and Trust	Fayetteville	AR
First National Bank of Fort Smith	Fort Smith	AR
Bank of the Ozarks, nwa	Jasper	AR
Bank of Lake Village	Lake Village	AR
First State Bank	Lonoke	AR
Union Bank of Mena	Mena	AR
Bank of Montgomery County	Mount Ida	AR
Bank of the Ozarks, WCA	Ozark	AR
First State Bank	Parkin	AR
Bank of Salem	Salem	AR
First Bank of Arkansas	Searcy	AR
First Security Bank	Searcy	AR
Springdale Bank and Trust	Springdale	AR
UNICO Bank, F.S.B	Trumann	AR
Bank of Yellville	Yellville	AR
Fidelity Bank and Trust Company	Baton Rouge	LA
Schwegmann Bank and Trust Company	Harvey	LA
Globe Homestead Federal Savings Association	Metairie	LA
State-Investors S&LA, FSA	Metairie	LA
Guaranty Bank & Trust Co. of Morgan City	Morgan City	LA
City Bank and Trust of Shreveport	Shreveport	LA
First Federal Savings Bank	Shreveport	LA
Home Federal Savings & Loan Association	Shreveport	LA
Cleveland Community Bank, S.S.B	Cleveland	MS
First National Bank of Bolivar County	Cleveland	MS
First Federal Bank for Savings	Columbia	MS
SOUTHBank, a FSB	Corinth	MS
Bank of Mississippi	Tupelo	MS
Western Bank, Las Cruces	Las Cruces	NM
Pioneer Savings Bank	Roswell	NM
First National Bank of Santa Fe	Santa Fe	NM
Life Savings Bank, SSB	Austin	TX
International Bank of Commerce—Brownsville	Brownsville	TX
First American Bank Texas, S.S.B	Bryan	TX
First State Bank	Caldwell	TX
American National Bank	Corpus Christi	TX
Pacific Southwest Bank, FSB	Corpus Christi	TX
Bank of the Southwest of Dallas	Dallas	TX
Bluebonnet Savings Bank, FSB	Dallas	TX
Guaranty Federal Bank, F.S.B	Dallas	TX
State Bank and Trust Company	Dallas	TX
Del Rio Bank & Trust Company	Del Rio	TX
Western Bank and Trust	Duncanville	TX
Mid-Coast Savings Bank, S.S.B	Edna	TX
Bank of the West	El Paso	TX
Houston Savings Bank, fsb	Houston	TX
OmniBank, N.A	Houston	TX
Southwest Bank of Texas, N.A	Houston	TX
First National Bank of Hughes Springs	Hughes Springs	TX
Brazos Bank, N.A	Joshua	TX
International Bank of Commerce	Laredo	TX
East Texas National Bank of Marshall	Marshall	TX
Interstate Savings and Loan Association	Perryton	TX
Cypress Bank, FSB	Pittsburg	TX
Benchmark Bank	Quinlan	TX
Peoples State Bank	Rocksprings	TX
Texas State Bank	San Angelo	TX
Sequin State Bank & Trust of Sequin, Texas	Sequin	TX

Member	City	State
Cedar Creek Bank	Seven Points	TX
Citizens Bank	Slaton	TX
Southside Bank	Tyler	TX
First Victoria National Bank	Victoria	TX
Texas Bank	Weatherford	TX
International Bank of Commerce	Zapata	TX

Federal Home Loan Bank of Topeka—District 10
P.O. Box 176
Topeka, Kansas 66601

FirstBank of Avon	Avon	CO
First State Bank, Colorado Springs	Colorado Springs	CO
Citizens Bank of Cortez	Cortez	CO
Valley National Bank of Cortez	Cortez	CO
Guaranty Bank and Trust Company	Denver	CO
1st Choice Bank	Greeley	CO
Commercial Bank of Leadville	Leadville	CO
Bank of the Southwest, N.A	Pagosa Springs	CO
Empire State Bank	Rocky Ford	CO
FirstBank of Vail	Vail	CO
Community State Bank	Coffeyville	KS
First National Bank of Conway Springs	Conway Springs	KS
City State Bank	Fort Scott	KS
Liberty Savings Association, FSA	Fort Scott	KS
First FS&LA of Independence	Independence	KS
First National Bank	Independence	KS
Iola Bank and Trust Company	Iola	KS
Leavenworth National Bank & Trust Company	Leavenworth	KS
Kansas State Bank of Manhattan	Manhattan	KS
Kansas State Bank	Overbrook	KS
Rose Hill State Bank	Rose Hill	KS
Bennington State Bank	Salina	KS
Security State Bank	Scott City	KS
Mercantile Bank of Topeka	Topeka	KS
First Federal Savings & Loan	WaKeeney	KS
Kaw Valley State Bank and Trust Company	Wamego	KS
Fidelity Savings Bank	Wichita	KS
Columbus Federal Savings Bank	Columbus	NE
Crete State Bank	Crete	NE
Equitable Building and Loan Association, FSB	Grand Island	NE
Home FS&LA of Grand Island	Grand Island	NE
Hershey State Bank	Hershey	NE
Home FS&LA of Nebraska	Lexington	NE
Lincoln Federal Savings Bank of Nebraska	Lincoln	NE
Security Federal Savings	Lincoln	NE
Sherman County Bank	Loup City	NE
First National Bank Northeast	Lyons	NE
Madison County Bank	Madison	NE
Bank of Norfolk	Norfolk	NE
First American Savings Bank, FSB	Omaha	NE
Sidney Federal Savings and Loan Association	Sidney	NE
Dakota County State Bank	South Sioux City	NE
Tecumseh Building and Loan Association	Tecumseh	NE
Farmers State Bank	Wallace	NE
Adair State Bank	Adair	OK
Grand Lake Bank	Grove	OK
First State Bank	Harrah	OK
Bank of Hydro	Hydro	OK
Citizens State Bank	Okemah	OK
First Enterprise Bank	Oklahoma City	OK
MidFirst Bank, SSB	Oklahoma City	OK
Union Bank and Trust Company	Oklahoma City	OK
Will Rogers Bank	Oklahoma City	OK
State Bank of Rocky	Rocky	OK
Community Bank and Trust Company	Tulsa	OK

Federal Home Loan Bank of San Francisco—District 11
307 East Chapman Avenue
Orange, California 92666

Liberty Bank and Trust	Tucson	AZ
Fremont Investment and Loan	Anaheim	CA
Southern California FS&LA	Beverly Hills	CA

Member	City	State
Palomar Savings and Loan	Escondido	CA
La Jolla Bank, F.S.B	La Jolla	CA
Eastern International Bank	Los Angeles	CA
Napa National Bank	Napa	CA
Pacific National Bank	Newport Beach	CA
Flagship Federal Savings Bank	San Diego	CA
United Savings Bank, F.S.B	San Francisco	CA
First Bank and Trust	Santa Ana	CA
Commercial Pacific Bank, F.S.B	Santa Cruz	CA
Luther Burbank Savings and Loan Association	Santa Rosa	CA
Sentinel Community Bank	Sonora	CA
Tracy Federal Bank, F.S.B	Tracy	CA

Federal Home Loan Bank of Seattle—District 12
1501 Fourth Avenue
Seattle, Washington 98101–1693

National Bank of Alaska	Anchorage	AK
First Bank	Ketchikan	AK
First Savings & Loan Association of America	Dededo	GU
Realty Finance, Inc	Hilo	HI
Central Pacific Bank	Honolulu	HI
Territorial Savings and Loan Association	Honolulu	HI
Farmers and Merchants State Bank	Boise	ID
Home FS&LA of Nampa, Idaho	Nampa	ID
Valley Bank of Helena	Helena	MT
American Bank	Livingston	MT
Centennial Bank	Eugene	OR
Liberty Federal Bank, a S.B	Eugene	OR
Colonial Banking Company	Grants Pass	OR
Bank of Southern Oregon	Medford	OR
The Bank of Newport	Newport	OR
Pioneer Trust Bank, N.A	Salem	OR
The Commercial Bank	Salem	OR
Draper Bank and Trust	Draper	UT
American Investment Bank, N.A	Salt Lake City	UT
Great Western Thrift and Loan	Salt Lake City	UT
Zions First National Bank of Utah	Salt Lake City	UT
The Wheatland Bank	Davenport	WA
Washington State Bank	Federal Way	WA
Issaquah Bank	Issaquah	WA
First Community Bank of Washington	Lacey	WA
Cowlitz Bank	Longview	WA
Pacific Northwest Bank	Seattle	WA
United Savings & Loan Bank	Seattle	WA
Viking Community Bank	Seattle	WA
Bank of Sumner	Sumner	WA
North Pacific Bank	Tacoma	WA
Sound Banking Company	Tacoma	WA
First Savings Bank of Washington	Walla Walla	WA
Equality State Bank	Cheyenne	WY
Security First Bank	Cheyenne	WY
Ranchester State Bank	Ranchester	WY

C. Due Dates

Members selected for review must submit completed Community Support Statements to their FHLBanks no later than May 29, 1997.

All public comments concerning the Community Support performance of selected members must be submitted to the members' FHLBanks no later than May 29, 1997.

D. Notice to Members Selected

Within 15 days of this Notice's publication in the **Federal Register**, the individual FHLBanks will notify each member selected to be reviewed that the member has been selected and when the member must return the completed Community Support Statement. At that time, the FHLBank will provide the member with a Community Support Statement form and written instructions and will offer assistance to the member in completing the Statement. The FHLBank will only review Statements for completeness, as the Housing Finance Board will conduct the actual review.

E. Notice to Public

At the same time that the FHLBank members selected for review are notified of their selection, each FHLBank will also notify community groups and other interested members of the public.

The purpose of this notification will be to solicit public comment on the Community Support records of the FHLBank members pending review.

Any person wishing to submit written comments on the Community Support performance of a FHLBank member under review in this quarter should send those comments to the member's FHLBank by the due date indicated in order to be considered in the review process.

Dated: March 28, 1997.

By the Federal Housing Finance Board.

Bruce A. Morrison,

Chairman.

[FR Doc. 97–8692 Filed 4–11–97; 8:45 am]

BILLING CODE 6725–01–P

FEDERAL HOUSING FINANCE BOARD

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 62 FR 15895, April 3, 1997.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 A.M. Wednesday, April 9, 1997.

CANCELLATION OF THE MEETING: Notice is hereby given of the cancellation of the Board of Directors meeting scheduled for April 9, 1997.

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408–2837.

Bruce A. Morrison,

Chairman.

[FR Doc. 97–9644 Filed 4–10–97; 11:53 am]

BILLING CODE 6725–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Site Registration Fee Schedule and Related Matters for Facilities Transferring or Receiving Select Agents

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention is announcing its site registration fee schedule for facilities registered under 42 CFR 72.6. This notice includes the total fee for facilities in three categories, small, medium, and large. The fee is broken down into subtotals that illustrate how the agency derived the total fee. In return for the fee, the facility receives a 3 year site registration and is subject to inspection during that time period. Also included in this notice is clarification of the exemption of certain toxins, as well as clarification of biosafety levels for certain viruses in the regulation.

DATES: Effective date is April 15, 1997.

FOR FURTHER INFORMATION CONTACT: Lynn Myers, Office of Health and Safety, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., MS–F05, Atlanta, GA 30333, telephone (404) 639–3235.

SUPPLEMENTARY INFORMATION:

Background

''The Antiterrorism and Effective Death Penalty Act of 1996,'' enacted on April 24, 1996, established new provisions to regulate transfer of hazardous agents, and required HHS to issue rules to implement these provisions. The final rule was published in the **Federal Register** on October 24, 1996 and will become effective April 15, 1997. To comply with the final rule, commercial suppliers of select agents, as well as government agencies, universities, research institutions, individuals, and private companies that transfer or obtain these agents, must register with the Centers for Disease Control and Prevention (CDC). The rule also authorizes CDC to inspect those facilities seeking registration to determine whether the applicant facility meets the appropriate biosafety level requirements. In return for the certification and inspection, facilities are responsible for a site registration fee. This notice lays out those fees and provides technical clarification of related matters in the regulation.

Site Registration Fees

According to 42 CFR 72.6(a)(2)(iv), registration of a facility is to include ''[c]ollection of a periodic site registration fee by [CDC]. A schedule of fees collected by [CDC] to cover the direct costs (e.g., salaries, equipment, travel) and indirect costs (e.g., rent, telephone service and a proportionate share of management and administration costs) related to administration of this part will be published in the **Federal Register** and updated annually.''

Definitions

A facility is defined in 42 CFR 72.6(j) as ''any individual or government agency, university, corporation, company, partnership, society, association, firm, or other legal entity located at a single geographic site that may transfer or receive through any means a select agent subject to this part.'' For the purpose of assessing the site registration fees, facilities are broken down into three categories, small, medium, and large, depending upon the size of the facility, the number of personnel working in the facility, and the amount of work done in the facility.

A small facility has one laboratory area (one biological safety cabinet (BSC) and supporting supplies and equipment) or one room housing one or more animals (animal room) doing work with one select agent, or group of closely related select agents, at one biosafety level (BSL), by one principal investigator and his/her support staff. If the one laboratory area is used by more than one principal investigator or for more than one select agent/group of closely related select agents, the facility is a medium facility.

A medium facility has laboratory areas and animal rooms that in combination total between two and five. All laboratories must be under the supervision of one responsible facility official and must be located in the same single geographic site. These laboratories shall be used by no more than five principal investigators and their support staffs, for work on no more than five select agents/groups of closely related select agents during the three year registration period. If more than five principal investigators work in the laboratories or more than five select agents (or groups of closely related select agents) are used, the facility is a large facility.

A large facility has laboratory areas and animal rooms that in combination total more than five. All laboratories must be under the supervision of one responsible facility official and must be located in the same single geographic site.

Any facility working with select agents at BSL 4, whether small, medium or large, is assessed an additional fee. In addition, any facility that makes more than 50 select agent transfers per year, whether small, medium or large, is assessed an additional fee.

Fee Schedule

Site registration fees for facilities registering before March 31, 1998 will be as follows:

Small Facility, $13,000
Medium Facility, $14,000
Large Facility, $15,000
Biosafety Level 4 Laboratory—add $2,000 to facility fee
More than 50 select agent transfers per year—add $1,000 to facility fee

The fee and site registration covers a three year time period. The fee is due at the time of application for registration.

Cost Estimates on Which Fees Are Based

Site registration fees listed above are based on cost estimates for administering the program for the three year period 1997–99. We estimate that there will be approximately 50 small facilities, 100 medium facilities and 50 large facilities registered. The fee cost calculation is based on an estimate of contractor and government costs.

A contractor will carry out most activities related to facility registration,

facility inspections, and tracking of select agent transfers. CDC will manage the program by collecting the site registration fees and tracking program costs, providing oversight of contractor activities, reviewing applications before laboratories are registered, reviewing questionable select agent transfers, acting as liaison with federal, state, and local agencies, and inspecting BSL 4 facilities. The contractor will be responsible for providing application materials to facilities, reviewing completed applications for registration, making recommendations to CDC regarding those registrations, inspecting all BSL 3 facilities, tracking select agent transfers, and maintaining data and information systems related to the program.

Cost estimates for contractor activities have been prepared using estimates of labor categories, labor hours, travel costs, and contractor overhead . Labor categories and hours include the following: Project Manager/Sr. Microbiologist—2080 hours per year; Microbiologist, Mid-level—2080 hours per year; Technical Writer—200 hours per year; General Clerks—4160 hours per year; Computer Systems Analyst—200 hours per year; Computer Programmer—400 hours per year; Laboratory Inspector—1000 hours per year.

In addition, the Government will provide a Project Officer, Microbiologist, Chemist/Biosafety expert, Technical Information Specialist, Clerk, Laboratory Inspector, and Administrative Officer to work on this program for various numbers of hours throughout the years.

Labor rates were calculated using the Government General Schedule (GS) equivalent, step 5 with Atlanta area locality pay. Fringe benefits were calculated based upon an average for this type of service industry. Contractor overhead and profit were estimated based upon industry averages. The Government estimates that the travel costs associated with Inspection of facilities will be approximately $70,000 per year.

The Government will incur additional costs associated with Government inspection of BSL 4 laboratories and close monitoring of transfers of BSL 4 select agents.

The fee schedule is then calculated by adding the hourly labor costs for contractor and agency employees, plus travel costs and overhead, and dividing by the estimated number of small, medium, and large facilities, respectively.

Clarification of Toxin Exemptions

The conditions under which transfers of toxins will be exempt are as stated in 42 CFR 72.6, Appendix A: ''Toxins for medical use, inactivated for use as vaccines, or toxin preparations for biomedical research use at an LD_{50} for vertebrates of more than 100 nanograms per kilogram body weight are exempt.'' 42 CFR 72.6(h)(1)(ii) should also be interpreted consistently with this definition.

The LD_{50} values to be used under this regulation are those for mice dosed by the intraperitoneal route. These values may be found in the *Registry of Toxic Effects of Chemical Substances* (R-TECS) (produced by the National Institute for Occupational Safety and Health), 1996 or later version. A list of LD_{50} values may be obtained from CDC (fax request to 404–639–3236).

Biosafety Levels of Certain Viruses

As indicated in the regulation, the biosafety levels for handling the select agents are listed in the CDC/NIH *Biosafety in Microbiological and Biomedical Laboratories (BMBL),* 3rd edition. The biosafety levels for morbillivirus and Sabia virus, two newly discovered viruses are not included in the BMBL. The biosafety level for Equine morbillivirus is BSL 4, and for Sabia virus is BSL 4. The correct BSL for Junin virus is BSL 3, as is stated on page 134 of the BMBL. The use of BSL 4 for Junin virus as listed on page 137 of the BMBL is incorrect.

CDC will mail applications for registration of facilities under this regulation to all facilities that express an interest. Questions about this notice and requests for application packages should be faxed to CDC, Office of Health and Safety (404–639–3236).

Dated: April 8, 1997.

Joseph R. Carter,

Acting Associate Director for Management and Operations Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–9510 Filed 4–11–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Epidemiology Program Office, Office of the Director, Centers for Disease Control and Prevention (CDC); Meeting

Name: Guide to Community Preventive Services (GCPS) Task Force Meeting.

Times and Dates: 8:30 a.m.–5 p.m., April 28, 1997; 8:30 a.m.–5 p.m., April 29, 1997.

Place: Washington Plaza Hotel, 10 Thomas Circle, at Massachusetts Avenue and 14th Street, Washington, DC 20005.

Status: Open to the public, limited only by the space available.

Purpose: The mission of the Task Force is to develop and publish a Guide to Community Preventive Services, which is based on the best available scientific evidence and current expertise regarding essential public health services and what works in the delivery of those services.

Matters to be Discussed: Agenda items include discussion on the organization and contents of the Guide; discussion on the methods to develop the Guide; progress reports on the development of Chapters on Preventing Vaccine Preventable Diseases and Preventing Motor Vehicle Injuries; brief progress reports on the development of chapters on tobacco, nutrition, physical activity, heart disease and stroke, family planning, environment, and violence; and discussion on field testing, implementing, and evaluating the Guide.

Agenda items are subject to change as priorities dictate.

Contact person for additional information: Marguerite Pappaioanou, Chief, Community Preventive Service Guide Development Activity, Division of Prevention Research and Analytic Methods, Epidemiology Program Office, CDC, 1600 Clifton Road, NE, M/S D–01, Atlanta, Georgia 30333. Persons wishing to reserve a space for this meeting should call 404/639–4301 by close of business on April 21, 1997.

Dated: April 4, 1997.

Carolyn Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–9512 Filed 4–11–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request Proposed Projects

Title: Notice of Interstate Lien.

OMB No.: 0970–0153.

Description: PRWORA '96 (Pub L. 104–193), section 324, requires the Secretary of DHHS to promulgate an interstate lien form to be used by the State CSE programs to secure delinquent child support obligations.

Respondents: State, Local or Tribal Govt.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Interstate Lien ..... Estimated Total Annual Burden Hours: 13,313	53,254	1	.25	13,313

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: April 8, 1997.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 97–9446 Filed 4–11–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Interstate Subpoena.

OMB No.: 0970–0152.

Description: PRWORA '96 (P.L. 104–193), section 324, requires the Secretary of DHHS to promulgate an interstate administrative subpoena form to be used by the State CSE programs to collect wage and income information for use in the establishment, modification and enforcement of child support orders.

Respondents: State, Local or Tribal Govt.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Interstate subpoena ..... Estimated Total Annual Burden Hours: 7,696.	15,391	1	.5	7,696

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: April 8, 1997.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 97–9447 Filed 4–11–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

Title: Temporary Assistance for Needy Families (TANF) Tribal Plan.

OMB No.: New.

Description: This document consists of an outline of how the Indian Tribe's TANF program will be administered and operated. It is used to provide the public with information about the program.

Respondents: States, Puerto Rico, Guam and the District of Columbia:

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
TANF Tribal Plan	18	1	60	1,080

Estimated Total Annual Burden Hours: 1,080.

Additional Information: ACF is requesting that OMB grant a 180 day approval for this information collection under procedures for emergency processing by April 9, 1997. A copy of this information collection, with applicable supporting documentation, may be obtained by calling the Administration for Children and Families, Reports Clearance Officer, Larry Guerrero at (202) 401–6465.

Comments and questions about the information collection described above should be directed to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ACF, Office of Management and Budget, Paperwork Reduction Project, 725 17th Street NW., Washington, DC 20503, (202) 395–7316.

Dated: April 8, 1997.

Larry Guerrero,

Reports Clearance Officer.

[FR Doc. 97–9535 Filed 4–11–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of the Committee: Device Good Manufacturing Practice Advisory Committee.

General Function of the Commitee: To provide advice and recommendations to the agency on FDA regulatory issues.

Date and Time: The meeting will be held on April 29, 1997, 8:30 a.m. to 5 p.m.

Location: Parklawn Bldg., Conference room D, 5600 Fishers Lane, Rockville, MD.

Contact Person: Sharon M. Kalokerinos, Center for Devices and Radiological Health (HFZ–331), Food and Drug Administration, 2094 Gaither Rd., Rockville, MD 20850, 301–594–4613, ext. 139, or FDA Advisory Committee Information line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12398. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will consider a proposed plan developed by the Center for Devices and Radiological Health (CDRH) to introduce a risk-based planning model for determining where headquarters and field enforcement resources should be focused. The model to be presented calls for greater emphasis on those products that present the greatest risk to public health, based on such factors as device classification (Class III and Class II/Tier 3 products), current knowledge of product performance, and information from the recall and medical device reporting (MDR) adverse event data bases. Those products that present minimal risk (Class I and some Class II) would receive less oversight. Areas being considered for increased coverage include premarket approval inspections (Class III products), inspections deemed necessary to address a risk to public health (for cause), followup to violative inspections, and inspections of devices identified by the risk-based model.

There are two aspects to this planning model: (1) The identification of top priority devices which would receive a more indepth evaluation in terms of causes associated with failures and malfunctions reported in the data bases; and (2) the utilization of risk criteria such as the classification and tiering of devices to determine the parameters of routine good manufacturing practice (GMP) surveillance, both the frequency and depth of inspectional coverage.

Data used to identify top priority devices would undergo a quality control evaluation to determine the basis for the large numbers of reports in the data systems. For example, the recall information would be evaluated to assure that inclusion on the list is based on substantive causes of the recall and not on isolated events. Likewise, MDR information would be evaluated for public health risk versus reporting artifacts. Scientific implications of failures/malfunctions would form the basis of the investigational assignments issued, and CDRH staff would analyze the data collected for commonalities and trends. Resolution of issues noted may vary depending upon the nature of the problems. Options include technical and scientific discussions, training initiatives by FDA or industry, or compliance followup activities.

The plan proposes a tiered approach to conducting routine GMP surveillance inspections. Devices carrying a higher risk for the patient such as Class III and Class II/Tier 3 would be inspected more frequently. These higher risk devices will also receive comprehensive inspectional coverage and limited inspections will be conducted for the lower classifications and tiers.

Procedure: The meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by April 22, 1997. Those desiring to make formal presentations should notify the contact person, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the aproximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committe Act (5 U.S.C. app. 2).

A limited number of overnight accommodations have been reserved at the DoubleTree Hotel. Attendees requiring overnight accommodations may contact the hotel at 301–468–1100 and reference the FDA Device Good Manufacturing Practice Advisory Committee meeting block. Reservations will be confirmed at the group rate based on availability. Attendees with a disability requiring special accommodations should contact Christie Wyatt, KRA Corp., 301–495–1591, ext. 224. The availability of appropriate accommodations cannot be assured unless prior written notification is received.

Dated: April 8, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–9528 Filed 4–11–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Release of Establishment Inspection Report to the Inspected Establishment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it is revising its policy regarding the release of the Establishment Inspection Report (EIR) to inspected establishments. Effective April 1, 1997, a copy of the narrative portion of the EIR will be routinely provided to the inspected establishment once the agency determines that the inspection is ''closed'' as set forth in the regulations.

FOR FURTHER INFORMATION CONTACT: Charles I. Ahn, Office of Regulatory Affairs (HFC–132), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–5637.

SUPPLEMENTARY INFORMATION: Under the Freedom of Information Act (FOIA) and FDA's regulations governing disclosures as set out in part 20 (21 CFR part 20), inspectional information, including the list of inspectional observations (FDA–483), EIR, and the agency's communication with the regulated establishment, must be disclosed upon request by any member of the public unless exempt. When requested according to established FOI procedures, the agency has made the inspection-related information available to requestors in accordance with the above statutory and regulatory requirements. That is, the information becomes releasable once the inspection is deemed closed by the agency. Establishments wishing to obtain a copy of FDA's inspection report of their own establishment have been required to follow the same procedure. A number of industry associations have expressed concern that copies of EIR's may be released to other requestors before the inspected establishments receive the copies they requested. Consequently, these groups have approached the agency to request that it provide a copy of the EIR following an inspection of their facilities.

The agency has considered this request and determined that a copy of the narrative portion of the EIR should be routinely provided to the inspected establishment once the agency concludes that the inspection is closed. For the purpose of this directive, the term ''closed'' will have the same meaning as it has under § 20.64(d)(3).

Dated: April 7, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–9529 Filed 4–11–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4200–N–51]

Notice of Proposed Information Collection for Public Comment

AGENCY: Government National Mortgage Association, 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: June 13, 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: Sonya K. Suarez, Government National Mortgage Association, Office of Policy, Program and Risk Management, Department of Housing & Urban Development, 451 7th Street SW., Room 6226, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Sonya K. Suarez, on (202) 708–2272 (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: Issuer's Monthly Accounting Reports.

OMB Control Number: 2503–0004.

Description of the need for the information and proposed use: Issuers use these forms to report monthly on their securities accounting. Information is necessary to assure issuers are performing pursuant to the terms of the guaranty agreement and investors are receiving all funds due them.

Agency form numbers: HUD 11710A, 1710B, 1710C, 11710D and 11710E.

Members of affected public: Business or other for-profit and the Federal Government.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Reporting Burden:

Form 11710	Total respondents	Responses per respondents	Total responses	Hours response	Total hours
A	620	656	406,437	*.012	4,877
B	10	12	120	.25	30
C	2	2	4	.16	.6
D	620	12	7,440	.25	1,860
E	620	24	14,880	.16	2,381
	.....	706	428,881	.....	9,149

*14.4 min. per response/60 min. per hour=.24 hrs. × .05=.012.

Total Estimated Burden Hours: 9,149.

Status: Reinstatement, without change, of a previously approved collection for which approval has expired.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: April 3, 1997.

George S. Anderson,

Executive Vice President, Goverment National Mortgage Association.

[FR Doc. 97–9545 Filed 4–11–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4200–N–50]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for expedited review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: June 13, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8226, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Joan Kraft, Social Science Analyst, Office of Policy Development and Reserach—telephone (202) 708–4504, Extension 109 (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 the 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: Canvass of Moving to Opportunity Families.

Description of the need for the information and proposed use: The information is being collected to determine locating information for households that participate in Moving to Opportunity (MTO) and for household members who have left the participating household. It is also being collected to determine changes in employment, education, and receipt of benefits for these households.

This is being done to assist the Department in providing congressionally mandated reports on the long term effects of providing assistance to low-income families living in assisted housing to move out of the high poverty areas of central cities.

Members of affected public: Participants in the Moving to Opportunity Demonstration will be surveyed. We estimate that 2900 heads of MTO families, and an additional 100 household members who have left the participating households (or their responsible adults in the case of minor children) will be individually surveyed in 1997. In 1998, 4178 heads of MTO families, and an additional 200 household members who have left the participating households (or adults responsible for minor children) will be individually surveyed.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Information will be collected for approximately 3000 respondents in 1997, and 4378 respondents in 1998. In 1997, the long form, a 15 minute telephone survey, is planned to be administered to 1979 household heads. The short form, a 10 minute telephone survey, will be administered to the remaining 1021 participants (921 heads of household, and 100 adults, emancipated minors, and adults responsible for minors who have left the household). In 1998, the long form will be administered to 1,979 heads of household, and the short form to an additional 2,399 participants (2199 heads of the household, and 200 additional members or responsible adults). A 70% response rate is expected for the heads of household. The survey will be conducted annually. The information being requested is information normally known to the participant or responsible adult. The total annual burden for respondents is estimated at 472 hours in 1997 and 637 hours in 1998.

Status of the proposed information collection: Pending OMB approval.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: April 3, 1997.

Michael A. Stegman,

Assistant Secretary, Office of Policy Development and Research.

[FR Doc. 97–9546 Filed 4–11–97; 8:45 am]

BILLING CODE 4210–62–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–3918–N–11]

Privacy Act of 1974; Notice of a Computer Matching Program

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Notice of a Computer Matching Program between HUD and the Small Business Administration (SBA).

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988, as amended (Pub. L. 100–503), and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (54 FR 25818 (June 19, 1989)), and OMB Bulletin 89–22, ''Instructions on Reporting Computer Matching Programs to the Office of Management and Budget (OMB), Congress and the Public,'' the Department of Housing and Urban Development (HUD) is issuing a public notice of its intent to conduct a computer matching program with the Small Business Administration (SBA) to utilize a computer information system of HUD, the Credit Alert Interactive Voice Response System (CAIVRS), with SBA's debtor files. In addition to HUD data, the CAIVRS data base includes delinquent debt information from the Departments of Agriculture, Education and Veterans Affairs, the Small Business Administration and judgment lien data from the Department of Justice. This match will allow prescreening of applicants for loans or loans guaranteed by the Federal Government to ascertain

if the applicant is delinquent in paying a debt owed to or insured by the Federal Government for HUD or SBA direct or guaranteed loans.

Before granting a loan, the lending agency and/or the authorized lending institution will be able to interrogate the CAIVRS debtor file which contains the Social Security Numbers (SSNs) of HUD's delinquent debtors and defaulters and defaulted debtor records of the SBA and verify that the loan applicant is not in default or delinquent on direct or guaranteed loans of participating Federal programs of either agency. Authorized users place a telephone call to the system. The system provides a recorded message followed by a series of instructions, one of which is a requirement for the SSN of the loan applicant. The system then reports audibly whether the SSN is related to delinquent or defaulted Federal obligations for HUD or SBA direct or guaranteed loans. As a result of the information produced by this match, the authorized users may not deny, terminate, or make a final decision of any loan assistance to an applicant or take other adverse action against such applicant, until an officer or employee of such agency has independently verified such information.

EFFECTIVE DATE: Computer matching is expected to begin at least 40 days from the date this computer matching notice is published, providing no comments are received which would result in a contrary determination. It will be accomplished 18 months from the beginning date; *Comments Due Date:* May 14, 1997.

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 PRIVACY ACT INFORMATION AND FOR FURTHER INFORMATION FROM RECIPIENT AGENCY CONTACT: Jeanette Smith, Departmental Privacy Act Officer, Department of Housing and Urban Development, 451 7th St., SW., Room 4176, Washington, DC 20410, Telephone Number (202) 708–2374. [This is not a toll-free number.]

FOR FURTHER INFORMATION FROM SOURCE AGENCY CONTACT: Ben Saars, Office of Financial Assistance, Small Business Administration, 409 Third Street, SW., Washington, DC 20416, Telephone Number (202) 401–1469. [This is not a toll-free number.]

Reporting

In accordance with Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988, as amended, and Office of Management and Budget Bulletin 89–22, ''Instructions on Reporting Computer Matching Programs to the Office of Management and Budget (OMB), Congress and the Public,'' copies of this Notice and a report, in duplicate, are being provided to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget.

Authority

The matching program may be conducted pursuant to Public Law 100–503, ''The Computer Matching and Privacy Protection Act of 1988,'' as amended, and Office of Management and Budget (OMB) Circular A–129 (Revised January 1993), Policies for Federal Credit Programs and Non-Tax Receivables. One of the purposes of all Executive departments and agencies—including HUD—is to implement efficient management practices for Federal credit programs. OMB Circular A–129 was issued under the authority of the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Act of 1950, as amended; the Debt Collection Act of 1982, as amended; and, the Deficit Reduction Act of 1984, as amended.

Objectives To Be Met by the Matching Program

The matching program will allow SBA access to a system which permits prescreening of applicants for loans or loans guaranteed by the Federal Government to ascertain if the applicant is delinquent in paying a debt owed to or insured by the Government. In addition, HUD will be provided access to SBA debtor data for prescreening purposes.

Records To Be Matched

HUD will utilize its system of records entitled HUD/DEPT–2, *Accounting Records*. The debtor files for HUD programs involved are included in this system of records. HUD's debtor files contain information on borrowers and co-borrowers who are currently in default (at least 90 days delinquent on their loans); or who have any outstanding claims paid during the last three years on Title II insured or guaranteed home mortgage loans; or individuals who have defaulted on Section 312 rehabilitation loans; or individuals who have had a claim paid in the last three years on a Title I loan. For the CAIVRS match, HUD/DEPT–2, System of Records, receives its program inputs from HUD/DEPT–28, Property Improvement and Manufactured (Mobile) Home Loans—Default; HUD/DEPT–32, Delinquent/Default/Assigned Temporary Mortgage Assistance Payments (TMAP) Program; and HUD/CPD–1, Rehabilitation Loans-Delinquent/Default.

The SBA will provide HUD with debtor files contained in its system of records entitled, Loan Case File (SBA 075). HUD is maintaining SBA's records only as a ministerial action on behalf of SBA, not as a part of HUD's HUD/DEPT–2 system of records. SBA's data contain information on individuals who have defaulted on their direct loans. The SBA will retain ownership and responsibility for their systems of records that they place with HUD. HUD serves only as a record location and routine use recipient for SBA's data.

Notice Procedures

HUD and the SBA will notify individuals at the time of application (ensuring that routine use appears on the application form) for guaranteed or direct loans that their records will be matched to determine whether they are delinquent or in default on a Federal debt. HUD and the SBA have published notices concerning routine use disclosures in the **Federal Register** to inform individuals that a computer match may be performed to determine a loan applicant's credit status with the Federal Government.

Categories of Records/Individuals Involved

The debtor records include these data elements: SSN, claim number, program code, and indication of indebtedness. Categories of records include: records of claims and defaults, repayment agreements, credit reports, financial statements, and records of foreclosures. Categories of individuals include: Former mortgagors and purchasers of HUD-owned properties, manufactured (mobile) home and home improvement loan debtors who are delinquent or in default on their loans, and rehabilitation loan debtors who are delinquent or in default on their loans.

Period of the Match

Matching will begin at least 40 days from the date copies of the signed (by both Data Integrity Boards) computer matching agreement are sent to both

Houses of Congress or at least 30 days from the date this Notice is published in the **Federal Register**, whichever is later, providing no comments are received which would result in a contrary determination.

Issued at Washington, DC, April 3, 1997.

Steven M. Yohai,

Chief Information Officer.

[FR Doc. 97–9544 Filed 4–11–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

ACTION: Notice of receipt of applications.

SUMMARY: The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Permit No. PRT—826081

Applicant: John C. Newnam, Austin Texas.

Applicant requests authorization to conduct presence/absence surveys for golden-cheeked warblers (*Dendroica chrysoparia*) and black-capped vireos (*Vireo atricapillus*); and to capture, identify, measure, weigh, photograph, record the exact location of, and release Houston toads (*Bufo houstonenis*) unharmed at capture sites in Hays, Blanco, Gillespie, Llano, Mason, Bexar, Kendall, Comal, Kerr, Bandera, Medina, Uvalde, Real, Edwards, Kimball, Terrell, and Pecos Counties, Texas.

Permit No. PRT—825574

Applicant: Ron Dunton, Socorro, New Mexico.

The applicant requests authorization to conduct presence/absence surveys for aplomado falcons (*Falco femoralis septentrionalis*) and southwestern willow flycatchers (*Empidonax traillii extimus*) on Bureau of Land Management lands in Socorro County, New Mexico.

Permit No. PRT—826091

Applicant: Michael Taylor, Phoenix, Arizona.

The applicant requests authorization to conduct presence/absence surveys for southwestern willow flycatchers (*Empidonax traillii extimus*) along the Santa Maria River and Agua Fria and Gila River tributaries; and to capture and release unharmed Gila topminnows (*Poeciliopsis occidentalis*) and desert pupfish (*Cyprinodon macularis*) in Yerba Mansa Spring, La Paz County, Arizona; and in Peoples Canyon, Yavapai County, Arizona; and to capture and release lesser long-nosed bats (*Leptoncycteris curasoae*) in Maricopa, Pima, Pinal, Yavapai, Mohave, La Paz, and Yuma Counties, Arizona.

Permit No. PRT—825591

Applicant: Celia A. Cooper, Santa Fe, New Mexico.

The applicant requests authorization to conduct presence/absence surveys for the Mexican spotted owl (*Strix occidentalis lucida*) and nest searches and monitoring for the southwestern willow flycatcher (*Empidonax traillii extimus*) in Arizona and New Mexico.

Permit No. PRT—825792

Applicant: Alma Barrera, Austin, Texas.

The applicant requests authorization to conduct presence/absence surveys for black-capped vireos (*Vireo atricapillus),* and golden-cheeked warblers (*Dendroica chrysoparia*) on Lake Pointe, Lake Pointe IV, and Wolfe Ranch in Austin, Texas.

Permit No. PRT—826118

Applicant: G. David Steele, Tulsa, Oklahoma.

The applicant requests authorization to survey for nesting interior least terns (*Sterna antillarum*), American burying beetles (*Nicrophorus americanus*), golden-cheeked warblers (*Dendroica chrysoparia*) and black-capped vireos (*Vireo atricapillus*) in Oklahoma.

Permit No. PRT—825977

Applicant: Dr. Peter B. Stacey, Reno, Nevada.

The applicant requests authorization to band and collect blood samples from Mexican spotted owls in New Mexico.

Permit No. PRT—826124

Applicant: Gordon Mueller, Denver, Colorado.

Applicant requests authorization to conduct presence/absence surveys for razorback suckers (*Xyrauchen texanus),* and bonytail chubs (*Gila elegans*) on Lake Mojave in Arizona and Nevada.

Permit No. PRT—826731

Applicant: Sherry L. Sass, Tubac, Arizona.

Applicant requests authorization to capture and release Gila topminnows to track populations along the Santa Cruz River between the Mexican border and the Santa Cruz/Pima County line.

Permit No. PRT—826897

Applicant: Mark K. Sogge, Flagstaff, Arizona.

Applicant requests authorization to conduct presence/absence surveys for the southwestern willow flycatcher (*Empidonax traillii extimus*) in Arizona and New Mexico.

DATES: Written comments on these permit applications must be received on or before May 14, 1997.

ADDRESSES: Written data or comments should be submitted to the Legal Instruments Examiner, Division of Endangered Species/Permits, Ecological Services, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: U.S. Fish and Wildlife Service, Ecological Services, Division of Endangered Species/Permits, P.O. Box 1306, Albuquerque, New Mexico 87103. Please refer to the respective permit number for each application when requesting copies of documents.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice, to the address above.

Lynn B. Starnes,

Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 97–9511 Filed 4–11–97; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Request for Public Comments on Proposed Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposed information collection described below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)). Copies of the proposed collection may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Public comments on the proposal should be made within 30 days directly

to: Desk Officer for the Interior Department, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; and the Bureau Clearance Officer, U.S. Geological Survey, 208 National Center, Reston, VA 20192.

As required by OMB regulations at 5 CFR 1320.8(d)(1), the U.S. Geological Survey solicits specific public comments as to:

1. Whether the collection of information is necessary for the proper performance of the functions on the bureaus, including whether the information will have practical utility;

2. The accuracy of the bureau's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used:

3. The quality, utility, and clarity of the information to be collected; and

4. How 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 forms of information technology.

Title: National Mapping Division Data Grant Program for Land Processes Research.

OMB approval number: 1028–0052.

Abstract: Respondents supply information and awardees supply a final report. Application information identifies the land processes research project and remotely sensed data requirements. Final report identifies utility of Data Grant Program in the completion of the nonprofit institution's research project.

Bureau form number: None.

Frequency: Annually.

Description respondents: Non-profit institutions.

Estimated completion time: 25 hours.

Annual responses: 520.

Annual burden hours: 13,000 hours.

Bureau clearance officer: John Cordyack, 703–648–7313.

Dated: February 5, 1997.

John N. Fischer,

Acting Associate Chief, Operations

[FR Doc. 97–9472 Filed 4–11–97; 8:45 am]

BILLING CODE 4310–31–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–4710–02–24 1A]

Extension of Approved Information Collection, OMB Number 1004–0073

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction act of 1995, the Bureau of Land Management (BLM) announces its intention to request renewal of existing approval of certain information from any person, association, or corporation, or any subsidiary, affiliate, or persons controlled by or under common control with such person, association or corporation, interested in elasing for or developing Federal coal. This information allows BLM's authorized officer to determine if the applicant to lease for or develop Federal coal is qualified to hold such lease.

DATES: BLM must receive comments on the proposed information collection by June 13, 1997 to assure its consideration of them.

ADDRESSES: Mail comments to: Director (630), Bureau of Land Management, 1849 C Street NW, Room 401LS, Washington, D.C. 20240.

Send comments via Internet to: WoComment@wo.blm.gov. Please include ''Attn: 1004–0073'' and your name and return address in your Internet message.

You may hand-deliver comments to the Bureau of Land Management Administrative Record, Room 401, 1620 L Street, NW, Washington, D.C.

BLM will make comments available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Patrick Sheehy, WO–320, 202–452–0350.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide 60-day notice in the **Federal Register** concerning a collection of information contained in BLM (Form—1004–0073), 43 CFR Group 3400, Coal Management, to solicit comments on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) 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, (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. BLM will receive and analyze any comments sent in response to this notice and include them with its request for approval from the OMB under 44 U.S.C. 3501 *et seq.*

BLM plans to seek from the Office of Management and Budget extension of approval for the information collection requirements in 43 CFR Parts 3400 through 3485, which cover the leasing and development of Federal coal. These regulations implement the statutory authority governing leasing activities on Federal land which is found in the Mineral Leasing Act of 1920 (30 U.S.C. 181 *et seq.*), the Mineral Leasing act for Acquired Lands of 1947 (30 U.S.C. 351–359), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*), the Multiple Mineral Development Act of 1954 (30 U.S.C. 521–531), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), the Federal Coal Leasing Amendments Act of 1976 (90 Stat. 1083–1092), and the Act of October 30, 1978 (92 Stat. 2073–2075).

BLM uses the information provided by the applicant(s) to allow the authorized officer to determine if the applicant to lease for or develop Federal coal is qualified to hold such lease. If BLM did not collect this information, it would not be able to gather relevant data to manage the leasing and development of coal in the public interest.

Based on BLM's experience in administering the activities described above, the public reporting burden for the information collected is estimated to average 19 hours per response. The respondents are applicants to lease for or develop Federal coal, and vary from individuals to small businesses and major corporations. The frequency of response is occasionally, usually upon application. The number of responses per year is estimated to total 1,299. The estimated total annual burden on new respondents is about 19 hours. BLM is specifically requesting your comments on its estimate of the amount of time that it takes to prepare a response. BLM's estimate is 19 hours per response is an average of the following estimated completion time:

Type of application	Number of responses	Hours/response	Total hours
Exploration License	10	30	300
Coal for Coal & Resource Information	5	3	15
Surface Owner Consultation	50	1	50
Exp. of Leasing Interest	15	6.6	100
Notice of Sale	20	3	60
Leasing on Application	2	150	300
Surface Owner Consent	10	10	100
PRLA	10	150	1,500
Lease Modification	10	35	250
License to Mine	2	5	10
Lease Transfer (incl. assignments)	30	10	300
Sp.Leasing Qual.	10	4	40
Bonding Requirements	10	40	400
Lease Form	5	1	5
Exploration Plans	50	59	2,950
Res. Rec. and Protection Plans	30	174.8	5,245
Mining Plans	10	457.5	4,575
Changes in Plans	100	29.5	2,950
Mining Operations Maps	650	11.30	7,350
Pref, Standards for Exploration	90	1.75	158
Unexpected Wells	10	1	10
Exploration Reports	50	7.5	375
Royalty of Rental Reductions	10	150	1,500
Suspensions	10	14.4	144
Corr. Repts. for Noncompliances	90	3.75	338
LMU Applications/Requirements	10	32	320
Totals	1,299	.....	24,737

BLM will summarize all responses to this notice and include them in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

Dated: April 7, 1997.

Carole Smith,

Information Collection Officer.

[FR Doc. 97–9448 Filed 4–11–97; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–040–1510–00]

Ely District Proposed Fire and Vegetative Resource Management Plan and Environmental Documentation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to Modify Fire Management Plan and Other Planning Documents As Necessary, Ely District, Nevada.

SUMMARY: The Bureau of Land Management, Ely District, Nevada intends to modify its current Fire Management Plan and, if necessary, existing land use plans, including a Resource Management Plans (RMP), and two Management Framework Plans (MFPs) and to prepare appropriate National Environmental Policy Act (NEPA) analysis for the adoption of a Fire Management Plan (FMP). The purpose of the FMP is to provide the framework for the reintroduction of fire into the ecosystem while maintaining first priority on protection of human life, and secondary priority on protection of property and natural and cultural resources. Public comment is sought on identification of issues, alternatives that should be considered, and the level of analysis which would be appropriate under the NEPA.

DATES: Comments will be accepted throughout the process of modifying plans and preparation of NEPA analysis. However, comments received after May 28, 1997 may not be reflected in the alternatives considered in any preliminary NEPA analysis.

FOR FURTHER INFORMATION CONTACT: Bill Dunn, Fire Management Officer, Bureau of Land Management, Ely District Office, HC 33 Box 33500, Ely, NV 89301; Telephone (702) 289–1920.

SUPPLEMENTARY INFORMATION: The Federal Wildland Fire Policy and Program Review was completed to address issues of firefighter safety, as well as costs, inefficiencies, and inconsistencies between federal agencies involved in wildland fire suppression. Among the results of that review is a standardization of policies and procedures among Federal agencies, including the determination that wildland fire, as a critical natural process, must be reintroduced into the ecosystem. The Bureau of Land Management, Ely District intends to develop objectives through a Technical Review Team, and supported by resource professionals, which will integrate fire into resource management; including fire suppression, prescribed fire, fuels management and public education (including fire prevention) without regard to administrative boundaries. Because the Technical Review Team will include private property owners, all of the affected land managing agencies (County, State and Federal), and interested land users, the preliminary fire management objectives will be developed through consensus to apply to all lands without regard to administrative jurisdiction to permit a comprehensive and realistic approach to fire and vegetative resource management.

At this point, it is uncertain what level of plan modification will be needed, if any. Land use plans affected by actions within the Ely District include the Egan Resource Management Plan, Schell Management Framework Plan, and Caliente Management Framework Plan. The level of environmental analysis appropriate under the Council on Environmental Quality's regulations implementing NEPA (40 CFR part 1500) is undetermined pending the outcome of the Technical Review Team's recommendations. Should it be determined that no environmental

impact statement is needed, NEPA analysis will be accomplished through an environmental assessment or an administrative determination.

Public input on issues and alternatives for the fire and vegetative resource management plan will be forthcoming through the Technical Review Team's efforts. This notice invites additional public comment on the proposal to modify the Fire Management Plan, and affected land use plans, if applicable.

Preliminary issues identified include: human health and safety; protection of property; protection of natural and cultural resources; use of fire to enhance biodiversity, stabilize soils, and promote ecological health; maintenance or improvement of rangeland health in accordance with established standards; and the proper role of fire in areas managed for wilderness values. No preliminary alternatives have been identified.

Dated: April 2, 1997.

Gene A. Kolkman,

District Manager.

[FR Doc. 97–9457 Filed 4–11–97; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–990–1020–00]

Notice of Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Upper Columbia—Salmon Clearwater Districts, Idaho.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix, the Bureau of Land Management (BLM) announces the meeting of the Upper Columbia—Salmon Clearwater Districts Resource Advisory Council (RAC) on Wednesday, May 14, 1997 and Thursday, May 15, 1997 in Salmon, Idaho.

The purpose of the meeting is to brief the RAC on upcoming sub-basin and watershed assessments, which will be part of the implementation process for the Interior Columbia Basin Ecosystem Management Project, and to provide a field tour of the Herd Creek watershed. Other administrative issues may be discussed as time permits. The RAC will meet from 1:00 p.m. to 4:30 p.m. (MDT) on May 14 and 8:00 a.m. to 4:30 p.m. (MDT) on May 15. The public may address the Council during the public comment period starting at 1:30 p.m. on May 14 at BLM's Salmon Field Office, Highway 93 South, Salmon, Idaho.

SUPPLEMENTARY INFORMATION: All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements to the Council, or written statements may be submitted for the Council's consideration. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the District Manager.

The Council's responsibilities include providing long-range planning and establishing resource management priorities.

FOR FURTHER INFORMATION CONTACT: Ted Graf (208) 769–5004.

Dated: April 4, 1997.

Fritz U. Rennebaum,

District Manager.

[FR Doc. 97–9456 Filed 4–11–97; 8:45 am]

BILLING CODE 4310–GG–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension and revision of a currently approved information collection.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, MMS invites the public and other Federal agencies to comment on a proposal to extend and revise the currently approved collection of information discussed below. The Paperwork Reduction act of 1995 (PRA) provides that 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 Office of Management and Budget (OMB) control number.

DATE: Submit written comments by June 13, 1997.

ADDRESSES: Direct all written comments to the Rules Processing Team, Minerals Management Service, Mail Stop 4700, 381 Elden Street, Herndon, Virginia 20170–4817.

FOR FURTHER INFORMATION CONTACT: Alexis London, Rules Processing Team, telephone (703) 787–1600.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR Part 254, Oil Spill Response Requirements for Facilities Located Seaward of the Coast Line.

Abstract: The Federal Water Pollution Control Act as amended by the Oil Pollution Act of 1990 (OPA) requires that a spill-response plan be submitted for offshore facilities prior to February 18, 1993. The OPA specifies that after that date, an offshore facility may not handle, store, or transport oil unless a plan has been submitted. In order to meet the deadline and assure that spill-response plans of sufficient quality were being developed, MMS issued an interim final rule (IFR) and the OMB approved the information collection requirements. MMS subsequently issued a notice of proposed rulemaking (NPR0 incorporating the experience gained with the IFR and OMB approved the revised information collection requirements. MMS has now published a final rule (62 FR 13991) which supersedes the IFR effective June 23, 1997. The final rule changes the structure of the regulation, thereby changing the citations for the information collections. However, no significant changes to the information collection resulted from the comments received in response to the NPR and restructuring.

The MMS uses the information collected under Part 254 to determine the response capability of the owner/operator. The requirements allow the Regional Supervisor to verify compliance with the requirements of OPA. The final rule removes any duplicative reporting requirements in 30 CFR part 250, subpart C. If MMS did not collect the information we would be unable to comply with the mandates of the OPA.

The collection does not include proprietary or confidential information and no items of a sensitive nature are collected. The requirement to respond is mandatory. Description of Respondents: Owners or operators of an oil handling, storage, or transportation facility which is located seaward of the coast line.

Frequency: On occasion.

Estimated Number of Respondents: 270.

Estimated Annual Burden: 28,756 burden hours. Based on $35 per hour, the cost to respondents is $1,005,410.

Estimated Other Annual Costs to Respondents: MMS has identified no other cost burdens on respondents for providing this information.

OMB Number: 1010–0091.

Comments: The MMS will summarize written responses to this notice and address them in its submission for OMB approval. All comments will become a matter of public record. We will also consult with a representative sample of respondents. The estimates shown above are those currently approved by OMB for this collection of information. As a result of the consultations and

comments we receive, we will make any necessary adjustments for our submission to OMB. In calculating the burden, MMS may have assumed that respondents perform many of the requirements and maintain records in the normal course of their activities. MMS considers these to be usual and customary. Commenters are invited to provide information if they disagree with this assumption and they should tell us what the burden hours and costs imposed by this collection of information are.

(1) The MMS specifically solicits comments on the following questions:

(a) Is the proposed collection of information necessary for the proper performance of MMS's functions, and will it be useful?

(b) Are the estimates of the burden hours of the proposed collection reasonable?

(c) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

(d) Is there a way to minimize the information collection burden on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other forms of information technology?

(2) In addition, the PRA requires agencies to estimate the total annual cost burden to respondents or recordkeepers resulting from the collection of information. The MMS needs your comments on this item. Your response should split the cost estimate into two components:

(a) Total capital and startup cost component and

(b) Annual operation, maintenance; and purchase of services component.

Your estimates should consider the costs to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, drilling, and testing equipment; and record storage facilities. Generally, your estimates should not include equipment or services purchased: (1) Before October 1, 1995; (2) to comply with requirements not associated with the information collection; (3) for reasons other than to provide information or keep records for the Government; or (4) as part of customary and usual business or private practices.

Bureau Clearance Officer: Jo Ann Lauterbach, (202) 208–7744.

Dated: April 3, 1997.

E. P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 97–9470 Filed 4–11–97; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

National Park Service

Public Notice

SUMMARY: Public notice is hereby given that the National Park Service proposes to award a concession contract authorizing the operation of museum, exhibits, tours at the Highland House and Highland Lighthouse for the public at Cape Cod National Seashore, Massachusetts for a period of five (5) years from date of contract execution.

EFFECTIVE DATE: June 13, 1997.

ADDRESSES: Interested parties should contact National Park Service, Concession Management Program, Boston Support Office, 15 State Street, Boston, MA 02109–3572 ATTN: Lynne Koser, Telephone (617) 223–5209, to obtain a copy of the prospectus describing the requirements of the proposed contract.

SUPPLEMENTARY INFORMATION: This contract has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal must be received by the National Park Service, Boston Support Office, Concession Management Program, not later than the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Dated: March 28, 1997.

Chrysandra S. Walter,

Acting Field Director, Northeast Field Area.

[FR Doc. 97–9552 Filed 4–11–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Public Notice

SUMMARY: Public Notice is hereby given that the National Park Service proposes to award a concession contract authorizing an educational cooperator to sell a limited number of convenience items including crayons, feminine hygiene products, postage stamps and film. The sales are incidental to and occur in the same space as educational services provided by the cooperator in seven National Park Service areas of the Northeast Region.

EFFECTIVE DATE: June 13, 1997.

ADDRESSES: Interested parties should contact National Park Service, Senior Concession Program Manager, (617) 223–5076, Boston Support Office Boston, MA for further information and to submit proposals in response to this notice.

SUPPLEMENTARY INFORMATION: This contract has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The existing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expired by limitation of time on December 31, 1996, and therefore pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. Sec. 20), is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract providing that the existing concessioner submits a responsive offer (a timely offer which meets the terms and conditions of the Prospectus). This means that the contract will be awarded to the party submitting the best offer, provided that if the best offer was not submitted by the existing concessioner, then the existing concessioner will be afforded the opportunity to match the best offer. If the existing concessioner agrees to match the best offer, then the contract will be awarded to the existing concessioner.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be received by the Senior Concessions Program Manager not later than the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Dated: March 28, 1997.

Chrysandra S. Walter,

Acting Field Director, Northeast Field Area.

[FR Doc. 97–9553 Filed 4–11–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Trail of Tears National Historic Trail Advisory Council; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Public Law 92–463, that a meeting of the Trail of Tears National Historic Trail Advisory Council will be held May 23, 1997 at 8:00 a.m., at the Holiday Inn—Cherokee, U.S. Highway 19 South, Cherokee, North Carolina.

The Trail of Tears National Historic Trail Advisory Council was established pursuant to Public Law 100–192 establishing the Trail of Tears National Historic Trail to advise the National Park Service on such issues as preservation of trail routes and features, public use, standards for posting and maintaining trail markers, as well as administrative matters.

The matters to be discussed include:

—Plan Implementation Status
—Trail Association Status
—Cooperative Agreements Negotiation
—Trail Route

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with David Gaines, Superintendent.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact David Gaines, Superintendent, Long Distance Trails Group Office-Santa Fe, National Park Service, P.O. Box 728, Santa Fe, New Mexico 87504–0728, telephone 505/988–6888. Minutes of the meeting will be available for public inspection at the office of the Superintendent, located in Room 205, Pinon Building, 1220 South St. Francis Drive, Santa Fe, New Mexico.

Dated: March 27, 1997.

David M. Gaines,

Superintendent.

[FR Doc. 97–9554 Filed 4–11–97; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 C.F.R. § 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Ace Galvanizing, Inc., et al.,* Civil Action No. 97–152C, was lodged on January 30, 1997, with the United States District Court for the Western District of Washington. The Consent Decree requires each defendant to compensate the trustees for natural resource damages at the Tulalip Landfill Superfund Site on Ebey Island in Puget Sound, resulting from the release of hazardous substances at the Site. The Trustees consist of the State of Washington Department of Ecology, the Tulalip Tribes of Washington, the National Oceanic and Atmospheric Administration of the United States Department of Commerce, and the United States Department of Interior. Under the Consent Decree, 184 *de minimis* waste contributors listed below, including 6 federal agencies and 2 state agencies, will pay a total of $725,048.00 for natural resource damages.

The Department of Justice will receive, for a period of thirty (30) days from the date of the 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, D.C. 20530, and should refer to *United States* v. *Ace Galvanizing, Inc., et al.,* DOJ Ref. #90–11–3–1412a.

The proposed consent decree may be examined at the office of the United States Attorney, 1010 Fifth Avenue, Seattle, WA 98104; the Region 10 Office of the Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98104, and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 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, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $5.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

List of Parties to the Consent Decree:

Ace Galvanizing, Inc.
Alaskan Copper & Brass Co.
Albertson's Inc.
All City Fence Co.
American Building Maintenance
American Can Company
American President Lines
Arden Farms
Arts Food Center
Auto Warehousing
Henry Bacon
Baugh Construction Co.
Bayless Bindery, Inc.
Bayley Construction
Bethlehem Steel Corporation
Boise Cascade Office Supply
The Bon Inc. DBA The Bon Marche'
Brandrud Manufacturing
Buffalo Industries, Inc.
Burlington Northern Railroad
Canteen Service, Inc.
Capital Industries, Inc.
Cases, Inc.
Champion International Corporation
Chemithon Corp.
Children's Hospital & Medical Center
City of Kirkland
City of Seattle
Commercial Warehouse Co., Inc.
Consolidated Freightways
Constructors—Pacific Company (Pampco Construction)
Contour Laminates
Craftsman Press
Cree Construction Company, Inc.
Crosby & Overton
Crow Roofing, Inc.
CX Processing
Darigold
David A. Mowat Co.
Deeny Construction Co., Inc.
E & E Meats
Eagle Metals Co.
Ellstrom Manufacturing, Inc.
Everett Community College
Everett Herald
Fabricators Inc.
Fentron Building Products, Inc.
Firestone Tire & Rubber Co.
Fisher Flour Mills, Inc.
Fishermans Boat Shop, Inc.
Ford Motor Company
Foss Maritime Company
Foster & Kleiser/Ackerly Communications
Fred Meyer, Inc.
Gall & Landau Construction
General Construction
General-Kaskell-Amelco
General Hospital
General Services Administration
General Telephone (GTE)
Gordon Brown, Inc.
Group Health Cooperative
H.S. Wright
Haight Roofing
Hardwoods, Inc.
Hensel Phelps Construction
Herr Lumber, Inc.
Hillis Homes, Inc.
Honeywell, Inc. (Alliant Techsystems, Inc.)
Hurlen Construction Company
Hussman Corporation
Impressions NW
Independent Paper
Industrial Transfer & Storage Co.
IVARS (Seafood Enterprises)
JC Penney
Jacobson Terminals Inc.
John Fluke Manufacturing Company
K & N Meats
Keller Supply
King County
Kohkoku USA, Inc.
Lake Union Drydock Company
Lake Union Terminal

Lakeside School
Lucky Stores
Marketime Drugs Inc.
Maust Transfer Corporation
Meltec Corporation
Meridian Excavating & Wrecking
Metro
Morel Foundry
NC Machinery (S C Distribution Corp.)
New Richmond Laundry
C.A. Newell
NOAA/Pittmon Janitorial
Nordstrom's
North Seattle Community College
Northshore School District # 417
Northwest Glass
Northwest Hospital
Northwest Home Furniture Mart
Northwest Tank & Environmental Services
Nuclear Pacific, Inc.
Oberto Sausage
Olson's Market Foods/QFC
Olympic Hotel (Four Seasons)
Olympic Stained Product
Oscar Lucks
Owens Corning Fiberglass Corp.
Paccar Inc. (Kenworth)
Pacific Fisherman, Inc.
Pacific Iron & Metal
Pacific Multiform
Pacific NW Bell
Pacific Partitions Systems
Payless Drug/Pay 'N Save
Pepsi/Seven-Up/Glaser Beverage
Peter Pan Seafoods
Petschel's Meats
Pike Place Market Authority
Pirate's Plunder
Plaza 600
Providence Medical Center
PSF Industries
Purdy Company
QFC—Quality Food Centers, Inc.
R.C. Hedreen Company
Recreational Equipment, Inc.
Red Dot Corporation
Reynolds Metals Company
Richardson & Holland
Riches & Adams
Richmark Printing
Rubatino Refuse Removal, Inc.
Safeco Insurance Company of America
Salmon Terminal (Olympic Steamship Co.)
Sanitary Service Company, Inc./City of Bellingham
Scott Paper Company
Scougal Rubber Corporation
Seaboard Lumber
Sealand Service Inc.
Seattle Central Community College
Seattle Community College District
Seattle District Corps of Engineers
Seattle First National Bank
Seattle Iron & Metals Corporation
Seattle Post Intelligencer
Seattle Seafood
Seattle Times
Seattle Trade Center
Seattle University
Sellen Construction
Skyway Luggage Company
Snohomish County Pud
South Seattle Community College
SQI Roofing Inc.
Star Machinery Co.
Swedish Medical Center
Texaco Inc.
Thurman Electric & Plumbing Supply
Tiz's Door Sales
Trident Imports
Tullus Gordon Construction Company
Turner & Pease Company
U.S. Coast Guard
U.S. Post Office
United Parcel Service
V.A. Hospital
Virginia Mason Medical Center
W.G. Clark Construction Co.
Wall & Ceiling Supply Co., Inc.
Washington Chain & Supply, Inc.
Washington Natural Gas
Washington Plaza
Washington State Ferry/Coleman Dock
Washington State Liquor Warehouse
Washington State Military Department
Welco Lumber
West Waterway Properties, Inc.
West Coast Construction Co.
Western Gear
Weyerhaeuser
W.W. Wells Millworks

[FR Doc. 97–9462 Filed 4–11–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as Amended

Consistent with Departmental policy, 28 CFR § 50.7, 38 FR 19029, and 42 U.S.C. § 9622(d), notice is hereby given that on March 28, 1997, a proposed consent decree in *United States* v. *Town of Norwood, Massachusetts,* Civil Action No. 97–10701, was lodged with the United States District Court for the District of Massachusetts. The proposed Consent Decree will resolve the United States' claims under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. § 9601 *et seq.*, on behalf of the U.S. Environmental Protection Agency (''EPA'') against defendant Town of Norwood, Massachusetts relating to the Norwood PCB Superfund Site in Norwood, Massachusetts. Pursuant to the Consent Decree, the Town will provide emergency response services at the Site, provides access to the portion of the Site under its ownership and control, and will impose institutional controls on its property to ensure the effectiveness of the remedial action at the Site.

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. Any comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Town or Norwood, Massachusetts,* Civil Action No. 97–10701, D.J. Ref. 90–11–2–372D.

The proposed consent decree may be examined at the Office of the United States Attorney, District of Massachusetts, J.W. McCormack Post Office and Courthouse, Boston, Massachusetts, 02109, and at Region I, Office of the Environmental Protection Agency, One Congress Street, Boston, Massachusetts, 02203 and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 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, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check (there is a 25 cent per page reproduction cost) in the amount of $17.75 payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–9461 Filed 4–11–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993; Spray Forming Technology Joint Venture

Notice is hereby given that, on March 7, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), United Technologies Corporation filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) The identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting recovery of plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to the venture are: United Technologies Corporation, Hartford, CT; General Electric Company, Evendale, OH; Howmet Corporation, Greewich, CT; and Teledyne-Allvac Division of Teledyne Industries, Inc., Monroe, NC.

United Technologies Corporation has been engaged to administer the joint venture on behalf of the participants. The nature and objectives of the venture

are to undertake development activities focusing on spray forming technologies for use in manufacturing aircraft engine components.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–9458 Filed 4–11–97; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Criminal Justice Information Services; Agency Information Collection Activities: Proposed Collection: Comment Request

ACTION: Notice of information collection under review: return a-monthly return of offenses known to police and supplement to return a-monthly offenses known to the police.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until June 13, 1997.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(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 agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time should be direct to SSA Paul J. Gans (phone number and address listed below). If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact SSA Paul J. Gans, 304–625–4830, FBI, CJIS, Statistical Unit, PO Box 4142, Clarksburg WV 26302–9921.

Overview of this information collection:

(1) Type of information collection: Extension of Current Collection

(2) The title of the form/collection: Return A-Monthly Return of Offenses known to the Police and Supplement to Return A-Monthly Offenses known to the Police.

(3) The agency form number, if any, and applicable component of the Department sponsoring the collection. Form: 4–927A and 4–919. Federal Bureau of Identification, department of Justice.

(4) Affected public who will be asked or required to respond, as well as brief abstract. Primary: State and Local Law Enforcement Agencies. This collection is needed to provide data regarding criminal offenses and their respective clearances throughout the United States. Data is tabulated and published in the comprehensive annual ''Crime in the United States'' and the semi-annual ''Uniform Crime Reports''.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 4,900 agencies; 95,255 responses; and with an average completion time of 30 minutes a month or 6 hours annually.

(6) An estimate of the total public burden (in hours) associated with both collections: 20,580 hours annually.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, N.W, Washington, DC 20530.

Dated: April 9, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–9541 Filed 4–11–97; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

[F.C.S.C. Meeting Notice No. 6–97]

Notice of Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date and Time: Monday, April 21, 1997, 9:00 a.m.

Subject Matter: 1. Hearings on the record on objections to Proposed Decisions in the following claims against Albania:

ALB–089 Todi Vangjel Kapbardhi
ALB–100 Arjan Hasbi Puto, et al.
ALB–102 Anthimo Suli
ALB–145 Pullumb Toto
ALB–181 Vicke Sheh
ALB–216 Rita Deto Sefla
ALB–220 Gjergi Gjeli
ALB–223 Aleko Iskali
ALB–245 Arzie M. Orhan
ALB–261 Vangjel Raci, et al.
ALB–295 Illo Foto
ALB–296 Meri Tite
ALB–300 Spiro P. Jones
ALB–301 Lillian Piazza, et al.
ALB–308 Anthi F. Gjoni
ALB–309 Carrie Parno
ALB–310 Mitat Laze Berdo
ALB–311 Agim Gani Hamiti
ALB–312 Pelivan Sako Azizaj
ALB–313 Sami Zemblaku

Status: Open.

Subject matter not disposed of at the scheduled meeting may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign claims Settlement Commission, 600 E Street, N.W., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 600 E Street, NW., Room 6029, Washington, DC 20579. Telephone: (202) 616–6988.

Dated at Washington, DC, April 9, 1997.

Judith H. Lock,

Administrative Officer.

[FR Doc. 97–9632 Filed 4–10–97; 8:45 am]

BILLING CODE 4410–01–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP(BJA) No. 1110]

RIN No. 1121–ZA57

Motor Vehicle Theft Prevention Act Program

AGENCY: Office of Justice Programs, Bureau of Justice Assistance, Justice.

ACTION: Request for proposals.

SUMMARY: The Bureau of Justice Assistance (BJA) is soliciting grant applications from State governments interested in participating in the national voluntary motor vehicle theft prevention program, Watch Your Car, as authorized under the Motor Vehicle Theft Prevention Act of 1994 (MVTPA).

DATES: All applications must be returned with a postmark no later than May 30, 1997.

ADDRESSES: All proposals must be mailed or sent to: Director; Bureau of

Justice Assistance; Attention: Watch Your Car Program Office; Bureau of Justice Assistance; U.S. Department of Justice; Room 1086D, 633 Indiana Avenue, NW., Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT: The Bureau of Justice Assistance has already mailed program guides and application kits to each State. The State's automobile theft prevention authority is designated as the recipient. For those States without an authority, the state agency that administers the Byrne Formula Grant Program is the recipient. Copies of the fact sheet describing the Program are available by calling the U.S. Department of Justice Response Center at 1–800–421–6770. The metropolitan Washington, D.C., area number is 202–307–1480. Interested parties with Internet browsers and installed Adobe Acrobat software may download and print a copy of this announcement by accessing BJA's National Auto Theft Prevention Program home page at ''http://www.ojp.usdoj.gov/BJA/html/wyc.htm'. Adobe Acrobat software, an on-line fact sheet on the Watch Your Car Program, samples of the decals, the recipient of the program guide and application kit for each State, and other graphical images and statistics pertaining to auto theft are also available at this site.

SUPPLEMENTARY INFORMATION:

Authority

Section 220001 of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103–322, 108 Stat. 2074, codified at 42 U.S.C. 14171, contains the Motor Vehicle Theft Prevention Act (MVTPA). The MVTPA requires the Attorney General to establish a national voluntary motor vehicle theft prevention program. A proposed rule was published in the **Federal Register** on October 24, 1995. The final rule was subsequently published on August 6, 1996. This announcement is to advise States of the availability of grant funds appropriated under the authority of Public Law 104–208, the Omnibus Consolidated Appropriations Act of 1997, and to initiate the Watch Your Car Program as authorized under the final rule implementing the Motor Vehicle Theft Prevention Act.

Grant Offering

BJA will be offering start-up grants for States that have no statewide motor vehicle theft prevention decal program in place, and conversion grants for those States with existing statewide programs that wish to make the transition to the Watch Your Car Program. Start-up grants will be awarded in an amount up to $150,000, while conversion grants will be funded up to $25,000. An eligible applicant for start-up grants is deemed to be either a State that currently has no statewide theft prevention decal program, or a State with an existing program that is available to less than 50 percent of the State's residents. BJA encourages innovative approaches to implementing comprehensive, unique anti-car-theft initiatives and will evaluate applications on the size and scope of the proposed project and how it can work in concert with other theft prevention measures. Other factors for consideration include the amount of public and private resources leveraged in the proposal.

Eligibility for Watch Your Car Funding

A State may apply on behalf of itself and/or its respective counties and municipalities. The application shall be submitted by the chief executive of the applicant State agency and in accordance with established BJA application guidelines. Any State that received funding under the MVTPA Program during fiscal year 1996 is ineligible for funding during fiscal year 1997.

Background

The purpose of the Watch Your Car program is to focus the attention of law enforcement on vehicles that are not routinely operated during the early morning hours or near international land borders or ports. The program enables proactive investigation of auto theft before a stolen vehicle report is filed.

Under this program, a motor vehicle owner must sign a consent form and obtain decals authorizing law enforcement officers to stop the motor vehicle if it is being driven under certain specified conditions, and take reasonable steps to determine whether the vehicle is being operated with the owner's consent. There are two conditions. Under the first condition, the owner may consent to have the car stopped if it is operated between the hours of 1:00 am and 5:00 am. Under the second condition, the owner may consent to have the car stopped if it crosses or is about to cross a United States land border or if it enters a port.

States elect to participate in the program solely at their option.

BJA is aware of similar types of theft prevention programs already in existence. The most common program is Combat Auto Theft (CAT), which is used on a statewide basis and by individual local jurisdictions in Arizona, California, Florida, Louisiana, Minnesota, New York, Pennsylvania, and Tennessee. Illinois has the Beat Auto Theft (BAT) Program; Texas originated the Help End Auto Theft (HEAT) Program; and Maryland has the Stop Thief Owner Protected (STOP) Program.

Programs such as BAT, CAT, HEAT, and STOP function on a statewide basis to insure a level of uniformity among participating municipalities and counties. These programs have worked successfully in their States of origin since police throughout the State could easily recognize their own decal. But if a thief drove a stolen vehicle across state lines, the police in the adjoining jurisdiction may not recognize the decal or if they did recognize it, lacked the authorization to stop the vehicle and check the identity of the driver. The dissimilarity of statewide programs has been further complicated by the proliferation of local anti-car theft programs in States with no statewide program. Numerous municipalities and counties have adopted a variety of programs utilizing differing emblems, icons, and symbols.

The main advantage of the national Watch Your Car Program is its use of a decal that will eventually become an recognizable icon by police nationwide. It features the capability of intra/interstate enforcement through the checking of vehicles with differing county and/or out-of-state license plates.

BJA's specifications call for the manufacture of tamper-resistant decals made from retro reflective sheeting to make them easily discernible at night. The windshield decal(s) are to be applied on the outside of the glass directly above the inside rear-view mirror. The rear window decal is affixed on the exterior face along the lower left side.

The MVTPA Program compels a thief to remove tamper-resistant decals while alongside the vehicle, acting suspiciously and drawing attention to himself/herself. These impediments, in addition to other theft prevention devices such as steering wheel locks, increase the number of hurdles a thief must overcome and raises the level of theft deterrence.

The MVTPA requires, as a condition of participation, that each State agree to take reasonable steps to ensure that law enforcement officials throughout its jurisdiction are familiar with the program, and with the conditions under which motor vehicles may be stopped.

This program is a Federal program that operates separately from any existing State or local motor vehicle

theft prevention program. It is not intended to preempt existing State or local laws or programs.

Application Requirements

Implementation Grants

Problem Statement

States wishing to apply shall provide an assessment of the auto theft problem in their jurisdiction and what efforts have been undertaken to address it. Applicants should contrast the severity of their auto theft problem to other States and discern the patterns and trends of auto theft. States should also identify what steps have been taken to decrease auto theft. For instance, does the State have an automobile theft prevention authority and what types of initiatives does it support to combat auto theft.

Goals and Objectives

The applicant must provide goals, objectives, and methods of implementation for the project that are consistent with the program announcement. Objectives should be clear, measurable, attainable, and focused on the methods used to conduct the project. Favorable consideration will be given to those applicants who merge their auto theft enforcement efforts and their prevention initiatives into a coherent strategy and establish goals and objectives based upon the anticipated collective outcome of both approaches.

Project Strategy or Design

The project strategy or design should describe the Watch Your Car program the State wishes to implement including its size and scope; outreach efforts to educate the public; statewide training programs to inform municipal, county and state law enforcement officers of the program; a description of the database if the State wishes to maintain a centralized computer registry; the production and dissemination of universal consent forms authorizing traffic stops by any local, State, or Federal law enforcement officer pursuant to the stipulated program condition(s); and efforts to be undertaken to enlist both public and private organizations such as auto dealers, auto insurance companies, and other major retail businesses willing to host registration programs and encourage employee participation.

For those applicants who currently have an existing statewide program that is available to less than 50 percent of the State's residents, document the municipalities and counties where the program is currently available and demonstrate that the remaining municipalities and counties serve as the domicile for 50 percent or more of the State's total residents.

Implementation Plan

Applicant should provide an implementation plan for the program outlined above. It should include a schedule to include milestones for significant tasks in a chart form.

Additional Resource Commitments

Applicants are encouraged to leverage other resources—State, local, or private—in support of this project.

Project Management Structure

The applicant should describe how the project will be structured, organized, and managed. It should identify and describe the qualifications and experience of the project director and project staff, how they will be selected, and their roles and responsibilities.

Organizational Capability

The applicant should describe the organizational experience, both programmatic and financial, that qualifies it to manage the project.

Program Evaluation

The program evaluation should indicate how the applicant will assess the success of project implementation and the extent to which the strategy achieved the project's goals and objectives.

Conversion Grants

Applicants applying for conversion grants should address the criteria cited in paragraphs: Project Strategy or Design; Implementation Plan; Project Management Structure; and Program Evaluation. Applicants should also submit the latest copy of their annual report in addition to completing the other required forms in the application kit.

Dated: April 9, 1997.

Nancy E. Gist,

Director, Bureau of Justice Assistance.

[FR Doc. 97–9534 Filed 4–11–97; 8:45 am]

BILLING CODE 4410–18–P

LEGAL SERVICES CORPORATION

Notice of Availability of 1997 Competitive Grant Funds for Service Area OH–11 in Ohio

AGENCY: Legal Services Corporation.

ACTION: Solicitation of proposals for the provision of civil legal services for Fairfield, Hocking, Knox, Licking, and Pickaway counties in Ohio.

SUMMARY: The Legal Services Corporation (LSC or Corporation) is the national organization charged with administering federal funds provided for civil legal services to the poor. Congress has adopted legislation requiring LSC to utilize a system of competitive bidding for the award of grants and contracts for calendar year 1997.

The Corporation hereby announces that it is reopening competition for 1997 competitive grant funds and is soliciting grant proposals from interested parties who are qualified to provide effective, efficient and high quality civil legal services to the eligible client population in Fairfield, Hocking, Knox, Licking and Pickaway counties in Ohio. Two grant terms will be funded. The first grant term begins July 1, 1997 and ends December 31, 1997 (six months). The tentative grant amount for the first grant term is $141,890. The second grant term is for calendar year 1998 (twelve months). The exact amount of congressionally appropriated funds and the date and terms of their availability for calendar year 1998 are not known, although it is anticipated that the funding amount will be similar to calendar year 1997 funding, which was $283,784.

DATES: Request for Proposals (RFP) will be available after April 7, 1997. A Notice of Intent to Compete is due by May 9, 1997. Grant proposals must be received at LSC offices by 5:00 p.m. EDT, May 20, 1997.

ADDRESSES: Legal Services Corporation—Competitive Grants, 750 First Street N.E., 10th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Lisa Thomas, Administrative Assistant, Office of Program Operations, (202) 336–8865.

SUPPLEMENTARY INFORMATION: LSC is seeking proposals from non-profit organizations that have as a purpose the furnishing of legal assistance to eligible clients, and from private attorneys, groups of private attorneys or law firms, State or local governments, and substate regional planning and coordination agencies which are composed of substate areas and whose governing boards are controlled by locally elected officials.

The solicitation package, containing the grant application, guidelines, proposal content requirements and specific selection criteria, is available by contacting the Corporation by letter, phone or FAX. LSC will not FAX the solicitation package to interested parties; however, solicitation packages may be requested by FAX. The

Corporation may be contacted at: (202) 336–8865; FAX (202) 336–7272.

Issue Dated: April 8, 1997.

Merceria L. Ludgood,

Deputy Director, Office of Program Operations.

[FR Doc. 97–9463 Filed 4–11–97; 8:45 am]

BILLING CODE 7050–01–P

LEGAL SERVICES CORPORATION

Notice of Availability of 1997 Competitive Grant Funds for Service Area PA–3 for Delaware County, Pennsylvania

AGENCY: Legal Services Corporation.

ACTION: Solicitation of Proposals for the Provision of Civil Legal Services for Delaware County, Pennsylvania.

SUMMARY: The Legal Services Corporation (LSC or Corporation) is the national organization charged with administering federal funds provided for civil legal services to the poor. Congress has adopted legislation requiring LSC to utilize a system of competitive bidding for the award of grants and contracts for calendar year 1997.

The Corporation hereby announces that it is reopening competition for 1997 competitive grant funds and is soliciting grant proposals from interested parties who are qualified to provide effective, efficient and high quality civil legal services to the eligible client population in Delaware County, Pennsylvania for a grant term of July 1, 1997 through December 31, 1997. The Corporation tentatively plans to award a grant in the amount of $96,034.

DATES: Request for Proposals (RFP) will be available after April 7, 1997. A Notice of Intent to Compete is due by May 9, 1997. Grant proposals must be received at LSC offices by 5:00 p.m. EDT, May 20, 1997.

ADDRESSES: Legal Services Corporation—Competitive Grants, 750 First Street NE., 10th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Lisa Thomas, Administrative Assistant, Office of Program Operations, (202) 336–8865.

SUPPLEMENTARY INFORMATION: LSC is seeking proposals from non-profit organizations that have as a purpose the furnishing of legal assistance to eligible clients, and from private attorneys, groups of private attorneys or law firms, State or local governments, and substate regional planning and coordination agencies which are composed of substate areas and whose governing boards are controlled by locally elected officials.

The solicitation package, containing the grant application, guidelines, proposal content requirements and specific selection criteria, is available by contacting the Corporation by letter, phone or FAX. LSC will not FAX the solicitation package to interested parties; however, solicitation packages may be requested by FAX. The Corporation may be contacted at: (202) 336–8865; FAX (202) 336–7272.

Issue Dated: April 8, 1997.

Merceria L. Ludgood,

Deputy Director, Office of Program Operations.

[FR Doc. 97–9464 Filed 4–11–97; 8:45 am]

BILLING CODE 7050–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[97–044]

Notice of Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

SUMMARY: The National Aeronautics and Space Administration, 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 an/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Public Law 104–13, 44 U.S.C. 3506(a)(2)(A)). The reports will be utilized by the Office of Small and Disadvantaged Business Utilization as a method for determining if developmental assistance provided to small disadvantaged businesses by prime contractor's performance meets the standards established in NASA policy. The Agency's ability to manage the program effectively would be greatly diminished without receiving the described reports, which are part of the ongoing performance fee evaluation process.

DATES: On or before June 13, 1997.

ADDRESSES: All comments should be addressed to Mr. Richard Kall, Code HK, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Carmela Simonson, NASA Reports Officer, (202) 358–1223.

Title: Small Business and Small Disadvantaged Business Concerns.

OMB Number: 2700–0078.

Type of review: Extension.

Need and Uses: Reports are required to monitor Mentor-Protege performance and progress according to the Mentor-Protege Agreement. Reports are internal control to determine if Agency objectives are met.

Affected Public: Business or other for-profit, Not-for-profit institutions, State, Local or Tribal Government.

Number of Respondents: 48.

Responses Per Respondent: 2.

Annual Responses: 96.

Hours Per Request: 1.

Annual Burden Hours: 96.

Frequency of Report: Semi-annually.

Donald J. Andreotta,

Deputy Chief Information Officer (Operations), Office of the Administrator.

[FR Doc. 97–9450 Filed 4–11–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[97–045]

Notice of Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

SUMMARY: The National Aeronautics and Space Administration, 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 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)). The reports will be used to evaluate the use of uncompensated overtime in bids and proposals submitted to NASA for the award of contracts for technical and professional services in support of NASA's mission and in response to contractual requirements. The requirement is stated in 48 CFR 1831.205–670, 1831.205–671, and 1851.231–71.

DATES: All comments should be submitted within 60 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Mr. Richard Kall, Code HK, National Aeronautics and Space Administration, Washington, DC 20546–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Carmela Simonson, NASA Reports Officer, (202) 358–1223.

Title: Uncompensated Overtime.

OMB Number: 2700–0080.

Type of review: Extension.

Needs and Uses: For contracts over $500,000, uncompensated overtime information is used to determine (i)

Whether a contractor will be able to hire and retain qualified individuals, (ii) whether uncompensated overtime hours will be properly accounted, and (iii) the validity of the proposed uncompensated hours.

Affected Public: Business or other for-profit, Not-for-profit institutions, State, Local or Tribal Government.

Number of Respondents: 657.
Response Per Respondent: 1.
Annual Responses: 657.
Hours Per Request: 4.
Annual Burden Hours: 2628.
Frequency of Report: Annually.

Donald J. Andreotta,

Deputy Chief Information Officer (Operations), Office of the Administrator.

[FR Doc. 97–9451 Filed 4–11–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[97–043]

NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Aerospace Medicine and Occupational Health Advisory Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Aerospace Medicine and Occupational Health Advisory Subcommittee.

DATES: May 5, 1997, 9:00 a.m. to 5:00 p.m.

ADDRESSES: NASA Headquarters, Room MIC–6, 300 E Street, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Sam L. Pool, Code SD, Lyndon B. Johnson Space Center, National Aeronautics and Space Administration, Houston, TX 77058, 281–483–7109.

SUPPLEMENTARY INFORMATION: The meeting will be closed to the public on Monday, May 5, 1997, from 4:45 p.m. to 5:00 p.m. in accordance with 5 U.S.C. 522b(c)(6), to allow for discussion on qualifications of individuals being considered for membership to the Committee. The remainder of the meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Report on Occupational Health Transition to Kennedy Space Center
—Discussion of Medical Certification Procedures for American and Russian Astronauts and Cosmonauts Flying on Space Station
—Discussion of Plans to Fly Elements of the Crew Health Care System on Mir Early for Space Station Use Checkout
—Discussion of Development of Medical Standards and Retention Criteria for All International Space Station Partners Progress Report
—Discussion of Strategic Planning and Metrics
—Discussion of Lead Center Role for NASA Life Sciences
—Status and Discussion on the Space Medicine Project
—Discussion on the Proposed New Program—Space Medicine Clinical Studies
—Report on Progress in the Development of Behavioral Support for Crewmembers on Long Duration Space Flights
—Summary of Findings and Recommendations
—Discussion of Action Items

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: April 7, 1997.

Leslie M. Nolan,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 97–9449 Filed 4–11–97; 8:45 am]

BILLING CODE 7501–01–M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meetings

TIME AND DATE: 10 a.m., Wednesday, April 16, 1997.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

BOARD BRIEFING:

1. Insurance Fund Report.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Request from a Federal Credit Union to Convert to a Community Center.
3. Request from a Federal Credit Union to Expand its Community Center.
4. Request from a Federal Credit Union to Convert to a Low-Income Community Center.
5. Charter Application from a Proposed Community Federal Credit Union.
6. Request from a Federal Credit Union to Convert to a Mutual Savings Bank Charter.
7. NCUA Board Policy Statement on Special Actions.
8. Notice of Proposed Rulemaking: Amendments to Part 792, NCUA's Rules and Regulations, Production of Nonpublic Records and Testimony of NCUA Employees in Private Legal Proceedings.

RECESS: 11:15 a.m.

TIME AND DATE: 11:30 a.m., Wednesday, April 16, 1997.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. Administrative Action under Sections 120 and 206 of the Federal Credit Union Act and Part 710 of NCUA's Rules and Regulations. Closed pursuant to exemptions (8), (9) (A)(ii), and (9)(B).
3. Administrative Action under Sections 116 and 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9) (A)(ii), and (9)(B).
4. Administrative Action under Part 745 of NCUA's Rules and Regulations. Closed pursuant to exemption (6).
5. Administrative Actions under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (5), (8), (9) (A)(ii), and (9)(B).
6. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 97–9618 Filed 4–10–97; 8:45 am]

BILLING CODE 7535–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities, Arts and Artifacts Indemnity Panel, Advisory Committee; Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended) notice is hereby given that a meeting of the Arts and Artifacts Indemnity Panel of the Federal Council on the Arts and the Humanities will be held at 1100 Pennsylvania Avenue, NW., Washington, DC 20506, in Room 714, from 9:00 a.m. to 5:30 p.m., on Monday, May 12, 1997.

The purpose of the meeting is to review applications for Certificates of Indemnity submitted to the Federal

Council on the Arts and the Humanities for exhibitions beginning after July 1, 1997.

Because the proposed meeting will consider financial and commercial data and because it is important to keep values of objects, methods of transportation and security measures confidential, pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated July 19, 1993, I have determined that the meeting would fall within exemptions (4) and (9) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of views and to avoid interference with the operations of the Committee.

It is suggested that those desiring more specific information contact the Acting Advisory Committee Management Officer, Michael Shapiro, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or call 202/606–8322.

Michael Shapiro,

Acting Advisory Committee Management Officer.

[FR Doc. 97–9536 Filed 4–11–97; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR Part 150, ''Exemptions and Continued Regulatory Authority in Agreement States and in Offshore Waters under Section 274.''

2. *Current OMB approval number:* 3150–0032.

3. *How often the collection is required:* 10 CFR 150.16(b), 150.17(c), and 150.19(c) require the submission of reports following specified events, such as the theft or unlawful diversion of licensed radioactive material. The source material inventory reports required under 10 CFR 150.17(b) must be submitted annually by certain licensees.

4. *Who is required or asked to report:* Agreement State licensees authorized to possess source or special nuclear material at certain types of facilities, or at any one time and location in greater than specified amounts.

5. *The number of annual respondents:* 63 Agreement State licensees.

6. *The number of hours needed annually to complete the requirement or request:* 150 hours.

7. *Abstract:* 10 CFR Part 150 provides certain exemptions from NRC regulations for persons in Agreement States. Part 150 also defines activities in Agreement States and in offshore waters over which NRC regulatory authority continues, including certain information collection requirements. The information is needed to permit NRC to make reports to other governments and the International Atomic Energy Agency in accordance with international agreements. The information is also used to carry out NRC's safeguards and inspection programs.

Submit, by June 13, 1997, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street NW., (lower level), Washington, DC. Members of the public who are in the Washington, DC area, can access this document via modem on the Public Document Room Bulletin Board (NRC's Advance Copy Document Library), NRC subsystem at FedWorld, 703–321–3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1–800–303–9672, or use the FedWorld Internet address: fedworld.gov (Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703–487–4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1–800–397–4209, or within the Washington, DC, area at 202–634–3273.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC 20555–0001, by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 7th day of April, 1997.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 97–9558 Filed 4–11–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–528, STN 50–529, and STN 50–530]

Arizona Public Service Company; Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for a Hearing

The U.S Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–41, NPF–51, and NPF–74 issued to the Arizona Public Service Company (APS or the licensee) for operation of the Palo Verde Nuclear Generating Station, Unit Nos. 1, 2, and 3, located in Maricopa County, Arizona.

The proposed amendments, requested by the licensee in a letter dated October 4, 1996, as supplemented by letter dated March 16, 1997, would represent a full conversion from the current Technical Specifications (TSs) to a set of TS based on NUREG–1432, Revision 1, ''Standard Technical Specifications, Combustion Engineering Plants'' dated April 1995. NUREG–1432 has been developed through working groups composed of both NRC staff members and industry representatives and has been endorsed by the staff as part of a industry-wide initiative to standardize and improve TS. As part of this submittal, the licensee has applied the criteria contained in the Commission's ''Final Policy Statement on Technical Specification Improvements for Nuclear Power Reactors (Final Policy Statement),'' published in the **Federal Register** on July 22, 1993 (58 FR 39132), to the current Palo Verde Nuclear Generating Station (PVNGS) TSs, and, using NUREG–1432 as a basis, developed a proposed set of improved

TSs for PVNGS. The criteria in the final policy statement were subsequently added to 10 CFR 50.36, ''Technical Specifications,'' in a rule change which was published in the **Federal Register** on July 19, 1995 (60 FR 36953) and became effective on August 18, 1995.

The licensee has categorized the proposed changes to the existing TSs into six general groupings. These groupings are characterized as administrative changes, relocated changes, more restrictive changes, less restrictive changes, other relocated changes, and other less restrictive changes.

Administrative changes are those that involve restructuring, renumbering, rewording, interpretation and complex rearranging of requirements and other changes not affecting technical content or substantially revising an operational requirement. The reformatting, renumbering and rewording process reflects the attributes of NUREG–1432 and do not involve technical changes to the existing TSs. The proposed changes include (a) Providing the appropriate numbers, etc., for NUREG–1432 bracketed information (information which must be supplied on a plant-specific basis, and which may change from plant to plant), (b) identifying plant-specific wording for system names, etc., and (c) changing NUREG–1432 section wording to conform to existing licensee practices.

Such changes are administrative in nature and do not impact initiators of analyzed events or assumed mitigation of accident or transient events.

Relocated changes are those involving relocation of requirements and surveillances for structures, systems, components or variables that do not meet the criteria for inclusion in the TSs. Relocated changes are those current TS requirements which do not satisfy or fall within any of the four criteria specified in the Commission's policy statement and may be relocated to appropriate licensee-controlled documents.

The licensee's application of the screening criteria is described in Attachment (1) of its October 4, 1996, application titled ''Application of the TS Criteria (Split Report)'' in Volume 1 of the submittal. The affected structures, systems, components or variables are not assumed to be initiators of analyzed events and are not assumed to mitigate accident or transient events. The requirements and surveillances for these affected structures, systems, components or variables will be relocated from the TS to administratively controlled documents such as the Updated Final Safety Analysis Report (UFSAR), the BASES, the Technical Requirements Manual (TRM) or other licensee-controlled documents. Changes made to these documents will be made pursuant to 10 CFR 50.59 or other appropriate control mechanisms. In addition, the affected structures, systems, components or variables are addressed in existing surveillance procedures which are also subject to 10 CFR 50.59. These proposed changes will not impose or eliminate any requirements.

More restrictive changes are those involving more stringent requirements for operation of the facility or eliminate existing flexibility. These more stringent requirements do not result in operation that will alter assumptions relative to mitigation of an accident or transient event. The more restrictive requirements will not alter the operation of process variables, structures, systems and components described in the safety analyses. For each requirement in the current PVNGS TSs that is more restrictive than the corresponding requirement in NUREG–1432 which the licensee proposes to retain in the improved Technical Specifications (ITSs), they have provided an explanation of why they have concluded that retaining the more restrictive requirement is desirable to ensure safe operation of the facilities because of specific design features of the plant.

Less restrictive changes are those where current requirements are relaxed or eliminated, or new flexibility is provided. The more significant ''less restrictive'' requirements are justified on a case-by-case basis. When requirements have been shown to provide little or no safety benefit, their removal from the TSs may be appropriate. In most cases, relaxations previously granted to individual plants on a plant-specific basis were the result of (a) Generic NRC actions, (b) new NRC staff positions that have evolved from technological advancements and operating experience, or (c) resolution of the Owners Groups' comments on the ITSs. Generic relaxations contained in NUREG–1432 were reviewed by the staff and found to be acceptable because they are consistent with current licensing practices and NRC regulations. The licensee's design will be reviewed to determine if the specific design basis and licensing basis are consistent with the technical basis for the model requirements in NUREG–1432 and thus provides a basis for these revised TSs or if relaxation of the requirements in the current TSs is warranted based on the justification provided by the licensee.

Other changes from the current TS requirements will involve relocating details of requirements and surveillances for these affected structures, systems, components or variables to administratively controlled documents such as the UFSAR, the Bases, the TRM or other licensee-controlled documents. Changes made to these documents will be made pursuant to 10 CFR 50.59 or other appropriate control mechanisms. In addition, the affected structures, systems, components or variables are addressed in existing surveillance procedures which are subject to 10 CFR 50.59. These proposed changes will not impose or eliminate any requirements.

Other less restrictive changes are additional changes that result in less restrictions in the TS which are discussed individually in the licensee's submittal. In addition to the changes solely involving the conversion, changes are proposed to the current technical specifications or as deviations from the improved CE Technical Specifications (NUREG–1432) as follows:

1. Limiting Condition for Operation (LCO) 3.6.1.5, containment air temperature is being revised to incorporate instrument uncertainties.
2. LCO 3.6.2.1, containment spray system applicability is being revised to specify that in Modes 1, 2, 3, and 4* with the asterisk meaning ''only when shutdown cooling is not in operation.''
3. Surveillance Requirement 4.6.2.1.c, containment spray header piping water level is being revised to include instrument uncertainty.
4. Surveillance Requirement 4.6.4.3.d.1, allowable pressure drop across the hydrogen purge filtration unit is being revised as a result of a revised analysis.
5. Surveillance Requirement 4.3.2.1, frequency testing of the engineered safety feature actuation system (ESFAS) subgroup relays is being extended in accordance with CE Topical Report CEN–403, Revision 1–A and the associated safety evaluation issued by the NRC.
6. Applicability Note for LCO 3.5.1, safety injection tank minimum nitrogen cover pressure is being revised to include instrument uncertainties.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By May 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 Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004. 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 a 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.

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 William H. Bateman, Director, Project Directorate IV–2: 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 Nancy C. Loftin, Esq., Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072–3999, 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).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated October 4, 1996, as supplemented by letter dated March 16, 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 Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004.

Dated at Rockville, Maryland, this 3rd day of April 1997.

For the Nuclear Regulatory Commission.

Charles R. Thomas,

Project Manager, Project Directorate IV–2, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–9560 Filed 4–11–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 55–61425–SP; ASLBP No. 97–725–02–SP]

Atomic Safety and Licensing Board Panel; Notice of Hearing and of Opportunity To Petition for Leave To Intervene or To Participate as an Interested Governmental Entity; Denial of Application for Senior Reactor Oeprator's License

Before Presiding Officer: G. Paul Bollwerk, III, Administrative Judge. Special Assistant: Thomas D. Murphy, Administrative Judge.

In the Matter of Frank J. Calabrese, Jr.; (Denial of Senior Reactor Operator's License).

April 8, 1997.

On March 3, 1997, the NRC staff issued a notice of denial of application for a senior reactor operator's (SRO) license to Frank J. Calabrese Jr. In that letter, the staff advised Mr. Calabrese that although he had passed the written portion of the SRO examination administered to him on October 21–23, 1996, his application was being denied because he failed to pass the operating test portion of the examination.

On March 14, 1997, Mr. Calabrese filed a timely hearing request challenging the staff's denial of his SRO license application. In his hearing request, he asserted that his simulator examination was graded incorrectly or too severely. On March 25, 1997, the Commission referred Mr. Calabrese's hearing request to the Atomic Safety and Licensing Board Panel for the appointment of a presiding officer to conduct any necessary proceedings. On March 26, 1997, the Chief Administrative Judge of the Panel appointed Administrative Judge G. Paul Bollwerk, III, to act as the Presiding Officer, and Administrative Judge Thomas D. Murphy, to serve as Special Assistant to the Presiding Officer. (62 FR 15,542 (1997))

After receiving the staff's April 7, 1997 answer to the University's hearing request, on April 8, 1997, the Presiding Officer issued an order granting Mr. Calabrese's hearing request.

Please take notice that a hearing will be conducted in this proceeding. This hearing will be governed by the informal hearing procedures set forth in 10 CFR Part 2, Subpart L (10 CFR §§ 2.1201–.1263).

Further, in accordance with 10 CFR § 2.1205(j), please take notice that within *thirty days* from the date of publication of this notice of hearing in the **Federal Register** (1) Any person whose interest may be affected by this proceeding may file a petition for leave to intervene; and (2) any interested governmental entity may file a request to participate in this proceeding in accordance with 10 CFR § 2.1211(b). Any petition for leave to intervene must set forth the information required by 10 CFR § 2.1205(e), including a detailed description of (1) the interest of the petitioner in the proceeding; (2) how that interest may be affected by the results of the proceeding, including the reasons why the petitioner should be permitted to intervene with respect to the factors set forth in 10 CFR § 2.1205(h); (3) the petitioner's areas of concern regarding the staff's March 3, 1997 denial of Mr. Calabrese's SRO license application; and (4) the circumstances establishing that the petition to intervene is timely in accordance with 10 CFR § 2.1205(d). In accordance with 10 CFR § 2.1211(b), any request to participate by an interested governmental entity must state with reasonable specificity the requestor's areas of concern regarding the staff's March 3, 1997 denial of Mr. Calabrese's SRO license application.

In addition, pursuant to 10 C.F.R. § 2.1211(a), any person not a party to the proceeding may submit a written limited appearance statement setting forth his or her position on the issues in this proceeding. These statements do not constitute evidence, but may assist the Presiding Officer and/or parties in the definition of the issues being considered. Persons wishing to submit a written limited appearance statement should send it to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. A copy of the statement also should be served on the Presiding Officer and the Special Assistant.

In the April 8, 1997 order, the Presiding Officer directed that on or before Thursday, May 8, 1997, the staff shall file the hearing file for this proceeding. Once the hearing file is received, pursuant to 10 CFR § 2.1233 the Presiding Officer will establish a schedule for the filing of written presentations by Mr. Calabrese and the staff, which may be subject to supplementation to accommodate the grant of any intervention petition or request to participate by an interested governmental entity. After receiving the parties' written presentations, pursuant to 10 CFR §§ 2.1233(a), 2.1235, the Presiding Officer may submit written questions to the parties or any interested governmental entity or provide an opportunity for oral presentations by any party or interested governmental entity, which may include oral questioning of witnesses by the Presiding Officer.

Documents relating to this proceeding are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. Also, general information regarding the conduct of agency adjudicatory proceedings, including the provisions of 10 CFR Part 2, Subpart L, can be found by accessing the Atomic Safety and Licensing Board Panel's World Wide Web home page at the following case-sensitive universal resource locator (URL): http://www.nrc.gov/NRC/ASLBP/homepage.htm.

Dated: April 8, 1997, Rockville, Maryland.

G. Paul Bollwerk, III,

Administrative Judge.

[FR Doc. 97–9556 Filed 4–11–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–346]

Toledo Edison Company; Centerior Service Company; and the Cleveland Electric Illuminating Company; Notice of Consideration of Approval of Application Regarding Proposed Corporate Restructuring

Notice is hereby given that the United States Nuclear Regulatory Commission (the Commission) is considering approval by issuance of an order under 10 CFR 50.80 of an application concerning the proposed merger between the Centerior Energy Corporation (the parent corporation for the Toledo Edison Company, The Cleveland Electric Illuminating Company (CEI), and the Centerior Service Company (CSC), licensees for Davis-Besse Nuclear Power Station, Unit No. 1) and the Ohio Edison Company. Davis-Besse is a nuclear-powered generating facility that is owned and operated in accordance with Facility Operating License No. NPF–3.

By letter dated December 13, 1996, the Toledo Edison Company, CEI, and CSC informed the Commission of, and are seeking consent regarding, a proposed merger of the Centerior Energy Corporation and the Ohio Edison Company resulting in the formation of a new single-holding company, FirstEnergy Corporation. Under the proposed merger, the Toledo Edison Company, CEI, CSC, and the Ohio Edison Company will become wholly-owned subsidiaries of FirstEnergy Corporation. The current licensees will continue to hold the license, and no direct transfer of the license will result from the merger.

According to the application, the merger will have no adverse effect on either the technical management or operation of the Davis-Besse plant. The technical management and nuclear organization of the plant operators, the Toledo Edison Company and CSC, will continue to remain responsible for plant operation and maintenance after the merger.

Pursuant to 10 CFR 50.80, the Commission may approve the transfer of control of a license after notice to interested persons. Such approval is contingent upon the Commission's determination that the holder of the license following the transfer is qualified to hold the license and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders of the Commission.

For further details with respect to this proposed action, see the application from the Toledo Edison Company and CSC dated December 13, 1996, and the supplemental letter dated February 14, 1997 (from Licensees' counsel), which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, Ohio 43606.

Dated at Rockville, Maryland, this 8th day of April 1997.

For the Nuclear Regulatory Commission.

Allen G. Hansen,

Project Manager, Project Directorate III–3, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–9557 Filed 4–11–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–213]

Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by a Petition dated March 11, 1997, Ms. Rosemary Bassilakis on behalf of the Citizens Awareness Network and the Nuclear Information and Resource Service requested the U.S. Nuclear Regulatory Commission (NRC or Commission) to take action with regard to the Connecticut Yankee Atomic Power Company Haddam Neck Plant. This letter is being treated as a Petition pursuant to 10 CFR 2.206.

The Petition requests a modification of the license of the Connecticut Yankee Atomic Power Company's Haddam Neck Plant that would prohibit any decommissioning activity for at least six months without any contamination events occurring, enforcement action against this licensee by means of a large civil penalty and that the facility be placed on the NRC watch list.

The Petition is being treated pursuant to 10 CFR 2.206 of the Commission's regulations, and has been referred to the Director of Nuclear Reactor Regulation (NRR). As provided by Section 2.206, appropriate action will be taken on this Petition within a reasonable time.

Petitioner's March 11 request has been made available in the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555.

Dated at Rockville, Maryland this 3rd day of April 1997.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–9559 Filed 4–11–97; 8:45 am]

BILLING CODE 7590–01–P

POSTAL RATE COMMISSION

Sunshine Act Meeting

AGENCY: Postal Rate Commission.

TIME AND DATE: 10:30 a.m., May 13, 1997.

PLACE: Conference Room, 1333 H Street, NW., Suite 300, Washington, DC 20268.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Docket No. MC96–2, Classroom Mail Rates.

CONTACT PERSON FOR MORE INFORMATION: Margaret P. Crenshaw, Secretary, Postal Rate Commission, Suite 300, 1333 H Street, NW., Washington, DC 20268–0001, Telephone (202) 789–6840.

Margaret P. Crenshaw,

Secretary

[FR Doc. 97–9619 Filed 4–10–97; 11:27 am]

BILLING CODE 7710–FW–P

RAILROAD RETIREMENT BOARD

Notification of Items Added to Agenda

On April 9, 1997, the Board voted unanimously to add the following items to the open portion of its agenda for the April 16, 1997 Board Meeting:

(7) Requests to Post Field Service Vacancies

A. One permanent GS–09 Contact Representative position in the Tampa, FL, district office.

B. One permanent GS–10 Contact Representative position and one permanent GS–09 Contact Representative position, both in the Nashville, TN, district office.

C. One GS–10 Contact Representative position in the Oakland, CA, district office.

D. One GS–09 Contact Representative position in the Salt Lake City, UT, district office; and one GS–09 Contact Representative position in the West Covina, CA, district office.

E. One permanent GS–10 Contact Representative position in the Portland, OR, district office.

Dated: April 9, 1997.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 97–9634 Filed 4–10–97; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–22604; 812–10378]

Arnhold and S. Bleichroeder, Inc.; Notice of Application for Permanent Order

April 7, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for Permanent Order of Exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Arnhold and S. Bleichroeder, Inc. (''A&SB'').

RELEVANT ACT SECTIONS: Order requested under section 9(c) of the Act granting an exemption from section 9(a).

SUMMARY OF APPLICATION: A&SB has requested an order under section 9(c) of the Act exempting it from section 9(a) to the extent necessary to permit A&SB to employ an individual who is subject to a securities-related injunction.

FILING DATES: The application was filed on October 2, 1996, and was amended on February 6, 1997, and April 1, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving A&SB with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 28, 1997, and should be accompanied by proof of service on A&SB, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. A&SB, 45 Broadway, New York, New York 10006.

FOR FURTHER INFORMATION CONTACT: Brian T. Hourihan, Senior Counsel, at (202) 942–0526, or Mercer E. Bullard, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. A&SB, a New York corporation, is a registered broker-dealer and parent to Arnhold and S. Bleichroeder Advisers (''A&SB Advisers''), a registered investment adviser. A&SB serves as the principal underwriter to, and A&SB Advisers serves as the investment adviser to, First Eagle Fund of America, Inc. and First Eagle International Fund, Inc., both registered open-end investment companies (the ''Funds'').

2. A&SB proposes to employ Geoffrey W. Collier (''Mr. Collier'') as senior vice president in its institutional equity department. Mr. Collier's primary responsibility at A&SB will be to work with its institutional equity businesses. He will coordinate the effort among A&SB's institutional sales, research and sales trading areas, and evaluate and make recommendations with respect to staff, products and process. Mr. Collier will report directly to Mr. John P. Arnhold (''Mr. Arnhold''), Co-President and Director of A&SB. He will work with Mr. Arnhold on personnel issues and strategic planning but will not have unilateral decision-making authority in these areas. He will not be responsible for proprietary trading, market-making, underwriting, or corporate finance activities or have supervision over employees' personal trading activities.

3. Mr. Collier is subject to a securities-related injunction, as described below. On July 20, 1988, in an action instituted by the SEC, Mr. Collier consented to the entry of a final judgment and order of permanent injunction (the ''Injunction'') by the United States District Court for the Central District of California. [1] The court permanently enjoined Mr. Collier from violating section 10(b) of the Securities Exchange Act of 1934 (the ''Exchange Act'') and rule 10b–5 thereunder. The SEC's complaint alleged that Mr. Collier, between August and November 1986, violated section 10(b) and rule 10b–5 with respect to several trades in the securities of Cadbury-Schweppes, PLC and Associated Engineering, PLC (the ''United Kingdom Corporations''). At that time, Mr. Collier was a managing director of Morgan Grenfell Securities, Ltd. (''Morgan Grenfell'') in charge of securities trading. The complaint alleged that Mr. Collier, through his position at Morgan Grenfell, learned that Morgan Grenfell was assisting two U.S. corporations in an attempt to acquire the United Kingdom Corporations in two unrelated transactions. The complaint further alleged that Mr. Collier made use of this material non-public information to cause an off-shore corporation that he controlled to purchase shares of the United Kingdom Corporations' stock. Mr. Collier was also charged in the United Kingdom in connection with the same activities. Applicants represent that no foreign regulatory authority has ever made any finding set forth in section 9(b)(4) of the Act, with respect to Mr. Collier. A&SB requests exemptive relief to permit it to employ Mr. Collier.

Applicant's Legal Analysis

1. Section 9(a)(2) of the Act, in pertinent part, disqualifies any person from acting in the capacity of employee, officer, director, member of an advisory board, investment adviser, or depositor for any registered investment company, or principal underwriter for any registered open-end company, registered unit investment trust, or registered face amount company, if such person is, by reason of any misconduct, permanently or temporarily enjoined from acting as an underwriter, broker, dealer, or investment adviser, or as an affiliated person or employee of an investment company, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security. A company with an employee or other affiliated person ineligible to serve in any of these capacities under section 9(a)(2) is similarly ineligible by reason of section 9(a)(3) of the Act.

2. Section 9(c) of the Act provides that, upon application, the SEC shall grant an exemption from the disqualification provisions of section 9(a), either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of section 9(a), as applied to an applicant, are unduly or disproportionately severe or that the conduct of such person has been such that it would not be against the public interest or protection of investors to grant such application.

3. A&SB believes that, absent relief, Mr. Collier's employment would cause it to become disqualified under section 9(a) of the Act from acting in any of the capacities specified in that section with respect to the Funds, and therefore requests an order granting the requested relief. A&SB states that it is requesting relief so that it and any of its affiliated persons will not be disqualified from acting in any of the capacities specified in section 9(a) by reason of employing Mr. Collier. A&SB represents that it has received all necessary approvals from all applicable self-regulatory organizations, including the New York Stock Exchange, with respect to the proposed employment of Mr. Collier. A&SB notes that it currently is not disqualified from acting in any of the capacities specified in section 9(a) of the Act.

4. In support of its request for exemptive relief, A&SB asserts that:

(a) Neither A&SB nor any affiliated person of A&SB was the subject of the Injunction, and the facts and circumstances to which the Injunction relate did not involve any activities of A&SB or its affiliates.

(b) The Funds were not in any way involved in any of the circumstances referred to in the Injunction.

(c) As an employee of A&SB's institutional equities department, Mr. Collier will have no involvement with, or responsibility for, the Funds.

(d) The allegations in the SEC's complaint against Mr. Collier and the terms of the Injunction and the circumstances to which they relate in no way involved any activities of a registered investment company. A&SB states that during Mr. Collier's tenure with Morgan Grenfell, he was not involved with the activities of any of Morgan Grenfell's investment companies other than on a purely arm's-length basis.

(e) A&SB notes that over eight years have passed since the entry of the Injunction and Mr. Collier has not been subject to any similar actions, or sanctioned in any way by the SEC, any self-regulatory organization, or any state securities commission, nor are there any customer complaints, lawsuits, or regulatory actions pending against Mr. Collier.

(f) The prohibitions of section 9(a) deprive Mr. Collier of the opportunity to serve as an employee of any company, such as A&SB, that serves as an investment adviser of or principal underwriter for any investment company, in circumstances in which he would have no involvement investment company operations.

(g) The prohibitions of section 9(a) would be unduly and disproportionately severe as applied to A&SB because they would deprive it of Mr. Collier's services in an area totally unrelated to the activities of an investment company.

Applicant's Condition

A&SB agrees that any order granted pursuant to the application will be subject to the condition that neither A&SB, nor any affiliated person of A&SB relying upon relief granted pursuant to the application, will employ Mr. Collier in any capacity directly related to the provision of investment

[1] SEC Litigation Release No. 11817 (July 26, 1988).

advisory services to, or acting as a depositor for, any registered investment company, or related to acting as a principal underwriter for, any registered open-end investment company, unit investment trust or registered face amount certificate company without first making further application to the SEC.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–9459 Filed 4–11–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22603; 811–5764]

Tri-Magna Corporation; Notice of Application

April 7, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Tri-Magna Corporation.

RELEVANT SECTION OF ACT: Order requested under section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on August 27, 1996, and amended on February 20, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on May 2, 1997, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, 205 East 42nd Street, Suite 2020, New York, NY 10017.

FOR FURTHER INFORMATION CONTACT: H.R. Hallock, Jr., Special Counsel, at (202) 942–0564, or Mercer E. Bullard, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The summary includes information from a prior application by applicant and certain affiliates that was granted on May 21, 1996 and has been incorporated in the application by reference.[1] The complete application and prior application incorporated by reference may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a closed-end management investment company. It was organized as a Delaware corporation in 1989 for the purpose of acquiring all the outstanding voting capital stock of Medallion Funding Corp. (''MFC''), a New York corporation registered under the Act since 1981 as a closed-end investment company and licensed by the Small Business Administration (''SBA'') as a Specialized Small Business Investment Company.

2. On February 3, 1989, Applicant registered under section 8(a) of the Act by filing a Form N–8A. On the same date, applicant filed a registration statement on Form N–14 under the Securities Act of 1933 to register 665,900 shares of common stock. Such registration statement became effective and applicant commenced an initial public offering of its shares on April 21, 1989.

3. Applicant's business consisted primarily of making loans through MFC and another wholly-owned subsidiary, Medallion Taxi Media, Inc. (''Media''), to finance the purchase of taxicab medallions, taxicabs and related assets by persons defined by the SBA as socially or economically disadvantaged. After 1992, several trends affecting the finance industry in general and applicant in particular had combined to produce lower yields on applicant's loan portfolio and corresponding smaller shareholder returns.

4. Applicant's management pursued several alternatives to resolve these ongoing problems. Management first considered raising additional capital through an offering of applicant's common stock. Then, after receiving a uniformly negative response to any such offering in meetings with investment bankers, the board of directors directed management to pursue efforts to sell applicant. Management did not succeed, however, in obtaining any offer to buy applicant at any price.

5. Subsequently, in January 1995, management began to consider a purchase of applicant and, in May 1995, submitted a proposal to applicant's board that involved the acquisition of applicant and certain other similar companies by Medallion Financial Corp. (''Medallion''). Medallion, a business development company under the Act, was organized in 1995 for the purpose of acquiring applicant and such other companies. Medallion proposed to acquire all of applicant's outstanding shares in a cash merger at a price of $20 per share.

6. In August 1995, an independent committee of applicant's board engaged Gruntal & Co., Inc. (''Gruntal''), to evaluate the fairness of Medallion's proposal. Gruntal provided its opinion, by letter dated October 11, 1995, that the terms of the proposed merger were fair to applicant and its shareholders. Using discounted cash flow and other analyses, Gruntal valued applicant's shares at between $19.57 and $27.79, before applying a discount of up to 30% to account for the limited trading market for applicant's common stock and other items.

7. Based on their review of Gruntal's opinion, the independent directors recommended that applicant's board approve an Agreement of Merger (the ''Agreement'') with Medallion. At a meeting on October 18, 1995, applicant's full board approved the Agreement, which was executed on December 21, 1995.

8. As of March 31, 1996, applicant had 668,900 shares of common stock outstanding and a net asset value of $17,505,681, or $26.17 per share. Applicant states that such valuation omits the effect of an arrangement with the SBA under which applicant in 1995 had repurchased its preferred stock owned by the SBA at a substantial discount. Under this arrangement, the SBA retained a liquidating interest based on the amount of the discount, which initially amounted to more than $6 million, or approximately $9.00 per share. Applicant treated the full amount of the discount, which was amortizable over a five year period, as an increase in capital. In connection with the merger, Medallion agreed to assume liability for any payment due on the liquidating interest. Accordingly, when the liquidating interest is considered, applicant asserts that the $20 per share merger price for its shares is greater than its net asset value per share.

9. In April 1996, the board renegotiated the Agreement to permit

[1] *Medallion Financial Corp.*, Investment Company Act Release Nos. 21915 (April 24, 1996) (notice) and 21969 (May 12, 1996) (order).

applicant's payment of an additional dividend of $0.50 per share to its shareholders plus the accumulated earnings, if any, of Media. Consummation of the merger was conditioned on, among other things, approval by a majority of applicant's shareholders and by certain governmental agencies and other third parties, including the SEC and SBA.

10. On May 21, 1996, Medallion, MFC, applicant and two individual affiliates of both Medallion and applicant obtained an SEC order under sections 6(c), 17(b) and 57(c) of the Act granting exemptions from various provisions of the Act and permitting certain joint transactions in connection with the proposed merger. Proxy materials concerning the merger were filed with the SEC and distributed to applicant's shareholders. At a meeting on May 22, 1996, by resolution adopted by 80% of shareholders, applicant's shareholders approved the merger with Medallion.

11. On May 29, 1996, pursuant to the terms of the Agreement, applicant merged with and into Medallion. In connection with the merger, applicant distributed to shareholders an amount from current earnings sufficient to preserve its tax status and transferred to Medallion its only assets, consisting of the securities of MFC and Media. In exchange, applicant's shareholders received $20 per share in cash and the right to receive the two additional dividend distributions provided for under the Agreement. These dividents were paid on July 8 and August 22, 1996, respectively, in the amounts of $0.50 and $0.31 per share.

12. Applicant and Medallion each bore their respective costs and expenses incurred in negotiating and entering into the Agreement and thereafter consummating the merger. The Agreement required applicant to pay or reimburse Medallion for up to the lesser of $200,000 or one-third of the aggregate amount of certain ''joint'' expenses, such as legal, accounting and filing fees, incurred in connection with the merger. It was estimated before the merger that these expenses would exceed $600,000, and they in fact exceeded $1 million. Accordingly, applicant reimbursed Medallion for the full $200,000.

13. On May 29, 1996, a certificate of merger was filed with the Secretary of State of Delaware, pursuant to which applicant was merged with and into Medallion, with Medallion being the surviving corporation.

14. Applicant has no assets, or any debts or other liabilities. There are no shareholders of applicant to whom distributions in complete liquidation of their interests have not been made, and applicant has no remaining shareholders. Applicant is not a party to any litigation or administrative proceeding.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–9460 Filed 4–11–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Historic Hotel Holdings, Inc.; Order of Suspension of Trading

April 10, 1997.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Historic Hotel Holdings, Inc. (''HHH''), because of questions regarding, among other things, HHH's alleged ownership of and plans to renovate, or current efforts to acquire, a hotel; in what market HHH's securities are traded; and HHH's alleged acquisition of a company purportedly engaged in a business connected to the oil and gas industry.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above-listed company is suspended for the period from 9:30 a.m. EDT, April 10, 1997 through 11:59 p.m. EDT, on April 23, 1997.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–9649 Filed 4–10–97; 12:11 pm]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2925; Amendment #4]

State of California

In accordance with a notice from the Federal Emergency Management Agency, dated April 1, 1997, the above-numbered Declaration is hereby amended to close the incident period for this disaster effective April 1, 1997.

All other information remains the same, i.e., the termination date for filing applications for loans for physical damage is April 11, 1997 and for economic injury the deadline is October 6, 1997.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 2, 1997.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 97–9485 Filed 4–11–97; 8:45 am]

BILLING CODE 8025–11–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2940; Amendment #1]

State of Illinois

In accordance with a notice from the Federal Emergency Management Agency, dated April 1, 1997, the above-numbered Declaration is hereby amended to establish the incident period as beginning March 1 and closing effective April 1, 1997.

All other information remains the same, i.e., the termination date for filing applications for physical damage is May 20, 1997, and for loans for economic injury the deadline is December 22, 1997.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 8, 1997.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 97–9486 Filed 4–11–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2935; Amendment #1]

State of Indiana

In accordance with a notice from the Federal Emergency Management Agency, dated March 31, 1997, the above-numbered Declaration is hereby amended to close the incident period for this disaster effective March 31, 1997.

All other information remains the same, i.e., the termination date for filing applications for physical damage is May 4, 1997 and for economic injury the deadline is December 8, 1997.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: April 2, 1997.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 97–9489 Filed 4–11–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2933; Amendment #3]

Commonwealth of Kentucky

In accordance with a notice from the Federal Emergency Management Agency, dated March 31, 1997, the above-numbered Declaration is hereby amended to close the incident period for this disaster effective March 31, 1997.

All other information remains the same, i.e., the deadline for filing applications for physical damage is May 3, 1997 and for economic injury the termination date is December 4, 1997.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 2, 1997.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 97–9488 Filed 4–11–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2927; Amendment #3]

State of Washington

In accordance with notices from the Federal Emergency Management Agency, dated March 31, 1997 and April 2, 1997, the above-numbered Declaration is hereby amended to include the Counties of Adams, Benton, Chelan, Columbia, Cowlitz, Douglas, Ferry, Franklin, Garfield, Grant, Klickitat, Lewis, Lincoln, Okanogan, Pacific, San Juan, Stevens, Walla Walla, and Whitman in the State of Washington as a disaster area due to damages caused by winter storms, land and mudslides, and flooding. This declaration is further amended to extend the deadline for filing applications for physical damage until May 2, 1997.

In addition, applications for economic injury loans from small businesses located in the contiguous County of Wahkiakum in the State of Washington, and the Counties of Gilliam, Morrow, Sherman, and Wasco in the State of Oregon may be filed until the specified date at the previously designated location. All counties contiguous to the above-named counties and not listed herein have been previously declared.

All other information remains the same, i.e., the termination date for filing applications for loans for economic injury is October 17, 1997.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: April 4, 1997.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 97–9484 Filed 4–11–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

St. Louis District Advisory Council; Public Meeting

The U.S. Small Business Administration Region VII Advisory Council, located in the geographical area of St. Louis, Missouri will hold a public meeting on Monday, April 14, 1997, at 8:30 a.m., the 2nd Floor Boardroom, UMB Bank, St. Louis, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Bruce Kent, Regional Administrator, U.S. Small Business Administration, 323 W. 8th Street, Suite 307, Kansas City, Missouri 64105, telephone (816) 374–6380.

Dated: April 7, 1997.

Michael P. Novelli,

Director, Office of Advisory Councils.

[FR Doc. 97–9490 Filed 4–11–97; 8:45 am]

BILLING CODE 8025–01–M

SMALL BUSINESS ADMINISTRATION

Buffalo District Advisory Council; Public Meeting

The U.S. Small Business Administration Region II Advisory Council, located in the geographical area of Buffalo, New York, will hold a public meeting at 10:00 a.m. on Wednesday, April 16, 1997, at the Key Bank of New York, Key Center at Fountain Plaza, 16th Floor Boardroom, Buffalo, New York to discuss such matters as may be presented by members, staff of the U.S. Small Administration, or others present.

For further information, write or call Franklin J. Sciortino, District Director, U.S. Small Business Administration, Room 1311, 111 West Huron Street, Buffalo, New York, 14202, telephone (716) 551–4301.

Dated: April 7, 1997.

Michael P. Novelli,

Director, Office of Advisory Councils.

[FR Doc. 97–9487 Filed 4–11–97; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Privacy Act; Systems of Records; General Routine Uses

AGENCY: Office of the Secretary, DOT.

ACTION: Establishment of General Routine Use.

SUMMARY: DOT establishes under the Privacy Act of 1974 a General Routine Use applicable to all DOT systems of records to facilitate implementation of the Brady Handgun Violence Prevention Act.

DATES: This use takes effect May 14, 1997.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, C–10, Department of Transportation, Washington, DC 20590, telephone (202) 366–9156, FAX (202) 366–9170.

SUPPLEMENTARY INFORMATION: The Brady Handgun Violence Prevention Act (Pub. L. 103–159, November 30, 1993) provides for a National Instant Criminal Background Check System that a firearms licensee must contact before transferring any firearm to a nonlicensed individual, in order to determine whether that nonlicensed individual is disqualified from receiving, possessing, shipping, or transporting a firearm. DOT, as an agency of the Federal Government, is required by the statute to provide to the Attorney General of the United States, upon request, any information that it possesses that indicates that a person may be prohibited by the statute from receiving, possessing, shipping, or transporting a firearm. Inter-agency transfers of information of this type are regulated by the Privacy Act. To facilitate compliance with the Brady Act and provide additional notice to the public, DOT is establishing a Routine Use Number 10, applicable to all of its Privacy Act Systems of Records. Public comment was invited (February 6, 1997; 62 FR 5663), but none was received, and the proposed Routine Use is being published without change. Accordingly, DOT establishes General Routine Use Number 10, to read as follows:

Department of Transportation

General Routine Uses Under the Privacy Act of 1974

The following routine uses apply, except where otherwise noted or where obviously not appropriate, to each system of records maintained by the Department of Transportation (DOT).

* * * * *

10. It shall be a routine use of the information in any DOT system of records to provide to the Attorney General of the United States, or his/her designee, information indicating that a person meets any of the disqualifications for receipt, possession, shipment, or transport of a firearm under the Brady Handgun Violence Prevention Act. In case of a dispute concerning the validity of the information provided by DOT to the Attorney General, or his/her designee, it shall be a routine use of the information in any DOT system of records to make any disclosures of such information to the National Background Information Check System, established by the Brady Handgun Violence Prevention Act, as may be necessary to resolve such dispute.

Issued in Washington, DC, on April 1, 1997.

Michael P. Huerta,

Associate Deputy Secretary, Acting Chief Information Officer.

[FR Doc. 97–9505 Filed 4–11–97; 8:45 am]

BILLING CODE 6910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–96–19]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before April 24, 1997.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM-CMNTS@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rule Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Fred Haynes (202) 267–3939 or Angela Anderson (202) 267–9681 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on April 9, 1997.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28875.

Petitioner: Frontier Flying Service, Inc.

Sections of the FAR Affected: 14 CFR 121.465(b)(1).

Description of Relief Sought: to permit the petitioner to schedule its aircraft dispatchers for more than 10 consecutive hours of duty.

Docket No.: 28872.

Petitioner: Frontier Flying Service, Inc.

Sections of the FAR Affected: 14 CFR 121.623.

Description of Relief Sought: To permit the petitioner to comply with the alternate airport requirements applicable to supplemental air carriers and commercial operators, rather than those alternate airport requirements applicable to a domestic air carrier.

Docket No.: 28871.

Petitioner: Frontier Flying Service, Inc.

Sections of the FAR Affected: 14 CFR 121.593.

Description of Relief Sought: To permit the petitioner to allow its airplanes to remain on the ground, at intermediate airports, for more than one hour without receiving a new dispatch release.

Docket No.: 28874.

Petitioner: Frontier Flying Service, Inc.

Sections of the FAR Affected: 14 CFR 121.161.

Description of Relief Sought: To permit petitioner to operate two-engine airplanes over a route that contains a point farther than 1 hour flying time from an adequate airport.

Docket No.: 28873.

Petitioner: Frontier Flying Service, Inc.

Sections of the FAR Affected: 14 CFR 121.617.

Description of Relief Sought: To allow petitioner's airplanes to takeoff from airports where the weather conditions are below landing minimums without specifying an alternate airport within one hour from the departure airport at normal cruising speed with one engine inoperative.

Docket No.: 28876.

Petitioner: Frontier Flying Service, Inc.

(1) Sections of the FAR Affected: 14 CFR 121.613, 121.619(a), 121.625.

Description of Relief Sought: To allow petitioner to dispatch airplanes under instrument flight rules, where conditional language in the remarks section of the weather forecast state that the weather at the destination, alternate or both airports will be below the required weather minimums when the main body of the weather forecast or weather report states that the weather will be at or above the authorized weather minimums.

(2) Sections of the FAR Affected: 14 CFR 61.3(a), 61.3(c), 63.3(a), 121.383(a)(2).

Description of Relief Sought: To allow petitioner to establish special procedures that would enable it to issue to its flight crewmembers, on a temporary basis, confirmation of an individual FAA issued crewmember certificate based upon information contained in petitioner's approved records system.

(3) Sections of the FAR Affected: 14 CFR 121.652(a), 652(c).

Description of Relief Sought: To allow a pilot in command (PIC) conducting operations under part 121 to perform an instrument approach procedure to the weather minimums, prescribed by Air Transport Association Exemption No. 5549B, to conduct an instrument approach during the first 100 hours of service as PIC, in the type airplane he or she is operating, using an alternate means approved by the Administrator.

(4) Sections of the FAR Affected: 14 CFR 121.583(a).

Description of Relief Sought: To permit FAA air traffic controllers and

certain technical representatives to be added to the list of persons authorized to ride in the cockpit observer's seat of all-cargo airplanes when those aircraft do not meet the passenger-carrying requirements, except as described in 121.583 (b), (c), and (d).

[FR Doc. 97–9575 Filed 4–11–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Deadline for Submission of Application for Airport Grant Funds Under the Airport Improvement Program (AIP) for Fiscal Year 1997

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces June 30, 1997, as the deadline for having on file with the FAA an acceptable application for airport grant funds under the Airport Improvement Program (AIP) For Fiscal Year 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley Lou, Manager, Programming Branch, Airports Financial Assistance Division, Office of Airport Planning and Programming, APP–520, on (202) 267–8809.

SUPPLEMENTARY INFORMATION: Section 47105(f) of the Codification of Certain U.S. Transportation Laws as Title 49, United States Code, Public Law No. 103–272, (July 5, 1994), provides that the sponsor of each airport to which entitlement funds are apportioned shall notify the Secretary, by such time and in a form as prescribed by the Secretary, of the sponsors's intent to apply for passenger and cargo entitlement funds. Notification of the sponsor's intent to apply during fiscal year 1997 for any of its entitlement funds, including those unused from prior years, shall be in the form of a project application (SF 424) submitted to the FAA field office no later than June 30, 1997.

This notice is promulgated to expedite and prioritize grants in the final quarter of the fiscal year. Absent an acceptable application by June 30, FAA intends to defer an airport's entitlement funds until the next fiscal year.

Issued in Washington, DC, April 4, 1997.

Stan Lou,

Manager, Programming Branch.

[FR Doc. 97–9561 Filed 4–11–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Docket No. RST–97–1]

Petition for Waiver of Compliance; Cant Deficient Passenger Train Operation

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received from the National Railroad Passenger Corporation (Amtrak) a request for waiver of compliance with certain requirements of 49 CFR Part 213: Track Safety Standards.

The purpose of Amtrak's petition is to secure approval from FRA to operate its equipment at curving speeds producing higher cant deficiencies on the route known as the Michigan District between Porter, Indiana, and Kalamazoo, Michigan. Amtrak advises that this territory is currently being upgraded to track class six standards with a projected maximum train speed of 110 mph. Amtrak and the state of Michigan have embarked on a long-term program to reduce trip times between Chicago, Illinois, and Detroit, Michigan. Amtrak believes that it is important to obtain the waiver for the success of the Michigan High-Speed Project, as it will allow speeds that take full advantage of a FRA-funded state-of-the-art ITCS, Incremental Train Control System, signal system being installed on this section of railroad.

Presently, section 213.57(b) permits a maximum of three inches to be used as the underbalance term (cant deficiency) in the formulation of curve/speed tables by track maintenance engineers defining train speeds for curved track superelevations for any route between two points. Section 213.57 refers to maximum allowable train operating speeds on curves as a function of existing curvature and superelevation and, further, introduces the concept of unbalanced superelevation. The idea of trains negotiating curved track at speeds producing either positive or negative unbalance was discussed previously in the **Federal Register** (52 FR 38035, October 13, 1987).

Amtrak seeks to operate Superliner I, Superliner II, and High-level equipment at curving speeds producing four inches of cant deficiency; and Amfleet I, Amfleet II, Horizon, Heritage, Cab Car, F40 Cab Car (NPCU), MHC, F40PH, P32-BWH, P40-BH, and P42-BH equipment at curving speeds producing up to six inches of cant deficiency.

In its petition, Amtrak states that it successfully operated train equipment at higher cant deficiencies under several waivers, including a waiver to operate passenger trains at curving speeds producing five inches of cant deficiency between New Haven, Connecticut, and Boston, Massachusetts, on its Northeast Corridor. Amtrak advises that some equipment types in this petition have been successfully tested at up to eight inches of cant deficiency.

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 RST–97–1) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received within 45 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 (9:00 a.m.–5:00 p.m.) at FRA's temporary docket room located at 1120 Vermont Avenue, N.W., Room 7051, Washington, D.C. 20005.

Issued in Washington, D.C. on March 31, 1997.

Phil Olekszyk,

Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. 97–9455 Filed 4–11–97; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Waiver Petition Docket Number H–92–3]

Westinghouse Air Brake Company; Public Hearing

On January 15, 1997, the Federal Railroad Administration (FRA) published a notice in the **Federal Register** announcing Westinghouse Air Brake Company's (WABCO) request to amend the conditions of a waiver which had been granted in 1992 for their EPIC microprocessor-based locomotive braking equipment. The current waiver authorizes 1,000 locomotives equipped

with EPIC braking equipment to be exempt from time interval requirements of Title 49 Code of Federal Regulations (CFR) Part 229.29. Specifically, the waiver extends the required time interval for cleaning, testing, and inspecting locomotive air brake valves from 736 calendar days to five years. WABCO requests that the waiver condition which limits the number of locomotives to 1,000, be adjusted to include all locomotives in the United States that are equipped with EPIC 3102 and EPIC II electronic brake equipment. The EPIC 3101 series electronic brake equipment is *not* included in this request.

As a result of the comments received by FRA concerning this waiver petition, FRA has determined that a public hearing is necessary before a final decision is made on this petition. Accordingly, a public hearing is hereby set for 10:00 a.m. on May 12, 1997, in the 9th floor conference room, 1120 Vermont Avenue, N.W., Washington, D.C. 20005. Interested parties are invited to present oral statements at this hearing.

The hearing will be informal and conducted in accordance with Rule 25 of FRA's Rules of Practice (49 CFR part 211.25) by a representative designated by FRA. FRA's representative will make an opening statement outlining the scope of the hearing, as well as any additional procedures for the conduct of the hearing. The hearing will be a non-adversary proceeding in which all interested parties will be given the opportunity to express their views regarding this waiver petition, without cross-examination. After all initial statements have been completed, those persons wishing to make a brief rebuttal will be given an opportunity to do so in the same order in which initial statements were made.

Issued in Washington, D.C. on March 31, 1997.

Phil Olekszyk,

Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. 97–9454 Filed 4–11–97; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 851

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 851, Affiliations Schedule.

DATES: Written comments should be received on or before June 13, 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: Affiliations Schedule.

OMB Number: 1545–0025.

Form Number: Form 851.

Abstract: Form 851 is filed by the parent corporation for an affiliated group of corporations that files a consolidated return (Form 1120). Form 851 provides IRS with information on the names and identification numbers of the members of the affiliated group, the taxes paid by each member of the group, and stock ownership, changes in stock ownership and other information to determine that each corporation is a qualified member of the affiliated group as defined in Internal Revenue Code section 1504.

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 and Farms.

Estimated Number of Respondents: 4,000.

Estimated Time Per Respondent: 10 hr., 13 min.

Estimated Total Annual Burden Hours: 40,840.

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: April 4, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–9565 Filed 4–11–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 712

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 712, Life Insurance Statement.

DATES: Written comments should be received on or before June 13, 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: Life Insurance Statement.
OMB Number: 1545–0022.
Form Number: Form 712.
Abstract: Form 712 provides taxpayers and the IRS with information to determine if insurance on the decedent's life is includible in the gross estate and to determine the value of the policy for estate and gift tax purposes. The tax is based on the value of the life insurance policy.
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.
Estimated Number of Respondents: 60,000.
Estimated Time Per Respondent: 18 hr., 43 min.

Estimated Total Annual Burden Hours: 1,122,600.

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: April 4, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–9566 Filed 4–11–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Notice of Open Meeting of the Information Reporting Program Advisory Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

SUMMARY: In 1991 the IRS established the Information Reporting Program Advisory Committee (IRPAC). The primary purpose of IRPAC is to provide an organized public forum for discussion of relevant information reporting issues between the officials of the IRS and representatives of the payer community. IRPAC offers constructive observations about current or proposed policies, programs, and procedures and, when necessary, suggests ways to improve the operation of the Information Reporting Program (IRP).

There will be a meeting of IRPAC on Tuesday and Wednesday, May 13–14, 1997. The meeting will be held in Room 3313 of the Internal Revenue Service Building, which is located at 1111 Constitution Avenue, NW., Washington, DC. A summarized version of the agenda along with a list of topics that will be discussed are listed below.

Summarized Agenda for Meeting on May 13–14, 1997

Tuesday, May 13, 1997

9:30 Public Meeting Opens
11:30 Break for Lunch
1:00 Public Meeting Continues
4:30 Adjourn for the Day

Wednesday, May 14, 1997

9:30 Public Meeting Reconvenes
12:00 Adjourn

The topics that will be covered are as follows:

(1) Fringe Benefit Reporting
(2) Long-Term Health Care Reporting Instructions
(3) Backup Withholding Issues Resulting from Mergers & Acquisitions
(4) Reporting ''December/January'' Mutual Fund Dividends Paid to Foreign Shareholders
(5) Electronic Forms and Notice Requirements
(6) Form W–2C Requirement for Address Corrections
(7) Schedule C Instructions and Form 1099–MISC Box 7
(8) Direct Deposit Message on Form 1099 Payee Statements
(9) Usage of Code ''H'' on Form 1099–R
(10) Tax Reporting for Small Estates
(11) Magnetic Media Filing for Terminated Employees
(12) Form W–2G Reporting on Slot Jackpot Payouts
(13) Year 2000 Conversion Presentation
(14) Electronic Filing Update
(15) SSA Suspense File Presentation
(16) SSA TIN Matching System Presentation
(17) Simplified Tax and Wage Reporting System (STAWRS) Update
(18) Presentation on Foreign Trust Issues
(19) Elimination of Form 4782
(20) Paperwork Reduction Study of Publication 393

Note: Last minute changes to these topics are possible and could prevent advance notice.

SUPPLEMENTARY INFORMATION: IRPAC reports to the National Director, Office of Specialty Taxes, who is the executive responsible for information reporting payer compliance. IRPAC is instrumental in providing advice to enhance the IRP Program. Increasing participation by external stakeholders in the planning and improvement of the tax system will help achieve the goals of increasing voluntary compliance, reducing burden, and improving customer service. IRPAC is currently comprised of 20 representatives from various segments of the private sector payer community. IRPAC members are not paid for their time or services, but consistent with Federal regulations, they are reimbursed for their travel and lodging expenses to attend two meetings each year.

DATES: The meeting will be open to the public, and will be in a room that accommodates approximately 90 people, including members of IRPAC and IRS officials. Seats are available to members of the public on a first-come, first-served basis. In order to get your name on the building access list, *notification of intent to attend this meeting must be made with Ms. Thomasine Matthews no later than Thursday, May 8, 1997. Ms. Matthews can be reached at 202–622–4214 (not a toll-free number).* Notification of intent to attend should include your name, organization and phone number. If you leave this information for Ms. Matthews in a voice-mail message, please spell out all names. A draft of the agenda will be

available via facsimile transmission the week prior to the meeting. Please call Ms. Matthews on or after Monday, May 5, 1997 to have a copy of the agenda faxed to you. Please note that a draft agenda will not be available until Monday, May 5, 1997.

ADDRESSES: If you would like to have IRPAC consider a written statement at a future IRPAC meeting (not the May 1997 meeting), please write to Kate LaBuda at IRS, Office of Specialty Taxes, CP:EX:ST:PC, Room 2013, 1111 Constitution Avenue, NW., Washington, DC, 20224.

FOR FURTHER INFORMATION CONTACT: To give notification of intent to attend this meeting, call Ms. Thomasine Matthews at 202–622–4214 (not a toll-free number). For general information about IRPAC call Kate LaBuda at 202–622–3404 (not a toll-free number).

Dated: April 8, 1997.

Kate LaBuda,

(Acting) Director, Office of Payer Compliance, Office of Specialty Taxes.

[FR Doc. 97–9567 Filed 4–11–97; 8:45 am]

BILLING CODE 4830–01–U

Corrections

Federal Register

Vol. 62, No. 71

Monday, April 14, 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 COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961107312-7021-02; I.D. 040197D]

Fisheries of the Exclusive Economic Zone Off Alaska; Shortraker/Rougheye Rockfish in the Aleutian Islands Subarea

Correction

On page 16739, in the third column, the file line should read as set forth below:

BILLING CODE 1505-01-D

FARM CREDIT ADMINISTRATION

12 CFR Parts 614 and 627

RIN 3502-A809

Loan Policies and Operations; Title IV Conservators, Receivers, and Voluntary Liquidation

Correction

In proposed rule document 97–7355 beginning on page 13842 in the issue of Monday, March 24, 1997, make the following corrections:

1. On page 13843 in column one, in footnote 1, ''1678,'' should read ''1678'', in footnote 2, ''1568,'' should read ''1568''.

2. On the same page in column two, in the second sentence, delete ''and''.

3. On the same page in column three under the heading **IV. GFA Content**, in the 10th line delete ''limit'', and in the 11th line, ''35'' should read ''3''.

§ 614.4120 [Corrected]

4. On page 13845 under § 614.4120, in the 13th line ''of the direct'' should read ''of direct'', and in the 22nd line ''exceed 35'' should read ''exceed 3''.

§ 614.4125 [Corrected]

5. On the same page under § 614.4125 (b), in the 7th line, ''105'' should read ''10''.

BILLING CODE 1505-01-D

FEDERAL ELECTION COMMISSION

11 CFR Part 111

[Notice 1997–3]

Adjustments to Civil Monetary Penalty Amounts

Correction

In rule document 97–6098, beginning on page 11316, in the issue of Wednesday, March 12, 1997, make the following corrections.

1. On page 11316, in the second column, in **Explanation and Justification**, in the eighth line, ''proceedings'' should read ''proceeding''.

2. On the same page, in the second column, in **Part 111—Compliance Procedure (2 U.S.C. 437g, 437d(a))**, in the first line of the section heading, ''*Section 11.24*'' should read ''*Section 111.24*''.

3. On page 11317, in the second column, in paragraph (b), in the third line, ''U.S.C. 437g(a)912)(A)'' should read ''U.S.C. 437g(a)(12)(A)''.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No.97-ANM-3]

Proposed Amendment of Class E Airspace; Salt Lake City, UT

Correction

In proposed rule document 97–5181 beginning on page 9399 in the issue of Monday, March 3, 1997, make the following correction:

§ 71.1 [Corrected]

On page 9400, in the third column, in the eleventh line, ''thence east to lat. 40°11′00″N'' should read ''thence east to lat. 40°06′00″N''.

BILLING CODE 1505-01-D

Federal Register

Monday
April 14, 1997

Part II

Department of Transportation

Federal Highway Administration

49 CFR Parts 390, 392, and 393

Parts and Accessories Necessary for Safe Operation; General Amendments; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 390, 392, and 393

[FHWA Docket No. MC–97–5]

RIN 2125–AD40

Parts and Accessories Necessary for Safe Operation; General Amendments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The FHWA is proposing to amend part 393 of the Federal Motor Carrier Safety Regulations (FMCSRs), Parts and Accessories Necessary for Safe Operation. The amendments are intended to remove obsolete and redundant regulations; respond to several petitions for rulemaking; provide improved definitions of vehicle types, systems, and components; resolve inconsistencies between part 393 and the National Highway Traffic Safety Administration's Federal Motor Vehicle Safety Standards (49 CFR 571); and codify certain FHWA regulatory guidance concerning the requirements of part 393. Generally, the amendments do not involve the establishment of new or more stringent requirements but a clarification of existing requirements. This action is consistent with the President's Regulatory Reinvention Initiative and furthers the FHWA's ongoing Zero-Base Regulatory Review in that it proposes to make many sections more concise, easier to understand and more performance oriented.

DATES: Written comments must be received on or before June 13, 1997.

ADDRESSES: Signed, written comments should refer to the docket number that appears at the top of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Larry W. Minor, Office of Motor Carrier Research and Standards, HCS–10, (202) 366–4009; or Mr. Charles E. Medalen, Office of the Chief Counsel, HCC–20, (202) 366–1354, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

On December 7, 1988, the FHWA published a final rule on parts and accessories necessary for safe operation (53 FR 49380). The final rule included amendments to the requirements for lamps and reflective devices, brake systems, fuel systems, frames and frame assemblies, suspension systems, steering systems, and axle assemblies. This action was taken to implement sections 206 and 210 of the Motor Carrier Safety Act of 1984 (the Act) (49 U.S.C. 31136 and 31142) and to ensure that commercial motor vehicles are equipped with all parts and accessories considered necessary for safe operation. Since the publication of the final rule, the FHWA has received numerous petitions for rulemaking and requests for interpretation of the requirements of part 393 which have raised the need for additional amendments to clarify several provisions of the 1988 final rule. In addition, the National Highway Traffic Safety Administration (NHTSA), the Federal agency responsible for establishing safety standards for the manufacture of motor vehicles and certain motor vehicle equipment, has made several amendments to its Federal Motor Vehicle Safety Standards (FMVSSs) that necessitate amendments to the FMCSRs in order to eliminate inconsistencies between part 393 and the FMVSSs.

Proposed Amendments

Section-by-Section Discussion of the Proposed Amendments

Section 390.5—Definition of Driveaway-Towaway Operation

Parts 393 and 396 of the FMCSRs include several exceptions for driveaway-towaway operations. A driveaway-towaway operation is defined as one in which a motor vehicle constitutes the commodity being transported and one or more set of wheels of the vehicle being transported are on the surface of the roadway during transportation. The driveaway-towaway exceptions are intended to address situations in which compliance with some of the vehicle regulations is not practicable because of the circumstances surrounding the delivery or transportation of the vehicle. Examples of driveaway-towaway operations include the delivery of a newly manufactured commercial motor vehicle from a manufacturer to a dealership, the delivery of a new or used motor vehicle from the dealership to the purchaser, or certain movements of vehicles to a repair or maintenance facility. Among the provisions of parts 393 and 396 which do not apply to driveaway-towaway operations are the requirements for lamps and reflectors, brakes, driver vehicle inspection reports, maintenance records, and periodic inspection.

The concept of providing exceptions for such operations dates back to the Interstate Commerce Commission's (ICC) May 27, 1939, order under Ex-Parte No. MC–2 (14 M.C.C. 669, at 679). A driveaway-towaway operation was originally defined by the ICC as ''any operation in which a single motor vehicle or combination of motor vehicles, new or used, constitutes the commodity being transported and in which the motive power of any such motor vehicles is utilized.'' In 1952, the ICC revised the definition to read ''any operation in which any motor vehicle or motor vehicles, new or used, constitute the commodity being transported, when one or more set of wheels of any such motor vehicle or motor vehicles are on the roadway during the course of transportation; whether or not any such motor vehicle furnishes the motive power.'' (17 FR 4422, 4423, May 15, 1952).

The current definition of a driveaway-towaway operation was published on May 19, 1988 (53 FR 18052). It has become apparent that this definition does not provide sufficient guidance in identifying the specific types of vehicle operations covered. The FHWA has received numerous requests for clarification of the applicability of the driveaway-towaway exceptions to construction equipment and storage trailers. Typically storage trailers are parked for several weeks to several months at a construction site and moved occasionally from one site to another. Construction equipment is also moved only occasionally from site to site. Therefore, the FHWA is proposing to limit the definition of a driveaway-towaway operation to motor vehicles being transported (1) between a vehicle manufacturer and a dealership or a purchaser, (2) between a dealership, or other entity selling or leasing the vehicle, and a purchaser or lessee, (3) to a maintenance/repair facility for the repair of disabling damage (as defined in § 390.5), or (4) by means of a saddle-mount. In addition, the driveaway-towaway exception would only apply to those cases in which the motor vehicles are not transporting cargo or passengers. The proposed revision is intended to reduce confusion.

Section 392.33—Obscured Lamps or Reflectors

The FHWA is proposing to amend § 392.33 to include an exception for the obstruction of trailer conspicuity treatments on the front end protection device. The NHTSA requires trailer manufacturers to apply retroreflective sheeting to the front end protection devices or headerboards of trailers manufactured on or after December 1, 1993 (49 CFR 571.108, S5.7.1.4). Since the headerboard is located at the front of flatbed trailers, the cargo may, depending upon its height, obstruct the conspicuity material located on the headerboard. The FHWA recognizes that this temporary obstruction of the reflective material cannot be avoided in many cases and does not believe that it would be appropriate to penalize motor carriers.

Section 393.1—Scope of the Rules of This Part

The FHWA is proposing a revision of § 393.1 to clarify the applicability of the requirements of part 393. Although § 390.3 explains the applicability of the FMCSRs, and § 390.5 defines the term ''commercial motor vehicle,'' many private motor carriers of property and private motor carriers of passengers do not understand the applicability of the provisions in part 393 when a lightweight vehicle is used to tow a trailer in interstate commerce. Vehicles with a GVWR below 4,536 kg (10,001 pounds) or designed to transport less than 16 passengers are not subject to the FMCSRs when operated singly in interstate commerce unless placardable quantities of hazardous materials are being transported. However, when a small vehicle is coupled to a trailer, the gross combination weight rating (GCWR) often exceeds 4,536 kg (10,001 pounds), making the combination subject to the FMCSRs.

Part 393 cross-references several Federal Motor Vehicle Safety Standards (FMVSSs) which distinguish between vehicles above and below 4,536 kg (10,001 pounds) and passenger vehicles designed to transport fewer than 16 passengers. This rulemaking includes numerous proposals to clarify the cross-references to the FMVSS so that carriers and inspectors can readily locate the applicable paragraphs within the FMVSSs. The amendment to § 393.1 is consistent with that goal.

Section 393.5—Definitions

The FHWA is proposing to amend § 393.5 by adding definitions of air brake system, air-over-hydraulic brake subsystem, auxiliary driving lamp, boat trailer, brake power assist unit, brake power unit, electric brake system, emergency brake, front fog lamp, hydraulic brake system, intermodal shipping (cargo) containers, multi-piece windshield, split service brake system, tow bar, trailer kingpin, vacuum brake system, and windshield. In addition, the definitions for chassis, clearance lamp, container chassis, heater, heavy hauler trailer, parking brake system, side marker lamps (intermediate), and side marker lamps would be revised. The definition of bus would be removed from § 393.5 in favor of the definition found in § 390.5.

The proposed definitions of brake systems and components would make the brake requirements under subpart C of part 393 easier to understand and enforce.

The proposed definitions of an air brake system and an air-over-hydraulic brake subsystem are based upon NHTSA's July 18, 1995, final rule on FMVSS No. 121 (60 FR 36741). The NHTSA amended FMVSS No. 121 to include a definition of an air-over-hydraulic brake subsystem and to make it clear that vehicles equipped with such systems are classified as air braked vehicles. In initially issuing FMVSS No. 121, the NHTSA stated that ''it should be noted that the term 'air brake system' as defined in the standard applies to the brake configuration commonly referred to as 'air-over-hydraulic,' in which failure of either medium can result in complete loss of braking ability.'' (36 FR 3817, February 27, 1971.) Since the NHTSA has considered air-over-hydraulic brake systems subject to FMVSS No. 121 for more than 20 years, the FHWA's adoption of the NHTSA's definitions should not affect the applicability of the brake requirements under part 393.

The proposed definition of a boat trailer is the same as that contained under 49 CFR 571.3. The NHTSA defines boat trailer as ''a trailer designed with cradle-type mountings to transport a boat and configured to permit launching of the boat from the rear of the trailer.'' The FHWA proposes to include this definition because § 393.11 contains requirements for lamps and reflectors on boat trailers.

The FHWA is proposing to replace its definition of ''emergency brake system'' with the NHTSA's definition for ''emergency brake.'' This change will ensure consistency between the FHWA's brake regulations covering motor carriers and the NHTSA's regulations covering manufacturers.

The agency is proposing that NHTSA's FMVSS No. 105 definition of a split service brake system be included under § 393.5. The inclusion of this definition would help to improve the clarity of the hydraulic brake system requirements under subpart C of part 393.

Definitions of an electric brake system and a vacuum brake system would be added to § 393.5 to support other proposed revisions to the brake system requirements of part 393. Since there are no FMVSSs which cover electric and vacuum brake systems, many of the brake requirements under part 393 are *de facto* manufacturing standards. To better identify the applicable requirements, several of the proposed revisions to subpart C would specifically reference electric and vacuum brakes. The proposed definitions would prevent confusion or misunderstandings on the part of motor carriers and enforcement officials.

With regard to the definition of a chassis, the agency is proposing to delete the current reference to a ''truck or trailer'' in favor of the term ''commercial motor vehicle,'' which includes trucks, truck tractors, trailers, buses and converter dollies. This is especially necessary since the definition of a truck in § 390.5 explicitly excludes truck tractors.

It is proposed that the definition of a clearance lamp be replaced with the Society of Automotive Engineers' (SAE) definition (Glossary of Automotive Terms, SP–750, February 1988). The SAE definition provides a better description of the location and function of the clearance lamps than the current definition in § 393.5.

As for the definition of a heater, the FHWA proposes to replace the reference to paragraph (1) of § 177.834 with a reference to paragraph (l). The reference to paragraph (1) was a typographical error.

A definition of a trailer kingpin is being added to cover non-driveaway-towaway operations. Currently, the definition of a saddle-mount includes a description of a ''king-pin.'' However, this definition does not appear to be appropriate for the trailer kingpin nor is the definition the same as that in the SAE's Truck & Bus Industry Glossary, SP–732, February 1988. The FHWA would adopt the SAE's definition to ensure that definitions in part 393 are consistent with industry definitions.

To clarify the applicability of parking brake requirements, the agency is proposing that the definition of a parking brake system in § 393.5 be revised to replace the term ''vehicle'' with ''motor vehicle,'' which is defined in § 390.5.

The agency proposes that the definitions of ''side marker lamp

(intermediate)'' and ''side marker lamp'' be revised to include motor vehicles other than trailers. Currently, both terms are defined only in the context of trailers. However, side marker lamps are required on almost all motor vehicles and intermediate side marker lamps are required on almost all motor vehicles more than 914.4 centimeters (cm) (30 feet) in length. Therefore the FHWA is proposing to revise the definitions to include trucks, truck-tractors, and buses and to make both definitions consistent with the requirements under § 393.11 relating to side marker lamps and FMVSS No. 108, NHTSA's requirements for lamps and reflective devices.

On November 23, 1990, the NHTSA amended its definition of a heavy hauler trailer to specifically exclude container chassis trailers (55 FR 48850). To maintain consistency between the definitions used by the FHWA and the NHTSA, the FHWA is proposing to amend its definition of a heavy hauler trailer to exclude container chassis trailers.

The FHWA is proposing to add a definition of intermodal shipping container to the FMCSRs to clarify the use of the term in § 393.100(e). The definition would be the same as the definition of ''container'' under § 390.52.

Subpart B—Lighting Devices, Reflectors, and Electrical Equipment

The FHWA is proposing to revise the title of subpart B to read ''Lamps, Reflective Devices, and Electrical Wiring.'' The new title would be more consistent with the title of FMVSS No. 108, entitled ''Lamps, reflective devices, and associated equipment.'' The new title would reference electrical wiring instead of associated equipment because subpart B includes requirements for the electrical wiring for several vehicle systems in addition to the lamps required by FMVSS No. 108.

Section 393.9—Lamps Operable

The agency is proposing to amend § 393.9 to codify regulatory guidance concerning the use of lamps which are not required by § 393.11 and FMVSS No. 108, and to address obstruction of lamps.

Section 393.9 requires that lamps be capable of being operated at all times. The FHWA has issued regulatory guidance indicating that § 393.9 is only applicable to those lamps which are required by the FMCSRs. Therefore, if a motor carrier installs additional lamps which are found to be inoperable, for whatever reason, the carrier should not be considered in violation of § 393.9. The FHWA proposes to codify this regulatory guidance.

Section 393.11—Lighting Devices and Reflectors

The FHWA is proposing that the title of § 393.11 be revised to read ''Lamps and reflective devices'' to maintain consistency between the proposed title for subpart B and § 393.11. The FHWA is also proposing that motor vehicles manufactured on or after December 25, 1968, be required to meet the requirements of FMVSS No. 108 in effect at the time of manufacture or a later, higher, standard. Currently, § 393.11 only requires that vehicles manufactured on or after March 7, 1989, meet the requirements of FMVSS No. 108. Vehicles manufactured prior to March 7 may meet either FMVSS No. 108 or the requirements of part 393 in effect on the date of manufacture.

The NHTSA's FMVSS No. 108 became effective on December 25, 1968, so manufacturers have been required to meet these requirements since that date. The FHWA's reference to March 7, 1989, under § 393.11 is therefore inappropriate. Since vehicles manufactured between December 25, 1968, and March 7, 1989, were originally manufactured to meet FMVSS No. 108, motor carriers who have maintained lamps and reflectors in the required locations for these older vehicles would not be affected by the proposed revision.

In addition, the FHWA is proposing to revise § 393.11 to provide better guidance on the requirements for trailers, and to correct several omissions in Table 1 of that section. The paragraph preceding Table 1 does not present a clear statement of the requirements for lamps and reflectors.

On December 10, 1992, the NHTSA published a final rule requiring that trailers manufactured on or after December 1, 1993, which have an overall width of 2,032 mm (80 inches) or more and a gross vehicle weight rating (GVWR) of more than 4,536 kg (10,000 pounds), be equipped on the sides and rear with a means for making them more visible on the road (57 FR 238). Trailers manufactured exclusively for use as offices or dwellings are exempt.

The NHTSA rule allows trailer manufacturers to install either red and white retroreflective sheeting or reflex reflectors. Manufacturers of retroreflective sheeting or reflectors are required to certify compliance of their product with FMVSS No. 108 (49 CFR 571.108) whether the product is for use as original or replacement equipment.

Currently, § 393.11 requires that all lamps and reflective devices on motor vehicles placed in operation after March 7, 1989, meet the requirements of FMVSS No. 108 in effect on the date of manufacture. Therefore, trailers manufactured on or after December 1, 1993, must have reflective devices of the type and in the locations specified by FMVSS No. 108. To make certain that all motor carriers operating trailers subject to the FMCSRs are aware of their responsibility to maintain the conspicuity treatment, the FHWA is proposing the addition of detailed language under § 393.11. The FHWA would cross-reference the specific paragraphs of FMVSS No. 108 related to the applicability of NHTSA's trailer conspicuity standards, the required locations for the conspicuity material, and the certification and marking requirements.

The FHWA notes that during the NHTSA rulemaking, the issue of requiring conspicuity material on the rear underride device generated industry concerns about the maintainability of the retroreflective sheeting in that location. As stated in the preamble to NHTSA's December 10, 1992, final rule:

> Objections were based on the potential for frequent damage that would cause trailers in use to fail inspections by the FHWA. NHTSA has observed that the horizontal bar of the underride device is less subject to docking impacts than the vertical bars because it is below most dock surfaces (and under a NHTSA proposal [a reference to the NHTSA's supplemental notice of proposed rulemaking concerning rear impact guards (57 FR 252, January 3, 1992)] would be even lower). Therefore, the final rule requires retroreflective material to be applied to the horizontal device, instead of the vertical ones as proposed. NHTSA believes that the original conspicuity material should have a long useful life on a large number of trailers, especially if it is applied to a recessed surface. However, NHTSA recognizes that routine damage, as a practical matter, may be unavoidable for some trailers as a consequence of their particular use. Therefore, the FHWA will consider the exclusion of conspicuity treatment from the rear underride device in any future rulemaking concerning trailer conspicuity requirements for vehicles subject to 49 CFR 393 Parts and Accessories Necessary for Safe Operation, and 49 CFR 396 Inspection [,Repair,] and Maintenance.

The proposed cross-reference to the NHTSA conspicuity requirements includes a reference to the specific paragraphs within FMVSS No. 108 concerning the locations for the conspicuity treatments. The proposal does not, however, include an exemption to the requirement that motor carriers maintain the conspicuity

material on the rear underride device. The agency requests comments from motor carriers on the durability of the conspicuity material located on the horizontal member of the rear underride protection devices. Commenters are asked to identify the specific types of trailers and operating conditions that they believe are associated with the durability problems cited in addition to providing color photographs of the damaged conspicuity materials.

The FHWA published an advance notice of proposed rulemaking concerning the possibility of retrofitting trailers manufactured prior to December 1, 1993, with the red and white reflective material (59 FR 2811, January 19, 1994). On August 6, 1996, the FHWA announced that it would issue a notice of proposed rulemaking to require motor carriers to retrofit their trailers with conspicuity material (61 FR 40781). Since the issue of retrofitting is being addressed under FHWA Docket No. MC–94–1, comments on that subject will not be considered in this rulemaking.

In addition to providing explicit guidance on trailer conspicuity, the FHWA proposes to amend § 393.11 to codify certain regulatory guidance on the use of amber stop lamps, amber tail lamps, and optical combinations which would involve the use of amber tail lamps or amber stop lamps. Motor vehicles are required to be equipped with at least two red stop lamps and two red tail lamps. However, some motor carriers have expressed an interest in using additional stop lamps and/or tail lamps that are amber in color.

Federal Motor Vehicle Safety Standard No. 108 does not allow amber as an alternate color for a tail lamp. In an August 23, 1990, interpretation to a manufacturer of lamps and reflectors, NHTSA stated that ''We have no intention of allowing amber as an alternate color for a tail lamp.'' In a December 10, 1991, interpretation to the FHWA, the NHTSA indicated that a combination amber turn signal and tail lamp is implicitly prohibited by FMVSS No. 108.

When combined with an amber turn signal lamp, the intensity of an amber tail lamp might mask the turn signal operation. Because motorists are not used to seeing steady burning amber lamps on the rear of vehicles, amber taillamps could lead to momentary confusion of a driver following the trailer when the stop lamps are activated, thereby impairing the effectiveness of the stop signal. The presence of simultaneously burning amber and red taillamps could also create some confusion of a following driver approaching the trailer from around a corner to its rear. Thus we have concluded that a combination amber turn signal and taillamp is implicitly prohibited by Standard No. 108.

The FHWA agrees that motorists are not used to seeing amber lamps used in conjunction with red lamps to signal that the vehicle is stopping and believes the FMCSRs should be amended explicitly to prohibit the use of amber tail lamps.

To ensure that the proposed prohibition does not conflict with FMVSS No. 108, the FHWA reviewed the NHTSA requirements. Section S5.1.3 of FMVSS No. 108 prohibits the installation of supplementary lighting equipment that ''impairs the effectiveness of lighting equipment required by this standard.'' Although the determination of impairment is initially that of the vehicle's manufacturer in certifying that the vehicle meets all applicable FMVSSs, the NHTSA may review that determination and, if clearly erroneous, inform the manufacturer of its views.

Since § 393.11 cross-references FMVSS No. 108, the FHWA's regulatory guidance on the use of amber stop lamps and tail lamps is generally contingent upon a NHTSA determination as to whether or not the lamp impairs the effectiveness of other rear lamps. While certification by the vehicle manufacturer and subsequent review by the NHTSA address the vehicle manufacturer's role in the safe operation of the CMV, a less complicated approach is needed to ensure that the FMCSRs are easy to understand, use, and enforce.

Explicit guidance is needed to ensure that once a vehicle manufacturer certifies that a vehicle meets all applicable FMVSSs, the motor carrier does not modify it in a manner inconsistent with FMVSS No. 108. The FHWA is not aware of any vehicle manufacturers that use amber stop lamps or tail lamps as standard equipment. Consequently, the proposed restriction would (1) discourage motor carriers from asking vehicle manufacturers to install amber tail lamps and/or stop lamps on vehicles as optional equipment and (2) prohibit the motor carrier from installing or using such devices on its commercial motor vehicles.

With regard to omissions in Table 1 in § 393.11, the FHWA is proposing amendments to footnotes 4 through 10 to address inconsistencies with other sections of subpart B to part 393. In addition, the agency is proposing to correct the listing for clearance lamps and reflex reflectors and to include metric units in describing the location of the required lamps and reflectors.

The current listing for clearance lamps omits reference to footnote 8 concerning pole trailers and does not include reference to the provision in FMVSS No. 108 (S5.1.1.9) for clearance lamps on boat trailers. Under FMVSS No. 108, a boat trailer with an overall width of 2,032 mm (80 inches) or more is not required to be equipped with both front and rear clearance lamps provided an amber (to the front) and red (to the rear) clearance lamp is located at or near the midpoint on each side to indicate the extreme width of the trailer. This provision for clearance lamps on boat trailers would be covered under a new footnote 17.

The listings for reflex reflectors (front side) and side marker lamps (front) are being revised to address an inconsistency between § 393.11 and FMVSS No. 108 (S5.1.1.15). Under FMVSS No. 108 a trailer that is less than 1,829 mm (6 feet) in length (including the trailer tongue) need not be equipped with front side marker lamps and front side reflex reflectors. This exception would be covered under a new footnote 16.

The FHWA is proposing to remove the last sentence in footnote 4, which requires that the rear side marker lamps be visible in the rearview mirror. This requirement is impractical and is inconsistent with FMVSS No. 108. Section 571.108 (S5.1.1.8) incorporates by reference the Society of Automotive Engineers (SAE) recommended practice Clearance, Side Marker, and Identification Lamps, (SAE J592e, July 1972) which provides photometric standards. These standards cover geometric visibility angles of 45 degrees left to 45 degrees right and 10 degrees up to 10 degrees down. In order for the rear side marker lamps to be visible in the rearview mirrors the left to right angles would each have to be approximately 85 degrees. Since side marker lamps which meet the minimum standards contained in SAE J592e generally are not visible in the rearview mirror, the agency is proposing to amend footnote 4.

The FHWA is proposing editorial changes to footnotes 5 through 8 to improve the manner in which the requirements are presented. For instance, in footnote 5 the change would make it clear that converter dollies are only required to have one stop lamp and one tail lamp. The current wording, when combined with the legend at the end of § 393.11, could be construed as requiring two stop lamps and two tail lamps.

Amendments to footnotes 9 and 10 would remove the requirements that projecting loads be equipped with

lamps and reflectors during daylight hours. There is no apparent safety benefit for requiring lamps and reflectors on projecting loads during times when lamps are not required to be used.

Footnote 15 would be revised to incorporate language consistent with certain FMVSS No. 108 options—covered under S5.3.1.1.1, S5.3.1.4, S5.3.1.6—on the locations for clearance lamps.

Section 393.17—Lamps and Reflectors, Driveaway-Towaway Operations

The FHWA proposes to change the wording of the diagrams which illustrate the requirements of § 393.17. The diagrams incorrectly reference §§ 393.25(e) and 393.26(d) and would be amended to reference § 393.11, which covers the color of exterior lamps and reflective devices.

Section 393.19—Requirements for Turn Signaling Systems

The FHWA is proposing to revise § 393.19 to make it more consistent with FMVSS No. 108 (S5.5.5). Paragraph S5.5.5 provides a concise standard that vehicle manufacturers must meet. To ensure consistency between FMVSS No. 108 and the FMCSRs, the FHWA would adopt the NHTSA standard.

Section 393.20—Clearance Lamps to Indicate Extreme Width and Height

The FHWA is proposing to remove § 393.20 because the requirements for the location and color of clearance lamps are provided in Table 1 of § 393.11. The exceptions concerning the mounting of clearance lamps currently contained in § 393.20 would be included under footnote 15 to Table 1. Illustrations comparable to those provided in § 393.20 are already contained in § 393.11.

Section 393.23—Lighting Devices to be Electric

The FHWA is proposing to amend § 393.23 to incorporate terminology which is more consistent with current industry standards and practices. With the exception of temporary lamps used on projecting loads, lamps would be required to be powered through the electrical system of the commercial motor vehicle. The title of § 393.23 would be revised to read ''Power supply for lamps'' and the reference to red liquid-burning lanterns would be removed as obsolete.

Section 393.24—Requirements for Headlamps and Auxiliary Road Lighting Lamps

The FHWA is proposing to amend § 393.24 to provide a more straightforward presentation of the requirements for the mounting of headlamps and auxiliary lamps, and to incorporate by reference SAE standards applicable to these lamps. Currently § 393.24 allows auxiliary and fog lamps to be used provided they meet ''the appropriate SAE Standard for such lamps.'' The FHWA would incorporate by reference SAE standards J581 Auxiliary Driving Lamps, January 1995, and J583 Front Fog Lamps, June 1993, for the purpose of establishing more specific performance requirements for such lamps. While auxiliary driving lamps and fog lamps are not required to be used, performance standards should be specified to ensure that the use of such devices does not decrease safety.

A new paragraph is being proposed to address marking of headlamps. Paragraph S7.2 of FMVSS No. 108 requires the lens of each headlamp and beam contributor manufactured on or after December 1, 1989, to be marked. The FHWA proposes to include this requirement under § 393.24 to ensure that commercial motor vehicles are equipped with original or replacement headlamps which meet the requirements of FMVSS No. 108.

Paragraph (d) of § 393.24, Aiming and intensity, would be revised to reference FMVSS No. 108, and SAE standards J581 and J583. One of the SAE standards currently referenced in § 393.24(d)—Electric Headlamps for Motor Vehicles—was canceled by the SAE. The other SAE standard, J579 Sealed Beam Headlamp Units for Motor Vehicles, is not necessary given the proposed cross-reference to FMVSS No. 108 and the incorporation by reference of SAE J581 and J583.

Section 393.25—Requirements for Lamps Other Than Headlamps

To improve the clarity with which the requirements are presented, the FHWA is proposing to revise § 393.25 in its entirety. Section 393.25(a) would provide a concise description of the mounting requirements for lamps. Paragraph (b) Visibility, would provide technically sound performance standards for all required lamps. Currently § 393.25(b) requires lamps to be mounted such that they are capable of being seen at distances up to 152.4 meters (500 feet) under clear atmospheric conditions during the period when lamps must be used as provided by § 392.30. The FHWA determined that § 392.30 duplicated State and local regulations and removed that requirement on November 23, 1994 (59 FR 60319). Also, the FHWA believes the performance criteria for lamps are effectively addressed by § 393.11 which cross-references FMVSS No. 108. Lamps must, at a minimum, meet the requirements of FMVSS No. 108 in effect on the date of manufacture of the vehicle. FMVSS No. 108 specifies the minimum and maximum photometric output values for required lamps. Vehicles not subject to FMVSS No. 108 on the date of manufacture would be required to meet the visibility requirements specified in the SAE standards proposed for incorporation by reference under § 393.25(c).

The FHWA is proposing to delete § 393.25(d), Certification and markings, to make the FMCSRs consistent with FMVSS No. 108. With the exception of headlamps and beam contributors, FMVSS No. 108 does not require lamps to be marked. Manufacturers are responsible for ensuring that their products meet the applicable requirements of FMVSS No. 108 but the lamps do not have to be marked by the manufacturer to indicate that the device meets the standards. In this case, § 393.25(d) sets in-service requirements for lamps which are more stringent than the manufacturing standards set by the NHTSA. The removal of § 393.25(d) would correct this inconsistency.

The agency is proposing to amend § 393.25(e), Lighting devices to be steady-burning, and § 393.25(f), Stop lamp operation, to provide more concise statements of the requirements of each. The FHWA is proposing to allow exceptions for the use of amber warning lamps which meet SAE J595, Flashing Warning Lamps for Authorized Emergency, Maintenance and Service Vehicles, January 1990, SAE J845, 360 Degree Warning Lamp for Authorized Emergency, Maintenance and Service Vehicles, March 1992, or SAE J1318 Gaseous Discharge Warning Lamp for Authorized Emergency, Maintenance, and Service Vehicles, April 1986. Only Class 2 and Class 3, 360 degree warning lamps and gaseous discharge warning lamps would be allowed. Class 1, 360-degree and gaseous discharge warning lamps, the primary warning lamps for use on authorized emergency vehicles responding to emergency situations, would not be allowed. All of these SAE recommended practices would be incorporated by reference. In determining the need for this proposal, the FHWA notes that Class 2 and 3, 360-degree warning lamps and similar non-steady burning lamps are used on many commercial motor vehicles which

transport oversized loads, tow trucks, and certain utility company vehicles. Adding these devices to the list of exceptions would prevent confusion as to the applicability of § 393.25(e).

The FHWA is proposing to revise § 393.25(f) to eliminate a regulatory inconsistency between §§ 393.25(f) and 393.49 and to simplify the wording of the requirements. Currently, § 393.25(f) states that stop lamps on a towing vehicle need not be actuated when service brakes are applied to the towed vehicle(s) only. This provision is inconsistent with § 393.49, Single valve to operate all brakes. When a combination vehicle includes a trailer that is required to be equipped with brakes, the braking system must be arranged so that a single valve controls the brakes on the towing unit and the towed unit. Since the FMCSRs do not allow the towing unit to operate without service brakes, and a single valve is required to operate all the brakes on the combination, the current wording of § 393.25(f) is inconsistent with § 393.49. The proposed revision to § 393.25(f) would include language from FMVSS No. 108, S5.5.4, concerning stop lamp operation, to ensure consistency between the FMCSRs and the FMVSSs.

Section 393.26—Requirements for Reflectors

Consistent with the proposed amendments to § 393.25, the FHWA is proposing to revise § 393.26 in its entirety. The agency would amend § 393.26(a) concerning the mounting of reflectors, to provide guidelines comparable to those proposed for § 393.25(a). Paragraph (b) would be revised to include a requirement that reflex reflectors on projecting loads, vehicles transported in driveaway-towaway operations, converter dollies, and pole trailers meet SAE J594—Reflex Reflectors, July 1995. The SAE recommended practice would be incorporated by reference.

The current requirement for certification and marking under § 393.26(c) would be removed to make the FMCSRs consistent with FMVSS No. 108. FMVSS No. 108 does not require that reflectors be marked by the manufacturer to indicate that the device meets the standards. Paragraph (c) would then be used to incorporate American Society for Testing and Materials (ASTM) D4956–90, Standard Specification for Retroreflective Sheeting for Traffic Control, as the minimum standard for reflective tape used in lieu of reflex reflectors. Retroreflective sheeting that conforms to the ASTM standard would generally meet the requirements of FMVSS No. 108, S5.1.1.4, concerning the use of reflective tape in lieu of reflex reflectors. The performance of the reflective sheeting as installed on the vehicle would have to meet the geometric visibility requirements under SAE J594, Reflex Reflectors, July 1995.

Paragraph (d) would be revised to more clearly state that reflective surfaces or materials other than those required by § 393.11 may be used in addition to, but not in lieu of, the required reflective devices.

Sections 393.27, 393.28, 393.29, 393.31, 393.32, 393.33—Regulations on Electrical Wiring

The FHWA is proposing to incorporate by reference in § 393.28, SAE J1292—Automobile, Truck, Truck-Tractor, Trailer, and Motor Coach Wiring, October 1981, which covers basic aspects of performance, operating integrity, and service. Section 393.28 would be renamed ''Wiring systems.'' The guidelines contained in J1292 effectively cover the requirements currently addressed by § 393.27, Wiring specifications; § 393.28, Wiring to be protected; § 393.29, Grounds; § 393.31, Overload protective devices; § 393.32, Detachable electrical connections; and § 393.33, Wiring, installation. Among the specific topics addressed by the SAE standard are insulated cables; conductor termination; conductor splicing; conductor grouping; wire assembly construction; wire assembly installation and protection; and wiring overload protective devices. The SAE standard proposed for incorporation would provide a concise presentation of those aspects of commercial vehicle electrical systems that should be addressed by the FMCSRs. Sections 393.27, 393.29, 393.31, 393.32 and 393.33 would be removed.

The incorporation by reference would also remove certain design restrictive language from § 393.28(a)(5) concerning terminals or splices above the fuel tank. The FHWA received petitions from the Ford Motor Company, Freightliner Corporation, and the Motor Vehicle Manufacturers Association (now the American Motor Vehicle Manufacturers Association) requesting an amendment to § 393.28(a)(5), which was adopted in the December 7, 1988, final rule (53 FR 49380). The petitions are available for review in the docket. Each of the petitions pointed out that use of the word ''terminal'' combined with ''above'' created ambiguity with respect to the proximity of electrical wiring to the fuel tanks. Electrical terminals performing various functions, from battery terminals (Ford Motor Co.) to relays and switches (Freightliner Corporation), are mounted above the fuel tanks. In some instances these switches or relays with terminals are mounted 203 mm (8 inches) or more above the fuel tank or on the frame rail (in the case of Freightliner and Daimler-Benz power units). In the case of Ford power units, the fuel tank is specifically designed for battery installation.

The notice of proposed rulemaking that preceded the final rule would have prohibited wiring from being adjacent to any part of the fuel system (52 FR 5892, February 26, 1987). The wording in the final rule was less restrictive than the proposed language and focused specifically on terminals and splices. The FHWA agrees with the petitioners, however, that § 393.28(a)(5) is still unnecessarily restrictive. The proposed incorporation by reference would provide criteria that effectively and safely address the issue of wiring around the fuel system of commercial motor vehicles and resolve the petitioners' concerns.

Subpart C—Brakes

Section 393.40—Required Brake Systems

The FHWA is proposing to revise § 393.40 in its entirety to present more clearly the requirements contained therein. Generally, all vehicles which have been maintained to meet at least the manufacturing standards applicable at the time of manufacture will not be affected by the proposed revisions. Hydraulic braked and air braked vehicles would be required to meet the requirements of FMVSS Nos. 105 and 121, respectively, in effect at the time of manufacture. The service, parking, and emergency brake requirements for vehicles which were not subject to either of the FMVSS brake regulations would be provided by references to other applicable sections in subpart C and by the requirements currently found under § 393.40(b)(2) and (c).

With regard to FMVSS No. 105, the FHWA notes that between September 1, 1975, and October 12, 1976, the standard was applicable to trucks and buses. However, from October 12, 1976, to September 1, 1983, it covered only passenger cars and school buses. From 1983 to the present the standard has applied to trucks and buses. For the purposes of § 393.40, the FHWA will use September 2, 1983, as the date for determining which hydraulic-braked vehicles must be maintained to meet certain requirements under FMVSS No. 105.

There could be some benefit in requiring vehicles manufactured between September 1975 and October

1976 to meet the requirements of FMVSS No. 105 in effect on the date of manufacture. However, the number of these older vehicles still in operation is relatively small, and the brake requirements under part 393 to which these vehicles would continue to be subject should ensure safety of operation.

Section 393.41—Parking Brake System

The December 7, 1988, final rule on part 393 was intended to make the parking brake requirements of the FMCSRs consistent with the parking brake requirements of FMVSS Nos. 105 and 121. The FHWA has since determined that additional changes are necessary. The current language only covers air braked vehicles manufactured on or after March 7, 1990, which are subject to FMVSS No. 121. The wording implies that all non-air braked vehicles, irrespective of the date of manufacture, and air braked motor vehicles manufactured prior to that date are not required to be equipped with parking brakes.

Prior to the 1988 amendment § 393.41 required that every singly driven motor vehicle and every combination of motor vehicles shall at all times be equipped with a parking brake system adequate to hold the vehicle or combination on any grade on which it is operated under any condition of loading on a surface free from ice or snow. The FHWA considers the parking brake requirements in effect prior to the 1988 amendment to provide a more straightforward standard that is easier for the industry and State officials to understand.

The agency is proposing to revise § 393.41 to state clearly that every self-propelled commercial motor vehicle (i.e., trucks, truck-tractors and buses) and every combination of commercial motor vehicles must be equipped with a parking brake system adequate to hold the vehicle or combination on any grade on which it is to be parked and under any condition of loading, on a surface free from ice or snow. Commercial motor vehicles which were subject to the parking brake requirements of FMVSS Nos. 105 or 121 at the time of manufacture would be required to maintain the parking brake systems to meet those standards. Motor vehicles which were not subject to either of the FMVSS parking brake requirements would have to meet the requirements currently found at § 393.41 (b) and (c).

The proposed revisions to § 393.41 would also address a petition for rulemaking from International Transquip Industries, Incorporated (ITI) asking the FHWA to clarify the applicable requirements for air-applied, mechanically-held parking brakes. The petition is available for review in the docket. The ITI manufactures an air brake system which includes an air-applied, mechanically-held parking brake. The parking brake application is initiated by exhausting air off the supply line. When the control valve senses the supply line pressure drop, it ports air from either the primary or secondary reservoirs at a controlled pressure to the brake chambers resulting in an application of the brakes. The same supply line pressure signal activates a synchronizing device which engages the mechanical pistons immediately after the brakes have been applied.

Section 393.41(b) requires that the parking brake be capable of being applied at all times by either the driver's muscular effort, or by spring action, or by other energy. In the case of ''other energy,'' the accumulation of such energy must be ''isolated from any common source and used exclusively for the operation of the parking brake.'' This wording has been in effect since 1962 and could be construed as requiring a separate reservoir for air-applied, mechanically-held parking brakes. Such a requirement is inconsistent with FMVSS No. 121.

On August 9, 1979, the NHTSA amended FMVSS No. 121 to allow the application of the parking brakes by means of service brake air if (1) the application could be made when a failure exists in the service brake system, and (2) the parking brake is held in the applied position by mechanical means (44 FR 46850). Prior to this amendment, an air-applied, mechanically-held parking brake was required to be applied by a separate reservoir. The proposed revision of § 393.41(b) would include a cross-reference to the parking brake requirements of FMVSS No. 121, thus eliminating any inconsistencies.

For air braked vehicles which were not subject to FMVSS No. 121 at the time of manufacture, § 393.41 would continue to allow the use of air-applied, mechanically-held parking brake systems applied by a separate reservoir. The motor carrier would have the option of modifying the brake system to meet FMVSS No. 121. Air-applied, mechanically-held parking brakes which are designed to operate without a separate reservoir could be used if the conditions specified in FMVSS No. 121 are met.

Section 393.42—Brakes Required On All Wheels

The agency is proposing to revise § 393.42(b)(3) to clarify the exceptions for lightweight trailers and to address brake requirements on housemoving dollies, three-axle dollies steered by a co-driver, and similar dollies and trailers used for transporting extremely large and heavy loads at low speeds.

As part of the January 27, 1987, final rule on front wheel brakes, the FHWA amended the exemption for brakes on lightweight trailers (52 FR 2801). Prior to the amendment, full trailers, semi-trailers, or pole trailers with a gross weight of less than 1,360 kg (3,000 pounds) were not required to have brakes provided the weight of the trailer did not exceed 40 percent of the weight of the towing unit. The 1987 amendment replaced the term ''gross weight'' with ''GVWR'' or gross vehicle weight rating.

While the change to GVWR has certain benefits in terms of applying the regulation to situations in which it is not convenient to weigh the trailer, the amendment did not adequately address concerns about stability and control during braking for trailers that have a GVWR greater than 1,361 kg (3,000 pounds), but an actual or gross weight less than 1,361 kg when lightly loaded. Under certain circumstances, trailers of this weight range may be overbraked resulting in wheel lockup or skidding when the trailer is lightly loaded. The FHWA believes § 393.42 should be amended to make reference to the gross weight. Trailers covered under the current reference to GVWR would be covered under the revised exemption provided the vehicle is not loaded beyond the manufacturer's weight rating. Trailers with a GVWR in excess of 1,361 kg (3,000 pounds) would only be covered by the exemption on those occasions when the gross weight of the trailer is 1,361 kg (3,000 pounds) or less. The proposed language would help to provide a performance-based criteria that is easier to understand and enforce.

Although the exemption concerning lightweight trailers never specifically addressed converter dollies, the issue of overbraking on unladen converter dollies has been the subject of several requests for interpretation of § 393.42(b).

Converter dollies are generally designed to carry loads of approximately 9,072 kg (20,000 pounds) with a brake system sized for the fully loaded condition. While the GVWR is greater than 1,360 kg (3,000 pounds) the unladen weight is usually 1,360 kg or less. When towed behind another motor vehicle, the unladen converter dolly is overbraked, with the application of the service brakes causing wheel lock-up or skidding.

In 1990, the NHTSA's Vehicle Research and Test Center (VRTC)

conducted tests to evaluate the braking and stability of a bobtail truck tractor towing an unladen converter dolly. Both the truck tractor and the converter dolly were equipped with ABS that could be deactivated. The truck tractor was also equipped with an automatic front-axle limiting valve (ALV) and a bobtail proportioning valve (BPV) that could each be deactivated.

The tests included 97 km/hour (60 mph) straight-lane braking, 48 km/hour (30 mph) braking in a 152.4 meters (500 ft) radius curve, and 56 km/hour (35 mph) straight-lane braking. The 97 km/hour straight-lane braking tests were performed on dry concrete (high coefficient of friction surface). The braking-in-a-curve tests were performed on wet Jennite (low coefficient of friction surface). The 56 km/hour straight-lane braking was performed on wet polished concrete. The tests used ''driver best effort'' for the cases in which the ABS was turned off, and full-treadle brake applications with the ABS turned on.

When the brakes on the converter dolly were not connected, stopping distances were increased by 12 to 30 percent over those for the bobtail tractor without the converter dolly. Also, the absence of braking on the converter dolly made locking the drive axles of the tractor easier which caused the combination to jackknife. The absence of braking on the dolly did, however, prevent locking the wheels and subsequent swing-out of the dolly.

When the brakes on the converter dolly were connected and the tractor did not have a bobtail proportioning valve (BPV) system, stopping distances on the two wet surfaces were 10 to 25 percent shorter than those with the bobtail tractor alone. On the dry surface the stopping distances were slightly longer with the dolly brakes operational. When the tractor was equipped with a BPV system and the dolly brakes were connected, stopping distances were longer on all of the test surfaces and in one case by as much as 60 percent.

There were no stopping distance decreases observed for the tests performed on the dry concrete when the converter dolly brakes were connected. However, the increases were significantly less than those observed when the converter dolly brakes were disconnected.

While having operable brakes on the unladen converter dolly decreased stopping distances in certain cases, two disadvantages were observed. If the tractor is equipped with a BPV, hooking up the supply (emergency) line to release the parking brakes on the dolly will deactivate the BPV and activate the ALV. This is true even if the control (service) line is not hooked up to the dolly. This practice significantly degrades braking performance, increasing both the stopping distance and the chance of a jackknife of the combination vehicle. The other disadvantage is that the converter dolly can swing out if the wheels lock up.

Stability and control during braking is an important consideration in determining braking requirements for commercial motor vehicles. While stopping distances for a bobtail tractor towing an unladen converter dolly could be improved in some situations by requiring operable dolly brakes, they could be significantly degraded in others. When consideration is given to the possibility of the converter dolly swinging out as a result of wheel lock up, the FHWA believes the FMCSRs should be amended to include an exception to the requirement for operable brakes on unladen converter dollies.

Although regulatory guidance published by the FHWA on November 17, 1993 (58 FR 60734) stated that § 393.42(b)(3) is applicable to unladen converter dollies, this NPRM would create an exception for converter dollies under § 393.48, Brakes to be operative. Converter dollies are always equipped with brakes. Nevertheless, the air lines for the service brakes are sometimes disconnected from the towing vehicle when the converter dolly is unladen. Therefore, an exception to § 393.42 (the requirement that the converter dolly be equipped with brakes) is not necessary. The FHWA is proposing to address the problem by amending § 393.48 to provide an exception to the requirement that the brakes be operable when the converter dolly is unladen.

The FHWA notes that with NHTSA's March 10, 1995 (60 FR 13216) final rule on antilock braking systems (ABS), the long-term need for this exception for unladen converter dollies will diminish. An ABS-equipped converter dolly will not have the stability and control problems observed with unladen converter dollies that are not equipped with ABS. Therefore, converter dollies manufactured on or after March 1, 1998, the effective date of the NHTSA requirement for ABS on converter dollies, will not be covered by the exception.

On the subject of housemoving dollies and similar vehicles designed to transport extremely large and/or heavy loads, the FHWA is proposing an exemption to the requirement for brakes on all wheels based on the specialized circumstances under which these motor vehicles are used on public roads. Housemoving dollies are only used on public roads when transporting houses. Semitrailers are used to transport the dollies between jobs. When the dollies are used to transport houses, the average speed is less than 32 km/hour (20 mph). Also, escort vehicles are generally used when the houses are being moved.

Similarly, specialized trailers and dollies used to transport industrial furnaces, reactors and other heavy cargo are operated at speeds less than 32 km/hour (20 mph) and have escort vehicles.

The FHWA does not believe that safety would be compromised by providing an exception to the requirement for brakes on all wheels provided the brakes on the towing unit are capable of stopping the combination within 12.2 meters (40 feet) from the speed at which the vehicle is being operated or 32 km/hour (20 mph), whichever is less.

The proposed exemption to the requirement for brakes on all wheels would also cover the steering axles of three-axle dollies which are steered by a co-driver (tillerman) at the rear. These dollies are often used to transport concrete or steel beams used for bridges or other structures. The loads are often in excess of 30.5 meters (100 feet) in length. The front of the load is secured to the power unit with the rear of the load secured to the three-axle steerable dolly. A co-driver, seated in the dolly, operates the steering controls to help maneuver the combination vehicle. Although the dolly is equipped with brakes via air lines from the towing unit, the steering axle is typically overbraked making it difficult for the co-driver to steer the dolly. When the dolly is loaded, the steering axle weight rarely exceeds 3,402 kg (7,500 pounds).

The FHWA has no reason to believe that an exemption to the requirement for steering axle brakes on these vehicles would degrade safety. The vehicles transport unusually long loads, often require special permits, and have to operate at reduced speeds. Therefore, the agency is proposing to exempt the steering axles of such vehicles from the requirement of § 393.42(a) that all wheels be equipped with brakes provided the combination of vehicles can meet the stopping distance requirements under § 393.52.

Section 393.43—Breakaway and Emergency Braking

The FHWA is proposing to revise § 393.43(a) to include better guidance on the performance requirements for towing vehicle brake protection systems. An explicit requirement that the tractor protection valve or similar device operate when the air pressure on

the towing vehicle is between 138 kilopascals (kPa) and 310 kPa (20 psi and 45 psi) would be added. This criterion has been used for many years during roadside inspections and its inclusion in § 393.43(a) should not create a problem for motor carriers.

The FHWA is proposing to revise § 393.43(b) to codify its interpretation of the number of trailer brakes required to apply automatically upon breakaway from the towing vehicle. On November 17, 1993 (58 FR 60734), the FHWA published regulatory guidance which indicated that all brakes must be applied upon breakaway. This is consistent with the FHWA's November 23, 1977, interpretation (42 FR 60078). Since FMVSS No. 121 does not specify the number of trailer brakes that must apply automatically, it is possible that some trailers may be able to meet those performance requirements without having all the brakes apply upon breakaway. However, the FHWA believes that most trailers would meet the proposed amendment to § 393.43. The FHWA specifically requests comments from trailer manufacturers concerning this issue.

Sections 393.45 and 393.46—Brake Tubing and Hose

The FHWA is proposing to revise § 393.45 to address all aspects of brake tubing and hoses, including connections, and to remove § 393.46. Currently, § 393.45 requires that brake tubing and hose be designed and constructed in a manner that ensures proper, adequate, and continued functioning of the tubing or hose. The tubing or hoses must be long and flexible enough to accommodate without damage all normal motions of the parts to which they are attached; be suitably secured against chaffing, kinking, or other mechanical damage; and be installed in a manner that ensures proper continued functioning and prevents contact with the vehicle's exhaust system. Section 393.45 cross-references FMVSS No. 106 as well as several SAE standards.

The FHWA would retain most of the current language regarding the installation of the brake hoses and the cross-reference to FMVSS No. 106. The current language regarding the design, material, and construction (§§ 393.45(a) and (b)) would be removed because the cross-reference to FMVSS No. 106 addresses manufacturing aspects of brake tubing and hoses.

With the exception of SAE J844—Nonmetallic Air Brake System Tubing, the FHWA would eliminate the references to SAE standards on brake hoses. Since brake hose manufacturers are required to meet all applicable requirements under FMVSS No. 106, the other SAE references are unnecessary. The FHWA would incorporate by reference SAE J844 (the October 1994 version) for coiled nylon brake tubing because such tubing is not required to meet S7.3.6 (length change), S7.3.10 (tensile strength), and S7.3.11 (tensile strength of an assembly after immersion in water) of FMVSS No. 106. Coiled nylon tubing is exempted from the three specific tests through an FMVSS No. 106 cross-reference to § 393.45. The proposed incorporation by reference to SAE J844 would preserve the current manufacturing standards under FMVSS No. 106 and simplify the cross-referencing between FMVSS No. 106 and § 393.45.

The requirements of § 393.45(c) would be retained because they cover aspects of brake hose and tubing installation that are not covered in the FMVSSs and otherwise would not be adequately addressed in the FMCSRs.

The FHWA would remove § 393.45(d) because it does not impose any specific requirements on motor carriers. As written, the paragraph serves as a suggestion or recommendation on the use of metallic and nonmetallic brake tubing. Also, given the performance-based requirements for brake hose/tubing installation being proposed, the current language of § 393.45(d) would be obsolete.

The proposed changes to § 393.45 would address a petition for rulemaking from Imperial Eastman, a brake tubing/hose manufacturer. The petition is available for review in the docket. Imperial Eastman believes that certain coiled nonmetallic air brake tubing which did not meet FMVSS No. 106 was introduced into the market place as a direct result of § 393.45. Imperial Eastman believes that prior to the December 7, 1988, final rule, § 393.45 was clear and that the 1988 revision has been interpreted by some as not applying the SAE J844 requirements to nonmetallic air brake tubing.

The FHWA believes the proposed cross-reference to FMVSS No. 106 would make it clear that any brake hose, irrespective of the material from which it is manufactured, that meets the requirements of FMVSS No. 106 would satisfy § 393.45. Also, the revision of § 393.45 would have the effect of exempting only coiled nylon tubing which meets SAE J844 from the previously mentioned provisions of FMVSS No. 106.

On the subject of brake tubing and hose connections, the FHWA is proposing that all assemblies and end fittings for air, vacuum, or hydraulic braking systems be installed so as to ensure an attachment free of leaks, constrictions or other conditions which would adversely affect the performance of the brake system. Brake tubing and hose assemblies and end fittings would be required to meet all applicable requirements under FMVSS No. 106, as is currently the case. These requirements, currently covered under § 393.46, would be covered under § 393.45(e). Since the proposed language for § 393.45 includes requirements concerning installation, connections and attachments, § 393.46 would be removed.

Section 393.47—Brake Lining

Section 393.47 would be revised to cover brake chambers, slack adjusters, linings and pads, drums and rotors. Brake components would be required to be constructed, installed, and maintained to prevent excessive fading and grabbing. The means of attachment and physical characteristics would have to provide for safe and reliable stopping of the commercial motor vehicle. To make the requirements of part 393 consistent with the periodic inspection requirements under appendix G to subchapter B, § 393.47 would be amended to require that the service brake chambers and spring brake chambers on each end of an axle be the same size. The effective length of the slack adjuster on each end of an axle would also be required to be the same. In addition, minimum requirements on the thickness of linings or pads would be specified.

With regard to linings and pads, the proposed criteria would differ from appendix G. Currently, appendix G does not adequately address the issue of brake lining thickness on the steering axles of certain vehicles (typically those with a GVWR between 4,536 and 14,969 kg (10,001 and 33,000 pounds)). This issue was brought to the attention of the FHWA by the American Trucking Associations (ATA). The ATA discussed front brake lining thickness in a petition for reconsideration of the final rule on periodic inspection. The petition is available for review in the docket. In its petition, the ATA stated:

> There are two configurations of brake lining used on steering axle brakes: blocks (sometimes called pads) and strips. Block lining is installed in four segments on the two shoes of each front brake. Such lining is typically well over ¼ inch thick when new and the ¼ inch annual inspection criteria is correct for it. Strip lining, as the name implies, consists of a continuous band of lining installed in two segments, one on each shoe of an individual front brake. Certain types of strip lining are only slightly over ¼

inch thick when new. Therefore a ¼ inch annual inspection criteria is inappropriate.

The roadside inspection guidelines used by Federal and State inspectors have the following criteria to determine if the linings or pads of the steering axle of any power unit are worn to the point of creating an imminent hazard:

Lining with a thickness less than 3/16 inch for a shoe with a continuous strip of lining or ¼ inch for a shoe with two pads for drum brakes or to wear indicator if lining is so marked, or less than ⅛ inch for air disc brakes, and 1/16 inch or less for hydraulic disc, drum and electric brakes.

The FHWA believes that these guidelines should be added to § 393.47 to help motor carriers identify steering axle brake linings and pads that are excessively worn. Under a separate rulemaking the FHWA will issue a proposal concerning the periodic inspection rule and appendix G to subchapter B.

To address non-steering axle brake lining/pads, the FHWA would incorporate into § 393.47 the same criteria currently found in appendix G.

Brake actuator readjustment limits would also be specified under § 393.47. The pushrod travel for clamp and roto-chamber type actuators would be required to be less than 80 percent of the rated strokes listed in SAE J1817—Long Stroke Air Brake Actuator Marking, June 1991, or 80 percent of the rated stroke marked on the brake chamber by the chamber manufacturer, or the readjustment limit marked on the brake chamber by the chamber manufacturer. The pushrod travel for Type 16 and 20 long stroke clamp type brake actuators (which are not covered under SAE J1817 but for which there are manufacturers' recommendations) would be required to be less than 51 mm (2 inches), or 80 percent of the rated stroke marked on the brake chamber by the chamber manufacturer, or the readjustment limit marked on the brake chamber by the chamber manufacturer. For wedge brakes, the movement of the scribe mark on the lining could not exceed 1.6 mm (1/16 inch).

With regard to brake drums and rotors, the thickness of the drums or rotors would have to meet the limits established by the brake drum or rotor manufacturer.

Section 393.48—Brakes to be Operative

The FHWA is proposing to revise § 393.48 (a) and (b) to make the requirements easier to understand. The revisions would provide a more concise presentation of the requirements.

With regard to paragraph (c), the FHWA would explicitly address the issue of unladen converter dollies and lift axles. Braking on unladen converter dollies is covered extensively in discussion of the proposed changes to § 393.42. Unladen converter dollies with a gross weight of 1,361 kg (3,000 lbs) or less would not be required to have operable brakes. Brakes on lift axles would not be required to be capable of operation while the lift axle is raised. However, brakes on lift axles would have to be operable whenever the lift axle is lowered and the tires contact the roadway. Therefore, if an enforcement official instructs a driver to lower the lift axle to the ground during an inspection, the driver would be required to demonstrate that the brakes on that axle are operable. The proposed revisions would essentially codify regulatory guidance on these issues.

In addition, the issue of housemoving dollies, three-axle steerable dollies, and similar motor vehicles used to transport extremely heavy loads would be addressed to ensure consistency between the proposed revisions to § 393.42 and § 393.48.

Section 393.50—Reservoirs Required

Section 393.50 would be revised to provide a simpler and more concise presentation of the reservoir requirements and to cross-reference FMVSS No. 121. Each air braked truck, truck-tractor, and bus manufactured on or after March 1, 1975, would at a minimum be required to meet FMVSS No. 121, S5.1.2, in effect on the date of manufacture. Trailers manufactured on or after January 1, 1975, would have to meet the requirements of FMVSS No. 121, S5.2.1, in effect on the date of manufacture. Air braked vehicles manufactured prior to these dates, and vacuum braked vehicles would continue to meet the requirements currently found at § 393.50.

The FHWA believes the revision is necessary to indicate clearly that a vehicle which is maintained to meet the reservoir requirements of FMVSS No. 121 in effect on the date of manufacture would meet the requirements under part 393. This is particularly important given the NHTSA's January 12, 1995, final rule on FMVSS No. 121 (60 FR 2892). The NHTSA amended the reservoir requirements to facilitate the introduction of long-stroke brake chambers. For vehicles manufactured on or after February 13, 1995, the method for calculating the minimum air reservoir capacity is based on either the rated volume of the brake chambers or the volume of the brake chambers at the maximum travel of the brake pistons or push rods, whichever is less.

Section 393.51—Warning Devices and Gauges

The agency is proposing to revise § 393.51 to provide better guidance on the applicability of the warning device requirements to older commercial motor vehicles. Hydraulic braked vehicles manufactured on or after September 1, 1975, the effective date of FMVSS No. 105, would be required to meet the brake system indicator lamp requirements of FMVSS No. 571.105 (S5.3) applicable to the vehicle on the date of manufacture. Vehicles manufactured before September 1, 1975, or to which FMVSS No. 571.105 was not applicable on the date of manufacture, would have to have a warning signal which operates before or upon application of the brakes in the event of a hydraulic-type complete failure of a partial system. The proposed language would retain all current requirements but add the effective date for FMVSS No. 105 and identify the specific paragraph within FMVSS No. 105 that covers warning devices.

In addition, the FHWA would insert a note into § 393.51 to address the warning device requirements for hydraulic braked trucks and buses manufactured between October 12, 1976, and September 1, 1983. During this period, FMVSS No. 105 was only applicable to passenger cars and school buses. Consequently, manufacturers of hydraulic braked trucks and buses were not required to equip those vehicles with a warning device to indicate certain types of brake failure. However, under the FMCSRs, motor carriers are responsible for having warning devices on these vehicles. Since FMVSS No. 105 was not applicable to these vehicles at the time of manufacture, the requirements of § 393.51 are not in conflict with the NHTSA standard.

The FHWA has received numerous requests for interpretation from motor carriers with vehicles manufactured during this period and not equipped with a warning device. Through regulatory guidance, the FHWA has indicated that these vehicles are required to be equipped with warning devices because § 393.51(b)(2)—which covers hydraulic braked vehicles to which FMVSS No. 105 was not applicable at the time of manufacture—was in effect prior to October 12, 1976, and has remained in effect ever since. Therefore, the agency is essentially proposing to codify the regulatory guidance concerning warning devices on these vehicles.

On the subject of air braked vehicles, the FHWA is proposing to revise § 393.51(c) to include reference to the

March 1, 1975, effective date of FMVSS No. 121 for power units. The specific paragraphs within FMVSS No. 121 which address the pressure gauge and warning signal requirements would also be included.

Vehicles which are not required to meet the requirements of FMVSS No. 121 would have to be equipped with a pressure gauge, visible to a person seated in the normal driving position, which indicates the air pressure (in kilopascals (kPa) or pounds per square inch (psi)) available for braking; and, a warning signal that is audible or visible to a person in the normal driving position and provides a continuous warning to the driver whenever the air pressure in the service reservoir system is at 379 kPa (55 psi) and below, or one-half of the compressor governor cutout pressure, whichever is less.

With regard to commercial motor vehicles with hydraulic brakes applied or assisted by air or vacuum, the FHWA is proposing to revise § 393.51(e) to make it applicable only to hydraulic braked vehicles which were not subject to the FMVSS No. 105 at the time of manufacture. The amendment would eliminate the inconsistency between the warning device requirements of FMVSS No. 105 and § 393.51(e). Currently, § 393.51(e) requires a warning device for the hydraulic portion of the brake system as well as a warning device for the air or vacuum portion of the brake system, irrespective of the applicability of FMVSS No. 105. However, FMVSS No. 105 does not require a warning device for the air or vacuum portion of these hydraulic brake systems. The FHWA believes the § 393.51(b) cross-reference to FMVSS No. 105 provides effective requirements for warning devices on hydraulic braked vehicles subject to that standard at the time of manufacture. A requirement for an additional warning device for the air or hydraulic portion of the brake system of these vehicles is not necessary.

For air-assisted or vacuum-assisted hydraulic braked vehicles which were not subject to FMVSS No. 105, the FHWA would retain the current requirements for a warning device for the hydraulic portion of the brake system and a warning device for the air or vacuum portion of the brake system. Section 393.51(e) would continue to require that the hydraulic portion of the vehicle meet the requirements of § 393.51(b) and that the air or vacuum portion of the brake system meet the applicable requirements of paragraph (c) or (d).

The FHWA notes that commercial motor vehicles equipped with air-over-hydraulic brake systems are classified as air braked vehicles and, as such, would be required to meet the applicable warning device and pressure gauge requirements for air braked vehicles.

With regard to the proposed amendments to § 393.51(e), the FHWA specifically requests comments on the need for retaining the warning device requirement for the air or vacuum portion of air- and vacuum-assisted hydraulic brake systems. The FHWA also requests information from vehicle manufacturers as to the number of commercial motor vehicles manufactured annually with such brake systems or the last model year for which they produced vehicles equipped with this type of brake system.

Finally, the FHWA is proposing to reinstate one of the exemptions that were removed by the December 7, 1988, final rule on part 393. The 1988 rule revised § 393.51 by removing paragraph (g), which contained two exemptions that were considered obsolete with the adoption of the definition of a commercial motor vehicle. The exemptions covered buses with a seating capacity of 10 persons or less (including the driver), and two-axle property-carrying vehicles that were either manufactured before July 1, 1973, or had a GVWR of 4,536 kg (10,000 pounds) or less.

From a practical standpoint, all two-axle property-carrying vehicles with a GVWR of 4,536 kg or less, and equipped with air, vacuum, or air-assisted or vacuum-assisted hydraulic brake systems were exempted irrespective of the date of manufacture. Generally, these vehicles are only subject to the FMCSRs only when transporting hazardous materials in a quantity that requires placarding or when towing another vehicle such that the gross combination weight rating exceeds 4,536 kg (10,000 pounds).

Therefore, the FHWA believes that the exemption for certain two-axle property-carrying vehicles should be reinstated but limited to two-axle property-carrying vehicles manufactured before July 1, 1973. Since the group of vehicles covered by the exemption represents a small segment of the total population of vehicles that fall under the FHWA's jurisdiction, and these vehicles have either reached, or will soon reach the end of their service life, and these vehicles were previously exempted, the proposed reinstatement should not reduce safety on the highways.

The FHWA is not proposing to reinstate the exemption for buses with a seating capacity of 10 persons or less because these vehicles are generally not subject to the FMCSRs.

Subpart D—Glazing and Window Construction

Section 393.60—Glazing in Specified Openings

The FHWA is proposing that glazing material used in windshields, windows and doors of commercial motor vehicles manufactured on or after December 25, 1968, be required at a minimum to meet the requirements of FMVSS No. 205 in effect on the date of manufacture of the vehicle. The glazing material would be required to be marked accordingly. The cross-reference to FMVSS No. 205 would replace the current reference to Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways. Since FMVSS No. 205 incorporates this publication by reference, the requirements for the glazing material would not be affected.

Section 393.60 would also be revised to include a requirement that each bus, truck, and truck-tractor be equipped with a windshield. Each windshield or portion of a multi-piece windshield would be required to be mounted using the full periphery of the glazing material.

With regard to coloring or tinting of windshields and side windows, the FHWA would revise the current requirements to codify regulatory guidance on this topic. Coloring or tinting of windshields and the windows to the immediate right and left of the driver would be allowed provided the parallel luminous transmittance through the colored or tinted glazing is not less than 70 percent of the light at normal incidence in those portions of the windshield or windows which are marked as having a luminous transmittance of at least 70 percent.

The current reference to tinting applied at the time of manufacture would be removed. The restrictions on tinting would be focused solely on ensuring that the glazing material allows light transmittance at a level requisite for driving visibility and not the regulation of when the tinting is applied.

The agency is proposing to revise § 393.60(c) concerning restrictions on the use of vision-reducing matter on windshields. On March 6, 1995, the FHWA granted a petition from the Commonwealth of Kentucky, and Heavy Vehicle Electronic License Plate, Inc. (HELP) requesting a waiver from the requirements of § 393.60(c) to allow mounting of an automatic vehicle identification transponder at the upper border of the windshields of commercial motor vehicles (60 FR 12146). The waiver was necessary because § 393.60(c) prohibits the operation of a

commercial motor vehicle with vision-reducing matter covering any portion of the windshield with certain exceptions for decals required by law and affixed to the bottom of the windshield.

In evaluating the requests for waivers to § 393.60(c), the FHWA reviewed automotive engineering recommended practices, the NHTSA's FMVSSs, and recent research concerning driver's field of view. The agency also examined current commercial motor vehicle cab designs related to placement of interior mirrors and sun visors which occupy approximately the same space proposed for the transponder. Based upon the information obtained from this review, the FHWA concluded that a transponder mounted at the approximate center of the top of the windshield would be extremely unlikely to create a situation inconsistent with the safe operation of a commercial motor vehicle. This location is well outside the area recommended for windshield wiper sweep under the SAE recommended practice J198, Windshield Wiper Systems—Trucks, Buses, and Multipurpose Vehicles, and the area recommended for windshield defrosting under J342, Windshield Defrosting Systems Performance Guidelines—Trucks, Buses, and Multipurpose Vehicles. The findings of recent research reports on the subject also suggested that the location of an object, such as a transponder device, near the upper margin of a windshield is unlikely to have any effect on a driver's ability to observe nearby objects, such as pedestrians.

For the reasons presented in the notice granting the waiver, the agency is proposing to allow the installation of antennas, transponders, and similar devices in the upper margin of windshields. These devices could not be placed lower than 152 mm (6 inches) from the upper edge of the windshield, must be outside the area swept by the windshield wipers, and must be outside the driver's sight lines to the road and highway signs or signals. The proposed amendment would codify the March 6, 1995, waiver and help to promote the use of advanced technologies to improve the efficiency and safety of operation of commercial motor vehicles.

With regard to the current limitations on the placement of decals and stickers at the bottom of the windshield, the FHWA would adopt a performance-based requirement that decals required by law must not obstruct the driver's view of the road, or traffic signs. Since the decals in question are required by Federal or State law, the FHWA does not believe it is necessary to retain the 11.4 cm (4–½ inch) -restriction on the distance from the bottom of the windshield. It is anticipated that the agencies responsible for specifying the location of such decals will exercise discretion and limit the use of decals in the windshield area.

Sections 393.61, 393.62, 393.63, 393.92—Window Construction and Emergency Exits

Section 393.61 would be revised to cover only truck and truck tractor window construction. Window construction for buses (or emergency exits) would be covered under § 393.62. The prohibitions on window obstructions currently found at § 393.62 would be addressed along with the emergency exits requirements. The provisions of § 393.63 (Windows, markings) and § 393.92 (Buses, marking emergency doors) would also be covered under the revised rule on emergency exits. Sections 393.63 and 393.92 would be removed.

In § 393.61, the FHWA would remove the reference to an ellipse in determining the minimum area of a truck or truck-tractor window. The rectangular dimensions currently provided appear to be sufficient. Also, the rectangular dimensions provide the most practical and enforceable criteria.

As for emergency exits on buses, the FHWA would revise its cross-references to FMVSS No. 217 so that motor carriers and enforcement officials will have better guidance on the applicability of NHTSA's recent amendments to those buses subject to the FMCSRs. On November 2, 1992, FMVSS No. 217 was amended to require that the minimum emergency exit space on school buses be based upon the seating capacity of each bus (57 FR 49413). The NHTSA final rule took effect September 1, 1994.

Further, in a separate notice, the NHTSA proposed allowing non-school buses to meet either the non-school bus requirements or the new upgraded school bus requirements (57 FR 49444, November 2, 1992). The NHTSA issued the final rule on May 9, 1995 (60 FR 24562).

The FHWA has carefully reviewed the NHTSA rulemakings and determined that the FMCSRs should be amended to address the November 2, 1992, and May 9, 1995, final rules. The FHWA is proposing to allow the upgraded school bus emergency exit requirements on buses subject to the FMCSRs so that motor carriers would be afforded the same flexibility given to manufacturers under FMVSS No. 217.

Buses manufactured on or after September 1, 1994, and having a GVWR of 4,536 kg (10,000 pounds) or less must meet the emergency exit requirements of FMVSS No. 217 (S5.2.2.3) in effect on the date of manufacture. Generally, these buses would only be subject to the FMCSRs when towing a trailer. If the gross combination weight rating (GCWR) for the bus and trailer is greater than 4,536 kg, and the combination is operated in interstate commerce, the emergency exit requirements proposed would be applicable. An example would be a small bus operated by a private motor carrier of passengers.

For buses with a GVWR of more than 4,536 kg (10,000 pounds), the FHWA would require that they have emergency exits which meet the applicable emergency exit requirements of FMVSS No. 217, S5.2.2 (the non-school bus requirements) or S5.2.3 (the upgraded school bus requirements) in effect on the date of manufacture. The provision for buses with a GVWR greater than 4,536 kg would incorporate NHTSA's final rules.

For buses manufactured on or after September 1, 1973, but before September 1, 1994, the FHWA is proposing that each bus (including a school bus used in interstate commerce for non-school bus operations) with a GVWR of more than 4,536 kg (10,000 pounds) meet the requirements of FMVSS No. 217, S5.2.2, in effect on the date of manufacture. Buses with a GVWR of 4,536 kg (10,000 pounds) or less would have to meet the requirements of FMVSS No. 217, S5.2.2.3, in effect on the date of manufacture.

Section 393.62 would be revised to include a paragraph on emergency exit identification. Each bus and each school bus used in interstate commerce for non-school bus operations, manufactured on or after September 1, 1973, would have to meet the applicable emergency exit identification or marking requirements of FMVSS No. 217, S5.5, in effect on the date of manufacture. Buses (including school buses used in interstate commerce for non-school bus operations) would have to be marked ''Emergency Exit'' or ''Emergency Door'' followed by concise operating instructions describing each motion necessary to unlatch or open the exit located within 152 mm (6 inches) of the release mechanism.

The emergency exit requirements for buses manufactured before September 1, 1973, would be revised to provide requirements which are easier to understand and enforce. These buses would have to have either laminated safety glass or push-out windows. The regulation would more clearly state that laminated safety glass would, at a minimum, be required to meet Test No. 25, Egress, of the American National

Standards Institute (ANSI), Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways, ANSI Z26.1–1990. The FHWA would incorporate the ANSI document by reference.

With regard to push-out windows, the requirements would be revised to adopt certain provisions of FMVSS No. 217. Each push-out window would be required to be releasable by operating no more than two mechanisms and allow manual release of the exit by a single occupant. For mechanisms which require rotary or straight (parallel to the undisturbed exit surface) motions to operate the exit, the amount of force required to release the exit could not exceed 89 Newtons (20 pounds). For exits which require a straight motion perpendicular to the undisturbed exit surface, the amount of force could not exceed 267 Newtons (60 pounds).

The FHWA believes that the force requirements being proposed should not present a problem for motor carriers and that older buses with emergency exits that cannot meet these basic performance requirements should have the emergency exit release mechanisms replaced. This proposal should not be construed as an attempt to require that the entire emergency exit be replaced, only release mechanisms which do not meet the criteria.

Lastly, the FHWA would codify its regulatory guidance on buses used for the transportation of prisoners. An exception to the emergency exit requirements would be included for buses used exclusively for the transportation of prisoners.

Subpart E—Fuel Systems

Section 393.67—Liquid Fuel Tanks

The FHWA proposes to revise paragraph (a) to indicate that the fuel tank requirements apply not only to tanks containing or supplying fuel for the operation of commercial motor vehicles, but includes tanks needed for the operation of auxiliary equipment installed on, or used in connection with commercial motor vehicles. Section 393.65(a), the requirements for fuel systems, contains similar language and the FHWA believes the applicability statement of § 393.67 should be amended to be consistent with § 393.65.

The FHWA also proposes to revise § 393.67(d) and (e) to include the information currently presented in a footnote to the section. As indicated by the footnote, the fuel tank tests specified by § 393.67 are a measure of performance only. Alternative procedures which assure that the fuel tank meets the performance criteria may be used. However, this footnote is often overlooked. Including the text of the footnote in paragraphs (d) and (e) would help to prevent further confusion.

In addition, the FHWA proposes to correct an error in § 393.67(f)(2). Currently, each liquid fuel tank manufactured on or after July 1, 1988, must be marked with the manufacturer's name. The July 1, 1988, date is incorrect. The FHWA intended that the date read July 1, 1989, approximately 120 days after the March 7, 1989, effective date of the December 7, 1988, final rule on part 393.

Section 393.68—Compressed Natural Gas Fuel Containers

The FHWA is proposing to create a new section to address requirements for compressed natural gas (CNG) fuel containers. Section 393.68 would cross-reference the NHTSA's new requirements for CNG containers, FMVSS No. 304, Compressed Natural Gas Fuel Container Integrity (September 26, 1994, 59 FR 49010). Under FMVSS No. 304, which is applicable to all CNG containers manufactured on or after March 26, 1995, CNG fuel containers must meet a pressure cycling test which evaluates the container's durability, a burst test to measure its strength, and a fire test to ensure adequate pressure relief characteristics. The rule also specifies labeling requirements.

The FHWA has reviewed the NHTSA requirements and determined that all commercial motor vehicles manufactured on or after March 26, 1995, and equipped with CNG fuel tanks, should be required to be maintained to meet the applicable requirements of FMVSS No. 304.

Subpart F—Coupling Devices and Towing Methods

Section 393.70—Coupling Devices and Towing Methods, Except for Driveaway-Towaway Operations

Currently § 393.70(d) provides requirements for the attachment of safety devices in case of tow-bar failure. If two chains or cables are attached to the same point on the towing vehicle, or if a bridle or a single chain or cable is used, the point of attachment must be on the longitudinal centerline of the towing vehicle. A single safety device, other than a chain or cable, must also be attached to the towing vehicle at a point on its longitudinal centerline.

Western Trailers petitioned the FHWA to amend § 393.70(d)(8) to allow safety devices to be attached as close as practicable to the longitudinal centerline of the towing vehicle. The petition is available for review in the docket. The petitioner argued that because the pintle hook is mounted on the longitudinal centerline of the towing vehicle, there is no practical centerline mounting position for the safety chain/cable attachment except upon or above the pintle hook itself.

In reviewing the history of the requirements for safety chains from 1941 through the present, the FHWA notes that a certain amount of flexibility had been allowed such that chains could be attached as close as ''practicable'' to the centerline. Although the current requirements, adopted on October 11, 1972 (37 FR 21439), do not appear to have created problems for other carriers, the FHWA agrees that there is a need to reexamine the requirement and eliminate any unnecessary restrictions. To that end, the FHWA believes that specifying the location for attachment point of the safety devices with such precision is unnecessarily design-restrictive.

The attachment of the safety devices to a point as close as ''practicable'' to the centerline is needed to ensure that the combination of vehicles will maintain as much stability as possible in the event the coupling device fails. However, given the size and weight of a typical commercial motor vehicle, there is little technical justification for prohibiting attachment of the safety devices at a point within a few centimeters (or inches) off the centerline. In fact, failure of the coupling device at its centerline point of attachment to the towing vehicle might damage the anchor point of the safety chains, possibly resulting in complete separation of the trailer.

In addition, the current language of § 393.70(d)(8) may, under some circumstances, be inconsistent with § 393.70(d)(1), which prohibits the attachment of the safety device to the pintle hook or any other device on the towing vehicle to which a tow-bar is attached.

The previous provisions of § 393.70 provided a performance-based requirement while ensuring the safety of operation of the combination of vehicles. The language used, however, may have been difficult to enforce, in that ''practicability'' is a subjective term. This generally results in differences of opinion between vehicle manufacturers, motor carriers, and Federal and State enforcement officials as to what constitutes compliance.

An amended rule that allows the attachment point to be offset no more than a certain distance from the longitudinal centerline would provide flexibility without adversely affecting the tracking of the towed unit in the

event of a pintle hook failure. The FHWA notes that the safety device is only intended to keep the combination of vehicles together if the pintle hook or other coupling device fails and then only for a brief period until the driver brings the vehicle to a safe stop. Therefore, the proposed change should not affect the safety of operation of the vehicles.

The FHWA is proposing to allow safety chains or cables to be attached to the longitudinal centerline or within 152 mm (6 inches) to the right of the longitudinal centerline on the towing vehicle. The proposal would be applicable when (1) two chains or cables are attached to the same point on the towing vehicle; (2) a bridle or a single chain or cable is used; or (3) a single safety device is used.

Given the wide variety of vehicle configurations and the condition of loading at the time of a potential tow-bar or pintle hook failure, the current design-restrictive requirement does not appear to ensure a greater degree of safety than the proposed revision. Allowing the safety device to be no more than 152 mm (6 inches) from the longitudinal centerline should provide additional safety benefits in a few cases without changing the level of safety guaranteed by the current centerline requirement in other cases. It would also result in a requirement that is more performance-based and less design-restrictive.

The FHWA specifically requests comments on the following issues:

1. Although the petitioner did not specify a maximum offset distance from the longitudinal centerline for the safety device attachment point, the FHWA believes that a distance of 152 mm (6 inches) is consistent with the diagrams submitted by the petitioner. Would allowing a 152 mm (6 inch) offset provide adequate flexibility to motor carriers and trailer manufacturers without adversely affecting the safety of operation of certain combination vehicles?

2. The petitioner believes that safety chains should be allowed to be offset only to the right side of the longitudinal centerline in order to prevent the towed vehicle from striking oncoming traffic on undivided highways. In cases where a single safety device is used, and it is not practical to attach it to a point at the longitudinal centerline, should the offset be restricted to the right side, or should it be permitted to be on either side?

Section 393.71—Coupling Devices and Towing Methods, Driveaway-Towaway Operations

Section 393.71(a) currently prohibits the use of more than one tow-bar in any combination of vehicles. Section 393.71(g)(2) indicates that coupling devices such as those used for towing house trailers and employing ball and socket connections shall be considered as tow-bars. However, the broad classification of ball and socket connections as tow-bars is not consistent with the definitions of the Society of Automotive Engineers. As a result, the use of more than one ball-and-socket connection in a combination of vehicles is prohibited. This situation requires clarification.

The FHWA considers the stability and control of a combination vehicle using multiple ball-and-socket connections no better than that of a combination using multiple tow-bars. Given that the stability and control would, at best, be comparable to a towing method which is prohibited, the FHWA is proposing that § 393.71(a)(2) be revised to prohibit the use of more than one tow-bar and/or ball-and-socket coupling device in any combination. Section 393.71(g)(2) would be removed.

To improve the consistency between Sections 393.70 and 393.71, the FHWA is proposing to amend § 393.71(b) by adding a new provision addressing weight distribution of towing and towed vehicles for saddle-mount combinations.

Sections 393.70(b)(3), 393.71(b)(2) and 393.71(c)(3) address the proper weight distribution and require that the coupling arrangement be such that it does not unduly interfere with the steering, braking, and maneuvering of the combination of vehicles. Section 393.70(b)(3) covers the use of fifth wheels for non-driveaway-towaway operations and §§ 393.71(b)(2) and (c)(3) cover full-mounted vehicles in driveaway-towaway operations. Section 393.71(b) does not, however, explicitly require that the arrangement of the saddle-mounted vehicles be such that it does not unduly interfere with the steering, braking and maneuvering of the combination of vehicles. The references to undue interference with steering, braking, and maneuvering in §§ 393.70 and 393.71 suggest that such requirements are generally intended for any vehicle configuration covered by these sections. Through regulatory guidance the agency has indicated that saddle-mounted vehicles are to be arranged such that the gross weight of the vehicles is properly distributed to prevent the conditions currently covered by §§ 393.70(b)(3), 393.71(b)(2) and 393.71(c)(3). The FHWA would codify this guidance in § 393.71(b)(3).

The FHWA is proposing to revise § 393.71(g) to remove obsolete language and provide more technically sound guidance on towing methods. Section 393.71(g)(1) currently requires the use of a tow-bar or saddle-mount connections for all vehicles towed in driveaway-towaway operations. This is inappropriate for towing semitrailers designed to be coupled to a fifth wheel. Through regulatory guidance the agency has allowed the use of a fifth wheel. The agency would codify this guidance by revising § 393.71(g) to explicitly allow the use of a fifth wheel.

Subpart G—Miscellaneous Parts and Accessories

Section 393.75—Tires

The FHWA is proposing to amend § 393.75(e) in order to make the requirements easier to understand. Section 393.75(e) prohibits the use of regrooved tires which have a load carrying capacity greater than that of 8.25–20 8 ply-rating tires, but does not specify the load range rating for this tire. According to the Tire and Rim Association's 1996 Year Book, an 8.25–20 bias ply tire has a maximum load carrying capacity of 2,232 kg (4,920 pounds) at 793 kPa (115 psi) cold inflation pressure. This maximum capacity applies to tires of load range G. Tires with the load range of E and F have maximum load carrying capacities of 1,837 kg (4,050 pounds) and 2,041 kg (4,500 pounds), respectively. The FHWA is proposing to use the 2,232 kg limit under § 393.75.

The difference in load carrying capacity between a tire rated load range E and one rated load range G is 395 kg (870 pounds). In the absence of tire overloading, the difference in the amount of front axle loading between an axle equipped with load range E tires and a front axle equipped with load range G tires would be 790 kg (1,740 pounds). There is no apparent safety benefit from adopting the more stringent limit of load range E for regrooved tires. Therefore, the use of a regrooved tire with a load carrying capacity equal to or greater than 2,232 kg (4,920 pounds) would be a violation of § 393.75(e) if used on the front wheels of a truck or truck tractor.

The FHWA notes that a radial ply tire of the same size and load range (i.e., 8.25R20) has the same load carrying capacity but at 827 kPa (120 psi) cold inflation pressure. Since the prohibition is based on load carrying capacity, the FHWA is proposing to replace the

reference to a specific tire size with the 2,232 kg (4,920 pound) value currently listed in the Tire and Rim Association's publication.

Section 393.78—Windshield Wipers

The FHWA is proposing that § 393.78 be revised to cross-reference FMVSS No. 104. The NHTSA requirement has been in effect since December 1968. Since vehicle manufacturers have been required to meet the requirements since 1968, the FHWA does not believe that motor carriers who have maintained their commercial motor vehicles should have any problem complying with the proposed revision. As for motor vehicles manufactured before December 1968, they would be required to be equipped with a power-driven windshield wiping system with at least two wiper blades, one on each side of the centerline of the windshield. Motor vehicles which depend upon vacuum to operate the windshield wipers would have to have the wiper system constructed and maintained such that the performance of the wipers will not be adversely affected by a change in the intake manifold pressure. The requirements for vehicles manufactured before December 1968 were originally established by the Interstate Commerce Commision and were applicable to vehicles manufactured on and after June 30, 1953.

The FHWA is proposing to remove the exemption for the towing vehicle in a driveaway-towaway operation because there appears to be no justification for allowing a vehicle to be driven without both windshield wipers in proper working order. The proposed change should not result in an increased economic burden on the motor carrier industry.

Section 393.79—Windshield Defrosting Device

Section 393.79 would be revised to cross-reference FMVSS No. 103. Vehicles manufactured on or after December 25, 1968, would be required to meet the requirements in effect on the date of manufacture. Vehicles manufactured before December 25, 1968, would be required, at a minimum, to be equipped with a means for preventing the accumulation of ice, snow, frost, or condensation to obstruct the driver's view through the windshield while the vehicle is being driven.

In addition, the exemption for the towing vehicle in a driveaway-towaway operation would be removed. There is no justification for allowing a vehicle to be driven without a windshield defrosting device in proper working order.

Section 393.82—Speedometer

Section 393.82 requires that every bus, truck, and truck-tractor be equipped with a speedometer indicating speed in miles per hour. The rule requires the speedometer to be operative with ''reasonable accuracy.'' Appendix A to subchapter B (prior to its removal from the FMCSRs on November 23, 1994 (59 FR 60319)) interpreted as ''reasonable'' an accuracy of plus or minus 8 km/hr (5 mph) at a speed of 80 km/hr (50 mph). The interpretation indicated that accuracy within these limits is sufficient for a professional driver to ascertain the true speed of the vehicle. The FHWA is proposing to include this accuracy limit in § 393.82 to make the requirement easier to understand. The FHWA is also proposing to remove the driveaway-towaway exemption to the speedometer requirements because there is no justification for allowing a vehicle to be driven without a speedometer in proper working order. The proposed changes should not result in an increased economic burden on the motor carrier industry.

Section 393.87—Flags on Projecting Loads

Section 393.87 would be revised to make the requirements consistent with the American Association of State Highway and Transportation Officials's (AASHTO) Guide for Maximum Dimensions and Weights of Motor Vehicles and for the Operation of Nondivisible Load Oversize and Overweight Vehicles, GSW–3, 1991. The AASHTO publication provides guidance on the use of warning flags for vehicles and loads which exceed legal width or length, or which have a rear overhang in excess of the legal limit. The AASHTO guidelines call for the use of red or orange fluorescent warning flags which are at least 457 mm (18 inches) square. Since the AASHTO guide appears to cover the majority of the cases to which the current rule would be applicable, and represents a consensus of State and industry practices, the FHWA proposes to revise § 393.87 to adopt certain provisions of those guidelines.

Commercial motor vehicles transporting loads which extend beyond the sides by more than 102 mm (4 inches) or more than 1,219 mm (4 feet) beyond the rear would be required to have the extremities of the load marked with red or orange fluorescent warning flags. Each warning flag would be required to be at least 457 mm (18 inches) square as opposed to the current requirement of 305 mm (12 inches) square.

With regard to the number of flags and their positions, a single flag at the extreme rear would be required if the projecting load is 610 mm (2 feet) wide or less. Two warning flags would be required if the projecting load is wider than 610 mm. Flags would be required to be positioned to indicate maximum width of loads which extend beyond the sides and/or rear of the vehicle.

Section 393.94—Vehicle Interior Noise Level

The FHWA is taking this opportunity to clarify and simplify its regulation concerning the applicability of the interior noise levels in commercial motor vehicles. Section 393.94(a) and (d) make reference to certain vehicles manufactured before October 1, 1974, and grant motor carriers until April 1, 1975, to comply with the regulation. For vehicles operated wholly within Hawaii, carriers were given until April 1, 1976, to comply. Since these deadlines have passed, the FHWA is proposing to delete the references from § 393.94.

In addition, the FHWA is proposing to update the reference to the American National Standards Institute (ANSI) specifications for sound level meters. Currently, § 393.94 references the 1971 version of ANSI S1.4, Specification for Sound Level Meters. The FHWA would incorporate by reference the 1983 version and remove the footnote to paragraph (c). Information on the availability of the ANSI document would be covered under § 393.7.

Section 393.95 Emergency Equipment on All Power Units

The FHWA is proposing to eliminate the reference to lightweight vehicles in paragraph (a). The term became obsolete when the agency implemented the requirements of the Motor Carrier Safety Act of 1984 and limited the applicability of the part 393 to ''commercial motor vehicles'' as defined in that statute (53 FR 18042, May 19, 1988). Sections 393.95(a)(2)(i) and (a)(2)(ii) would also be amended to remove obsolete references to vehicles equipped with fire extinguishers prior to July 1, 1971, and January 1, 1973, respectively. While some of these vehicles are still in operation, it is unlikely that the motor carriers would still be using fire extinguishers that are more than 20 years old.

The FHWA would revise § 393.95 by removing the specifications for bidirectional warning triangles manufactured prior to January 1, 1974. Such triangles are already prohibited on

any vehicle manufactured on or after January 1, 1974. Therefore, only those carriers operating commercial motor vehicles manufactured before January 1, 1974, and equipped with warning triangles manufactured before that date, would be affected.

The FHWA would revise the requirements on the mounting of fire extinguishers to provide more specific guidance. Fire extinguishers would be required to be securely mounted to prevent sliding, rolling, or vertical movement relative to the motor vehicle. Currently, § 393.95(a)(1) states only that the extinguisher be securely mounted.

With regard to extinguishing agents, the agency is proposing to replace the reference to the Underwriters Laboratories'(UL) Classification of Comparative Life Hazard of Gases and Vapors. The UL study was conducted in the 1950's and is considered obsolete information. The UL has recommended that the FHWA consider referencing the Environmental Protection Agency's regulations under Subpart G of 40 CFR 82, Protection of Stratospheric Ozone. Subpart G implements section 612 of the Clean Air Act by determining safe alternatives to ozone-depleting compounds. It is usually referred to as the ''Significant New Alternatives Policy'' (SNAP) program. The SNAP regulations take into consideration the toxicity of proposed substitutes for ozone-depleting compounds, but they also address potential impacts on atmospheric ozone, global warming and other issues related to human exposure and the environment. The FHWA is therefore proposing to require that fire extinguishers comply with the toxicity provisions of the SNAP regulations. While the other issues (ozone depletion, global warming, etc.) are important, there would be no practical reason to address these issues in § 393.95.

Section 93.102—Securement Systems

On July 6, 1994, the FHWA amended § 393.102(b) to adopt the use of working load limits (WLL) in specifying the minimum strength of cargo securement devices (59 FR 34712). Under the new rule, the aggregate working load limit of the tiedown assemblies used to secure an article against movement in any direction must be at least ½ times the weight of the article secured. Although the rule did not require manufacturers to attach a WLL label to their products, it did add a table of working load limits for unmarked webbing, wire rope, etc., to provide motor carriers with a means of determining the number of tiedown assemblies required.

The FHWA did not provide guidance on unmarked welded steel chain, however. The National Association of Chain Manufacturers' (NACM) Welded Steel Chain Specifications (which were incorporated by reference into § 393.102(b)) include guidelines on the marking of chain. While grades 43, 70, and 80 have periodic embossing for identification purposes, Grade 30, or proof coil chain, is marked at the option of the manufacturer. The use of unmarked chain for cargo securement purposes would not be a cause for concern if all unmarked chain were the same grade or strength. The FHWA has no indication that this is the case.

Generally, manufacturers which meet the NACM's guidelines would mark their chain accordingly. But some manufacturers which produce chain that meets the NACM guidelines may choose, for whatever reason, not to mark their products. If unmarked chains of varying grades are readily available, motor carriers could unknowingly violate § 393.102(b) by failing to have an adequate number of securement devices. The consequences for a load such as a steel or aluminum coil could be fatal to other motorists.

The risks of such an accident could be greatly minimized by prohibiting motor carriers from using unmarked chain. Before doing so, the FHWA would have to quantify the potential economic burden on the motor carrier industry and those involved with the manufacture, sale, and distribution of unmarked chain. Since the FHWA has no reliable information on the number of manufacturers, distributors, and retailers of unmarked chain, the quality or strength of such chain, or the amount of this chain currently in use by motor carriers and in retailers'' stock, it would be inappropriate to propose a prohibition at this time. However, in view of the potential safety hazards of motor carriers misidentifying unmarked chain, the FHWA is proposing that all unmarked welded steel chain be considered to have a working load limit equal to that of grade 30 proof coil. This is consistent with the way in which the FHWA addressed the use of synthetic cordage (e.g., nylon, polypropylene, polyester) in the July 6, 1994, final rule. The FHWA specifically requests comments on this proposal.

Section 393.201—Frames

In the final rule published on December 7, 1988 (53 FR 49380) prohibiting cracked, loose, sagging or broken frames, the FHWA inadvertently failed to include trailer frames. The FHWA proposes to remedy this oversight by replacing ''bus, truck and truck-tractor'' with the term ''commercial motor vehicles'' in paragraph (a).

The FHWA is proposing to revise § 393.201(d) to make the regulation more practical. Paragraph (d) was meant to prohibit welding on vehicle frames constructed of certain types of steel which would be weakened by the welding process. However, the current wording is overly restrictive. To address this issue, paragraph (d) would be revised to allow welding which is performed in accordance with the vehicle manufacturer's recommendations.

In addition, the FHWA is proposing that paragraph (f) be removed. Paragraph (f) states that field repairs are allowed. There is no practical reason for retaining this provision since there was never a requirement that the motor carrier repair its vehicle only at certain locations.

Section 393.207—Suspension Systems

The Truck Trailer Manufacturers Association (TTMA) petitioned the FHWA to amend part 393 to prohibit any device which is capable of dumping air individually from either of the two axle suspension systems on a semitrailer equipped with air-suspended ''spread'' or ''split'' tandem axles. The TTMA indicated that the petition was not intended to prohibit (1) devices that could exhaust air from both axle systems simultaneously or (2) lift axles on multi-axle units. The petition is available for review in the docket.

According to the TTMA, about 30,000 semitrailers are manufactured each year with split tandem axles and air suspensions. These axles are not genuine tandems, but rather two single axles spaced at least 3,048 mm (10 feet) apart, the minimum separation required by the bridge formula [23 U.S.C. 127(a)] before each of them can carry the full 9,072 kg (20,000 pounds) allowed by Federal law. The TTMA estimates that 5,000 of these trailers are also equipped with valves to depressurize the suspension system of one of the trailer axles, and sometimes of either axle. These valves are installed to compensate for problems created by the split tandem configuration. Normal tandems experience moderate tire scrubbing in turns because the trailer pivots around a point that lies between the two axles. Tire scrubbing is more severe in split tandems because the pivot point is much farther from either axle. Dumping air pressure from the suspension system of the rear (or less often the leading) trailer axle reduces its load and allows the trailer to pivot around the other axle with less resistance and tire scrubbing. The

TTMA's own tests showed that if each axle in a split tandem is loaded to 8,845 kg (19,500 pounds) and pressure in the rear axle is dumped, the resulting weight shift will make the front axle 3,175 to 5,443 kg (7,000 to 12,000 pounds) heavier than the rear.

Dump valves were originally designed to aid maneuvering at 8 km/hour (5 mph) or less, mainly at terminals or other loading points. According to the TTMA, however, many drivers now activate them at higher speeds on streets and highways to turn corners more easily and to reduce tire wear. The TTMA also believes that suspension pressure is sometimes vented accidentally because of wiring problems the moment the tractor hooks up to the trailer. In both cases, the inevitable weight shift often produces a load on the pressurized axle that exceeds the manufacturers' ratings for that axle and its wheels, tires and brakes. In addition, the loaded axle frequently exceeds the single-axle weight limit.

The FHWA believes that the petition has merit and proposes to amend § 393.207 to prohibit controls of this type. Although § 393.3, which allows the use of equipment and accessories that do not decrease operational safety, could be interpreted as prohibiting the use of equipment to disable the air suspension of one axle on a two-axle trailer, addressing this issue through rulemaking is the most appropriate course of action.

Section 393.209—Steering Wheel Systems

The FHWA is proposing to amend § 393.209(b) to correct an error in the maximum steering wheel lash for 406 mm (16 inch) steering wheels and to add steering wheel lash limits for 483 mm (19 inch) and 533 mm (21 inch) diameter steering wheels. The table specifying steering wheel lash limits currently allows 114 mm (4½ inches) lash for steering wheel diameters of 406 mm (16 inches) or less if the vehicle has a power steering system. This corresponds to an angle of approximately 32 degrees which is about 2 degrees more than the steering wheel lash limits for power steering systems using larger diameter steering wheels. Since there is no apparent technical basis for having a less stringent standard for 406 mm (16 inch) diameter steering wheel systems the FHWA proposes to change the steering wheel lash limit to 108 mm (4¼ inches).

The FHWA is proposing the addition of steering wheel lash limits for 483 mm (19 inch) and 533 mm (21 inch) diameter steering wheels because these are relatively common steering wheel sizes. The limits that would be adopted for these steering wheel diameters would be consistent with the 14 degree and 30 degree limits currently used for manual and power steering systems respectively.

Section 393.209 would also be amended to include the term ball-and-socket joints. Some steering system designs include ball-and-socket joints instead of universal joints. While the basic function of the two types of joints is similar, only universal joints are covered by § 393.209(d). Defects or unsafe conditions of ball-and-socket joints are currently implicitly covered under § 396.3(a)(1). The agency believes that such important items should be explicitly covered whenever possible.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue a final rule at any time after the close of the comment period. In addition to late comments, the FHWA will also continue to file in the docket relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

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

The FHWA has considered the impacts of this document and has determined that it is neither a significant rulemaking action within the meaning of Executive Order 12866 nor a significant rulemaking under the regulatory policies and procedures of the Department of Transportation. The rulemaking would amend parts 390, 392, and 393 of the FMCSRs by removing obsolete and redundant regulatory language; responding to several petitions for rulemaking; providing improved definitions of vehicle types, systems, and components; resolving inconsistencies between part 393 and the FHWA's periodic inspection criteria (appendix G to subchapter B); resolving inconsistencies between part 393 and the NHTSA's Federal Motor Vehicle Safety Standards (49 CFR 571); and codifying certain FHWA regulatory guidance concerning the requirements of part 393. Generally, the proposed amendments do not involve the establishment of new or more stringent requirements but a clarification of existing requirements. It is anticipated that the economic impact of this rulemaking will be minimal. Therefore, a full regulatory evaluation is not required.

The new or more stringent requirements include a cross-reference to the NHTSA's compressed natural gas (CNG) fuel container regulations which would result in carriers having to ensure that the CNG containers are properly maintained. In addition, the agency is proposing to prohibit certain controls used for dumping air individually from either of the two-axle suspension systems on a semitrailer equipped with air-suspended ''spread'' or ''split'' tandem axles. The FHWA does not believe the new requirements will result in an increased economic burden on the motor carrier industry.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this rule on small entities. Based on this evaluation, and for the reasons set forth in the preceeding paragraph, the FHWA certifies that this rule would not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

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

Executive Order 12372 (Intergovernmental Review)

Catalog of Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Paperwork Reduction Act

This document does not contain information collection requirements for the purposes of the Paperwork Reduction Act of 1980 [44 U.S.C. 3501 *et seq.*].

National Environmental Policy Act

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

Regulation Identification Number

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

List of Subjects in 49 CFR Part 390

Highway safety, Highways and roads, Intermodal transportation, Motor carriers, Motor vehicle identification, Motor vehicle safety, Reporting and recordkeeping requirements.

49 CFR Part 392

Highway safety, Highways and roads, Motor carriers—driving practices, Motor vehicle safety.

49 CFR Part 393

Highways and roads, Incorporation by reference, Motor carriers, Motor vehicle equipment, Motor vehicle safety.

Issued on: April 1, 1997.

Jane Garvey,

Acting Administrator, Federal Highway Administration.

In consideration of the foregoing, the FHWA proposes to amend title 49, Code of Federal Regulations, subchapter B, chapter III, as follows:

PART 390—[AMENDED]

1. The authority citation for Part 390 continues to read as follows:

Authority: 49 U.S.C. 5901–5907, 13301, 13902, 31132, 31133, 31136, 31502, and 31504; 49 CFR 1.48.

2. Section 390.5 is amended by revising the definition of driveaway-towaway operation to read as follows:

§ 390.5 Definitions.

* * * * *

Driveaway-towaway operation means an operation in which an empty or unladen motor vehicle with one or more set of wheels on the surface of the roadway is being transported

(1) between a vehicle manufacturer and a dealership or purchaser,

(2) between a dealership or other entity selling or leasing the vehicle and a purchaser or lessee,

(3) to a maintenance/repair facility for the repair of disabling damage (as defined in § 390.5), or

(4) by means of a saddle-mount.

* * * * *

PART 392—[AMENDED]

3. The authority citation for Part 392 is revised to read as follows:

Authority: Section 1041(b) of Pub. L. 102–240, 105 Stat. 1914, 1993 (1991), 49 U.S.C. 31136 and 31502; 49 CFR 1.48.

4. Section 392.33 is revised to read as follows:

§ 392.33 Obscured lamps or reflective devices/material.

(a) No commercial motor vehicle shall be driven when any of the lamps or reflective devices/material required by subpart B of part 393 are obscured by the tailboard, or by any part of the load, by dirt, or otherwise.

(b) Exception. The conspicuity treatments on the front end protection devices of the trailer may be obscured by part of the load being transported.

PART 393—[AMENDED]

5. The authority citation for part 393 continues to read as follows:

Authority: Section 1041(b) of Pub. L. 102–240, 105 Stat. 1914, 1993 (1991); 49 U.S.C. 31136 and 31502; 49 CFR 1.48.

6. Section 393.1 is revised to read as follows:

§ 393.1 Scope of the rules in this part.

(a) The rules in this part establish minimum standards for commercial motor vehicles as defined in § 390.5 of this title. Only motor vehicles (as defined in § 390.5) and combinations of motor vehicles which meet the definition of a commercial motor vehicle are subject to the requirements of this part. All requirements that refer to motor vehicles with a GVWR below 4,536 kg (10,001 pounds) are applicable only when the motor vehicle or combination of motor vehicles meets the definition of a commercial motor vehicle.

(b) Every employer and employee shall comply and be conversant with the requirements and specifications of this part. No employer shall operate a commercial motor vehicle, or cause or permit it to be operated, unless it is equipped in accordance with the requirements and specifications of this part.

7. Section 393.5 is amended by removing the definition of ''bus''; and by adding definitions for ''air brake system,'' ''air-over-hydraulic brake system,'' ''auxiliary driving lamp,'' ''boat trailer,'' ''brake power assist unit,'' ''brake power unit,'' ''container chassis trailer,'' ''electric brake system,'' ''emergency brake,'' ''front fog lamp,'' ''hydraulic brake system,'' ''intermodal shipping container,'' ''multi-piece windshield,'' ''split service brake system,'' ''tow bar,'' ''trailer kingpin,'' ''vacuum brake system,'' ''windshield''; and by revising the definitions of ''chassis,'' ''clearance lamp,'' ''container chassis'' (now ''container chassis trailer''), ''heater,'' ''heavy hauler trailer,'' ''parking brake system,'' ''side marker lamp (intermediate),'' and ''side marker lamps'', keeping them in alphabetical order, to read as follows:

§ 393.5 Definitions.

* * * * *

Air brake system. A system, including an air-over-hydraulic brake subsystem, that uses air as a medium for transmitting pressure or force from the driver control to the service brake, but does not include a system that uses compressed air or vacuum only to assist the driver in applying muscular force to hydraulic or mechanical components.

Air-over-hydraulic brake subsystem. A subsystem of the air brake system that uses compressed air to transmit a force from the driver control to a hydraulic brake system to actuate the service brakes.

Auxiliary driving lamp. A lighting device mounted to provide illumination forward of the vehicle which supplements the upper beam of a standard headlamp system. It is not intended for use alone or with the lower beam of a standard headlamp system.

Boat trailer. A trailer designed with cradle-type mountings to transport a boat and configured to permit launching of the boat from the rear of the trailer.

* * * * *

Brake power assist unit. A device installed in a hydraulic brake system that reduces the operator effort required to actuate the system, but which if inoperative does not prevent the operator from braking the vehicle by a continued application of muscular force on the service brake control.

Brake power unit. A device installed in a brake system that provides the energy required to actuate the brakes, either directly or indirectly through an auxiliary device, with the operator action consisting only of modulating the energy application level.

* * * * *

Chassis. The load-supporting frame of a commercial motor vehicle, exclusive of any appurtenances which might be added to accommodate cargo.

Clearance Lamps. Lamps mounted on the permanent structure of the vehicle as near as practicable to the upper left and right extreme edges that provide light to the front or rear to indicate the overall width and height of the vehicle.

Container chassis trailer. A semitrailer of skeleton construction

limited to a bottom frame, one or more axles, specially built and fitted with locking devices for the transport of intermodal cargo containers, so that when the chassis and container are assembled, the units serve the same function as an over the road trailer.

* * * * *

Electric brake system. A system that uses electric current to actuate the service brake.

Emergency brake. A mechanism designed to stop a motor vehicle after a failure of the service brake system.

* * * * *

Front fog lamp. A lighting device mounted to provide illumination forward of the vehicle under conditions of rain, snow, dust, or fog. The lamp may be used with a lower beam headlamp or switch controlled in conjunction with the headlamps and used at the driver's discretion with either low or high beam headlamps.

* * * * *

Heater. Any device or assembly of devices or appliances used to heat the interior of any motor vehicle. This includes a catalytic heater which must meet the requirements of § 177.834(l)(2) of this title when Class 3 (flammable liquid) or Division 2.1 (flammable gas) is transported.

Heavy hauler trailer. A trailer which has one or more of the following characteristics, but which is not a container chassis trailer:

(1) Its brake lines are designed to adapt to separation or extension of the vehicle frame; or

(2) Its body consists only of a platform whose primary cargo-carrying surface is not more than 1,016 mm (40 inches) above the ground in an unloaded condition, except that it may include sides that are designed to be easily removable and a permanent ''front-end structure'' as that term is used in § 393.106 of this title.

* * * * *

Hydraulic brake system. A system that uses hydraulic fluid as a medium for transmitting force from a service brake control to the service brake, and that may incorporate a brake power assist unit, or a brake power unit.

* * * * *

Intermodal shipping container. An article of transport equipment;

(1) Of a permanent character and accordingly strong enough to be suitable for repeated use;

(2) Specially designed to facilitate the carriage of goods by one or more modes of transport, without intermediate reloading;

(3) Fitted with devices permitting its ready handling, particularly its transfer from one mode of transport to another;

(4) So designed as to be easy to fill and empty; and

(5) Having an internal volume of one cubic meter (35.3 cubic feet) or more.

* * * * *

Multi-piece windshield. A windshield consisting of two or more windshield glazing surface areas.

Parking brake system. A mechanism designed to prevent the movement of a stationary motor vehicle.

* * * * *

Side marker lamp (Intermediate). A lamp shown to the side of a motor vehicle to indicate the approximate middle of the vehicle, when the motor vehicle is 9.14 meters (30 feet) or more in length.

Side marker lamps. Lamps mounted on the permanent structure of the motor vehicle as near as practicable to the front and rear edges, that provide light to the side to indicate the overall length of the motor vehicle.

Split service brake system. A brake system consisting of two or more subsystems actuated by a single control designed so that a leakage-type failure of a pressure component in a single subsystem (except structural failure of a housing that is common to two or more subsystems) shall not impair the operation of any other subsystem.

* * * * *

Tow bar. A strut or column-like device temporarily attached between the rear of a towing vehicle and the front of the vehicle being towed.

Trailer kingpin. A pin (with a flange on its lower end) which extends vertically from the front of the underside of a semitrailer and which locks into a fifth wheel.

* * * * *

Vacuum brake system. A system that uses a vacuum and atmospheric pressure for transmitting a force from the driver control to the service brake, not including a system that uses vacuum only to assist the driver in applying muscular force to hydraulic or mechanical components.

Windshield. The principal forward facing glazed surface provided for forward vision in operating a motor vehicle.

8. Section 393.7 is amended by adding paragraphs (b)(7) and (b)(8) to read as follows:

§ 393.7 Matter incorporated by reference.

* * * * *

(b) * * *

(7) Standards of the Society of Automotive Engineers (SAE). Information and copies may be obtained by writing to: Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, Pennsylvania 15096.

(8) Standards of the American National Standards Institute (ANSI). Information and copies may be obtained by writing to: American National Standards Institute, 11 West 42nd Street, New York, New York 10036.

* * * * *

9. The title of subpart B is revised to read as follows:

Subpart B—Lamps, Reflective Devices, and Electrical Wiring

10. Section 393.9 is revised to read as follows:

§ 393.9 Lamps operable, prohibition of obstructions of lamps and reflectors.

(a) All lamps required by this subpart shall be capable of being operated at all times. This paragraph shall not be construed to require that any auxiliary or additional lamp be capable of operating at all times.

(b) Lamps and reflective devices/material required by this subpart must not be obscured by the tailboard, or by any part of the load, by dirt, or otherwise. Exception: The conspicuity treatments on the front end protection devices may be obscured by part of the load being transported.

11. Section 393.11 is amended by revising paragraphs (a) through (c), table 1 and footnotes 4 through 10 and 15, and adding footnotes 16 and 17 to read as follows:

§ 393.11 Lamps and reflective devices.

(a)(1) Lamps and reflex reflectors. Table 1 of this section specifies the requirements for lamps, reflective devices and associated equipment by the type of commercial motor vehicle. The diagrams in this section illustrate the position of the lamps, reflective devices and associated equipment specified in Table 1. All commercial motor vehicles manufactured on or after December 25, 1968, must, at a minimum, meet the applicable requirements of 49 CFR 571.108 (FMVSS No. 108) in effect at the time of manufacture of the vehicle. Commercial motor vehicles manufactured before December 25, 1968, must, at a minimum, meet the requirements of this subpart in effect at the time of manufacture.

(2) Exceptions: Pole trailers and trailer converter dollies must meet the part 393 requirements for lamps, reflective devices and electrical equipment in effect at the time of manufacture. Trailers which are equipped with conspicuity material which meets the

requirements of paragraph (b) of this section are not required to be equipped with the reflex reflectors listed in Table 1 if—

(i) The conspicuity material is placed at the locations where reflex reflectors are required by Table 1; and

(ii) The conspicuity material when installed on the motor vehicle meets the geometric visibility requirements for the reflex reflectors.

(b) Conspicuity systems. Each trailer of 2,032 mm (80 inches) or more overall width, and with a GVWR over 4,536 kg (10,000 pounds), manufactured on or after December 1, 1993, except pole trailers and trailers designed exclusively for living or office use, shall be equipped with either retroreflective sheeting that meets the requirements of FMVSS No. 108 (49 CFR 571.108, S5.7.1), reflex reflectors that meet the requirements FMVSS No. 108 (49 CFR 571.108, S5.7.2), or a combination of retroreflective sheeting and reflex reflectors that meet the requirements of FMVSS No. 108 (49 CFR 571.108, S5.7.3). The conspicuity system shall be installed and located as specified in FMVSS No. 108 (49 CFR 571.108) [S5.7.1.4 (for retroreflective sheeting), S5.7.2.2 (for reflex reflectors), S5.7.3 (for a combination of sheeting and reflectors)] and have certification and markings as required by S5.7.1.5 (for retroreflective tape) and S5.7.2.3 (for reflex reflectors).

(c) Prohibition on the use of amber stop lamps and tail lamps. No commercial motor vehicle may be equipped with an amber stop lamp, tail lamp, or other lamp which is optically combined with an amber stop lamp or tail lamp.

TABLE 1.—REQUIRED LAMPS AND REFLECTORS ON COMMERCIAL MOTOR VEHICLES

Item on the vehicle	Quantity	Color	Location	Position	Height above the road surface in millimeters (mm) (with English units in parenthesis) measured from the center of the lamp at curb weight	Vehicles for which the devices are required
Headlamps	2	White	Front	On the front at the same height, with an equal number at each side of the vertical centerline as far apart as practicable.	Not less than 559 mm (22 inches) nor more than 1,372 mm (54 inches).	A, B, C
Turn signal (front). See footnotes #2 and 12.	2	Amber	At or near the front.	One on each side of the vertical centerline at the same height and as far apart as practicable.	Not less than 381 mm (15 inches) nor more than 2,108 mm (83 inches).	A, B, C
Identification lamps (front). See footnote #1.	3	Amber	Front	As close as practicable to the top of the vehicle, at the same height, and as close as practicable to the vertical centerline of the vehicle (or the vertical centerline of the cab where different from the centerline of the vehicle) with lamp centers spaced not less than 152 mm (6 inches) or more than 305 mm (12 inches) apart. Alternatively, the front lamps may be located as close as practicable to the top of the cab.	All three on the same level as close as practicable to the top of the motor vehicle.	B, C
Tail lamps. See footnotes #5 and 11.	2	Red	Rear	One lamp on each side of the vertical centerline at the same height and as far apart as practicable.	Both on the same level between 381 mm (15 inches) and 1,829 mm (72 inches).	A, B, C, D, E, F, G, H
Stop lamps. See footnotes #5 and 13.	2	Red	Rear	One lamp on each side of the vertical centerline at the same height and as far apart as practicable.	Both on the same level between 381 mm (15 inches) and 1,829 mm (72 inches).	A, B, C, D, E, F, G

TABLE 1.—REQUIRED LAMPS AND REFLECTORS ON COMMERCIAL MOTOR VEHICLES—Continued

Item on the vehicle	Quantity	Color	Location	Position	Height above the road surface in millimeters (mm) (with English units in parenthesis) measured from the center of the lamp at curb weight	Vehicles for which the devices are required
Clearance lamps. See footnotes #8, 9, 10, 15 & 17.	2	Amber	One on each side of the rear of the vehicle.	One on each side of the vertical centerline to indicate overall width.	Both on the same level as high as practicable.	B, C, D, G, H
	2	Red	One on each side of the front of the vehicle.	One on each side of the vertical centerline to indicate overall width.	Both on the same level as high as practicable.	B, D, G, H
Reflex reflector, intermediate (side).	2	Amber	One on each side.	At or near the midpoint between the front and rear side marker lamps, if the length of the vehicle is more than 9,144 mm (30 feet).	Between 381 mm (15 inches) and 1,524 mm (60 inches).	A, B, D, F, G
Reflex reflector (rear). See footnotes #5, 6, and 8.	2	Red	Rear	One on each side of the vertical centerline, as far apart as practicable and at the same height.	Both on the same level, between 381 mm (15 inches) and 1,524 mm (60 inches).	A, B, C, D, E, F, G
Reflex reflector (rear side).	2	Red	One on each side (rear).	As far to the rear as practicable.	Both on the same level, between 381 mm (15 inches) and 1,524 mm (60 inches).	A, B, D, F, G
Reflex reflector (front side). See footnote #16.	2	Amber	One on each side (front).	As far to the front as practicable.	Between 381 mm (15 inches) and 1,524 mm (60 inches).	A, B, C, D, F, G
License plate lamp (rear). See footnote #11.	1	White	At rear license plate to illuminate the plate from the top or sides.		No requirements.	A, B, C, D, F, G
Side marker lamp (front). See footnote #16.	2	Amber	One on each side.	As far to the front as practicable.	Not less than 381 mm (15 inches).	A, B, C, D, F
Side marker lamp, intermediate.	2	Amber	One on each side.	At or near the midpoint between the front and rear side marker lamps, if the length of the vehicle is more than 9,144 mm (30 feet).	Not less than 381 mm (15 inches).	A, B, D, F, G
Side marker lamp (rear). See footnotes #4 and 8.	2	Red	One on each side.	As far to the rear as practicable.	Not less than 381 mm (15 inches) and, on the rear of trailers, not more than 1,524 mm (60 inches).	A, B, D, F, G

TABLE 1.—REQUIRED LAMPS AND REFLECTORS ON COMMERCIAL MOTOR VEHICLES—Continued

Item on the vehicle	Quantity	Color	Location	Position	Height above the road surface in millimeters (mm) (with English units in parenthesis) measured from the center of the lamp at curb weight	Vehicles for which the devices are required
Turn signal (rear). See footnotes #5 and 12.	2	Amber or red	Rear	One lamp on each side of the vertical centerline as far apart as practicable.	Both on the same level, between 381 mm (15 inches) and 2,108 mm (83 inches).	A, B, C, D, E, F, G
Identification lamp (rear). See footnotes #3, 7, and 15.	3	Red	Rear	One as close as practicable to the vertical centerline. One on each side with lamp centers spaced not less than 152 mm (6 inches) or more than 305 mm (12 inches) apart.	All three on the same level as close as practicable to the top of the vehicle.	B, D, G
Vehicular hazard warning signal flasher lamps. See footnotes #5 and 12.	2	Amber	Front	One lamp on each side of the vertical centerline, as far apart as practicable.	Both on the same level, between 381 mm (15 inches) and 2,108 mm (83 inches).	A, B, C,
	2	Amber or red	Rear	One lamp on each side of the vertical centerline, as far apart as practicable.	Both on the same level, between 381 mm (15 inches) and 2,108 mm (83 inches).	A, B, C, D, E, F, G
Backup lamp. See footnote #14.	1	White	Rear	Rear	No requirement.	A, B, C
Parking lamp	2	Amber or white.	Front	One lamp on each side of the vertical centerline, as far apart as practicable.	Both on the same level, between 381 mm (15 inches) and 1,829 mm (72 inches).	A

Legend: Types of commercial motor vehicles shown in the last column of Table 1.
A. Buses and trucks less than 2,032 mm (80 inches) in overall width.
B. Buses and trucks 2,032 mm (80 inches) or more in overall width.
C. Truck tractors.
D. Semitrailers and full trailers 2,032 mm (80 inches) or more in overall width except converter dollies.
E. Converter dolly.
F. Semitrailers and full trailers less than 2,032 mm (80 inches) in overall width.
G. Pole trailers.
H. Projecting loads.
Note: Lamps and reflectors may be combined as permitted by § 393.22 and S5.4 of 49 CFR 571.108, Equipment combinations.

* * * * *

Footnote—4

Any semitrailer or full trailer manufactured on or after March 1, 1979, shall be equipped with rear side-marker lamps at a height of not less than 381 mm (15 inches) nor more than 1,524 mm (60 inches) above the road surface, as measured from the center of the lamp on the vehicle at curb weight.

Footnote—5

Each converter dolly, when towed singly by another vehicle and not as part of a full trailer, shall be equipped with one stop lamp, one tail lamp, and two reflectors (one on each side of the vertical centerline, as far apart as practicable) on the rear. Each converter dolly shall be equipped with rear turn signals and vehicular hazard warning signal flasher lamps when towed singly by another vehicle and not as part of a full trailer, if the converter dolly obscures the turn signals at the rear of the towing vehicle.

Footnote—6

Pole trailers shall be equipped with two reflex reflectors on the rear, one on each side of the vertical centerline as far apart as practicable, to indicate the extreme width of the trailer.

Footnote—7

Pole trailers, when towed by motor vehicles with rear identification lamps meeting the requirements of § 393.11 and mounted at a height greater than the load being transported on the pole trailer, are not required to have rear identification lamps.

Footnote—8

Pole trailers shall have on the rearmost support for the load: (1) Two front clearance lamps, one on each side of the vehicle, both on the same level and as high as practicable to indicate the overall width of the pole trailer; (2) two rear clearance lamps, one on each side of the vehicle, both on the same level and as high as practicable to indicate the overall width of the pole trailer; (3) two rear side marker lamps, one on each side of the vehicle, both on the same level, not less than 375 mm (15 inches) above the road surface; (4) two rear reflex reflectors, one on each side, both on the same level, not less than 375 mm (15 inches) above the road surface to indicate maximum width of the pole trailer; and (5) one red reflector on each side of the rearmost support for the load. Lamps and reflectors may be combined as allowed in § 393.22.

Footnote—9

Any motor vehicle transporting a load which extends more than 102 mm (4 inches) beyond the overall width of the motor vehicle shall be equipped with the following lamps in addition to other required lamps when operated during the hours when headlamps are required to be used.

(1) The foremost edge of that portion of the load which projects beyond the side of the vehicle shall be marked (at its outermost extremity) with an amber lamp visible from the front and side.

(2) The rearmost edge of that portion of the load which projects beyond the side of the vehicle shall be marked (at its outermost extremity) with a red lamp visible from the rear and side.

(3) If the projecting load does not measure more than 914 mm (3 feet) from front to rear, it shall be marked with an amber lamp visible from the front, both sides, and rear, except that if the projection is located at or near the rear it shall be marked by a red lamp visible from front, side, and rear.

Footnote—10

Projections beyond rear of motor vehicles. Motor vehicles transporting loads which extend more than 1,219 mm (4 feet) beyond the rear of the motor vehicle, or which have tailboards or tailgates extending more than 1,219 mm (4 feet) beyond the body, shall have these projections marked as follows when the vehicle is operated during the hours when headlamps are required to be used:

(1) On each side of the projecting load, one red side marker lamp, visible from the side, located so as to indicate maximum overhang.

(2) On the rear of the projecting load, two red lamps, visible from the rear, one at each side; and two red reflectors visible from the rear, one at each side, located so as to indicate maximum width.

* * * * *

Footnote—15

(1) For the purposes of § 393.11, the term ''overall width'' refers to the nominal design dimension of the widest part of the vehicle, exclusive of the signal lamps, marker lamps, outside rearview mirrors, flexible fender extensions, and mud flaps.

(2) Clearance lamps may be mounted at a location other than on the front and rear if necessary to indicate the overall width of a vehicle, or for protection from damage during normal operation of the vehicle.

(3) On a trailer, the front clearance lamps may be mounted at a height below the extreme height if mounting at the extreme height results in the lamps failing to mark the overall width of the trailer.

(4) On a truck tractor, clearance lamps mounted on the cab may be located to indicate the width of the cab, rather than the width of the vehicle.

(5) When the rear identification lamps are mounted at the extreme height of a vehicle, rear clearance lamps are not required to be located as close as practicable to the top of the vehicle.

Footnote—16

A trailer subject to this part that is less than 1829 mm (6 feet) in overall length, including the trailer tongue, need not be equipped with front side marker lamps and front side reflex reflectors.

Footnote—17

A boat trailer subject to this part whose overall width is 2032 mm (80 inches) or more need not be equipped with both front and rear clearance lamps provided an amber (front) and red (rear) clearance lamp is located at or near the midpoint on each side so as to indicate its extreme width.

* * * * *

12. Section 393.17 is amended by revising the text below the illustrations to the tow-bar diagram, the double-saddle-mount diagram and the single-saddle-mount diagram to read as follows:

§ 393.17 Lamps and reflectors—combinations in driveaway-towaway operation.

* * * * *

(Tow-bar diagram to illustrate § 393.17.)

* * * * *

Lamps may be combined as permitted by § 393.22. The color of exterior lighting devices and reflectors shall conform to requirements of § 393.11.

* * * * *

(Double-saddle-mount diagram to illustrate § 393.17.)

* * * * *

Lamps may be combined as permitted by § 393.22. The color of exterior lighting devices and reflectors shall conform to the requirements of § 393.11.

* * * * *

(Single-saddle-mount diagram to illustrate § 393.17.)

* * * * *

Lamps may be combined as permitted by § 393.22. The color of exterior lighting devices and reflectors shall conform to requirements of § 393.11.

13. Section 393.19 is revised to read as follows:

§ 393.19 Hazard warning signals.

The hazard warning signal operating unit on each commercial motor vehicle shall operate independently of the ignition or equivalent switch, and when activated, cause all turn signals required by § 393.11 to flash simultaneously.

§ 393.20 [Removed and Reserved]

14. Section 393.20 is removed and reserved.

15. Section 393.23 is revised to read as follows:

§ 393.23 Power supply for lamps.

All required lamps must be powered by the electrical system of the motor vehicle with the exception of battery powered lamps used on projecting loads.

16. Section 393.24 is revised to read as follows:

§ 393.24 Requirements for head lamps, auxiliary driving lamps and front fog lamps.

(a) *Headlamps.* Every bus, truck and truck tractor shall be equipped with headlamps as required by § 393.11(a). The headlamps shall provide an upper and lower distribution of light, selectable at the driver's will and be steady-burning. The headlamps shall be marked in accordance with FMVSS No. 108, 49 CFR 571.108, S7.2. Auxiliary driving lamps and/or front fog lamps may not be used to satisfy the requirements of this paragraph.

(b) *Auxiliary driving lamps and front fog lamps.* Commercial motor vehicles may be equipped with auxiliary driving lamps and/or front fog lamps for use in conjunction with, but not in lieu of the required headlamps. Auxiliary driving lamps shall meet SAE Standard J581 Auxiliary Driving Lamps, January 1995, and front fog lamps shall meet SAE

Standard J583 Front Fog Lamps, June 1993. (See § 393.7(b) for information on the incorporation by reference and availability of this document.)

(c) *Mounting.* Headlamps, auxiliary driving lamps and front fog lamps shall be mounted so that the beams are adjustable, both vertically and horizontally and the mounting shall prevent the aim of the lighting device from being disturbed while the vehicle is operating on public roads.

(d) *Aiming and intensity.* Headlamps shall be constructed and installed to meet, at a minimum, the applicable requirements of FMVSS No. 108 in effect at the time the vehicle was manufactured. Auxiliary driving lamps and front fog lamps shall meet the aiming and intensity specifications in the SAE standards referenced in paragraph (b) of this section.

17. Section 393.25 is revised to read as follows:

§ 393.25 Requirements for lamps other than head lamps.

(a) *Mounting.* All lamps shall be securely mounted on a rigid part of the vehicle. Temporary lamps must be securely mounted to the load and are not required to be mounted to a permanent part of the vehicle.

(b) *Visibility.* Each lamp shall be located so that it meets the visibility requirements specified by FMVSS No. 108 in effect at the time of manufacture of the vehicle. Vehicles which were not subject to FMVSS No. 108 at the time of manufacture shall have each lamp located so that is meets the visibility requirements specified in the SAE standards listed in paragraph (c) of this section. If motor vehicle equipment (e.g., mirrors, snow plows, wrecker booms, backhoes, and winches) prevents compliance with this paragraph by any required lamp, an auxiliary lamp or device meeting the requirements of this paragraph shall be provided. This shall not be construed to apply to lamps on one unit which are obscured by another unit of a combination of vehicles.

(c) *Specifications.* All required lamps (except marker lamps on projecting loads, lamps which are temporarily attached to vehicles transported in driveaway-towaway operations, and lamps on converter dollies and pole trailers) on vehicles manufactured on or after December 25, 1968, shall, at a minimum, meet the applicable requirements of FMVSS No. 108 in effect on the date of manufacture of the vehicle. Marker lamps on projecting loads, all lamps which are temporarily attached to vehicles transported in driveaway-towaway operations, and all lamps on converter dollies and pole trailers must meet the following applicable SAE standards: J586—Stop Lamps for Use on Motor Vehicles Less Than 2032 mm in Overall Width, December 1989; J1398—Stop Lamps for Use on Motor Vehicles 2032 mm or More in Overall Width, May 1985; J585—Tail Lamps (Rear Position Lamps) for Use on Motor Vehicles Less Than 2032 mm in Overall Width, December 1994; J588—Turn Signal Lamps for Use on Motor Vehicles Less J2040—Tail Lamps (Rear Position Lamps) for Use on Motor Vehicles 2032 mm or More in Overall Width, June 1991; J588—Turn Signal Lamps for Use on Motor Vehicles Less Than 2032 mm in Overall Width, December 1994; J1395—Front and Rear Turn Signal Lamps for Use on Motor Vehicles 2032 mm or More Overall Width, June 1991; J592—Clearance, Side Marker, and Identification Lamps, December 1994. (See § 393.7(b) for information on the incorporation by reference and availability of these documents.)

(d) (*Reserved*).

(e) *Lamps to be steady-burning.* All exterior lamps (both required lamps and any additional lamps) shall be steady-burning with the exception of turn signal lamps; hazard warning signal lamps; school bus warning lamps; amber Class 2 or Class 3, 360 degree warning lamps or flashing warning lamps on tow trucks and commercial motor vehicles transporting oversized loads; and warning lamps on emergency and service vehicles authorized by State or local authorities. Lamps combined into the same shell or housing with a turn signal are not required to be steady burning while the turn signal is in use. Amber Class 2 or Class 3, 360 degree warning lamps must meet SAE J845—360 Degree Warning Lamp for Authorized Emergency, Maintenance and Service Vehicles, March 1992. Class 1, 360 degree warning lamps are prohibited. Amber flashing warning lamps must meet SAE J595—Flashing Warning Lamps for Authorized Emergency, Maintenance and Service Vehicles, January 1990. Amber Class 2 or Class 3 gaseous discharge warning lamps must meet SAE J1318 Gaseous Discharge Warning Lamp for Authorized Emergency, Maintenance, and Service Vehicles, April 1986. Class 1 gaseous discharge warning lamps are prohibited. (See § 393.7(b) for information on the incorporation by reference and availability of these documents.)

(f) *Stop lamp operation.* The stop lamps on each vehicle shall be activated upon application of the service brakes. The stop lamps are not required to be activated when the emergency feature of the trailer brakes is used or when the stop lamp is optically combined with the turn signal and the turn signal is in use.

18. Section 393.26 is amended by revising paragraphs (a), (b), (c), and (d) and introductory text to read as follows:

§ 393.26 Requirements for reflex reflectors.

(a) *Mounting.* Reflex reflectors shall be mounted at the locations required by § 393.11. In the case of motor vehicles so constructed that requirement for a 381 mm (15-inch) minimum height above the road surface is not practical, the reflectors shall be mounted as high as practicable. All permanent reflex reflectors shall be securely mounted on a rigid part of the vehicle. Temporary reflectors on projecting loads must be securely mounted to the load and are not required to be permanently mounted to a part of the vehicle. Temporary reflex reflectors on vehicles transported in driveaway-towaway operations must be firmly attached.

(b) *Specifications.* All required reflex reflectors (except reflex reflectors on projecting loads, vehicles transported in a driveaway-towaway operation, converter dollies and pole trailers) on vehicles manufactured on or after December 25, 1968, shall meet the applicable requirements of FMVSS No. 108 in effect on the date of manufacture of the vehicle. Reflex reflectors on projecting loads, vehicles transported in a driveaway-towaway operation, and all reflex reflectors on converter dollies, pole trailers must conform to SAE J594—Reflex Reflectors, July 1995.

(c) *Substitute material for side reflex reflectors.* Reflective material conforming to ASTM D 4956–90, Standard Specification for Retroreflective Sheeting for Traffic Control, may be used in lieu of reflex reflectors if the material as used on the vehicle, meets the performance standards in either Table I or Table IA of SAE J594—Reflex Reflectors, July 1995. (See § 393.7(b) for information on the incorporation by reference and availability of these documents.)

(d) *Use of additional retroreflective surfaces.* Additional retroreflective surfaces may be used in conjunction with, but not in lieu of the reflex reflectors required in subpart B of part 393, and the substitute material for side reflex reflectors allowed by paragraph (c) of this section, provided:

* * * * *

19. Section 393.28 is revised to read as follows:

§ 393.28 Wiring systems.

Electrical wiring shall be installed and maintained to conform to SAE J1292—Automobile, Truck, Truck-Tractor, Trailer, and Motor Coach Wiring, October 1981. (See § 393.7(b) for information on the incorporation by reference and availability of this document.)

§ 393.27, 393.29, 393.31, 393.32, and 393.33 [Removed and Reserved]

20. Sections 393.27, 393.29, 393.31, 393.32, and 393.33 are removed and reserved.

21. Section 393.40 is revised to read as follows:

§ 393.40 Required brake systems.

(a) Each commercial motor vehicle must have brakes adequate to stop and hold the vehicle or combination of motor vehicles. Each commercial motor vehicle must meet the applicable service, parking, and emergency brake system requirements provided in this section.

(b) Service brakes—(1) *Hydraulic brake systems.* Motor vehicles equipped with hydraulic brake systems and manufactured on or after September 2, 1983, must, at a minimum, have a service brake system that meets the requirements of FMVSS No. 105 in effect on the date of manufacture. Motor vehicles which were not subject to FMVSS No. 105 on the date of manufacture must have a service brake system that meets the applicable requirements of §§ 393.42, 393.48, 393.49, 393.51, and 393.52 of this subpart.

(2) *Air brake systems.* Buses, trucks and truck-tractors equipped with air brake systems and manufactured on or after March 1, 1975, and trailers manufactured on or after January 1, 1975, must, at a minimum, have a service brake system that meets the requirements of FMVSS No. 121 in effect on the date of manufacture. Motor vehicles which were not subject to FMVSS No. 121 on the date of manufacture must have a service brake system that meets the applicable requirements of §§ 393.42, 393.48, 393.49, 393.51, and 393.52 of this subpart.

(3) *Vacuum brake systems.* Motor vehicles equipped with vacuum brake systems must have a service brake system that meets the applicable requirements of §§ 393.42, 393.48, 393.49, 393.51, and 393.52 of this subpart.

(4) *Electric brake systems.* Motor vehicles equipped with electric brake systems must have a service brake system that meets the applicable requirements of §§ 393.42, 393.48, 393.49 and 393.52 of this subpart.

(c) *Parking brakes.* Each commercial motor vehicle must be equipped with a parking brake system that meets the applicable requirements of § 393.41.

(d) *Emergency brakes*— partial failure of service brakes—(1) *Hydraulic brake systems.* Motor vehicles manufactured on or after September 2, 1983, and equipped with a split service brake system must, at a minimum, meet the partial failure requirements of FMVSS No. 105 in effect on the date of manufacture.

(2) *Air brake systems.* Buses, trucks and truck tractors manufactured on or after March 1, 1975, and trailers manufactured on or after January 1, 1975, must be equipped with an emergency brake system which, at a minimum, meets the requirements of FMVSS No. 121 in effect on the date of manufacture.

(3) *Vehicles not subject to FMVSS Nos. 105 and 121 on the date of manufacture.* Buses, trucks and truck tractors not subject to FMVSS Nos. 105 or 121 on the date of manufacture must meet the requirements of § 393.40(e). Trailers not subject to FMVSS No. 121 at the time of manufacture must meet the requirements of § 393.43.

(e) *Emergency brakes, vehicles manufactured on or after July 1, 1973.* (1) A bus, truck, truck tractor, or a combination of motor vehicles manufactured on or after July 1, 1973, and not covered under paragraphs (d)(1) or (d)(2) of this section, must have an emergency brake system which consists of emergency features of the service brake system or an emergency system separate from the service brake system. The emergency brake system must meet the applicable requirements of §§ 393.43 and 393.52.

(2) A control by which the driver applies the emergency brake system must be located so that the driver can operate it from the normal seating position while restrained by any seat belts with which the vehicle is equipped. The emergency brake control may be combined with either the service brake control or the parking brake control. However, all three controls may not be combined.

(f) *Interconnected systems.* (1) If the brake systems required by § 393.40(a) are interconnected in any way, they must be designed, constructed, and maintained so that in the event of a failure of any part of the operating mechanism of one or more of the systems (except the service brake actuation pedal or valve), the motor vehicle will have operative brakes and, for vehicles manufactured on or after July 1, 1973, be capable of meeting the requirements of § 393.52(b).

(2) A motor vehicle to which the requirements of FMVSS No. 105 (49 CFR 571.105, S5.1.2), dealing with partial failure of the service brake, applied at the time of manufacture meets the requirements of § 393.40(f)(1) if the motor vehicle is maintained in conformity with FMVSS No. 105 and the motor vehicle is capable of meeting the requirements of § 393.52(b), except in the case of a structural failure of the brake master cylinder body.

(3) A bus is considered to meet the requirements of § 393.40(f)(1) if it meets the requirements of § 393.44 and § 393.52(b).

22. Section 393.41 is revised to read as follows:

§ 393.41 Parking brake system.

(a) *Hydraulic-braked vehicles manufactured on or after September 2, 1983.* Each truck and bus (other than a school bus) with a GVWR of 4,536 kg (10,000 pounds) or less which is subject to this part and school buses with a GVWR greater than 4,536 kg (10,000 pounds) shall be equipped with a parking brake system as required by FMVSS No. 105 (49 CFR 571.105, S5.2) in effect at the time of manufacture. The parking brake shall be capable of holding the vehicle or combination of vehicles stationary under any condition of loading in which it is found on a public road (free of ice and snow). Hydraulic-braked vehicles which were not subject to the parking brake requirements of FMVSS No. 105 (49 CFR 571.105, S5.2) must be equipped with a parking brake system that meets the requirements of paragraph (c) of this section.

(b) *Air-braked power units manufactured on or after March 1, 1975, and air-braked trailers manufactured on or after January 1, 1975.* Each air-braked bus, truck and truck tractor manufactured on and after March 1, 1975, and each air-braked trailer except an agricultural commodity trailer, converter dolly, heavy hauler trailer or pulpwood trailer, shall be equipped with a parking brake system as required by FMVSS No. 121 (49 CFR 571.121, S5.6) in effect at the time of manufacture. The parking brake shall be capable of holding the vehicle or combination of vehicles stationary under any condition of loading in which it is found on a public road (free of ice and snow). An agricultural commodity trailer, heavy hauler or pulpwood trailer shall carry sufficient chocking blocks to prevent movement when parked.

(c) *Vehicles not subject to FMVSS Nos. 105 and 121 on the date of manufacture and all vacuum braked vehicles and electric braked trailers.* (1)

All hydraulic-braked motor vehicles not subject to FMVSS No. 105 (49 CFR 571.105, S5.2) at the time of manufacture; hydraulic-braked trailers; air-braked buses, trucks and truck tractors manufactured before March 1, 1975; air-braked trailers (other than agricultural commodity, heavy hauler, or pulpwood trailers) manufactured before January 1, 1975; and vacuum braked motor vehicles and electric braked trailers (regardless of the date of manufacture) shall be equipped with a parking brake system adequate to hold the vehicle or combination on any grade on which it is operated, under any condition of loading in which it is found on a public road (free of ice and snow).

(2) The parking brake system shall, at all times, be capable of being applied by either the driver's muscular effort or by spring action. If other energy is used to apply the parking brake, there must be an accumulation of that energy isolated from any common source and used exclusively for the operation of the parking brake. *Exception:* This paragraph shall not be applicable to air-applied, mechanically-held parking brake systems which meet the parking brake requirements of FMVSS No. 121 (49 CFR 571.121, S5.6).

(3) The parking brake system shall be held in the applied position by energy other than fluid pressure, air pressure, or electric energy. The parking brake system shall not be capable of being released unless adequate energy is available to immediately reapply the parking brake with the required effectiveness.

23. Section 393.42 is amended by revising paragraph (b) to read as follows:

§ 393.42 Brakes required on all wheels.

* * * * *

(b) *Exception.* (1) Trucks or truck tractors having three or more axles and manufactured before July 25, 1980, are not required to have brakes on the front wheels. However, these vehicles must meet the requirements of § 393.52.

(2) Motor vehicles being towed in a driveaway-towaway operation are not required to have operative brakes provided the combination of vehicles meets the requirements of § 393.52. This exception is not applicable to:

(i) Any motor vehicle towed by means of a tow-bar when another motor vehicle is full-mounted on the towed vehicle; and

(ii) Any combination of motor vehicles utilizing three or more saddle-mounts.

(3) Any semitrailer or pole trailer (laden or unladen) with a gross weight of 1,361 kg (3,000 pounds) or less which is subject to this part is not required to be equipped with brakes if the axle weight of the towed vehicle does not exceed 40 percent of the sum of the axle weights of the towing vehicle.

(4) Any full trailer or four-wheel pole trailer (laden or unladen) with a gross weight of 1,361 kg (3,000 pounds) or less which is subject to this part is not required to be equipped with brakes if the sum of the axle weights of the towed vehicle does not exceed 40 percent of the sum of the axle weights of the towing vehicle.

(5) Brakes are not required on the steering axle of a three-axle dolly which is steered by a co-driver.

(6) Loaded housemoving dollies, specialized trailers and dollies used to transport industrial furnaces, reactors, and similar motor vehicles are not required to be equipped with brakes, provided the speed at which the combination of vehicles will be operated does not exceed 32 km/hour (20 mph) and brakes on the combination of vehicles are capable of stopping the combination within 12.2 meters (40 feet) from the speed at which the vehicle is being operated or 32 km/hour (20 mph), whichever is less.

* * * * *

24. Section 393.43 is amended by revising paragraphs (a), (d) and (f) and by adding initial subheadings to paragraphs (b), (c), and (e) to read as follows:

§ 393.43 Breakaway and emergency braking.

(a) *Towing vehicle protection system.* Every motor vehicle, if used to tow a trailer equipped with brakes, shall be equipped with a means for providing that in the case of a breakaway of the trailer, the service brakes on the towing vehicle will be capable of stopping the towing vehicle. For air braked towing units, the tractor protection valve or similar device shall operate automatically when the air pressure on the towing vehicle is between 138 kPa and 310 kPa (20 psi and 45 psi).

(b) *Emergency brake requirements, air brakes.* * * *

(c) *Emergency brake requirements, vacuum brakes.* * * *

(d) *Breakaway braking requirements for trailers.* Every trailer required to be equipped with brakes shall have brakes which apply automatically and immediately upon breakaway from the towing vehicle. All brakes with which the trailer is required to be equipped must be applied upon breakaway from the towing vehicle. The brakes must remain in the applied position for at least 15 minutes.

(e) *Emergency valves.* * * *

(f) *Exception.* The requirements of paragraphs (b), (c) and (d) of this section shall not be applicable to commercial motor vehicles being transported in driveaway-towaway operations.

25. Section 393.45 is revised to read as follows:

§ 393.45 Brake tubing and hoses; hose assemblies and end fittings.

(a) *General construction requirements for tubing and hoses, assemblies, and end fittings.* All brake tubing and hoses, brake hose assemblies, and brake hose end fittings must meet the applicable requirements of FMVSS No. 106 (49 CFR 571.106).

(b) *Special rule for coiled nylon brake tubing in air brake systems.* Coiled nylon brake hose or hose assemblies which meet SAE J844, Nonmetallic Air Brake System Tubing, October 1994, are not required to meet 49 CFR 571.106, S7.3.6 (length change), S7.3.10 (tensile strength), and S7.3.11 (tensile strength of an assembly after immersion in water) of FMVSS No. 106.

(c) *Brake tubing and hose installation.* Brake tubing and hose must—

(1) Be long and flexible enough to accommodate without damage all normal motions of the parts to which it is attached;

(2) Be secured against chaffing, kinking, or other mechanical damage; and

(3) Be installed in a manner that prevents it from contacting the vehicle's exhaust system or any other source of high temperatures.

(d) *Nonmetallic brake tubing.* Coiled nonmetallic brake tubing may be used for connections between towed and towing motor vehicles or between the frame of a towed vehicle and the unsprung subframe of an adjustable axle of the motor vehicle if—

(1) The coiled tubing has a straight segment (pigtail) at each end that is at least 51 mm (2 inches) in length and is encased in a spring guard or similar device which prevents the tubing from kinking at the fitting at which it is attached to the vehicle; and

(2) The spring guard or similar device has at least 51 mm (2 inches) of closed coils or similar surface at its interface with the fitting and extends at least 38 mm (1½ inches) into the coiled segment of the tubing from its straight segment.

(e) *Brake tubing and hose connections.* All connections for air, vacuum, or hydraulic braking systems shall be installed so as to ensure an attachment free of leaks, constrictions or other conditions which would adversely affect the performance of the brake system.

§ 393.46 [Removed and Reserved]

26. Section 393.46 is removed and reserved.

27. Section 393.47 is revised to read as follows:

§ 393.47 Brake actuators, slack adjusters, linings/pads and drums/rotors.

(a) *General requirements.* Brake components must be constructed, installed and maintained to prevent excessive fading and grabbing. The means of attachment and physical characteristics must provide for safe and reliable stopping of the commercial motor vehicle.

(b) *Brake chambers.* The service brake chambers and spring brake chambers on each end of an axle must be the same size.

(c) *Slack adjusters.* The effective length of the slack adjuster on each end of an axle must be the same.

(d) *Linings and pads.* The thickness of the brake linings or pads shall meet the applicable requirements of this paragraph —

(1) *Steering axle brakes.* The brake lining/pad thickness on the steering axle of a truck, truck-tractor or bus shall not be less than 4.8 mm (3⁄16 inch) at the shoe center for a shoe with a continuous strip of lining; less than 6.4 mm (¼ inch) at the shoe center for a shoe with two pads; or worn to the wear indicator if the lining is so marked, for air drum brakes. The steering axle brake lining/pad thickness shall not be less than 3.2 mm (⅛ inch) for air disc brakes, or 1.6 mm (1⁄16 inch) or less for hydraulic disc, drum and electric brakes.

(2) *Non-steering axle brakes.* An air braked commercial motor vehicle shall not be operated with brake lining/pad thickness less than 6.4 mm (¼ inch) or to the wear indicator if the lining is so marked (measured at the shoe center for drum brakes); or less than 3.2 mm (⅛ inch) for disc brakes. Hydraulic or electric braked commercial motor vehicles shall not be operated with a lining/pad thickness less than 1.6 mm (1⁄16 inch) (measured at the shoe center) for disc or drum brakes.

(e) *Clamp and roto-chamber brake actuator readjustment limits.* The pushrod travel for clamp and roto-chamber type actuators must be less than 80 percent of the rated strokes listed in SAE J1817—Long Stroke Air Brake Actuator Marking, June 1991, or 80 percent of the rated stroke marked on the brake chamber by the chamber manufacturer, or the readjustment limit marked on the brake chamber by the chamber manufacturer. The pushrod travel for Type 16 and 20 long stroke clamp type brake actuators must be less than 51 mm (2 inches) or 80 percent of the rated stroke marked on the brake chamber by the chamber manufacturer, or the readjustment limit marked on the brake chamber by the chamber manufacturer.

(f) *Wedge brake adjustment.* The movement of the scribe mark on the lining shall not exceed 1.6 mm (1⁄16 inch).

(g) *Drums and rotors.* The thickness of the drums or rotors shall not be less than the limits established by the brake drum or rotor manufacturer.

28. Section 393.48 is revised to read as follows:

§ 393.48 Brakes to be operative.

(a) *General rule.* Except as provided in paragraphs (b) and (c) of this section, all brakes with which a commercial motor vehicle is equipped must be operable at all times.

(b) *Devices to reduce or remove front-wheel braking effort.* A commercial motor vehicle may be equipped with a device to reduce the front wheel braking effort (or in the case of a three-axle truck or truck tractor manufactured before March 1, 1975, a device to remove the front-wheel braking effort) if that device meets the applicable requirements of paragraphs (b) (1) and (2) of this section.

(1) *Manually operated devices.* Manually operated devices to reduce or remove front-wheel braking effort may only be used on buses, trucks, and truck tractors manufactured before March 1, 1975. Such devices must not be used unless the vehicle is being operated under adverse conditions such as wet, snowy, or icy roads.

(2) *Automatic devices.* Automatic devices must not reduce the front-wheel braking force by more than 50 percent of the braking force available when the automatic device is disconnected (regardless of whether or not an antilock system failure has occurred on any axle). The device must not be operable by the driver except upon application of the control that activates the braking system. The device must not be operable when the brake control application pressure exceeds 85 psig (for vehicles equipped with air brakes) or 85 percent of the maximum system pressure (for vehicles which are not equipped with air brakes).

(c) *Exception.* Paragraph (a) of this section does not apply to—

(1) A towed vehicle with disabling damage as defined in § 390.5;

(2) A vehicle which is towed in a driveaway-towaway operation and is included in the exemption to the requirement for brakes on all wheels, § 393.42(b);

(3) Unladen converter dollies with a gross weight of 1,361 kg (3,000 lbs) or less, and manufactured prior to March 1, 1998;

(4) The steering axle of a three-axle dolly which is steered by a co-driver;

(5) Loaded house moving dollies, specialized trailers and dollies used to transport industrial furnaces, reactors, and similar motor vehicles provided the speed at which the combination of vehicles will be operated does not exceed 32 km/hour (20 mph) and brakes on the combination of vehicles are capable of stopping the combination within 12.2 meters (40 feet) from the speed at which the vehicle is being operated or 32 km/hour (20 mph), whichever is less.

(6) Raised lift axles. Brakes on lift axles need not be capable of being operated while the lift axle is raised. However, brakes on lift axles must be capable of being applied whenever the lift axle is lowered and the tires contact the roadway.

29. Section 393.50 is revised to read as follows:

§ 393.50 Reservoirs required.

(a) *Reservoir capacity for air-braked power units manufactured on or after March 1, 1975, and air-braked trailers manufactured on or after January 1, 1975.* Buses, trucks, and truck-tractors must meet the reservoir requirements of FMVSS No. 121, (49 CFR 571.121, S5.1.2), in effect on the date of manufacture.

(b) *Reservoir capacity for air-braked vehicles not subject to FMVSS No. 121 on the date of manufacture and all vacuum braked vehicles.* Each motor vehicle using air or vacuum braking must have either reserve capacity, or a reservoir, that would enable the driver to make a full service brake application with the engine stopped without depleting the air pressure or vacuum below 70 percent of that indicated by the air or vacuum gauge immediately before the brake application is made. For the purposes of this paragraph, a full service brake application means depressing the brake pedal or treadle valve to the limit of its travel.

(c) *Safeguarding of air and vacuum.* Each service reservoir system on a motor vehicle shall be protected against a loss of air pressure or vacuum due to a failure or leakage in the system between the service reservoir and the source of air pressure or vacuum, by check valves or equivalent devices whose proper functioning can be checked without disconnecting any air or vacuum line, or fitting.

(d) *Drain valves for air braked vehicles.* Each reservoir must have a condensate drain valve that can be manually operated. Automatic

condensate drain valves may be used provided they may be operated manually, or a manual means of draining the reservoirs is retained.

30. Section 393.51 is revised to read as follows:

§ 393.51 Warning signals, air pressure and vacuum gauges.

(a) *General rule.* Every bus, truck and truck tractor, except as provided in paragraph (f) of this section, must be equipped with a signal that provides a warning to the driver when a failure occurs in the vehicle's service brake system. The warning signal must meet the applicable requirements of paragraphs (b), (c), (d) or (e) of this section.

(b) *Hydraulic brakes.* Vehicles manufactured on or after September 1, 1975, must meet the brake system indicator lamp requirements of FMVSS No. 105 571.105, (49 CFR (S5.3)), applicable to the vehicle on the date of manufacture. Vehicles manufactured on or after July 1, 1973 but before September 1, 1975, or to which FMVSS No. 105 (49 CFR 571.105), was not applicable on the date of manufacture, must have a warning signal which operates before or upon application of the brakes in the event of a hydraulic-type complete failure of a partial system. The signal must be either visible within the driver's forward field of view or audible. The signal must be continuous.

(**Note:** FMVSS No. 105 was applicable to trucks and buses from September 1, 1975 to October 12, 1976, and from September 1, 1983, to the present. FMVSS No. 105 was not applicable to trucks and buses manufactured between October 12, 1976, and September 1, 1983. Motor carriers have the option of equipping those vehicles to meet either the indicator lamp requirements of FMVSS No. 105, or the indicator lamp requirements specified in this paragraph for vehicles which were not subject to FMVSS No. 105 on the date of manufacture.)

(c) *Air brakes.* A commercial motor vehicle (regardless of the date of manufacture) equipped with service brakes activated by compressed air (air brakes) or a commercial motor vehicle towing a vehicle with service brakes activated by compressed air (air brakes) must be equipped with a pressure gauge and a warning signal. Trucks, truck tractors, and buses manufactured on or after March 1, 1975, must, at a minimum, have a pressure gauge and a warning signal which meets the requirements of FMVSS No. 121 (49 CFR 571.121, S5.1.4 for the pressure gauge and S5.1.5 for the warning signal) applicable to the vehicle on the date of manufacture of the vehicle. Power units to which FMVSS No. 121 (49 CFR 571.121) was not applicable on the date of manufacture of the vehicle must be equipped with—

(1) A pressure gauge, visible to a person seated in the normal driving position, which indicates the air pressure (in kilopascals (kPa) or pounds per square inch (psi)) available for braking; and

(2) A warning signal that is audible or visible to a person in the normal driving position and provides a continuous warning to the driver whenever the air pressure in the service reservoir system is at 379 kPa (55 psi) and below, or one-half of the compressor governor cutout pressure, whichever is less.

(d) *Vacuum brakes.* A commercial motor vehicle (regardless of the date it was manufactured) having service brakes activated by vacuum or a vehicle towing a vehicle having service brakes activated by vacuum must be equipped with—

(1) A vacuum gauge, visible to a person seated in the normal driving position, which indicates the vacuum (in millimeters or inches of mercury) available for braking; and

(2) A warning signal that is audible or visible to a person in the normal driving position and provides a continuous warning to the driver whenever the vacuum in the vehicle's supply reservoir is less than 203 mm (8 inches) of mercury.

(e) *Hydraulic brakes applied or assisted by air or vacuum*. Each vehicle equipped with hydraulically activated service brakes which are applied or assisted by compressed air or vacuum, and to which FMVSS No. 105 was not applicable on the date of manufacture, must be equipped with a warning signal that conforms to paragraph (b) of this section for the hydraulic portion of the system; paragraph (c) of this section for the air assist/air applied portion; or paragraph (d) of this section for the vacuum assist/vacuum applied portion. This paragraph shall not be construed as requiring air pressure gauges or vacuum gauges, only warning signals.

(f) *Exceptions.* The rules in paragraphs (c), (d) and (e) of this section do not apply to property carrying commercial motor vehicles which have less than three axles and—

(1) Were manufactured before July 1, 1973, and

(2) Have a manufacturer's gross vehicle weight rating less than 4,536 kg (10,001 pounds).

31. Section 393.60 is revised to read as follows:

§ 393.60 Glazing in specified openings.

(a) *Glazing material.* Glazing material used in windshields, windows and doors on a motor vehicle manufactured on or after December 25, 1968, shall at a minimum meet the requirements of FMVSS No. 205 in effect on the date of manufacture of the motor vehicle. The glazing material shall be marked in accordance with FMVSS No. 205 (49 CFR 571.205, S6).

(b) *Windshields required.* Each bus, truck and truck-tractor shall be equipped with a windshield. Each windshield or portion of a multi-piece windshield shall be mounted using the full periphery of the glazing material.

(c) *Windshield condition.* With the exception of the conditions listed in paragraphs (c)(1), (c)(2), and (c)(3) of this section, each windshield shall be free of discoloration or damage in the area extending upward from the height of the top of the steering wheel (excluding a 51 mm (2 inch) border at the top of the windshield) and extending from a 25 mm (1 inch) border at each side of the windshield or windshield panel. Exceptions:

(1) Coloring or tinting which meets the requirements of paragraph (d) of this section;

(2) Any crack less than 6 mm (¼ inch) wide, if not intersected by any other cracks;

(3) Any damaged area which can be covered by a disc, 19 mm (¾ inch) in diameter, if not closer than 76 mm (3 inches) to any other similarly damaged area.

(d) *Coloring or tinting of windshields and windows.* Coloring or tinting of windshields and the windows to the immediate right and left of the driver is allowed provided the parallel luminous transmittance through the colored or tinted glazing is not less than 70 percent of the light at normal incidence in those portions of the windshield or windows which are marked as having a parallel luminous transmittance of not less than 70 percent. The transmittance restriction does not apply to other windows on the commercial motor vehicle.

(e) *Prohibition on obstructions to the drivers field of view—(1) Devices mounted at the top of the windshield.* Antennas, transponders, and similar devices must not be mounted more than 152 mm (6 inches) from the upper edge of the windshield. These devices must be located outside the area swept by the windshield wipers, and outside the driver's sight lines to the road and highway signs and signals.

(2) *Decals and stickers mounted on the windshield.* Commercial Vehicle Safety Alliance (CVSA) inspection

decals, and stickers and/or decals required under Federal or State laws may be placed at the bottom or sides of the windshield provided such decals or stickers are located outside the area swept by the windshield wipers, and outside the driver's sight lines to the road and highway signs or signals.

32. Section 393.61 is revised to read as follows:

§ 393.61 Truck and truck tractor window construction.

Each truck and truck tractor (except trucks engaged in armored car service) shall have at least one window on each side of the driver's compartment. Each window must have a minimum area of 1,290 cm^2 (200 in^2) formed by a rectangle 33 cm by 45 cm (13 inches by 17¾ inches). The maximum radius of the corner arcs shall not exceed a 152 mm (6 inches). The long axis of the rectangle shall not make an angle of more than 45 degrees with the surface on which the unladen vehicle stands. If the cab is designed with a folding door or doors or with clear openings where doors or windows are customarily located, no windows shall be required in those locations.

33. Section 393.62 is revised to read as follows:

§ 393.62 Emergency exits for buses.

(a) *Buses manufactured on or after September 1, 1994.* Each bus with a GVWR of 4,536 kg (10,000 pounds) or less must meet the emergency exit requirements of FMVSS No. 217 (49 CFR 571.217, S5.2.2.3) in effect on the date of manufacture. Each bus with a GVWR of more than 4,536 kg (10,000 pounds) must have emergency exits which meet the applicable emergency exit requirements of FMVSS No. 217 (49 CFR 571.217, S5.2.2 or S5.2.3) in effect on the date of manufacture.

(b) *Buses manufactured on or after September 1, 1973, but before September 1, 1994.*

(1) Each bus (including a school bus used in interstate commerce for non-school bus operations) with a GVWR of more than 4,536 kg (10,000 lbs) must meet the requirements of FMVSS No. 217, (49 CFR 571. 217 S5.2.2) in effect on the date of manufacture.

(2) Each bus (including a school bus used in interstate commerce for non-school bus operations) with a GVWR of 4,536 kg (10,000 lbs) or less must meet the requirements of FMVSS No. 217 (49 CFR 571.217, S5.2.2.3) in effect on the date of manufacture.

(c) *Buses manufactured before September 1, 1973.* For each seated passenger space provided, inclusive of the driver there shall be at least 432 cm^2 (67 square inches) of glazing if such glazing is not contained in a push-out window; or, at least 432 cm^2 (67 square inches) of free opening resulting from opening of a push-out type window. No area shall be included in this minimum prescribed area unless it will provide an unobstructed opening of at least 1,290 cm^2 (200 in^2) formed by a rectangle 33 cm by 45 cm (13 inches by 17–3/4 inches). The maximum radius of the corner arcs shall not exceed 152 mm (6 inches). The long axis of the rectangle shall not make an angle of more than 45 degrees with the surface on which the unladen vehicle stands. The area shall be measured either by removal of the glazing if not of the push-out type, or of the movable sash if of the push-out type. The exit must comply with paragraph (d) of this section. Each side of the bus must have at least 40 percent of emergency exit space required by this paragraph.

(d) *Laminated safety glass/push-out window requirements for buses manufactured before September 1, 1973.* Emergency exit space used to satisfy the requirements of paragraph (c) of this section must have laminated safety glass or push-out windows designed and maintained to yield outward to provide a free opening.

(1) *Safety glass.* Laminated safety glass must meet Test No. 25, Egress, of American National Standard for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways—Safety Code, Z26.1–1990.

(2) *Push-out windows.* Each push-out window shall be releasable by operating no more than two mechanisms and allow manual release of the exit by a single occupant. For mechanisms which require rotary or straight (parallel to the undisturbed exit surface) motions to operate the exit, no more than 89 Newtons (20 pounds) of force shall be required to release the exit. For exits which require a straight motion perpendicular to the undisturbed exit surface, no more than 267 Newtons (60 pounds) shall be required to release the exit.

(e) *Emergency exit identification.* Each bus and each school bus used in interstate commerce for non-school bus operations, manufactured on or after September 1, 1973, shall meet the applicable emergency exit identification or marking requirements of FMVSS No. 217, (49 CFR 571, 217, S5.5), in effect on the date of manufacture. The emergency exits and doors on all buses (including school buses used in interstate commerce for non-school bus operations) must be marked ''Emergency Exit'' or ''Emergency Door'' followed by concise operating instructions describing each motion necessary to unlatch or open the exit located within 152 mm (6 inches) of the release mechanism.

(f) *Exception for the transportation of prisoners.* The requirements of this section do not apply to buses used exclusively for the transportation of prisoners.

§ 393.63 [Removed and Reserved]

34. Section 393.63 is removed and reserved.

35. Section 393.67 is amended by removing the footnote to paragraphs (d) and (e); by revising the introductory text of paragraphs (a), (d), and (e); and by revising paragraph (f)(2) to read as follows:

§ 393.67 Liquid fuel tanks.

(a) *Application of the rules in this section.* The rules in this section apply to tanks containing or supplying fuel for the operation of commercial motor vehicles or for the operation of auxiliary equipment installed on, or used in connection with commercial motor vehicles.

* * * * *

(d) *Liquid fuel tank tests.* Each liquid fuel tank must be capable of passing the tests specified in paragraphs (d)(1) and (2) of this section. The specified tests are a measure of performance only. Alternative procedures which assure that equipment meets the required performance standards may be used.

* * * * *

(e) *Side-mounted liquid fuel tank tests.* Each side-mounted liquid fuel tank must be capable of passing the tests specified in paragraphs (e)(1) and (2) of this section and the test specified in paragraphs (d)(1) and (2) of this section. The specified tests are a measure of performance only. Alternative procedures which assure that equipment meets the required performance criteria may be used.

* * * * *

(f) * * *

(2) The manufacturer's name on tanks manufactured on and after July 1, 1989, and means of identifying the facility at which the tank was manufactured, and

* * * * *

36. Section 393.68 is added to part 393 and reads as follows:

§ 393.68 Compressed natural gas fuel containers.

(a) *Applicability.* The rules in this section apply to compressed natural gas (CNG) fuel containers used for supplying fuel for the operation of commercial motor vehicles or for the operation of auxiliary equipment

installed on, or used in connection with commercial motor vehicles.

(b) *CNG containers manufactured on or after March 26, 1995.* Any motor vehicle manufactured on or after March 26, 1995, and equipped with a CNG fuel tank must meet the CNG container requirements of FMVSS No. 304 (49 CFR 571.304) in effect at the time of manufacture of the vehicle.

(c) *Labeling.* Each CNG fuel container shall be permanently labeled in accordance with the requirements of FMVSS No. 304, (49 CFR 571.304, S7.4).

37. Section 393.70 is amended by revising paragraph (d)(8) to read as follows:

§ 393.70 Coupling devices and towing methods, except for driveaway-towaway operation.

(d) * * * (8)(i) When two safety devices, including two safety chains or cables, are used and are attached to the towing vehicle at separate points, the points of attachment on the towing vehicle shall be located equally distant from, and on opposite sides of, the longitudinal centerline of the towing vehicle.

(ii) Where two chains or cables are attached to the same point on the towing vehicle, and where a bridle or a single chain or cable is used, the point of attachment must be on the longitudinal centerline or within 152 mm (6 inches) to the right of the longitudinal centerline of the towing vehicle.

(iii) A single safety device, other than a chain or cable, must also be attached to the towing vehicle at a point on the longitudinal centerline or within 152 mm (6 inches) to the right of the longitudinal centerline of the towing vehicle.

38. Section 393.71 is amended by revising paragraphs (a)(2) and (g) and the heading of paragraph (b) and by adding paragraph (b)(3):

§ 393.71 Coupling devices and towing methods, driveaway-towaway operations.

(a) * * *

(2) No more than one tow-bar or ball-and-socket type coupling device may be used in any combination.

* * * * *

(b) *Carrying vehicles on towing vehicles, and multiple saddle-mounts.* * * *

* * * * *

(3) Saddle-mounted vehicles must be arranged such that the gross weight of the vehicles is properly distributed to prevent undue interference with the steering, braking, or maneuvering of the combination of vehicles.

* * * * *

(g) *Means required for towing.* No motor vehicles or combination of motor vehicles shall be towed in driveaway-towaway operations by means other than a tow-bar, ball-and-socket type coupling device, saddle-mount connections which meet the requirements of this section, or in the case of a semi-trailer equipped with an upper coupler assembly, a fifth-wheel meeting the requirements of § 393.70.

* * * * *

39. Section 393.75 is amended by revising paragraph (e) to read as follows:

§ 393.75 Tires.

* * * * *

(e) A regrooved tire with a load-carrying capacity equal to or greater than 2,232 kg (4,920 pounds) shall not be used on the front wheels of any truck or truck tractor.

* * * * *

40. Section 393.78 is revised to read as follows:

§ 393.78 Windshield wiping and washing systems.

(a) *Vehicles manufactured on or after December 25, 1968.* Each bus, truck, and truck-tractor manufactured on or after December 25, 1968, must have a windshield wiping system that meets the requirements of FMVSS No. 104 (49 CFR 571.104, S4.1) in effect on the date of manufacture. Each of these vehicles must have a windshield washing system that meets the requirements of FMVSS No. 104 (49 CFR 571.104, S4.2.2) in effect on the date of manufacture.

(b) *Vehicles manufactured between June 30, 1953, and December 24, 1968.* Each truck, truck-tractor, and bus manufactured between June 30, 1953, and December 24, 1968, shall be equipped with a power-driven windshield wiping system with at least two wiper blades, one on each side of the centerline of the windshield. Motor vehicles which depend upon vacuum to operate the windshield wipers, shall have the wiper system constructed and maintained such that the performance of the wipers will not be adversely affected by a change in the intake manifold pressure.

(c) *Driveaway-towaway operations.* Windshield wiping and washing systems need not be in working condition while a commercial motor vehicle is being towed in a driveaway-towaway operation.

41. Section 393.79 is revised to read as follows:

§ 393.79 Windshield defrosting and defogging systems.

(a) *Vehicles manufactured on or after December 25, 1968.* Each bus, truck, and truck-tractor manufactured on or after December 25, 1968, must have a windshield defrosting and defogging system that meets the requirements of FMVSS No. 103 in effect on the date of manufacture.

(b) *Vehicles manufactured before December 25, 1968.* Each bus, truck, and truck-tractor shall be equipped with a means for preventing the accumulation of ice, snow, frost, or condensation that could obstruct the driver's view through the windshield while the vehicle is being driven.

42. Section 393.82 is revised to read as follows:

§ 393.82 Speedometer.

Each bus, truck, and truck-tractor must be equipped with a speedometer indicating vehicle speed in miles per hour and/or kilometers per hour. The speedometer must be accurate to within plus or minus 8 km/hr (5 mph) at a speed of 80 km/hr (50 mph).

43. Section 393.87 is revised to read as follows:

§ 393.87 Warning flags on projecting loads.

(a) Any commercial motor vehicle transporting a load which extends beyond the sides by more than 102 mm (4 inches) or more than 1,219 mm (4 feet) beyond the rear must have the extremities of the load marked with red or orange fluorescent warning flags. Each warning flag must be at least 457 mm (18 inches) square.

(b) *Position of flags.* There must be a single flag at the extreme rear if the projecting load is two feet wide or less. Two warning flags are required if the projecting load is wider than two feet. Flags must be located to indicate maximum width of loads which extend beyond the sides and/or rear of the vehicle.

§ 393.92 [Removed and Reserved]

44. Section 393.92 is removed and reserved.

45. Section 393.94 is amended by revising the section heading, by removing paragraph (d) and the footnote to paragraph (c), and by revising paragraphs (a) and (c)(4) to read as follows:

§ 393.94 Interior noise levels in power units.

(a) *Applicability of this section.* The interior noise level requirements apply to all trucks, truck-tractors, and buses.

* * * * *

(c) * * *

(4) The sound level meters used to determine compliance with the requirements of this section must meet

the American National Standards Institute ''Specification for Sound Level Meters,'' ANSI S1.4–1983. (See § 393.7(b) for information on the incorporation by reference and availability of this document.)

* * * * *

46. Section 393.95 is amended by revising the introductory text; by removing and reserving paragraphs (c), (h) and (i); by revising paragraphs (a), and (f) and adding (b) to read as follows:

§ 393.95 Emergency equipment on all power units.

Each truck, truck tractor, and bus (except those towed in driveaway-towaway operations) must be equipped as follows:

(a) *Fire extinguishers*—(1) *Minimum ratings:* (i) A power unit that is used to transport hazardous materials in a quantity that requires placarding (See § 177.823 of this title) must be equipped with a fire extinguisher having an Underwriters' Laboratories rating of 10 B:C or more.

(ii) A power unit that is not used to transport hazardous materials must be equipped with either:

(A) A fire extinguisher having an Underwriters' Laboratories rating of 5 B:C or more; or

(B) Two fire extinguishers, each of which has an Underwriters' Laboratories rating of 4 B:C or more.

(2) *Labeling and marking.* Each fire extinguisher required by this section must be labeled or marked by the manufacturer with its Underwriters' Laboratories rating.

(3) *Visual Indicators.* The fire extinguisher must be designed, constructed, and maintained to permit visual determination of whether it is fully charged.

(4) *Condition, location, and mounting.* The fire extinguisher(s) must be filled and located so that it is readily accessible for use. The extinguisher(s) must be securely mounted to prevent sliding, rolling, or vertical movement relative to the motor vehicle.

(5) *Extinguishing agents.* The fire extinguisher must use an extinguishing agent that does not need protection from freezing. Extinguishing agents must comply with the toxicity provisions of the Environmental Protection Agency's Significant New Alternatives Policy (SNAP) regulations under 40 CFR Part 82, Subpart G.

(b) *Spare fuses.* Power units for which fuses are needed to operate any required parts and accessories must have at least one spare fuse for each type/size of fuse needed for those parts and accessories.

* * * * *

(f) *Warning devices for stopped vehicles.* Except as provided in paragraph (g) of this section, one of the following options must be used:

(1) Three bidirectional emergency reflective triangles that conform to the requirements of Federal Motor Vehicle Safety Standard No. 125, § 571.125 of this title; or

(2) At least 6 fusees or 3 liquid-burning flares. The vehicle must have as many additional fusees or liquid-burning flares as are necessary to satisfy the requirements of § 392.22.

(3) Other warning devices may be used in addition to, but not in lieu of, the required warning devices, provided those warning devices do not decrease the effectiveness of the required warning devices.

* * * * *

47. Section 393.102(b)(6) is amended by adding a sentence at the end of the paragraph preceding the tables of working load limits to read as follows:

§ 393.102 Securement systems.

* * * * *

(b) * * *

(6) *Tables of working load limits.* * * *. Welded steel chain which is not marked or labeled to enable identification of its grade or working load limit shall be considered to have a working load limit equal to that for grade 30 proof coil chain.

* * * * *

48. Section 393.201 is amended by removing paragraph (f) and by revising paragraphs (a) and (d) to read as follows:

§ 393.201 Frames.

(a) The frame or chassis of each commercial motor vehicle shall not be cracked, loose, sagging or broken.

* * * * *

(d) Parts and accessories shall not be welded to the frame or chassis of a commercial motor vehicle except in accordance with the vehicle manufacturer's recommendations. Any welded repair of the frame must also be in accordance with the vehicle manufacturer's recommendations.

* * * * *

49. Section 393.207 is amended by adding paragraph (g) to read as follows:

§ 393.207 Suspension systems.

* * * * *

(g) *Air suspension exhaust controls.* The air suspension exhaust controls must not have the capability to exhaust air from the suspension system of one axle of a two-axle air suspension trailer. This paragraph shall not be construed to prohibit—

(1) Devices that could exhaust air from both axle systems simultaneously; or

(2) Lift axles on multi-axle units.

50. Section 393.209 is amended by revising paragraph (b) and the first sentence of paragraph (d) to read as follows:

§ 393.209 Steering wheel systems.

* * * * *

(b) *Steering wheel lash.* (1) The steering wheel lash shall not exceed the following parameters:

Steering wheel diameter	Manual steering system	Power steering system
406 mm or less (16 inches or less)	51 mm (2 inches)	108 mm (4¼ inches).
457 mm (18 inches)	57 mm (2¼ inches)	121 mm (4¾ inches).
483 mm (19 inches)	60 mm (2⅜ inches)	127 mm (5 inches).
508 mm (20 inches)	64 mm (2½ inches)	133 mm (5¼ inches).
533 mm (21 inches)	67 mm (2⅝ inches)	140 mm (5½ inches).
559 mm (22 inches)	70 mm (2¾ inches)	146 mm (5¾ inches).

(2) For steering wheel diameters not listed in paragraph (b)(1) of this section the steering wheel lash shall not exceed 14 degrees angular rotation for manual steering systems, and 30 degrees angular rotation for power steering systems.

* * * * *

(d) *Steering system.* Universal joints and ball-and-socket joints shall not be worn, faulty or repaired by welding. * * *.

* * * * *

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Federal Register

Monday
April 14, 1997

Part III

Department of Labor

Employment and Training Administration

Department of Education

Office of Vocational and Adult Education

School-to-Work Opportunities; Urban/Rural Opportunities Grants; Application Procedures; Notice

DEPARTMENT OF LABOR

Employment and Training Administration

DEPARTMENT OF EDUCATION

Office of Vocational and Adult Education

School-to-Work Opportunities; Urban/Rural Opportunities Grants; Application Procedures

AGENCIES: Employment and Training Administration, Department of Labor. Office of Vocational and Adult Education, Department of Education.

ACTION: Notice of availability of funds, solicitation for grant application (SGA) and an Empowerment Zone/Enterprise Community EZ/EC invitational priority for School-to-Work Urban/Rural Opportunities Grants.

SUMMARY: This notice announces the 1997 competition for Urban/Rural Opportunities Grants authorized under Title III of the School-to-Work Opportunities Act of 1994 (the Act). This notice contains all of the necessary information and forms to apply for funds appropriated in FY 1996. Urban/Rural Opportunities Grants enable local partnerships serving youth who reside or attend school in high poverty areas to develop and implement School-to-Work Opportunities initiatives in high poverty areas of urban and rural communities. These initiatives offer young Americans in these communities access to School-to-Work Opportunities programs specifically designed to address barriers to their successful participation in such programs and to prepare them for further education and training and first jobs in high-skill, high-wage careers.

DATES: Applications for grant awards will be accepted commencing April 14, 1997. The closing date for receipt of applications is June 30, 1997 at 2 p.m. (Eastern time) at the address below. Telefacsimile (FAX) applications will not be accepted.

ADDRESSES: Applications must be mailed to: U.S. Department of Education, Application Control Center, Attention: CFDA #278G, Washington, DC 20202–4725.

FOR FURTHER INFORMATION CONTACT: Christine Camillo, National School-to-Work Office, Telephone: (202) 401–6222 (this is not a toll-free number). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Section A. Background

The Departments of Labor and Education are reserving funds appropriated for FY 1996 for a competition for Urban/Rural Opportunities Grants authorized under Title III of the Act. Grants under this competition will be awarded to local partnerships that serve high-poverty areas and that are also prepared to develop and implement local School-to-Work Opportunities initiatives in these areas. The Departments recognize that high-poverty areas face particular challenges in implementing School-to-Work initiatives, including: Few large private or public employers; dropout rates that, in many cases, are over 50 percent; poor students who may be much less aware of post-secondary opportunities than students in other areas; strong peer pressure that does not [necessarily] promote achievement among youth; pressure on youth from situations outside of school that may affect their school performance; schools with students of more diverse ethnic and racial backgrounds than schools in other areas; proportionately more out-of-school youth than in other areas; and uneven quality in educational and employment opportunities available to high-poverty area youth.

Due to these particular challenges, a local partnership in a high-poverty area must identify and address a great variety of needs of youth residing, or attending school, in these areas. The Departments encourage applications from only those local partnerships that propose innovative and effective ways to deliver the common features and basic program components as outlined in Title I of the Act and that have the potential to serve large numbers of students who reside or attend school in the targeted area. Further, the Departments wish to emphasize the importance of a local partnership's ability to coordinate its strategies for serving in-school and out-of-school youth; for achieving its planned goals and outcomes; for assessing and addressing the multiple needs of high-poverty area youth, particularly the human service needs; and for linking effectively with both schoolwide reform efforts and with State and community plans for a comprehensive School-to-Work Opportunities system.

In accordance with the authority provided in Section 5 of the Act, the Departments have determined that the administrative provisions contained in the Education Department General Administrative Regulations (EDGAR), at 34 CFR parts 74, 75, 77, 79, 80, 82, 85 and 86, will apply to grants awarded to local partnerships under this Urban/Rural Opportunities Grant competition.

This notice contains the definition of the term ''administrative costs,'' as established by the Departments in a final notice published on November 14, 1995 (60 FR 57276), and a 10 percent cap on administrative costs incurred by local partnerships receiving grants under Title III. This notice also establishes an invitational priority for funding EZ/EC applicants, and contains all of the other necessary information and forms to apply for a grant.

Section B. Purpose

Under this competition, the Departments will award grants to local partnerships serving youth who reside or attend school in high-poverty areas that have built a sound planning and development base for their school-to-work programs, to begin implementation of School-to-Work Opportunities initiatives that will become part of statewide School-to-Work Opportunities systems. These local initiatives offer young Americans access to programs designed to increase their opportunities for further education and training, to prepare them for first jobs in high-skill, high-wage careers, and to address the special needs of youth residing or attending school in high poverty areas.

Section C. Application Process

1. Eligible Applicants

(A) Local Partnership Definition

A local entity that meets the definition of ''local partnership'' in section 4(11) of the Act is eligible to apply for an Urban/Rural Opportunities Grant. As defined in the Act, an eligible partnership must include employers, representatives of local educational agencies and local postsecondary educational institutions (including representatives of area vocational education schools, where applicable), local educators, representatives of labor organizations or nonmanagerial employee representatives, and students. Other entities appropriate to effective implementation of a local School-to-Work Opportunities initiative should also be included in the partnership. Such partnerships must be in place prior to submitting an application for funding.

Under section 302(b)(2) of the Act, a local partnership is eligible to receive only one (1) Urban/Rural Opportunities Grant.

(B) High-Poverty Area Definition

In addition to meeting the definition of ''local partnership'' in section 4(11) of the Act, under section 307 of the Act, applicants seeking funding under this notice are required to meet the definition of ''high-poverty area'' as stated in that section and to describe the urban or rural high poverty area to be served. The description must include:

- A map indicating the urban census tract, contiguous group of urban census tracts, block number area, contiguous group of block number areas, or Indian reservation to be served by the local partnership. To be considered contiguous, the tracts, areas or reservations to be served must be touching at any point.
- The population of each urban census tract, block number area, or Indian reservation to be served, along with the total population of the entire area to be served; and
- The poverty rate for each urban census tract, block number area, or Indian reservation to be served, among individuals under the age of 22, as determined by the U.S. Bureau of the Census, along with an average poverty rate among this age group for the entire area to be served. Only U.S. Bureau of Census statistics may be submitted for review.

Only those applicants that both provide the required map and population/poverty rate data in their applications in the format outlined in this subsection of this notice and that meet the definition of a high poverty area as described in this subsection will be considered for funding. The Departments intend to pre-screen all applications for high poverty area eligibility prior to the panelists' review and will not consider any applications that do not contain the required map and population/poverty rate data. Information in addition to what is required in this notice with regard to population/poverty rate data is not necessary and will have no influence upon meeting the high poverty area definition. Applicants will not have the opportunity to submit additional or revised information should a determination be made that the identified area does not meet the high poverty definition.

Note: U.S. Bureau of Census information may be obtained through a local college or university, city planning department, State data center, or through the Data User Service Division of the U.S. Bureau of the Census. Applicants are encouraged to utilize local providers of U.S. Bureau of Census data. For those applicants who are unable to locate such data, please contact the Census Bureau State Data Center for your local area. A list of State and Local Data Center contacts is included in an appendix to this notice. Population/poverty rate data published by the Bureau of the Census is provided in age ranges: 0–5, 6–11, 12–17, 18–24, and 25 and up. The Departments will accept poverty rate data for the age range up to 17 or up to 24, whichever is higher, for the purposes of eligibility. In order to be considered for funding, all census tracts or blocks within the area to be served must be characterized by a poverty rate of 20.0 percent or greater among the age group.

2. State Comments

The local partnership must submit its application to the State for review and comment before submitting the application to the Departments, in accordance with section 303(a) of the Act. The application should be submitted to the State's School-to-Work Contact. A list of State School-to-Work Contacts is included in an appendix to this notice. The Departments expect that the State School-to-Work Contact will provide all members of the State School-to-Work Partnership listed in section 213 (b)(4)(A)–(K) of the Act an opportunity to review and comment on the local partnership's application.

Of particular importance to the Departments are each State's comments on the consistency of the local partnership's planned activities with the State's plan for a comprehensive statewide School-to-Work Opportunities system and the relationship of any proposed activities with other local school-to-work partnerships or plans, especially if the grant applicant is not specifically identified as a local partnership within the State system.

In accordance with section 305 of the Act, if a State has an approved State School-to-Work Opportunities plan, the State must confirm that the plan submitted by the local partnership is in accordance with the State plan. The application from the local partnership must contain this confirmation.

Section 303(b)(1) of the Act requires that each State review and comment on a local partnership's application within 30 days from the date on which the State receives the application from the local partnership. Therefore, even though an applicant has 75 days to apply for a Urban/Rural Opportunties Grant under this notice, it must provide its application to its State in time for the State to have at least 30 days before the due date to review and comment on the application.

Furthermore, under section 303(c)(2) of the Act, the State's comments must be included in the local partnership's application. However, if the State does not provide review and comment within the 30-day time period described above, the local partnership may submit the application to the Departments without State comment. In such a case, the local partnership should provide proof that the State received a copy of the local partnership's application at least 30 days prior to the application due date.

3. Period of Performance

The period of performance for Urban/Rural Opportunities Grants is sixty (60) months from the beginning of the project period.

4. Option to Extend

Urban/Rural Opportunities Grants may be continued up to 4 additional years, regardless of the State Implementation Grant status of the State in which the partnership is located. Additional funding will be based upon availability of funds and the progress of the local partnership towards its objectives as stated in its performance agreement and will be subject to the annual approval of the Secretaries of Labor and Education (the Secretaries). It is expected that the amount of Federal funds, if any, that are awarded to local partnerships under this notice in subsequent years, will decrease.

5. Available Funds

Approximately $14 million is available for this competition.

6. Estimated Range of Awards

The amount of an award under this competition will depend upon the scope, quality, and comprehensiveness of the proposed initiative and the relative size of the high poverty area to be served by the local partnership. While there is no limitation on the size of a high poverty area, the Departments expect that the resources available for individual grants will effectively serve high poverty areas of no more than a total of 50,000 in population. The Departments further expect that first-year award amounts will range from a minimum award of $200,000 to a maximum award of $500,000. These estimates, which are provided to assist applicants in developing their plans, are not binding.

7. Estimated Number of Awards

The Departments expect to award 30–40 grants under this competition.

Note: The Departments are not bound by any estimates in this notice.

8. Grantee Reporting Requirements/ Deliverables

(a) Reporting requirements.

The local partnership grantee will be required, at a minimum, to submit:

—Quarterly Financial Reports (SF 269 A);
—Quarterly Narrative Progress Reports;
—Performance Agreement or Performance Standards;
—Annual Financial Reports (ED Form 524 B, and SF 269);
Budget Information for Upcoming Years, if necessary;
—An Annual Performance Report providing data on performance measures; and
—A close-out report at the end of the grant.

(b) Deliverables.

The local partnership grantee will be required to:

- Provide information on best practices and innovative school-and work-based curricula suitable for dissemination to States and other stakeholders;
- Participate in two grantee meetings per year sponsored by the National School-to-Work Office;
- Act as a host to outside visitors who are interested in developing and implementing School-to-Work Opportunities initiatives in urban or rural areas of high poverty and to other visitors interested in the replication, adaptation and/or impact of successful program elements; and
- Participate as needed in national evaluation and special data collection activities.

9. Application Transmittal Instructions

An application for an award must be mailed or hand delivered by the closing date.

(A) Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention CFDA # 278G, 600 Independence Avenue, SW, Washington, DC 20202-4725.

An application must show proof of mailing consisting of one of the following:

- A legibly dated U.S. Postal Service Postmark;
- A legible mail receipt with the date of mailing stamped by the U.S. Postal Service;
- A dated shipping label, invoice, or receipt from a commercial carrier; or
- Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretaries do not accept either of the following as proof of mailing:

- A private metered postmark; or
- A mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office. An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

(B) Applications Delivered by Hand

An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 3633, Regional Office Building 3, 7th and D Streets, SW, Washington, DC.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:30 p.m. (Eastern time) daily, except Saturdays, Sundays and Federal Holidays.

Individuals delivering applications must use the D Street Entrance. Proper identification is necessary to enter the building.

In order for an application sent through a courier service to be considered timely, the courier service must be in receipt of the application on or before the closing date.

Section D. Organization and Content of Applications

Applicants are encouraged to submit an original and three (3) copies of their application. The Departments suggest that the application be divided into six distinct parts: detachable description addressing the high poverty area definition, budget and certifications, abstract, State comments, program narrative, and appendices. To ensure a comprehensive and expeditious review, the Departments strongly suggest that applicants submit an application formatted as follows:

Table of Contents

I. Eligibility Requirements

Part I must contain detailed information as described in the Eligible Applicants, High Poverty Area Definition subsection of this notice and, for pre-screening purposes, should be separate and easily detachable from the remainder of the application.

II. Budget and Certifications

Part II should contain the Standard Form (SF) 424, ''Application for Federal Assistance,'' and SF 524, ''Budget.'' One copy of the SF 424 must have original signatures of the designated fiscal agent, who will be the grantee. In addition, the budget should include—on a separate page(s)— a detailed cost break-out of each line item on SF 524. Applicants should list any non-Federal resources within their narrative applications. Any non-Federal resources listed on the applicant's SF 424 or ED Form 524, Section B, will be considered binding. Assurances and Certifications found in an appendix to this notice should also be included in Part II of the application and should include the original signatures of the fiscal agent/grantee.

III. Abstract

Part III should consist of a one-page abstract summarizing the essential components and key features of the local partnership's plan.

IV. State Comments

Part IV should contain the State's comments on the application. Details on this section can be found under the State Comments heading of this notice.

V. Program Narrative

Part V should contain the application narrative that demonstrates the applicant's plan and capabilities in accordance with the selection criteria contained in this notice. In order to facilitate expeditious evaluation by the panels, applicants should describe their proposed plan in light of each of the selection criteria. No cost data or reference to price should be included in this part of the application. The Departments strongly request that applicants limit the program narrative section to no more than 40 one-sided, double-spaced pages.

VI. Appendices

All applicable appendices including letters of support, resumes, and organization charts should be included in this section. The Departments recommend that all appendix entries be cross-referenced back to the applicable sections in the program narrative.

Note: Applicants are advised that the peer review panels evaluate each application solely on the basis of the selection criteria contained in this notice and the School-to-Work Opportunities Act. Appendices may be used to provide supporting information. However, in scoring applications, reviewers are required to take into account only information that is presented in the application narrative, which must address the selection criteria and requirements of the Act. Letters of support are welcome, but applicants should be aware that support letters contained in the application will strengthen the application only if they contain commitments that pertain to the selection criteria.

Based on their experience with past competitions, and in an effort to ensure and confirm the commitment of key partners to their partnership, the Assistant Secretaries may wish to contact the applicants and their key

partners before making final funding decisions.

Section E. Safeguards

The Departments will apply certain safeguards, as required under Section 601 of the Act, to School-to-Work Opportunities programs funded under this notice. The application must include a brief assurance that the following safeguards will be implemented and maintained throughout all program activities:

(a) No student shall displace any currently employed worker (including a partial displacement, such as a reduction in the hours of non-overtime work, wages, or employment benefits).

(b) No School-to-Work Opportunities program shall impair existing contracts for services or collective bargaining agreements, and no program funded under this notice shall be undertaken without the written concurrence of the labor organization and employer concerned.

(c) No student shall be employed or fill a job—

(1) When any other individual is on temporary layoff, with the clear possibility of recall, from the same or any substantially equivalent job with the participating employer; or

(2) When the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the intention of filling the vacancy so created with the student.

(d) Students shall be provided with adequate and safe equipment and safe and healthful workplaces in conformity with all health and safety requirements of Federal, State, and local laws.

(e) Nothing in the Act shall be construed so as to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, ethnicity, national origin, gender, age, or disability.

(f) Funds awarded under the Act shall not be expended for wages of students or workplace mentors.

(g) The grantee shall implement and maintain such other safeguards as the Secretaries may deem appropriate in order to ensure that School-to-Work Opportunities participants are afforded adequate supervision by skilled adult workers, or to otherwise further the purposes of the Act.

Section F. Waivers

Under Title V of the Act, the Secretaries may waive certain Federal requirements that impede the ability of a State or local partnership to carry out the purposes of the Act. Only local partnerships in States with approved School-to-Work Opportunities plans may apply for waivers. A local partnership that seeks a waiver should contact its State School-to-Work Contact to determine what documentation is required and to whom it should be sent.

In May, 1995, the National School-to-Work Opportunities Office issued a document entitled ''School-to-Work Opportunities Waiver and Plan Approval Process Questions and Answers.'' This document was sent to every Governor and State School-to-Work Contact. The document contains answers to many of the questions that localities may have when preparing their waiver requests. Local Partnerships interested in applying for waivers should contact the National School-to-Work Opportunities Office or their State School-to-Work Contact for a copy of the waivers document.

Section G. Bidders' Conferences

Bidders' Conferences for interested School-to-Work Urban/Rural Opportunities representatives are scheduled from 1:00 p.m. to 4:00 p.m., on the dates and locations listed below:

- May 9, 1997, Dallas, Texas.
- May 12, 1997, Chicago, Illinois.

Registration for both conferences will be held from 12–1 p.m. (Central Time). More information on the location of each conference will be provided to applicants at the time of registration.

Participants at each of the Conferences will receive a detailed description of the School-to-Work Opportunities Act, the selection criteria and high poverty area definition and how they will be applied, and will have the opportunity to ask questions of Federal School-to-Work officials.

All partnerships must pre-register by faxing the names and addresses of up to three members of the local partnership planning to attend, the name of the local partnership, and a phone number to: Jeffrey Way, Way and Associates, 7338 Baltimore Avenue, Suite 107, College Park, MD 20740, (301) 277–2050; FAX: (301) 277–2051.

Questions regarding the solicitation may be submitted in advance. If you are unable to attend one of the Bidders' Conferences but would like the conference materials and a conference transcript, submit your request via fax to the fax number listed above. All reservations must be submitted no later than April 25, 1997. You will be sent a confirmation along with hotel accommodation information once your registration has been received.

School-to-Work Local Partnership Grants

Administrative Cost Cap

The Departments are applying the 10 percent cap on administrative costs contained in section 215(b)(6) of the Act to local partnerships receiving grants directly under this competition. As was explained in the notice announcing the FY 1995 competition, section 215(b)(6) of the Act applies the 10 percent administrative cap to subgrants received by local partnerships from a State. Applying the 10 percent cap to Urban/Rural local partnership grants under this competition is consistent with the Act's intent and its broader limitations on administrative costs, as well as with section 305 of Title III, which requires conformity between School-to-Work Opportunities plans of local partnerships and State School-to-Work Opportunities plans.

Definition of Administrative Costs

All definitions in the Act apply to local School-to-Work Opportunities systems funded under this and future Urban/Rural Opportunities Grant competitions. Since the Act does not contain a definition of the term ''administrative costs'' as used in section 217 of the Act, as was explained in the notice announcing the FY 1995 competition, the Departments will apply the following definition to competitions for Urban/Rural Opportunities Grants.

The term ''administrative costs'' means the activities of a local partnership that are necessary for the proper and efficient performance of its duties under the Urban/Rural Opportunities Grant pursuant to the School-to-Work Opportunities Act and that are not directly related to the provision of services to participants or otherwise allocable to the program's allowable activities listed in section 215(b)(4) and section 215(c) of the Act. Administrative costs may be either personnel or non-personnel costs, and may be either direct or indirect. Costs of administration include those costs that are related to this grant in such categories as—

A. Costs of salaries, wages, and related costs of the grantee's staff engaged in—

- Overall system management, system coordination, and general administrative functions, except evaluation activities;
- Preparing program plans, budgets, and schedules, as well as applicable amendments;
- Monitoring of local initiatives, pilot projects, subrecipients, and related systems and processes;

- Procurement activities, including the award of specific subgrants, contracts, and purchase orders;
- Developing systems and procedures, including management information systems, for ensuring compliance with the requirements under the Act;
- Preparing reports and other documents related to the Act;
- Coordinating the resolution of audit findings;

B. Costs for goods and services required for administration of the School-to-Work Opportunities system;

C. Costs of system-wide management functions; and

D. Travel costs incurred for official business in carrying out grants management or administrative activities.

EZ/EC Priority

The Departments invite applications from local partnerships proposing to implement a School-to-Work Opportunities initiative for youth residing or attending school in an Empowerment Zone or Enterprise Community (EZ/EC), designated under section 1391 of the Internal Revenue Code (IRC), as amended by Title XIII of the Omnibus Budget Reconciliation Act of 1993. This is an invitational priority, under authority of 34 CFR 75.105(c)(1), whereby the Departments seek to encourage EZ/EC communities to apply for grants in this competition.

Selection Criteria

Under the School-to-Work Urban/Rural Opportunities Grant competition, the Departments will use the following selection criteria in evaluating applications and will utilize a peer review process in which review teams, including peers, will evaluate applications using the selection criteria and the associated point values. The Departments will base final funding decisions on the ranking of applications as a result of the peer review, and such other factors as replicability, sustainability, innovation, geographic balance, and diversity of system approaches.

Further, as established in section 302(b)(3) of the Act, the Secretaries, in awarding grants under this notice, shall give priority to local partnerships that have demonstrated effectiveness in the delivery of comprehensive vocational preparation programs with successful rates in job placement through cooperative activities among local educational agencies, local businesses, labor organizations, and other organizations.

Selection Criterion 1: Comprehensive Local School-to-Work Opportunities System (40 Points)

Considerations: In applying this criterion, reviewers will consider—

A. *20 Points.* The extent to which the partnership has designed a comprehensive local School-to-Work Opportunities plan that—

- Includes effective strategies for integrating school-based and work-based learning, integrating academic and vocational education, and establishing linkages between secondary and postsecondary education;
- Is likely to produce systemic change that will have substantial impact on the preparation of all students for a first job in a high-skill, high-wage career and in increasing their opportunities for further learning;
- Ensures that all students will have a full range of options, including options for higher education, additional training and employment in high-skill, high-wage jobs;
- Ensures coordination and integration with existing school-to-work programs, and with related programs financed from State and private sources, with funds available from Federal education and training programs (such as the Job Training Partnership Act and the Carl D. Perkins Vocational and Applied Technology Education Act); and where applicable, communities designated as Empowerment Zones or Enterprise Communities (EZ/EC);
- Serves a geographical area that reflects the needs of the local labor market (i.e., considers the needs of the local labor market that encompasses the high poverty area), and is able to adjust to regional structures that the State School-to-Work Opportunities plan may identify;
- Targets occupational clusters that represent growing industries in the partnership's geographic area; and, where applicable, demonstrates that the clusters are included among the occupational clusters being targeted by the State School-to-Work Opportunities system; and
- Consistent with section 301(2) of the Act, includes an effective strategy for assessing and addressing the academic and human service needs of students and dropouts within the high poverty area, making improvements or adjustments as necessary, with particular emphasis on the coordination of various human services provided within the community.

B. *20 Points.* The extent to which the partnership's plan demonstrates its capability to achieve the statutory requirements and to effectively put in place the system components in Title I of the School-to-Work Opportunities Act, including—

- A work-based learning component that includes the statutory ''mandatory activities'' and that contributes to the transformation of workplaces into active learning components of the education system through an array of learning experiences such as mentoring, job-shadowing, unpaid work experiences, school-sponsored enterprises, and paid work experiences;
- A school-based learning component that provides students with high-level academic and technical skills consistent with academic standards that the State establishes for all students, including, where applicable, standards established under the Goals 2000: Educate America Act;
- A connecting activities component to provide a functional link between students' school and work activities, and between workplace partners, educators, community organizations, and other appropriate entities;
- Effective processes for assessing skills and knowledge required in career majors, and issuing portable skill certificates that are benchmarked to high-quality standards such as those States will establish under the Goals 2000: Educate America Act, and for periodically assessing and collecting information on student outcomes, as well as a realistic strategy and timetable for implementing the process in concert with the State;
- A flexible School-to-Work Opportunities system that allows students participating in the local system to develop new career goals over time, and to change career majors; and
- Effective strategies for: providing staff development for teachers, worksite mentors and other key personnel; developing model curricula and innovative instructional methodologies; expanding career and academic counseling in elementary and secondary schools; and utilizing innovative technology-based instructional techniques.

Selection Criterion 2: Quality and Effectiveness of the Local Partnership (20 Points)

Considerations: In applying this criterion, reviewers will refer to section 4(11) of the Act and consider—

- Whether the partnership's plan demonstrates an effective and convincing strategy for continuing the commitment of required partners and other interested parties in the local School-to-Work Opportunities system. As defined by the Act, partners must include employers, representatives of

local educational agencies and local postsecondary educational institutions (including representatives of area vocational education schools, where applicable), local educators (such as teachers, counselors, or administrators), representatives of labor organizations or nonmanagerial employee representatives, and students, and may include other relevant stakeholders such as those listed in section 4(11)(B) of the Act, including employer organizations; community-based organizations; national trade associations working at the local levels; industrial extension centers; rehabilitation agencies and organizations; registered apprenticeship agencies; local vocational education entities; proprietary institutions of higher education; local government agencies; parent organizations; teacher organizations; vocational student organizations; private industry councils under JTPA; Federally recognized Indian tribes, Indian organizations, and Alaska Native villages; and Native Hawaiian entities;

- Whether the partnership's plan demonstrates an effective and convincing strategy for continuing the commitment of workplace partners and other interested parties in the local School-to-Work Opportunities system;
- The effectiveness of the partnership's plan to include private sector representatives as joint partners with educators in both the design and the implementation of the local School-to-Work Opportunities system;
- The extent to which the local partnership has developed strategies to provide a range of opportunities for workplace partners to participate in the design and implementation of the local School-to-Work Opportunities system, including membership on councils and partnerships; assistance in setting standards, designing curricula, and determining outcomes; providing worksite experiences for teachers; helping to recruit other employers; and providing worksite learning activities for students such as mentoring, job shadowing, unpaid work experiences, and paid work experiences;
- The extent to which the roles and responsibilities of the key parties and any other relevant stakeholders are clearly defined and are likely to produce the desired changes in the way students are prepared for the future;
- The extent to which the partnership demonstrates the capacity to build a quality local School-to-Work Opportunities system; and
- Whether the partnership has included methods for sustaining and expanding the partnership as the program expands in scope and size.

Note: As indicated in the Background section of this notice, in accordance with section 301(2) of the Act, the Departments recognize the significance of a local partnership's capability to provide for a broad range of services that sufficiently address the various needs of high poverty area youth. Applicants are, therefore, reminded that local partnerships should include members that are appropriate to the effective implementation of the local initiative, particularly community-based organizations and others experienced in dealing with the distinctive needs of youth residing or attending schools in high poverty areas.

Selection Criterion 3: Participation of All Students (15 Points)

Considerations: In applying this criterion, reviewers will refer to the definition of the term ''all students'' in section 4(2) of the Act, and consider—

- The extent to which the partnership will implement effective strategies and systems to provide all students with equal access to the full range of program components specified in sections 102 through 104 of the Act and related activities such as recruitment, enrollment, and placement activities, and to ensure that all students have meaningful opportunities to participate in School-to-Work Opportunities programs;
- Whether the partnership has identified potential barriers to the participation of any students, and the degree to which it proposes effective ways of overcoming these barriers;
- The degree to which the partnership has developed realistic goals and methods for assisting young women to participate in School-to-Work Opportunities programs leading to employment in high-performance, high-paying jobs, including non-traditional jobs;
- The partnership's methods for ensuring safe and healthy work environments for students, including strategies for encouraging schools to provide students with general awareness training in occupational safety and health as part of the school-based learning component, and for encouraging workplace partners to provide risk-specific training as part of the work-based learning component, as well the extent to which the partnership has developed realistic goals to ensure environments free from racial and sexual harassment; and
- The extent to which the partnership's plan provides for the participation of a significant number or percentage of students in School-to-Work Opportunities activities listed under Title I of the Act.

Selection Criterion 4: Collaboration With State (15 Points)

Considerations: In applying this criterion, reviewers will consider—

- The extent to which the local partnership has effectively consulted with its State School-to-Work Opportunities Partnership, and has established realistic methods for ensuring consistency of its local strategies with the statewide School-to-Work Opportunities system being developed by that State Partnership;
- Whether the local partnership has developed a sound strategy for integrating its plan, as necessary, with the State plan for a statewide School-to-Work Opportunities system;
- The extent to which the local partnership has developed effective processes through which it is able to assist and collaborate with the State in establishing the statewide School-to-Work Opportunities system, and is able to provide feedback to the state on their system-building process; and
- Whether the plan includes a feasible workplan which describes the steps that will be taken in order to make the local system part of the State School-to-Work Opportunities System, including a timeline that includes major planned objectives during the grant period.

Selection Criterion 5: Management Plan (10 Points)

Considerations: In applying this criterion, reviewers will consider—

- The feasibility and effectiveness of the partnership's strategy for using other resources, including private sector resources, to maintain the system when Federal resources under the School-to-Work Opportunities Act are no longer available;
- The extent to which the partnership's management plan anticipates barriers to implementation and proposes effective methods for addressing barriers as they arise;
- Whether the plan includes feasible, measurable goals for the School-to-Work Opportunities system, based on performance outcomes established under section 402 of the Act, and an effective method for collecting information relevant to the local partnership's progress in meeting its goals;
- Whether the plan includes a regularly scheduled process for improving or redesigning the School-to-Work Opportunities system based on performance outcomes established under section 402 of the Act;
- The extent to which the resources requested will be used to develop

information, products, and ideas that will assist other States and local partnerships as they design and implement local systems; and

- The extent to which the partnership will limit equipment and other purchases in order to maximize the amounts spent on delivery of services to students.

Note: Experience with the 1994 and 1995 Urban/Rural Opportunities Grant competitions provided the Departments with a greater awareness with regard to a local partnership's responsibilty for understanding and coordinating an array of programs and services available to high poverty area youth. In considering this criterion, applicants should address the partnership's capacity to manage the implementation of the local School-to-Work Opportunities initiative.

Dated: April 7, 1997.

Raymond Uhalde,

Acting Assistant Secretary for Employment and Training, Department of Labor.

Patricia McNeil,

Assistant Secretary for Vocational and Adult Education Department of Education.

BILLING CODE 4000–01–P

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION:
Application: ☐ Construction ☐ Non-Construction
Preapplication: ☐ Construction ☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:

Organizational Unit:

Address (*give city, county, state, and zip code*):

Name and telephone number of the person to be contacted on matters involving this application (*give area code*)

6. EMPLOYER IDENTIFICATION NUMBER (EIN):
☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (*enter appropriate letter in box*) ☐
A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:
☐ New ☐ Continuation ☐ Revision
If Revision, enter appropriate letter(s) in box(es): ☐ ☐
A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (*specify*):
_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 84.227G
TITLE: Urban/Rural Opportunities Grant

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (*cities, counties, states, etc.*):

13. PROPOSED PROJECT:

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:
a. Applicant
b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:
DATE _____
b NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control No. 1875-0102

Expiration Date: 9/30/98

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	**Total (f)**
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED FORM NO. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	**Total (f)**
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours, 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 U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington, D.C. 20503.

INSTRUCTIONS FOR ED FORM NO. 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

Standard Form 424B (4-88)
Prescribed by OMB Circular A-102

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C: § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about–

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will–

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted–

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," " person," "primary covered transaction," " principal," proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV.12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C 1352
(See reverse for public burden disclosure.)

1. **Type of Federal Action:** ☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. **Status of Federal Action:** ☐ a. bid/offer/application b. initial award c. post-award	3. **Report Type:** ☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter ____ date of last report ____

4. **Name and Address of Reporting Entity:** ☐ Prime ☐ Subawardee Tier _____, *if known:* **Congressional District,** *if known:*	5. **If Reporting Entity in No.4 is Subawardee, Enter Name and Address of Prime:** **Congressional District,** *if known:*
6. **Federal Department/Agency:**	7. **Federal Program Name/Description:** CFDA Number, *if applicable*: _____
8. **Federal Action Number,** *if known:*	9. **Award Amount,** *if known:* $
10. **a. Name and Address of Lobbying ~~Entity~~ Registrant** *(if individual, last name, first name, MI):*	**b. Individuals Performing Services** *(including address if different from No. 10a) (last name, first name, MI):*
~~11. Amount of Payment *(check all that apply):*~~ ~~$ _____ ☐ actual ☐ planned~~	~~13. Type of Payment *(Check all that apply):*~~ ~~☐ a. retainer~~ ~~☐ b. one-time fee~~ ~~☐ c. commission~~ ~~☐ d. contingent fee~~ ~~○ e. deferred~~ ~~☐ f. other; specify: _____~~
~~12. Form of Payment *(check all that apply):*~~ ~~☐ a. cash~~ ~~☐ b. in kind; specify: nature _____ value _____~~	

~~14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:~~

~~*(attach Continuation Sheet(s) SF-LLL-A, if necessary)*~~

~~15. Continuation Sheet(s) SF-LLL attached: ☐ Yes ☐ No~~

16. **Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.**	**Signature:** _____ **Print Name:** _____ **Title:** _____ **Telephone No.:** _____ **Date:** _____
Federal Use Only	**Authorized for Local Reproduction** **Standard Form - LLL**

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. ~~Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate.~~ Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and conract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee" then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number, grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state, and zip code of the ~~lobbying entity~~ registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

~~11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this a material change report, enter the cumulative amount of payment made or planned to be made.~~

~~12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of in-kind payment.~~

~~13. Check the appropriate box(es). Check all boxes that apply. If other specify nature.~~

~~14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.~~

~~15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.~~

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

OMB Control No. 18010004 (Exp. 8/31/98)

NOTICE TO ALL APPLICANTS

Thank you for your interest in this program. The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under the Department programs. This provision is Section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103-382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new discretionary grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its Federally-assisted program for students, teachers, and other program beneficiaries with special needs.

This Section allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation that you may address: gender, race, national origin, color, disability, or age. Based on local circumstances, you can determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation. Your description need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

Appendix 1

Census Bureau Telephone Contacts
National, State, & Local Data Centers

Business/ Industry Data Centers - DUSD.....301-457-1305 State Data Center Program 301-457-1305

State data centers (SDC's) and business / industry data centers (BIDC's)

(Data centers are usually State government agencies, universities and libraries that head up a network of affiliate centers. Below are listed the SDC and BIDC lead agency contacts. All States have SDC's. Asterisks (*) identify States that also have BIDC's. In some States, one agency serves as the lead for both the SDC and the BIDC; the BIDC is listed separately where there is a separate agency serving as the lead.)

Alabama - Annette Watters, University of Alabama 205-348-6191
Alaska - Kathryn Lizik, Alaska Department of Labor.....907-465-2437
***Arizona** - Betty Jefferies, Department of Security.....602-542-5984
Arkansas - Sarah Breshears, University of Arkansas at Little Rock.....501-569-8530
California - Linda Gage, Department of Finance.....916-323-4086
Colorado - Rebecca Picaso, Department of Local Affairs.....303-866-2156
Connecticut - Bill Kraynak, Office of Policy & Management.....860-418-6230
***Delaware** - Mike Mahaffie, Delaware Economic Development Office. 302-739-4271
District of Columbia - Herb Bixhorn, Mayor's Office of Planning.....202-727-6533
***Florida** - Pam Schenker, BIDC, Department of Labor and Employment Security.....904-487-2814
Georgia - Marty Sik, Office of Planning & Budget.....404-656-0911
Guam - Rose Deaver, Department of Commerce.....011-671-475-0325
Hawaii - Jan Nakamoto, Department of Business, Economic Development & Tourism...808-586-2493
Idaho - Alan Porter, Department of Commerce.....208-334-2470
***Illinois** - Suzanne Ebetsch, Bureau of the Budget.....217-782-1381
***Indiana** - Sylvia Andrews, State Library.....317-232-3733
BIDC - Carol Rogers, Business Research Center..... ..317-274-3312
Iowa - Beth Henning, State Library.....515-281-3384
Kansas - Marc Galbraith, State Library.....913-296-3296
***Kentucky** - Ron Crouch, Center for Urban & Economic Research.....502-852-7990
Louisiana - Karen Paterson, Office of Planning & Budget.....504-342-7410
***Maine** - Staff, Department of Labor.....207-287-2271
***Maryland** - Jane Traynham, Department of State Planning..... 410-767-4450
***Massachusetts** - Valerie Conti, University of Massachusetts.....413-545-3460
Michigan - Eric Swanson, Carolyn Lauer, Department of Management & Budget.....517-373-7910
***Minnesota** - David Birkholz, State Demographer's Office.....612-297-2557
BIDC - David Rademacher, State Demographer's Office.....612-297-3255
***Mississippi** - Rachel McNeely University of Mississippi.....601-232-7288
BIDC - Deloise Tate, Dept. Of Economic and Community Development..... 601-359-3454
***Missouri** - Debra Pitts, State Library..... 573-526-7648
BIDC - Jackie Brown, Small Business Development Centers.....573-882-0344
***Montana** - Patricia Roberts, Department of Commerce.....406-444-2896

Appendix 1

Census Bureau Telephone Contacts
National, State, & Local Data Centers

Nebraska - Jerome Deichert, University of Nebraska-Omaha.....402-595-2311
Nevada - Linda Lee Nary, State Library.....702-687-8326
New Hampshire - Thomas J. Duffy, Office of State Planning.....603-271-2155
***New Jersey** - Doug Moore, Department of Labor.....609-984-2595
***New Mexico** - Kevin Kargacin, University of New Mexico.....505-277-6626
***New York** - Staff, Department of Economic Development..... 518-474-1141
***North Carolina** - Francine Stephenson, State Library.....919-733-3270
North Dakota - Richard Rathge, North Dakota State University.....701-231-8621
Northern Mariana Islands - Juan Borja, Department of Commerce & Labor.....011-670-664-3034
***Ohio** - Barry Bennett, Department of Development.....614-466-2115
***Oklahoma** - Jeff Wallace, Department Of Commerce.....405-815-5184
Oregon - George Hough, Portland State University.....503-725-5159
***Pennsylvania** - Diane Shoop, Pennsylvania State University at Harrisburg.....717-948-6336
Puerto Rico - Lillian Torres Aguirre, Planning Board.....787-728-4430
Rhode Island - Paul Egan, Department of Administration.....401-277-6493
South Carolina - Mike MacFarlane, Budget & Control Board.....803-734-3780
South Dakota - Theresa Bendert, University of South Dakota.....605-677-5287
Tennessee - Charles Brown, State Planning Office.....615-741-1676
Texas - Steve Murdock, Texas A&M University.....409-845-5115
***Utah** - David Abel, Office of Planning & Budget.....801-538-1036
Vermont - Sybil McShane, Department of Libraries.....802-828-3261
Virgin Islands - Frank Mills, University of the Virgin Islands.....809-693-1027
***Virginia** - Don Lillywhite, Virginia Employment Commission.....804-786-8026
***Washington** -Yi Zhao, Office of Financial Management.....360-902-0592
***West Virginia** - Delephine Coffey, Development Office 304-558-4010
BIDC - Randy Childs, Center for Economic Research.....304-293-7832
***Wisconsin** - Robert Naylor, Department of Administration.....608-266-1927
BIDC - Ed Wallander, University of Wisconsin-Madison.....608-262-3097
Wyoming - Wenlin Liu, Department of Administration & Fiscal Control.....307-777-7504

Census Information Centers

(Census Information Centers, in partnership with the Census Bureau, coordinate information networks that disseminate census data on the Black, Hispanic, Asian and Pacific islander, and American Indian / Alaska Native populations.)

Asian American Health Forum, Inc.
San Francisco - Heidi Tom.....415-512-2717
Indian Net Information Center
Bernalillo, NM - LaDonna Harris.....505-867-0278
National Council of La Raza
Washington, DC - Eric Rodriguez.....202-785-1670
National Urban League,
Washington, DC -B.Keith Fulton.....212-310-9244
Southwest Voter Research Institute,
San Antonio, Texas - Angela Acosta.....210-222-8014

Appendix 2

State Grant Contacts

District of Columbia

Noel Meekins
Department of Employment Services
Office of Resources Development
500 C Street, NW, Room 600
Washington, DC 20001
T: 202-724-7170
F: 202-724-7136

Puerto Rico

Magal Gonzalez
School-to-Work Opportunities
P.O. Box 195207
San Juan, PR 00919-5207
T: 787-765-3644
F: 787-282-8393

State of Alabama

Mary Louise Simms
State Occupational Information Council
Center for Commerce, Room 424
401 Adams Avenue
P.O. Box 5690
Montgomery, AL 36104
T: 334-242-2990
F: 334-353-1816

State of Alaska

Sally Saddler
Alaska Department of Education
801 W. 10th St, Suite 200
Juneau, AK 99801-1894
T: 907-465-8726
F: 907-465-3240

State of Arizona

Gary E. Abraham
1700 West Washington
State Capitol, West Wing
Phoenix, AZ 85007
T: 602-542-3498
F: 602-542-3643

State of Arkansas

Stephen Franks
Arkansas Dept. of Education
Voc. & Tech. Education Division
Three Capitol Mall
Little Rock, AR 72201-1083
T: 501-682-1666
F: 501-682-1509

State of California

Ron Fox
California Employment Development Dept.
MIC 88, P.O. Box 826880
Sacramento, CA 94280-0001
T: 916-654-6138
F: 916-654-5918

State of Colorado

Marilyn Akers
Colorado School-to-Work Initiative
1580 Logan, Suite 410
Denver, CO 80203
T: 303-894-2060
F: 303-894-2064

State of Connecticut

Leslie M. Averna
Connecticit State Dept. of Education
25 Industrial Park Road
Middletown, CT 06457-1543
T: 860-638-4000
F: 860-632-1854

State of Delaware

Valerie Woodruff
Delaware Dept. of Public Instruction
Townsend Building
Federal & Lockerman Streets
P.O. Box 1402
Dover, DE 19903
T: 302-739-3772
F: 302-739-3744

State Grant Contacts

State of Florida

Michael Brawer
School-to-Work Joint Services
325 W. Gaines St., Suite 754
Tallahassee, FL 32399
T: 904-488-7394
F: 904-488-3192

State of Georgia

Tim Burgess
Office of Planning & Budget
254 Washington Street, SW
Atlanta, GA 30304
T: 404-656-3820
F: 404-656-7198

State of Hawaii

Herbert Randall
Hawaii School-to-Work Opportunities
4967 Kilauea Avenue
Honolulu, HI 96816
T: 808-733-4720
F: 808-733-3192

State of Idaho

Karen Fraley
Idaho School-to-Work
P.O. Box 83720
Boise, ID 83720-9506
T: 208-332-6928
F: 208-334-5048

State of Illinois

Fran Beaumann
Center for Business, Community
& Family Partnerships Education
100 N. First Street, E-426
Springfield, IL 62777-0001
T: 217-782-4620
F: 217-782-9224

State of Indiana

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Department of Workforce Development
10 N. Senate Ave, SE
Room 302, IN Government Center
Indianapolis, IN 46204-2277
T: 317-232-1832
F: 317-233-1670

State of Iowa

Mary Petersen
Workforce Development Admin. Center
150 Des Moines St.
Des Moines, IA 50309
T: 515-281-9037
F: 515-281-9002

State of Kansas

Ferman Marsh
Kansas State Board of Education
120 SE 10th Avenue
Topeka, KS 66612-1182
T: 913-296-3047
F: 913-296-7933

State of Kentucky

Diane Smithers
Berry Hill Annex
700 Louisville Road
Frankfort, KY 40601
T: 502-564-5901
F: 502-564-5904

State of Lousiana

Chris Weaver
Office of the Governor
P.O. Box 94004
Baton Rouge, LA 70804-9004
T: 504-342-2094
F: 504-342-1494

State Grant Contacts

State of Maine

Chris Lyons
Department of Education
23 State House Station
Augusta, ME 04333-0023
T: 207-287-5854
F: 207-287-5894

State of Maryland

Katherine Oliver
200 W. Baltimore Street
Department of Education
Baltimore, MD 21201-2595
T: 410-767-0157
F: 410-333-2099

State of Massachusetts

John Niles
Executive Director
MA Office for School-to-Work Transition
101 Summer St., 4th Floor
Boston, MA 02110
T: 617-451-5130
F: 617-451-1291

State of Michigan

Robert T. Pendleton
Office of Workforce Development
201 N. Washington Sq.
Victor Offie Center, 1st Fl.
Lansing, MI 48913
T: 517-335-5853
F: 517-335-5945

State of Minnesota

Eugene Piccolo
MN Dept. of Children, Families & Learning
684 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101-2273
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F: 612-296-3348

State of Mississippi

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Department of Education
School-to-Work Transition
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Jackson, MS 39205-0771
T: 601-359-5745
F: 601-359-6619

State of Missouri

Doug Sutton
Missouri Dept. of Elementary & Secondary
P.O.Box 480
Jefferson City, MO 65102
T: 573-751-4192
F: 573-526-4261

State of Montana

Jane Karas
Office of the Commissioner of Higher Education
2500 Broadway
Helena, MT 59620-3101
T: 406-444-0316
F: 406-444-1469

State of Nebraska

Darl Naumann
Nebraska Alliance for Learning
301 Cenennnial Mall South
P O. Box 94666
Lincoln, NE 68509-4666
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F: 402-471-3778

State of Nevada

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700 East Fifth Street
Carson Ctiy Bismark, NV 89710
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F: 702-687-9202

State Grant Contacts

State of New Hampshire

Steve Bosher
New Hampshire Department of Education
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Concord, NH 03301
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F: 603-271-1953

State of New Jersey

Thomas Henry
240 West State Street
CN 500, 11th Floor
Trenton, NJ 08625-0500
T: 609-633-0665
F: 609-984-5328

State of New Mexico

Vonell Huitt
Office of the Governor
State Capitol Building
Suite 400
Santa Fe, NM 87503
T: 505-827-3078
F: 505-827-3026

State of New York

Cynthia Laxs
NY State Education Department
Education Building, Room 305M
Albany, NY 12234
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F: 518-486-5682

State of North Carolina

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Commission on Workforce Preparedness
116 West Jones Street
Raleigh, NC 27603-8001
T: 919-715-3300
F: 919-715-3974

State of North Dakota

Dean Monteith
State Board for Vocational and
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State Capitol, 15th Floor
Bismark, ND 58505
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F: 701-328-1255

State of Ohio

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State of Oaklahoma

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F: 405-743-5541

State of Oregon

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255 Capitol St, NE
Salem, OR 97310
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F: 503-373-7968

State of Pennsylvania

Michael Snyder
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333 Market Street, 5th Floor
Harrisburg, PA 17126-0333
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State Grant Contacts

State of Rhode Island

Judith Marmaras
Rhode Island Department
255 Westminister Street
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F: 401-277-2537

State of South Carolina

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Columbia, SC 29202
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F: 803-737-2642

State of South Dakota

Mary Ellen Johnson
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Pierre, SD 57501
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F: 605-773-4211

State of Tennessee

Gordon Fee
Department of Education
Andrew Johnson Tower
710 James Robertson Parkway
Nashville, TN 37243
T: 615-532-4983
F: 615-532-6236

State of Texas

Dee Bednar
Texas Workforce Commission
101 East 15th Street, Room 500
Austin, TX 78778-0001
T: 512-463-9484
F: 512-463-2623

State of Utah

Scott Hess
Utah State Office of Education
250 East 500 South
Salt Lake City, UT 84111
T: 801-538-7850
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State of Vermont

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State of Virginia

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Richmond, VA 23219
T: 804-692-0244
F: 804-692-0430

State of Washington

Kyra Kester
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Coordinating Board
P.O. Box 43105
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T: 360-586-8678
F:360-586-5862

State of West Virginia

Ron Grimes
1900 Kanawha Blvd., East
Building 6, Room 235
Charleston,WV 25305-0330
T: 304-558-2389
F: 304-558-3946

State Grant Contacts

State of Wisconsin

Vicki Poole
Dept. Of Workforce Development,
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201 E. Washington Ave, Rm 231X
Madison, WI 53702
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F: 608-261-6698

State of Wyoming

Patti Muhlenkamp
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2300 Capitol Avenue
Hathaway Building, WY 82002
T: 307-777-3561
F: 307-777-6234

Appendix 3

Empowerment Zones and Enterprise Communities

EMPOWERMENT ZONES (EZ)

Georgia: Atlanta
Illinois: Chicago
Kentucky: Kentucky Highlands*
Maryland: Baltimore
Michigan: Detroit
Mississippi: Mid Delta*
New York: Harlem, Bronx
Pennsylvania/New Jersey: Philadelphia, Camden
Texas: Rio Grande Valley*

SUPPLEMENTAL EMPOWERMENT ZONES (SEZ)

California: Los Angeles
Ohio: Cleveland

ENTERPRISE COMMUNITIES (EC)

Alabama: Birmingham
Alabama: Chambers County*
Alabama: Greene, Sumter Counties*
Arizona: Phoenix
Arizona: Arizona Border*
Arkansas: East Central*
Arkansas: Mississippi County*
Arkansas: Pulaski County
California: Imperial County*
California: Los Angeles, Huntington Park
California: San Diego
California: San Francisco, Bayview-Hunters Point, Southeast Section
California: San Francisco, Tenderloin
California: San Francisco, Chinatown
California: San Francisco, South of Market
California: San Francisco, Mission
California: San Francisco, Visitacion Valley
California: Watsonville*
Colorado: Denver
Connecticut: Bridgeport
Connecticut: New Haven
Delaware: Wilmington
District of Columbia: Washington
Florida: Jackson County*
Florida: Tampa
Florida: Miami, Dade County
Georgia: Albany
Georgia: Central Savannah*
Georgia: Crisp, Dooley Counties*
Illinois: East St. Louis
Illinois: Springfield
Indiana: Indianapolis
Iowa: Des Moines
Kentucky: Louisville
Louisiana: Northeast Delta*
Louisiana: Macon Ridge*
Louisiana: New Orleans
Louisiana: Ouachita Parish
Massachusetts: Lowell
Massachusetts: Springfield
Michigan: Five Cap*
Michigan: Flint
Michigan: Muskegon
Minnesota: Minneapolis
Minnesota: St. Paul
Mississippi: Jackson
Mississippi: North Delta*
Missouri: East Prairie*
Missouri: St. Louis
Nebraska: Omaha
Nevada: Clarke County, Las Vegas
New Hampshire: Manchester
New Jersey: Newark
New Mexico: Albuquerque
New Mexico: Mora, Rio Arriba, Taos

Counties*

New York: Albany, Schenectady, Troy
New York: Buffalo
New York: Newburgh, Kingston
New York: Rochester
North Carolina: Charlotte
North Carolina: Halifax, Edgecombe, Wilson Counties*
North Carolina: Robeson County*
Ohio: Akron
Ohio: Columbus
Ohio: Greater Portsmouth*
Oklahoma: Choctaw, McCurtain Counties*
Oklahoma: Oklahoma City
Oregon: Josephine*
Oregon: Portland
Pennsylvania: Harrisburg
Pennsylvania: Lock Haven*
Pennsylvania: Pittsburg
Rhode Island: Providence
South Carolina: Charleston
South Carolina: Williamsburg County*
South Dakota: Beadle, Spink Counties*
Tennessee: Fayette, Haywood Counties*
Tennessee: Memphis
Tennessee: Nashville
Tennessee/Kentucky: Scott, McCreary Counties*
Texas: Dallas
Texas: El Paso
Texas: San Antonio
Texas: Waco
Utah: Ogden
Vermont: Burlington
Virginia: Accomack*
Virginia: Norfolk
Washington: Lower Yakima*
Washington: Seattle
Washington: Tacoma
West Virginia: West Centeral*
West Virginia: Huntington
West Virginia: McDowell*
Wisconsin: Milwaukee

*denotes rural designee

ENHANCED ENTERPRISE COMMUNITIES
(EEC)

California: Oakland
Massachusetts: Boston
Missouri/Kansas: Kansas City, Kansas City
Texas: Houston

Note: Many EZ/ECs cover only a portion of the listed city or county.

[FR Doc. 97–9403 Filed 4–11–97; 8:45 am]
BILLING CODE 4000–01–C

federal register

Monday
April 14, 1997

Part IV

Federal Retirement Thrift Investment Board

5 CFR Part 1620

Thrift Savings Plan; Continuation of Eligibility; Final Rule

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1620

Thrift Savings Plan; Continuation of Eligibility

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Final rule.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is publishing final regulations concerning the eligibility of certain individuals to have make-up contributions credited to their Thrift Savings Plan (TSP) accounts and, in certain cases, restore withdrawn funds and reestablish loan accounts. Section four of the Uniformed Services Employment and Reemployment Rights Act amends Title 5 of the United States Code to add a new section 8432b that addresses TSP benefits that apply to any Federal employee whose release from military service, discharge from hospitalization related to that service, or other similar event making the individual eligible to seek restoration from leave-without-pay status or reemployment under 38 U.S.C. Chapter 43, occurring on or after August 2, 1990. This final rule governs retroactive participation in the TSP by these employees.

EFFECTIVE DATE: The final rule is effective April 14, 1997.

FOR FURTHER INFORMATION CONTACT: John J. O'Meara, Federal Retirement Thrift Investment Board, 1250 H Street, NW, Washington, DC 20005. Telephone: (202) 942–1660.

SUPPLEMENTARY INFORMATION: Interim regulations governing retroactive TSP contributions by certain reemployed veterans were published in the **Federal Register** on April 21, 1995 (60 FR 19990). The Board received no comments on those interim regulations. Section four of the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), Pub. L. 103–353, 108 Stat. 3149, amended the Federal Employees' Retirement System Act of 1986, Pub. L. 99–335, 100 Stat. 514, codified, as amended, largely at 5 U.S.C. 8401–8479 (1994), to permit veterans returning to a Federal civilian job from qualified military service to make retroactively any employee contributions to the TSP which might have been made if the veteran had remained continuously employed.

Taxes on these retroactive contributions were deferred only within certain overall limits. On August 20, 1996, Congress passed the Small Business Job Protection Act of 1996 (the Small Business Act), Pub. L. 104–188, 110 Stat. 1755. The Small Business Act added section 414(u) to the Internal Revenue Code to provide that contributions made by a reemployed veteran pursuant to USERRA are not subject to the limits on elective deferrals that are otherwise applicable to TSP contributions. Section 1620.102(b)(3) of the Board's interim regulations stated that employees may not make any retroactive contributions that would cause them to exceed the Internal Revenue Code's elective deferral limit. The final rule removes paragraph (b)(3) of § 1620.102 to conform with the Internal Revenue Code as amended by the Small Business Act. The final rule adopts the interim rule as final in all other respects.

These regulations are being given retroactive effect to August 2, 1990, in order to provide eligible employees an opportunity to seek and obtain TSP benefits from the effective date of USERRA.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because the regulations will affect only employees of the United States Government.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4, section 201, 109 Stat. 48, 64, the effect of this regulation on State, local, and tribal governments and on the private sector has been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by any State, local, or tribal governments in the aggregate or by the private sector. Therefore, a statement under section 202, 109 Stat. 48, 64–65, is not required.

Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), the Board 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 United States prior to the publication of this rule in today's **Federal Register**. This rule is not a major rule as defined at 5 U.S.C. 804(2).

List of Subjects in 5 CFR Part 1620

Employee benefit plans, Government employees, Pensions, Retirement.

Federal Retirement Thrift Investment Board.

Roger W. Mehle,

Executive Director.

Accordingly, the interim rule amending 5 CFR part 1620 which was published at 60 FR 1990 on April 21, 1995, is adopted as a final rule with the following change:

PART 1620—CONTINUATION OF ELIGIBILITY

1. The authority citation for Part 1620 is revised to read as follows:

Authority: 5 U.S.C. 8474 and 8432b; Pub. L. 99–591, 100 Stat. 3341; Pub. L. 100–238, 101 Stat. 1744; Pub. L. 100–659, 102 Stat. 3910; Pub. L. 104–188, 110 Stat. 1755.

§ 1620.102 [Amended]

2. Section 1620.102 is amended by removing paragraph (b)(3).

[FR Doc. 97–9532 Filed 4–11–97; 8:45 am]

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Federal Register

Monday
April 14, 1997

Part V

Department of Housing and Urban Development

Regulatory Waiver Requests Granted; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4098–N–04]

Notice of Regulatory Waiver Requests Granted

AGENCY: Office of the Secretary, HUD.

ACTION: Public Notice of the Granting of Regulatory Waivers from October 1, 1996 through December 31, 1996.

SUMMARY: Under the Department of Housing and Urban Development Reform Act of 1989 (Reform Act), the Department (HUD) is required to make public all approval actions taken on waivers of regulations. This notice is the twenty-fourth in a series, being published on a quarterly basis, providing notification of waivers granted during the preceding reporting period. The purpose of this notice is to comply with the requirements of Section 106 of the Reform Act.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Camille E. Acevedo, Assistant General Counsel for Regulations, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone 202–708–3055. (This is not a toll-free number.); Hearing- and speech-impaired persons may call HUD's TTY toll-free number at 1–800–877–8391.

For information concerning a particular waiver action for which public notice is provided in this document, contact the person whose name and address is set out for the particular item, in the accompanying list of waiver-grant actions.

SUPPLEMENTARY INFORMATION: As part of the Housing and Urban Development Reform Act of 1989, the Congress adopted, at HUD's request, legislation to limit and control the granting of regulatory waivers by the Department. Section 106 of the Act (Section 7(q)(3)) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(q)(3), provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary rank or equivalent rank, and the person to whom authority to waive is delegated must also have authority to *issue* the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that the Department has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived, and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request;

e. State how additional information about a particular waiver grant action may be obtained.

Section 106 also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of today's document.

Today's document follows publication of HUD's Statement of Policy on Waiver of Regulations and Directives issued by HUD (56 FR 16337, April 22, 1991). This is the twenty-fourth notice of its kind to be published under Section 106. This notice updates HUD's waiver-grant activity from October 1, 1996 through December 31, 1996.

For ease of reference, waiver requests granted by departmental officials authorized to grant waivers are listed in a sequence keyed to the section number of the HUD regulation involved in the waiver action. For example, a waiver-grant action involving exercise of authority under 24 CFR 91.101 (involving the waiver of a provision in 24 CFR part 91) would come early in the sequence, while waivers of 24 CFR part 990 would be among the last matters listed. Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement in title 24 that is being waived as part of the waiver-grant action. (For example, a waiver of both § 92.2 and § 92.220(a)(1)(iii) would appear sequentially in the listing under § 92.2.) Waiver-grant actions involving the same initial regulatory citation are in time sequence beginning with the earliest-dated waiver grant action.

Should the Department receive additional reports of waiver actions taken during the period covered by this report before the next report is published, the next updated report will include these earlier actions, as well as those that occur between January 1, 1997 through March 31, 1997.

Accordingly, information about approved waiver requests pertaining to regulations of the Department is provided in the Appendix that follows this notice.

Dated: March 31, 1997.

Andrew Cuomo,

Secretary.

Appendix—Listing of Waivers of Regulatory Requirements Granted by Officers of the Department of Housing and Urban Development October 1, 1996 through December 31, 1996

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly before each set of waivers granted.

For items 1 through 11, waivers granted for 24 CFR Parts 91, 92, 291, 576, and 582, CONTACT: Debbie Ann Wills, Field Management Officer, U.S. Department of Housing and Urban Development, Office of Community Planning and Development, 451 7th Street, SW., Room 7152, Washington, DC. 20410–7000, Telephone: (202) 708–2565, Hearing- and speech-impaired persons may call HUD's TTY toll-free number at 1–800–877–8391.

1. Regulation: 24 CFR 91.101(c)

Project/Activity: The Carson, Nevada, Consortium requested a waiver of 24 CFR 91.101(c), of the HOME regulations, to allow for the creation of a newly configured consortium, which would be more likely to receive a HOME program formula allocation.

Nature of Requirement: The regulations, at 24 CFR 91.101(c), require a three-year qualification period for participation in a HOME consortium.

Granted By: Andrew Cuomo, Assistant Secretary for Community Planning and Development.

Date Granted: October 31, 1996.

Reasons Waived: The Assistant Secretary found good cause to grant a waiver of the regulation that requires that all consortium have a three-year qualification period.

2. Regulation: 24 CFR 92.2

Project/Activity: The City of San Fernando, California, received an emergency supplemental appropriation for the fiscal year ending September 30, 1994, which could only be used in one qualifying census tract. The money could be used for acquisition, rehabilitation, or reconstruction of earthquake-damaged multifamily housing.

Nature of Requirement: The regulations, at 24 CFR 92.2, define ''reconstruction'' as rehabilitation on a structure standing at the time of project commitment.

Granted By: Andrew Cuomo, Assistant Secretary for Community Planning and Development.

Date Granted: December 30, 1996.

Reasons Waived: The Assistant Secretary found good cause to grant a waiver of the regulations to facilitate the obligation and use of the emergency funds, because it was determined that the waiver would not be inconsistent with the overall purpose of the statute or regulation.

3. Regulation: 24 CFR 92.220(a)(1)(iii)

Project/Activity: The State of Idaho requested a waiver of 24 CFR 92.220(a)(1)(iii), to enable it to take credit for match on BMIR Title I FHA insured home improvement loans, which are being used in a State development program targeted to an urban renewal area.

Nature of Requirement: 24 CFR 92.220(a)(1)(iii), of the HOME regulations, recognizes, as a non-federal match contribution, the grant equivalent value of a below market interest rate (BMIR) loan based on the present discounted cash value of the yield foregone, provided the loan is made from funds other than funds borrowed by the jurisdiction or agency.

Granted By: Andrew Cuomo, Assistant Secretary for Community Planning and Development.

Date Granted: October 16, 1996.

Reasons Waived: The waiver of § 92.220(a)(1)(iii) will enable the State to more effectively leverage its' HOME funds. Conversely, the application of this section would adversely affect the purposes of the Act, therefore, the waiver was granted.

4. Regulation: 24 CFR 92.220(a)(3)(iii)

Project/Activity: Prince William County, Virginia, requested a waiver of § 92.220(a)(3)(iii) of the HOME regulations.

Nature of Requirement: 24 CFR 92.220(a)(3)(iii) of the HOME regulations requires that ''the appraisal of land and structures must be performed by an independent, certified appraiser.''

Granted By: Andrew Cuomo, Assistant Secretary for Community Planning and Development.

Date Granted: November 5, 1996.

Reasons Waived: Since County appraisers are required to use the same practices and procedures as an independent appraiser, requiring the County to use an independent appraiser would create an additional expense, and adversely affect the purposes of the Act.

5. Regulation: 24 CFR 92.251

Project/Activity: The State of North Dakota, requested a waiver to permit a rehabilitation project, which utilizes HOME funds, to use FHA Single Family Minimum Property Requirements, in lieu of HQS, for its' HOME assisted homebuyer activities.

Nature of Requirement: 24 CFR 92.251 provides that housing assisted with HOME funds meet, at a minimum, HUD housing quality standards (HQS), and provides other minimum standards for substantial rehabilitation and new construction.

Granted By: Andrew Cuomo, Assistant Secretary for Community Planning and Development.

Date Granted: October 1, 1996.

Reasons Waived: The waiver was granted because the State indicated that there was a significant duplication of effort by requiring both HQS's and FHA Minimum Property Requirements' inspections. The Assistant Secretary deemed that imposition of the requirement would adversely affect the purposes of the Act.

6. Regulation: 24 CFR 92.251

Project/Activity: The State of Georgia, requested a waiver to permit a rehabilitation project, which utilizes HOME funds, to use FHA Single Family Minimum Property Requirements, in lieu of HQS (24 CFR 882.109), for its' HOME assisted homebuyer activities.

Nature of Requirement: 24 CFR 92.251, provides that housing assisted with HOME funds meet, at a minimum, HUD housing quality standards (HQS), and provides other minimum standards for substantial rehabilitation and new construction.

Granted By: Andrew Cuomo, Assistant Secretary for Community Planning and Development.

Date Granted: October 17, 1996.

Reasons Waived: The waiver was granted because the State indicated that the costs associated with the HQS's inspections increases the purchase price for the prospective buyer. Also, the logistics for the duplicate inspections and reinspections present an unacceptable cost burden, therefore, HQS's inspections have placed an undue administrative and cost burden on the State's private partners. The waiver was granted because the Assistant Secretary deemed that imposition of the requirement would adversely affect the purposes of the Act.

7. Regulation: 24 CFR 291.400(a)

Project/Activity: The Anoka County Community Action Program, requested a waiver of the 24-month residency for a tenant in a single-family property leased under the single-family property disposition homeless program.

Nature of Requirement: The regulations, at 24 CFR 291.400(a), prohibit a non-profit organization, or a community participating in the Single-Family Property Disposition Leasing Program, from extending a lease to the same tenant for a period beyond 24 months.

Granted By: Andrew Cuomo, Assistant Secretary for Community Planning and Development.

Date Granted: November 1, 1996.

Reasons Waived: The waiver will allow two formerly homeless families more time to find permanent housing.

8. Regulation: 24 CFR 576.21

Project/Activity: The City of Chicago, Illinois, requested a waiver of the Emergency Shelter Grants regulations at 24 CFR 576.21.

Nature of Requirement: The City requested a waiver of the ESG expenditure limitation on essential services.

Granted By: Andrew Cuomo, Assistant Secretary for Community Planning and Development.

Date Granted: October 11, 1996.

Reasons Waived: Under the Stewart B. McKinney Homeless Assistance Act, amended by the National Affordable Housing Act, the 30 percent cap on essential services may be waived if the grantee ''demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources''. The City provided a letter that demonstrated that other categories of ESG activities will be carried out locally with other resources, therefore, it was determined that the waiver was appropriate.

9. Regulation: 24 CFR 576.21

Project/Activity: The City of Bridgeport, Connecticut, requested a waiver of the Emergency Shelter Grants regulations at 24 CFR 576.21.

Nature of Requirement: The City requested a waiver of the ESG expenditure limitation on essential services.

Granted By: Andrew Cuomo, Assistant Secretary for Community Planning and Development.

Date Granted: October 17, 1996.

Reasons Waived: Under the Stewart B. McKinney Homeless Assistance Act, amended by the National Affordable Housing Act, the 30 percent cap on essential services may be waived if the grantee ''demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources''. The City provided a letter that demonstrated that other categories of ESG activities will be carried out locally with other resources, therefore, it was determined that the waiver was appropriate.

10. Regulation: 24 CFR 576.21

Project/Activity: The City of New York, New York, requested a waiver of the Emergency Shelter Grants regulations at 24 CFR 576.21.

Nature of Requirement: The City requested a waiver of the ESG expenditure limitation on essential services.

Granted By: Andrew Cuomo, Assistant Secretary for Community Planning and Development.

Date Granted: December 31, 1996

Reasons Waived: Under the Stewart B. McKinney Homeless Assistance Act, amended by the National Affordable Housing Act, the 30 percent cap on essential services may be waived if the grantee ''demonstrates that the other eligible activities under the program are already being carried out in the locality with other resources''. The City provided a letter that demonstrated that other categories of ESG activities will be carried out locally with other resources, therefore, it was determined that the waiver was appropriate.

11. Regulation: 24 CFR 582.100(b)

Project/Activity: The Columbus Metropolitan Housing Authority of Columbus, Ohio, requested a waiver of 24 CFR 582.100(b) because a necessary site change would keep the housing authority from meeting the regulatory deadline set for project completion.

Nature of Requirement: 24 CFR 582.100(b) of the Shelter Plus Care regulations state that rehabilitation under project-based rental assistance must be completed within twelve months from the date of the grant award.

Granted By: Andrew Cuomo, Assistant Secretary for Community Planning and Development.

Date Granted: November 26, 1996.

Reasons Waived: A determination was made that the deadline could be waived because of extenuating circumstances related

to zoning restrictions that were beyond the control of the grantee.

For items 12 and 13, waivers granted for 24 CFR part 761, contact: Gloria J. Cousar, Deputy Assistant Secretary, Office of Community Relations and Involvement, Department of Housing and Urban Development, 451 7th Street, SW, Room 4126 Washington, DC 20410–5000, (202) 619–8702 (this is not a toll-free number.), Hearing-and speech-impaired persons may call, HUD's TTY toll-free number at 1–800–877–8391.

12. Regulation: 24 CFR 761.30(b)

Project/Activity: Public Housing Drug Elimination Grant Program (PHDEP) grant #IL06DEP0040194.

Nature of Requirement: Waiver of 24 CFR 761.30(b) to extend a 1994 PHDEP grant for the Springfield (Ill) Housing Authority SHA.

Granted By: Kevin Emanual Marchman, Acting Assistant Secretary for Public and Indian Housing.

Date Granted: November 5, 1996.

Reason Waived: SHA has experienced significant administrative changes within the past year. HUD staff on-site recommended the submission, of a waiver request, to extend the remaining grant funds, in order to continue the PHA's community policing initiatives.

13. Regulation: 24 CFR 761.30(b)

Project/Activity: Public Housing Drug Elimination Grant Program (PHDEP) grant #NJ39DEP0430194.

Nature of Requirement: Waiver of 24 CFR 761.30(b) to extend a 1994 PHDEP grant for the Edison Housing and Redevelopment Authority (EHA).

Granted By: Kevin Emanual Marchman, Acting Assistant Secretary for Public and Indian Housing.

Date Granted: December 12, 1996.

Reason Waived: EHA has experienced significant administrative changes. There have been 5 Executive Directors of the Authority from mid-1994 through April, 1995, which also caused staffing changes through this time period. PHA had requested extension of the term of the Drug Elimination Grant; regulatory waiver was necessary to avoid termination and recapture of grant funds. Waiver was justified on the basis of cited staffing changes, and incoming Executive Director's need to become familiar with the drug program and resources.

Grant Extension: The grant is extended to June 12, 1997.

For items 14 through 26, waivers granted for 24 CFR parts 813, 882, 901, 913, 982, and 990, contact: Mary Ann Russ, Deputy Assistant Secretary, Office of Public and Assisted Housing Operations, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4204, Washington, DC 20410, (202) 708–1380 (this is not a toll-free number), Hearing-and speech-impaired persons may call HUD's TTY toll-free number at 1–800–877–8391.

14. Regulation: 24 CFR 813.107(a)

Project/Activity: City of Scottsdale Housing Authority, Arizona, Section 8 Certificate Program.

Nature of Requirement: The regulation provides that the Total Tenant Payment for families, whose initial lease is effective on or after August 1, 1982, shall be the highest of:

(1) 30 percent of Monthly Adjusted Income;

(2) 10 percent of Monthly Income; or

(3) The Welfare Rent.

Granted By: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

Date Granted: October 25, 1996.

Reason Waived: Approval of the waiver permitted the disabled program participant to pay more than 30 percent of her income, as permitted by the National Affordable Housing Act of 1990, to obtain a unit with special amenities. This kind of exception to the 30% of income rule is permitted in law, and makes the Section 8 certificate program consistent with the Section 8 voucher program, but the certificate/voucher conforming rule has not been completed, thus necessitating waiver of the certificate regulations for this case.

15. Regulation: 24 CFR 882.605(c)

Project/Activity: Housing Authority of the City of Salem, Oregon, Section 8 Certificate Program.

Nature of Requirement: The regulation caps the amount of rent that can be paid for a manufactured home pad space, at 110 percent of the applicable Fair Market Rent.

Granted By: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

Date Granted: December 24, 1996.

Reason Waived: The waiver protected the certificate-holder from the threat of displacement and possible homelessness. Certificate holder is a disabled elderly woman who owns her mobile home; owner of the mobile home park increased the pad rental, and waiver was necessary to permit the tenant to remain in place and retain ownership of her home.

16. Regulation: 24 CFR 901.120 (a) and (b)

Project/Activity: Public Housing Management Assessment Program, Mount Bayou Housing Authority (MBHA).

Nature of Requirement: The regulation requires Field Offices to assess and notify each PHA of its' PHMAP score, within 180 days after the beginning of a PHA's fiscal year.

Granted By: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

Date Granted: December 24, 1996.

Reason Waived: The MBHA's PHMAP certification contained numerous errors. A new Executive Director was appointed, who was unaware of the PHMAP program requirements. The initial assessment of the MBHA was 47, which results in a failing score. As a result, it is necessary for the Mississippi State Office to conduct a confirmatory review of the MBHA, for its' fiscal year ending June 30, 1996. Due to the need for a confirmatory review, a waiver was granted for an additional 60 days, to allow the Mississippi State Office to conduct the confirmatory review, provide technical assistance, and complete and notify the MBHA of its' PHMAP score for its' FY ending June 30, 1996.

17. Regulation: 24 CFR 901.120 (a) and (b)

Project/Activity: Atlanta Housing Authority (AHA)—Public Housing Management Assessment Program (PHMAP).

Nature of Requirement: The regulation requires Field Offices to assess and notify each PHA of its' PHMAP score, within 180 days after the beginning of a PHA's fiscal year.

Granted by: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

Date granted: December 30, 1996.

Reason waived: After the Headquarters' confirmatory review of the AHA, the AHA met with Headquarters and agreed to provide additional documentation to support its' score. Due to the time necessary to receive and evaluate this material, a waiver was granted for an additional 30 days to complete the assessment, and notify the AHA of its' PHMAP score for its' FYE June 30, 1996.

18. Regulation: 24 CFR Part 913.107(a)

Project/activity: A request was made by the Ballinger Housing Authority (BHA), of Ballinger, TX, to permit the establishment of ceiling rents for its' entire low-rent inventory.

Nature of requirement: The total tenant payment a public housing agency (PHA) must charge shall be the highest of the following, rounded to the nearest dollar:

(1) 30 percent of Monthly Adjusted Income;

(2) 10 percent of Monthly Income;

(3) If the Family receives Welfare Assistance from a public agency, and a part of such payments, adjusted in accordance with the Family's actual housing costs, is specifically designated by such agency to meet the Family's housing costs, the monthly portion of such payments, which is so designated; or

(4) The minimum rent set by the housing authority.

Granted by: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

Date granted: October 21, 1996.

Reason waived: BHA has a long history of vacancy problems. The establishment of ceiling rents will permit the BHA to attract and maintain more wage-earning, low-income applicants, thus improving its financial condition and allowing it to serve more people. This case is a request for waiver of the 30% rule for permanent installation of ceiling rents as provided in the HDC Amendments of 1987. PHAs seeking to establish permanent ceiling rents need a waiver of the cited regulation. PHAs can effect temporary ceiling rents under the 1996 Continuing Resolution, but many PHAs are electing to go for the permanent fix, rather than doing all the calculations and notices only to have to re-implement the old 30% rent rules at expiration of the temporary authority.

19. Regulation: 24 CFR Part 913.107(a)

Project/activity: A request was made by the Bassett Housing Authority (BHA) of Bassett, NE, to permit the establishment of ceiling rents for its' entire low-rent inventory.

Nature of requirement: The total tenant payment a public housing agency (PHA)

must charge shall be the highest of the following, rounded to the nearest dollar:

(1) 30 percent of Monthly Adjusted Income;

(2) 10 percent of Monthly Income;

(3) If the Family receives Welfare Assistance from a public agency and a part of such payments, adjusted in accordance with the Family's actual housing costs, is specifically designated by such agency to meet the Family's housing costs, the monthly portion of such payments, which is so designated; or

(4) The minimum rent set by the housing authority.

Granted by: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

Date granted: December 10, 1996.

Reason waived: The establishment of ceiling rents will permit the BHA to attract and maintain more wage-earning, low-income applicants, thus improving its' financial condition and allowing it to serve more people. This case is a request for waiver of the 30% rule for permanent installation of ceiling rents as provided in the HDC Amendments of 1987. PHAs seeking to establish permanent ceiling rents need a waiver of the cited regulation. PHAs can effect temporary ceiling rents under the 1996 Continuing Resolution, but many PHAs are electing to go for the permanent fix, rather than doing all the calculations and notices only to have to re-implement the old 30% rent rules at expiration of the temporary authority.

20. Regulation: 24 CFR 982.201(b)

Project/Activity: North Bend/Coos-Curry Housing Authority, Section 8 Certificate Program.

Nature of Requirement: The regulation limits eligibility, for both the Section 8 certificate and voucher programs, to those specific exception categories permitted by the statute for the voucher program.

Granted By: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

Date Granted: November 23, 1996.

Reason Waived: The waiver will permit admissions of a family that is low-income, but not very low-income, enabling the severely ill applicant to move to an affordable unit with adequate ventilation.

21. Regulation: 24 CFR 982.303(b)

Project/Activity: Housing Authority of Washington County, Oregon; Section 8 Certificate Program.

Nature of Requirement: The regulation provides for a maximum certificate term of 120 days during which a certificate-holder may seek housing to be leased under the program.

Granted By: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

Date Granted: October 28, 1996.

Reason Waived: Approval of the waiver prevented hardship to the disabled certificate-holder, whose housing search was hampered by his illness and hospitalization.

22. Regulation: 24 CFR 982.303(b)

Project/Activity: Housing Authority of Washington County, Oregon; Section 8 Voucher Program.

Nature of Requirement: The regulation provides for a maximum voucher term of 120 days during which a voucher-holder may seek housing to be leased under the program.

Granted By: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

Date Granted: November 20, 1996.

Reason Waived: Approval of the waiver prevented hardship to the disabled voucher-holder, who faced special problems in locating a unit.

23. Regulation: 24 CFR 982.303(b)

Project/Activity: Commonwealth of Massachusetts, Division of Housing and Community Development; Section 8 Certificate Program.

Nature of Requirement: The regulation provides for a maximum term of 120 days during which a certificate-holder may seek housing to be leased under the program.

Granted By: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

Date Granted: November 21, 1996′.

Reason Waived: Approval of the waiver prevented hardship to the disabled certificate-holder who faced special problems in locating a unit.

24. Regulation: 24 CFR 982.303(b)

Project/Activity: Commonwealth of Massachusetts, Division of Housing and Community Development; Section 8 Certificate Program.

Nature of Requirement: The regulation provides for a maximum certificate term of 120 days during which a certificate-holder may seek housing to be leased under the program.

Granted By: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

Date Granted: December 6, 1996.

Reason Waived: Approval of the waiver prevented hardship to a certificate-holder whose multiple disabilities severely limited his ability to seek housing.

25. Regulation: 24 CFR 990.109(b)(3)(iv)

Project/Activity: Chicago, IL, Housing Authority. A request was made to use an occupancy rate of 82%, and recalculate its' PFS operating subsidy eligibility.

Nature of Requirement: The regulation requires a Low Occupancy PHA, without an approved Comprehensive Occupancy Plan, to use a projected occupancy percentage of 97%.

Granted By: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

Date Granted: November 19, 1996.

Reason Waived: In order to support its current recovery efforts, the HA was allowed to use an occupancy rate of 82% for its fiscal year ending 12/31/96, to finance a special initiative for maintenance improvements subject to the following conditions:

(1) The funds generated, as a result of the waiver approval, are to be used to implement the CHA's special maintenance initiative. Prior to funds being scheduled for payment for the initiative, the Field Office and the CHA will update the Action Plan schedule.

(2) The updated Action Plan schedule will be incorporated as an addendum to the current Memorandum of Agreement, and the Field Office will monitor compliance with the Action Plan, and review progress made on a regularly scheduled basis.

The HA was also notified that for its subsequent budget years beginning January 1, 1997, it will be subject to the provisions of the new Vacancy Rule, dated 2/28/96. That rule permits operating subsidy to be paid to vacant units undergoing modernization, or units that are vacant, for reasons beyond the Authority's control, but sharply limits the operating subsidy that will be paid to long-term vacant units.

26. Regulation: 24 CFR 990.109(b)(3)(iv)

Project/Activity: Springfield, IL, Housing Authority. A request was made to use 75% for the HA's projected occupancy percentage, when calculating the PFS operating subsidy eligibility.

Nature of Requirement: The regulation requires a Low Occupancy PHA, without an approved Comprehensive Occupancy Plan, to use a projected occupancy percentage of 97%.

Granted By: Kevin Emanuel Marchman, Acting Assistant Secretary for Public and Indian Housing.

Date Granted: November 23, 1996.

Reason Waived: In order to be supportive of the current recovery efforts, the HA was allowed to use 75% occupancy percentage to prevent undue hardships while it continues its efforts to reduce vacancies. The HA was also notified that for its subsequent budget years beginning January 1, 1997, it will be subject to the provisions of the new Vacancy Rule, dated 2/28/96.

That rule permits operating subsidy to be paid to vacant units undergoing modernization, or units that are vacant, for reasons beyond the Authority's control, but sharply limits the operating subsidy that will be paid to long-term vacant units.

[FR Doc. 97–9548 Filed 4–11–97; 8:45 am]

BILLING CODE 4210–32–P

federal register

Monday
April 14, 1997

Part VI

Department of Housing and Urban Development

Notice of Funding Availability for the Revitalization of Severely Distressed Public Housing; Fiscal Year 1997

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4175–N–01]

Notice of Funding Availability (NOFA) for the Revitalization of Severely Distressed Public Housing (HOPE VI); Fiscal Year 1997

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of funding availability (NOFA) for Fiscal Year (FY) 1997.

SUMMARY: This notice announces the availability of approximately $447.5 million in funding for the Revitalization of Severely Distressed Public Housing, hereafter referred to as the HOPE VI program, as provided in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997. The 1997 Appropriations Act continued funding of the HOPE VI program for the purpose of enabling the demolition of obsolete public housing developments or portions thereof, the revitalization (where appropriate) of sites (including remaining public housing units) on which such developments are located, replacement housing that will avoid or lessen concentrations of very low-income families, Section 8 tenant-based assistance, and for providing replacement housing and assisting tenants to be displaced by the demolition. The HOPE VI program will fund demolition, the capital costs of reconstruction, rehabilitation and other physical improvements, the provision of replacement housing, management improvements, resident self-sufficiency programs, and tenant-based assistance.

This NOFA contains information on eligible applicants, program requirements, evaluation factors, and application submission requirements, solely for the funding of revitalization and replacement programs with or without demolition. Information about the funding for Section 8 tenant-based assistance, and for demolition without revitalization, will be provided by separate notices.

DATES: Applications must be received at HUD Headquarters and the Field Office on or before 4 p.m. eastern time, except as expressly provided below, on July 18, 1997. The application deadline for each original application delivered to HUD Headquarters is firm as to date and hour, except as expressly provided herein. Public housing agencies (PHAs) should take this into account and submit applications as early as possible to avoid the risk brought about by unanticipated delays or delivery-related problems. In particular, PHAs intending to mail applications must provide sufficient time to permit delivery on or before the deadline date. HUD will disqualify and return to the applicant any application that it receives after the deadline date and time.

Notwithstanding the foregoing, HUD will accept any application, the original of which was delivered to a U.S. Post Office or private mailer for expedited delivery, properly addressed to HUD Headquarters and fully paid for, no later than 12 noon local time on the day before it was due at HUD, for scheduled delivery prior to the deadline established above. If an application arrives at HUD Headquarters after the deadline date and time, and the applicant wishes to make a case that it delivered the application for expedited delivery on time, the applicant must document with an official receipt from the Post Office or private mailer that the application was received by 12 noon local time on the day before it was due at HUD.

ADDRESSES: An original of the completed application must be received at HUD Headquarters, 451 Seventh Street, SW, Room 4138, Washington, DC 20410, Attention: Director, Office of Public Housing Investments. Two copies of the completed application must also be received at the appropriate HUD Field Office. Applications may be hand-delivered or mailed. HUD will not accept facsimile (fax), COD, or postage-due applications.

FOR FURTHER INFORMATION CONTACT: Mr. Milan Ozdinec, Director, Office of Urban Revitalization, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 4142, Washington, DC 20410; telephone (202) 401–8812 (this is not a toll free number). Hearing-or speech-impaired individuals may access this number via TTY by calling the Federal Information Relay Service at 1–800–877–TDDY, which is a toll-free number. The NOFA is also available on the HUD Home Page at the World Wide Web at http://www.hud.gov. HUD will also post frequently asked questions and answers on the Home Page throughout the application preparation period.

SUPPLEMENTARY INFORMATION:

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I. Continuing Objectives of, and Changes to, the HOPE VI Program

In the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104–134; approved April 26, 1996) (OCRA), Congress continued efforts to deal with obsolete and severely distressed public housing which had been previously funded under the name ''Urban Revitalization Demonstration'' or ''URD,'' and popularly referred to as ''HOPE VI.'' OCRA made significant changes to HOPE VI by, among other things, expanding eligibility to all PHAs and eliminating various restrictive features

of previous URD legislation. The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Pub. L. 104–204; approved September 26, 1996) (the 1997 Appropriations Act) eliminates certain mandated selection criteria contained in OCRA and prohibits HUD from utilizing rating preferences which grant competitive advantage in awards to settle litigation or pay judgments. The 1997 Appropriations Act also provides that fiscal year (FY) 1997 funds appropriated for this program shall not be used for any purpose that is not authorized in the U.S. Housing Act of 1937, and the HUD Appropriations Acts for fiscal years 1993, 1994, 1995, 1996, and 1997.

In the FY 1996 NOFA for the HOPE VI program (published on July 22, 1996 (61 FR 38024)), HUD identified certain elements of public housing transformation as key to HOPE VI, and sought to select applications which would further that transformation, as follows:

- *Changing the physical shape of public housing.*
- *Establishing positive incentives.*
- *Enforcing tough expectations.*
- *Lessening concentrations of poverty.*
- *Forging partnerships.*

HUD believes that the FY 1996 funding process was successful in selecting applicants likely to achieve radical transformations, from some of the most obsolete and distressed projects in the entire inventory to models of community revitalization. However, as the program evolves it should also encompass appropriate revitalization strategies at obsolete and distressed developments where revitalization may be accomplished without extensive demolition, and more economical rehabilitation strategies may be available.

HOPE VI was originally conceived as a demonstration program which would promote fundamental changes in the way PHAs developed and administered public housing, and in the way HUD related to those PHAs. It has succeeded remarkably in those respects. Now, however, there is a reduced need for HUD to ''jump start'' demolition and revitalization. With major efforts underway in all the largest and most troubled PHAs, some of which may be at their capacity for simultaneous development projects, HUD may appropriately turn to a broader group of developments. HOPE VI is the sole source of substantial and concentrated capital assistance to PHAs of all sizes and characteristics whose level of formula modernization funding cannot support revitalization or major reconfiguration of an obsolete development. Capable authorities which nevertheless have inadequate funds to prevent properties from becoming distressed should not be excluded from HOPE VI funding. This was certainly one purpose of Congress when, in FY 1996, the eligibility restrictions to the program were eliminated.

Notwithstanding this widening focus, HOPE VI is not returning to the Major Reconstruction of Obsolete Projects (MROP) program. The essential requirement of HOPE VI remains that each revitalization effort promise a transformation of the physical site and the social dynamics of life for low-income residents at that site, or in any off-site replacement housing.

Throughout the HOPE VI selection and grant administration processes, HUD is placing even greater emphasis on plan designs, program management structures, performance measures, and the timely expenditure of grant funds, which will make public housing disciplined to perform with similar efficiency as the private sector. HUD will implement an aggressive approach to ensure quality and promptness in the HOPE VI program. HUD will contract with one or more private program and construction management entities to assure that HOPE VI development activities are carried out in an expeditious and cost-effective manner and that grantees are producing quality products. Each grantee will have to demonstrate that its HOPE VI team is capable of administering a major revitalization effort and that the team is ready to proceed immediately upon receipt of the grant. Should a PHA fail to make this demonstration to the satisfaction of HUD and its program oversight manager, HUD will direct corrective actions as a condition of retaining the grant. HUD's program oversight contractor will also represent HUD in such on-site inspections as HUD deems necessary to assure quality design and construction.

Each grantee will also be held to strict schedules and performance measures. HUD will require grantees to execute construction contracts within a specified period. Failure to obligate construction funds within this timeframe will result in the withdrawal of grant funds. Once the revitalization has commenced, each grantee will also be held to interim performance goals and may be required to complete physical activities within four years of execution of the grant agreement. HUD will take into consideration those delays caused by factors beyond the control of the grantee when enforcing these schedules. The precise schedules and performance measures will be set forth in the HOPE VI grant agreement.

HUD has also factored into the design of this FY 1997 NOFA considerations relating to section 202 of OCRA (42 U.S.C. 1437*l* note) known as the Mandatory Conversion Program. Congress there indicated that the cost and effectiveness of revitalization should be compared with those respective elements of tenant-based assistance. This is a relevant inquiry, particularly in rationing the scarce resource of revitalization dollars.

Finally, Congress has eliminated the FY 1996 statutory selection criteria and has directed the elimination of other selection criteria utilized by HUD in FY 1996.

For all these reasons, HUD has modified the FY 1996 NOFA. While the overall performance goals remain those set forth in FY 1996, this FY 1997 NOFA has been revised to better select those applicants which can most promptly and effectively use HOPE VI dollars to make a significant positive change in the life of each resident and the life of the neighborhood.

Demolition is not a required component of this FY 1997 HOPE VI competition. HUD recognizes that the elimination of this requirement and the broadening of the definition of obsolescence may encourage even more applicants to apply than in the FY 1996 round. Applicants are cautioned that the preparation of a serious HOPE VI application is time-consuming and expensive and may generate local expectations which cannot be met if funding is not awarded. Only a fraction of the FY 1996 applicants were funded. Changes in this year's NOFA are intended to widen the definition of who may be assisted, but will not alter the fact that only applicants with strong showings of need, capability, vision, and impact will be selected. Potential applicants are encouraged to conduct a thorough and realistic up-front analysis of their chances before preparing an application.

Among the more significant revisions are the following:

- HUD has determined to use a definition of ''obsolete'' derived from the MROP authorizing statute, with modifications for program consistency with section 202 of OCRA and current practice.
- This NOFA continues to use as a rating factor the relative urgency of pursuing revitalization at each site. HUD has carefully considered comments it has received to the effect that by expanding program eligibility,

Congress intended that all obsolete sites should be given equal consideration and that local standards of distress should govern, not national ones. HUD has concluded, however, based on statutory language and context, that the aims of the HOPE VI program must continue to include the elimination of the nation's most severely distressed developments and immediate attention to those developments offering the worst quality of life for their residents and neighbors. Nonetheless, HUD has reformulated the relevant rating factor so as more clearly not to reward PHAs whose bad management is creating or exacerbating distress, nor penalize PHAs which may have managed to preserve relatively decent living conditions even as distress grows imminent. Moreover, an applicant whose needs are pressing, but not yet overwhelming, may still receive funding based on a particularly strong showing on other rating factors, while a PHA with an enormously distressed site, but little vision or capacity will not be selected.

- Grants will be limited in amount to applicable Total Development Cost (TDC) limits, plus amounts for self-sufficiency and for excess demolition costs, as more fully described in Section II.E. below. While HUD recognizes that different PHAs face different situations, and that a successful revitalization may require expenditures in excess of cost limits, prior program experience has established the difficulties in distinguishing among necessary, optional, and excessive costs. The risk of inadvertently rewarding excess or penalizing thrift increases where rating factors encourage expansive visions of what will be accomplished. Given the flexibility of modernization funding under current law, HUD believes it is fairer to fund a predictable amount with HOPE VI dollars and allow PHAs to provide or arrange for such additional funding as they may prudently require. Demolition costs are allowed separately, however, because they depend on the size and type of existing structures, and will not vary with the ambition of the applicant.
- An applicant's need for funding must be demonstrated as a threshold matter, with reference to its overall capital needs and resources.
- A Section 8 cost comparison is included, and applicants will be rated on the degree to which their proposed expenditure of Federal funds exceeds that which would be incurred under a scenario of demolition with Section 8 replacement. This factor, derived from section 202 of OCRA and its implementing notice (published in the **Federal Register** on September 26, 1996 (61 FR 50632)), will favor applicants with cost-efficient strategies. The NOFA's methodology for measuring this factor is essentially similar to that contained in the section 202 notice, but is worded so as to apply more directly to, and permit more exact comparisons between, fact patterns expected under this NOFA.

HUD has not included an explicit requirement, found in HUD's section 202 implementing notice, that applicants who ''fail'' the Section 8 cost comparison demonstrate special circumstances why revitalization is desirable. This FY 1997 HOPE VI NOFA as a whole contains various threshold and evaluation criteria which, if satisfied, constitute such special circumstances, and on which an applicant must score highly to be selected for funding. A special section tracking the language from the section 202 notice directly would be duplicative.

- An applicant may target for revitalization a development for which demolition has already commenced or occurred even if tenant-based assistance for relocation or replacement has already been awarded by HUD. HUD does not want to encourage authorities to preserve obsolete or distressed housing, in hopes of securing HOPE VI assistance in the future. A PHA which in good faith decided to demolish, in connection with the FY 1996 funding round or otherwise, should not be penalized by being excluded from this competition.
- HUD has eliminated the categorization of PHAs by size, and has set a grant(s) limit of $35,000,000 per authority. The FY 1996 results demonstrated that size categories were not necessary to obtain a fair distribution, which occurred naturally under the rating system used. Smaller authorities may have large obsolete developments, and other factors in this year's NOFA will disfavor a PHA which requests an inflated grant amount.
- This NOFA takes into explicit consideration the extent to which a proposal will affirmatively further fair housing. While this objective flows directly from HOPE VI concepts of transformation and revitalization, HUD wishes both to emphasize the importance to all applicants of giving civil rights obligations explicit consideration, and to discipline its own attention to this factor. HUD has also emphasized the importance it attaches to carrying out the HOPE VI program in ways that directly benefit persons with disabilities. Developments constructed or rehabilitated with HOPE VI funds must meet the accessibility requirements contained in various civil rights statutes. In addition, HUD strongly encourages PHAs to develop housing that is ''visitable'' by persons with mobility impairments. In view of these priorities, HUD is asking applicants through various parts of this NOFA to address these issues in their applications.
- For FY 1997, Congress did not separately fund Section 8 tenant-based assistance for replacement housing, but included it within the $550 million appropriated for HOPE VI. HUD will set aside, and award through a separate process, funding for Section 8 tenant-based assistance for replacement housing with respect to units which are to be or have been demolished, but for which the PHAs are not seeking and have not been awarded ''hard'' replacement funding. PHAs are strongly encouraged to plan strategically and utilize Section 8 replacement to a considerable degree.

HUD has set aside up to $30 million for demolition grants alone, a reduction from FY 1996, and will also award these funds by a separate process. Having utilized FY 1996 funding to address a number of expensive demolition situations for which PHA funding was unavailable, and having no indication as yet that section 202 of OCRA will generate immediate demolition decisions in the absence of hard replacement housing, HUD believes the lesser amount will suffice to address critical demolitions which would otherwise be impossible, while concentrating scarce funding on critical housing preservation and reconstruction efforts.

Promoting Comprehensive Approaches to Housing and Community Development

HUD is interested in promoting comprehensive, coordinated approaches to housing and community development. Economic development, community development, public housing revitalization, homeownership, assisted housing for special needs populations, supportive services, and welfare-to-work initiatives can work better if linked at the local level. Toward this end, HUD in recent years has developed the Consolidated Planning process designed to help communities undertake such approaches.

In this spirit, it may be helpful for applicants under this NOFA to be aware of other related HUD NOFAs that have recently been published or are expected to be published in the near future. By reviewing these NOFAs with respect to their program purposes and the

eligibility of applicants and activities, applicants may be able to relate the activities proposed for funding under this NOFA to the recent and upcoming NOFAs and to the community's Consolidated Plan.

The list of NOFAs related to housing revitalization that HUD expects to publish in the **Federal Register** within the next few weeks include the Comprehensive Improvement Assistance NOFA; the Lead-based Paint Hazard Reduction NOFA, the Public Housing Demolition NOFA, and the Notice of Funding for the Section 8 Rental Certificate and Voucher Programs. Additionally, HUD's NOFA for the Community Outreach Partnership Centers, published in the **Federal Register** on March 20, 1997 (62 FR 13506), included HOPE VI projects in the list of HUD priority areas for which points will be awarded to an applicant whose research and outreach agenda is related to a HUD priority area.

To foster comprehensive, coordinated approaches by communities, HUD intends for the remainder of FY 1997 to continue to alert applicants to upcoming and recent NOFAs as each NOFA is published. In addition, a complete schedule of NOFAs to be published during the fiscal year and those already published appears under the HUD Homepage on the Internet, which can be accessed at http://www.hud.gov/nofas.html. Additional steps on NOFA coordination may be considered for FY 1998.

For help in obtaining a copy of your community's Consolidated Plan, please contact the community development office of your municipal government.

II. Substantive Description

A. Authority

The funding made available under this NOFA is provided by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Pub. L. 104–204; approved September 26, 1996) (the 1997 Appropriations Act), under the heading ''Revitalization of Severely Distressed Public Housing.''

B. Eligible Applicants

PHAs that own or operate public housing units are eligible to apply. Indian Housing Authorities are not eligible to apply.

C. Definition of Obsolete Development

For purposes of this competition, an ''obsolete'' public housing development or portion thereof is defined as one:

1. (a) Which has design or marketability problems resulting in vacancy of more than 10 percent of the units not due for funded, on-schedule modernization; or (b) Which has an occupancy density or building height that is significantly in excess of that which prevails in the neighborhood in which the project is located, a bedroom configuration that could be altered to better serve the needs of families seeking occupancy in dwellings of the public housing agency, significant security problems in and around the project, or significant physical deterioration or inefficient energy and utility systems; and

2. For which the cost of redesign, rehabilitation or reconstruction (including any costs for lead-based paint abatement activities) exceeds 70 percent of the total development cost limits for new construction of similar units in the area.

D. Fund Availability

This NOFA announces the availability of at least $447.5 million in funding for the Revitalization of Severely Distressed Public Housing, hereafter referred to as the HOPE VI program, as provided in the 1997 Appropriations Act. The 1997 Appropriations Act provided $550 million in funding for the HOPE VI Program. HUD will reserve $2.5 million for technical assistance. Up to $70 million will be set aside and awarded pursuant to a separate funding process for Section 8 tenant-based assistance. Up to $30 million will be set aside and awarded pursuant to a separate funding process for HOPE VI demolition-only grants.

Any FY 1997 funds which are reserved but not awarded under the Section 8 and demolition award processes, together with any FY 1996 funds which are not obligated in accordance with their initial reservation, will be (1) added to the funds made available hereunder; (2) awarded pursuant to this NOFA to the most highly rated applicant(s) which did not initially receive funding; (3) utilized for amendment funding; or (4) carried over to a subsequent competitive funding round. A PHA may both apply for ''hard'' revitalization/replacement funding under this NOFA and replacement housing under the Section 8 award process, but may not be awarded duplicate funding (replacing the same units) under the two processes.

E. Limitations on Grant Amount

A PHA may submit one or two separate applications in response to this NOFA so long as the total amount requested in one or both applications does not exceed $35 million. Each application submitted by a PHA is limited in amount to the sum of the following three components:

The sum of (a) TDCs up to, but not to exceed 100 percent of, HUD's published TDC limits for the costs of demolition and new construction multiplied by the number of public housing Replacement Units (as defined in Section II.K.3.a of this NOFA); and (b) 90 percent of such TDC limits multiplied by the number of public housing units to be substantially rehabilitated; but in no event to exceed $25,000,000. HUD's most recent TDC limits were issued as PIH 96–15 (HA) on April 3, 1996. Total Development Cost is defined as those costs for planning (including proposal preparation), administration, site acquisition, construction and equipment, interest and carrying charges, relocation, demolition, on-site streets and utilities, non-dwelling facilities, a contingency allowance, insurance premiums, off-site facilities, any initial operating deficit and other costs necessary to develop the project. The maximum total development cost excludes costs funded from donations.

2. No more than $5,000 per unit, based on the higher of (a) the number of currently occupied units in the project to be revitalized; or (b) the number of Replacement Units (as defined in Section II.K.3.a of this NOFA) after revitalization, as an allowance for a self-sufficiency program.

3. A percentage of the actual, necessary, and reasonable cost for the demolition of the targeted existing development or any portion thereof. The percentage shall be derived from a ratio, the denominator of which is the total number of units being demolished and the numerator of which is the difference between the total number demolished and the number of Replacement Units. For example, if a 100 unit development is to be demolished and 75 Replacement Units are to be constructed, the applicant would be eligible for 25 percent of demolition costs under this component. Costs includable hereunder are resident relocation, demolition, environmental remediation and site restoration to an unimproved state.

This Section (II.E.) is intended solely as a limit on grant amount, and does not vary HUD TDC rules applicable to public housing developments. A grantee may spend additional sums on resident self-sufficiency using donations, HUD funds made available for that purpose, or other PHA funds. A grantee may spend more than TDC limits on costs of physical revitalization where permitted by HUD in accordance with 24 CFR 941.306 (as issued in an interim rule published on July 22, 1996 (61 FR 38014, 38019)), so long as it funds the

excess costs with non-HOPE VI funds. However, if an applicant seeks HOPE VI funds as permitted herein to supplement a prior uncompleted HOPE VI, Development, MROP or Comprehensive Improvement Assistance Program (CIAP) grant, the per unit grant limitations set forth herein will apply to the sum of all such targeted grant funds.

For example, an applicant which had previously received $15 million from HUD specifically to address a 600 unit development (with 50 percent occupancy), but had not yet done so, could now apply for a HOPE VI grant. If the applicant proposed to construct 300 Replacement Units at an average TDC of $80,000, the maximum HOPE VI grant would be 300 times $85,000 or $25.5 million (TDC plus $5,000/unit), minus the $15 million already in hand, which equals $10.5 million, plus the cost of demolishing the 300 unreplaced units.

An applicant must document compliance with this provision in Exhibit M (Grant Limitations).

F. Other Grant Limitations

1. As stated in Section II.E. above, a PHA may submit one or two separate applications in response to this NOFA so long as the total amount requested in both applications does not exceed $35 million. Each application may request funds for only one public housing development. Contiguous developments will be considered one development for all purposes in this NOFA. If a PHA submits two applications, each application will be reviewed separately. There is no minimum or maximum number of housing units for which funds may be requested in a single application.

2. A PHA may not request replacement funding for units for which the PHA has already been awarded prior ''hard'' replacement funding from HUD. An applicant must document compliance with this provision in Exhibit M (Grant Limitations), and must disclose all prior ''hard'' replacement assistance received from HUD with respect to the targeted development.

3. PHAs with previous HOPE VI grants may not seek FY 1997 HOPE VI funding to supplement the previous grants in treating the units covered by the original grants. Such PHAs may, however, seek FY 1997 HOPE VI funding to demolish, revitalize or replace units in the same development that were not targeted units under the previous HOPE VI grant. A PHA which received prior years' HOPE VI funding in an amount less than requested, but which has not yet had a revitalization plan approved at the reduced funding level, will not be deemed in this award process to have yet targeted any particular units, and thus may apply for supplemental funding.

4. PHAs with previously-awarded Development, MROP or CIAP funding that they believe to be inadequate for the revitalization of a targeted development, with insurance proceeds attributable to the development, or with previously-awarded HOPE VI funds subject to the limitation in paragraph 3 above, may apply for supplemental funding under this NOFA. HUD will evaluate these applications under the rating factors established by this NOFA. PHAs must demonstrate that funding already available to them is insufficient to assure a sustainable revitalization, and/or that the portion of a development that would be unaddressed by other funding in itself would qualify for a HOPE VI grant. An applicant that submits an application for an existing HOPE VI site (pursuant to the limitations in Section II.F.3. of this NOFA, above) that make a case now that the existing HOPE VI site is no longer sustainable, pursuant to this section, are cautioned that the existing HOPE VI grant may be subject to withdrawal if FY 1997 HOPE VI funds are not awarded.

While such PHAs may receive grants of up to $35 million as provided in Section II.E. of this NOFA, in addition to previously received funds, they may not do so if the total of grant funds would violate the per unit limitations set out in Section II.E.1.

An applicant must document compliance with this provision in Exhibit M (Grant Limitations), and must disclose all prior grant assistance received from HUD (HOPE VI, Development, MROP, or CIAP, or insurance proceeds) with respect to the targeted development.

5. PHAs may use HOPE VI funds in conjunction with any other funds available to the PHA, so long as the use of HOPE VI funds complies with the requirements set forth in this NOFA, and the Grant Agreement and ACC Amendment to be executed with HUD; the use of other funds complies with any applicable restrictions; and the proposed use of all funds complies with section 102(d) of the HUD Reform Act of 1989 (42 U.S.C. 3531 note) and HUD's subsidy layering guidelines, including those found in 24 CFR part 4.

G. Technical Assistance

In accordance with the 1997 Appropriations Act, up to $2.5 million may be used by HUD for technical assistance to be provided directly or indirectly by grants, contracts, or cooperative agreements, including training and cost of necessary travel for participants in such training, by or to officials and employees of HUD and PHAs and to residents. Technical assistance does not include assistance regarding how to draft any applications.

H. Failure to Proceed

In the event that an applicant selected to receive HOPE VI funding does not proceed in a manner consistent with its application, HUD may withdraw any unobligated balances of funding and make this funding available subject to applicable law, in HUD's discretion, to the next highest ranked applicant that was not selected for funding in the most recently conducted HOPE VI selection process or combined with funding under an upcoming competitive selection process. Failure to proceed with respect to obligated funds will be governed by the terms of the Grant Agreement or ACC amendment, as applicable.

I. Total Development Costs

1. If the average per unit costs attributable to TDC (see definition in Section II.E.1 of this NOFA) of the applicant's program is below 70 percent of HUD's published TDC limits, the development is not eligible for this program. For these calculations an applicant should include all costs included in Section II.E.1 of this NOFA, including demolition, remediation and relocation.

An applicant must document compliance with this provision in Exhibit M (Grant Limitations).

2. If the average per unit hard costs of rehabilitation falls between 70 and 90 percent of TDC, rehabilitation must be shown to be a viable, cost effective option by the application.

3. The total development cost paid from HUD funds for units to be rehabilitated may not exceed 90 percent, and the total development cost for newly constructed units paid from HOPE VI funds may not exceed 100 percent, of HUD's published TDC limits. Applications should include information on any anticipated costs above TDC limits to be funded from non-HOPE VI funds. Selection of an applicant which includes an anticipated request for approval for excess TDC costs to be paid for from non-HOPE VI funds does not constitute approval of such TDC excess (note Section II.E.3. above). Instead, the selected applicant will need to obtain written approval from HUD for TDC excesses in accordance with 24 CFR 941.306 or make the necessary program changes to conform to TDC guidelines. HUD will

not select for funding any application which does not make a plausible case that it can meet the standards set forth in 24 CFR 941.306. HUD will more favorably consider those applicants that propose cost effective programs under the Feasibility and Sustainability evaluation factor (Section V.J. of this NOFA).

J. Site and Neighborhood Standards

HOPE VI grantees must ensure that their revitalization proposals and replacement housing plans for the targeted development(s) will avoid or lessen concentrations of very low-income families by creating a mixed-income community or by expanding assisted housing opportunities in nonpoor and nonminority neighborhoods. Since HUD intends to fund only those applications under this program that demonstrate the capacity to alleviate distressed conditions at the targeted development and in the surrounding neighborhood, replacement housing under HOPE VI which is located on the site will not require independent approval under site and neighborhood standards. Units that are not located at the targeted development and in the immediate neighborhood will be subject to site and neighborhood standard rules stated in or made applicable by the Grant Agreement.

K. Eligible Activities and Costs

HOPE VI proposals will typically include an array of activities and funding sources. The following limitations apply solely to activities to be funded with HOPE VI grant funds.

Eligible expenditures are those eligible under sections 8 and 14 of the U.S. Housing Act of 1937 (42 U.S.C. 1437f, 1437*l*) (1937 Act). PHAs must use assistance under this HOPE VI program for demolition and/or the physical improvement and/or replacement of public housing and for associated management improvements.

1. Eligible Activities

a. Total or partial demolition of buildings or disposition of property (subject to the requirements of section 18 of the 1937 Act (42 U.S.C. 1437p)).

b. Capital costs of major reconstruction, rehabilitation, and other physical improvements (including energy retrofits) and improvements to assure greater accessibility and visitability for persons with disabilities (subject to TDC limitations).

c. Capital costs of replacement housing, including homeownership housing (subject to TDC limitations).

d. Management improvements for the reconstructed development.

e. Planning and technical assistance.

f. Programs designed to help residents gain employment and attain self-sufficiency.

2. Eligible Costs

a. Capital costs may include related administrative and relocation costs necessary for reconstruction, rehabilitation, demolition, or acquisition of land for replacement housing.

b. Physical improvement costs may include those necessary to provide community facilities primarily intended to facilitate the delivery of self-sufficiency programs and economic development opportunities for residents of the targeted development.

c. Administrative costs may include the annual premium of lead-based paint insurance incident to approved revitalization work while work is in progress.

3. Interpretive and Cautionary Issues

a. *Replacement Units.* HOPE VI funds awarded under this NOFA may directly support only housing units which are rehabilitated or which replace demolished or disposed units, and which are for use in accordance with the U.S. Housing Act of 1937 and appropriations acts incorporated by reference therein by the amendment to section 14 of the Act at section 201 of the FY 1996 Appropriations Act (42 U.S.C 1437*l*; Pub. L. 104–134, approved April 26, 1996; 110 Stat. 1321–277). Rental units will be deemed Replacement Units and qualify for operating subsidy only if they are to be placed under Annual Contributions Contract and operated in accordance therewith. Homeownership units will be deemed Replacement Units only as specified in the Urban Revitalization heading of the 1993 Appropriations Act (Pub. L. 102–389; approved October 6, 1992); that is, if they meet the statutory requirements of the Section 5(h) program (42 U.S.C. 1437c(h)); the HOPE II program (42 U.S.C. 12871–80; Pub. L. 101–625, secs. 421–31; 104 Stat. 4079, 4162–72); or the HOPE III program (42 U.S.C. 12891–98; Pub. L. 101–625, secs. 441–48; 104 Stat. 4079, 4172–80); or are made available through housing opportunity programs of construction or substantial rehabilitation of homes meeting essentially the same eligibility requirements as the Nehemiah program. HOPE VI funds may not directly support mixed-finance units which are not themselves to be placed under ACC.

b. While applicants are encouraged to propose HOPE VI plans with broad community revitalization features, HOPE VI funds not used for demolition may be expended only to construct, or for uses which directly and principally benefit, Replacement Units and other public housing. Where other units or nonhousing uses will also benefit from the expenditure, a reasonable proration to other fund sources is required. For instance, where housing authority property is to be transferred and improved for a nonreplacement use such as middle-income housing, the transfer should be at appraised value and the cost of improvement must be borne by other funds. Notwithstanding the foregoing, HUD may permit a temporary or permanent use of HOPE VI funds to benefit non-Replacement Units so long as the purposes are eligible under the FY 1997 Appropriations Act and HUD determines that such use serves a commensurate social benefit, materially enhances the social and physical environment of the Replacement Units, other public housing units and their residents, and is no more than necessary to accomplish such purposes. For instance, HUD could permit HOPE VI funds to be used to improve a site before transferring part of the site or individual lots (at improved value) for middle-income housing, and could additionally permit the costs of improvement to be written off or converted to a soft loan, where the middle-income units would provide economic diversity to the site and the cost writedown was reasonable and necessary to attract middle-income residents to the site.

c. Where a plan contemplates the receipt of program-related income prior to grant closeout (e.g., from sale of homeownership Replacement Units, or the disposition of improved land), such income must be reflected in the HOPE VI budget and used for a program purpose.

III. Curable Technical Deficiencies

The requirements of this NOFA must be satisfied in order for HUD to select an application for funding. If an applicant does not satisfy the technical requirements below, after the process for the correction of deficiencies described in Section VII.C. of this NOFA has been carried out, HUD cannot select the applicant for participation.

A. The applicant must include evidence in Exhibit J.1.e of the application (Community and Partnerships) that at least one public meeting has been held to notify residents and community members of the proposed activities described in the application.

B. The applicant must include all certifications and submissions required as Exhibit Q of the application.

C. Applications that propose new construction of replacement housing must include Exhibit E of the application.

IV. Program Threshold Criteria

Section IV of this NOFA identifies criteria which must be satisfied by each application in order for it to be selected. HUD will determine whether each criterion has been satisfied, based on the information submitted in accordance with specific requirements of Section VI of this NOFA. Applicants must submit the information described in Section VI of this NOFA; applicants must not respond directly to the criteria in Section IV. If HUD determines that an application fails to satisfy one or more threshold criteria, HUD may not select that application for funding.

In addition to the specified threshold criteria, HUD expects every applicant selected to generally satisfy each application evaluation factor. It is a general threshold criterion for selection that an applicant must score at least some points (i.e., more than zero) on every evaluation factor identified in Section V of this NOFA. Further, an applicant must receive at least 15 of 25 possible points under the Feasibility and Sustainability (V.J.) evaluation factor.

A. Obsolescence

A development targeted by an application must be ''obsolete'' as defined in Section II.C. of this NOFA, except that an applicant need not make a showing of obsolescence with respect to any portion of the development which has already been approved by HUD for demolition, whether or not such demolition has already begun or occurred.

HUD will consider the entire application, and particularly Exhibit B (Existing Conditions) when evaluating this criterion.

B. Need for Funding

An applicant which owns or operates 250 or more public housing dwelling units must establish that it cannot, using currently available and reasonably foreseeable funding from HUD, meet its long term capital needs for its entire public housing inventory and still accomplish the demolition, revitalization and/or replacement proposed in its application, in the absence of HOPE VI funding in the general amount requested. This criterion may be satisfied if a Comprehensive Grant Program (CGP) agency's total capital needs, as shown in its latest physical needs assessment, exceed by more than 10 percent the work it expects to be able to fund over the next 5 years. A CGP agency should use its most recent HUD approved 5-year action plan to make this determination.

A PHA which owns or operates fewer than 250 public housing dwelling units, and thus does not receive CGP funds, is not held to this threshold requirement.

HUD will consider the entire application, and particularly Exhibit N (Need for Funding) when evaluating this criterion.

C. Lessen Concentration

Off-site Replacement Units must avoid or lessen concentrations of very low-income families. On-site units are not subject to this flat statutory requirement, but must nevertheless ensure, in accordance with the various evaluation factors, that after a reasonable investment and time, the site will not constitute an excessive concentration of very low-income families.

HUD will consider the entire application, and particularly Exhibits D.6 and D.7, when evaluating this criterion.

D. Fair Housing

HUD will use the following standards to assess compliance with civil rights laws for the threshold review. In making this assessment, HUD shall review appropriate records maintained by the Office of Fair Housing and Equal Opportunity, e.g., records of monitoring, audit, or compliance review findings, complaint determinations, or compliance agreements. If the review reveals the existence of any of the following, the application will be rejected.

1. There is a pending civil rights suit against the applicant instituted by the Department of Justice.

2. There is an outstanding finding of noncompliance with civil rights statutes (the Fair Housing Act (42 U.S.C. 3601–19); title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d–4); section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107); and the Americans with Disabilities Act of 1990 (42 U.S.C. 1201 *et seq.*)), Executive Orders, or regulations as a result of formal administrative proceedings, unless the applicant is operating under a HUD-approved compliance agreement designed to correct the area of noncompliance, or is currently negotiating such an agreement with HUD.

3. There is an unresolved Secretarial charge of discrimination against the applicant issued under section 810(g) of the Fair Housing Act (42 U.S.C. 3610), as implemented by 24 CFR 103.400.

4. There has been an adjudication of a civil rights violation in a civil action brought against the applicant by a private individual, unless the applicant is operating in compliance with a court order designed to correct the area of noncompliance, or the applicant has discharged any responsibility arising from such litigation.

5. There has been a deferral of the processing of applications from the applicant imposed by HUD under Title VI of the Civil Rights Act of 1964, the Attorney General's Guidelines (28 CFR 50.3), or the HUD Title VI regulations (24 CFR 1.8) and procedures, or under section 504 of the Rehabilitation Act of 1973 or HUD's section 504 Regulations (24 CFR 8.57).

HUD will consider Exhibit P when evaluating this criterion.

V. Application Evaluation Factors

Section V of this NOFA describes the evaluation factors that HUD will use to review applications. Each application will be evaluated based upon its merits determined pursuant to the factors set forth below. Applications will be selected for award in accordance with Section VII of this NOFA. HUD will consider the entire application, as a whole, when applying these factors. Applicants must submit the information described in Section VI (Application Submission Requirements) of this NOFA; applicants must not respond directly to the factors in Section V (Application Evaluation Factors) of this NOFA. Instances in which specific exhibits correspond to specific evaluation factors are noted in both Sections V and VI of this NOFA.

A. Urgency of Need for Revitalization [15 Points]

HUD will consider the degree of distress at a site and the imminence of greater distress in the absence of immediate intervention. HUD will also consider the extent to which such distress is attributable to or exacerbated by the development's obsolescence, rather than factors more immediately within the control of applicant, and is potentially remediable by the applicant's revitalization plan. Maximum consideration will be given to sites at which the immediate obsolescence of physical design and condition make it virtually impossible to provide decent, safe, and sanitary housing at a reasonable cost to the applicant despite all reasonable current management and maintenance efforts. HUD will also give consideration, however, to the degree of imminence of

such obsolescence and consequent distress at developments which have not yet reached such condition.

If a targeted development already has been vacated for demolition or disposition, or has been demolished or disposed of pursuant to HUD approval granted in 1995 or thereafter, HUD will apply this evaluation factor to the conditions which existed as of the date of HUD approval.

HUD will consider the entire application, and particularly Exhibit C (Urgency of Need for Revitalization); Exhibit B (Existing Conditions); and Exhibit N (Need for Funding) when evaluating this criterion.

B. Lessen Isolation of Low-Income Residents [25 Points]

A successful HOPE VI effort requires the replacement of isolated concentrations of very low-income, nonworking families with more integrated and diverse urban settings where nonworking families are in daily contact with working families and working society. HUD will consider the extent to which the applicant proposes to place or maintain public housing in well-functioning neighborhoods or promote mixed-income communities where public housing once stood alone, thereby ending the social and economic isolation of public housing residents, increasing their access to quality municipal services, and increasing their access to job information and mentoring opportunities. HUD will consider the extent to which the physical design would lessen the isolation and stigmatization of the development and its low-income residents. HUD will also consider features of the surrounding community which would enrich the lives of public housing residents within the development, such as educational institutions, transportation and employment opportunities. HUD will also consider the extent to which operational and management principles will promote economic and social diversity.

If an applicant proposes demolition with replacement in part through tenant-based assistance, HUD will also consider the degree to which the PHA intends to provide counseling and other assistance, directly or through an intermediary, to help families receiving tenant-based assistance to move to nonpoverty neighborhoods.

HUD will consider the entire application, and particularly Exhibits B.3, B.4, and B.5 (Existing Conditions); Exhibits D.6 and D.7 (Description of Physical Revitalization Plan), and Exhibit F (Self-Sufficiency Component) when evaluating this factor.

C. Encourage Resident Self-Sufficiency [20 Points]

With welfare reform, no revitalization effort can succeed if it does not make provisions for assisting low-income residents to achieve long-term self-sufficiency (*i.e.,* independence from supportive governmental programs not provided to the general populace, primarily income support) where possible. An applicant should demonstrate that it has a feasible, coherent, realistic strategy for helping residents become wage-earners. Overall, HUD will consider the extent to which the objectives of the self-sufficiency plan are results-oriented, with measurable goals and outcomes; and the degree to which the program is sustainable and is likely to enable residents to become self-supporting.

HUD will consider such factors as the overall quality of the self-sufficiency plan; the integration of the plan with the development process; the appropriateness of scale, type, and delivery of the plan to meet the identified needs of residents; the degree of resident training, employment, and contracting planned; the degree to which service providers have made commitments to provide services or funding; the experience of proposed service providers; the extent of effective use of technology; the involvement of educational institutions and business partners; and the extent to which residents are expected to invest in their own futures.

HUD will also consider the extent to which proposed operating and management principles will complement the self-sufficiency program and reward the efforts of residents.

HUD will consider the entire application, and particularly Exhibit F (Self-Sufficiency Component) and Exhibit G (Operation and Management Principles) when evaluating this factor.

D. Property Management [15 Points]

HUD will consider the extent to which the housing authority has evaluated the obstacles that prevented good management and other management problems that led to the distress or obsolescence of the targeted development, and the new plan for management that will protect against similar problems of the past and promote efficient and economical management.

HUD will consider the entire application, and particularly Exhibit G (Operation and Management Principles) when evaluating this factor.

E. Local Impact [25 Points]

HUD will consider the degree and magnitude of positive change that the entire package of activities described in the application (including both eligible activities to be conducted by the applicant and complementary activities by other entities, such as CDBG investments or educational initiatives) will have on the affected public housing community, the surrounding neighborhood, and on the entire city or town. In this context, HUD will consider the community's need for such change as measured by objective indicia of social distress, criminal incidents, housing need, and similar factors. HUD will consider the extent to which a physical plan demonstrates attention to preserving and enriching the urban fabric. HUD will also consider the extent to which the infusion of HOPE VI dollars will leverage other resources, including municipal expenditures, charitable contributions, and private debt and equity. HUD will also consider the extent to which the proposal improves, where applicable, the safety and security of residents through the implementation of anti-crime measures and the installation of physical security or design enhancements. HUD will consider the relative impact a proposed revitalization will have on its surrounding community, not the magnitude of the program in relation to other applications.

HUD will consider the entire application, and particularly Exhibit B (Existing Conditions), Exhibit D (Description of the Physical Revitalization Plan), and Exhibit H (Local Impact) when evaluating this factor.

F. Affirmatively Furthering Fair Housing [20 Points]

HUD will consider the extent to which the applicant has demonstrated that it has affirmatively furthered fair housing, or will do so by its actions in connection with this application. HUD will consider the extent to which actions already taken by the applicant have removed or overcome, and, where applicable, the extent to which actions to be taken in connection with this application will remove or overcome the consequences of prior practices or usage which were discriminatory or which tended to limit participation by persons of a particular race, color or national origin. HUD will also consider the extent to which the applicant's previous actions, or actions taken in connection with this application, promote the provision of public housing opportunities for disabled persons. (See

Section VI.P. of this NOFA for examples of specific actions).

In accordance with the provisions of the 1997 Appropriations Act, no appropriated funds shall be used directly or indirectly for the purpose of granting a competitive advantage in awards to settle litigation or pay judgments in court cases affecting applicants for this program. HUD will not, when reviewing applications under this NOFA, award extra points, for example, to any PHA involved in a consent decree mandating desegregation of the PHA's public housing.

HUD will evaluate all applications, and particularly Exhibit B (Existing Conditions), Exhibit D (Description of Physical Revitalization), Exhibit G (Operation and Management Principles), and Exhibit P (Affirmatively Furthering Fair Housing) when evaluating this factor.

G. Community and Partnerships [20 Points]

HUD will consider the entire application, and particularly Exhibit J (Community and Partnerships), when evaluating this factor.

1. Resident Support/Involvement (5 Points)

HUD encourages full and meaningful involvement of residents and members of the communities to be affected by the proposed activities. HUD will consider the extent of resident consultation in shaping the application, the level of resident support for the proposed activities, the continued involvement and participation by the affected public housing residents, and the proposed involvement of residents in management of revitalized or replacement units.

2. Community Support/Involvement (5 Points)

HUD will consider the extent of involvement by local public, private, and nonprofit entities and community representatives in the preparation of the application, the level of enthusiasm for the plan in the larger community, and the extent to which the activities proposed in the application are coordinated with other revitalization plans within the community.

3. Partnerships (5 Points)

This evaluation factor recognizes the importance of a PHA not just seeking endorsements and vendor relationships with others, but actively enlisting other stakeholders who are vested in the revitalization effort, including public and private nonprofit and for-profit entities with experience in the development and/or management of low-and moderate-income housing, those that are skilled in the delivery of services to residents of public housing, educational institutions, foundations, banks, and other organizations.

HUD will consider the extent to which applications propose to develop partnerships to facilitate revitalization, the strength of commitments from potential partners to participate in the revitalization plan, and the experience, capability, and local importance of proposed partners.

If a PHA is also a redevelopment agency or otherwise has citywide responsibilities, HUD will consider the city's redevelopment or other functional area to be a separate partner with which the housing authority function is partnering, where appropriate.

4. EZ/EC Involvement (5 Points)

Points will be given to an application whose targeted development is principally located in a Federally-designated Empowerment Zone (EZ) or Enterprise Community (EC), and which demonstrates coordination with and support of the Strategic Plan for such EZ/EC.

H. Capability and Readiness [25 Points]

HUD will consider the ability and capacity of a PHA and any identified partners to promptly begin and effectively carry out the revitalization and replacement activities it has proposed. HUD will likewise consider the extent to which an applicant with any outstanding grants from HUD of substantial capital funds under the HOPE VI, MROP, Development or CIAP programs is on schedule or, if behind schedule, has resolved all major issues and has been making good progress in the last 6 months.

HUD will separately evaluate the demonstrated capability and track record of the PHA and its team to plan, implement, adapt and manage the self-sufficiency program over a multi-year period.

HUD will separately evaluate the demonstrated capability and track record of the PHA and its team to provide property management and marketing of the kind which will be required by the applicant's proposal.

HUD will look at the capacity of the team presented by the applicant, including, as relevant, both PHA employees and partners and contractors who have been procured and who are demonstrably committed to the plan. A PHA which cannot currently demonstrate full capacity in this fashion will be evaluated on the likelihood that it can acquire such capacity. Where a PHA plans to utilize partners and/or contractors, it should demonstrate that it will provide an appropriate balance of oversight and autonomy.

HUD will consider the entire application and particularly information provided in Exhibit I (Capability and Readiness) when evaluating this factor.

I. Efficient Utilization of Federal Funding [10 Points]

HUD will consider the relative cost to the Federal Government of the proposed plan as opposed to demolishing the targeted development and replacing it with Section 8 tenant-based assistance, as determined in accordance with the **Federal Register** notice of September 26, 1996 (61 FR 50632). A plan which is less costly will receive full points under this evaluation factor; more costly plans will receive fewer points. HUD will also evaluate the extent to which housing authorities have proposed budgets that demonstrate efficiency in spending. Applications with new construction and rehabilitation costs that are less than applicable TDC limits will be favorably considered.

HUD will consider the entire application, and particularly Exhibit O (Section 8 Cost Comparisons) when evaluating this factor.

J. Feasibility and Sustainability [25 Points]

HUD will consider the need and market for the revitalized and/or replacement units of the type and size proposed; whether the proposed program activities are likely to be accomplished within a reasonable time and expense; and whether the proposed activities are sustainable based on realistic budgets. Included in this analysis, HUD will evaluate the level and firmness of commitments for private and public funds upon which the proposal relies.

HUD will consider the entire application, and particularly Exhibit B (Existing Conditions), Exhibit D (Description of Physical Revitalization), Exhibit K (Resources), and Exhibit L (Program Financing and Sustainability) when evaluating this factor.

K. Proposal Coherence and Integrity [15 Points]

HUD will consider the entire application when determining the extent to which the proposed activities are likely to accomplish the program plan and objectives as outlined in Exhibit A (Summary Statement of Plan and Objectives). HUD will consider the extent to which information and strategies provided in each of Exhibits D–P are coherent and consistent with

each other, and whether the application proposes a comprehensive, realistic, and effective solution to the current problems at the development and in the neighborhood as described in Exhibit B (Existing Conditions).

VI. Application Submission Requirements

This Section VI of the NOFA describes all of the items to be included in an application. All applications must include all information requested unless otherwise specifically noted.

HUD reviewers will use the information provided in the application to evaluate each application in accordance with the evaluation factors described in Section V of this NOFA. Notwithstanding that certain application submission requirement sections of the application correspond to specific evaluation factors, reviewers will consider and evaluate the application as a whole during the evaluation process.

Each application must consist of Exhibits A–Q that correspond directly to Sections VI.A.–VI.Q. listed below. For ease of review, each application must include a table of contents directing the reader to the page number upon which each exhibit begins. To help expedite review of the applications, please assemble in the order given in Section VI of this NOFA. Please mark each exhibit with an appropriately lettered tab and number each page of the application sequentially. If an exhibit is not applicable for any reason, provide an explanation of its inapplicability to the application under the tab for such exhibit.

Each application must be limited to a total of 75 (8½ by 11 inch) pages of narrative text utilizing double spacing and margins of preferably 1 inch, but no smaller than ½ inch. HUD strongly recommends that applicants utilize a Courier 11 point font or equivalent. Page limits do not include such charts, maps and illustrations as are useful and necessary to illuminate the required narrative, nor do they include required or requested attachments such as letters of support or opposition, or certifications. Videos are not an allowable submission. Adherence to the page limit is mandatory; in reviewing an application, HUD will not consider any information on pages that exceed the limits. Applicants are encouraged to be concise and need not utilize the full page limit.

A. Summary Statement of Plan and Objectives

All applicants must provide a narrative Exhibit A which summarizes the overall revitalization plan and sets forth what the applicant proposes to accomplish thereby. The narrative should include: (1) A statement describing the planned long-term impact the redevelopment will have on the current and future residents of the development and the neighborhood, and (2) A list of measurable goals and an estimate of when the goals are to be achieved. HUD will use information from Exhibit A both to orient readers and to evaluate specific factors for which goals are set in this section.

B. Existing Conditions

All applicants must provide an Exhibit B that responds to all items in this section plus any others which the applicant deems relevant to the heading and intended use. HUD will use information from Exhibit B primarily to evaluate the Urgency of Need for Revitalization (V.A), Lessen Isolation of Low-Income Residents (V.B), Local Impact (V.E), Affirmatively Furthering Fair Housing (V.F.), and Feasibility and Sustainability (V.J) factors. HUD will use items 2 through 4, below, to determine whether the application meets the threshold criterion for obsolete housing (IV.A).

The applicant must provide the following information in a narrative plus the map required under Paragraph 1.c. below:

1. Description of Current Development

a. An identification of the targeted development and neighborhood. State the complete street address (including zip code) of the targeted development.

b. The total number of current units, by bedroom distribution, separately identifying vacant and occupied units.

c. A map of the current site.

2. Indicators of Physical Obsolescence

a. The cost of redesign, rehabilitation, or reconstruction per unit as compared with TDC.

b. Structural deficiencies (e.g., settlement of earth below the building caused by inadequate structural fills, faulty structural design, or settlement of floors).

c. Substantial deterioration (e.g., severe termite damage or damage caused by extreme weather conditions) or other design or site problems (e.g., severe erosion or flooding).

d. Design and site deficiencies (e.g., high density, building height, unit configuration or indefensible space).

e. Major system deficiencies (e.g., peeling and chipping lead-based paint, lack of reliable and reasonably efficient heat and hot water, major structural deficiencies, electrical system not satisfying code requirements, poor site conditions, leaking roof, deteriorated laterals and sewers, or high number of plumbing leaks).

f. Deficiencies with respect to accessibility for persons with disabilities as regards both individual units, entrance ways and common areas.

3. Neighborhood Characteristics

a. Physical condition and characteristics of the neighborhood, including the percentage of the population in the neighborhood that lives in the targeted development and the percentage that lives in other assisted housing developments nearby.

b. Land use and economic activity, including density and structure types as compared to the development proposed for funding.

c. Demographic data such as income levels and minority concentration.

d. Environmental conditions that may jeopardize the suitability of the site or a portion of the site and its housing structures for residential use. These conditions may be determined by either a HUD-related environmental review, in accordance with 24 CFR part 50 which was previously conducted in connection with earlier assistance, or another assessment of conditions that, in the opinion of the applicant, may jeopardize suitability of the site.

e. Deficiencies in the neighborhood that revitalization could ameliorate.

f. Assets in the neighborhood which will assist revitalization.

4. Demographic Indicators

For the following elements, applicants must provide the most current information that relates as specifically as possible to the targeted site. If site information is not available, applicants must indicate whether information provided pertains to the development, neighborhood, city, census tract, or other demographic area.

a. Average income as a percentage of area median. Include the percentage of families with public assistance income, earned income, and social security income at the targeted development.

b. Statistical information on the incidence of crime, including the following: frequency of criminal acts of various types per 1,000 persons (including drug-related activities), number of lease terminations or evictions for criminal activity, average number of police calls to the development per month, and the average monthly incidence of vandalism to PHA property in dollars.

c. Vacancy rate of units not in funded, on-schedule modernization; historical marketing and occupancy data.

5. Effect on the Neighborhood

Applicants must describe how the physical, neighborhood, and demographic conditions of the obsolete development, or portions thereof, affect the residents of the surrounding neighborhood, the greater community, and city.

C. Urgency of Need for Revitalization

The applicant should set forth in a narrative why it is urgent that it receive the funding sought and pursue the revitalization proposed. The applicant should refer to information contained in Exhibit B (Existing Conditions) and Exhibit N (Need for Funding), together with such other information as is relevant and helpful. If a targeted development already has been vacated for demolition or disposition, or has been demolished or disposed of pursuant to HUD approval granted in 1995 or thereafter, describe the conditions which existed as of the date of HUD approval.

D. Description of Physical Revitalization Plan

HUD will use information from Exhibit D primarily to evaluate the Lessen Isolation of Low-Income Residents (V.B.), Local Impact (V.E.) and Feasibility and Sustainability (V.J.) factors. HUD will use information in Exhibits D.6 and D.7 to evaluate the Lessen Concentration threshold criterion (IV.C.) and the Lessen Isolation of Low-Income Residents (V.B.) and Affirmatively Furthering Fair Housing (V.F.) factors. Applicants must describe the extent of the physical revitalization and/or replacement activities proposed, including the following, as appropriate:

1. The extent of any proposed demolition/disposition and identification of the units to be demolished.

2. The changes in the sizes and shapes of units and other changes in the use of interior space, including any reduction in the number of units due to reconfiguration or changes in bedroom mix.

3. Any community space alterations, improvements, or additions.

4. Any proposed on-site housing construction, including number, type, and bedroom distribution of units, and whether the new units will be for rental or homeownership. Indicate clearly the units proposed as public housing Replacement Units.

5. For any reconfiguration, community space alterations or improvements, or on-site housing construction, describe how accessibility for persons with disabilities to individual units, community spaces and buildings will be assured.

6. Any proposed off-site housing construction, including number, type, and bedroom distribution of units, and whether the new units will be for rental or homeownership. Indicate clearly the units proposed as public housing Replacement Units. Any applicant proposing to create off-site Replacement Units MUST use census data to describe how such housing will avoid or lessen concentrations of very low-income families.

7. The number of any Section 8 certificates to be used for replacement or relocation housing, and whether those certificates are existing or are to be requested under the separate Section 8 notice. Include a description of counselling or other assistance that will be provided to residents receiving tenant-based assistance as relocation or replacement housing to enable them to move to areas of lower poverty if they so choose.

8. Any site acquisition necessary or proposed, the purpose of the acquisition, and how that acquisition is proposed to be financed.

9. Any non-housing structures.

10. Infrastructure and site improvements to be constructed.

11. A description of any physical anti-crime measures and/or installation of physical enhancements (e.g., defensible space).

12. A statement of the design objectives and considerations motivating the plan.

13. Detail other revitalization activities or land use plans underway or planned in the neighborhood(s) that the revitalization plan would affect. Provide reference to and maps indicating the location of activities and resources identified in the city's or State's Consolidated Plan or Federally-designated Empowerment Zone or Enterprise Community Strategy (if applicable) in relationship to the development. Describe the current or projected impacts of these community-wide activities on residents of the development(s).

14. If available, provide postrevitalization site and neighborhood maps and/or illustrative design illustrations.

E. Applications for New Construction

In accordance with section 6(h) of the U.S. Housing Act of 1937 (42 U.S.C. 1437d), the PHA may engage in new construction only if the PHA demonstrates to the satisfaction of the Secretary that the cost of new construction in the neighborhood where the PHA determines the housing is needed is less than the cost of acquisition or acquisition and rehabilitation in such neighborhood. Therefore, every application that includes new construction must be accompanied by a narrative Exhibit E that contains the information described in either paragraphs 1 or 2 of this section, below. If HUD cannot approve new construction under section 6(h) of the 1937 Act, HUD will reject the application.

1. A PHA comparison of the costs of new construction (in the neighborhood where the PHA proposes to construct the housing) and the costs of acquisition of existing housing or acquisition and rehabilitation in the same neighborhood (including estimated costs of lead-based paint testing and abatement).

2. A PHA certification, accompanied by supporting documentation, that there is insufficient existing housing in the neighborhood to develop housing through acquisition of existing housing or acquisition and rehabilitation.

F. Self-Sufficiency Component

HUD will use information from Exhibit F primarily to evaluate the Encourage Resident Self-Sufficiency (V.C.), Capability and Readiness (V.H.), and Feasibility and Sustainability (V.J.) factors.

A program of self-sufficiency may include, but is not limited to: child care, of a type that provides sufficient hours of operation and serves appropriate ages as needed to facilitate parental access to education and job opportunities; employment training and counseling, such as the Step-Up program, that may include job training, job preparation and counseling, job development and placement, and follow-up assistance after job placement; computer skills training; education, including remedial education, literacy training, completion of secondary or postsecondary education, assistance in the attainment of certificates of high school equivalency, and the integration of modern computer technology into the education program; transportation as necessary to enable any participating family member to receive available services or to commute to his or her place of employment; partnerships with local businesses that will provide job placements for residents who complete adult education and job training programs; substance/alcohol abuse treatment and counseling; health care services; and developing a strategy to establish on-site credit union(s) to provide financial and economic development initiatives to residents. The credit union shall support the normal financial management needs of the community (i.e., check cashing, and any other services and resources, including case management) that are determined to be appropriate in assisting eligible residents.

1. Describe the strategic vision, and the objective and measurable goals, of the self-sufficiency component, and describe how they will be measured and met through the self-sufficiency program.

2. Describe how the self-sufficiency plan will be managed in order to achieve efficiency, economy and accountability. Identify capabilities and track records of responsible individuals or partners.

3. Provide a brief description of each service that is expected to be made available for residents. For each service, to the extent that providers are identified, indicate the name of the service provider and the experience of that provider. If providers are not identified, describe the process the PHA will use to identify providers. Describe the location of the service provision, the timing of the service provision and how it relates to the development schedule, how long the service will be provided to residents, and whether the service will be available to residents that will remain on site, are moved off site, and/or are in relocation sites.

4. Describe the analysis and any consultation with residents that the PHA employed to determine the needs upon which the self-sufficiency program was based and that will be used to reevaluate service needs in the future.

5. Describe how residents will be selected to participate in services.

6. In addition to the narrative, attach letters from service providers that commit to provide services to residents.

7. Describe plans to provide on-the-job training, employment, and contracting opportunities to residents during implementation of the revitalization plan.

G. Operation and Management Principles

HUD will use information from Exhibit G primarily to evaluate the Lessen Isolation of Low-Income Residents (V.B.), Encourage Resident Self-Sufficiency (V.C.), Property Management (V.D.) and Feasibility and Sustainability (V.J.) factors.

For application purposes, the PHA should assume that Congress will make permanent the program modifications continued by the 1997 Appropriations Act. However, PHAs will be required, if selected, to conform their proposals to current law.

Applicants must describe those management and operational problems that led to the distress or obsolescence of the targeted development.

Applicants must describe the manner and extent to which the proposed operation and management principles will:

1. Achieve efficient and effective property management and maintenance through private management or other management improvements;

2. Lead to a range of incomes in the subject development including substantial numbers of working families;

3. Reward work and promote family stability through positive incentives such as income disregards and ceiling rents. PHAs may establish ceiling rents and may institute earned income disregards for FY 1997;

4. Provide greater safety and security by instituting tough screening requirements and enforcing tough lease and eviction provisions, including the ''One Strike and You're Out'' policy in the Housing Opportunity Program Extension Act of 1996 (Pub. L. 104–120; approved March 28, 1996);

5. Promote economic and demographic diversity through a system of local preferences (Congress has suspended all Federal preferences for FY 1997); and

6. Encourage self-sufficiency by utilizing lease requirements that promote community service and/or transition from public housing.

H. Local Impact

HUD will use information from Exhibit H primarily to evaluate the Local Impact (V.E.) factor.

Applicants must describe the extent to which the revitalization plan as a whole will significantly address the indicators of obsolescence and distress described in Exhibit B (Existing Conditions) and contribute to positive change for residents of the development and the surrounding community. Applicants should address anticipated physical, social and economic changes for both public housing residents and existing neighbors.

I. Capability and Readiness

HUD will use information from Exhibit I to evaluate all of the factors and particularly Capability and Readiness (V.H.). Applicants must provide a narrative that includes the following information:

1. Describe progress made under any previously-awarded HOPE VI, development, and/or modernization funding which is still open or was closed out within the last two years, and explain any factors which have caused delay or unsatisfactory performance.

2. Provide the PHA's overall and modernization scores under the Public Housing Management Assessment Program (PHMAP), 24 CFR part 901, as most recently assigned by HUD.

3. Provide a brief summary of the PHA's most recent fiscal audit and any outstanding HUD monitoring findings.

4. Provide an organizational chart that indicates the proposed PHA staffing of the revitalization program. Describe the qualifications of the PHA's key staff who will be responsible for the oversight of the program.

5. Describe any prior experience of the PHA or its staff in financing, leveraging, and partnership activities.

6. Describe how the PHA proposes to procure any necessary partners or service providers. If any have already been procured, describe them fully, including the nature of the organization, qualifications, the respective responsibilities and obligations of each party, the proposed financial relationship (i.e., the basis and source of compensation to nonapplicant parties), and the procurement process used to select the partner or provider. If the proposed development is to be implemented by a third party developer, include a written commitment by the developer stating eligibility for and experience in developing, constructing, and managing the proposed activities in this application. HUD warns PHAs against procuring partners other than in compliance with applicable laws and HUD procurement regulations, or after waivers thereof have been granted. Please refer to 24 CFR part 941, subpart F, published in the **Federal Register** on May 2, 1996 (61 FR 19708, 19714), for guidance on procurement of developer partners for mixed-finance development; all other partners are to be procured in accordance with 24 CFR 85.36.

7. Describe factors that will ensure that implementation of the program can begin quickly if the application is approved for an award.

J. Community and Partnerships

All applicants must provide a narrative Exhibit J plus any pertinent letters as provided below. HUD will use information from Exhibit J primarily to evaluate the Community and Partnerships (V.G.) factor. HUD will use information in Exhibit J.1.e, below, to determine whether the resident consultation requirement of the Curable Technical Deficiencies (Section III.A.) portion of this NOFA has been met. Exhibit J should contain the following information:

1. Resident Support/Involvement

a. Describe the level of participation and/or consultation with residents throughout the PHA in the preparation of the application.

b. Explain how the PHA would continue the involvement and participation by the affected public housing residents after grant award.

c. Describe any planned roles for residents in the management and operation of the revitalized and replacement units and the developments of which they are a part.

All applicants must attach the following:

d. Any letters from residents in support of or opposition to the proposed plan or any component element.

e. Evidence that at least one public meeting has been held to notify residents and community members of the proposed activities described in this application. The meeting may be a regularly scheduled PHA board meeting. Evidence must include the notice announcing the meeting, how the notice was distributed, and a copy of the sign-in sheet. An application must contain such evidence that a public meeting took place in order to be selected for participation.

2. Community Support/Involvement

All applicants must respond to this item.

a. Describe the level of participation and/or consultation in the preparation of the applic÷tion by community organizations and institutions, agencies of local and State government, businesses, nonprofit corporations, social service providers, philanthropic organizations, educational institutions, and other entities. Discuss how the PHA would continue to involve these entities and groups if the application is selected.

b. Provide any letters, resolutions, or other available documentation in support of, or objection to, the physical as well as the self-sufficiency component of the proposed demolition, and the revitalization and/or replacement of units.

c. Describe how the PHA plans to coordinate with any other revitalization activities or land use plans underway or planned in the neighborhood(s) that the revitalization plan would affect.

d. If the revitalization plan calls for changes in streets or other infrastructure, provide a letter of commitment from the unit of general local government to provide the resources necessary to carry out those activities.

3. Partnerships

a. Describe plans to accomplish the revitalization through a proposed partnership with one or more entities.

b. Identify and provide any commitments from potential partners to participate in the revitalization.

c. Describe how the use of the partnership will enhance the PHA's ability to accomplish the revitalization.

4. EZ/EC Involvement

If the targeted development is within a Federally-designated Empowerment Zone or Enterprise Community, provide evidence of this location and that the PHA has an established relationship with the EZ/EC administrative body that was established before the publication of this NOFA, and that the proposed revitalization activity is consistent with and supportive of the Strategic Plan for the Federally-designated Empowerment Zone or Enterprise Community. In order to receive the maximum points, applicants must demonstrate that the HOPE VI proposal is a part of a pre-existing economic development or revitalization strategy and must provide a letter of endorsement from the EZ or EC governing body.

K. Resources

Applicants must provide as Exhibit K a list of all of the individuals and organizations from which they have received evidence of financial or other support for the proposed activities. Next to each source, applicants must list the dollar figure associated with the resource to be provided, including the dollar value of any in-kind services or materials to be provided, if known. Next to the dollar figure, applicants must indicate the application page number of letters of support or commitments for contributions. The letters must describe the nature of the support and/or resource to be provided, the dollar value of the donation, if available, any conditions attached to the commitment, and the date that the resource will be made available. Applicants must include letters that provide resources for capital costs, self-sufficiency programs, and all other activities of the program. Applicants may attach letters as part of Exhibit K, and/or in Exhibit F.6 (self-sufficiency support), Exhibit J.2.b (community support), or Exhibit J.3.b (partner support).

L. Program Financing and Sustainability

HUD will use information provided in Exhibit L primarily to evaluate the Feasibility and Sustainability (V.J) factor. (Note: the term ''construction'' refers to both rehabilitation and new construction). All applicants must provide an Exhibit L that contains the following:

1. A narrative description of the proposed legal/financial structure of the entire development and, if appropriate, any phases. Describe how the PHA proposes to manage the proposed development and maintain programs on a long term basis, given the resources projected to be available for the development.

2. A Market Analysis which demonstrates the marketability and long term feasibility of the proposed development and its compatibility with the surrounding community(ies). Ideally, and particularly where the feasibility may reasonably be doubted, as where middle-income homeownership is proposed in a currently low-income neighborhood, the analysis should be prepared by an arm's length third party with acknowledged expertise and experience in the field, and should include anticipated costs of units, compatibility of unit types, market conditions and demand, market values of community dwellings by type and bedroom size, and services immediately available (or proposed to be available) to residents and the community.

3. A commencement and completion schedule, by phases if any.

4. An estimated budget (Form HUD–52825–A, HOPE VI Budget, Parts I and II) showing uses of HOPE VI and other funding for the revitalization plan. Part I of the form will indicate the general uses of funds, and Part II breaks each individual use into specific activities.

5. If this application is for a mixed financed development, a separate schedule must be attached showing ALL of the Sources and Uses of funds required for implementation.

6. Specifically describe all financial sources, the provider, and the timing for availability of these sources. In the event that a source(s) is NOT available for expenditure at the commencement of construction, describe the method of providing for these funds on an interim basis. (Such may be the case with the availability of Low Income Housing Tax Credits, in which case a ''bridge'' loan may be appropriate.) If the proposed development is phased, provide this information for each phase.

a. Provide letters of commitment signed by an authorized person providing these funds for all sources.

b. Non-Hope VI funds provided by the PHA must be committed by the Executive Director as authorized by the PHA Board.

7. Provide a preliminary construction budget from schematics or other preliminary plans for the proposed development (and each phase) which includes all hard and soft costs (itemized) required for completion. The qualifications of the person preparing the budget (preferably an architect or engineer) should appear over his or her signature validating the budget.

8. Provide a detailed annual operating pro forma cash flow statement for a 5-year period for the proposed development and each phase thereof.

M. Grant Limitations

Applicants must demonstrate compliance with various limitations through the following separate schedules. All representations should refer to and be substantiated by budget

documents provided in Exhibit L (Program Financing and Sustainability).

1. Restate the funding requested under this NOFA and demonstrate that the grant amount is calculated in accordance with Section II.E. of this NOFA. The applicant must disclose all unexpended HUD capital grants and insurance proceeds targeted to the development.

2. Identify all replacement housing assistance (development funds) and Section 8 funds previously awarded by HUD with respect to the targeted development, and identify the units addressed thereby.

3. Demonstrate that the average per unit cost of the applicant's program is above 70 percent of HUD's published TDC limits. For these calculations, include all costs listed in 24 CFR 941.103, including those for demolition, remediation, and relocation.

N. Need for Funding

HUD will use the information provided in Exhibit N primarily to evaluate the Urgency of Need for Revitalization evaluation factor (V.A.), and the Need for Funding threshold criterion (IV.B.). If the applicant PHA owns or operates more than 250 public housing units, demonstrate that its total capital needs, as shown in its latest physical needs assessment, exceed by more than 10 percent the work it expects to be able to fund over the next 5 years. A CGP agency should use its most recent HUD approved 5-year action plan to make this determination.

O. Section 8 Cost Comparison

This exhibit details the required methodology for the cost comparison between public housing and Section 8 assistance and will be used to evaluate the Efficient Utilization of Federal Funding rating factor (V.I.). Applicants must provide, using the methodology described below, two figures: the overall monthly cost per unit for revitalizing and operating the targeted development, and the monthly cost per unit for demolishing the targeted development and providing affected residents with tenant-based assistance. The calculation for continuing the development as public housing will include both the costs for revitalizing and operating the public housing units. Please show, step-by-step, the calculations made to arrive at the figures and include sufficient details to demonstrate that the methodology was correctly used.

The estimated cost of the revitalization and operation as public housing shall be calculated as the sum of total operating, revitalization, and accrual costs, expressed on a monthly per public housing unit basis for the first month after stabilized occupancy is achieved. For purposes of this comparison, any Replacement Units including homeownership units will be deemed public housing.

The development's operating cost (all overhead costs prorated to the development, including PHA oversight of a private owner or manager, where applicable) and including utilities and utility allowances, shall be expressed as total operating costs per month, divided by the number of occupied units after a reasonable vacancy allowance. Operating costs shall be the applicant's best realistic estimate for the first month after stabilized occupancy.

The total cost of revitalization for the development (public housing units only) shall be the HUD funds (HOPE VI, CGP, CIAP, MROP or Development) required by the applicant's revitalization plan, but not including direct expenditures for self-sufficiency efforts. Total revitalization cost should include only that portion of demolition, remediation and relocation costs which is attributable to occupied units which will be replaced with hard units under the revitalization plan. (That is, if it will cost $5 million to demolish and relocate residents from a 600 unit development with 500 occupied units, of which only 400 units are to be replaced, then $4 million is attributed to the Replacement Units and $1 million should be excluded from total revitalization cost.) This total revitalization cost is converted into a monthly per public housing unit basis by dividing the total cost by the number of public housing units to be provided for after revitalization and dividing this figure by 180 (i.e., 15 years of months, where 15 results from an assumed life of 20 years for the capital investment amortized by a 3 percent annual rate of real interest to account for the cost of undertaking the capital improvements up front). For example, if the total HUD-funded revitalization cost of the development described above is $31 million and its occupancy by households after revitalization is to be 400 public housing units, its monthly per unit revitalization cost will be $417 (i.e., $30 million divided by 400, for a per unit cost of $75,000, and then divided by 180 for a per unit monthly cost of $417).

The monthly per occupied unit cost of accrual (i.e., replacement needs) will be estimated by using the HUD-funded revitalization cost, then multiplying that figure by .02 (representing a fifty year replacement cycle), and dividing this product by 12 to get a monthly cost. For example, if the HUD-funded revitalization cost is $75,000 per unit, then the estimated monthly cost of accrual per occupied unit is $125 (the result of multiplying $75,000 by .02 and then dividing by 12).

The overall current cost for continuing the development as public housing is the sum of its monthly operating cost per public housing unit, its monthly revitalization cost per public housing unit, and its estimated monthly accrual cost per public housing unit. For example, if the operating cost per unit month is $350 and the revitalization cost is $417 and the accrual cost is $125, the overall monthly cost per occupied unit is $892.

The estimated cost of providing tenant-based assistance under Section 8 for an equivalent number of households shall be calculated as the amortized demolition cost of the existing site, plus the unit-weighted averaging of the monthly Fair Market Rents for units of the applicable bedroom size plus the administrative fee applicable to newly funded certificates during the year used for calculating public housing operating costs (e.g., the administrative fee for units funded in FY 1995 and FY 1996 is the monthly administrative fee amount in column C of the notice published in the **Federal Register** on January 24, 1995 (60 FR 4764, 4765)). For example, if the replacement development will have 200 two-bedroom public housing units and 200 three bedroom public housing units, and if the Fair Market Rent in the area is $600 for two-bedroom units and is $800 for three-bedroom units, and if the administrative fee comes to $46 per unit, then the per unit monthly cost of tenant based assistance is $746 ($700 for the unit-weighted average of Fair Market Rents, or 200 times $600 plus 200 times $800, with the sum divided by 400, plus $46 for the administrative fee). To this must be added the demolition, remediation, and relocation costs of the entire existing site, converted to a monthly per occupied unit basis by dividing the total cost by the number of occupied units, then dividing again by 180. The total cost used should be the same as under the revitalization plan if 100 percent demolition is planned there; if partial demolition is planned, the PHA should use its best estimate of what 100 percent demolition would cost. In the example given above, the demolition of the 600-unit development would cost $10,000 per occupied unit, for an add-on of $56 per month in addition to the $746 Section 8 cost.

This Section 8 cost would then be compared to the cost of continuing the public housing development—in the example of this section, the public housing cost of $892 monthly per unit

would be greater than the Section 8 cost of $802 monthly per unit.

P. Affirmatively Furthering Fair Housing

While HUD will use information from Exhibit P primarily to evaluate the Fair Housing threshold criterion (IV.D.), Exhibit P is also the vehicle for applicants to describe any or all of the following, which relate to Application Evaluation Factor V.F. The applicant must submit an Exhibit P that describes any or all of the following:

1. The extent to which the applicant has affirmatively furthered fair housing and the actions it has already taken, or plans to take through this application to accomplish this objective. These actions may include but are not limited to, the following examples:

a. Those actions which contribute toward the reduction of concentrations of low-income persons who are protected under the Fair Housing Act. Examples of such actions include:

(1) Mobility counseling programs and clearinghouses which offer housing opportunities both within and outside of high-poverty areas;

(2) Outreach programs targeted at groups within the eligible population that would not ordinarily consider applying for units located in heavily racially concentrated areas;

(3) Outreach programs targeted at landlords with housing opportunities located outside of low-income concentrated areas;

(4) The implementation of site selection policies which give priority to sites located outside of minority and low-income areas; and

(5) The promotion of accessible homeownership opportunities and accessible rental housing in its jurisdiction.

b. Those actions which increase the supply of accessible and visitable housing available to low-income persons with disabilities and insure accessibility for persons with disabilities to all aspects of the program. ''Accessible housing'' means that the unit is located on an accessible route (36'' clear passage) and, when designed, constructed, altered, or adapted, can be approached, entered, and used by an individual with physical disabilities. Visitability restricts itself to two areas of a unit: (1) At least one outside entrance is at grade (no step(s)), and (2) all interior and exterior doors provide a 32″ clear passage.

c. Actions which are communitywide or metropolitanwide in scope. Such actions may include mobility counseling programs, relocation advisory services, affirmative marketing and advertising programs, and other actions that may employ public and private resources to address fair housing problems.

2. Actions taken, or, if applicable, to be taken through this application, to overcome the consequences of prior discriminatory practices or usage which have or may have tended to exclude persons of a particular race, color, or national origin, or to promote the provision of public housing opportunities for persons with disabilities. Such actions may include:

a. Compliance with the provisions of Voluntary Compliance Agreements, contracts, and other legally binding documents, where applicable; or

b. Actions taken without any kind of legally binding order which have changed previous discriminatory management, tenant selection and assignment or maintenance practices.

Consistent with the provisions of the 1997 HUD Appropriations Act, no applicant shall describe actions connected with the implementation of the provisions of any consent decree settling litigation relating to the desegregation of public housing or related matters.

3. Actions already taken, or, if applicable, to be taken through this application, to provide housing opportunities for persons with disabilities. Such actions may include implementation of a Needs Assessment and Transition Plan or other actions which increase, for persons with disabilities, accessibility to both the units and to other opportunities to participate in the PHA's programs and activities. Such actions may also include any actions taken to modify services, policies, and practices identified through the self-evaluation processes required by 28 CFR 35.105 or 24 CFR 8.51.

Q. Required Certifications

Each applicant must submit an Exhibit Q that includes all of the following letters and forms, fully executed and dated. Submission of all of the following letters and forms is a requirement of this NOFA.

1. As the first page of the application, submit an SF–424, Application for Federal Assistance. This form must include the Housing Authority Code, provide the name of the targeted development, list all activities proposed in the application (demolition, revitalization, replacement, Section 8) and the amount of funds requested for each. This form must be signed by the Executive Director of the PHA.

2. A letter from the Chief Executive of the applicable jurisdiction in support of the application.

3. Form HUD–52820–A, PHA Board Resolution for Submission of HOPE VI Application.

4. A certification by the public official responsible for submitting the Consolidated Plan under 24 CFR part 91 that the proposed activities are consistent with the approved Consolidated Plan of the State or unit of general local government within which the development is located.

5. Certification for a Drug-Free Workplace (Form HUD–50070) in accordance with 24 CFR 24.630.

6. Form HUD 2880, Recipient Disclosure/Update Report. This report provides disclosures required by section 102 of the HUD Reform Act of 1989 (Pub. L. 101–235; approved December 15, 1989). Implementing regulations in 24 CFR part 4 require PHAs that seek assistance from HUD for a specific activity to make the disclosures required under 24 CFR 4.9.

7. Anti-Lobbying Certification for Contracts, Grants, Loans and Cooperative Agreement (Form HUD–50071). In accordance with section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (the Byrd Amendment) and the implementing regulations in 24 CFR part 87, the PHA must certify that no Federally-appropriated funds have been paid or will be paid, by or on behalf of the PHA, for influencing or attempting to influence an officer or employee of any agency, or a member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant or loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modifications of any Federal contract, grant, loan, or cooperative agreement. (The rule also requires disclosure from the PHA if nonappropriated funds have been spent or committed for lobbying activities, if those activities would be prohibited if paid with appropriated funds.)

VII. Application Processing and Grant Administration

A. Application Evaluation

Awards under this NOFA will be made through a selection process that will award grants to the most meritorious applications based upon points as provided below.

HUD will preliminarily review, rate and rank each application, including those applications from prior HOPE VI planning grant recipients which are for the same development as their planning grant, on the basis of the evaluation factors set forth in Section V of this

NOFA. A final review panel will then review the scores of all applications whose preliminary score is above a base score established by HUD, using the same evaluation factors set forth in Section IV of this NOFA. HUD intends to set the base scores so that applications requesting a total of approximately $900 million are advanced to the final review stage. The HOPE VI program, following Congressional direction, has heretofore incorporated a progression from planning grants to implementation grants. HUD has not given any rating preference to prior planning grant sites; however, in order to preserve program continuity and obtain full consideration of sites in which HUD has made an investment of HOPE VI funds, HUD will review all such applications in the second review stage. Such applications will not receive special consideration during the panel review stage and will be reviewed in both stages of the selection process according to the evaluation factors set forth in Section V of this NOFA.

The review panel will assess each of the applications advanced to final review and will assign the final scores.

HUD will select for funding the most highly rated applications up to available funding. HUD, in its discretion, may choose to select a lower-rated approvable application over a higher-rated application in order to (1) Increase the level of national geographic diversity of applications selected under this NOFA, or (2) implement an exemplary, innovative or unique revitalization plan whose approach would otherwise be inadequately represented in the pool selected, and which HUD determines is a revitalization model which should be tested for the benefit of future efforts.

HUD may establish a panel of experts with whom to consult for advice on elements of the applications that are within their expertise. Such experts will be advisors and will not conduct any part of the selection of grantees.

B. Reduction in Requested Grant Amount

HUD may select an application for participation in the HOPE VI program but grant an award pursuant to such application in an amount lower than the amount requested by the applicant, or adjust line items in the proposed grant budget within the amount requested (or both), if it determines that partial funding is a viable option, and:

1. The amount requested for one or more eligible activities is not supported in the application or is not reasonably related to the service or activity to be carried out;

2. An activity proposed for funding does not qualify as an eligible activity and can be separated from the budget;

3. The amount requested exceeds the total cost limitation established for a grant;

4. Insufficient funds are available to fund the full amount; or

5. Providing partial funding will permit HUD to fund one or more additional qualified PHAs.

C. Corrections to Deficient Applications

HUD will evaluate each application against the evaluation factors in Section V of this NOFA. Upon completion of the evaluation, if HUD determines that a PHA failed to submit any of the items listed in Section III of this NOFA, or if the application contains a technical mistake, such as an incorrect signatory, or is missing any other information that does not affect evaluation of the application, HUD may notify the PHA in writing and by facsimile (fax) that the PHA has 14 calendar days from the date of HUD's written notification to submit or correct any of the specified items. The PHA will have no opportunity to correct deficiencies other than those identified in HUD's written notification, or otherwise to supplement or revise its application. If any of the items identified in HUD's written notification is not corrected and submitted within the required time period, the application will be ineligible for further consideration.

D. Notification of Funding Decisions

HUD will not notify applicants as to whether they have been selected to participate until the announcement of the selection of all recipients under this NOFA. HUD will provide written notification to applicants that have been selected to participate and to those that have not been selected. HUD's notification of award to a selected applicant will constitute a preliminary approval by HUD subject to the completion of a subsidy layering review pursuant to 24 CFR 941.10(b), HUD's completion of an environmental review of the proposed sites in accordance with 24 CFR part 50, and the execution by HUD and the recipient of a Grant Agreement and/or ACC Amendment. Selection for participation (preliminary approval) does not constitute approval of the proposed site(s). Each proposal will be subject to a HUD environmental review, in accordance with 24 CFR part 50, and the proposal may be modified or the proposed sites rejected as a result of that review. Each application must contain the certification included in the PHA Board Resolution for Submission of HOPE VI Application (form HUD 52820–A), submitted under Exhibit Q.3, that the applicant will assist HUD in complying with environmental review procedures. Under that certification, the applicant/recipient may not acquire, rehabilitate, convert, lease, repair, or construct a property, or commit HUD or local funds to these activities, until HUD approves the site.

E. Grant Agreement/ACC Amendment

After HUD selects a PHA to receive an award pursuant to this NOFA, it will enter into a Grant Agreement and/or ACC Amendment, as determined appropriate by HUD, with the recipient setting forth the amount of the grant and applicable rules, terms, and conditions, including sanctions for violation of the agreement. Among other things, the agreement/amendment will provide that the recipient agrees to the following:

1. To carry out the program in accordance with the provisions of this NOFA, applicable law, the approved application, and all other applicable requirements, including requirements for mixed finance development, and section 202 of OCRA if applicable;

2. To comply with such other terms and conditions, including recordkeeping and reports, as HUD may establish for the purposes of administering, monitoring, and evaluating the program in an effective and efficient manner, including full cooperation with HUD's program oversight contractor;

3. That HUD will require the grantee to demonstrate that the team assembled to implement the HOPE VI program has a strong management and development track record and has the capability to commence and carry out a quality HOPE VI program. If the grantee fails to make this demonstration to the satisfaction of HUD and its program oversight manager, HUD will direct corrective actions as a condition of retaining the grant; and

4. That HUD will require each grantee to execute a construction contract within 18 months (or a period specified in the Grant Agreement). Failure to obligate funds will result in the enforcement of default remedies up to and including withdrawal of funding.

5. That each grantee will have established interim performance goals and must complete the physical component of the HOPE VI revitalization within 4 years of execution of the grant agreement. The Secretary shall enforce this requirement through default remedies up to and including withdrawal of funding that the PHA has not obligated. HUD will

take into consideration those delays caused by factors beyond the control of the grantee when enforcing these schedules.

The Grant Agreement will set forth the precise schedules of the HOPE VI program and will also provide program rules, describe requirements for implementation of the revitalization plan, and provide any special conditions on the grantee, as applicable.

VIII. Applicability of Program Requirements

The development to be revitalized is a public housing development. Accordingly, certain activities under the revitalization plan are subject to statutory requirements applicable to public housing developments under the U.S. Housing Act of 1937 (the 1937 Act), other statutes, and the ACC. Within such restrictions, HUD seeks innovative solutions to the long-standing problems of obsolete developments. In order to satisfy any particular statutory requirement, a Grantee may take measures as described in implementing regulations or, upon request to HUD for a different approach, as otherwise approved in writing by HUD. In the event that a program regulation or requirement conflicts with a requirement established in this NOFA, the NOFA requirement prevails.

The recipient must conduct the following activities, which may be undertaken with HOPE VI grant funds, in accordance with the cited program requirements or otherwise with HUD's written approval, consistent with the 1997 Appropriations Act and this NOFA:

A. Demolition and disposition activity under the grant must be conducted in accordance with 24 CFR part 970;

B. Public housing development activity (including on-site reconstruction as well as off-site replacement housing) must be conducted in accordance with 24 CFR part 941, including mixed finance development in accordance with subpart F (published in the **Federal Register** on May 2, 1996 (61 FR 19708, 19714)). HUD will distribute the Mixed-Finance ACC Amendment to the recipients.

C. Replacement housing activity using Section 8 rental certificates must be conducted in accordance with 24 CFR part 882, 887, and 982, as applicable;

D. Replacement housing activity with units acquired or otherwise provided for homeownership under section 5(h) of the 1937 Act must be conducted in accordance with 24 CFR part 906;

E. Replacement housing activities provided through housing opportunity programs of construction or substantial rehabilitation of homes must be conducted in accordance with 24 CFR part 280 (the Nehemiah Program);

F. Rehabilitation and physical improvement activities must be conducted in accordance with 24 CFR 968.112 (b), (d), (e), and (g)–(o), 24 CFR 968.130, and 24 CFR 968.135 (b) and (d). These provisions were published in the **Federal Register** on March 5, 1996 (61 FR 8712, 8738), and are included in the May 1, 1996 codification of the Code of Federal Regulations.

G. The administration and operation of units must be in accordance with all existing public housing rules and regulations.

PHAs may request, for the revitalized development, a waiver of HUD regulations (that are not statutory requirements) governing rents, income eligibility, or other areas of public housing management to permit a PHA to undertake measures that enhance the long-term viability of a development revitalized under this program.

IX. Applicability of Other Federal Requirements

A. Flood Insurance

In accordance with the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001–4128), HUD will not approve applications for grants providing financial assistance for acquisition or construction (including rehabilitation) of properties located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

1. The community in which the area is situated is participating in the National Flood Insurance program (see 44 CFR parts 59 through 79), or less than one year has passed since FEMA notification regarding such hazards; and

2. Where the community is participating in the National Flood Insurance Program, flood insurance is obtained as a condition of approval of the application.

B. Coastal Barrier Resources Act

In accordance with the Coastal Barrier Resources Act (16 U.S.C. 3501), HUD will not approve grant applications for properties in the Coastal Barrier Resources System.

C. Fair Housing Requirements

Recipients must comply with the requirements of the Fair Housing Act (42 U.S.C. 3601–19) and the regulations in 24 CFR part 100; Executive Order 11063 (Equal Opportunity in Housing) and the regulations in 24 CFR part 107; the fair housing poster regulations in 24 CFR part 110; and Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the regulations in 24 CFR part 1.

D. Nondiscrimination on the Basis of Age or Handicap

Recipients must comply with the prohibitions against discrimination on the basis of age pursuant to the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and the regulations in 24 CFR part 146; the prohibitions against discrimination against, and reasonable modification, accommodation, and accessibility requirements for, persons with disabilities under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the regulations in 24 CFR part 8; the Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*) and regulations issued pursuant thereto (28 CFR part 36); and the Architectural Barriers Act of 1968 (42 U.S.C. 4151) and the regulations in 24 CFR part 40.

E. Employment Opportunities

The requirements of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Employment Opportunities for Lower Income Persons in Connection with Assisted Projects) and the regulations in 24 CFR part 135 apply to this program.

F. Minority and Women's Business Enterprises

The requirements of Executive Orders 11246, 11625, 12432, and 12138 apply to this program. Consistent with HUD's responsibilities under these orders, recipients must make efforts to encourage the use of minority and women's business enterprises in connection with funded activities.

G. OMB Circulars

The policies, guidelines, and requirements of OMB Circular Nos. A–87 (Cost Principles Applicable to Grants, Contracts and Other Agreements with State and Local Governments) and 24 CFR part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally-Recognized Indian Tribal Governments), as modified by 24 CFR 941, subpart F relating to the procurement of partners in mixed-finance developments, apply to the award, acceptance, and use of assistance under the program by PHAs, and to the remedies for noncompliance, except when inconsistent with the provisions of the 1997 Appropriations Act, other Federal statutes, or this NOFA. Recipients are also subject to the audit requirements of OMB Circular A–128 implemented at 24 CFR part 44. Copies of OMB Circulars may be obtained from

E.O.P. Publications, room 2200, New Executive Office Building, Washington, DC 20503, telephone (202) 395–7332 (this is not a toll-free number). There is a limit of two free copies.

H. Drug-Free Workplace

Applicants must certify that they will provide a drug-free workplace, in accordance with the Drug-free Workplace Act of 1988 and HUD's implementing regulations at 24 CFR part 24, subpart F.

I. Debarred or Suspended Contractors

The provisions of 24 CFR part 24 apply to the employment, engagement of services, awarding of contracts, subgrants, or funding of any recipients, or contractors or subcontractors, during any period of debarment, suspension, or placement in ineligibility status.

J. Conflict of Interest

1. In addition to the conflict of interest requirements in 24 CFR part 85, no person who is an employee, agent, consultant, officer, or elected or appointed official of the PHA and who exercises or has exercised any functions or responsibilities with respect to activities assisted under an HOPE VI grant, or who is in a position to participate in a decisionmaking process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom he or she has family or business ties, during his or her tenure or for one year thereafter.

2. HUD may grant an exception to the exclusion in paragraph (1) of this section on a case-by-case basis when it determines that such an exception will serve to further the purposes of the revitalization demonstration and the effective and efficient administration of the revitalization program. HUD will consider an exception only after the applicant or recipient has provided a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made, and an opinion of the applicant's or recipient's attorney that the interest for which the exception is sought would not violate State or local laws. In determining whether to grant a requested exception, HUD will consider the cumulative effect of the following factors, as applicable:

a. Whether the exception would provide a significant cost benefit or an essential degree of expertise to the revitalization program that would otherwise not be available;

b. Whether an opportunity was provided for open competitive bidding or negotiation;

c. Whether the person affected is a member of a group or class intended to be the beneficiaries of the activity, and the exception will permit such person to receive generally the same interest or benefits as are being made available or provided to the group or class;

d. Whether the affected person has withdrawn from his or her functions or responsibilities, or the decisionmaking process, with respect to the specific activity in question;

e. Whether the interest or benefit was present before the affected person was in a position as described in paragraph 1 of this section;

f. Whether undue hardship will result either to the applicant, recipient, or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

g. Any other relevant considerations.

K. Labor Standards

Where HOPE VI funds provide assistance with respect to low-income housing (including Section 8 housing) that will be subject to a contract for assistance under the U.S. Housing Act of 1937, Davis-Bacon or HUD-determined wage rates apply to development or operation of the housing to the extent required under section 12 of the Act. Under section 12, the wage rate requirements do not apply to individuals who: perform services for which they volunteered; do not receive compensation for those services or are paid expenses, reasonable benefits, or a nominal fee for the services; and are not otherwise employed in the work involved (24 CFR part 70). In addition, if other Federal programs are used in connection with the revitalization program, labor standards requirements apply to the extent required by such other Federal programs, on portions of the development that are not subject to Davis-Bacon rates under the U.S. Housing Act.

L. Lead-Based Paint Testing and Abatement

Any property assisted under the revitalization program established under this NOFA is covered by the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 *et seq.*) and is therefore subject to 24 CFR part 35; 24 CFR part 965, subpart H; and 24 CFR 968.110(k). Tenant-based assistance provided to PHAs under this program will be subject to 24 CFR 982.401 and 24 CFR part 35.

M. Relocation

1. The requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and government-wide implementing regulations at 49 CFR part 24 apply to this program.

2. Temporary Relocation. The recipient must provide each resident of an eligible property, who is required to relocate temporarily to permit work to be carried out, with suitable, decent, safe, and sanitary housing for the temporary period, and must reimburse the resident for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the costs of moving to and from the temporarily occupied housing and any increase in monthly costs of rent and utilities.

X. Findings and Certifications

A. Paperwork Reduction Act

The information collection requirements of this NOFA (including Forms HUD–52825–A and HUD–52820–A required by Sections VI.L.1.a and VI.N.3 of this NOFA) have been submitted to the Office of Management and Budget (OMB) for review in accordance with the emergency processing procedures of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and 5 CFR 1320.13. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**.

B. Environmental Review

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, implementing section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection and copying between 7:30 am and 5:30 pm weekdays at the Office of the Rules Docket Clerk, 451 Seventh Street, SW, Room 10276, Washington, DC 20410.

C. Impact on the Family

The General Counsel, as the Designated Official for Executive Order 12606, The Family, has determined that the policies announced in this NOFA will not have the potential for significant impact on family formation, maintenance, and general well-being within the meaning of the order. No significant change in existing HUD

policies and programs will result from the issuance of this NOFA, as those policies and programs relate to family concerns. To the extent that there is impact on the family, revitalization under this program can be expected to support families by enabling low-income families to live in decent, safe, and sanitary housing.

D. Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that this NOFA will not have substantial, direct effects on States, on their political subdivisions, or on their relationship with the Federal Government, or on the distribution of power and responsibilities between them and other levels of government. While this NOFA offers financial assistance to units of general local government, none of its provisions will have an effect on the relationship between the Federal Government and the States, or the States' political subdivisions.

E. Accountability in the Provision of HUD Assistance

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the final rule codified at 24 CFR part 4, subpart A, published on April 1, 1996 (61 FR 1448), contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992, HUD published, at 57 FR 1942, a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

Documentation and public access requirements. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

Disclosures. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

F. Section 103 of the HUD Reform Act

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

G. Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (the Byrd Amendment) and the implementing regulations in 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with the assistance.

H. Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program number is 14.864.

Dated: March 27, 1997.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

[FR Doc. 97–9547 Filed 4–11–97; 8:45 am]

BILLING CODE 4210–33–P

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Monday, April 14, 1997

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FEDERAL REGISTER PAGES AND DATES, APRIL

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT APRIL 14, 1997

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Agricultural Marketing Service

Oranges and grapefruit grown in Texas; published 3-13-97

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

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Northeastern United States fisheries—

Scup fishery (1997 specifications); published 3-14-97

COMMODITY FUTURES TRADING COMMISSION

Reporting requirements:

Options and futures large trader reports; cash position reports in grains (including soybeans) and cotton; published 2-11-97

Correction; published 3-20-97

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:

Gasoline distribution (Stage I); published 2-28-97

Air quality implementation plans; approval and promulgation; various States:

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Illinois; published 2-11-97

Oregon; published 4-14-97

Tennessee; published 2-13-97

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California; published 3-5-97

Florida; published 3-5-97

Virgin Islands; published 3-6-97

FEDERAL HOUSING FINANCE BOARD

Federal home loan bank system:

Advances to nonmembers; published 3-14-97

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Maritime carriers in foreign commerce:

Conditions unfavorable to shipping, actions to adjust or meet—

United States/Japan trade; port restrictions and requirements; published 3-4-97

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Thrift savings plan:

Basic pay definition, loan eligibility expansion, and loan program amendments; published 4-14-97

Eligibility; plan account make-up contributions, withdrawn funds restoration, and loan accounts reestablishment; published 4-14-97

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Human drugs:

New drugs; list consolidation; Federal regulatory reform; published 3-14-97

NUCLEAR REGULATORY COMMISSION

Uranium enrichment facilities; certification and licensing; published 2-12-97

SECURITIES AND EXCHANGE COMMISSION

Securities:

Brokers and dealers, reporting requirements; employment of optical storage technology; published 2-12-97

SOCIAL SECURITY ADMINISTRATION

Supplemental security income:

Disability determination for child under 18 years old; published 2-11-97

Disability determination for child under age 18

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Agricultural Marketing Service

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Commodity Credit Corporation

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Processed agricultural commodities procurement for donation overseas; comments due by 4-14-97; published 2-12-97

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Food and Consumer Service

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National Oceanic and Atmospheric Administration

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Oxygenated gasoline program reformulated gasoline category elimination from reformulated gasoline regulations; comments due by 4-16-97; published 3-17-97

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Locomotives and locomotive engines; emission standards; comments due by 4-14-97; published 2-11-97

Air quality implementation plans; approval and promulgation; various States:

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WHEN: May 23, 1997 at 9:00 am to 12:00 noon

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●**1, 2 (2** Reserved)	(869–032–00001–8)	$5.00	Feb. 1, 1997
●**3** (1995 Compilation and Parts 100 and 101)	(869–032–00002–6)	20.00	[1] Jan. 1, 1997
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1–299	(869–028–00074–6)	36.00	Apr. 1, 1996
300–End	(869–028–00075–4)	24.00	Apr. 1, 1996
23	(869–028–00076–2)	21.00	Apr. 1, 1996
24 Parts:			
0–199	(869–028–00077–1)	30.00	May 1, 1996
200–219	(869–028–00078–9)	14.00	May 1, 1996
220–499	(869–028–00079–7)	13.00	May 1, 1996
500–699	(869–028–00080–1)	14.00	May 1, 1996
700–899	(869–028–00081–9)	13.00	May 1, 1996
900–1699	(869–028–00082–7)	21.00	May 1, 1996
1700–End	(869–028–00083–5)	14.00	May 1, 1996
25	(869–028–00084–3)	32.00	May 1, 1996
26 Parts:			
§§ 1.0-1–1.60	(869–028–00085–1)	21.00	Apr. 1, 1996
§§ 1.61–1.169	(869–028–00086–0)	34.00	Apr. 1, 1996
§§ 1.170–1.300	(869–028–00087–8)	24.00	Apr. 1, 1996
§§ 1.301–1.400	(869–028–00088–6)	17.00	Apr. 1, 1996
§§ 1.401–1.440	(869–028–00089–4)	31.00	Apr. 1, 1996
§§ 1.441-1.500	(869-028-00090-8)	22.00	Apr. 1, 1996
§§ 1.501–1.640	(869–028–00091–6)	21.00	Apr. 1, 1996
§§ 1.641–1.850	(869–028–00092–4)	25.00	Apr. 1, 1996
§§ 1.851–1.907	(869–028–00093–2)	26.00	Apr. 1, 1996
§§ 1.908–1.1000	(869–028–00094–1)	26.00	Apr. 1, 1996
§§ 1.1001–1.1400	(869–028–00095–9)	26.00	Apr. 1, 1996
§§ 1.1401–End	(869–028–00096–7)	35.00	Apr. 1, 1996

Title	Stock Number	Price	Revision Date
2–29	(869–028–00097–5)	28.00	Apr. 1, 1996
30–39	(869–028–00098–3)	20.00	Apr. 1, 1996
40–49	(869–028–00099–1)	13.00	Apr. 1, 1996
50–299	(869–028–00100–9)	14.00	Apr. 1, 1996
300–499	(869–028–00101–7)	25.00	Apr. 1, 1996
500–599	(869–028–00102–5)	6.00	[4] Apr. 1, 1990
600–End	(869–028–00103–3)	8.00	Apr. 1, 1996
27 Parts:			
1–199	(869–028–00104–1)	44.00	Apr. 1, 1996
200–End	(869–028–00105–0)	13.00	Apr. 1, 1996
28 Parts:			
1-42	(869–028–00106–8)	35.00	July 1, 1996
43-end	(869-028-00107-6)	30.00	July 1, 1996
29 Parts:			
0–99	(869–028–00108–4)	26.00	July 1, 1996
100–499	(869–028–00109–2)	12.00	July 1, 1996
500–899	(869–028–00110–6)	48.00	July 1, 1996
900–1899	(869–028–00111–4)	20.00	July 1, 1996
1900–1910 (§§ 1900 to 1910.999)	(869–028–00112–2)	43.00	July 1, 1996
1910 (§§ 1910.1000 to end)	(869–028–00113–1)	27.00	July 1, 1996
1911–1925	(869–028–00114–9)	19.00	July 1, 1996
1926	(869–028–00115–7)	30.00	July 1, 1996
1927–End	(869–028–00116–5)	38.00	July 1, 1996
30 Parts:			
1–199	(869–028–00117–3)	33.00	July 1, 1996
200–699	(869–028–00118–1)	26.00	July 1, 1996
700–End	(869–028–00119–0)	38.00	July 1, 1996
31 Parts:			
0–199	(869–028–00120–3)	20.00	July 1, 1996
200–End	(869–028–00121–1)	33.00	July 1, 1996
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–028–00122–0)	42.00	July 1, 1996
191–399	(869–028–00123–8)	50.00	July 1, 1996
400–629	(869–028–00124–6)	34.00	July 1, 1996
630–699	(869–028–00125–4)	14.00	[5] July 1, 1991
700–799	(869–028–00126–2)	28.00	July 1, 1996
800–End	(869–028–00127–1)	28.00	July 1, 1996
33 Parts:			
1–124	(869–028–00128–9)	26.00	July 1, 1996
125–199	(869–028–00129–7)	35.00	July 1, 1996
200–End	(869–028–00130–1)	32.00	July 1, 1996
34 Parts:			
1–299	(869–028–00131–9)	27.00	July 1, 1996
300–399	(869–028–00132–7)	27.00	July 1, 1996
400–End	(869–028–00133–5)	46.00	July 1, 1996
35	(869–028–00134–3)	15.00	July 1, 1996
36 Parts			
1–199	(869–028–00135–1)	20.00	July 1, 1996
200–End	(869–028–00136–0)	48.00	July 1, 1996
37	(869–028–00137–8)	24.00	July 1, 1996
38 Parts:			
0–17	(869–028–00138–6)	34.00	July 1, 1996
18–End	(869–028–00139–4)	38.00	July 1, 1996
39	(869–028–00140–8)	23.00	July 1, 1996
40 Parts:			
●1–51	(869–028–00141–6)	50.00	July 1, 1996
●52	(869–028–00142–4)	51.00	July 1, 1996
●53–59	(869–028–00143–2)	14.00	July 1, 1996
60	(869-028-00144-1)	47.00	July 1, 1996
●61–71	(869–028–00145–9)	47.00	July 1, 1996
●72–80	(869–028–00146–7)	34.00	July 1, 1996
●81–85	(869–028–00147–5)	31.00	July 1, 1996
86	(869–028–00148–3)	46.00	July 1, 1996
●87-135	(869–028–00149–1)	35.00	July 1, 1996
●136–149	(869–028–00150–5)	35.00	July 1, 1996
●150–189	(869–028–00151–3)	33.00	July 1, 1996
●190–259	(869–028–00152–1)	22.00	July 1, 1996
●260–299	(869–028–00153–0)	53.00	July 1, 1996
●300–399	(869–028–00154–8)	28.00	July 1, 1996
●400–424	(869–028–00155–6)	33.00	July 1, 1996
●425–699	(869–028–00156–4)	38.00	July 1, 1996
●700–789	(869–028–00157–2)	33.00	July 1, 1996
●790–End	(869–028–00158–7)	19.00	July 1, 1996
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–028–00159–9)	12.00	July 1, 1996
101	(869–028–00160–2)	36.00	July 1, 1996
102–200	(869–028–00161–1)	17.00	July 1, 1996
201–End	(869–028–00162–9)	17.00	July 1, 1996
42 Parts:			
●1–399	(869–028–00163–7)	32.00	Oct. 1, 1996
●400–429	(869–028–00164–5)	34.00	Oct. 1, 1996
●430–End	(869–028–00165–3)	44.00	Oct. 1, 1996
43 Parts:			
●1–999	(869–028–00166–1)	30.00	Oct. 1, 1996
●1000–end	(869–028–00167–0)	45.00	Oct. 1, 1996
●**44**	(869–028–00168–8)	31.00	Oct. 1, 1996
45 Parts:			
●1–199	(869–028–00169–6)	28.00	Oct. 1, 1996
●200–499	(869–028–00170–0)	14.00	[6] Oct. 1, 1995
●500–1199	(869–028–00171–8)	30.00	Oct. 1, 1996
●1200–End	(869–028–00172–6)	36.00	Oct. 1, 1996
46 Parts:			
●1–40	(869–028–00173–4)	26.00	Oct. 1, 1996
●41–69	(869–028–00174–2)	21.00	Oct. 1, 1996
●70–89	(869–028–00175–1)	11.00	Oct. 1, 1996
●90–139	(869–028–00176–9)	26.00	Oct. 1, 1996
●140–155	(869–028–00177–7)	15.00	Oct. 1, 1996
●156–165	(869–028–00178–5)	20.00	Oct. 1, 1996
●166–199	(869–028–00179–3)	22.00	Oct. 1, 1996
●200–499	(869–028–00180–7)	21.00	Oct. 1, 1996
●500–End	(869–028–00181–5)	17.00	Oct. 1, 1996
47 Parts:			
●0–19	(869–028–00182–3)	35.00	Oct. 1, 1996
●20–39	(869–028–00183–1)	26.00	Oct. 1, 1996
●40–69	(869–028–00184–0)	18.00	Oct. 1, 1996
●70–79	(869–028–00185–8)	33.00	Oct. 1, 1996
●80–End	(869–028–00186–6)	39.00	Oct. 1, 1996
48 Chapters:			
●1 (Parts 1–51)	(869–028–00187–4)	45.00	Oct. 1, 1996
●1 (Parts 52–99)	(869–028–00188–2)	29.00	Oct. 1, 1996
●2 (Parts 201–251)	(869–028–00189–1)	22.00	Oct. 1, 1996
●2 (Parts 252–299)	(869–028–00190–4)	16.00	Oct. 1, 1996
●3–6	(869–028–00191–2)	30.00	Oct. 1, 1996
●7–14	(869–028–00192–1)	29.00	Oct. 1, 1996
●15–28	(869–028–00193–9)	38.00	Oct. 1, 1996
●29–End	(869–028–00194–7)	25.00	Oct. 1, 1996
49 Parts:			
●1–99	(869–028–00195–5)	32.00	Oct. 1, 1996
●100–185	(869–028–00196–3)	50.00	Oct. 1, 1996
●186–199	(869–028–00197–1)	14.00	Oct. 1, 1996
●200–399	(869–028–00198–0)	39.00	Oct. 1, 1996
●400–999	(869–028–00199–8)	49.00	Oct. 1, 1996
●1000–1199	(869–028–00200–5)	23.00	Oct. 1, 1996
●1200–End	(869–028–00201–3)	15.00	Oct. 1, 1996
50 Parts:			
●1–199	(869–028–00202–1)	34.00	Oct. 1, 1996

Title	Stock Number	Price	Revision Date
●200–599	(869–028–00203–0)	22.00	Oct. 1, 1996
●600–End	(869–028–00204–8)	26.00	Oct. 1, 1996
CFR Index and Findings Aids	(869–028–00051–7)	35.00	Jan. 1, 1996
Complete 1997 CFR set		951.00	1997
Microfiche CFR Edition:			
Subscription (mailed as issued)		247.00	1997
Individual copies		1.00	1997
Complete set (one-time mailing)		264.00	1996
Complete set (one-time mailing)		264.00	1995

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1996. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1996. The CFR volume issued July 1, 1991, should be retained.

[6] No amendments were promulgated during the period October 1, 1995 to September 30, 1996. The CFR volume issued October 1, 1995 should be retained.