6–3–97
Vol. 62, No. 106
Pages 30229–30426

federal register

Tuesday
June 3, 1997

Briefings on how to use the Federal Register
For information on a briefing in Washington, DC, see the announcement on the inside cover of this issue.

Now Available Online

Code of Federal Regulations

via

GPO Access

(Selected Volumes)

Free, easy, online access to selected *Code of Federal Regulations (CFR)* volumes is now available via *GPO Access*, a service of the United States Government Printing Office (GPO). *CFR* titles will be added to *GPO Access* incrementally throughout calendar years 1996 and 1997 until a complete set is available. GPO is taking steps so that the online and printed versions of the *CFR* will be released concurrently.

The *CFR* and *Federal Register* on *GPO Access*, are the official online editions authorized by the Administrative Committee of the Federal Register.

New titles and/or volumes will be added to this online service as they become available.

http://www.access.gpo.gov/nara/cfr

For additional information on ***GPO Access*** products, services and access methods, see page II or contact the *GPO Access* User Support Team via:

★ Phone: toll-free: 1-888-293-6498

★ Email: gpoaccess@gpo.gov

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the Federal Register as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the **Federal Register** shall be judicially noticed.

The Federal Register is published in paper, 24x microfiche and as an online database through *GPO Access*, a service of the U.S. Government Printing Office. The online edition of the **Federal Register** on *GPO Access* is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions. The online database is updated by 6 a.m. each day the **Federal Register** is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is http://www.access.gpo.gov/su_docs/, by using local WAIS client software, or by telnet to swais.access.gpo.gov, then login as guest, (no password required). Dial-in users should use communications software and modem to call (202) 512–1661; type swais, then login as guest (no password required). For general information about *GPO Access*, contact the *GPO Access* User Support Team by sending Internet e-mail to gpoaccess@gpo.gov; by faxing to (202) 512–1262; or by calling toll free 1–888–293–6498 or (202) 512–1530 between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except for Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $555, or $607 for a combined **Federal Register**, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $220. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $8.00 for each issue, or $8.00 for each group of pages as actually bound; or $1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 60 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC
Subscriptions:
Paper or fiche **202–512–1800**
Assistance with public subscriptions **512–1806**
General online information 202–512–1530; 1–888–293–6498
Single copies/back copies:
Paper or fiche **512–1800**
Assistance with public single copies **512–1803**
FEDERAL AGENCIES
Subscriptions:
Paper or fiche **523–5243**
Assistance with Federal agency subscriptions **523–5243**

For other telephone numbers, see the Reader Aids section at the end of this issue.

NOW AVAILABLE ONLINE

The January 1997 Office of the Federal Register Document Drafting Handbook

Free, easy, online access to the newly revised January 1997 Office of the Federal Register Document Drafting Handbook (DDH) is now available at:

http://www.nara.gov/nara/fedreg/ddh/ddhout.html

This handbook helps Federal agencies to prepare documents for publication in the **Federal Register**.

For additional information on access, contact the Office of the Federal Register's Technical Support Staff.

Phone: 202–523–3447

E-mail: info@fedreg.nara.gov

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

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:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
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: June 17, 1997 at 9:00 am
WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)
RESERVATIONS: 202–523–4538

Printed on recycled paper containing 100% post consumer waste

Contents

Federal Register

Vol. 62, No. 106

Tuesday, June 3, 1997

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.

Rules and Regulations

Federal Register
Vol. 62, No. 106
Tuesday, June 3, 1997

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 723

Commodity Credit Corporation

7 CFR Part 1464

RIN 0560–AF02

1997 Marketing Quota and Price Support for Burley Tobacco

AGENCIES: Farm Service Agency and Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to codify determinations made by the Secretary of Agriculture (Secretary) with respect to the 1997 crop of burley tobacco. The Secretary determined the 1997 marketing quota for burley tobacco to be 704.5 million pounds, and the 1997 price support level to be 176.0 cents per pound.

EFFECTIVE DATE: February 1, 1997.

FOR FURTHER INFORMATION CONTACT: Robert Tarczy, STOP 0514, 1400 Independence Avenue SW., Washington, DC 20250–0514, Phone 202 720–5346.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be significant for purposes of Executive Order 12866 and has been reviewed by OMB under Executive Order 12866.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies, are Commodity Loans and Purchases—10.051.

Executive Order 12988

This final rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. The provisions of this rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule because the Farm Service Agency (FSA) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Paperwork Reduction Act

The amendments to 7 CFR parts 723 and 1464 set forth in this final rule do not contain any information collection requirements that require clearance through the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1995.

Unfunded Federal Mandates

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Background

This rule is issued pursuant to the provisions of the Agricultural Adjustment Act of 1938 (the 1938 Act) and the Agricultural Act of 1949 (the 1949 Act). Section 1108(c) of Pub. L. 99–272 provides that the determinations made in this rule are not subject to the provisions for public participation in rulemaking contained in 5 U.S.C. 553 or in any directive of the Secretary.

On February 1, 1997, the Secretary announced the national marketing quota and the price support level for the 1997 crop of burley tobacco. A number of related determinations were made at the same time, which this final rule also affirms.

Marketing Quota

Section 319(c)(3) of the 1938 Act provides, in part, that the national marketing quota for a marketing year for burley tobacco is the quantity of such tobacco that is not more than 103 percent nor less than 97 percent of the total of:

(1) The amount of burley tobacco that domestic manufacturers of cigarettes estimate they intend to purchase on U.S. auction markets or from producers, (2) the average quantity exported annually from the U.S. during the 3 marketing years immediately preceding the marketing year for which the determination is being made, and (3) the quantity, if any, that the Secretary, in the Secretary's discretion, determines necessary to adjust loan stocks to the reserve stock level.

The reserve stock level is defined in section 301(b)(14)(D) of the 1938 Act as the greater of 50 million pounds or 15 percent of the national marketing quota for burley tobacco for the marketing year immediately preceding the marketing year for which the level is being determined.

Section 320A of the 1938 Act provides that all domestic manufacturers of cigarettes with more than 1 percent of U.S. cigarette production and sales shall submit to the Secretary a statement of purchase intentions for the 1997 crop of burley tobacco by January 15, 1997. Five such manufacturers were required to submit such a statement for the 1997 crop and the total of their intended purchases for the 1997 crop is 473.5 million pounds. The 3-year average of exports is 163.0 million pounds.

The national marketing quota for the 1996 crop year was 633.8 million pounds (61 FR 50423). Thus, in accordance with section 301(b)(14)(D) of the 1938 Act, the reserve stock level for use in determining the 1997 marketing quota for burley tobacco is 95.1 million pounds.

As of January 24, 1997, the Burley Tobacco Growers Cooperative Association and Burley Stabilization Corporation had in their inventories 27.1 million pounds of burley tobacco (excluding pre-1994 stocks committed to be purchased by manufacturers and covered by deferred sales). Accordingly, the adjustment necessary to maintain loan stocks at the reserve supply level is an increase of 68.0 million pounds.

The total of the three marketing quota components for the 1997–98 marketing year is 704.5 million pounds. USDA did not use its discretionary authority to increase or decrease the three-component total by up to 3 percent

because the Secretary determined that the 1997/98 supply would be ample and appropriate at the formula level. Accordingly, the national marketing quota for the marketing year beginning October 1, 1997, for burley tobacco is 704.5 million pounds.

In accordance with section 319(c) of the 1938 Act, the Secretary is authorized to establish a national reserve from the national quota in an amount equivalent to not more than 1 percent of the national quota for the purpose of making corrections in farm quotas to adjust for inequities and establish quotas for new farms. The Secretary has determined that a national reserve for the 1997 crop of burley tobacco of 3,798,400 pounds is adequate for these purposes.

Price Support

Price support is required to be made available for each crop of a kind of tobacco for which quotas are in effect, or for which marketing quotas have not been disapproved by producers, at a level determined in accordance with a formula prescribed in section 106 of the 1949 Act.

With respect to the 1997 crop of burley tobacco, the level of support is determined in accordance with sections 106 (d) and (f) of the 1949 Act. Section 106(f)(7)(A) of the 1949 Act provides that the level of support for the 1997 crop of burley tobacco shall be:

(1) The level, in cents per pound, at which the 1996 crop of burley tobacco was supported, plus or minus, respectively,

(2) An adjustment of not less than 65 percent nor more than 100 percent of the total, as determined by the Secretary after taking into consideration the supply of the kind of tobacco involved in relation to demand, of:

(A) 66.7 percent of the amount by which:

(I) The average price received by producers for burley tobacco on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately preceding the marketing year for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period, is greater or less than:

(II) The average price received by producers for burley tobacco on the United States auction markets, as determined by the Secretary, during the 5 marketing years immediately preceding the marketing year prior to the marketing year for which the determination is being made, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period; and

(B) 33.3 percent of the change, expressed as a cost per pound of tobacco, in the index of prices paid by the tobacco producers from January 1 to December 31 of the calendar year immediately preceding the year in which the determination is made.

The difference between the two 5-year averages (i.e., the difference between (A) (I) and (II)) is 1.3 cents per pound. The difference in the cost index from January 1, 1996 to December 31, 1996, is 8.0 cents per pound. Applying these components to the price support formula (1.3 cents per pound, two-thirds weight; 8.0 cents per pound, one-third weight) results in a weighted total of 3.5 cents per pound. As indicated, section 106 of the 1949 Act provides that the Secretary may, on the basis of supply and demand conditions, limit the change in the price support level to no less than 65 percent of that amount. In order to remain competitive in foreign and domestic markets, the Secretary used his discretion to limit the increase to 65 percent of the maximum allowable increase. Accordingly, the 1997 crop of burley tobacco will be supported at 176.0 cents per pound, 2.3 cents higher than in 1996.

List of Subjects

7 CFR Part 723

Acreage allotments, Marketing quotas, Penalties, Reporting and recordkeeping requirements, Tobacco.

7 CFR Part 1464

Loan programs-agriculture, Price support programs, Tobacco, Reporting and recordkeeping requirements, Warehouses.

Accordingly, 7 CFR parts 723 and 1464 are amended as follows:

PART 723—TOBACCO

1. The authority citation for 7 CFR part 723 continues to read as follows:

Authority: 7 U.S.C. 1301, 1311–1314, 1314–1, 1314b, 1314b–1, 1314b–2, 1314c, 1314d, 1314e, 1314f, 1314i, 1315, 1316, 1362, 1363, 1372–75, 1421, 1445–1, and 1445–2.

2. Section 723.112 is amended by adding paragraph (e) to read as follows:

§ 723.112 Burley (type 31) tobacco.

* * * * *

(e) The 1997-crop national marketing quota is 704.5 million pounds.

PART 1464—TOBACCO

3. The authority citation for 7 CFR part 1464 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1441, 1445, 1445–1 and 1445–2; 15 U.S.C. 714b and 714c.

4. Section 1464.19 is amended by adding paragraph (e) to read as follows:

§ 1464.19 Burley (type 31) tobacco.

* * * * *

(e) The 1997 crop national price support level is 176.0 cents per pound.

Signed at Washington, DC, on May 21, 1997.

Bruce R. Weber,

Acting Administrator, Farm Service Agency and Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 97–14382 Filed 6–2–97; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–193–AD; Amendment 39–10043; AD 97–11–14]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Model BAC 1–11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace Model BAC 1–11 200 and 400 series airplanes, that requires inspections of the main landing gear (MLG) A-frame attachment fittings to detect corrosion or cracking, and repair or replacement of cracked or corroded components with new components. This amendment is prompted by findings of corroded and cracked A-frame components of the MLG. The actions specified by this AD are intended to prevent corrosion and cracking of MLG A-frame components, which could result in collapse of the MLG.

DATES: Effective July 8, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 8, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace, Airbus Limited, P.O. Box 77, Bristol BS99 7AR, England. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of

the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2797; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain British Aerospace Model BAC 1–11 200 and 400 series airplanes was published in the **Federal Register** on March 25, 1997 (62 FR 14047). That action proposed to require repetitive detailed visual inspections of the main landing gear (MLG) A-frame attachment fittings to detect corrosion or cracking, and repair or replacement of cracked or corroded components with new components.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

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

Cost Impact

The FAA estimates that 25 Model BAC 1–11 200 and 400 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $1,500, or $60 per airplane, per inspection.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§39.13 [Amended]

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

97–11–14 British Aerospace Airbus Limited (Formerly British Aerospace Commercial Aircraft Limited, British Aerospace Aircraft Group): Amendment 39–10043. Docket 96–NM–193–AD.

Applicability: Model BAC 1–11 200 and 400 series airplanes; equipped with main landing gear (MLG) A-frame attachment fittings having the part numbers listed in British Aerospace Alert Service Bulletin 53–A–PM6036, Issue 1, dated November 24, 1995; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent corrosion or cracking of MLG A-frame fittings, which could result in collapse of the MLG, accomplish the following:

(a) Conduct a detailed visual inspection to detect corrosion or cracking of the MLG A-frame attachment fittings, in accordance with British Aerospace Alert Service Bulletin 53–A–PM6036, Issue 1, dated November 24, 1995, and at the applicable time specified in paragraph (a)(1) or (a)(2) of this AD:

(1) For airplanes that have accumulated 16,000 or fewer total landings as of the effective date of this AD: Conduct the initial inspection at the later of the times specified in paragraphs (a)(1)(i) and (a)(1)(ii).

(i) Prior to the accumulation of 16,000 total landings or within 8 years since new, whichever occurs first; or

(ii) Within 6 months after the effective date of this AD.

(2) For airplanes that have accumulated more than 16,000 total landings as of the effective date of this AD: Conduct the initial inspection within 4,000 landings or 2 years after the effective date of this AD, whichever occurs first.

(b) If no corrosion or cracking is found, repeat the inspection required by paragraph (a) of this AD thereafter at intervals of 4,000 landings or 2 years, whichever occurs first.

(c) If corrosion is found and it is within the limits specified in British Aerospace Alert Service Bulletin 53–A–PM6036, Issue 1, dated November 24, 1995, prior to further flight, repair the component in accordance with the alert service bulletin. After repair, repeat the inspection required by paragraph (a) of this AD thereafter at intervals of 4,000 landings or 2 years, whichever occurs first.

(d) If corrosion is found and it is outside the limits specified in British Aerospace Alert Service Bulletin 53–A–PM6036, Issue 1, dated November 24, 1995, prior to further flight, replace the corroded component with a new component in accordance with the alert service bulletin. After replacement, repeat the inspection required by paragraph (a) of this AD thereafter at intervals of 4,000 landings or 2 years, whichever occurs first.

(e) If any cracking is found, prior to further flight, replace the cracked component with a new component in accordance with British Aerospace Alert Service Bulletin 53–A–PM6036, Issue 1, dated November 24, 1995. After replacement, repeat the inspection required by paragraph (a) of this AD thereafter at intervals of 4,000 landings or 2 years, whichever occurs first.

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

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

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

(h) The actions shall be done in accordance with British Aerospace Alert Service Bulletin 53–A–PM6036, Issue 1, dated November 24, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace, Airbus Limited, P.O. Box 77, Bristol BS99 7AR, England. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on July 8, 1997.

Issued in Renton, Washington, on May 23, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–14190 Filed 6–2–97; 8:45 am]

BILLING CODE 4910–13–O

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 870

RIN 1029–AB49

Abandoned Mine Land Reclamation Fund Reauthorization Implementation; Partial Suspension

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

ACTION: Final rule; suspension.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the U.S. Department of the Interior is suspending its regulation at 30 CFR 870.17. The regulation governs the scope of audits conducted in connection with OSM's abandoned mine land reclamation program. The regulation is being suspended pending new rulemaking.

EFFECTIVE DATE: The suspension notice is effective June 3, 1997.

FOR FURTHER INFORMATION CONTACT: Jim Krawchyk, Division of Compliance Management, Office of Surface Mining Reclamation and Enforcement, 3 Parkway Center, Pittsburgh, PA 15220. Telephone 412–921–2676. E-mail: jkrawchy@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 5, 1990, the President signed into law the Omnibus Budget Reconciliation Act of 1990, Public Law 101–508. Included in this law was the Abandoned Mine Reclamation Act of 1990 (AMRA) which amended the Surface Mining Control and Reclamation Act of 1977 (SMCRA), 30 U.S.C. 1201 *et seq.* On May 31, 1994, OSM published final regulations in the **Federal Register** (59 FR 28136) implementing the provisions of AMRA. The final regulations included a revision of 30 CFR 870.17 which specifies who may conduct audits and whose records may be examined. The revision, utilizing the authority in sections 201(c), 402(d)(2) and 413(a) of SMCRA, expanded the scope of section 870.17 to cover the records of all persons involved in a coal transaction, including permittees, operators, brokers, purchasers, and persons operating preparation plants and tipples, and any recipient of royalty payments from the coal mining operation.

In July 1994, the National Coal Association and the American Mining Congress, predecessor organizations of the National Mining Association (NMA), filed suit challenging the regulations promulgated by OSM, specifically the scope of 30 CFR 870.17. On July 23, 1996, in *National Mining Ass'n* v. *U.S. Department of the Interior,* No. 94–1642 (D.D.C.), the United States District Court for the District of Columbia ruled in favor of OSM. NMA appealed the district court's decision to the United States Court of Appeals for the District of Columbia. After the parties engaged in court-ordered mediation, the Department of Justice, upon OSM's request, filed a motion to hold the case in abeyance pending new rulemaking to resolve the issues in dispute and the U.S. Court of Appeals granted the motion.

Therefore, OSM is suspending section 870.17 and will propose rulemaking to reconsider its scope. During the period of suspension, OSM will continue to conduct audits of operators of surface coal mining operations, as necessary, under the provisions of section 402(d)(2) of SMCRA, and 30 CFR 870.16.

II. Procedural Matters

Executive Order 12866

This suspension notice has been reviewed under the criteria of Executive Order 12866.

Regulatory Flexibility Act

The Department of the Interior pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, certifies this suspension will not have a significant economic effect on a substantial number of small entities for the same reason that the promulgation of the rule in 1994 did not have such an impact. The particular provision being suspended governs the scope of audits conducted by OSM and will have no economic impact on small entities.

National Environmental Policy Act

This rule has been reviewed by OSM and it has been determined to be categorically excluded from the National Environmental Policy Act (NEPA) process in accordance with the Departmental Manual 516 DM 2, Appendix 1.10.

List of Subjects in 30 CFR Part 870

Reporting and recordkeeping requirements, Surface mining, Underground mining.

Dated: May 28, 1997.

Bob Armstrong,

Assistant Secretary for Land and Minerals Management.

Accordingly, 30 CFR Part 870 is amended as set forth below.

PART 870—ABANDONED MINE RECLAMATION FUND—FEE COLLECTION AND COAL PRODUCTION REPORTING

1. The authority citation for Part 870 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*, as amended; and Pub. L. 100–34.

§ 870.17 [Suspended]

2. Section 870.17 is suspended.

[FR Doc. 97–14392 Filed 6–2–97; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Chapter I and Parts 1, 7, 8, 9, 11, 13, 17, 18, 20, 21, 28, 51, 65, 67, 73 and 78

RIN 1024–AC60

General Provisions, Definitions: Change in Organizational Title From Field Director and Field Area to Regional Director and Region

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service (NPS) is amending the terms ''Field Director'' and ''Field Area'' that came about as a result of a new organizational structure. In 1995, the National Park

Service (NPS) implemented a restructuring plan which called for the use of a number of new organizational titles and terminology. As a result of this reorganization, the terms ''Region'' and ''Regional Director'' were changed to ''Field Area'' and ''Field Director'' (60 FR 55789). These new terms have proven confusing to the public and other governmental agencies. Because of this, the NPS is reverting back to the historic terms of Region and Regional Director wherever they appear in 36 CFR Parts 1–199.

In addition, this final rule will also eliminate several definitions that appear in more than one location in the Chapter. Removing duplicate definitions will eliminate unnecessary verbiage and is in line with the National Performance Review recommendations for reinventing government.

EFFECTIVE DATE: This rule is effective upon the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Dennis Burnett, Ranger Activities Division, National Park Service, at (202) 208–4874.

SUPPLEMENTARY INFORMATION:

Background

The National Park System of the United States comprises 374 areas covering over 80 million acres in 49 States, the District of Columbia, American Samoa, Guam, Puerto Rico, Saipan and the Virgin Islands. These areas of national significance justify special recognition and protection in accordance with various acts of Congress. In an Act signed August 25, 1916, Congress established the National Park Service within the Department of the Interior to provide cohesive administration of those Federal parklands under the Department of the Interior's jurisdiction. In August of 1937, the NPS initiated the geographical concept of Regional Offices administered by Regional Directors. This concept eventually led to the establishment of ten Regional Offices by 1980.

As a result of: (1) The NPS' own assessment of a need to change how it accomplished its essential work with increasing constraints; (2) the National Performance Review (NPR), which directed Federal agencies to cut red tape, put customers first, empower employees to get results and reduce layers in organizations; and (3) *The Federal Workforce Restructuring Act of 1994* (Pub. L. 103–226), a government-wide workforce reduction, the NPS implemented a Service wide restructuring of the organization. As a result of this restructuring, the NPS changed the terms ''Region'' and ''Regional Director'' to ''Field Area'' and ''Field Director.''

Use of the terms ''Field Area'' and ''Field Director'' was not common among NPS staff nor the public and inhibited easy communication. For many years, the NPS used the term ''field area'' to refer to local operating units and this usage is also common among other Federal and State agencies. While the concept of a Region and Regional Director is fairly well understood by the public, a Field Area and Field Director is either confusing or has no meaning at all. Because of this confusion, the NPS is reverting back to the terms ''Region'' and ''Regional Director.''

In keeping with the National Performance Review recommendations for reinventing government, the NPS is also removing several definitions that appear in more than one location of Title 36. The definitions of Secretary, Director and Superintendent appear in several Parts of Title 36. The removal of these duplicate definitions will reduce unnecessary verbiage from the Chapter.

Administrative Procedure Act

The NPS is adopting this final rule pursuant to the ''agency organization'' exception of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(A)) from general notice and comment rulemaking. The NPS believes that this exception from rulemaking procedures is warranted because it is merely a change in agency organizational structure, from Field Director and Field Area to Regional Director and Region, as well as the elimination of numerous duplicate definitions. The NPS finds that notice and comment are unnecessary and contrary to the public interest for this rule.

The NPS has also determined, in accordance with the Administrative Procedure Act (5 U.S.C. 553(d)(3)), that the publishing of this final rule 30 days prior to the rule becoming effective would be counterproductive and unnecessary for the reasons discussed above. A 30-day delay would be contrary to the public interest and the interest of the agency. Therefore, under the ''good cause'' exception of the Administrative Procedure Act (5 U.S.C. 553(d)(3)), the NPS has determined that this rulemaking is excepted from the 30-day delay in the effective date and therefore becomes effective on the date published in the **Federal Register**.

Drafting Information: The primary author of this rule is Dennis Burnett, Ranger Activities Division, National Park Service, Washington, D.C. 20013.

Paperwork Reduction Act

This rulemaking does not contain collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995.

Compliance With Other Laws

This rule was not subject to Office of Management and Budget review under Executive Order 12866. The Department of the Interior determined that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*). The economic effects of this rulemaking are negligible.

NPS has determined and certifies pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rule will not impose a cost of $100 million or more in any given year on local, State or tribal governments or private entities.

The NPS has determined that this rulemaking will not have a significant effect on the quality of the human environment, health and safety because it is not expected to:

(a) Increase public use to the extent of compromising the nature and character of the area or causing physical damage to it;

(b) Introduce incompatible uses which compromise the nature and characteristics of the area or cause physical damage to it;

(c) Conflict with adjacent ownership or land uses; or

(d) Cause a nuisance to adjacent owners or occupants.

Based on this determination, this rulemaking is categorically excluded from the procedural requirements of the National Environmental Policy Act (NEPA) and by Departmental guidelines in 516 DM 6 (49 FR 21438). As such, neither an Environmental Assessment nor an Environmental Impact Statement has been prepared.

List of Subjects

36 CFR Part 1

National parks, Penalties, Reporting and Recordkeeping requirements, Signs and symbols.

36 CFR Part 7

District of Columbia, National parks, Reporting and recordkeeping requirements.

36 CFR Part 8

Concessions, Labor, National parks, Reporting and recordkeeping requirements.

36 CFR Part 9

Environmental protection, Mines, National parks, Oil and gas exploration, public lands-miner resources, Public lands-rights-of-way.

36 CFR Part 11

National parks, Signs and symbols.

36 CFR Part 13

Alaska, National parks, Reporting and recordkeeping requirements.

36 CFR Part 17

National parks.

36 CFR Part 18

Historic preservation, National parks.

36 CFR Part 20

Isle Royale National Park; Commercial fishing.

36 CFR Part 21

National parks.

36 CFR Part 28

National parks, Seashores, Zoning.

36 CFR Part 51

Concessions, Government contracts, National parks.

36 CFR Part 65

Historic preservation.

36 CFR Part 67

Administrative practice and procedure, Historic preservation, Income taxes.

36 CFR Part 73

National parks, World heritage convention.

36 CFR Part 78

Historic preservation.

In consideration of the foregoing, and under the authority at 18 U.S.C. 1 and 3, 36 CFR Chapter I is amended as follows:

1. 36 CFR Chapter I is amended by removing the term ''Field Director'' and inserting the term ''Regional Director'' in its place each time it appears.

PART 1—GENERAL PROVISIONS

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

Authority: 16 U.S.C. 1, 3, 9a, 460 l–6a(e), 462(k); D.C. Code 8–137, 40–721 (1981).

§ 1.4 [Amended]

3. Section 1.4 is amended in paragraph (a) by revising the word ''Field'' in the heading of the definition for ''Field Director'' to read ''Regional'' and placing the definition in the appropriate alphabetical order.

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

4. The authority citation for Part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 80–137 (1981) and D.C. Code 40–721 (1981).

5. The ALPHABETICAL LISTING of national parks following the authority citation for Part 7 is amended in the entry for ''National Capital Area, D.C. area'' by revising the word ''Area'' to read ''Region''.

§ 7.96 [Amended]

6. Section 7.96 is amended by revising the word ''Area'' in the section heading to read ''Region''.

7. Section 7.96(a) is amended by revising the word ''Area'' to read ''Region''.

8. Section 7.96(g)(1)(iii) is amended by revising the word ''Area'' to read ''Region''.

9. Section 7.96(g)(1)(viii) is amended by revising the word ''Area'' to read ''Region''.

10. Section 7.96(g)(1)(ix) is amended by revising the word ''Area'' to read ''Region''.

11. Section 7.96(g)(3) introductory text is amended by revising the word ''Area'' to read ''Region'' in the first sentence.

12. Section 7.96(g)(5)(vi)(A) is amended by revising the word ''Area'' to read ''Region''.

13. Section 7.96(g)(5)(vi)(D) is amended by revising the word ''Area'' to read ''Region''.

14. Section 7.96(g)(5)(xiv) is amended by revising the word ''Area'' to read ''Region'' in the first sentence.

PART 8—LABOR STANDARDS APPLICABLE TO EMPLOYEES OF NATIONAL PARK SERVICE CONCESSIONERS

15. The authority citation for Part 8 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462(k).

§ 8.1 [Amended]

16.–18. Section 8.1 is amended by removing paragraphs (a) through (c) and redesignating paragraphs (d) through (h) as paragraphs (a) through (e), respectively.

PART 9—MINERALS MANAGEMENT

19. The authority citation for Part 9 continues to read as follows:

Authority: Mining Law of 1872 (R.S. 2319; 30 U.S.C. 21 *et seq.*); Act of August 25, 1916 (39 Stat. 535, as amended (16 U.S.C. 1 *et seq.*); Act of September 28, 1976; 90 Stat. 1342 (16 U.S.C. 1901 *et seq.*).

§ 9.2 [Amended]

20. Section 9.2 is amended by removing paragraph (l) and redesignating paragraphs (m) through (o) as paragraphs (l) through (n), respectively.

21. Section 9.31 is amended by removing paragraph (j) and redesignating paragraphs (k) through (p) as paragraphs (j) through (o), respectively.

22. Section 9.82 is amended by removing paragraph (d) and redesignating paragraph (e) as paragraph (d).

PART 11—ARROWHEAD AND PARKSCAPE SYMBOLS

23. The authority citation for Part 11 continues to read as follows:

Authority: Sec. 3, 39 Stat. 535; 16 U.S.C. 3.

§ 11.1 [Amended]

24. Section 11.1 is amended by removing paragraph (b) and redesignating paragraphs (c) and (d) as paragraphs (b) and (c), respectively.

PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA

25. The authority citation for Part 13 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 462(k), 3101 *et seq.*; § 13.65 also issued under 16 U.S.C. 1a–2(h), 20, 1361, 1531, 3197.

§ 13.1 [Amended]

26. Section 13.1 is amended by removing paragraph (r) and redesignating paragraphs (s) through (w) as paragraphs (r) through (v), respectively.

PART 17—CONVEYANCE OF FREEHOLD AND LEASEHOLD INTERESTS ON LANDS OF THE NATIONAL PARK SYSTEM

27. The authority citation for Part 17 continues to read as follows:

Authority: Sec. 5(a), of the Act of July 15, 1968, 82 Stat. 354, 16 U.S.C. 460l–11(a).

§ 17.2 [Amended]

28. Section 17.2 is amended by removing paragraph (a) and redesignating paragraphs (b) through (i) as paragraphs (a) through (h), respectively.

PART 18—LEASES AND EXCHANGES OF HISTORIC PROPERTY

29. The authority citation for Part 18 continues to read as follows:

Authority: Sec. 207. Pub. L. 96–515, 94 Stat. 2997 (16 U.S.C. 470h–3).

§ 18.2 [Amended]

30. Section 18.2 is amended by removing paragraph (c) and redesignating paragraphs (d) through (n) as paragraphs (c) through (m), respectively.

PART 20—ISLE ROYALE NATIONAL PARK; COMMERCIAL FISHING

31. The authority citation for Part 20 continues to read as follows:

Authority: Secs. 1–3, 39 Stat. 535, as amended, sec. 3, 56 Stat. 133, secs. 1, 2, 67 Stat. 495; 16 U.S.C. 1, 1b, 1c, 2, 3, 408(k).

§ 20.1 [Amended]

32.–34. Section 20.1 is amended by removing paragraphs (a) through (c) and redesignating paragraphs (d) and (e) as paragraphs (a) and (b), respectively.

PART 21—HOT SPRINGS NATIONAL PARK; BATHHOUSE REGULATIONS

35. The authority citation for Part 21 continues to read as follows:

Authority: Sec. 3, Act of August 25, 1916, 39 Stat. 535, as amended (16 U.S.C. 3); sec. 3, Act of March 3, 1891, 26 Stat. 842, as amended (16 U.S.C. 363).

§ 21.1 [Amended]

36. Section 21.1 is amended by removing paragraph (a) and redesignating paragraphs (b) through (e) as paragraphs (a) through (d), respectively.

PART 28—FIRE ISLAND NATIONAL SEASHORE: ZONING STANDARDS

37. The authority citation for Part 28 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 459e–2.

§ 28.2 [Amended]

38. Section 28.2 is amended by removing paragraph (m) and redesignating paragraphs (n) and (o) as paragraphs (m) and (n), respectively.

PART 51—CONCESSION CONTRACTS AND PERMITS

39. The authority citation for Part 51 continues to read as follows:

Authority: The Act of August 25, 1916, as amended and supplemented, 16 U.S.C. 1 *et seq.*, particularly the Concessions Policy Act of 1965, 16 U.S.C. 20 *et seq.*, and 16 U.S.C. 3.

§ 51.3 [Removed]

40. Section 51.3(d) is removed.

PART 65—NATIONAL HISTORIC LANDMARKS PROGRAM

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

Authority: 16 U.S.C. 461 *et seq.*; 16 U.S.C. 470 *et seq.*

§ 65.3 [Amended]

42.–43. Section 65.3 is amended by removing paragraphs (d) and (o) and redesignating paragraphs (e) through (r) as paragraphs (d) through (p), respectively.

PART 67—HISTORIC PRESERVATION CERTIFICATION S PURSUANT TO SEC. 48(g) AND SEC. 170(h) OF THE INTERNAL REVENUE CODE OF 1986

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

Authority: Sec. 101(a)(1) of the National Historic Preservation Act of 1966, 16 U.S.C. 470a–1(a)(170 ed.), as amended; Sec 48(g) of the Internal Revenue Code of 1986 (90 Stat. 1519, as amended by 100 Stat. 2085) 26 U.S.C. 48(g); and Sec. 170(h) of the Internal Revenue Code of 1986 (94 Stat. 3204) 26 U.S.C. 170(h).

§ 67.2 [Amended]

45. Section 67.2, the definition for ''Secretary'' is removed.

PART 73—WORLD HERITAGE CONVENTION

46. The authority citation for Part 73 continues to read as follows:

Authority: 94 Stat. 3000; 16 U.S.C. 470a–1, a–2, d.

§ 73.3 [Amended]

47. Section 73.3, the definitions for ''Secretary'' and ''Director'' are removed.

PART 78—WAIVER OF FEDERAL AGENCY RESPONSIBILITIES UNDER SECTION 110 OF THE NATIONAL HISTORIC PRESERVATION ACT

48. The authority citation for Part 78 continues to read as follows:

Authority: National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 *et seq.*

§ 78.2 [Amended]

49. Section 78.2, the definition for ''Secretary'' is removed.

Dated: May 16, 1997.

Don Barry,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 97–14410 Filed 6–2–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 4

RIN 2900–AE89

Schedule for Rating Disabilities; Muscle Injuries

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) Schedule for Rating Disabilities of Muscle Injuries. These amendments are made because medical science has advanced, and commonly used medical terms have changed. The effect of these amendments is to update this portion of the rating schedule to ensure that it uses current medical terminology and unambiguous criteria, and that it reflects medical advances that have occurred since the last review.

EFFECTIVE DATE: July 3, 1997.

FOR FURTHER INFORMATION CONTACT: Caroll McBrine, M.D., Consultant, Regulations Staff, Compensation and Pension Service (213A), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave., NW, Washington DC, 20420 (202) 273–7230.

SUPPLEMENTARY INFORMATION: VA published in the **Federal Register** of June 16, 1993 (58 FR 33235), a proposal to amend those sections of 38 CFR part 4, subpart B, concerning muscle injuries. Interested persons were invited to submit written comments, suggestions or objections on or before July 16, 1993. We received comments from Disabled American Veterans, Veterans of Foreign Wars, Paralyzed Veterans of America and two individuals.

Before this amendment, several sections preceding § 4.71a, ''Schedule of ratings-musculoskeletal system,'' contained loosely organized and ambiguous medical discussions of injuries and general physiology of the muscles. We proposed to delete redundant material and reorganize the rest.

Three of the commenters suggested that the sections preceding the evaluation criteria be retained without change, since the information in those sections is neither redundant nor readily available elsewhere, especially to the public.

Much of the material in the sections preceding the musculoskeletal portion of the rating schedule was background medical information, and some of it was directed toward medical examiners. We

proposed to remove that material because it neither prescribed VA policy nor established procedures a rating board must follow and was, therefore, not appropriate in a regulation, which is an agency statement of general applicability and future effect that the agency intends to have the force and effect of law. Excluding this material enhances the clarity of the regulations, and we make no change based on these comments. Those portions of the deleted sections that were substantive rules, such as the requirement in former § 4.49 to review the complete history of an injury, are contained elsewhere in VA's regulations and need not be repeated here.

One commenter suggested that the sections concerning only muscle injuries or diseases be moved to immediately precede § 4.73, ''Schedule of ratings-muscle injuries.''

Although the commenter has a valid point, previously, §§ 4.40 through 4.73 dealt with various aspects of the musculoskeletal system as a whole. With this rulemaking we have begun the process of addressing ''muscle injuries'' and ''the orthopedic system'' separately. We will address the orthopedic system in a separate rulemaking and will review the remaining introductory sections in that rulemaking.

Proposed § 4.55(d) would have limited the combined evaluation for muscle groups acting on a single unankylosed joint to the evaluation for intermediate ankylosis of that joint. One commenter pointed out that § 4.71a, diagnostic code (DC) 5256, provides two evaluations for intermediate ankylosis of the knee, and suggested that § 4.55(d) specify which of those two evaluations would be assigned under these circumstances.

As the commenter noted, ankylosis of a joint that is less severe than unfavorable ankylosis is not always expressed as ''intermediate ankylosis.'' For the sake of clarity, we have revised § 4.55(d) to require that the combined evaluation of muscle groups acting upon a single unankylosed joint must be lower than the evaluation for unfavorable ankylosis of that joint. This is not a substantive change.

We proposed to state the principles of combined ratings for muscle injuries in § 4.55. Proposed paragraph (e) states that for compensable muscle group injuries which are in the same anatomical region but do not act on the same joint, the evaluation for the most severely injured muscle group will be increased by one level and used as the combined evaluation for the affected muscle groups. A commenter suggested removing proposed § 4.55(e) because it would provide a lower evaluation than § 4.55(d) would for an equally disabled veteran.

The combined evaluation for muscle injuries in the same anatomical region and the combined evaluation for muscle injuries affecting a single joint represent assessments of two different types of disability and are not directly comparable. In both cases, however, the intent of § 4.55 is to assure that the combined evaluation of muscle injuries will not exceed the highest evaluation that the schedule assigns for other types of musculoskeletal or neurologic disabilities affecting a single joint or anatomical region. Proposed § 4.55(e) was derived from former § 4.55(a) and involves no substantive change from the earlier provision, and we make no change based on this comment.

Proposed § 4.56 provides guidelines for evaluating certain muscle disabilities and gives detailed descriptions of the expected history and findings in muscle injuries of various degrees of severity. One commenter suggested that retaining ''evidence of unemployability because of inability to keep up with work requirements'' in proposed § 4.56(d)(3)(ii) and (4)(ii) under the ''History and complaints'' headings for moderately severe and severe muscle disability is inappropriate because evidence of unemployability should entitle a veteran to a total rating on an extraschedular basis.

We agree that evidence of unemployability is not an appropriate criterion for less than total evaluations, so we have revised § 4.56 to delete the references to unemployability.

Proposed § 4.56(d)(3)(iii) required that an entrance scar be large to qualify for moderately severe muscle disability. One commenter pointed out the incongruity between requiring a large entrance scar when a small, high velocity missile will qualify for moderately severe muscle disability under proposed § 4.56(d)(3)(i) and suggested that the word ''large'' be repositioned so as to apply only to exit scars.

We agree that there is an incongruity. We have therefore changed § 4.56(d)(3)(iii) to require an entrance scar without specifying its size.

One commenter stated that the rearrangement of language in proposed § 4.56(d)(4)(i) in effect requires a more serious injury than former § 4.56(d) did to qualify for severe muscle disability.

Since we did not intend to propose a substantive change, we have revised the wording in § 4.56(d)(4)(i) to retain the requirement of former § 4.56(d) with only minor editorial changes for clarity.

One commenter stated that changing the degree of impairment of function required under ''Objective findings'' in severe muscle disability (in proposed § 4.56(d)(4)(iii)) from ''severe'' to ''extreme'' is a substantive change to a more stringent requirement. The commenter thought that ''severe'' should be replaced with an objective and quantifiable synonym for severe.

The use of ''extreme'' rather than ''severe'' was inadvertent and not intended to be a substantive change. Section 4.56(d)(4) objectively defines ''severe'' disability of muscles, and for the sake of consistency, and to prevent any misunderstanding about the extent of functional impairment required, we have changed ''extreme'' back to ''severe.''

One commenter feared that the evaluation instructions for proposed DC 5325, ''Muscle injury, facial muscles,'' could easily be misinterpreted to require cranial nerve injury for a compensable rating for facial muscle injury. The commenter suggested that the instructions be changed back to the instructions in former § 4.54: ''Facial muscles will be rated in accordance with interference with the functions supplied by the cranial nerves.'' The commenter also suggested an appropriate cross-reference under DC 5325 to DC 7800, ''Scars, disfiguring, head, face or neck.''

We agree that the evaluation instructions under proposed DC 5325 were ambiguous and have revised them in response to the comment by directing that functional impairment due to injury to facial muscles be evaluated as seventh (facial) cranial nerve neuropathy (DC 8207), disfiguring scar (DC 7800), etc.

Two commenters suggested that we retain the footnote that refers to special monthly compensation, which we proposed to delete.

We agree and have reinstated a footnote following the 50-percent evaluation for DC 5317, muscle group XVII, reminding the rater to refer to § 3.350(a)(3) to determine whether the veteran may be entitled to special monthly compensation. We are also retaining the note at the beginning of § 4.73, referring to § 3.350, to clearly remind rating specialists that there is potential entitlement to special monthly compensation when evaluating any muscle injuries resulting in loss of use of any extremity or of both buttocks.

One commenter stated that proposed § 4.73, DC's 5327 and 5329, should provide a one-year convalescent period following cessation of treatment for malignant growths of the muscles. Another commenter pointed out that

total ratings might be assigned under those diagnostic codes after the expiration of the six-month period at which a VA examination is mandated, and questioned how such cases will be processed under the proposed rule.

We make no change based on the first comment. Former § 4.73, DC's 5327 and 5329, provided a total rating that would extend to six months after cessation of treatment, when, in the absence of local recurrence or metastasis, a rating was to be made on residuals. As proposed, these diagnostic codes would provide that a total rating continue following cessation of treatment with a VA examination required after the expiration of six months. In the absence of local recurrence or metastasis, the rating would be based on residual impairment of function. However, the total rating will continue as long as the findings on examination warrant it.

The second commenter's concern appears to be whether medical information justifying a convalescence evaluation submitted months after the event would require application of the provisions of § 3.105(e). Since § 3.105(e) applies only to reductions in ''compensation payments currently being made,'' it would not apply in cases where a total evaluation is assigned and reduced retroactively.

One commenter suggested that there should be specific instructions for rating muscle impairment associated with muscle disease, such as multiple sclerosis.

Some muscle diseases, such as muscle neoplasms, are likely to produce impairment similar to that produced by muscle injuries. Disability resulting from such diseases should be evaluated under the provisions of § 4.73, as neoplasms are under DC 5327–5329. Other muscle diseases, however, produce impairment more similar to that produced by neurological diseases than that produced by muscle injuries. Disability resulting from those muscle diseases should be evaluated under appropriate criteria in § 4.124a. Furthermore, nothing in § 4.73 precludes evaluation of disability resulting from a muscle disease if the impairment is more similar to that produced by muscle injuries. Therefore, we make no change based on this comment.

One commenter stated that ''absence of impairment of function'' is an objective finding and should, therefore, be under ''Objective findings'' in § 4.56(d)(1)(iii) rather than ''Type of injury'' in § 4.56(d)(1)(i).

We agree and have removed this reference to impairment of function from the ''Type of injury'' subparagraph. It is already included in the ''Objective findings'' subparagraph.

One commenter stated that proposed § 4.55(c)(2) is a substantive change in that it, unlike former § 4.50, does not provide a separate rating for the extrinsic muscles of an ankylosed shoulder where these muscles are less than severely disabled.

We do not agree. Former § 4.50 did not authorize a rating for less-than-severely disabled extrinsic muscles of the shoulder girdle acting on an ankylosed joint. Former § 4.50 must be read with former § 4.55(d). Read together, they clearly limit the assignment of a separate rating for extrinsic muscles of the shoulder girdle acting on an ankylosed joint to such muscles at least severely disabled. The provisions of proposed § 4.55(c) are derived directly from former § 4.55 (b) and (d), which stated that severe injury to the extrinsic muscles of the shoulder (groups I and II) with ankylosis of the shoulder may elevate the rating of the shoulder to that for unfavorable ankylosis of the joint. Thus, former § 4.50, when read with former § 4.55 (b) and (d), did not provide for a separate rating for less-than-severely disabled extrinsic muscles acting on an ankylosed shoulder. The reorganization of these instructions has helped clarify these exceptions to the rule precluding a separate rating for muscle groups which act upon an ankylosed joint but is nothing more than an editorial change.

We have made several other nonsubstantive, editorial changes to the proposed rule based on our own review of the proposed regulation.

We also corrected the proposed list of the plantar group of intrinsic muscles of the foot under Group X (DC 5310) by adding ''adductor hallucis'' (which was inadvertently omitted in the proposed rule), removing ''opponens digiti V'' (a hand muscle), moving ''dorsal interossei'' from the dorsal group (the plantar and dorsal interossei are both considered plantar muscles in standard anatomy textbooks), and changing ''flexor hallucis'' to ''flexor hallucis brevis,'' its more complete name, in order to distinguish it from ''flexor hallucis longus,'' a muscle in another group. We added ''peroneus brevis'' and ''plantaris'' to the proposed list of posterior and lateral crural muscles and muscles of the calf in Group XI (DC 5311) because they were not included in the proposed rule, and standard anatomy textbooks place them in this group. We corrected the proposed list of muscles in Group XII (DC 5312) by removing ''flexor digitorum longus,'' which does not belong in this group, and adding ''extensor digitorum longus'' and ''extensor hallucis longus.''

VA appreciates the comments submitted in response to the proposed rule, which is now adopted with the amendments noted above.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final flexibility analysis requirements of sections 603 and 604. This regulatory action has been reviewed by the Office of Management and Budget under Executive Order 12866.

The Catalog of Federal Domestic Assistance numbers are 64.104 and 64.109.

List of Subjects in 38 CFR Part 4

Disability benefits, Individuals with disabilities, Pensions, Veterans.

Approved: March 5, 1997.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 4, subpart B, is amended as set forth below:

PART 4—SCHEDULE FOR RATING DISABILITIES

1. The authority citation for part 4 continues to read as follows:

Authority: 38 U.S.C. 1155.

Subpart B—Disability Ratings

§§ 4.47—4.54 [Removed and reserved]

2. Sections 4.47 through 4.54 are removed and reserved.

3. Section 4.55 is revised to read as follows:

§ 4.55 Principles of combined ratings for muscle injuries.

(a) A muscle injury rating will not be combined with a peripheral nerve paralysis rating of the same body part, unless the injuries affect entirely different functions.

(b) For rating purposes, the skeletal muscles of the body are divided into 23 muscle groups in 5 anatomical regions: 6 muscle groups for the shoulder girdle and arm (diagnostic codes 5301 through 5306); 3 muscle groups for the forearm and hand (diagnostic codes 5307 through 5309); 3 muscle groups for the foot and leg (diagnostic codes 5310 through 5312); 6 muscle groups for the

pelvic girdle and thigh (diagnostic codes 5313 through 5318); and 5 muscle groups for the torso and neck (diagnostic codes 5319 through 5323).

(c) There will be no rating assigned for muscle groups which act upon an ankylosed joint, with the following exceptions:

(1) In the case of an ankylosed knee, if muscle group XIII is disabled, it will be rated, but at the next lower level than that which would otherwise be assigned.

(2) In the case of an ankylosed shoulder, if muscle groups I and II are severely disabled, the evaluation of the shoulder joint under diagnostic code 5200 will be elevated to the level for unfavorable ankylosis, if not already assigned, but the muscle groups themselves will not be rated.

(d) The combined evaluation of muscle groups acting upon a single unankylosed joint must be lower than the evaluation for unfavorable ankylosis of that joint, except in the case of muscle groups I and II acting upon the shoulder.

(e) For compensable muscle group injuries which are in the same anatomical region but do not act on the same joint, the evaluation for the most severely injured muscle group will be increased by one level and used as the combined evaluation for the affected muscle groups.

(f) For muscle group injuries in different anatomical regions which do not act upon ankylosed joints, each muscle group injury shall be separately rated and the ratings combined under the provisions of § 4.25. (Authority: 38 U.S.C. 1155)

4. Section 4.56 is revised to read as follows:

§ 4.56 Evaluation of muscle disabilities.

(a) An open comminuted fracture with muscle or tendon damage will be rated as a severe injury of the muscle group involved unless, for locations such as in the wrist or over the tibia, evidence establishes that the muscle damage is minimal.

(b) A through-and-through injury with muscle damage shall be evaluated as no less than a moderate injury for each group of muscles damaged.

(c) For VA rating purposes, the cardinal signs and symptoms of muscle disability are loss of power, weakness, lowered threshold of fatigue, fatigue-pain, impairment of coordination and uncertainty of movement.

(d) Under diagnostic codes 5301 through 5323, disabilities resulting from muscle injuries shall be classified as slight, moderate, moderately severe or severe as follows:

(1) *Slight disability of muscles.*

(i) *Type of injury.* Simple wound of muscle without debridement or infection.

(ii) *History and complaint.* Service department record of superficial wound with brief treatment and return to duty. Healing with good functional results. No cardinal signs or symptoms of muscle disability as defined in paragraph (c) of this section.

(iii) *Objective findings.* Minimal scar. No evidence of fascial defect, atrophy, or impaired tonus. No impairment of function or metallic fragments retained in muscle tissue.

(2) *Moderate disability of muscles.*

(i) *Type of injury.* Through and through or deep penetrating wound of short track from a single bullet, small shell or shrapnel fragment, without explosive effect of high velocity missile, residuals of debridement, or prolonged infection.

(ii) *History and complaint.* Service department record or other evidence of in-service treatment for the wound. Record of consistent complaint of one or more of the cardinal signs and symptoms of muscle disability as defined in paragraph (c) of this section, particularly lowered threshold of fatigue after average use, affecting the particular functions controlled by the injured muscles.

(iii) *Objective findings.* Entrance and (if present) exit scars, small or linear, indicating short track of missile through muscle tissue. Some loss of deep fascia or muscle substance or impairment of muscle tonus and loss of power or lowered threshold of fatigue when compared to the sound side.

(3) *Moderately severe disability of muscles.*

(i) *Type of injury.* Through and through or deep penetrating wound by small high velocity missile or large low-velocity missile, with debridement, prolonged infection, or sloughing of soft parts, and intermuscular scarring.

(ii) *History and complaint.* Service department record or other evidence showing hospitalization for a prolonged period for treatment of wound. Record of consistent complaint of cardinal signs and symptoms of muscle disability as defined in paragraph (c) of this section and, if present, evidence of inability to keep up with work requirements.

(iii) *Objective findings.* Entrance and (if present) exit scars indicating track of missile through one or more muscle groups. Indications on palpation of loss of deep fascia, muscle substance, or normal firm resistance of muscles compared with sound side. Tests of strength and endurance compared with sound side demonstrate positive evidence of impairment.

(4) *Severe disability of muscles.*

(i) *Type of injury.* Through and through or deep penetrating wound due to high-velocity missile, or large or multiple low velocity missiles, or with shattering bone fracture or open comminuted fracture with extensive debridement, prolonged infection, or sloughing of soft parts, intermuscular binding and scarring.

(ii) *History and complaint.* Service department record or other evidence showing hospitalization for a prolonged period for treatment of wound. Record of consistent complaint of cardinal signs and symptoms of muscle disability as defined in paragraph (c) of this section, worse than those shown for moderately severe muscle injuries, and, if present, evidence of inability to keep up with work requirements.

(iii) *Objective findings.* Ragged, depressed and adherent scars indicating wide damage to muscle groups in missile track. Palpation shows loss of deep fascia or muscle substance, or soft flabby muscles in wound area. Muscles swell and harden abnormally in contraction. Tests of strength, endurance, or coordinated movements compared with the corresponding muscles of the uninjured side indicate severe impairment of function. If present, the following are also signs of severe muscle disability:

(A) X-ray evidence of minute multiple scattered foreign bodies indicating intermuscular trauma and explosive effect of the missile.

(B) Adhesion of scar to one of the long bones, scapula, pelvic bones, sacrum or vertebrae, with epithelial sealing over the bone rather than true skin covering in an area where bone is normally protected by muscle.

(C) Diminished muscle excitability to pulsed electrical current in electrodiagnostic tests.

(D) Visible or measurable atrophy.

(E) Adaptive contraction of an opposing group of muscles.

(F) Atrophy of muscle groups not in the track of the missile, particularly of the trapezius and serratus in wounds of the shoulder girdle.

(G) Induration or atrophy of an entire muscle following simple piercing by a projectile.

(Authority: 38 U.S.C. 1155)

5. Section 4.69 is revised to read as follows:

§ 4.69 Dominant hand.

Handedness for the purpose of a dominant rating will be determined by the evidence of record, or by testing on VA examination. Only one hand shall be considered dominant. The injured hand, or the most severely injured hand, of an ambidextrous individual will be considered the dominant hand for rating purposes.

(Authority: 38 U.S.C. 1155)

§ 4.72 [Removed and Reserved]

6. Section 4.72 is removed and reserved.

7. Section 4.73 is revised to read as follows:

§ 4.73 Schedule of Ratings—Muscle Injuries.

Note: When evaluating any claim involving muscle injuries resulting in loss of use of any extremity or loss of use of both buttocks (diagnostic code 5317, Muscle Group XVII), refer to § 3.350 of this chapter to determine whether the veteran may be entitled to special monthly compensation.

THE SHOULDER GIRDLE AND ARM

	Rating	
	Dominant	Non-dominant
5301 Group I. *Function:* Upward rotation of scapula; elevation of arm above shoulder level. *Extrinsic muscles of shoulder girdle:* (1) Trapezius; (2) levator scapulae; (3) serratus magnus.		
Severe	40	30
Moderately Severe	30	20
Moderate	10	10
Slight	0	0
5302 Group II. *Function:* Depression of arm from vertical overhead to hanging at side (1, 2); downward rotation of scapula (3, 4); 1 and 2 act with Group III in forward and backward swing of arm. *Extrinsic muscles of shoulder girdle: (1) Pectoralis major II (costosternal); (2) latissimus dorsi and teres major (teres major, although technically an intrinsic muscle, is included with latissimus dorsi); (3) pectoralis minor; (4) rhomboid.*		
Severe	40	30
Moderately Severe	30	20
Moderate	20	20
Slight	0	0
5303 Group III. *Function:* Elevation and abduction of arm to level of shoulder; act with 1 and 2 of Group II in forward and backward swing of arm. *Intrinsic muscles of shoulder girdle: (1) Pectoralis major I (clavicular); (2) deltoid.*		
Severe	40	30
Moderately Severe	30	20
Moderate	10	10
Slight	0	0
5304 Group IV. *Function:* Stabilization of shoulder against injury in strong movements, holding head of humerus in socket; abduction; outward rotation and inward rotation of arm. *Intrinsic muscles of shoulder girdle: (1) Supraspinatus; (2) infraspinatus and teres minor; (3) subscapularis; (4) coracobrachialis.*		
Severe	30	20
Moderately Severe	20	20
Moderate	10	10
Slight	0	0
5305 Group V. *Function:* Elbow supination (1) (long head of biceps is stabilizer of shoulder joint); flexion of elbow (1, 2, 3). *Flexor muscles of elbow: (1) Biceps; (2) brachialis; (3) brachioradialis.*		
Severe	40	30
Moderately Severe	30	20
Moderate	10	10
Slight	0	0
5306 Group VI. *Function:* Extension of elbow (long head of triceps is stabilizer of shoulder joint). *Extensor muscles of the elbow:* (1) Triceps; (2) anconeus..		
Severe	40	30
Moderately Severe	30	20
Moderate	10	10
Slight	0	0

THE FOREARM AND HAND

	Rating	
	Dominant	Non-dominant
5307 Group VII. *Function:* Flexion of wrist and fingers. *Muscles arising from internal condyle of humerus:* Flexors of the carpus and long flexors of fingers and thumb; pronator.		
Severe	40	30
Moderately Severe	30	20
Moderate	10	10
Slight	0	0
5308 Group VIII. *Function:* Extension of wrist, fingers, and thumb; abduction of thumb. *Muscles arising mainly from external condyle of humerus:* Extensors of carpus, fingers, and thumb; supinator.		
Severe	30	20
Moderately Severe	20	20
Moderate	10	10
Slight	0	0

THE SHOULDER GIRDLE AND ARM—Continued

	Rating	
	Dominant	Non-dominant
Severe	40	30
Moderately Severe	30	20
Moderate	20	20
Slight	0	0
5304 Group IV. *Function:* Stabilization of shoulder against injury in strong movements, holding head of humerus in socket; abduction; outward rotation and inward rotation of arm. *Intrinsic muscles of shoulder girdle: (1) Supraspinatus; (2) infraspinatus and teres minor; (3) subscapularis; (4) coracobrachialis.*		
Severe	30	20
Moderately Severe	20	20
Moderate	10	10
Slight	0	0
5305 Group V. *Function:* Elbow supination (1) (long head of biceps is stabilizer of shoulder joint); flexion of elbow (1, 2, 3). *Flexor muscles of elbow: (1) Biceps; (2) brachialis; (3) brachioradialis.*		
Severe	40	30
Moderately Severe	30	20
Moderate	10	10
Slight	0	0
5306 Group VI. *Function:* Extension of elbow (long head of triceps is stabilizer of shoulder joint). *Extensor muscles of the elbow:* (1) Triceps; (2) anconeus..		
Severe	40	30
Moderately Severe	30	20
Moderate	10	10
Slight	0	0

THE FOREARM AND HAND

	Rating	
	Dominant	Non-dominant
5309 Group IX. *Function:* The forearm muscles act in strong grasping movements and are supplemented by the intrinsic muscles in delicate manipulative movements. *Intrinsic muscles of hand:* Thenar eminence; short flexor, opponens, abductor and adductor of thumb; hypothenar eminence; short flexor, opponens and abductor of little finger; 4 lumbricales; 4 dorsal and 3 palmar interossei.		
NOTE: The hand is so compact a structure that isolated muscle injuries are rare, being nearly always complicated with injuries of bones, joints, tendons, etc. Rate on limitation of motion, minimum 10 percent.		

THE FOOT AND LEG

	Rating
5310 Group X. *Function:* Movements of forefoot and toes; propulsion thrust in walking. *Intrinsic muscles of the foot: Plantar:* (1) Flexor digitorum brevis; (2) abductor hallucis; (3) abductor digiti minimi; (4) quadratus plantae; (5) lumbricales; (6) flexor hallucis brevis; (7) adductor hallucis; (8) flexor digiti minimi brevis; (9) dorsal and plantar interossei. Other important plantar structures: Plantar aponeurosis, long plantar and calcaneonavicular ligament, tendons of posterior tibial, peroneus longus, and long flexors of great and little toes.	
Severe	30
Moderately Severe	20
Moderate	10
Slight	0
Dorsal: (1) Extensor hallucis brevis; (2) extensor digitorum brevis. Other important dorsal structures: cruciate, crural, deltoid, and other ligaments; tendons of long extensors of toes and peronei muscles.	
Severe	20
Moderately Severe	10
Moderate	10
Slight	0
NOTE: Minimum rating for through-and-through wounds of the foot—10.	
5311 Group XI. *Function:* Propulsion, plantar flexion of foot (1); stabilization of arch (2, 3); flexion of toes (4, 5); lexion of knee (6). *Posterior and lateral crural muscles, and muscles of the calf:* (1) Triceps surae (gastrocnemius and soleus); (2) tibialis posterior; (3) peroneus longus; (4) peroneus brevis; (5) flexor hallucis longus; (6) flexor digitorum longus; (7) popliteus; (8) plantaris.	
Severe	30
Moderately Severe	20
Moderate	10
Slight	0

THE FOOT AND LEG—Continued

	Rating
5312 Group XII. *Function:* Dorsiflexion (1); extension of toes (2); stabilization of arch (3). *Anterior muscles of the leg:* (1) Tibialis anterior; (2) extensor digitorum longus; (3) extensor hallucis longus; (4) peroneus tertius.	
Severe	30
Moderately Severe	20
Moderate	10
Slight	0

THE PELVIC GIRDLE AND THIGH

	Rating
5313 Group XIII. *Function:* Extension of hip and flexion of knee; outward and inward rotation of flexed knee; acting with rectus femoris and sartorius (see XIV, 1, 2) synchronizing simultaneous flexion of hip and knee and extension of hip and knee by belt-over-pulley action at knee joint. *Posterior thigh group, Hamstring complex of 2-joint muscles:* (1) Biceps femoris; (2) semimembranosus; (3) semitendinosus.	
Severe	40
Moderately Severe	30
Moderate	10
Slight	0
5314 Group XIV. *Function:* Extension of knee (2, 3, 4, 5); simultaneous flexion of hip and flexion of knee (1); tension of fascia lata and iliotibial (Maissiat's) band, acting with XVII (1) in postural support of body (6); acting with hamstrings in synchronizing hip and knee (1, 2). *Anterior thigh group:* (1) Sartorius; (2) rectus femoris; (3) vastus externus; (4) vastus intermedius; (5) vastus internus; (6) tensor vaginae femoris.	
Severe	40
Moderately Severe	30
Moderate	10
Slight	0
5315 Group XV. *Function:* Adduction of hip (1, 2, 3, 4); flexion of hip (1, 2); flexion of knee (4). *Mesial thigh group:* (1) Adductor longus; (2) adductor brevis; (3) adductor magnus; (4) gracilis.	
Severe	30
Moderately Severe	20
Moderate	10
Slight	0
5316 Group XVI. *Function:* Flexion of hip (1, 2, 3). *Pelvic girdle group 1:* (1) Psoas; (2) iliacus; (3) pectineus.	
Severe	40
Moderately Severe	30
Moderate	10
Slight	0
5317 Group XVII. *Function:* Extension of hip (1); abduction of thigh; elevation of opposite side of pelvis (2, 3); tension of fascia lata and iliotibial (Maissiat's) band, acting with XIV (6) in postural support of body steadying pelvis upon head of femur and condyles of femur on tibia (1). *Pelvic girdle group 2:* (1) Gluteus maximus; (2) gluteus medius; (3) gluteus minimus.	
Severe	*50
Moderately Severe	40
Moderate	20
Slight	0

THE PELVIC GIRDLE AND THIGH—Continued

	Rating
5318 Group XVIII. *Function:* Outward rotation of thigh and stabilization of hip joint. *Pelvic girdle group 3:* (1) Pyriformis; (2) gemellus (superior or inferior); (3) obturator (external or internal); (4) quadratus femoris.	
Severe	30
Moderately Severe	20
Moderate	10
Slight	0

*If bilateral, see § 3.350(a)(3) of this chapter to determine whether the veteran may be entitled to special monthly compensation.

THE TORSO AND NECK

	Rating
5319 Group XIX. *Function:* Support and compression of abdominal wall and lower thorax; flexion and lateral motions of spine; synergists in strong downward movements of arm (1). *Muscles of the abdominal wall:* (1) Rectus abdominis; (2) external oblique; (3) internal oblique; (4) transversalis; (5) quadratus lumborum.	
Severe	50
Moderately Severe	30
Moderate	10
Slight	0
5320 Group XX. *Function:* Postural support of body; extension and lateral movements of spine. *Spinal muscles:* Sacrospinalis (erector spinae and its prolongations in thoracic and cervical regions).	
Cervical and thoracic region:.	
Severe	40
Moderately Severe	20
Moderate	10
Slight	0
Lumbar region:.	
Severe	60
Moderately Severe	40
Moderate	20
Slight	0
5321 Group XXI. *Function:* Respiration. *Muscles of respiration:* Thoracic muscle group.	
Severe or Moderately Severe	20
Moderate	10
Slight	0
5322 Group XXII. *Function:* Rotary and forward movements of the head; respiration; deglutition. *Muscles of the front of the neck:* (Lateral, supra-, and infrahyoid group.) (1) Trapezius I (clavicular insertion); (2) sternocleidomastoid; (3) the ''hyoid'' muscles; (4) sternothyroid; (5) digastric.	
Severe	30
Moderately Severe	20
Moderate	10
Slight	0
5323 Group XXIII. *Function:* Movements of the head; fixation of shoulder movements. *Muscles of the side and back of the neck:* Suboccipital; lateral vertebral and anterior vertebral muscles.	
Severe	30
Moderately Severe	20
Moderate	10
Slight	0

MISCELLANEOUS

	Rating
5324 Diaphragm, rupture of, with herniation. Rate under diagnostic code 7346.	
5325 Muscle injury, facial muscles. Evaluate functional impairment as seventh (facial) cranial nerve neuropathy (diagnostic code 8207), disfiguring scar (diagnostic code 7800), etc. Minimum, if interfering to any extent with mastication—10.	
5326 Muscle hernia, extensive. Without other injury to the muscle—10.	
5327 Muscle, neoplasm of, malignant (excluding soft tissue sarcoma)—100.	
NOTE: A rating of 100 percent shall continue beyond the cessation of any surgery, radiation treatment, antineoplastic chemotherapy or other therapeutic procedures. Six months after discontinuance of such treatment, the appropriate disability rating shall be determined by mandatory VA examination. Any change in evaluation based upon that or any subsequent examination shall be subject to the provisions of § 3.105(e) of this chapter. If there has been no local recurrence or metastasis, rate on residual impairment of function.	
5328 Muscle, neoplasm of, benign, postoperative. Rate on impairment of function, i.e., limitation of motion, or scars, diagnostic code 7805, etc.	
5329 Sarcoma, soft tissue (of muscle, fat, or fibrous connective tissue)—100.	
NOTE: A rating of 100 percent shall continue beyond the cessation of any surgery, radiation treatment, antineoplastic chemotherapy or other therapeutic procedures. Six months after discontinuance of such treatment, the appropriate disability rating shall be determined by mandatory VA examination. Any change in evaluation based upon that or any subsequent examination shall be subject to the provisions of § 3.105(e) of this chapter. If there has been no local recurrence or metastasis, rate on residual impairment of function.	

(Authority: 38 U.S.C. 1155)

[FR Doc. 97–14350 Filed 6–2–97; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AI60

Guidelines for Furnishing Sensori-neural Aids (i.e., Eyeglasses, Contact Lenses, Hearing Aids)

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: This document amends the Department of Veterans Affairs (VA) medical regulations to provide guidelines for when VA will furnish veterans with sensori-neural aids (i.e., eyeglasses, contact lenses, hearing aids). These amendments are necessary to implement a requirement imposed in the recently enacted Veterans' Health

Care Eligibility Reform Act of 1996, Pub. L. 104–262.

DATES: This interim final rule is effective June 3, 1997. Comments must be received on or before August 4, 1997.

ADDRESSES: Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to ''RIN 2900-AI60.'' All written comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Frederick Downs, Jr., Chief Consultant, Prosthetics and Sensory Aids Service Strategic Healthcare Group (113), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8515.

SUPPLEMENTARY INFORMATION: This document amends the VA medical regulations set forth at 38 CFR part 17. It adds a new section to the regulations to provide specific guidance on when VA will furnish veterans with sensori-neural aids (i.e., eyeglasses, contact lenses, hearing aids).

Prior to the enactment of Public Law 104–262, VA's authority to furnish prosthetic devices and appliances to veterans on an outpatient basis was very limited. That law significantly expanded VA's authority to furnish such devices and appliances on an outpatient basis. The new law provided that VA could furnish needed prosthetic devices and appliances to any veteran otherwise receiving health-care services from VA. The law further provided, however, that VA could furnish needed sensori-neural aids, a type of prosthetic device, only in accordance with guidelines promulgated by the Secretary. This provision in the law effectively authorizes VA to impose limitations on the provision of those sensori-neural aids.

This interim final rule provides that VA will furnish needed sensori-neural aids (i.e., eyeglasses, contact lenses, hearing aids) to the following veterans:

(1) Those with a compensable service-connected disability;

(2) Those who are former prisoners of war;

(3) Those in receipt of benefits under 38 U.S.C. 1151;

(4) Those in receipt of increased pension based on the need for regular aid and attendance or by reason of being permanently housebound;

(5) Those who have a visual or hearing impairment that resulted from the existence of another medical condition for which the veteran is receiving VA care, or which resulted from treatment of that medical condition;

(6) Those with a significant functional or cognitive impairment evidenced by deficiencies in the ability to perform activities of daily living, but not including routinely occurring visual or hearing impairments; and

(7) Those visually or hearing impaired so severely that the provision of sensori-neural aids is necessary to permit active participation in their own medical treatment.

Examples of medical conditions which could cause visual or hearing impairments permitting VA to furnish sensori-neural aids under paragraph (5) include stroke, diabetes, multiple sclerosis, vascular disease and geriatric chronic illnesses, when they result in visual or hearing impairment. Examples of treatment of medical conditions which could cause impairments permitting the furnishing of devices under that paragraph might include treatment with ototoxic drugs, or performance of surgery on the eye or ear, such as cataract surgery.

Examples of significant functional or cognitive impairment under paragraph (6) are: one or more basic activities of daily living impairment, cognitive impairment as measured by a mental status examination, and recurrent falls with the contributing cause being visual impairment.

An example of when VA might furnish sensori-neural aids under paragraph (7) to permit a patient to participate in his or her own treatment would be a geriatric patient with a severe visual or hearing loss which, combined with other age-related infirmities, makes communication extremely difficult or impossible absent receipt of a sensori-neural aid. Another example would be a blind veteran with a hearing loss who needs a hearing aid to participate in training at a VA Blind Rehabilitation Center.

VA will provide sensori-neural aids to the first four groups of veterans because Congress determined in section 104 of Public Law 104–262 that they have the highest priority to receive VA health-care benefits. VA also will provide sensori-neural aids to the fifth, sixth and seventh groups of veterans due to their substantial needs.

This interim final rule also provides that VA will furnish needed hearing aids to those veterans who have service-connected hearing disabilities rated 0 percent if there is a service-connected organic conductive, mixed, or sensory hearing impairment, and loss of pure tone hearing sensitivity in the low, mid, or high-frequency range or a combination of frequency ranges which contribute to a loss of communication ability; however, hearing aids are to be provided only as needed for the service-connected hearing condition. VA will provide hearing aids to this group because of their service-connected hearing disability.

Section 103(a) of Public Law 104–262 provides that VA ''may not furnish sensori-neural aids other than in accordance with guidelines which the Secretary shall prescribe.'' Section 103(b) of this law requires that the guidelines be established on or before November 8, 1996 (''(n)ot later than 30 days after the date of the enactment of this Act.''). Under these circumstances, the Secretary finds under 5 U.S.C. 553 (b) and (d) that prior notice-and-comment and a 30-day delay of the effective date are impractical, unnecessary, and contrary to the public interest, and that there is good cause for dispensing with these procedures.

Because no notice of proposed rulemaking was required in connection with the adoption of this final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601–612). Even so, the Secretary hereby certifies that these regulatory amendments will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act 5 U.S.C. 601–612. These amendments do not affect any small entities.

This regulatory action has been reviewed by the Office of Management and Budget under Executive Order 12866.

The Catalog of Federal Domestic Assistance program number is 64.013.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: December 23, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 17 is amended as follows:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501(a), 1721, unless otherwise noted.

2. An undesignated center heading and a new § 17.149 are added to read as follows:

Prosthetic, Sensory, and Rehabilitative Aids

§ 17.149 Sensori-neural Aids.

(a) Notwithstanding any other provision of this part, VA will furnish needed sensori-neural aids (i.e., eyeglasses, contact lenses, hearing aids) only to veterans otherwise receiving VA care or services and only as provided in this section.

(b) VA will furnish needed sensori-neural aids (i.e., eyeglasses, contact lenses, hearing aids) to the following veterans:

(1) Those with a compensable service-connected disability;

(2) Those who are former prisoners of war;

(3) Those in receipt of benefits under 38 U.S.C. 1151;

(4) Those in receipt of increased pension based on the need for regular aid and attendance or by reason of being permanently housebound;

(5) Those who have a visual or hearing impairment that resulted from the existence of another medical condition for which the veteran is receiving VA care, or which resulted from treatment of that medical condition;

(6) Those with a significant functional or cognitive impairment evidenced by deficiencies in activities of daily living, but not including normally occurring visual or hearing impairments; and

(7) Those visually or hearing impaired so severely that the provision of sensori-neural aids is necessary to permit active participation in their own medical treatment.

(c) VA will furnish needed hearing aids to those veterans who have service-connected hearing disabilities rated 0 percent if there is organic conductive, mixed, or sensory hearing impairment, and loss of pure tone hearing sensitivity in the low, mid, or high-frequency range or a combination of frequency ranges which contribute to a loss of communication ability; however, hearing aids are to be provided only as needed for the service-connected hearing disability.

(Authority: 38 U.S.C. 1701(6)(A)(i))

3. The undesignated center heading preceding § 17.150 is removed.

[FR Doc. 97–14349 Filed 6–2–97; 8:45 am]

BILLING CODE 8320–01–U

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM97–1; Order No. 1176]

Rules of Practice and Procedure

AGENCY: Postal Rate Commission.

ACTION: Final rule.

SUMMARY: The Commission amends Rule 54 of its rules of practice. When the Postal Service files a request that proposes to change rates or fees and, at the same time, proposes to change established cost attribution principles, the amendment requires the Postal Service to estimate the impact of its proposed changes in rates or fees separately from the impact of its proposed changes in attribution principles. The purpose of the amendment is to give other participants and the Commission adequate and timely notice of the impact of the proposals that it contains, in order to facilitate evaluation of those proposals.

DATES: This rule will take effect on June 3, 1997.

FOR FURTHER INFORMATION CONTACT: Stephen Sharfman, Legal Advisor, (202) 789–6820.

SUPPLEMENTARY INFORMATION: On December 17, 1996, the Commission issued its Notice of Proposed Rulemaking (''NPR'') in this docket. Order No. 1146, 61 FR 67760–67763, December 24, 1996. The NPR proposed to amend Rule 54(a) of the Commission's Rules of Practice [39 CFR 3001.54(a)] to require Postal Service rate filings to include an alternate cost presentation that estimates what the impact of its proposed changes in rates would be on attributable costs and cost coverages if established cost attribution principles were applied. The amendment proposed in the NPR would not require an alternate cost presentation to show the impact of minor changes in the procedures by which attribution principles are implemented. In response to the comments received, the Commission has modified the amendment proposed in the NPR in one respect. Under final amended Rule 54(a), the Postal Service's rate request would have to describe proposed changes in the detailed procedures by which attribution principles are implemented, even though such changes would not require an alternate cost presentation.

I. Procedural History

Current Rule 54(a) requires the Postal Service to include with its rate filings enough information to ''fully inform'' the Commission and the parties of the ''significance and impact'' of the proposed changes. The NPR observed that the basic purpose of Rule 54 is to require the Postal Service to accompany its requests for changes in rates with the threshold level of cost, volume, and revenue information necessary to support its direct case, so that its request can be evaluated within the tight deadline that the Act imposes.

The Commission concluded that to satisfy Rule 54(a), the Postal Service's request must separately identify the impact that its proposed changes in rates and its proposed changes in attribution principles would have on cost coverages. It noted that in Docket No. MC96–3, the Postal Service's Rule 54 cost presentation did not satisfy this objective. It estimated only the combined effect on subclass attributable costs and cost coverages of its proposed changes in rates and its proposed changes in attribution principles. It left the task of distinguishing between these effects to other parties and the Commission.

In its NPR, the Commission observed that it is not properly the parties' burden to disentangle the effects of the Postal Service's proposed changes in rates from the effects of its proposed changes in attribution principles so that they can separately evaluate these aspects of the Postal Service's proposals. As the proponent of change, the Postal Service has the burden of going forward, and the burden of persuasion. See 5 U.S.C. 556(d), 39 U.S.C. 3622, 39 CFR 3001.53 and 3001.54. If the Postal Service's request confounds the effects of its proposals to change rates and its proposals to change cost attribution principles, its request does not provide timely and effective notice of the significance of either.

The Commission noted that when a Postal Service request combines proposals to change rates with proposals to change established cost attribution principles, mailers and competitors are not able to determine from the Postal Service's request how its proposed changes in attribution principles would affect their interests until they calculate for themselves what cost coverages would be at the Postal Service's

proposed rates, under established attribution principles. The NPR noted that for many potential participants in Commission proceedings, performing this elaborate set of calculations is a formidable and time consuming task. It can defeat, or seriously delay, their ability to determine how the Postal Service's proposals would affect them, and whether they should intervene to support or oppose them.

Where a Postal Service rate request proposes to simultaneously change rates and attribution principles, amended Rule 54(a) requires that the request include an alternate attributable cost presentation that calculates attributable costs and cost coverages at the Postal Service's proposed rates according to established attribution principles. This ensures that the Commission and potential participants will receive timely and effective notice of the separate impact of the Postal Service's proposed changes in rates and its proposed changes in attribution principles.

II. Comments on the Notice of Proposed Rulemaking

The Commission received eleven sets of comments on the amendment proposed in the NPR. The American Business Press (ABP), Dow Jones & Company, Inc. (Dow Jones), the National Association of Presort Mailers (NAPM), and the National Federation of Nonprofits (NFN), supported the amendment as proposed. The American Bankers Association (ABA), the Major Mailers Association (MMA), McGraw-Hill Companies, Inc. (McGraw-Hill), the Newspaper Association of America (NAA), United Parcel Service (UPS), and the Officer of the Consumer Advocate (OCA), proposed strengthening the proposed amendment. Only the Postal Service opposed it.

1. Adequacy of Notice

The bulk of the comments received argue proposed Rule 54(a) is inadequate to provide the notice they need of the impact of the Postal Service's proposals on attributable costs and cost coverages. They offer numerous proposals for increasing the scope and the detail of the information required in the alternate attributable cost presentation required by the proposed rule. Out of concern for the burden on the Postal Service, the alternate attributable cost presentation required by the proposed rule is unchanged in the final rule. The final rule, however, incorporates a proposal that Postal Service rate requests flag all changes that it proposes in established attribution procedures, including implementation details that do not meet the definition of ''attribution principles,'' and therefore do not trigger the alternate cost presentation requirement.

As in proposed Rule 54(a), the alternate cost presentation required by the final rule applies to proposed changes in ''cost attribution principles,'' not to proposed changes in the detailed mechanics by which those principles are implemented. The final rule uses the phrase ''cost attribution principles'' to describe the baseline attribution procedures that must be held constant in the alternative cost presentation that the amendment would require. ''Cost attribution principles'' include theories of cost causation (e.g., volume variability, exclusivity), models of cost causation (e.g., econometric models of volume variability), the identity and role of cost drivers (e.g., shape, coverage), and the identity and role of distribution keys (e.g., pieces, pound/miles). ''Cost attribution principles'' are not intended to encompass minor adjustments to the mechanics of implementing these principles if the adjustments do not conflict with the principles themselves. Nor are attribution principles intended to encompass data updates, apparent errors in arithmetic, spreadsheet mechanics, or documentation that do not raise issues as to the theory or logic by which costs are attributed to subclasses.

UPS questions whether notice would be adequate if the Postal Service is excused from providing an alternate cost presentation where it changes only the mechanics by which established attribution principles are implemented. Notice of the effect of such changes is necessary, it argues, because they could substantially affect subclass attributable costs and cost coverages. UPS recognizes that the Commission's motive for narrowing the scope of the rule in this way is to reduce the burden of the alternate cost presentation requirement on the Postal Service. It argues that only corrections of apparent arithmetic, documentation, or presentation errors should be exempt from the rule. If proposed changes in the mechanics of implementation are exempt, it contends, the Postal Service would have too much discretion to characterize its proposed attribution changes as changes in the mechanics of implementation rather than in attribution principles. It therefore suggests that the Commission adopt a rule similar to the broader requirements of Federal Energy Regulatory Commission Rule § 154.301 [18 CFR] described in the NPR. Comments of UPS in response to notice of proposed rulemaking, January 30, 1997, at 2–3.

The OCA supports the NPR's proposal not to subject minor changes in the mechanics by which attribution principles are implemented to the requirements of the rule. The OCA argues, however, that the rule should require Postal Service rate requests to identify proposed changes in implementation mechanics, in order to make it easier to assess whether the effects of such changes are inconsequential. Comments of the Office of the Consumer Advocate to the Postal Rate Commission, January 31, 1997, at 24.

In the past, the Postal Service has made continuous, evolutionary changes in the mechanics by which attribution principles are implemented that do not rise to the level of changes in ''attribution principles'' as defined above. It is the Commission's observation that over the past decade such changes have rarely had a substantial impact on the relative shares of subclass attributable costs. Accordingly, it appears that such changes do not need to be included within the scope of the rule to achieve its purposes. In excluding such changes, the Commission is assuming that they will continue to have only inconsequential effects on subclass attributable costs and cost coverages, as in the past. If past experience turns out not to be representative of the future, the Commission will make appropriate amendments to the rule. The Commission, however, agrees with the OCA that the rule should require Postal Service requests to identify all changes that it proposes to make in the mechanics of implementing attribution principles to help parties and the Commission assess whether their effects are inconsequential. Since the Postal Service typically makes only a few such changes from one rate case to the next, this rule should have a minor effect on the Postal Service's burden of preparing rate requests. Accordingly, the language of amended Rule 54(a) has been modified to include this requirement.

McGraw-Hill makes a number of proposals for strengthening the notice required by proposed Rule 54(a). The most significant of its proposals is that alternate attributable cost presentations show the impact of the Postal Service's proposed changes in attribution principles, individually and collectively. Comments of the McGraw-Hill Companies, Inc., January 31, 1997, at 3. Such a requirement can be found in the rules of practice of other public utility commissions. See, for example, § 200.2 of the Municipal Regulations for

the Public Service Commission of the District of Columbia [15 DCMR § 200.2 (1991)] described in the NPR.

Such a rule would make it much easier for the parties and the Commission to evaluate the significance of each proposed change if the impact of each were separately estimated. In the context of the Postal Service's rate filings, however, the Commission is concerned that such a requirement would impose too great a burden on the Postal Service. The Postal Service's attributable cost presentations are more complex and more detailed than those required of most public utilities. The Postal Service strenuously objects to the burden involved in preparing a single alternate cost presentation that shows the collective effect of its proposed changes in attribution principles. Postal Service Comments at 2–6. If the Postal Service had been required to prepare attributable cost presentations for each of its proposed changes in attribution principles in the most recently filed rate request (Docket No. MC97–2), such a rule would have required ten separate test year attributable cost presentations. It would have had to separately show the impact of its proposal to substitute volume-variable for single-subclass access costs, to substitute the Bradley analysis of purchased highway transportation cost variability for the established analysis, to omit the Alaskan Air adjustment, the Hawaiian Air adjustment, non-volume variable Special Delivery Messenger costs, non-volume variable window service costs for postal cards, the Vehicle Service Drivers variability adjustment, volume variable route time, special purpose route adjustments, as well as the collective impact of all of these proposals. Although such notice would be highly relevant and useful to those evaluating these proposals, it might add so significantly to the burden of documenting the Postal Service's rate requests as to be impractical. For this reason, McGraw-Hill's proposal is not adopted in the final rule.

MMA was concerned that proposed Rule 54(a) did not specify the level of documentation of the alternate cost presentation that it would require. It urged that the Rule specify that supporting exhibits are required. Comments of Major Mailers Association on Notice of Proposed Rulemaking, January 31, 1997, at 5. Proposed Rule 54(a) contemplated that the Postal Service document its alternate cost presentation at the same level of detail that it documents its main attributable cost presentation. The Commission agrees with MMA that it would be helpful to make the required level of documentation explicit in the amended Rule. Accordingly, amended Rule 54(a) explicitly requires that an alternate attributable cost presentation comply with Rule 54(h), which prescribes the level of detail that the Postal Service is required to provide in its main attributable cost presentation. The amended Rule would provide parties with detailed calculations of attributable costs under established attribution principles and under those proposed by the Postal Service, both at the Postal Service's proposed rates and volumes. This should help parties separately assess the impact of proposed changes to specific attribution principles.

McGraw-Hill proposes strengthening the notice required by proposed Rule 54(a) in several other respects. It proposes that the Rule makes it clear that the alternate attributable cost presentation include a base year as well as a test year presentation. McGraw-Hill Comments at 2. Because the amended rule requires that an alternate attributable cost presentation satisfy Rule 54(h), it requires it to include base year, interim year, and test year calculations.

Similarly, McGraw-Hill proposes that an alternate cost presentation be required ''whenever a cost element that had previously been treated as either wholly attributable or wholly non-attributable is proposed to be treated as attributable in part. * * *'' Id. If a proposed change fits the definition of a change to an ''attribution principle'' provided above, it will require an alternate cost presentation, regardless of the degree to which it alters the percent attributability of a particular cost component. For the same reason, an alternate cost presentation would be required ''whenever the Postal Service proposes to implement any change in cost attribution principles that had been suggested by the Commission on a prospective basis (but not fully litigated) in a prior Commission proceeding[,]'' as McGraw-Hill recommends. Id. The weight of precedent does not attach to prospective recommendations by the Commission, since they have not been litigated. Because parties should have an opportunity to litigate the validity of such principles, they need notice of their significance and impact.

McGraw-Hill also recommends that an alternate cost presentation be required ''when a requested change in rates or fees is based in part on a significant change in data systems, or methods of extrapolating from cost data (particularly IOCS data). * * *'' Id. The Commission does not believe that it is practical to require the Postal Service to maintain different, parallel data collection systems in order to maintain consistency with prior attribution procedures unless it is necessary to preserve the ability to apply established attribution principles. Whether changes proposed by the Postal Service in ''methods of extrapolating from cost data,'' such as IOCS data, should come within the scope of the rule depends upon whether those proposed changes imply changes to established theories or assumptions about how costs are caused. If such changes are essentially mechanical, without theoretical implications, obtaining information about the impact of such changes is best left to the normal discovery process.

McGraw-Hill also recommends that an alternate cost presentation be required ''whenever the Postal Service proposes to alter substantially its mail processing cost treatment for time not spent handling mail. * * *'' Id. Here, too, if the proposed change in how mail processing time is allocated implies a change in an established theory or assumption about how costs are caused, its effects should be reflected in an alternate cost presentation. If the proposed change is essentially mechanical, without theoretical implications, obtaining information about its impact is best left to the normal discovery process.

The Postal Service notes that the purpose of proposed Rule 54(a) is to ''provide parties and the Commission with enough information from the outset of a proceeding to evaluate the significance and impact of the Postal Service's proposals,'' Postal Service Comments at 12, citing page 3 of the NPR. It argues that the alternate cost presentation contemplated by proposed Rule 54(a) is not needed to accomplish this purpose. In its view, it is the Commission's or the intervenors' burden to determine how the Postal Service's attribution procedures differ from established attribution principles, and to assess the impact those differences have on subclass attributable costs and cost coverages at the Postal Service's proposed rates. Postal Service Comments at 10–12. It contends that adequate notice of the impact of its proposed departures from Commission-approved attribution procedures can be obtained by ''simple ratios derived from a comparison of past base years under the Postal Service's and the Commission's methodology. * * *'' Id. at 10–11. Attachments A through C to the Postal Service's Comments on the NPR are spreadsheets that calculate such ratios for FY 1993, the base year in R94–1. Attachment D to the Postal Service's Comments attempts to approximate the Commission's subclass

attributable costs for the test year in Docket No. MC96–3 by multiplying the Postal Service's subclass attributable costs for the test year in Docket No. MC96–3 by the percentage difference between the Postal Service's FY 1993 subclass attributable costs and the Commission's FY 1993 subclass attributable costs.

Attachment D then compares this approximation with fully modeled subclass attributable costs using Commission-approved costing principles (a preliminary set of attributable costs provided by the Commission in Library Reference PRC–LR–2 in MC96–3). The Postal Service characterizes the error produced in this instance by its ratioing technique as ranging from −3.03 percent for parcel post to +2.36 percent for Express Mail. The Postal Service contends, without further analysis, that this ''firmly establishe[s]'' the ''adequacy'' of its ratioing technique to provide the required notice in future dockets. Postal Service Comments at 12.

After filing its Comments on the NPR, the Postal Service filed a request for changes in rates in Docket No. MC97–2. As in MC96–3, its request proposed changes in rates and changes in cost attribution principles, and estimated only their combined effect on attributable costs and cost coverages. As in MC96–3, the Commission ordered the Postal Service to separately show the effects of its proposed changes in rates and its proposed changes in attribution principles on cost coverages, so that the Commission and the parties could evaluate them separately. See Order No. 1165, March 12, 1997. In MC96–3, the Postal Service declined to calculate fully modeled costs using established attribution principles. In MC97–2, as a substitute for fully modeled costs, it offered approximations based on ratios of Postal Service and Commission attributable costs in the MC96–3 base year. It relied on Attachment D to its Comments on the NPR as having demonstrated that ratioing will accurately approximate what fully modeled test year attributable costs would be in any docket if they were calculated by established attribution principles. See Response of USPS to Order No. 1165, March 24, 1997, at 1, citing LR–PCR–52.

In MC97–2, the Commission rejected the Postal Service's offer to provide ratio-based approximations in lieu of fully modeled attributable costs using established attribution principles. It observed that the Postal Service had provided no statistical or analytical basis for concluding what set of approximation errors would result from a future application of its ratioing technique involving other base and test periods. The Commission noted that the approximation errors produced by the use of ratios in Attachment D actually range from −25.58 percent to +2.36 percent for the various subclasses, and that the Postal Service, with one exception, offered no explanation for the magnitude of these errors. Order No. 1169, April 14, 1997, at 3–4.

In responding to the Postal Service's offer of provided ratio-based approximations, the Commission focused on how ratioing measures the impact of proposed changes in attribution principles on percentage points of cost coverage—the traditional measure of impact in Commission proceedings. It examined the seven subclasses most affected by the Postal Services proposed changes in attribution principles. Under realistic assumptions, it concluded, ratio-based approximations for a majority of those subclasses have a predictive uncertainty that is at least 50 percent as large as the impact of the Postal Service's proposed changes in attribution principles. Id. at 4–7. The Commission concluded that where uncertainty surrounding an approximated cost coverage is more than half as large as the effect of proposed changes in attribution principles itself, ratioing substantially obscures the effect of which notice is required. Id. at 7.

In Order No. 1169, the Commission discussed possible reasons that ratioing appears to yield inaccurate results for so many subclasses. It noted that because attribution analysis focuses on cost behavior at the segment and component level, analysis of the effect of applying different attribution principles tends to be more reliable, and is more verifiable, if it is built up by segments and components, rather than arrived at by gross ratioing. Id.

The Postal Service characterizes its ratioing technique as ''simple'' and ''straightforward,'' yet the Postal Service recognizes that various ad hoc adjustments are needed if key assumptions underlying ratioing are to hold. For ratioing to be useful, the differences between the attribution principles used by the Postal Service and the Commission in the base period must remain unchanged in the test period. The Postal Service recognized that ratios of Postal Service to Commission attributable costs in the R94–1 base year would not yield a useful approximation of Commission-approved MC96–3 test year attributable costs, because the Postal Service applied different attribution principles in MC96–3 than in R94–1. For that reason, Attachment D bases ratios on the Postal Service's FY 1993 CRA, rather than its R94–1 base year attributable costs.

The Postal Service also appears to recognize that the base period that it used in Attachment D (its FY 1993 CRA) should have been further adjusted to reflect subsequent corrections in the editing of second-class IOCS tallies, in order to make its base period attribution procedures consistent with the Commission's FY 1993 base year procedures in all respects other than in attribution principles. See Attachment D to Postal Service Comments, note 4. The Postal Service also recognizes that a detailed adjustment to the Commission's R94–1 base year attributable costs is required to adjust costs associated with Alaskan Air Bypass mail if base period ratios are to approximate the Commission's test year attributable costs for some subclasses. See Docket No. MC96–3, LR–SSR–122, at 9–10.

In Order No. 1169, the Commission discusses other assumptions underlying ratioing, some of which appear not to hold in the base and test periods used in Attachment D, and which appear to contribute to the substantial approximation errors that it yields for some subclasses. See Order No. 1169 at 7–8 and Attachment 2. The Commission observed that whether key assumptions underlying ratioing have been met is difficult to verify because the Postal Service did not provide the detailed analysis reflected in the cost model. Id. at 8.

The Postal Service has not provided a statistical or analytical basis for concluding that ratioing will accurately, reliably, and verifiably predict how subclass attributable costs and cost coverages in a test year would look if established attribution principles were applied. Therefore, ratio-derived approximations of subclass attributable costs will not be considered adequate notice of the impact of its proposed changes in attribution principles under final Rule 54(a).

2. Definition of Baseline

Proposed Rule 54(a) makes the set of attribution principles that the Commission applied in its most recent general rate proceeding in which its recommended rates were adopted the baseline from which changes in attribution principles would be determined. The Commission believes that this set of attribution principles constitutes an appropriate baseline because it has been fully litigated, provides the cost basis for current rates, defines the status quo, and has the weight of precedent. Order No. 1146 at

10–11 [61 FR at 67762]. The OCA proposes that amended Rule 54(a) identify a particular set of appendices or workpapers of a specific Commission opinion as containing the established set of attribution principles, in order to reduce disputes as to what attribution principles are ''established.'' It recognizes that this aspect of the Rule would have to be amended periodically as the Commission adopts changes in attribution principles. OCA Comments at 27–28.

NAA notes that if proposed Rule 54(a) were applied today, its language would refer to Docket No. R94–1, the most recent general rate case. It points out that in that docket there was an initial Recommended Decision followed by a Further Recommended Decision on reconsideration that corrected some inconsequential technical errors in the Commission's attributable cost calculations. It notes that there is no ambiguity as to which of those recommended decisions incorporates established attribution principles, since the Governors adopted the rates in the Further Recommended Decision on reconsideration. It anticipates a future situation in which a recommended decision on reconsideration is not accepted by the Governors. In that instance, it advises, the Commission should indicate which of its recommended decisions incorporates established attribution principles. NAA Comments at 3–4.

The language of amended Rule 54(a) clearly indicates that the baseline set of attribution principles is the set used in the Commission recommended decision that forms the basis for the rates adopted by the Governors. Even where there is more than one recommended decision in a docket, it will be clear which decision provides the basis for the rates adopted by the Governors. It is worth noting that as the Commission defines ''attribution principles'' in this docket, there is no difference between the Commission's initial recommended decision and its recommended decision on reconsideration in R94–1. The Opinion and Further Recommended Decision in R94–1 made trivial corrections to the mechanics by which attribution principles were implemented, but it did not change the attribution principles applied in the initial Recommended Decision.

The Commission believes that it would be cumbersome to try to specify in the rule a particular portion of the documentation of a particular recommended decision as containing the established set of attribution principles, because of the lag that would be involved in amending that portion of the rule when the need arises. Ambiguity is not likely to be a serious problem with respect to a Commission recommended decision in an omnibus rate proceeding. Findings and conclusions in such proceedings are usually intended to be definitive and have general applicability. Ambiguity is more likely to arise if a proposal to change an attribution principle were accepted in a more limited proceeding between general rate cases. The set of attribution principles used in the most recent general rate proceeding would remain the baseline for purposes of Rule 54(a), but the Commission would be receptive to a request for a waiver of Rule 54(a) with respect to changes in attribution principles adopted in interim cases.

The Postal Service comments that it would be difficult to apply proposed Rule 54(a) if the Commission were to treat as established precedent attribution methods that ''have never been lawfully established on the record.'' It asserts that the Commission's single subclass stop method for attributing city delivery carrier access time has not been lawfully established on the record. It contends that ''the Commission's many single-subclass costing variants'' have not been defended by a witness on the record, as required by the MOAA decision. Postal Service Comments at 16. It argues that the single subclass stop method does not fall within the proposed rule because it is not among the methods that were ''arrived at following litigation during that or prior Commission proceedings and have survived any appellate review that might have been conducted under 39 U.S.C. § 3628.'' Postal Service Comments at 17, quoting Order No. 1146 at 11.

It is difficult to understand the Postal Service's continuing preoccupation with an approach to attributing carrier access time that the Commission has abandoned ever since the remanded phase of Docket No. R90–1. That approach is irrelevant to amended Rule 54(a) because the Commission did not apply it in the most recent general rate proceeding. As the Postal Service is well aware, and as the Commission has previously summarized in its Opinion and Further Recommended Decision in R94–1, the Commission applied a two-step approach to analyzing access cost causation in R87–1 and in the initial phase of R90–1. Step 1 attributed access costs to a subclass that were incurred to access a delivery point to deliver mail only of that subclass, on the theory that a subclass is responsible for costs that are incurred exclusively for its benefit. Step 2 attempted to identify and attribute the volume variable portion of remaining access costs. As the Postal Service's own witnesses have freely conceded, Step 1 unambiguously and validly traces causation of access costs to the responsible subclass, independent of any attempt to attribute remaining access costs in Step 2. See, e.g., Docket No. R90–1 (Remand), Tr. 2/805–06 (Postal Service witness Panzar). The Commission's attribution of single subclass access costs consists only of Step 1. Step 1 was proposed, explained, and defended on the record by witness Chown in R87–1, by witness Sowell in the remanded phase of R90–1, and by witness Kolbe in R94–1. See discussion in the Commission's Opinion and Further Recommended Decision in Docket No. R94–1, paras. 221–245; NAA Comments at 2. The attribution principle applied in Step 1 has not varied since it was first applied in R87–1.

In R87–1 and the initial phase of R90–1, the Commission first applied Step 1, but then tried different ways of performing Step 2. It is the record basis for combining Step 1 with Step 2 that was challenged in the MOAA case and addressed by the MOAA Court. In remanding Docket No. R90–1 to the Commission, the MOAA Court referred to the ''Commission's new double-barreled approach'' and its ''overlap theory'' as having been developed off the record. *Mail Order Association of America* v. *USPS*, 2 F.3d 408 (D.C. Cir. 1993) at 427, 429. The Commission abandoned its ''double barreled approach'' and its ''overlap theory'' in the remanded phase of R90–1 and has never again applied it. It applied only Step 1 in the remanded phase of R90–1, and in R94–1, after it was proposed, explained, and defended by witnesses on the record in each. No appeal was taken from either of these Commission recommended decisions. Step 1, therefore, has been fully litigated on the record. For these reasons, amended Rule 54(a) clearly encompasses the single subclass criterion that the Commission has consistently used to attribute access costs since R87–1.

3. Burden

In its Comments on the NPR, the Postal Service asserts that preparing the alternative cost presentation required by Rule 54(a) would take between 10 and 15 person-days. It observes that it takes at least six months to prepare the documentation required for an omnibus rate filing. It states that although this ''may not seem overwhelming, adding this to the already lengthy and time-consuming period of pre-filing case preparation would be onerous.'' Postal

Service Comments at 8. It suggests that adding further to this lead time might ''encroach on the prerogatives of postal management to control the timing of rate requests. . . .'' Id. at 5. The Postal Service suggests that a way to mitigate the burden of proposed Rule 54(a) would be to allow it to delay the alternate cost presentation required until 25 days after the filing of its request, which would shift the workload to a time ''characterized by relatively low discovery requests. . . .'' Id. at 13.

MMA, McGraw-Hill, NAPM, and NFN argue that requiring each intervenor to estimate the impact on attributable costs and cost coverages of the Postal Service's proposed changes to established attribution principles is unreasonable, considering the vast inequality of resources and expertise between the Postal Service and most intervenors in the area of postal cost analysis. MMA Comments at 2, McGraw-Hill Comments at 2, NAPM Comments at 1, NFN Comments at 1. Where the Postal Service estimates that preparing the alternate cost presentation required by Rule 54(a) would require 10 to 15 man-days, MMA cites the testimony of its witness Bentley in MC96–3 that he would need six months and $150,000 to prepare such a presentation, despite his background in postal cost analysis. MMA Comments at 2. Such an expensive undertaking would be beyond the means of many of the participants in Commission proceedings, such as those represented by the National Federation of Nonprofits. NFN Comments at 1. Such a time consuming undertaking would be of little value even for intervenors who could afford it, since, in a typical rate proceeding, it would not be completed until after intevenors' cases were due.

On balance, burden considerations tend to support, rather than oppose adoption of proposed Rule 54(a). Estimating the impact of its proposed rates on costs according to the attribution principles that the Commission applies imposes only a modest burden on the Postal Service. It has unlimited access to the relevant data, a large technical staff with the specialized background required to develop a comprehensive estimate of Postal Service attributable costs, and has previously demonstrated its ability to accurately attribute costs according to established principles. The 10 to 15 person days to which the Postal Service refers appears to be an estimate of the effort that preparing an alternate cost presentation would initially require. Once its data processing programs were set up to regularly produce alternate cost presentations, it is likely that the 10 to 15 person days of effort would be greatly reduced. For these reasons, complying with amended Rule 54(a) should add only marginally to the lead time required to prepare rate filings. It should be noted, however, that the need to accompany a rate filing with a large amount of detailed information, as Rule 54 requires, is largely a function of the short time allowed the Commission and the parties to process that information. The ten-month deadline under which the Commission and the parties labor is unprecedented in regulatory practice for filings of the inherent size and complexity of omnibus postal rate filings. See, e.g., remarks in Docket No. MC95–1 at Tr. 1/59–60. The burden on the Commission of processing omnibus postal rate cases within a ten-month period is comparable to the burden on the Postal Service of preparing omnibus rate filings, considering the disparity of resources available. The deciding factor, therefore, should be the burden on the parties.

The comments received confirm the Commission's observation in Order No. 1146 at 3 [61 FR 67760], that

> [w]hen a Postal Service request combines proposals to change rates with proposals to change established cost attribution principles, mailers and competitors are not able to determine from the Postal Service's request how its proposed changes in attribution principles would affect their interests until they calculate for themselves what cost coverages would be at the Postal Service's proposed rates, under established attribution principles. For many potential participants in our hearings, performing this elaborate set of calculations is a formidable and time consuming task. It can defeat, or seriously delay, their ability to determine how the Postal Service's proposals would affect them, and whether they should intervene to support or oppose them.

The need for this information at the outset of the proceeding is clear, and the burden of preparing an alternate cost presentation of the kind required by proposed Rule 54(a) is vastly greater on many of the intervenors than on the Postal Service. While delaying the alternate cost presentation required by the proposed rule by 25 days would marginally ease the Postal Service's burden of preparing rate filings, it would substantially reduce the value of the notice it would provide, since a large proportion of the time available to the parties for discovery and preparation of their cases would have expired.

4. Due Process

Many of the comments responding to the NPR assert that the rights of intervenors in postal rate proceedings to due process are violated if the Postal Service fails to inform them of the impact of its proposed changes in cost attribution principles on attributable costs and cost coverages. Dow Jones Comments at 1, ABP Comments at 5, MMA Comments at 1, McGraw-Hill Comments at 1–2, NAPM Comments at 1, OCA Comments at 4. The Postal Service argues that requiring it to provide this information violates its rights to due process, if it requires estimating what the impact of its proposed rates would be using attribution principles it does not espouse. Postal Service Comments at 14–20. The Postal Service contends that comments that the Commission made in Docket No. RM83–2 confirm that its due process rights could be violated by such a requirement. Id. at 15. Because of key differences in the context of the proposals made in RM83–2 and proposed Rule 54(a), and key differences in the substance of those proposals, the due process concerns that the Commission expressed in connection with the RM83–2 proposals are avoided by amended Rule 54(a).

In RM83–2, the United Parcel Service (UPS) proposed to require Postal Service rate requests to provide an alternate attributable cost presentation that replicated the attribution procedures most recently applied by the Commission. UPS argued that the alternate cost presentation should be as detailed and as comprehensive as the Postal Service's main attributable cost presentation, integrating proposed and alternate base year cost segment attributions, working through all ripple effects, and rolling them forward to the test year.

The Commission did not adopt the UPS proposal. RM83–2 was instituted fourteen years ago when basic approaches to postal cost data collection and analysis were still unresolved. Extensive changes were being made to the In Office Cost System which provides the basic data for attributing mail processing costs, and the basic data collection systems underlying current transportation and delivery cost attributions were not yet in place. Basic issues in attribution theory were still unresolved. Whether a third tier of costs (''assignable costs'') should continue to be analyzed for causation, and whether it should include ''service related costs'' was still unresolved, how to treat specific fixed costs and peak load costs were still being vigorously litigated; and the Postal Service's analysis of transportation and delivery costs had been rapidly evolving from one rate case to the next.

Because of the widespread changes being made to postal cost data collection

and analysis, the Commission was concerned that unforeseen problems could arise if the Postal Service were required to apply all of the detailed base year and test year attribution procedures used by the Commission in R80–1 to new data and circumstances in subsequent cases. If the Postal Service were required to speculate as to what solutions the Commission might have applied to unforeseen attribution issues, and were required to affirm such speculations under oath, it appeared to the Commission that there was a significant risk that the Postal Service might have to adopt a litigating position with which it did not agree, in violation of its right to due process. Order No. 478, January 21, 1983, at 6–7. The Commission did not adopt the UPS proposal, primarily to avoid this potential infringement on the Postal Service's right to determine its own litigating positions.

In RM83–2, the Commission proposed that the Postal Service's rate requests include alternative cost presentations for individual cost segments that were consistent with Commission-recommended procedures. The Commission believed that limiting the alternate cost presentation to individual cost segments would make this task sufficiently simple and straightforward to avoid due process problems that might be presented by the broader UPS proposal. In preparing supplemental cost segment presentations, the Commission assumed that the Postal Service would be able to apply the same method, and employ the same judgments that the Commission had outlined in its most recent recommended decision. Therefore, it was the Commission's view that under its more limited proposal, the Postal Service would not be required to exercise a significant degree of discretionary judgment. Id.

The Commission ultimately decided not to adopt the alternate cost presentation requirement that it initially proposed in RM83–2. It found some merit in the Postal Service's contention that reconstructing detailed attributable cost presentations consistent with those used in prior rate cases, even ones limited to individual cost segments, would be difficult, given the extensive changes taking place in the collection, editing, and analysis of postal cost data. In Docket No. RM83–6, which was instituted to examine this issue, the Postal Service provided plausible examples of how changes in the way cost data had been collected since the completion of R80–1 made it impractical to attempt a detailed reconstruction either of Commission-approved attribution procedures or its own proposed attribution procedures in that case. The Postal Service asserted that costs could not be attributed according to either its or the Commission's R80–1 procedures unless obsolete data collection forms and systems were reconstructed, at a cost that it estimated to be from $60 to $120 million. See Prepared Testimony of Postal Service witnesses Alenier and Alepa, filed February 22, 1983, in Docket No. RM86–3.

Circumstances have changed since RM83–2. The Postal Service has not materially changed its systems for collecting basic mail processing, transportation, and delivery cost data since R90–1. Although refinements have been made since then, they have not affected the ability of the Postal Service or the Commission to apply established attribution principles, as they have been defined in this docket. Similarly, the basic approaches taken by the Postal Service and the Commission to analyzing cost responsibility for mail processing, transportation, and delivery costs have remained unchanged since R90–1, with rare exceptions.

Because the collection and analysis of cost data has matured and stabilized since R83–2, it is less likely that the Postal Service will encounter unforeseen problems implementing established attribution principles, and less likely that it will need to speculate as to what procedures the Commission would have used to solve them. Accordingly, there is little risk that requiring the Postal Service to provide an alternate cost presentation consistent with established attribution principles would infringe on its right to due process.

Differences in substance between amended Rule 54(a) and the proposals considered in RM83–2 provide an even more important reason why amended Rule 54(a) will not require the Postal Service to adopt a litigation position with which it does not agree. The Postal Service understood the proposals in RM83–2 to require it to apply procedures that were identical in every detail with the procedures used by the Commission to attribute costs in the previous rate case, either overall, or for individual segments. The Postal Service assumed that an approved attribution method applied in a prior rate case could not be considered to have been applied in a subsequent rate case unless the process began with identical data collection forms, used identically labeled cost accounts and subaccounts, and used identical mathematical formulae at every step of every calculation. See, e.g., Docket No. RM83–2, Initial Comments of USPS on the Notice of Inquiry, December 16, 1982, at 5, 10.

Proposed Rule 54(a) does not require alternate attributable cost presentations to be identical in every detail with the attribution procedures used by the Commission in the most recent general rate case. It requires that an alternate cost presentation show the impact of applying established attribution principles. Attribution principles refer to a theories of cost causation (e.g., volume variability, exclusivity), models of cost causation (e.g., econometric models of volume variability), the identity and role of cost drivers (e.g., shape, coverage), and the identity and role of distribution keys (e.g., pieces, pound/miles). Attribution principles are not intended to encompass the detailed mechanics by which they are implemented, as long as they are not inconsistent with the principle itself. See Order No. 1146 at 4 [61 FR at 67761].

In RM83–2 the Postal Service assumed that the attribution procedures with which the Commission was concerned were inseparable from the details of data collection. See Docket No. RM83–2, Initial Comments of USPS at 10. This assumption cannot be validly applied to alternate cost presentations under amended Rule 54(a). Under the amended rule, the Postal Service will not have to follow the detailed mechanics by which the Commission implemented attribution principles in the previous general rate case because refinements in such things as data collection systems, cost account organization, and roll forward techniques will generally not conflict with the basic logic of cost causation by which a given cost component is associated with subclasses of mail.

The Postal Service might perceive a need to alter the detailed procedures by which the Commission implemented a particular attribution principle in the most recent general rate case to accommodate new data or changed circumstances. If it does, the Postal Service might be asked by a Presiding Officers Information Request to explain why it believes there is such a need, and why it chose one solution over another. But its good faith judgments as to any needed innovations in detailed implementation procedures would not be considered in violation of amended Rule 54(a). However, if the Postal Service perceived a need to alter an established attribution principle (i.e., established causation theory, model, cost driver, or distribution key), to accommodate new data or changed circumstances, it should explain the

need for such a change in a request for a waiver of Rule 54(a) with respect to that principle.

There is a final distinction between the proposals made in RM83–2 and amended Rule 54(a) in this docket that essentially eliminates the risk that the Postal Service would have to adopt a litigation position with which it does not agree. The Postal Service assumed that the primary purpose of the proposals in RM83–2 was to require an alternate cost presentation that would provide an independent evidentiary basis for the Commission recommended decisions. It assumed this because, throughout RM83–2, the Commission emphasized its need to preserve access to record cost data that it considered necessary to apply Commission-approved attribution methods.

The primary purpose of proposed Rule 54(a) is not to preserve access to record cost data. This concern has eased since RM83–2 as the Postal Service's basic cost data collection systems have matured and stabilized. The purpose of Rule 54(a) is to ensure that parties and the Commission have timely notice of the effect that the Postal Service's proposed changes in rates and in attribution principles would have on cost coverages. Since the Commission is free to apply attribution principles litigated and approved in prior dockets to new data submitted in subsequent dockets, the alternate cost presentation required by amended Rule 54(a) is not needed to provide an evidentiary basis for applying those principles. Because the alternate cost presentation required by Rule 54(a) is not needed to supply an evidentiary basis for applying established attribution principles, the alternate cost presentation may be provided in the form of either a library reference or sworn testimony.

The NPR emphasized that the Postal Service would not be required to affirm either the theoretical or the practical merits of established attribution principles. It is merely required to affirm that it has made a good faith effort to give notice of what the impact would be of its proposed departures from established attribution principles. Order No. 1146 at 10 [61 FR at 67762]. Such an affirmation would not require the Postal Service to adopt a litigation position against it will, except to the extent that any proponent must carry the burden of going forward, and the burden of persuasion, if its proposals are to prevail.

The Postal Service criticizes the Commission's ''present attempt to impose on the Postal Service significant judgmental decisionmaking with respect to'' attribution methods that the Commission has applied. Postal Service Comments at 19. Amended Rule 54(a) is not an attempt to impose on the Postal Service significant judgmental decisionmaking with respect to replicating previously applied attribution principles. Although Rule 54(a) would allow the Postal Service's judgment to be applied with respect to implementation details if changed circumstances require it, the Commission expects that this would rarely be necessary. Further, applying those attribution principles to a current rate case would require the Postal Service to exercise judgment in only trivial respects that have inconsequential effects on subclass attributable costs and cost coverages. Cf. Docket No. MC95–1, Answer of Richard Patelunas to Request During Oral Cross Examination, Tr. 28/13221–23.

In the NPR, the Commission indicated that exercising judgment that does not conflict with established attribution principles will not be considered a violation of the Rule. It did so because recent experience indicates that the need for exercising judgment would be rare and the consequences of exercising it would be exceedingly minor under most circumstances. There are unusual circumstances in which it is reasonably foreseeable that an alternate cost presentation might require a significant exercise of judgment. An example would be if the Postal Service were to file a rate case that involved a major restructuring of mail classes. In that context, a waiver of proposed Rule 54(a) might be appropriate if the cost characteristics of the proposed new services are expected to differ substantially from existing services.

The Postal Service asks what use participants and the Commission could make of an alternate attributable cost presentation that is not submitted in the form of sworn testimony. Postal Service Comments at 19. One use is to provide participants with a timely basis for deciding whether to intervene and litigate a particular issue. Additionally, participants may treat the impacts shown in the alternate cost presentation as hypothetically correct, and submit testimony that discusses what the ramifications would be for the Postal Service's proposals if that hypothesis were correct. The weight that the Commission ultimately would give such testimony would depend on how consistent the alternate cost presentation turns out to be with established attribution principles, as determined by the Commission after it has analyzed the record.

As with participants, the Commission may use the alternate cost presentation required by amended Rule 54(a) to identify particular issues in time to examine them during the discovery phase. If the Commission were to observe flaws, inconsistencies, or unexplained judgmental choices in the Postal Service's alternate cost presentation, it could take steps to have them examined on the record, for example, as topics of Presiding Officer Information Requests. What the impact of the Postal Service's proposals actually would be is something that the Commission would ultimately determine, based on record evidence.

The Postal Service argues that if the Commission considers adequate notice to be important to the due process rights of participants, that it issue an ''initial decision prior to the close of hearings * * *'' if it recommends methodological changes after the close of the evidentiary record. Id. at 20. The Commission intends only to recommend changes in attribution principles that are grounded in the record. As long as they are, the parties have been afforded adequate notice. Providing advance notice of the conclusions that the Commission tentatively draws from the record prior to the time that it closes might be helpful in hearings without deadlines. The record must close at some point, however, so that the Commission can analyze and make findings on the whole record. As the Postal Service is aware, there is no realistic opportunity to further compress the 10-month statutory deadline for processing general rate cases, given their size and complexity. Therefore, there is no realistic opportunity for the Commission to issue tentative decisions.

5. Enforcement

MMA argues that the major weakness of proposed Rule 54(a) is that it does not provide any sanction for noncompliance. MMA notes that in R94–1 and MC96–3, the Commission ordered the Postal Service to provide an alternate cost presentation that is consistent with established attribution principles and the Postal Service refused to comply. MMA warns that the Postal Service will likely continue to resist complying with such a requirement, and that there is a likelihood that requests for waivers and other motion practice will drag out the controversy past the time that the information could serve its intended purpose. MMA Comments at 3–4.

39 U.S.C. § 3624(c)(2) enables the Commission to extend the 10-month deadline for issuing its final decision on a rate request if the Postal Service fails to provide the information requested in a lawful Commission order. MMA

proposes that Rule 54(a) be amended to automatically invoke § 3624(c)(2) if the required alternate cost presentation does not accompany a Postal Service rate request. Id. at 3–4. As an alternate means of enforcement, MMA proposes that the Commission adopt a rule modeled upon the Federal Energy Regulatory Commission's rule 385.2001 [18 CFR], which authorizes that agency to reject filings that do not comply with its rules. Id. at 4–5.

Like MMA, NAA comments that proposed Rule 54(a) will have to be resolutely enforced, either through invocation § 3624(c)(2) or dismissal of the Postal Service's filing, if it is to be effective. NAA Comments at 3–4. ABA also urges that failures to comply with Rule 54(a) automatically invoke § 3624(c)(2), although it recommends that waivers be available in exceptional circumstances. ABA Comments at 1–2. The OCA asks that the sanctions for noncompliance with proposed Rule 54(a) be clarified and strengthened. It urges that noncompliance with proposed Rule 54(a) be treated as the equivalent of failure to respond to discovery and that the sanctions available in 39 CFR § 3001.28 be applied. OCA Comments at 25–27.

It is understandable that the comments on proposed Rule 54(a) have emphasized the need for sanctions, since the Postal Service has not complied with orders to provide alternate cost presentations in recent dockets. In doing so, the Postal Service has relied heavily on the fact that current Rule 54 does not explicitly require it to give parties and the Commission the notice that proposed Rule 54(a) would require. With amended Rule 54(a) in place, the Commission is optimistic that the Postal Service will comply with its requirements. Appropriate sanctions for noncompliance with amended Rule 54(a) will be determined as the need arises.

Regulatory Evaluation

It has been determined pursuant to 5 U.S.C. 605(b) that this amended rule will apply exclusively to the Postal Service in proceedings conducted by the Postal Rate Commission. Therefore, it is certified that this amendment will not have a significant economic impact on a substantial number of small entities under the terms of the Regulatory Flexibility Act, 5 U.S.C. 501 *et seq.* Because this rule will only apply to the Postal Service in Commission proceedings, it has also been determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment pursuant to Executive Order 12612. Inasmuch as the rule imposes information reporting requirements exclusively upon the United States Postal Service for the purpose of conducting postal rate proceedings, it does not contain any information collection requirements as defined in the Paperwork Reduction Act [44 U.S.C. 3502(4)], and consequently the review provisions of 44 U.S.C. 3507 and the implementing regulations in 5 CFR part 1320 do not apply.

List of Subjects in 39 CFR Part 3001

Administrative practices and procedure.

For the reasons set out in the preamble, 39 CFR part 3001 is amended as follows:

PART 3001—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for 39 CFR part 3001 continues to read as follows:

T4Authority: 39 U.S.C. 404(b), 3603, 3622–24, 3661, 3662.

2. In § 3001.54, paragraph (a)(1) is revised to read as follows:

§ 3001.54 Contents of formal requests.

(a) General requirements. (1) Each formal request filed under this subpart shall include such information and data and such statements of reasons and bases as are necessary and appropriate fully to inform the Commission and the parties of the nature, scope, significance, and impact of the proposed changes or adjustments in rates or fees and to show that the changes or adjustments in rates or fees are in the public interest and in accordance with the policies of the Act and the applicable criteria of the Act. To the extent information is available or can be made available without undue burden, each formal request shall include the information specified in paragraphs (b) through (r) of this section. The request shall describe any changes that it proposes in the attribution procedures applied by the Commission in the most recent general rate proceeding in which its recommended rates or fees were adopted. If a request proposes to change the cost attribution principles applied by the Commission in the most recent general rate proceeding in which its recommended rates were adopted, the Postal Service's request shall include an alternate cost presentation satisfying paragraph (h) of this section that shows what the effect on its request would be if it did not propose changes in attribution principles. If the required information is set forth in the Postal Service's prepared direct evidence, it shall be deemed to be part of the formal request without restatement.

* * * * *

Issued by the Commission on May 27, 1997.

Margaret P. Crenshaw,

Secretary.

[FR Doc. 97–14257 Filed 6–2–97; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SIPTRAX No. PA–4058a; FRL–5832–3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of VOC and NO_X RACT Determinations for Individual Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision establishes and requires volatile organic compounds (VOC) and nitrogen oxides (NO_X) reasonably available control technology (RACT) on five major sources located in Pennsylvania. The intended effect of this action is to approve source-specific operating permits that establish the above-mentioned RACT requirements in accordance with the Clean Air Act. This action is being taken under section 110 of the Clean Air Act.

EFFECTIVE DATE: This action will become effective August 4, 1997 unless notice is received on or before July 3, 1997 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to David Campbell, Air, Radiation, and Toxics Division, Mailcode 3AT22, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; Pennsylvania Department of

Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: David Campbell, (215) 566–2196, at the EPA Region III office or via e-mail at campbell.dave@epamail.epa.gov. While information may be requested via e-mail, any comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: On August 1, 1995, December 8, 1995, and September 13, 1996, the Commonwealth of Pennsylvania submitted formal revisions to its State Implementation Plan (SIP). Each source subject to this rulemaking will be identified and discussed below. Any plan approvals and operating permits submitted coincidentally with those being approved in this notice, and not identified below, will be addressed in a separate rulemaking action.

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), Pennsylvania is required to implement RACT for all major VOC and NO_X sources by no later than May 31, 1995. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR), which is established by the CAA. The Pennsylvania portion of the Philadelphia ozone nonattainment area consists of Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties and is classified as severe. The remaining counties in Pennsylvania are classified as either moderate or marginal nonattainment areas or are designated attainment for ozone. However, under section 184 of the CAA, at a minimum, moderate ozone nonattainment area requirements (including RACT as specified in sections 182(b)(2) and 182(f)) apply throughout the OTR. Therefore, RACT is applicable statewide in Pennsylvania. The Pennsylvania submittals that are the subject of this notice are meant to satisfy the RACT requirements for five sources in Pennsylvania.

Summary of SIP Revision

The details of the RACT requirements for the source-specific plan approvals and operating permits can be found in the docket and accompanying technical support document (TSD) and will not be reiterated in this notice. Briefly, EPA is approving a revision to the Pennsylvania SIP pertaining to the determination of RACT for five major sources. Several of the operating permits contain conditions irrelevant to the determination of VOC or NO_X RACT. Consequently, these provisions are not being included in this approval for source-specific VOC or NO_X RACT.

RACT Determinations

The following table identifies the individual operating permits EPA is approving. The specific emission limitations and other RACT requirements for these sources are summarized in the accompanying technical support document, which is available from the EPA Region III office.

PENNSYLVANIA—VOC AND NO_X RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source	County	Plan approval (PA #), operating permit (OP #), compliance permit (CP #)	Source type	"Major source" pollutant
Medusa Cement Company	Lawrence	OP 37–013	Cement manufacturing	NO_X
Keystone Cement Company	Northampton	OP 48–0003	Cement manufacturing	NO_X, VOC
Lehigh Portland Cement Company	York	OP 67–2024	Cement manufacturing	NO_X
Mercer Lime and Stone Company	Butler	OP 10–023	Lime manufacturing	NO_X
Con-Lime, Inc.	Centre	OP 14–0001	Lime manufacturing	NO_X

Several of the operating permits contain a provision that allows for future changes to the emission limitations based on continuous emissions monitoring (CEM) or other monitoring data. Since EPA cannot approve emission limitations that are not currently before it, any changes to the emission limitations as submitted to EPA on August 1, 1995, December 8, 1995, and September 13, 1996 must be resubmitted to and approved by EPA in order for these changes to be incorporated into the Pennsylvania SIP. Consequently, the source-specific RACT emission limitations that are being approved into the Pennsylvania SIP are those that were submitted on the above-mentioned dates and are the subject of this rulemaking notice. These emission limitations will remain unless and until they are replaced pursuant to 40 CFR part 51 and approved by the U.S. EPA.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective August 4, 1997 unless, within 30 days of publication, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on August 4, 1997. If adverse comments are received that do not pertain to all documents subject to this rulemaking action, those documents not affected by the adverse comments will be finalized in the manner described here. Only those documents that receive adverse comments will be withdrawn in the manner described here.

Final Action

EPA is approving five operating permits as RACT for five individual sources.

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.

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

D. Submission to Congress and the General Accounting Office

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

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 August 4, 1997. Filing a petition for reconsideration by the Regional 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 to approve VOC and NO_X RACT determinations for a number of individual sources in Pennsylvania as a revision to the Commonwealth's SIP 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: May 19, 1997.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

40 CFR part 52, subpart NN of chapter I, title 40 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(122) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(122) Revisions to the Pennsylvania Regulations, Chapter 129.91 pertaining to VOC and NO_X RACT, submitted on August 1, 1995, December 8, 1995, and September 13, 1996 by the Pennsylvania Department of Environmental Resources (now known as the Pennsylvania Department of Environmental Protection):

(i) Incorporation by reference.

(A) Three letters submitted by the Pennsylvania Department of Environmental Resources (now, the Pennsylvania Department of Environmental Protection) transmitting source-specific VOC and/or NO_X RACT determinations in the form of operating permits on the following dates: August 1, 1995, December 8, 1995, and September 13, 1996.

(B) Operating Permits (OP):

(*1*) Medusa Cement Company, Lawrence County—OP 37–013, effective July 27, 1995, except for item No. 9 relating to future emission limitations.

(*2*) Keystone Cement Company, Northampton County—OP 48–0003, effective May 25, 1995, except for the expiration date and item No. 7 relating to future emission limitations.

(*3*) Lehigh Portland Cement Company, York County—OP 67–2024, effective May 26, 1995, except for the expiration date and item No. 7 relating to future emission limitations.

(*4*) Mercer Lime and Stone Company, Butler County—OP 10–023, effective May 31, 1995, except for item No. 6 relating to future emission limitations.

(*5*) Con-Lime, Inc., Centre County—OP 14–0001, effective June 30, 1995, except for the expiration date and item No. 8 relating to future emission limitations and items (or portions thereof) Nos. 17, 18, 20, 22, 24, 25, and 26 relating to non-VOC or non-NO_X provisions.

(ii) Additional Material.

(A) Remainder of the Commonwealth of Pennsylvania's August 1, 1995, December 8, 1995, and September 13, 1996 submittals.

[FR Doc. 97–14439 Filed 6–2–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN67–1a; FRL–5827–5]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On August 26, 1996, the State of Indiana submitted rule 326 IAC 10–1 as a requested revision to the State Implementation Plan (SIP) for ozone. This rule requires oxides of nitrogen (NO_X) Reasonably Available Control Technology (RACT) for portland cement kilns, electric utility boilers, and industrial, commercial, or institutional (ICI) boilers in Clark and Floyd Counties. In addition, on April 30, 1997, Indiana submitted a negative declaration certifying that, to the best of the State's knowledge, there are no remaining major sources of NO_X in Clark and Floyd Counties which need RACT rules. NO_X emissions are a precursor of ground-level ozone, an air pollutant which can cause inflammation of lung tissue and decrease lung function. NO_X emissions also contribute to acid rain, eutrophication of estuaries, and the formation of secondary nitrate particulate matter. Indiana expects this NO_X RACT SIP revision will reduce NO_X emissions by 44 percent (%), or 6352 tons per year, in Clark and Floyd Counties. In this action, EPA is approving the NO_X RACT rule and negative declaration as revisions to the SIP through a ''direct final'' rulemaking; the rationale for this approval is set forth below.

DATES: This action is effective August 4, 1997 unless adverse comments are received by July 3, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments can be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), Air and Radiation Division, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Copies of the SIP revision request and EPA's analysis (Technical Support Document) are available for inspection at the following address: (It is recommended that you telephone Mark J. Palermo at (312) 886–6082, before visiting the Region 5 office.) U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Environmental Protection Specialist, at (312) 886–6082.

SUPPLEMENTARY INFORMATION:

I. Background

On November 15, 1990, the Clean Air Act Amendments of 1990 (Act) were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. Section 182(f) of the Act requires States to apply the same requirements to major stationary sources of NO_X as are applied to major stationary sources of volatile organic compounds (VOC), unless the EPA determines that, for a given ozone nonattainment area, reductions in NO_X would not contribute to the area's attainment of the National Ambient Air Quality Standards (NAAQS) for ozone. Under section 182(b)(2), major stationary sources of VOC in areas designated moderate ozone nonattainment and above are required to adopt and implement Reasonably Available Control Technology (RACT) regulations. Therefore, areas subject to section 182(f) requirements must adopt RACT regulations for major sources of NO_X, unless a waiver pursuant to section 182(f) has been approved.

In Indiana, two areas are classified as moderate ozone nonattainment and above: the Lake and Porter Counties portion of the Chicago severe ozone nonattainment area, and the Clark and Floyd Counties portion of the Louisville moderate ozone nonattainment area. On January 26, 1996, EPA exempted Lake and Porter Counties from section 182(f) RACT requirements because the State adequately demonstrated that the area meets the Act's NO_X exemption criteria (61 FR 2428). No waiver was requested for Clark and Floyd Counties, and, therefore, these counties are subject to the section 182(f) RACT requirement.

On February 7, 1996, the Indiana Air Pollution Control Board (IAPCB) adopted rule 326 IAC 10–1 for Clark and Floyd Counties in accordance with the section 182(f) RACT requirement. Public hearings on the rule were held on November 1, 1995, and February 7, 1996, in Indianapolis, Indiana. The rule was filed with the Secretary of State on May 13, 1996, and became effective on June 12, 1996; it was published in the Indiana State Register on July 1, 1996. The Indiana Department of Environmental Management (IDEM) formally submitted the rule to EPA on August 26, 1996, as a revision to the Indiana ozone SIP. EPA made a finding of completeness of this submittal in a letter dated December 20, 1996. On April 30, 1997, Indiana submitted a negative declaration certifying that, to the best of the State's knowledge, there are no remaining major sources of NO_X in Clark and Floyd Counties which need RACT rules.

II. EPA Requirements

Under section 182(f), major stationary sources of NO_X in Clark and Floyd Counties are subject to the same requirements of section 182(b)(2) as are major stationary sources of VOC. Section 182(b)(2) requires that moderate and above ozone nonattainment areas adopt RACT regulations for VOC source categories covered by a Control Techniques Guidelines (CTG) document, or for major sources of VOC not covered by a CTG.[1] The EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility (44 FR 53762; September 17, 1979). CTGs are documents which provide EPA's recommendation of presumptive RACT for various source categories. EPA, however, has not issued CTGs which address NO_X sources.

On November 25, 1992, EPA published the ''NO_X Supplement to the General Preamble for Implementation of Title I of the Act'' (NO_X Supplement) which provides guidance to the States for meeting NO_X requirements under section 182(f) of the Act (57 FR 55620). Under this document, EPA has established RACT emission limits for electric utility boilers, and has specified that NO_X RACT for other source categories should be set at levels that are comparable to the RACT guidelines set for electric utility boilers.[2]

In addition to the NO_X Supplement, EPA has issued a number of Alternative Control Techniques (ACT) documents for various source categories, which, like CTGs, contain information on control technologies that can be used by the States in developing RACT regulations, but do not establish a presumptive norm for what EPA considers NO_X RACT.

III. Summary of SIP Revision

The August 26, 1996, NO_X RACT SIP submittal contains the following rules:

[1] For moderate ozone nonattainment areas, major sources are defined as sources having the potential to emit 100 or more tons per year of a given air pollutant (*See* section 302(j) of the Act).

[2] The NO_X Supplement also indicates that while EPA's RACT guidance has been largely directed at application within the VOC program, much of this guidance is also applicable to RACT for NO_X sources.

326 Indiana Administrative Code 10: Nitrogen Oxides Rules

Rule 1: Nitrogen Oxides Control in Clark and Floyd Counties.

(1) Applicability
(2) Definitions
(3) Requirements
(4) Emission limits
(5) Compliance procedures
(6) Emissions monitoring
(7) Record keeping, notification, and reporting requirements.

A summary of the rule follows. For the complete requirements of this SIP revision, interested parties should refer to 326 IAC 10–1.

Applicability

Section 1 contains the rule's criteria for applicability. The rule is applicable to any stationary source located in Clark or Floyd Counties that existed on or before the effective date of the rule (June 12, 1996) and has the potential to emit at least 100 tons per year of NO_X.[3] An affected source must apply RACT, as specified under the rule, to any facility at the source that exists on or before June 12, 1996, and has the potential to emit greater than or equal to 40 tons per year of NO_X.[4] NO_X-emitting facilities that existed on or before June 12, 1996, and are subject to NO_X control under a New Source Performance Standard (NSPS) are not subject to this rule. NO_X-emitting facilities which require a permit under 326 IAC 2, are constructed, modified, or reconstructed after June 12, 1996, and are not subject to any NSPS NO_X control requirements shall meet RACT as required by the rule or Best Available Control Technology (BACT), whichever is more stringent. It should be noted that Indiana's NO_X RACT requirements do not exempt facilities from Lowest Available Emission Rate (LAER) and other requirements under the State's New Source Review rule (326 IAC 3–1).

Control Requirements

Section 4 establishes specific control requirements for the following types of facilities at applicable sources:

(1) electric utility boilers[5] with heat input capacity greater than or equal to 250 million British thermal units (Btu) per hour;

(2) ICI boilers[6] with heat input capacity greater than or equal to 100 million Btu per hour;

(3) portland cement long dry kilns with production capacity greater than or equal to 20 tons of clinker per hour;

(4) portland dry preheat process kilns with production capacity greater than or equal to 20 tons of clinker per hour; and

(5) any other type of facility that emits or has the potential to emit NO_X greater than or equal to 40 tons per year.

Under section 4, compliance with the rule may be met through (1) specified emission limits, (2) alternative RACT requirements approved by IDEM and EPA, (3) fuel switching provisions (applicable only to boilers), (4) emissions averaging, or (5) a combination of the above.

Specified Emission Limits (Section 4(b))

Facilities complying by means of section 4(b) shall not exceed the following limits under the rule:

PORTLAND CEMENT PLANTS WITH A CLINKER PRODUCTION CAPACITY GREATER THAN OR EQUAL TO 20 TONS PER HOUR (SECTION 4(b)(1))

Portland cement kiln type	Emission limitation
Long dry kiln	10.8 pounds (lbs) NO_X per ton of clinker produced on an operating day basis, and 6.0 lbs NO_X per ton of clinker produced on a 30 day rolling average basis.[7]
Dry preheater process kiln	5.9 lbs NO_X per ton of clinker produced on an operating day basis, and 4.4 lbs NO_X per ton of clinker produced on a 30 day rolling average basis.

ELECTRIC UTILITY STEAM GENERATING UNITS WITH A HEAT INPUT CAPACITY GREATER THAN OR EQUAL TO 250 MILLION BTU PER HOUR (SECTION 4(b)(2))

Boiler type	Fuel type	Emission limitation lbs NO_X per million Btu input
Wall-fired dry bottom	Pulverized coal	0.5
Wall-fired dry bottom	Distillate oil	0.2
Wall-fired dry bottom	Residual oil	0.3
Wall-fired dry bottom	Gas	0.2

Limits shall be complied with on a 30 day rolling average basis.

[3] NO_X is defined under 326 IAC 10–1–2(15) as all oxides of nitrogen excluding nitrous oxide.

[4] ''Facility'' is defined under 326 IAC 1–2–27 as any one structure, piece of equipment, installation, or operation which emits or has the potential to emit any air contaminant. Single pieces of equipment or installations with multiple emission points are considered a single facility for the purpose of the Indiana rules.

[5] 326 IAC 10–1–2(30) defines ''electric steam generating unit'' as any facility that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 megawatts of electric output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electric energy for sale is also considered in determining the electric energy output capacity of the affected facility.

[6] 326 IAC 10–1–2(13) defines ''industrial, commercial, institutional steam generating unit'' as a device that combusts one or more of a combination of coal, oil, and gas and produces steam or hot water primarily to supply power, heat, or hot water to any industrial, commercial, or institutional operation, including boilers used by electric utilities that are not utility boilers.

[7] 30 day rolling average is defined under 326 IAC 10–2(29) as an emission rate calculated each operating day by averaging all the preceding 30 successive operating days average emission rates.

ICI STEAM GENERATING UNITS WITH A HEAT INPUT CAPACITY GREATER THAN OR EQUAL TO 100 MILLION BTU PER HOUR (SECTION 4(b)(3))

Boiler type	Fuel type	Emission limitation lbs NO_X per million Btu input
Wall-fired dry bottom	Pulverized coal	0.5
Tangentially fired	Pulverized coal	0.4
Spreader stoker	Pulverized coal	0.5
Overfeed stoker	Pulverized coal	0.4
Oil fired	Distillate oil	0.2
Oil fired	Residual oil	0.3
Gas fired	Gas	0.2

Limits shall be complied with on a 3 hour average basis or, if the source has a Continuous Emissions Monitor (CEM), on a 30 day rolling average basis.

For those electric utility or ICI boilers that simultaneously combust a mixture of coal, oil, or gas, the applicable emission limit shall be determined by the following equation:

E = [(A)(E1) + (B)(E2) + (C)(E3)]/(A + B + C)

E = The NO_X limit expressed as lbs NO_X per million Btu.

A = Heat input in million Btu from combustion of coal.

B = Heat input in million Btu from combustion of oil.

C = Heat input in million Btu from combustion of gas.

E1 = Applicable emission limit under this rule for combustion of coal in pounds NO_X per million Btu.

E2 = Applicable emission limit under this rule for combustion of oil in pounds NO_X per million Btu.

E3 = Applicable emission limit under this rule for combustion of gas in pounds NO_X per million Btu.

All other facilities which have the potential to emit at least 40 tons per year of NO_X shall reduce actual NO_X emissions by at least 40% (section 4(b)(5)). The 40% limit shall be complied with on a three hour basis in accordance with section 5, or, if a CEM is installed, limits shall be complied with on a 30 day rolling average basis.

Alternative RACT Requirements (Section 4(c)(1))

Under the rule, affected sources may petition for alternative control requirements based upon a demonstration that compliance with the rule's requirements are technically or economically infeasible. Alternative RACT petitions are subject to IDEM and EPA approval and must have been submitted to IDEM by December 1, 1996. It should be noted that alternative RACT requirements will only become effective upon EPA approving the requirements as a site-specific SIP revision.

Fuel Switching (Section 4(c)(2))

Electric utility and ICI boilers may comply with the rule by switching to a lower NO_X-emitting fuel between May 1 and September 30. Coal-fired boilers can switch to oil, gas, or a combination of oil and gas. Oil-fired boilers can switch to a lower NO_X-emitting oil, gas, or a combination of lower NO_X-emitting oil and gas.

The facility complying by means of fuel switching shall meet both an annual limit and a limit to be met during the fuel-switching period. The fuel-switching period limit is the boiler's applicable emission limit under section 4(b)(2) or 4(b)(3).[8] The annual limit is met by demonstrating that the boiler's actual annual fuel Btu weighted average emissions rate shall not exceed the boiler's applicable emission limit.

Owners or operators complying through fuel switching shall submit to IDEM a fuel switching plan that specifies the following information: boiler type, applicable rule limit, emission rate of and amount of heat derived from each fuel used, period of time during the year in which each fuel shall be used, and monitoring and recordkeeping procedures to be used. Compliance with the annual limit shall be demonstrated using the following equation.

EL = [(E1)(H1) + (E2)(H2) + ...]/(H1 + H2 + ...)

EL = Applicable emission limit, expressed in pounds NO_X per million Btu.

E1, E2,... = Emission rate of alternative fuels 1, 2, etc., expressed in pounds NO_X per million Btu.

H1, H2,... = Amount of heat derived from alternative fuels 1, 2, etc., expressed in million Btu per year.

Emission Averaging (Section 4(c)(3))

Another compliance option under section 4 is through emission averaging between facilities controlled by the same owner and having the same designated representative. The facilities engaging in this compliance option must demonstrate an equivalent or greater NO_X reduction than would be achieved if each facility complied with the applicable emission limit. This demonstration is to be submitted to IDEM in an emission averaging plan, using emission averaging equations and provisions under Title IV federal acid rain rules (40 CFR 76.11) as a guideline. Participating facilities shall use the same compliance averaging time as would be used to comply with the rule's specific emission limits. Boilers which simultaneously combust a mixture of coal, oil, or gas cannot use emissions averaging as a means of compliance. The emission averaging plan must be approved.

Section 4(d) provides that verification of the emission rates used for compliance with either the fuel switching or emissions averaging provisions may be required using the rule's compliance demonstration and testing procedures.

Compliance Demonstration

Under section 6, CEMs are required to be installed at electric utility boilers, ICI boilers (as described in 326 IAC 3), and portland cement kilns regulated under the rule. All other affected facilities are required to install CEMs unless the source demonstrates that CEMs are technically infeasible for one or more facilities, considering the physical configuration and mode of operation of the facility, the magnitude of and variability in NO_X emissions, and the type of control measures employed to achieve compliance.

[8] The applicable emission limit is based on the boiler's combustion type and fuel use during the ''baseline year.'' Baseline year is defined under section 2(4) of the rule as the most recent year prior to the rule's effective date, June 12, 1996, for which available data is complete, accurate, and representative of normal operations.

These CEMs are required under section 6 to meet certification, operating and maintenance procedures, and data recording and reporting procedures contained in 326 IAC 3, Indiana's air monitoring rule, and 40 CFR part 75, EPA's CEM rules, except that the excess emissions which must be reported are those emissions that exceed the applicable emission limits of this rule.

Section 5 provides the requirements for initial and subsequent compliance tests. Initial compliance shall be demonstrated either by using an EPA or IDEM certified CEM, or the test methods and procedures contained in 40 CFR part 60 and 326 IAC 3. After initial compliance is demonstrated, those sources which have installed CEMs shall thereafter demonstrate continuous compliance using the CEMs. In addition, sources with CEMs shall, upon the request of IDEM or EPA, conduct compliance tests using test methods and procedures in 326 IAC 3 and 40 CFR part 60. Affected sources which have not installed CEMs shall conduct compliance testing using test methods and procedures in 326 IAC 3 and 40 CFR part 60, upon request of IDEM or EPA.

Recordkeeping and Reporting

Under section 7 of the rule, affected sources must submit to IDEM certification of compliance from the owner or operator, emission compliance test reports, and CEM system performance evaluation reports. In addition, a source subject to the rule must notify IDEM at least 30 days prior to the addition or modification of a facility that may result in a potential increase in NO_X emissions. Any records required under this rule must be maintained for three years, and shall be submitted to IDEM or EPA within thirty days of a written request.

IV. EPA Analysis of Submittal

EPA reviewed the August 26, 1996, NO_X RACT SIP revision submittal for consistency with the Act, EPA regulations, and EPA policy. EPA finds that the rule adequately requires NO_X RACT for electric utility boilers, ICI boilers, and portland cement plants. Under EPA policy, NO_X RACT submittals can be approved where all known major NO_X sources are covered under either source-specific or source-category-specific rules, and the State submits a negative declaration that to its best knowledge, there are no remaining unregulated sources (see the November 7, 1996, EPA memorandum, ''Approval Options for Generic RACT Rules Submitted to Meet the non-CTG VOC RACT Requirement and Certain NO_X RACT Requirements''). Since there are only two known major sources of NO_X in Clark and Floyd Counties, an electric utility plant and a portland cement plant, Indiana's rule contains sufficient RACT requirements. In addition, an April 30, 1997, negative declaration has been submitted by Indiana certifying that, to the best of the State's knowledge, there are no remaining major sources of NO_X existing in Clark and Floyd Counties which need RACT rules. The EPA, therefore, finds the submittal satisfies the NO_X RACT requirements of section 182(f) of the Act for Clark and Floyd Counties. EPA is also approving the April 30, 1997, negative declaration as a revision to the SIP. A more detailed discussion of EPA's review and analysis of the submittal is contained in EPA's Technical Support Document (TSD) for this rulemaking, available from the EPA Region 5 office.

V. Final Action

The EPA is approving Indiana's NO_X RACT rule for Clark and Floyd Counties, 326 IAC 10–1, as submitted on August 26, 1996, as a revision to the ozone SIP. EPA is also approving the April 30, 1997, negative declaration.

The EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision 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 on August 4, 1997 unless, by July 3, 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 rulemaking that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a 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 on August 4, 1997.

Nothing in this action should be construed as permitting, 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.

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 D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility

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

SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, 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 Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *EPA*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. § 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must undertake various actions in association with 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. 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 the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 4, 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, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: May 7, 1997.

Valdas V. Adamkus,

Regional Administrator.

For the reasons stated in the preamble, 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.

2. Section 52.770 is amended by adding paragraph (c)(120) to read as follows:

§ 52.770 Identification of Plan.

* * * * *

(c) * * *

(120) On August 26, 1996, Indiana submitted a rule requiring an oxides of nitrogen (NO_X) reasonably available control technology (RACT) rule for the Clark and Floyd Counties moderate ozone nonattainment area as a revision to the State Implementation Plan.

(i) Incorporation by reference. 326 Indiana Administrative Code 10: Nitrogen Oxides Rules. Rule 1: Nitrogen Oxides Control in Clark and Floyd Counties. Section 1: Applicability, Section 2: Definitions, Section 3: Requirements, Section 4: Emission limits, Section 5: Compliance procedures, Section 6: Emissions monitoring, and Section 7: Certification, record keeping, and reports. Adopted by the Indiana Air Pollution Control Board February 7, 1996. Filed with the Secretary of State May 13, 1996. Published at Indiana Register, Volume 19, Number 10, July 1, 1996. Effective June 12, 1996.

3. Section 52.777 is amended by adding paragraph (p) to read as follows:

§ 52.777 Control strategy: Photochemical oxidants (hydrocarbon).

* * *

(p) On August 26, 1996, Indiana submitted a rule for the purpose of meeting oxides of nitrogen (NO_X) reasonably available control technology (RACT) requirements under section 182(f) of the Clean Air Act (Act) for the Clark and Floyd Counties moderate ozone nonattainment area. The rule's NO_X control requirements meets RACT for major sources of portland cement kilns, electric utility boilers, and industrial, commercial, or institutional boilers. In addition, on April 30, 1997, Indiana certified to the satisfaction of the United States Environmental Protection Agency that, to the best of the State's knowledge, there are no remaining major sources of NO_X in Clark and Floyd Counties which need RACT rules. Indiana, therefore, has satisfied the NO_X RACT requirements under section 182(f) of the Act for the Clark and Floyd Counties ozone nonattainment area.

[FR Doc. 97–14437 Filed 6–2–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–5833–6]

National Emission Standards for Hazardous Air Pollutants; Final Standards for Hazardous Air Pollutant Emissions From Wood Furniture Manufacturing Operations; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This action corrects errors and clarifies regulatory text in the National Emission Standards for Hazardous Air Pollutants; Final Standards for Hazardous Air Pollutant Emissions from Wood Furniture Manufacturing Operations which was promulgated in the **Federal Register** on December 7, 1995 (60 FR 62930).

EFFECTIVE DATE: June 3, 1997.

FOR FURTHER INFORMATION CONTACT: For information concerning today's notice, contact Mr. Paul Almodovar, Coatings and Consumer Products Group, Emission Standards Division (MD–13), U.S. EPA, Research Triangle Park, NC 27711; telephone (919) 541–0283. For information regarding the applicability of this action to a particular entity, contact Mr. Robert Marshall, Manufacturing Branch, Office of Compliance, (2223A), U.S. EPA, 401 M Street, SW, Washington, DC 20460; telephone (202) 564–7021.

SUPPLEMENTARY INFORMATION:

Regulated Entities. Entities potentially affected by this action are owners or operators of facilities that are engaged, either in part or in whole, in wood furniture manufacturing operations and that are major sources as defined in 40 CFR Part 63, subpart A, section 63.2. Regulated categories include:

Category	Examples of regulated entities
Industry	Facilities which are major sources of hazardous air pollutants and manufacture wood furniture or wood furniture components.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities that the EPA is now aware potentially could be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility (company, business, organization, etc.) is regulated by this action, you should carefully examine the applicability criteria in section 63.800 of the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Wood Furniture Manufacturing Operations that was promulgated in the **Federal Register** on December 7, 1995 (60 FR 62930) and codified at 40 CFR Part 63, subpart JJ. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

The information presented below is organized as follows:

I. Background

On December 7, 1995 (60 FR 62930), the EPA promulgated the NESHAP for Wood Furniture Manufacturing Operations. These standards were codified as subpart JJ in 40 CFR Part 63. This action contains corrections to the final standards. These corrections clarify the applicability of the final rule and several definitions, and correct cross-references and table entries.

By issuing these corrections directly as a final rule, the EPA is foregoing the issuance of a Notice of Proposed Rulemaking (NPRM) and the opportunity for public comment. Such a curtailed procedure is permitted by section 553(b) of the Administrative Procedure Act, 5 U.S.C. § 553(b), and section 307(d) of the Clean Air Act (CAA), 42 U.S.C. § 7607(d), when issuance of a proposal and public comments would be impracticable, unnecessary, or contrary to the public interest. The EPA is publishing this action without prior proposal because these are non-controversial changes that clarify and correct the final rule. The EPA finds that this constitutes good cause under 5 U.S.C. § 553(b) for a determination that the issuance of an NPRM is unnecessary. Moreover, since today's action does not create any new regulatory requirements, the EPA finds that good cause exists to provide for an immediate effective date.

II. Summary of and Rationale for Rule Corrections

A. Applicability

Paragraph (a) of section 63.800 of 40 CFR Part 63, subpart JJ is revised by replacing the word ''criteria'' with ''definition,'' and the phrase ''incidental furniture manufacturer'' with ''incidental wood furniture manufacturer.'' These changes are being made to correct editorial errors in order to clarify the applicability of the final rule.

Paragraph (b) of section 63.800 of 40 CFR Part 63, subpart JJ is revised by replacing the phrase ''finishing materials, adhesives, cleaning solvents and washoff solvents'' with ''finishing materials, adhesives, cleaning solvents and washoff solvents used for wood furniture and wood furniture component manufacturing operations.'' This change is being made in response to comments from small metal furniture manufacturers who use many of these same materials to manufacture both metal and wood furniture. The change clarifies the EPA's intent that this provision be used for determining what percentage of a facility's hazardous air pollutant (HAP) emissions are generated by these listed materials used in making wood furniture and wood furniture components. Facilities qualify for an exemption from the requirements of the wood furniture NESHAP if their usage of these materials for wood furniture or wood furniture components manufacturing operations is below the cutoff levels and at least 90 percent of their annual HAP emissions are from materials used in wood furniture or wood furniture components manufacturing.

Paragraph (b)(3) of 40 CFR Part 63, subpart JJ, section 63.800 is revised to replace the phrase ''uses materials containing no more than'' with ''emits no more than.'' The criterion in this paragraph for area source designation under this subpart is the amount of HAP emitted annually, not the amount used annually.

B. Definitions

The EPA has determined that several definitions should be revised either to correct errors that were in section 63.801, or to reflect additional information submitted to the EPA after promulgation of the final rule, or to further clarify issues that have been raised since promulgation of the final rule.

The EPA has revised the definition of ''certified product data sheet (CPDS)'' by adding the concentration levels at which volatile hazardous air pollutants (VHAP) compounds must be reported. This change is in response to concerns raised by industry suppliers. This revision will allow suppliers furnishing CPDS to the industry to easily identify which VHAP compounds must be reported on the CPDS.

The EPA has revised the definition of ''coating'' by adding a sentence that states, ''Aerosol spray paints used for touchup and repair are not considered coatings under this subpart.'' This change clarifies the EPA's intent not to regulate these types of coatings at this time due to their low usage for touch up and repairs in wood furniture manufacturing operations. In addition, there is concern from industry representatives that it would be difficult to purchase or reformulate aerosol spray paints that meet the limits specified in the standards.

The reference to Table b in the definition of ''VHAP of potential concern'' under section 63.801 of this subpart has been corrected. The definition references ''Table b of this subpart,'' but should reference ''Table 6 of this subpart.''

C. Tables

Two entries in Table 3 ''Summary of Emission Limits'' have been revised. Under the Finishing Operations listing, the term VHAP has replaced the term HAP both in item (b) and also in footnote b to Table 3. This change was made because the percent component of VHAP is the component of interest for this NESHAP.

III. Administrative Requirements

A. Docket

The docket is an organized and complete file of all of the information submitted to, or otherwise considered by, the EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public to readily identify and locate documents to enable them to participate effectively in the rulemaking process. The contents of the docket serve as the record in case of judicial review (except for interagency review materials) (section 307(d)(7)(A) of the CAA, 42 U.S.C. § 7607(d)(7)(A)).

B. Paperwork Reduction Act

There are no additional information collection requirements contained in this correction to the final rule. Therefore, approval under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, is not required.

C. Executive Order 12866

Under Executive Order 12866, the EPA is required to determine whether a regulation is ''significant'' and therefore subject to Office of Management and Budget review and the requirements of this Executive Order to prepare a regulatory impact analysis. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may (1) have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or

planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this action is not a ''significant regulatory action'' within the meaning of the Executive Order, because it only provides technical corrections to the existing NESHAP.

D. Regulatory Flexibility Act

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities. This correction notice makes clarifying amendments to the Wood Furniture Manufacturing Operations NESHAP, including applicability, definitions, and summary table corrections. These amendments will not place any additional requirements on any entity affected by this rule, including small entities. Therefore, these amendments will not have a significant impact on a substantial number of small entities. Consequently, a regulatory flexibility analysis is not required and has not been prepared.

E. Regulatory Review

In accordance with sections 112(d)(6) and 112(f)(2) of the CAA, this regulation will be reviewed within 8 years of the date of promulgation. This review may include an assessment of such factors as evaluation of the residual health risk, any overlap with other programs, the existence of alternative methods of control, enforceability, improvements in emission control technology and health data, and recordkeeping and reporting requirements.

F. Unfunded Mandates Act

The economic impact analysis performed for the original rule showed that the economic impacts from implementation of the promulgated standards would not be ''significant'' as defined in Executive Order 12866. No changes are being made in these amendments that would increase the economic impacts. The EPA prepared the following statement of the impact of the original rule in response to the requirements of the Unfunded Mandates Reform Act.

There are no Federal funds available to assist State, local, and Tribal governments in meeting these costs. There are important benefits from volatile organic compounds and HAP emission reductions because these compounds have significant, adverse impacts on human health and welfare, and on the environment. The rule does not have any disproportionate budgetary effects on any particular region of the nation, State, local, or Tribal government, or urban, rural, or other type of community. On the contrary, the rule will result in only a minimal increase in the average product rates (less than 1 percent). Moreover, the rule will not have a material effect on the national economy.

Throughout the regulatory negotiation process prior to issuing the final rule on December 7, 1995, the EPA provided numerous opportunities for consultations with interested parties (e.g., public comment period; opportunity for a public hearing (none was requested); meetings with industry, trade associations, State and local air pollution control agency representatives, environmental groups, State, local, and Tribal governments, and concerned citizens). Although small governments are not significantly or uniquely affected by this rule, these procedures, as well as additional public conferences and meetings, gave small governments an opportunity to give meaningful and timely input and obtain information, education, and advice on compliance.

Prior to the promulgation of the rule in 1995, the EPA considered several regulatory options. The final rule represents the least costly and least burdensome alternatives currently available for achieving the objectives of section 112 of the CAA. All of the regulatory options selected are based on pollution prevention measures. Finally, after careful consideration of the costs, the environmental impacts, and the comments, the EPA decided that the MACT floor was the appropriate level of control for this regulation.

G. 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. 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).

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements, Wood furniture manufacturing.

Dated: May 19, 1997.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

For the reasons set out in the preamble, Title 40, Chapter I of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart JJ—National Emission Standards for Wood Furniture Manufacturing Operations

2. Section 63.800 is amended by revising paragraph (a) and the first sentence of paragraphs (b) introductory text and (b)(3) to read as follows:

§ 63.800 Applicability.

(a) The affected source to which this subpart applies is each facility that is engaged, either in part or in whole, in the manufacture of wood furniture or wood furniture components and that is located at a plant site that is a major source as defined in 40 CFR part 63, subpart A, § 63.2. The owner or operator of a source that meets the definition for an incidental wood furniture manufacturer shall maintain purchase or usage records demonstrating that the source meets the definition in § 63.801 of this subpart, but the source shall not be subject to any other provisions of this subpart.

(b) A source that complies with the limits and criteria specified in paragraphs (b)(1), (b)(2), or (b)(3) of this section is an area source for the purposes of this subpart and is not subject to any other provision of this rule, provided that: In the case of paragraphs (b)(1) and (b)(2), finishing materials, adhesives, cleaning solvents and washoff solvents used for wood furniture or wood furniture component manufacturing operations account for at least 90 percent of annual HAP emissions at the plant site, and if the plant site has HAP emissions that do not originate from the listed materials, the owner or operator shall keep any records necessary to demonstrate that the 90 percent criterion is being met. * * *

* * * * *

(3) The source emits no more than 4.5 Mg (5 tons) of any one HAP per rolling 12-month period and no more than 11.4 Mg (12.5 tons) of any combination of HAP per rolling 12-month period, and at least 90 percent of the plantwide emissions per rolling 12-month period are associated with the manufacture of wood furniture or wood furniture components.

* * * * *

3. Section 63.801 is amended by revising the definitions for ''certified product data sheet,'' ''coating,'' and ''VHAP of potential concern'' to read as follows:

§ 63.801 Definitions.

* * * * *

Certified product data sheet(CPDS) means documentation furnished by coating or adhesive suppliers or an outside laboratory that provides:

(1) The VHAP content of a finishing material, contact adhesive, or solvent, by percent weight, measured using the EPA Method 311 (as promulgated in this subpart), or an equivalent or alternative method (or formulation data if the coating meets the criteria specified in § 63.805(a));

(2) The solids content of a finishing material or contact adhesive by percent weight, determined using data from the EPA Method 24, or an alternative or equivalent method (or formulation data if the coating meets the criteria specified in § 63.805 (a)); and

(3) The density, measured by EPA Method 24 or an alternative or equivalent method. Therefore, the reportable VHAP content shall represent the maximum aggregate emissions potential of the finishing material, adhesive, or solvent in concentrations greater than or equal to 1.0 percent by weight or 0.1 percent for VHAP that are carcinogens, as defined by the Occupational Safety and Health Administration Hazard Communication Standard (29 CFR part 1910), as formulated. Only VHAP present in concentrations greater than or equal to 1.0 percent by weight, or 0.1 percent for VHAP that are carcinogens, must be reported on the CPDS. The purpose of the CPDS is to assist the affected source in demonstrating compliance with the emission limitations presented in § 63.802.* * *

* * * * *

Coating means a protective, decorative, or functional film applied in a thin layer to a surface. Such materials include, but are not limited to, paints, topcoats, varnishes, sealers, stains, washcoats, basecoats, enamels, inks, and temporary protective coatings. Aerosol spray paints used for touch-up and repair are not considered coatings under this subpart.

* * * * *

VHAP of potential concern means any VHAP from the nonthreshold, high concern, or unrankable list in Table 6 of this subpart.

* * * * *

4. Table 3 to subpart JJ is amended by revising the last line under item (b) and footnote b as follows:

TABLE 3—SUMMARY OF EMISSION LIMITS

* * * * *

(b) * * *

—thinners (maximum percent VHAP allowable); or * * *

* * * * *

[b] Washcoats, basecoats, and enamels must comply with the limits presented in this table if they are purchased premade, that is, if they are not formulated on site by thinning other finishing materials. If they are formulated onsite, they must be formulated using compliant finishing materials, i.e., those that meet the limits specified in this table, and thinners containing no more than 3.0 percent VHAP by weight.

* * * * *

[FR Doc. 97–14446 Filed 6–2–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–5834–4]

Regulations of Fuels and Fuel Additives: Extension of the Reformulated Gasoline Program to the Phoenix, Arizona Moderate Ozone Nonattainment Area

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

ACTION: Final rule.

SUMMARY: Under section 211(k)(6) of the Clean Air Act, as amended (''Act'' or ''CAA''), the Administrator of EPA must require the sale of reformulated gasoline (''RFG'') in an ozone nonattainment area classified as Marginal, Moderate, Serious, or Severe upon the application of the governor of the state in which the nonattainment area is located. As requested by the Governor of Arizona, today's action extends the requirement to sell RFG to the Phoenix, Arizona moderate ozone nonattainment area, effective July 3, 1997 for all persons other than retailers and wholesale purchaser-consumers (*i.e.*, refiners, importers, and distributors), and August 4, 1997 for retailers and wholesale purchaser-consumers. As of the implementation date for retailers and wholesale purchaser-consumers, the Phoenix ozone nonattainment area will be a covered area for all purposes in the federal RFG program. The federal Phase I RFG program provides reductions in ozone-forming volatile organic compounds (''VOC'') emissions and air toxics, and prohibits increase in oxides of nitrogen (''NO_X'') emissions. Reductions in VOCs are environmentally significant because of the associated reductions in ozone formation. Exposure to ground-level ozone (or smog) can cause respiratory problems, chest pain, and coughing and may worsen bronchitis, emphysema, and asthma.

DATES: This final rule is effective July 3, 1997.

ADDRESSES: Materials relevant to the final rule have been placed in Docket A–97–02. The docket is located at the Air Docket Section, Mail Code 6102, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, in room M–1500 Waterside Mall. Documents may be inspected on business days from 8:00 a.m. to 5:30 p.m. A reasonable fee may be charged for copying docket material. An identical docket is also located in EPA's Region IX office in Docket A–AZ–97. The docket is located at 75 Hawthorne Street, AIR–2, 17th Floor, San Francisco, California 94105. Documents may be inspected from 9:00 a.m. to noon and from 1:00—4:00 p.m. A reasonable fee may be charged for copying docket material.

FOR FURTHER INFORMATION CONTACT: Janice Raburn at U.S. Environmental Protection Agency Office of Air and Radiation, 401 M Street, SW (6406J), Washington, DC 20460, (202) 233–9856.

SUPPLEMENTARY INFORMATION:

Availability on the TTNBBS

The preamble, regulatory language and regulatory support document are also available electronically from the EPA Internet Web site and via dial-up modem on the Technology Transfer Network (TTN), which is an electronic bulletin board system (BBS) operated by EPA's Office of Air Quality Planning and Standards. Both services are free of charge, except for your existing cost of Internet connectivity or the cost of the phone call to TTN. Users are able to access and download files on their first call using a personal computer per the following information. The official **Federal Register** version is made available on the day of publication on the primary Internet sites listed below. The EPA Office of Mobile Sources also publishes these notices on the

secondary Web site listed below and on the TTN BBS.

Internet (Web)

http://www.epa.gov/docs/fedrgstr/EPA–AIR/
(either select desired date or use Search feature)
http://www.epa.gov/OMSWWW/
(look in What's New or under the specific rulemaking topic)

TTN BBS: 919–541–5742

(1200–14400 bps, no parity, 8 data bits, 1 stop bit)
Voice Help line: 919–541–5384
Off-line: Mondays from 8:00 AM to 12:00 Noon ET

A user who has not called TTN previously will first be required to answer some basic informational questions for registration purposes. After completing the registration process, proceed through the following menu choices from the Top Menu to access information on this rulemaking.

<T> Gateway to TTN Technical Areas (Bulletin Boards)
<M> OMS—Mobile Sources Information
(Alerts display a chronological list of recent documents) <K> Rulemaking & Reporting

At this point, choose the topic (e.g., Fuels) and subtopic (e.g., Reformulated Gasoline) of the rulemaking, and the system will list all available files in the chosen category in date order with brief descriptions. To download a file, type the letter ''D'' and hit your Enter key. Then select a transfer protocol that is supported by the terminal software on your own computer, and pick the appropriate command in your own software to receive the file using that same protocol. After getting the files you want onto your computer, you can quit the TTN BBS with the <G>oodbye command.

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

Regulated Entities

Entities potentially regulated by this action are those which produce, supply or distribute motor gasoline. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Petroleum refiners, motor gasoline distributors and retailers.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your business would have been regulated by this action, you should carefully examine the list of areas covered by the reformulated gasoline program in section 80.70 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

The remainder of this preamble is organized into the following sections:

I. Background

A. Clean Air Act Opt-in Provision

As part of the Clean Air Act Amendments of 1990, Congress added a new subsection (k) to section 211 of the Act. Subsection (k) requires the sale of gasoline that EPA has certified as reformulated in the nine worst ozone nonattainment areas beginning January 1, 1995. Section 211(k)(10)(D) defines the areas required to be covered by the reformulated gasoline (''RFG'') program as the nine ozone nonattainment areas having a 1980 population in excess of 250,000 and having the highest ozone design values during the period 1987 through 1989.[1] Under section 211(k)(10)(D), any area reclassified as a severe ozone nonattainment area under section 181(b) must also be included in the RFG program.[2] EPA published final regulations for the RFG program on February 16, 1994. See 59 FR 7716.

Any ozone nonattainment area classified as Marginal, Moderate, Serious, or Severe may be included in the program at the request of the Governor of the state in which the area is located. Section 211(k)(6)(A) provides that upon the application of a Governor, EPA shall apply the prohibition against selling conventional gasoline (''CG'') in any area requested by the Governor which has been classified under subpart 2 of Part D of Title I of the Act as a Marginal, Moderate, Serious or Severe ozone nonattainment area.[3] Subparagraph 211(k)(6)(A) further provides that EPA is to apply the prohibition as of the date the Administrator ''deems appropriate, not later than January 1, 1995, or 1 year after such application is received, whichever is later.'' In some cases the effective date for a potential opt-in area may be extended beyond the one year required by section 211(k)(6)(A). Such an extension, as provided in section 211(k)(6)(B), would be based on a determination by EPA that there is ''insufficient domestic capacity to produce'' RFG. Finally, section 211(k)(6)(A) requires that EPA publish a governor's application in the **Federal Register**.

Although section 211(k)(6) provides EPA discretion to establish the effective date for this prohibition to apply to such areas, EPA does not have discretion to deny a Governor's request. Therefore, the scope of EPA's Notice of Proposed Rulemaking (''NPRM'') was limited to proposing an effective date for Phoenix's opt-in to the RFG program. EPA solicited comments addressing the proposed implementation date and stated in the NPRM that it was not soliciting comments that supported or opposed Phoenix participating in the RFG program.

B. EPA Procedures and Arizona Opt-in Request

The Governor of Arizona established in May 1996 an Air Quality Strategies Task Force (''Arizona Task Force'') to develop a report describing long- and short-term strategies that would contribute to attainment of the federal national ambient air quality standards (''NAAQS'') for ozone, carbon monoxide and particulates. In July 1996, this task

[1] Applying these criteria, EPA has determined the nine covered areas to be the metropolitan areas including Los Angeles, Houston, New York City, Baltimore, Chicago, San Diego, Philadelphia, Hartford and Milwaukee.

[2] Sacramento was reclassified from Serious to Severe effective June 1, 1995 and became a mandatory covered RFG area effective June 1, 1996.

[3] EPA recently published a proposed rulemaking that would allow areas previously classified as Marginal through Severe to opt-in. 62 FR 15074 (March 28, 1997).

force recommended establishment of a Fuels Subcommittee to evaluate potential short-term and long-term fuels options for the Phoenix ozone nonattainment area. The Fuels Subcommittee was composed of representatives of a diverse mixture of interests including gasoline-related industries, public health organizations, and both in-county and out-of-county interests. Several members of the refining industry supported the opt-in to the federal RFG program for Phoenix for the onset of the 1997 VOC control season. The subcommittee submitted its final report to the Arizona Task Force on November 26, 1996.[4]

By letter dated January 17, 1997, the Governor of the State of Arizona applied to EPA to include the Phoenix moderate ozone nonattainment area in the federal RFG program. The Governor requested an implementation date of June 1, 1997. EPA published the Governor's letter in the **Federal Register**, as required by section 211(k)(6). The Direct Final rule published by EPA on February 18, 1997 (62 FR 7164) extended the RFG program to the Phoenix moderate ozone nonattainment area by setting two implementation dates. EPA set an effective date of June 1, 1997 for refiners, importers, and distributors, and July 1, 1997 for retailers and wholesale purchaser-consumers. The Agency published a Direct Final Rule because it viewed setting the effective date for the addition of the Phoenix ozone nonattainment area to the federal RFG program as non-controversial and anticipated no adverse or critical comments.

Also on February 18, 1997 EPA published an NPRM (62 FR 7197), in which EPA proposed to apply the prohibitions of subsection 211(k)(5) to the Phoenix, Arizona nonattainment area. EPA proposed to adopt the same two implementation dates for Phoenix specified in the Direct Final Rule. EPA published an NPRM so that, in the event that it did receive an adverse comment in response to the Direct Final Rule, the Agency would proceed with notice-and-comment rulemaking. EPA is today taking final action on that NPRM.

After publication of the Direct Final Rule and the NPRM, EPA received several requests for a hearing. A copy of these comments can be found in Air Docket A–97–02. (See **ADDRESSES**) Since EPA received a request for a hearing, the Direct Final Rule adding the Phoenix ozone nonattainment area to the RFG program was withdrawn by the Administrator on March 31, 1997. *See* 62 FR 16082 (April 4, 1997.) EPA published a Notice of public hearing on March 12, 1997 (62 FR 11405) and held a public hearing in Phoenix, Arizona on March 18, 1997.

[4] *See* Docket A–97–02, II–A–3.

II. Action

Pursuant to the governor's letter and the provisions of section 211(k)(6), EPA is today adopting regulations that apply the prohibitions of subsection 211(k)(5) to the Phoenix, Arizona moderate ozone nonattainment area. EPA believes the implementation dates adopted today achieve a reasonable balance between requiring the earliest possible start date to achieve air quality benefits in Phoenix and providing adequate lead time for industry to prepare for program implementation. These dates are consistent with the state's request that EPA require that the RFG program begin in the Phoenix area as early as possible in the high ozone season, which begins June 1. These dates will provide environmental benefits by allowing Phoenix to achieve VOC reduction benefits for some of the 1997 VOC-controlled season.

EPA has concluded, based on its analysis of available information, including public comments received and discussed below (See III. Response to Comments), that the refining and distribution industry's capacity to supply federal RFG to Phoenix this summer exceeds the estimated demand. EPA has also concluded that the implementation dates adopted today provide adequate lead time to industry to set up storage and sales agreements to ensure supply of RFG to the Phoenix ozone nonattainment area.

The Governor's request seeks a single implementation date of June 1 for the RFG program in the Phoenix area. However, pursuant to its discretion to set an effective date under section 211(k)(6), EPA is establishing two implementation dates. For all persons other than retailers and wholesale purchaser-consumers (*i.e.*, refiners, importers, and distributors), implementation shall take effect on the effective date of this rule, July 3, 1997. This date applies to the refinery level and all other points in the distribution system other than the retail level. For retailers and wholesale purchaser-consumers, implementation shall take effect 30 days *after* the effective date of this rule, August 4, 1997. As of the implementation date for retailers and wholesale purchaser-consumers, the Phoenix ozone nonattainment area will be treated as a covered area for all purposes of the federal RFG program.

III. Response to Comments

A. EPA Interpretation of Section 211(k)(6) of the Clean Air Act

Several parties noted that EPA would be setting a precedent for future opt-ins by the criteria it uses to determine an appropriate effective date for the Phoenix opt-in. They noted that the decision would have a national impact and asked for assurance from EPA that it would apply these criteria uniformly. One commenter stated that the compliance date set for the first opt-in requests allowed refiners many months to set up the systems and organizations necessary to comply with the rules. This timing provided industry with the certainty it needed to make informed compliance decisions and the time it needed to implement the required changes either in the production of different fuels or in the administrative requirements for compliance. The commenter said that EPA had never contemplated such a rapid opt-in process as the one proposed for Phoenix and recommended that EPA avoid setting an undesirable precedent.

The Arizona opt-in request is the first request EPA has received since the federal RFG program began in January 1995.[5] Previous opt-in requests were sent in from two to three and a half years before January 1, 1995. Section 211(k)(6)(A) authorizes EPA to set an effective date for an area's opt-in that is no later than one year from the date of the request, or January 1, 1995, whichever is later. In the case of these early opt-in requests, January 1, 1995, was later than one year from the date of the requests. Therefore, EPA set an effective date of January 1, 1995, for those areas to opt-in. EPA received one opt-in request shortly before the federal RFG program began. For that request, EPA set an effective date of June 1, 1995, less than one year from the Governor's opt-in request.[6]

[5] Voluntarily covered federal RFG areas (''opt-in'' areas) currently exist in twelve States and the District of Columbia. Each of these areas submitted opt-in requests (a letter from the State Governor to the EPA Administrator) between June 1991 and October 1992. EPA responded to these requests to set an effective date under section 211(k)(6)(A) of the CAA by (1) publishing a ''Notice of Application for the Extension of the RFG program'' in which EPA set an effective date of January 1, 1995, the date when the federal RFG program was required to begin; and (2) including these areas as ''covered areas'' under 40 CFR section 80.70(j) in the Final Rule for Standards for Reformulated and Conventional Gasoline 59 FR 7716, 7852 (February 16, 1994), as amended at 59 FR 36944, 36964 (July 20, 1994).

[6] The Governor of Wisconsin requested to opt-in some areas in April 1994; in August 1994, the Governor requested the effective date of June 1995. EPA published a Direct Final Rule on January 11, 1995 (60 FR 2693) setting June 1, 1995 as the

EPA recognizes that each ozone nonattainment area that submits an opt-in request will have a unique set of circumstances that has led the State to select federal RFG as a control measure. Section 211(k)(6)(A) of the Act gives the Administrator discretion to ''establish an effective date * * * as he deems appropriate* * *.'' EPA interprets this provision to mean that it has broad discretion to consider any factors reasonably relevant to the timing of the effective date. This would include factors that affect industry and the potential opt-in area. The factors that affect industry could include productive capacity and capability, other markets for RFG, oxygenate supply, cost, lead time, supply logistics for the area, potential price spikes, and potential disruption to business. The circumstances of the potential opt-in area could include environmental benefits and the timing of such benefits; amount and types of reductions it needs; and effects of transport, geography, climate, and weather patterns on air quality. EPA will review each opt-in request and the particular facts pertaining to the potential opt-in area and the suppliers for that area to determine the appropriate implementation date. EPA believes that Phoenix is an ozone nonattainment area in extraordinary circumstances. (See discussion in III.B.1. below.) Thus, at the request of the Arizona Governor, EPA has reviewed this opt-in request as expeditiously as possible. EPA has provided the flexibility refiners need to meet the effective date by providing enforcement relief for several implementation issues. (See discussion in III.C. below.)

Some commenters were concerned that EPA viewed its scope of review for the Phoenix opt-in too narrowly. They suggested that EPA should consider all issues relevant to a successful and orderly implementation.[7] One commenter argued that the Arizona Governor made four requests in his January 17, 1997 letter and that EPA should consider all these requests together: that EPA set an effective date for Phoenix to opt-in to federal RFG; that EPA grant two waivers under section 211(c)(4)(C) of the Act from EPA, one for a state Reid vapor pressure (''RVP'') standard of 7.0 pounds per square inch (''psi'') and one for a state wintertime oxygenated fuel standard; and that EPA allow Phoenix to opt-out of federal RFG.[8] The commenter asked that EPA justify its decision to address opt-in first and separated from these other requests.

EPA interprets the Governor's January 17 letter as a request to opt-in to federal RFG. The first paragraph of the letter states that the purpose of the letter is to request that EPA require federal RFG to be supplied to the Phoenix ozone nonattainment area beginning June 1, 1997. In addition, the fact that the Governor's letter requesting to opt-in to RFG raises other issues on which EPA action may be pending does not require EPA to resolve those issues in conjunction with the Agency's action on the opt-in request.

The Governor's letter includes references to the pending RVP and oxygenated fuels standards waivers, but these references simply seek expeditious approval of these previously submitted waiver requests. EPA's Region 9 is currently considering these 211(c)(4)(C) waiver requests.[9]

Commenters stated that in determining an appropriate effective date EPA should consider the capacity to supply both RFG and low RVP gasoline. Commenters argued that EPA should address the RVP waiver request and the timing of the waiver decision, and acknowledge the impact on refiners. EPA has considered the effect of a state 7.0 psi RVP program on timing and supply for federal RFG. While refiners stated that they need to know exactly what the fuel specifications are going to be, EPA received comments from refiners stating that they could supply RFG to Phoenix without having a final 7.0 psi RVP waiver preemption in place. EPA acknowledges the importance for refiners to know what all the specifications will be for Phoenix gasoline. EPA also acknowledges that until EPA waives preemption for a state 7.0 psi RVP standard under section 211(c)(4)(C), Arizona is preempted from enforcing that standard. Nonetheless, the waiver of preemption is a separate action. If EPA waives preemption and refiners need some transition time, because the RVP program would be a state program, Arizona would have authority to provide the appropriate transition time.

Regarding the wintertime oxygenated fuel waiver request, the state has not yet submitted the documentation for this request. When it does, Region 9 will address it in a timely manner. Regarding Arizona's potential opt-out, EPA does not consider the January 17 letter to be an opt-out request. While the Governor asked for clarification of EPA opt-out procedures, he did not request to opt-out; he did not ask EPA to set an opt-out effective date or discuss any of the criteria required in the Opt-Out Procedures Rule.[10] The Governor simply made a statement of current intent to submit an opt-out request if a certain condition exists. That is, if Arizona were to decide that a different fuel would better meet its needs, the Governor would submit an opt-out request by December 31, 1997.[11]

Several commenters believe EPA should consider the Governor's statement of intent to opt-out in the future in setting the effective opt-in date. Given that EPA has not received from Arizona an opt-out request and thus no request for a particular opt-out effective date, EPA cannot determine what effect, if any, a potential opt-out would have on supply as of the opt-in effective date. While EPA is concerned with potential supply disruptions and uncertainty for the regulated community that could result with cyclic state opt-in and opt-out, the CAA allows states to determine which control measures for meeting federal air quality standards are most appropriate and best meet their needs.[12] In addition, the Opt-out Procedures Rule provides a process a state must follow to petition for removal from the program, the criteria used by EPA to evaluate a request, and the necessary transition period before the opt-out becomes effective.[13]

effective date. Wisconsin subsequently withdrew its opt-in request by letter dated March 31, 1995 and EPA published a Notice to Withdraw Final Rule on May 3, 1995 (60 FR 21724).

[7] EPA stated in the Notice of public hearing (62 FR 16082 (March 12, 1997)) that comments regarding Arizona's decision to opt-in to federal RFG; EPA opt-out procedures; the Arizona Reid vapor pressure (RVP) waiver; and enforcement issues would not be relevant to the limited scope of the opt-in rulemaking. EPA has discussed the RVP waiver and enforcement issues, to the extent that they are relevant to setting the effective date, in the preamble to today's final rule.

[8] *See* Docket A–97–02, II–D–1.

[9] The Arizona Department of Environmental Quality (''ADEQ'') re-submitted a formal request, (a SIP Revision with supporting documentation) for the RVP waiver by letter dated April 29, 1997 to Region 9. A copy of this letter (without attachments) is in Docket A–97–02, IV–D. A copy of the letter (with attachments) can be found in the Region 9 Docket for this rulemaking (A–AZ–97) and the Region 9 Docket for the RVP Waiver (AZ–RVP–97).

[10] 61 FR 35673 (July 8, 1996).

[11] *See* 62 FR 15077 (March 28, 1997), EPA Notice of Proposed Rulemaking for Transitional and General Opt Out Procedures for Phase II Reformulated Gasoline Requirements. EPA proposed, *inter alia* that states decide and submit to EPA a complete opt-out petition by December 31, 1997, if they want a current opt-in area to opt-out before December 31, 1999.

[12] There is no indication that Arizona intends to initiate another cycle of federal RFG adoption.

[13] 61 FR 35673, 35674 (July 8, 1996).

B. Phoenix Circumstances

1. Need for Air Quality Benefits of Federal RFG

Many commenters addressed Phoenix's air quality situation, the conclusion by the Arizona Task Force that federal RFG was the most effective short-term control measure for Phoenix, and the consequences for Phoenix air quality if it does not receive those benefits.[14] A representative of the Arizona Department of Environmental Quality (''ADEQ'') testified at the hearing, providing the following reasons for why the State of Arizona needs EPA to expeditiously set an effective date for Phoenix to opt-in to federal RFG this summer. First, Arizona has some of the toughest combinations of strategies to address ozone pollution in the nation. Arizona implemented the Inspection and Maintenance 240 program, including the pressure test; has a trip reduction program more stringent than was required for Severe ozone nonattainment areas; has a regulatory remote sensing program; and has had a state low (7.0 psi) RVP standard since 1994.[15]

Despite these requirements, ozone violations persist in the Phoenix nonattainment area. Twenty-nine exceedances were recorded in the summer of 1995, and ten exceedences were recorded in 1996. In addition, Phoenix has a long ozone season; ADEQ documents violations from mid-May to early September. These ozone violations have significant health implications because they affect large numbers of people in the Phoenix metropolitan area. For example, ADEQ estimates that as many as 496,000 people could have been exposed to unhealthful levels of air quality due to violations on July 23, 1996.

ADEQ pointed out that Phoenix is currently a Moderate nonattainment area, but the State is concerned about potential redesignation to Serious because of the new source review (''NSR'') requirements that would come with it. ADEQ believes, based on its current emissions inventory, that NSR requirements would not produce significant air quality benefits and thus would not be an effective ozone attainment strategy for Phoenix.[16] ADEQ has been working with EPA's Region 9 on a Voluntary Early Ozone Plan (''VEOP'') to bring cleaner air to Phoenix sooner and obviate the need for reclassification to Serious. The tonnage reductions represented by federal RFG for 1997 through 1999 in Phoenix are a critical portion of the emissions reductions that ADEQ needs to show in the VEOP.

ADEQ also stated that the Arizona Task Force concluded that supply of RFG for Phoenix would not be at issue, based on an independent contractor study on fuel and refining capabilities.[17] The report was reviewed by dozens of stakeholders, many of whom were fuel suppliers. The consultant determined that there was an adequate supply of federal RFG available for Phoenix.

One commenter who served on the Arizona Task Force stated at the hearing that, after reviewing the analysis done by a contractor, the Task Force concluded that opt-in to federal RFG was the single most effective measure that the state could adopt in the short term to improve air quality in Phoenix.[18] In addition to providing the emissions reductions Phoenix needs, supply was available and the federal enforcement mechanism was in place. The commenter added that if there was a delay in the opt-in effective date for Phoenix, they would move into this summer's ozone season when humidity and higher temperatures could result in an ozone violation this summer, and this was what the Arizona Task Force was seeking to avoid by adopting a short-term fuels measure. One commenter, on the other hand, argued that the summer emissions benefits of federal RFG for Phoenix would be small (2–4 percent) for ground level ozone.

2. Supply

Commenters asked EPA to list the criteria it would use to determine that adequate supply of RFG exists in a potential opt-in area. As stated earlier, EPA believes section 211(k)(6)(A) provides broad discretion to the Administrator to establish an appropriate effective date. In setting an effective date for a potential opt-in area, EPA believes it should review the many factors that could affect the supply of gasoline to that area. These include, but are not limited to, supply logistics, cost, potential price spikes, the number of current and potential suppliers for that market, whether such suppliers have experience producing RFG or the capability to produce RFG, intent of suppliers to withdraw from the market, availability of adequate gasoline volumes, and the amount of lead time needed by suppliers and the distribution industry to set up storage and sales agreements to ensure supply. By evaluating these and other factors, EPA can make a determination as to whether industry's capacity to supply RFG for an opt-in area meets or exceeds the demand.

EPA has determined that capacity to supply federal RFG to Phoenix this summer exceeds the estimated gasoline demand. EPA has concluded that refiners will be able to adequately supply federal RFG for Phoenix within 30 days of publication of the final rule, the effective date for terminal compliance. EPA has concluded that retailers will be able to supply RFG within 60 days of publication of the final rule, the effective date for retailers and wholesale purchaser-consumers. The following is a discussion of the factors EPA considered in reaching this conclusion.

a. Logistics

Many commenters stated that Phoenix is in a unique logistical situation. It has no pipeline access to the large production facilities on the Gulf Coast. It is relatively isolated from refineries and dependent on two common carrier pipelines, one coming from the east and one coming from the west.[19] Commenters emphasized to EPA the importance of Phoenix having a reliable supply of gasoline from both the east and west because temporary shutdowns have occurred on each side, disrupting supply up to 24 hours or longer. One commenter testified at the hearing that these disruptions happen periodically. The pipelines are primarily constructed on railroad right-of-ways, so train derailments cause the pipeline to

[14] Some commenters discussed what they considered to be the best fuel for Phoenix in the long-term. As stated in the NPRM and Notice of public hearing, Arizona's short-or long-term fuel choice is not relevant to this opt-in rulemaking.

[15] A remote sensor is an instrument that measures emissions in a pathway across a road as a vehicle drives by. At the same time the vehicle drives by, a photograph is taken of the license plate. Remote sensing programs are designed to target the highest emitting vehicles in an unobtrusive way. Arizona's program requires owners of vehicles that are found to be exceeding emissions standards (with remote sensing) to bring their vehicle in for further emissions testing and possible repair.

[16] ADEQ's current emissions inventory shows that contributions to ozone nonattainment from mobile sources are in excess of twenty-five percent and from stationary sources are approximately six percent. ADEQ is currently reevaluating the inventory that it used for the Voluntary Early Ozone Plan (''VEOP'') because they have reason to believe that mobile emissions may have been underestimated and biogenic emissions overestimated.

[17] *See* ''Final Report: Assessment of Fuel Formulations Options for Maricopa County for State of Arizona Department of Environmental Quality'' performed under Contract 97–0013AA by MathPro Inc. with Air Improvement Resource, Inc., November 7, 1996 (''MathPro Report''), EPA Air Docket A–97–02, II–A–2.

[18] *Id.*

[19] The Santa Fe Pacific Pipeline (''SFPP'') is the common carrier that transports gasoline and other products (diesel, jet fuel, and heating oil) to Phoenix by one pipeline from the west (originating in Los Angeles, California) and one pipeline from the east (originating in El Paso, Texas).

shutdown. A shutdown occurred recently on the west pipeline due to a train derailment, and the downtime was 24 hours. The downtime could be longer, depending on the severity of the derailment or other problem, such as heavy rains.

The west pipeline now delivers approximately 70 thousand B/D of gasoline to Phoenix and about 12 percent (8,000) of that continues on to Tucson. The east pipeline now delivers approximately 25 thousand B/D of gasoline to Phoenix.[20] Both the east and west pipelines have significant additional capacity beyond what is currently being shipped.[21] About 20 percent of the Phoenix total is ultimately shipped to markets outside Maricopa County and will not be RFG unless market conditions result in a give-away.[22]

Phoenix is considered part of the West Coast distribution area that supplies 1.3 million B/D of gasoline.[23] Industry representatives believe that it is inconsequential whether a small shortfall in RFG supply for Phoenix occurs in the east or the west pipeline. The west pipeline has the capacity, with some disruption, to adjust and meet the majority of the Phoenix demand for all types of gasoline in the event of loss of the east line supply. The loss of the east supply has happened before, when one of the two suppliers was down for periodic maintenance and a breakdown occurred at the other. Several refiners agreed that the only situation that is likely to cause an RFG shortage in Phoenix is a break or stoppage in the west pipeline.[24] Given that the total Phoenix/Tucson area gasoline demand is 110 thousand B/D and the maximum east pipeline flow rate is 55 thousand B/D for all products, shortages and price increases are inevitable if the west pipeline goes down.[25] This would occur regardless of the type of gasoline required by Arizona; therefore, the state's opt-in to RFG does not affect this situation.

b. Estimated Phoenix Gasoline Market and Refiner Capability to Supply

The total gasoline demand for the state of Arizona is approximately 130 thousand B/D. The total gasoline now being delivered to Phoenix terminals by both pipelines is about 88 thousand B/D. Approximately 80 percent (70 thousand B/D) of the Phoenix terminal volume is used in Maricopa County (the Phoenix ozone nonattainment area). The remaining 20 percent of the Phoenix terminal volume is shipped to five other Arizona counties.[26]

Based on the comments received, EPA believes at least six refiners will supply federal RFG from the west and two to three refiners will supply RFG from the east. This assures some supply of federal RFG to Phoenix from both the west and the east. Most of the refiners that commented, with one exception, stated that they intend to supply federal RFG for the Phoenix market for the summer of 1997. In addition, one company stated that it intends to supply Phoenix by displacement; that is, it supplies the Texas and California markets with federal RFG and California RFG (''CaRFG''), thus making it possible for Texas and California refiners to supply the Phoenix market. Furthermore, one commenter submitted a plot of the price difference between RFG and CG in the New York, Gulf Coast, and California markets. The commenter concluded that the very narrow differential, which was about 2 cents in the federal program and about 4 cents for the California gasoline, indicates that supplies are more than adequate. And finally, the Arizona Task Force contractor stated in its report that its analysis of the gasoline distribution system (which includes the refineries, the SFPP South Pipeline System, and the local bulk terminals) led to the finding that in general ''the existing distribution system has the capability to deliver the required volumes of special Maricopa County gasolines meeting any of the proposed standards [the Arizona Task Force considered several fuels options] .'' [27]

One refiner commented that it currently supplies Phoenix from a refinery located in El Paso and will not be able to produce RFG for this summer at that refinery. The company stated, however, that they are looking at various options to replace those volumes. Another party stated that for the few refiners that might not be able to meet the RFG specifications this summer, the industry has an often-utilized method of arranging exchanges or trades of gasoline in one market for gasoline in another. This arrangement is designed to provide relief for refiners and marketers during company-specific supply disruptions.

c. Potential for Phoenix RFG Supply Shortage

Industry has told EPA in written comments and in meetings that the continuous buying, selling and trading of gasoline stocks in response to the spot prices makes supply shortages of types of gasoline, like RFG, very unlikely.[28] The short term price increases that occurred when CaRFG was introduced in California was caused by an unusual and unexpected combination of refinery disruptions not expected to occur in Phoenix. Typical spot prices are: (1) CaRFG—$0.70/gallon; (2) federal RFG–$0.69/gallon; and (3) CG—$0.66/gallon. Generally, the differences in price correspond to difference in refining costs. Thus, in order to supply RFG, a trader could opt to buy any of the gasoline types, whether barged from Texas, San Francisco, Washington, or other more distant locations, and, if necessary, turn CG into RFG, at a cost of 3 cents/gallon.[29] In effect, the cost of purchasing of RFG would be about the same as the cost of purchasing CG and converting it to RFG. The Energy Information Administration (EIA) recently informed EPA that there was an oversupply of gasoline in California and the price of CaRFG dropped 8 cents during the first week in May.[30] One commenter, however, argued that the Phoenix requirement to supply federal RFG with a 7.0 psi RVP makes the gasoline unique. This commenter believes that fewer refiners will supply the Phoenix gasoline, resulting in recurring shortages, accompanied by price spikes. As discussed in this preamble, however, most refiners that currently supply gasoline to Phoenix commented that they intend to continue to do so.

d. Oxygenate Supply

Federal RFG requires the addition of oxygenates (2.0 percent by weight). This addition of oxygenate will increase the volume of gasoline supply by approximately 10 percent. If Phoenix requires 65 thousand B/D of RFG and industry continues to provide that amount of gasoline, the supply will

[20] MathPro Report at pages 20–27.

[21] *See* Docket A–97–02, IV–E–7, Memorandum to EPA Air Docket regarding telephone conversations between EPA and industry representatives on the issue of supply to Phoenix.

[22] MathPro Report at pages 20–27. A give-away occurs when higher quality gasoline, that costs more to produce, is sold at a lower price, one reflective of conventional gasoline. MathPro Report at page 30.

[23] *See* Docket A–97–02, IV–E–7.

[24] *Id*.

[25] MathPro Report at pages 20–27.

[26] *Id*.

[27] *Id*. at pages 76–77.

[28] ''Spot Market'' is defined as commodity transactions whereby participants make buy-and-sell commitments of relatively short duration, in contrast to the ''contract'' market in which transactions are long term. U.S. Petroleum Refining, Meeting Requirements for Cleaner Fuels and Refiners, Volume I—Analyses and Results, National Petroleum Council, August 1993 at GL–8. ''Spot prices'' are the prices for a single sale of a product, *i.e.*, gasoline, on the Spot Market.

[29] *See* Docket A–97–02, IV–E–7.

[30] *See* Docket A–97–02, IV–E–8.

increase by approximately 6500 B/D just by the addition of oxygenate. Several commenters provided information that there is a plentiful supply of oxygenates. A commenter stated that given that oxygenate producers are presently operating at approximately 90 percent of manufacturing capacity, an RFG program for Phoenix is not expected to cause any disruptions in oxygenate supply or drastic impacts on the oxygenate marketplace.

e. Infrastructure and Reformulation

EPA received comments that the needed infrastructure, blending, and segregation capability are in place for Phoenix. Phoenix has had a winter oxygenated gasoline program since 1989, so the infrastructure associated with oxygenate blending and product segregation is already present. This will help ensure a smooth transition to RFG. A commenter stated that based on its study of Arizona's distribution system, it believed that the time required to get RFG to the marketplace will be a month or less after it is produced.

EPA received comment that relatively small quality changes will be required by refiners to produce RFG. Most refiners providing conventional gasoline to Phoenix currently meet the RFG specifications except for benzene. The most significant change in the formulation will be the reduction of benzene to one volume percent. The addition of two weight percent oxygen to the gasoline will contribute to the reduction of benzene.

f. Effective Dates

In the NPRM, EPA proposed that 30 days be allowed between the terminal and retail compliance dates and requested comment on whether a shorter time period would be appropriate. The Agency received two comments on this issue. One refiner stated that under the best conditions, thirty days was feasible but not guaranteed. The refiner explained that thirty days at a minimum was needed due to potential difficulties in blending gasoline and in order to assure compliance at low-volume stations. Another refiner stated it supported the 30 days but thought 15 sufficient. Two commenters did not speak directly to this issue but included in their comments potential schedules for opt-in compliance. One allowed 21 days and one allowed 15 days between the two dates. EPA has decided that 30 days is an appropriate time period to allow between terminal and retail compliance dates. While it appears that 15 days would be sufficient for high-volume stations, the additional 15 days could be important for low-volume stations.

EPA proposed that the terminal effective date be 30 days following the publication of the final opt-in rule. One commenter argued that 45 days would be more appropriate because a longer transition time would allow terminals to gradually convert to RFG by slowly replacing their normal inventory levels of conventional gasoline. A shorter time period would mean that the terminal must draw down their conventional gasoline to lower levels in order to accelerate the conversion. If a refinery outage were to occur while inventories are artificially low, the possibility of a physical shortage would increase and higher prices could result. This situation could be exacerbated by the timing of the conversion, well into the high demand summer driving season. One commenter concerned with the precedent set by an effective date 30 days after publication questioned whether this would provide adequate lead time regardless of ability to supply.

EPA has decided that a terminal effective date of 30 days after publication of the final rule provides refiners sufficient lead time. Refiner ability to supply RFG is one of the factors EPA considers in setting the effective date for an opt-in request, and several refiners who supply Phoenix have stated that they have the ability to supply federal RFG to Phoenix within 30 days of publication of the final rule. One commenter stated that if EPA resolved issues regarding enforcement of the RFG requirements in Phoenix by May 1, service stations could supply federal RFG in Phoenix by mid-July. Moreover, as several commenters stated, industry has been on notice that Phoenix would opt-in since the date of the Arizona Governor's letter, January 17, 1997. EPA proposed that the terminal compliance date be 30 days after publication of the final rule or June 1, whichever was later. Based on this proposed date, SFPP stated in its comments that it would have to begin shipments by April 22. Refiners testified at the hearing that they could supply RFG to Phoenix by the proposed date of June 1 if EPA worked with them to resolve certain implementation issues. EPA has agreed to provide enforcement relief on several implementation issues (See discussion in III.C.1. below) and expects that refiners will be ready to supply RFG by the terminal compliance date, which will be later than the proposed date. The fact that EPA has set an effective date of 30 days from publication of the final rule does not mean, however, that EPA will decide that is the appropriate amount of lead time for future opt-in requests. As discussed above, pursuant to section 211(k)(6)(A), EPA will review all relevant factors for each opt-in request to determine the appropriate effective date for a particular area.

EPA received one comment requesting that in setting a Phoenix opt-in effective date, EPA consider any effect that could have on the supply of CaRFG in California. The commenter stated that a reduction in production of CaRFG could have an adverse effect on gasoline price and availability in California. Several California refiners commented that they intend to supply federal RFG to Phoenix. None of these refiners indicated that producing federal RFG would limit their production of CaRFG. EPA has not received any information that would indicate that the Phoenix opt-in effective date will affect the supply of CaRFG in California.

EPA asked parties at the hearing to comment on whether supplying RFG to Phoenix would affect the supply of CG to Arizona. EPA received one comment on this issue from a refiner who stated that it could meet its CG contracts for Arizona.

C. Implementation Issues

Several refiners and one trade association representing the refiners identified implementation and enforcement issues they faced in preparing to provide RFG to Phoenix in the summer of 1997. These issues resulted from the lead time available for the Phoenix opt-in resulting from the date of the Arizona Governor's opt-in request and his requested implementation date; and the fact that much of the gasoline supplied to Phoenix (approximately two-thirds) is produced at refineries located in California. These California refineries are covered by the California Enforcement Exemption in the federal RFG rules (40 CFR 80.81). The association stated, however, that it did not support delay of the proposed effective date. Its members could supply RFG to Phoenix if EPA could provide some enforcement relief for the identified implementation issues. In addition, one refiner commented that while it encouraged EPA to grant enforcement relief, it did not believe the issues were any reason to delay the implementation date because refiners had actually been on notice that they would need to prepare to supply Phoenix with RFG since January 17, 1997, the date of the Governor's letter to EPA.

1. Enforcement Relief Provided by EPA

EPA provided enforcement relief from certain RFG requirements related to compliance in an April 18, 1997 letter from Steven A. Herman, EPA Assistant Administrator for Enforcement and Compliance Assurance, to Urvan Sternfels, President of the National Petroleum Refiner's Association.[31] The enforcement relief is provided only until January 1, 1998, and consists of the following:

a. Registration of Parties

40 CFR 80.76 requires that refiners, importers and oxygenate blenders register with EPA no later than three months prior to the date they intend to produce or import RFG in order to provide EPA with information about the companies and their facilities. In light of the timing associated with the Phoenix opt-in, EPA will not enforce the requirement to register three months in advance, provided a party registers before producing any RFG for Phoenix, including the requirement to notify EPA of which independent laboratory a party will use.

b. Submittal of RFG Survey Plan

Section 80.68 requires certain refiners to submit to EPA a plan for conducting gasoline quality surveys in each RFG covered area. This plan must be submitted no later than September 1 of the year preceding the year the surveys are to be conducted. However, given the date of Governor Symington's opt-in letter, EPA will not enforce the requirement to submit a Phoenix survey plan by September 1, 1996, provided that within 30 days of EPA's final Phoenix opt-in rule a Phoenix survey plan that meets all the requirements of section 80.68 is submitted.

c. Use of California Test Methods

Both the federal RFG and the California Air Resources Board (''CARB'') Phase 2 programs require refiners to use certain test methods to demonstrate compliance with the standards applicable under these programs. In the case of the tests for certain parameters the methods specified under the two programs are different.

Section 80.81 allows California refiners to use CARB test methods as an acceptable federal test method when producing CARB gasoline. This exemption is limited to gasoline used in California, and refiners are required to use federal test methods for gasoline exported from California.

A letter of February 29, 1996 from Steve Herman to the Western States Petroleum Association allows California refiners to use CARB test methods for CG exported from California, subject to certain conditions, but does not allow non-federal test methods for RFG exported from California because of the stringent requirements associated with federal RFG. However, the Phoenix opt-in presents a situation where limited use of CARB test methods for certain federal RFG requirements is appropriate in the case of RFG used in Phoenix.

Section 80.65(e) requires RFG refiners to use federal test methods to analyze each RFG batch in order to certify compliance with the federal RFG standards, and under section 80.75(a) to report results to EPA on a quarterly basis. In addition, section 80.65(e) provides that before a refiner can ship RFG the refiner must have received the results of federal tests for parameters that are subject to downstream standards, *i.e.*, the federal test results for oxygen and benzene, and RVP for VOC-controlled RFG, in order to prevent the introduction into commerce of RFG that violates a downstream standard.

EPA believes that refiners in California can meet the requirement to use federal test methods for purposes of determining batch properties that are reported to EPA, either by using the federal test methods at the refinery or by using an independent laboratory to conduct federal tests. However, a refiner using an independent laboratory may not have received the test results before the RFG normally would be shipped. As a result, such a refiner would be required to purchase the equipment necessary to conduct the federal tests on site, which EPA estimates would cost about $150,000 for both the oxygen and the benzene tests. The federal RVP test equipment costs much less, and is already owned by most or all refiners.

Given the fact that Governor Symington's letter states that he may request to opt-out of the RFG program by December 31, 1997, and the cost of the equipment necessary to conduct the federal oxygen and benzene tests, EPA believes it is appropriate to allow use of CARB test methods to meet the RFG pre-shipping testing requirement. However, refiners and importers using the CARB test methods also must test each RFG batch using federal test methods, and the results of the federal tests must be used to satisfy the batch reporting requirements of section 80.75(a).

Therefore, EPA will not enforce the requirement at section 80.65(e)(1) that refiners and importers must have received the results of federal oxygen and benzene tests before shipping RFG, provided the following conditions are met.

(1) The refiner or importer does not have the equipment necessary to conduct the federal benzene and/or oxygen tests at its refinery or import facility.

(2) The refiner or importer has received the results of CARB benzene and/or oxygen tests before shipping any RFG batch, these test results have been correlated with the federal test method, and these test results must demonstrate compliance with the federal downstream standards. If the results of federal benzene and/or oxygen tests show the RFG violated the federal downstream standards the refiner or importer will have violated these standards regardless of the results of the CARB tests. This would be true whether the federal tests are conducted by the refiner's independent laboratory, by another regulated party or by EPA.

(3) The refiner or importer must retain the results of any tests conducted using CARB methods, and records demonstrating correlation between the CARB and federal test methods, and must supply these records to EPA on request. Enforcement of the RFG requirements in this manner will expire on January 1, 1998.

d. Adjustment of the Reid Vapor Pressure Lower Limit

The federal RFG program includes standards for the RVP of gasoline. The *maximum* RVP of RFG is controlled primarily because of the increased VOC emissions that result from gasoline with higher RVP levels. A minimum RVP is included because of limited availability of RVP data at the time the simple model standards were developed. In addition, the *minimum* RVP standard addresses vehicle driveability problems, such as poor starting and running, that can occur when low volatility gasoline does not vaporize in the vehicle engine. As a result, under section 80.42(c)(1) the minimum RVP allowed for RFG is 6.6 pounds per square inch (''psi''), although under section 80.45(f)(1) this minimum RVP standard changes to 6.4 psi beginning in 1998.

Arizona has regulations that require that Phoenix be subject to a maximum summertime volatility standard of 7.0 psi. As a result, refiners supplying RFG for Phoenix for use during the summer will have to meet an RVP standard of 6.6 psi minimum (the federal RFG standard) and 7.0 psi maximum (the state-imposed standard). Some refiners have said this narrow RVP range would create gasoline production problems because of testing variability, but that this problem would be resolved if the

[31] *See* Docket A–97–02, IV–C–6.

RVP minimum standard were 6.4 psi. In addition, the American Automobile Manufacturers Association commented, stating that it did not believe a summertime 6.4 RVP minimum in Phoenix would pose significant risk of vehicle performance problems.

For these reasons, EPA believes it is appropriate to allow a minimum RVP of 6.4 psi for VOC-controlled RFG in Phoenix. As a result, EPA will not enforce the 6.6 psi minimum RVP standard under section 80.42(c)(1) for VOC-controlled RFG used in Phoenix, including RFG produced for the Phoenix market that is used in non-RFG areas around Phoenix, provided the following conditions are met.

(1) RFG must meet a minimum RVP standard of 6.4 psi during the period May 1 through October 31.

(2) All other RFG must meet a minimum RVP standard of 6.6 psi.

(3) The refiner or importer must specify in the product transfer documents, required in section 80.77, the VOC-controlled RFG is for use only in the Phoenix covered area.

2. Other Implementation Issues

One refiner stated its support of EPA extension of the CARB certified laboratory tests for gasoline properties as an alternative for all refineries. This would include recognition of the GC–FTIR (ASTM 5986) for Aromatics, Benzene and Oxygen content. EPA intends to issue proposed regulations establishing a performance based analytical test method approach for the measurement of the RFG parameters specified in section 80.46. Under this approach, quality assurance specifications would be developed under which the performance of alternate analytical test methods would be deemed acceptable for compliance. The Agency envisions that this approach, if adopted, would provide additional flexibility to the regulated industry in their choice of analytical test methods to be utilized for compliance under the RFG and conventional gasoline programs for analytical test methods that differ from the designated analytical test method.

Refiners raised the issue that due to modeling effects, winter gasoline via simple (and complex) model gives a lower toxics reduction than summer gasoline. Since it is difficult to meet the toxics reduction on a per gallon basis with winter gasoline, supply flexibility is enhanced by averaging. With only part of the year being available for averaging, it is important to implement the rule early enough so that the partial year does not have more winter than summer months than a full calendar year would have.

EPA proposed that if refiners produce RFG prior to June 15, 1997, it would not be necessary to change anything because there is a balance of summer and winter days. EPA proposed to refiners (that have registered) that any gasoline produced and federally certified as Federal RFG, even if produced before the effective date for Phoenix, will count for refiner averaging. Various refiners indicated to EPA that this approach satisfactorily addressed their concerns on this issue.[32]

Another implementation issue raised by refiners arose from the independent laboratory sampling program required in the RFG regulations. While this should not pose a problem in areas such as Los Angeles, Houston or Dallas where many such labs are located, there could be a lead time problem in West Texas and New Mexico where the refineries are more isolated and there are no labs. EPA proposed to refiners that enforcement discretion was not needed because isolated refiners could meet the independent lab requirements by mail. Various refiners indicated to EPA that this approach satisfactorily addressed their concerns on this issue.[33]

One refiner commented that a minor implementation problem results from the fact that in-line blender certification by EPA could require six months to a year. The refiner suggested that a solution would be for EPA to certify promptly new in-line blenders within thirty days. EPA believes the appropriate way to address this issue is contained in the RFG regulations (40 CFR 80.65(f)(4)). In addition, EPA has expeditiously reviewed any in-line blending petitions received to address any supply issues.

Refiners commented that transitions from conventional gasoline to RFG always pose unique problems. One refiner stated it was willing to work with industry, EPA, and Arizona to ensure a successful transition. Another refiner commented that Phoenix may be facing two fuel transitions in rapid succession—a transition from conventional gasoline to federal RFG and a transition from federal RFG to federal RFG plus 7.0 RVP. The refiner urged EPA to work with Arizona to educate the public about these changes because public acceptance of the fuels changes coming to Phoenix is critical to acceptance of longer-term presumably more stringent, fuels solutions now being devised for the Phoenix area.

EPA agrees that a public education strategy is important for fuel changes. EPA's Office of Mobile Sources and Region 9 have been working with Arizona, which has prepared a public outreach and education plan that includes meetings with stakeholders, television advertisements, hotlines, informational brochures provided directly to motorists, and training for technicians and service station employees. EPA has also provided some funding for the Phoenix federal RFG public education program.

IV. Environmental Impact

Gasoline vapors and vehicle exhaust contain VOCs and NO_X that react in the atmosphere in the presence of sunlight and heat to produce ozone, a major component of smog. Vehicles also release toxic emissions, one of which (benzene) is a known human carcinogen. Federal RFG contains less of the ingredients that contribute to these harmful forms of air pollution. Consequently, RFG reduces the exposure of the U.S. public overall to ozone and certain air toxics.

The federal Phase I RFG program provides reductions in ozone-forming VOC emissions and air toxics, and prohibits any increase in NO_X emissions. Reductions in VOCs are environmentally significant because of the associated reductions in ozone formation and in secondary formation of particulate matter, with the associated improvements in human health and welfare. Exposure to ground-level ozone (or smog) can damage sensitive lung tissue, reduce lung function, cause lung inflammation, increase susceptibility to respiratory infection, and increase sensitivity of asthmatics to allergens (*e.g.*, pollen) and other bronchoconstrictors. Symptoms from short-term exposure to ozone include coughing, eye and throat irritation, and chest pain. Animal studies suggest that long-term exposure (months to years) to ozone can damage lung tissue and may lead to chronic respiratory illness.

Toxic emissions from motor vehicles have been estimated to account for roughly half of the total exposure of the urban U.S. population to toxic air emissions. Reductions in emissions of toxic air pollutants are environmentally important because they carry significant benefits for human health and welfare primarily by reducing the number of cancer cases each year. The reduction of benzene provides the majority of air toxics emission reductions from RFG. New monitoring data from the 1995 EPA Air Quality Trends Report shows that in RFG areas, benzene was reduced by 43 percent. A number of adverse non-

[32] *See* Docket A–97–02, IV–E–6.

[33] *Id.*

cancer health effects, such as eye, nose, and throat irritation, have also been associated with exposure to elevated levels of these air toxics.

The Arizona Task Force estimates that if federal RFG is required to be sold in Phoenix, VOC emissions will be cut by more than nine tons per day. In addition, all vehicles would have improved emissions and the area would also get reductions in toxic emissions.

V. Statutory Authority

The Statutory authority for the action proposed today is granted to EPA by sections 211(c) and (k) and 301 of the Clean Air Act, as amended; 42 U.S.C. 7545 (c) and (k) and 7601.

VI. Regulatory Flexibility

For the following reasons, EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this rule. EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities. In promulgating the RFG and anti-dumping regulations, the Agency analyzed the impact of the regulations on small businesses. The Agency concluded that the regulations may possibly have some economic effect on a substantial number of small refiners, but that the regulations may not significantly affect other small entities, such as gasoline blenders, terminal operators, service stations and ethanol blenders. *See* 59 FR 7810–7811 (February 16, 1994). As stated in the preamble to the final RFG/anti-dumping rule, exempting small refiners from the RFG regulations would result in the failure of meeting CAA standards. 59 FR 7810. However, since most small refiners are located in the mountain states or in California, which has its own RFG program, the vast majority of small refiners are unaffected by the federal RFG requirements (although all refiners of conventional gasoline are subject to the anti-dumping requirements). Moreover, all businesses, large and small, maintain the option to produce conventional gasoline to be sold in areas not obligated by the Act to receive RFG or those areas which have not chosen to opt into the RFG program. A complete analysis of the effect of the RFG/anti-dumping regulations on small businesses is contained in the Regulatory Flexibility Analysis which was prepared for the RFG and anti-dumping rulemaking, and can be found in the docket for that rulemaking. The docket number is: EPA Air Docket A–92–12.

Today's rule will affect only those refiners, importers or blenders of gasoline that choose to produce or import RFG for sale in the Phoenix ozone nonattainment area, and gasoline distributors and retail stations in those areas. As discussed above, EPA determined that, because of their location, the vast majority of small refiners would be unaffected by the RFG requirements. For the same reason, most small refiners will be unaffected by today's action. Other small entities, such as gasoline distributors and retail stations located in Phoenix, which will become a covered area as a result of today's action, will be subject to the same requirements as those small entities which are located in current RFG covered areas. The Agency did not find the RFG regulations to significantly affect these entities.

VII. Public Participation

The Agency held a public hearing on March 18, 1997 to hear comments on the Notice of Proposed Rulemaking (62 FR 7197) published February 18, 1997. Comments were provided at the hearing by the Arizona Department of Environmental Quality, fuel oxygenate producers, and representatives of the oil industry, environmental organizations, and other businesses that participated on the Arizona Air Quality Strategies Task Force. In addition, EPA reviewed and considered written comments on the proposal submitted by the same groups. These comments have been presented and addressed in the preamble above (See III. Response to Comments). All comments received by the Agency are located in the EPA Air Docket A–97–02 (See **ADDRESSES**).

VIII. Executive Order 12866

Under Executive Order 12866,[34] the Agency must determine whether a regulation is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments of communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof, or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.[35]

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

IX. Paperwork Reduction Act

Today's action does not impose any new information collection burden. Refiners are currently subject to the information collection requirements for federal reformulated gasoline and conventional gasoline. Today's rule adds an additional ozone nonattainment area as a federal RFG covered area; the rule does not change the information collection requirements already associated with federal RFG. The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the final RFG/antidumping rule under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0277 (EPA ICR No. 1951).

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.

Copies of the ICR document(s) may be obtained from Sandy Farmer, Information Policy Branch; EPA; 401 M St., SW. (mail code 2136); Washington, DC 20460 or by calling (202) 260–2740. Include the ICR and/or OMB number in any correspondence.

X. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''UMRA''), P.L. 104–4, EPA must prepare a budgetary impact statement to accompany any general notice of proposed rulemaking or final rule that includes a Federal mandate which may result in estimated costs to State, local,

[34] *See* 58 FR 51735 (October 4, 1993).

[35] Id. At section 3(f) (1)—(4).

or tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. Under section 205, for any rule subject to section 202 EPA generally must select the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Under section 203, before establishing any regulatory requirements that may significantly or uniquely affect small governments, EPA must take steps to inform and advise small governments of the requirements and enable them to provide input.

EPA has determined that today's rule does not trigger the requirements of UMRA. The rule does not include a Federal mandate that may result in estimated annual costs to State, local or tribal governments in the aggregate, or to the private sector, of $100 million or more, and it does not establish regulatory requirements that may significantly or uniquely affect small governments.

XI. Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to extend the federal RFG program to the Phoenix ozone nonattainment area must be filed in the United States Court of Appeals for the appropriate circuit by August 4, 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)).

XII. Submission to Congress

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).

Environmental protection, Air pollution control, Fuel additives, Gasoline, and Motor vehicle pollution.

Dated: May 28, 1997.

Carol M. Browner,

Administrator.

40 CFR part 80 is amended as follows:

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 is revised to read as follows:

Authority: Secs. 114, 211, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7414, 7545 and 7601(a)).

2. Section 80.70 is amended by adding paragraph (m) as follows:

§ 80.70 Covered areas.

* * * * *

(m) The prohibitions of section 211(k)(5) will apply to all persons other than retailers and wholesale purchaser-consumers July 3, 1997. The prohibitions of section 211(k)(5) will apply to retailers and wholesale purchaser-consumers August 4, 1997. As of the effective date for retailers and wholesale purchaser-consumers, the Phoenix, Arizona ozone nonattainment area is a covered area. The geographical extent of the covered area listed in this paragraph shall be the nonattainment boundaries for the Phoenix ozone nonattainment area as specified in 40 CFR 81.303.

[FR Doc. 97–14442 Filed 6–2–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[TX–29–1–6085a; FRL–5834–2]

Designation of Areas for Air Quality Planning Purposes; Texas; Revised Geographical Designation of Certain Air Quality Control Regions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule and correction of error.

SUMMARY: This action approves a July 2, 1993, request by the Governor of Texas to revise the geographical boundaries of seven Air Quality Control Regions (AQCRs) in the State of Texas to conform with the Texas Natural Resource Conservation Commission (TNRCC) regional boundaries. This action also corrects an error in the list of counties for another AQCR in Texas.

DATES: This action is effective on August 4, 1997 unless adverse or critical comments are received by July 3, 1997. If the effective date is delayed, a timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), Multimedia Planning and Permitting Division, One Fountain Place, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Bill Deese of EPA Region 6 Air Planning Section at (214) 665–7253 and at the Region 6 address above.

SUPPLEMENTARY INFORMATION:

I. Background

The boundaries of AQCRs designated by the Administrator of the EPA pursuant to section 107 of the Clean Air Act (the Act) are codified in 40 CFR 81, subpart B—Designation of Air Quality Control Regions. Below is a list of the twelve AQCRs located partly or entirely in the State of Texas. The section of 40 CFR 81 subpart B where the boundary of the AQCR is defined is given in parenthesis following the name of the AQCR.

AQCR 022—Shreveport-Texarkana-Tyler Interstate (81.94)
AQCR 106—Southern Louisiana-Southeast Texas Interstate (81.53)
AQCR 153—El Paso-Las Cruces-Alamagordo Interstate (81.82)
AQCR 210—Abilene-Wichita Falls Intrastate (81.132)
AQCR 211—Amarillo-Lubbock Intrastate (81.133)
AQCR 212—Austin-Waco Intrastate (81.134)
AQCR 213—Brownsville-Laredo Intrastate (81.135)
AQCR 214—Corpus Christi-Victoria Intrastate (81.136)
AQCR 215—Metropolitan Dallas-Fort Worth Intrastate (81.039)
AQCR 216—Metropolitan Houston-Galveston Intrastate (81.038)
AQCR 217—Metropolitan San Antonio Intrastate (81.040)
AQCR 218—Midland-Odessa-San Angelo Intrastate (81.137)

Section 107(e) of the Act permits a state to request realignment of AQCRs within the state if the state determines that the realignment will provide for more efficient and effective air quality management. The state must have the

permission of the governor of a neighboring state if the realignment will significantly affect the neighboring state.

II. State Submittal

On May 11, 1993, the Texas Air Control Board (TACB) adopted Resolution Number 93–16 reassigning the TACB regional boundaries. This State action was taken in response to a May 29, 1992, directive from the State Comptroller and the Commissioner of Health and Human Services establishing uniform service regions. This was to result in more effective and efficient air quality management and delivery of air quality control service to the citizens of the State.

The Governor of Texas submitted to EPA on July 2, 1993, a request to revise the geographical boundaries of seven AQCRs in the State by transferring a total of nine counties from three AQCRs to four adjacent AQCRs. The requested changes would revise the boundaries of the existing AQCRs to be consistent with the newly designated TACB regional boundaries.

The TACB merged with the former Texas Department of Water Resources to become the TNRCC on September 1, 1993. The TNRCC is also subject to the May 29, 1992, directive so its regional boundaries are the same as the submitted regional boundaries. Therefore this action is being approved for the TNRCC.

This action is making the following changes to the boundaries of the Texas AQCRs as requested by the Governor:

1. Coke, Concho, Menard, and McCulloch Counties are being moved from the Abilene-Wichita Falls Intrastate AQCR to the Midland-Odessa-San Angelo Intrastate AQCR.
2. Childress County is being moved from the Abilene-Wichita Falls Intrastate AQCR to the Amarillo-Lubbock Intrastate AQCR.
3. Walker County is being moved from the Southern Louisiana-Southeast Texas Interstate AQCR to the Metropolitan Houston-Galveston Intrastate AQCR.
4. Mason and Kimble Counties are being moved from the Metropolitan San Antonio Intrastate AQCR to the Midland-Odessa-San Angelo Intrastate AQCR.
5. Gonzales County is being moved from the Metropolitan San Antonio Intrastate AQCR to the Corpus Christi-Victoria Intrastate AQCR.

All of the affected counties are presently designated as attainment for the National Ambient Air Quality Standards. Reassignment of the counties from one AQCR to another should not cause significant impact on the air quality of any of the counties involved.

The transfer of Walker County from the Southern Louisiana-Southeast Texas Interstate AQCR to the Metropolitan Houston-Galveston Intrastate AQCR is the only action affecting an interstate AQCR or AQCRs with nonattainment counties. Walker County is in attainment for all of the criteria pollutants. Therefore the transfer will not affect the status of either AQCR. The Governor of Texas does not need the permission of the Governor of Louisiana because Walker County is in attainment and is more than 75 miles (120 kilometers) from the Louisiana-Texas border. Therefore the transfer will not have a significant effect on the State of Louisiana.

This action also corrects an error made in the revision to the geographical designation of certain Texas AQCRs approved in the **Federal Register** on August 6, 1991 (56 FR 37288). On page 37289 of the August 6, 1991, action, EPA inadvertently left Mills County out of the list of counties in the Austin-Waco Intrastate Air Quality Control Region. This action corrects the error by adding Mills County to the list of counties in 40 CFR 81.134. Mills County is already correctly listed in the tables in 40 CFR 81.344 for Texas.

III. Final Action

The EPA is approving a July 2, 1993, request by the Governor of Texas to revise the boundaries of seven AQCRs in Texas by transferring a total of nine counties from three AQCRs to four adjacent AQCRs. The EPA is also correcting an error in the list of counties in 40 CFR 81.134 by adding Mills County.

The EPA is publishing this action without prior proposal because the Agency views this as noncontroversial amendments and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve this revision to the geographical boundaries of Texas AQCRs should adverse or critical comments be filed. This action will be effective August 4, 1997 unless, by July 3, 1997, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent action that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a 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 August 4, 1997.

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

IV. Administrative Requirements

A. Executive Order (E.O.) 12866

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

Approvals under section 107(e) of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids EPA to base its actions on such grounds. *See 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, 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 by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting 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 this rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. § 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 4, 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 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: May 22, 1997.

Myron O. Knudson,

Acting Regional Administrator.

40 CFR part 81 is amended as follows:

PART 81—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart B—Designation of Air Quality Control Regions

2. Section 81.38 is amended by revising the entry for Texas to read as follows:

§ 81.38 Metropolitan Houston-Galveston Intrastate Air Quality Control Region.

* * * * *

In the State of Texas: Austin County, Brazoria County, Chambers County, Colorado County, Fort Bend County, Galveston County, Harris County, Liberty County, Matagorda County, Montgomery County, Walker County, Waller County, Wharton County.

3. Section 81.40 is amended by revising the entry for Texas to read as follows:

§ 81.40 Metropolitan San Antonio Intrastate Air Quality Control Region.

* * * * *

In the State of Texas: Atascosa County, Bandera County, Bexar County, Comal County, Dimmit County, Edwards County, Frio County, Gillespie County, Guadalupe County, Karnes County, Kendall County, Kerr County, Kinney County, La Salle County, Maverick County, Medina County, Real County, Uvalde County, Val Verde County, Wilson County, Zavala County.

4. Section 81.53 is amended by revising the entry for Texas to read as follows:

§ 81.53 Southern Louisiana-Southeast Texas Interstate Air Quality Control Region.

* * * * *

In the State of Texas: Angelina County, Hardin County, Houston County, Jasper County, Jefferson County, Nacogdoches County, Newton County, Orange County, Polk County, Sabine County, San Augustine County, San Jacinto County, Shelby County, Trinity County, Tyler County.

5. Section 81.132 is amended by revising the entry for Texas to read as follows:

§ 81.132 Abilene-Wichita Falls Intrastate Air Quality Control Region.

* * * * *

In the State of Texas: Archer County, Baylor County, Brown County, Callahan County, Clay County, Coleman County, Comanche County, Cottle County, Eastland County, Fisher County, Foard County, Hardeman County, Haskell County, Jack County, Jones County, Kent County, Knox County, Mitchell County, Montague County, Nolan County, Runnels County, Scurry County, Shackelford County, Stephens County, Stonewall County, Taylor County, Throckmorton County, Wichita County, Wilbarger County, Young County.

6. Section 81.133 is amended by revising the entry for Texas to read as follows:

§ 81.133 Amarillo-Lubbock Intrastate Air Quality Control Region.

* * * * *

In the State of Texas: Armstrong County, Bailey County, Briscoe County, Carson County, Castro County, Childress County, Cochran County, Collingsworth County, Crosby County, Dallam County, Deaf Smith County, Dickens County, Donley County, Floyd County, Garza County, Gray County, Hale County, Hall County, Hansford County, Hartley County, Hemphill County, Hockley County, Hutchinson County, King County, Lamb County, Lipscomb County, Lubbock County, Lynn County, Moore County, Motley County, Ochiltree County, Oldham County, Parmer County, Potter County, Randall County, Roberts County, Sherman County, Swisher County, Terry County, Wheeler County, Yoakum County.

7. Section 81.134 is amended by revising the entry for repos to read as follows:

§ 81.134 Austin-Waco Intrastate Air Quality Control Region.

* * * * *

In the State of Texas: Bastrop County, Bell County, Blanco County, Bosque County, Brazos County, Burleson County, Burnet County, Caldwell County, Coryell County, Falls County, Fayette County, Freestone County, Grimes County, Hamilton County, Hays County, Hill County, Lampasas County, Lee County, Leon County, Limestone County, Llano County, Madison County, McLennan County, Milam County, Mills County, Robertson County, San Saba County, Travis County, Washington County, Williamson County.

8. Section 81.136 is amended by revising the entry for Texas to read as follows:

§ 81.136 Corpus Christi-Victoria Intrastate Air Quality Control Region.

* * * * *

In the State of Texas: Aransas County, Bee County, Brooks County, Calhoun County, De Witt County, Duval County, Goliad County, Gonzales County, Jackson County, Jim Wells County, Kenedy County, Kleberg County, Lavaca County, Live Oak County, McMullen County, Nueces County, Refugio County, San Patricio County, Victoria County.

9. Section 81.137 is amended by revising the entry for Texas to read as follows:

§ 81.137 Midland-Odessa-San Angelo Intrastate Air Quality Control Region.

* * * * *

In the State of Texas: Andrews County, Borden County, Coke County, Concho County, Crane County, Crockett County, Dawson County, Ector County, Gaines County, Glasscock County, Howard County, Irion County, Kimble County, Loving County, Martin County, Mason County, McCulloch County, Menard County, Midland County, Pecos County, Reagan County, Reeves County, Schleicher County, Sterling County, Sutton County, Terrell County, Tom Green County, Upton County, Ward County, Winkler County.

Subpart C—Section 107 Attainment Status Designations

10. In § 81.344, the carbon monoxide table and the ozone table are amended by revising the lists of counties in AQCRs 106, 210, 211, 214, 216, 217, and 218 to read as follows:

§ 81.344 Texas.

* * * * *

TEXAS—CARBON MONOXIDE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*
AQCR 106 Southern Louisiana-S.E. Texas Interstate	.....	Unclassifiable/Attainment.		
Angelina County, Hardin County, Houston County, Jasper County, Jefferson County, Nacogdoches County, Newton County, Orange County, Polk County, Sabine County, San Augustine County, San Jacinto County, Shelby County, Trinity County, Tyler County				
* * *	*	*	*	*
AQCR 210 Abilene-Wichita Falls Intrastate	.....	Unclassifiable/ Attainment.		
Archer County, Baylor County, Brown County, Callahan County, Clay County, Coleman County, Comanche County, Cottle County, Eastland County, Fisher County, Foard County, Hardeman County, Haskell County, Jack County, Jones County, Kent County, Knox County, Mitchell County, Montague County, Nolan County, Runnels County, Scurry County, Shackelford County, Stephens County, Stonewall County, Taylor County, Throckmorton County, Wichita County, Wilbarger County, Young County				
AQCR 211 Amarillo-Lubbock Intrastate	.....	Unclassifiable/Attainment.		
Armstrong County, Bailey County, Briscoe County, Carson County, Castro County, Childress County, Cochran County, Collingsworth County, Crosby County, Dallam County, Deaf Smith County, Dickens County, Donley County, Floyd County, Garza County, Gray County, Hale County, Hall County, Hansford County, Hartley County, Hemphill County, Hockley County, Hutchinson County, King County, Lamb County, Lipscomb County, Lubbock County, Lynn County, Moore County, Motley County, Ochiltree County, Oldham County, Parmer County, Potter County, Candall County, Roberts County, Sherman County, Swisher County, Terry County, Wheeler County, Yoakum County				
* * *	*	*	*	*
AQCR 214 Corpus Christi-Victoria Intrastate	.....	Unclassifiable/Attainment.		
Aransas County, Bee County, Brooks County, Calhoun County, De Witt County, Duval County, Goliad County, Gonzales County, Jackson County, Jim Wells County, Kenedy County, Kleberg County, Lavaca County, Live Oak County, McMullen County, Nueces County, Refugio County, San Patricio County, Victoria County				
* * *	*	*	*	*
AQCR 216 Metropolitan Houston-Galveston Intrastate	.....	Unclassifiable/Attainment.		

TEXAS—CARBON MONOXIDE—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Austin County, Brazoria County, Chambers County, Colorado County, Fort Bend County, Galveston County, Harris County, Liberty County, Matagorda County, Montgomery County, Walker County, Waller County, Wharton County				
AQCR 217 Metropolitan San Antonio Intrastate	.....	Unclassifiable/Attainment.		
Atascosa County, Bandera County, Bexar County, Comal County, Dimmit County, Edwards County, Frio County, Gillespie County, Guadalupe County, Karnes County, Kendall County, Kerr County, Kinney County, La Salle County, Maverick County, Medina County, Real County, Uvalde County, Val Verde County, Wilson County, Zavala County				
AQCR 218 Midland-Odessa-San Angelo Intrastate	.....	Unclassifiable/Attainment.		
Andrews County, Borden County, Coke County, Concho County, Crane County, Crockett County, Dawson County, Ector County, Gaines County, Glasscock County, Howard County, Irion County, Kimble County, Loving County, Martin County, Mason County, McCulloch County, Menard County, Midland County, Pecos County, Reagan County, Reeves County, Schleicher County, Sterling County, Sutton County, Terrell County, Tom Green County, Upton County, Ward County, Winkler County				

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

* * * * *

TEXAS—OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*
AQCR 106 S Louisiana-SE Texas Interstate (Remainder of)	.....	Unclassifiable/Attainment	.....	
Angelina County, Houston County, Jasper County, Nacogdoches County, Newton County, Polk County, Sabine County, San Augustine County, San Jacinto County, Shelby County, Trinity County, Tyler County				
* * *	*	*	*	*
AQCR 210 Abilene-Wichita Falls Intrastate	.....	Unclassifiable/Attainment	.....	
Archer County, Baylor County, Brown County, Callahan County, Clay County, Coleman County, Comanche County, Cottle County, Eastland County, Fisher County, Foard County, Hardeman County, Haskell County, Jack County, Jones County, Kent County, Knox County, Mitchell County, Montague County, Nolan County, Runnels County, Scurry County, Shackelford County, Stephens County, Stonewall County, Taylor County, Throckmorton County, Wichita County, Wilbarger County, Young County				
AQCR 211 Amarillo-Lubbock Intrastate	.....	Unclassifiable/Attainment	.....	

TEXAS—OZONE—Continued

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Armstrong County, Bailey County, Briscoe County, Carson County, Castro County, Childress County, Cochran County, Collingsworth County, Crosby County, Dallam County, Deaf Smith County, Dickens County, Donley County, Floyd County, Garza County, Gray County, Hale County, Hall County, Hansford County, Hartley County, Hemphill County, Hockley County, Hutchinson County, King County, Lamb County, Lipscomb County, Lubbock County, Lynn County, Moore County, Motley County, Ochiltree County, Oldham County, Parmer County, Potter County, Randall County, Roberts County, Sherman County, Swisher County, Terry County, Wheeler County, Yoakum County				
* * *	*	*	*	*
AQCR 214 Corpus Christi-Victoria Intrastate (Remainder of)	.....	Unclassifiable/Attainment	.....	
Aransas County, Bee County, Brooks County, Calhoun County, De Witt County, Duval County, Goliad County, Gonzales County, Jackson County, Jim Wells County, Kenedy County, Kleberg County, Lavaca County, Live Oak County, McMullen County, Refugio County, San Patricio County,				
AQCR 214 Corpus Christi-Victoria Intrastate (part)	.....	Unclassifiable/Attainment	.....	
Nueces County				
* * *	*	*	*	*
AQCR 216 Metro Houston-Galveston Intrastate (Remainder of).	.....	Unclassifiable/Attainment	.....	
Austin County, Colorado County, Matagorda County, Walker County, Wharton County				
AQCR 217 Metro San Antonio Intrastate (part)	.....	Unclassifiable/Attainment	.....	
Bexar County				
AQCR 217 Metro San Antonio Intrastate (Remainder of).				
Atascosa County, Bandera County, Comal County, Dimmit County, Edwards County, Frio County, Gillespie County, Guadalupe County, Karnes County, Kendall County, Kerr County, Kinney County, La Salle County, Maverick County, Medina County, Real County, Uvalde County, Val Verde County, Wilson County, Zavala County				
AQCR 218 Midland-Odessa-San Angelo Intrastate (part)	.....	Unclassifiable/Attainment	.....	
Ector County				
AQCR 218 Midland-Odessa-San Angelo Intrastate (Remainder of).	.....	Unclassifiable/Attainment	.....	
Andrews County, Borden County, Coke County, Concho County, Crane County, Crockett County, Dawson County, Gaines County, Glasscock County, Howard County, Irion County, Kimble County, Loving County, Martin County, Mason County, McCulloch County, Menard County, Midland County, Pecos County, Reagan County, Reeves County, Schleicher County, Sterling County, Sutton County, Terrell County, Tom Green County, Upton County, Ward County, Winkler County				

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

* * * * *

[FR Doc. 97–14450 Filed 6–2–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–5833–7]

Protection of Stratospheric Ozone

AGENCY: Environmental Protection Agency.

ACTION: Notice of acceptability.

SUMMARY: This notice expands the list of acceptable substitutes for ozone-depleting substances (ODS) under the U.S. Environmental Protection Agency's (EPA) Significant New Alternatives Policy (SNAP) program.

EFFECTIVE DATE: June 3, 1997.

ADDRESSES: Information relevant to this notice is contained in Air Docket A–91–

42, Central Docket Section, South Conference Room 4, U.S. Environmental Agency, 401 M Street, S.W., Washington, D.C. 20460. Telephone: (202) 260–7548. The docket may be inspected between 8:00 a.m. and 5:30 p.m. weekdays. As provided in 40 CFR Part 2, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Carol Weisner at (202) 233–9193 or fax (202) 233–9577, U.S. EPA, Stratospheric Protection Division, 401 M Street, S.W., Mail Code 6205J, Washington, D.C. 20460; EPA Stratospheric Ozone Protection Hotline at (800) 296–1996; EPA World Wide Web Site at http://www.epa.gov/ozone/title6/snap/snap.html.

SUPPLEMENTARY INFORMATION:

I. Section 612 Program

A. Statutory Requirements

Section 612 of the Clean Air Act authorizes EPA to develop a program for evaluating alternatives to ozone-depleting substances. EPA refers to this program as the Significant New Alternatives Policy (SNAP) program. The major provisions of section 612 are:

- *Rulemaking*—Section 612(c) requires EPA to promulgate rules making it unlawful to replace any class I (chlorofluorocarbon, halon, carbon tetrachloride, methyl chloroform, methyl bromide, and hydrobromofluorocarbon) or class II (hydrochlorofluorocarbon) substance with any substitute that the Administrator determines may present adverse effects to human health or the environment where the Administrator has identified an alternative that (1) reduces the overall risk to human health and the environment, and (2) is currently or potentially available.
- Listing of Unacceptable/Acceptable Substitutes—Section 612(c) also requires EPA to publish a list of the substitutes unacceptable for specific uses. EPA must publish a corresponding list of acceptable alternatives for specific uses.
- *Petition Process*—Section 612(d) grants the right to any person to petition EPA to add a substance to or delete a substance from the lists published in accordance with section 612(c). The Agency has 90 days to grant or deny a petition. Where the Agency grants the petition, EPA must publish the revised lists within an additional 6 months.
- *90-day Notification*—Section 612(e) requires EPA to require any person who produces a chemical substitute for a class I substance to notify the Agency not less than 90 days before new or *existing* chemicals are introduced into interstate commerce for significant new uses as substitutes for a class I substance. The producer must also provide the Agency with the producer's unpublished health and safety studies on such substitutes.
- *Outreach*—Section 612(b)(1) states that the Administrator shall seek to maximize the use of federal research facilities and resources to assist users of class I and II substances in identifying and developing alternatives to the use of such substances in key commercial applications.
- *Clearinghouse*—Section 612(b)(4) requires the Agency to set up a public clearinghouse of alternative chemicals, product substitutes, and alternative manufacturing processes that are available for products and manufacturing processes which use class I and II substances.

B. Regulatory History

On March 18, 1994, EPA published the Final Rulemaking (FRM) (59 FR 13044) which described the process for administering the SNAP program and issued EPA's first acceptability lists for substitutes in the major industrial use sectors. These sectors include: refrigeration and air conditioning; foam blowing; solvent cleaning; fire suppression and explosion protection; sterilants; aerosols; adhesives, coatings and inks; and tobacco expansion. These sectors compose the principal industrial sectors that historically consumed the largest volumes of ozone-depleting compounds.

As described in the final rule for the SNAP program (59 FR 13044), EPA does not believe that rulemaking procedures are required to list alternatives as acceptable with no limitations. Such listings do not impose any sanction, nor do they remove any prior license to use a substance. Consequently, by this notice EPA is adding substances to the list of acceptable alternatives without first requesting comment on new listings.

EPA does, however, believe that Notice-and-Comment rulemaking is required to place any substance on the list of prohibited substitutes, to list a substance as acceptable only under certain conditions, to list substances as acceptable only for certain uses, or to remove a substance from either the list of prohibited or acceptable substitutes. Updates to these lists are published as separate notices of rulemaking in the **Federal Register**.

The Agency defines a ''substitute'' as any chemical, product substitute, or alternative manufacturing process, whether existing or new, that could replace a class I or class II substance. Anyone who produces a substitute must provide the Agency with health and safety studies on the substitute at least 90 days before introducing it into interstate commerce for significant new use as an alternative. This requirement applies to substitute manufacturers, but may include importers, formulators or end-users, when they are responsible for introducing a substitute into commerce.

EPA published notices listing acceptable alternatives on August 26, 1994 (59 FR 44240), January 13, 1995 (60 FR 3318), July 28, 1995 (60 FR 38729), February 8, 1996 (61 FR 4736), and September 5, 1996 (61 FR 47012), and published final rulemakings restricting the use of certain substitutes on June 13, 1995 (60 FR 31092), May 22, 1996 (61 FR 25585), October 16, 1996 (61 FR 54030), and March 10, 1997 (62 FR 10700).

II. Listing of Acceptable Substitutes

This section presents EPA's most recent acceptable listing decisions for substitutes for class I and class II substances in the following industrial sectors: refrigeration and air conditioning, and foam blowing. In this Notice, EPA has split the refrigeration and air conditioning sector into two parts: substitutes for class I substances and substitutes for class II substances. For copies of the full list, contact the EPA Stratospheric Protection Hotline at (800) 296–1996.

Parts A and B below present a detailed discussion of the substitute listing determinations by major use sector. Tables summarizing today's listing decisions are in Appendix A. The comments contained in Appendix A provide additional information on a substitute, but for listings of acceptable substitutes, they are not legally binding under section 612 of the Clean Air Act. Thus, adherence to recommendations in the comments is not mandatory for use as a substitute. In addition, the comments should not be considered comprehensive with respect to other legal obligations pertaining to the use of the substitute. However, EPA encourages users of acceptable substitutes to apply all comments to their use of these substitutes. In many instances, the comments simply allude to sound operating practices that have

already been identified in existing industry and/or building-code standards. Thus, many of the comments, if adopted, would not require significant changes in existing operating practices for the affected industry.

A. Refrigeration and Air Conditioning: Class I

1. Clarification on the Use of Fittings With Manifold Gauges

EPA has issued several rules imposing the condition that motor vehicle refrigerants be used with unique fittings. Specifically, regulations require that

> The fittings must be used on all containers of the refrigerant, on can taps, on recovery, recycling, and charging equipment, and on all air conditioning system service ports. A refrigerant may only be used with the fittings and can taps specifically intended for that refrigerant and designed by the manufacturer of the refrigerant. Using a refrigerant with a fitting designed by anyone else, even if it is different from fittings used with other refrigerants, is a violation of this use condition. Using an adapter or deliberately modifying a fitting to use a different refrigerant is a violation of this use condition.

One interpretation of this requirement is that manifold gauge sets must be dedicated to a single refrigerant. They are frequently used as part of ''recovery, recycling, and recharging equipment'' and would, therefore, have to use a permanently attached set of fittings unique to one refrigerant. Furthermore, adapters to change the manifold gauges from one refrigerant to -another would be illegal. EPA believes this interpretation is overly restrictive and costly to service shops.

Manifold gauges allow technicians to diagnose system problems and to charge, recover, and/or recycle refrigerant. A standard fitting has traditionally been used at the end of the hoses attached to the manifold gauges (designated ''end 1'' for purposes of this discussion). In contrast, the SNAP use conditions require the use of unique fittings at the other ends of the hoses that attach to vehicle air conditioning systems and recovery or recycling equipment (designated as ''end 2''). This use condition still applies; once a unique fitting is attached to end 2, it may not be removed. However, it is legal to continue to use a standard fitting at end 1, changing hoses with unique fittings on end 2 to allow the use of the manifold gauges with multiple refrigerants.

An example will clarify the application of these requirements. Assume a technician has been working on a car that contains refrigerant X. The car and recovery or recycling equipment have permanently attached fittings unique to X. End 2 of the manifold gauge hoses also have permanently attached matching fittings unique to X. Before working on a car containing refrigerant Y, the technician must: (1) Recover refrigerant remaining in the hoses to the vacuum specified in the appropriate EPA standard for recovery and/or recycling, (2) disconnect the hoses from the vehicle and the recovery or recycling equipment, (3) disconnect the hoses from the manifold gauges, (4) using standard fittings, attach end 1 of the new hoses to the manifold gauges (these hoses must have permanently attached fittings at end 2 that are unique to refrigerant Y), and (5) attach end 2 of the new hoses to the vehicle containing refrigerant Y and to recovery or recycling equipment that meet the applicable standards for refrigerant Y.

Following this procedure will benefit the environment, the vehicle owner, and the shop. Refrigerants will not be released from the hoses, different refrigerants and lubricants will not be mixed within the hoses, and shops will not have to purchase multiple manifold gauges.

2. Acceptable Substitutes

Note that EPA acceptability does not mean that a given substitute will work in a specific type of equipment within an end-use. Engineering expertise must be used to determine the appropriate use of these and any other substitutes. In addition, although some alternatives are listed for multiple refrigerants, they may not be appropriate for use in all equipment or under all conditions.

a. MT–31

MT–31, the composition of which has been claimed as confidential business information, is acceptable as a substitute for CFC–12 in the following retrofitted and new systems:

- Centrifugal and Reciprocating Chillers.
- Industrial Process Refrigeration.
- Cold Storage Warehouses.
- Refrigerated Transport.
- Retail Food Refrigeration.
- Vending Machines.
- Water Coolers.
- Commercial Ice Machines.
- Household Refrigerators.
- Household Freezers.

and as a substitute for HCFC–22 in all retrofitted end-uses.

Because this blend contains an HCFC, it contributes to ozone depletion. However, this concern is mitigated by the scheduled phaseout of this chemical. Regulations regarding recycling and reclamation issued under section 608 of the Clean Air Act apply to this blend. This blend does not contain any flammable components, and all components are low in toxicity. Note that although this blend was submitted for motor vehicle use, the submission did not include the technical drawings, sample fittings, or sample label required by the final rule that took effect on November 15, 1996. This part of the submission remains incomplete, and it therefore remains illegal to use this blend as a CFC–12 substitute in motor vehicle air conditioning systems.

b. GHG–X5

GHG–X5, which consists of HCFC–22, HFC–227ea, HCFC–142b, and isobutane, is acceptable as a substitute for CFC–12 and R–500 in the following retrofitted and new systems:

- Centrifugal and Reciprocating Chillers.
- Industrial Process Refrigeration.
- Cold Storage Warehouses.
- Refrigerated Transport.
- Retail Food Refrigeration.
- Vending Machines.
- Water Coolers.
- Commercial Ice Machines.
- Household Refrigerators.
- Household Freezers.
- Residential Dehumidifiers.
- Motor Vehicle Air Conditioners (both automotive and non-automotive).

Because HCFC–22 and HCFC–142b contribute to ozone depletion, they will be phased out of production. Therefore, these blends will be used primarily as retrofit refrigerants. However, these blends are also acceptable for use in new systems. Regulations regarding recycling and reclamation issued under section 608 of the Clean Air Act apply to these blends. HCFC–142b has one of the highest ODPs among the HCFCs. The GWPs of HCFC–22 and HCFC–142b are 1700 and 2000, respectively, which are somewhat high. However, this concern is mitigated by the scheduled phaseout of these refrigerants. Although HCFC–142b and isobutane are flammable, these blends are not. In addition, testing of this blend has shown that it does not become flammable after leaks. All components are low in toxicity.

On October 16, 1996, (61 FR 54029), EPA promulgated a final rule that prospectively applied certain conditions on the use of any refrigerant used as a substitute for CFC–12 in motor vehicle air conditioning systems. That rule provided that EPA would list new refrigerants in future Notices. This Notice marks the first such determination. Therefore, the use of GHG–X5 as a CFC–12 substitute in motor vehicle air conditioning systems is governed by the standard conditions that have been imposed on previous

refrigerants, including the use of unique fittings designed by the refrigerant manufacturer, the application of a detailed label, the removal of the original refrigerant prior to charging with GHG–X5, and the installation of a high-pressure compressor cutoff switch on systems equipped with pressure relief devices. In addition, because GHG–X5 contains HCFC–22, barrier hoses must be used with this refrigerant. The October 16, 1996 rule gives full details on these use conditions, and it takes precedence in any conflict with this Notice. The fittings to be used with GHG–X5 are as follows:

Fitting type	Diameter (inches)	Thread pitch (threads/inch)	Thread direction
Low-side service port	.5625 (9/16)	18	Left.
High-side service port	.5 (8/16)	20	Left.
large (>20 lb. containers)	.5625 (9/16)	18	Left.

Note: There is no fitting for small cans; until such time as a fitting is developed and listed in a future notice, it remains illegal to distribute this product in small cans. The labels will have an orange background and black text.

c. HCFC–142b/HCFC–22 (ICOR)

This blend, which consists of HCFC–22 and HCFC–142b, is acceptable as a substitute for CFC–12 in the following retrofitted and new systems:

- Centrifugal and Reciprocating Chillers.
- Industrial Process Refrigeration.
- Cold Storage Warehouses.
- Refrigerated Transport.
- Retail Food Refrigeration.
- Vending Machines.
- Water Coolers.
- Commercial Ice Machines.
- Household Refrigerators.
- Household Freezers.
- Residential Dehumidifiers.

Because HCFC–22 and HCFC–142b contribute to ozone depletion, they will be phased out of production. Therefore, this blend will be used primarily as a retrofit refrigerant. However, is also acceptable for use in new systems. Regulations regarding recycling and reclamation issued under section 608 of the Clean Air Act apply to this blend. HCFC–142b has one of the highest ODPs among the HCFCs. The GWPs of HCFC–22 and HCFC–142b are 1700 and 2000, respectively, which are somewhat high. However, these concerns are mitigated by the scheduled phaseout of these refrigerants. Although HCFC–142b is flammable, the blend's worst-case formulation is not. After significant leakage, this blend may become weakly flammable. However, the worst-case fractionation will result in 100% HCFC–142b remaining in the system, which is similar to the result of a significant leak of R–406A, a refrigerant previously found acceptable. Therefore, this blend should be at least as safe to use as R–406A. Both components are low in toxicity.

B. Foam Blowing

1. Clarification on Overlap of Sec. 610 Non-essential Use Ban and SNAP in the Regulation of Integral Skin Foams

Section 610 of the Clean Air Act required EPA to ban the sale and distribution of integral skin foam and many other products manufactured with HCFCs (with the exception of integral skin foam utilized to provide for motor vehicle safety in accordance with Federal Motor Vehicle Safety Standards) as of January 1, 1994 (58 FR 69637; 12/30/93). HCFCs were banned from motor vehicle safety integral skin foam effective January 1, 1996. See 40 CFR Part 82, Subpart C for details on integral skin or other products where CFCs and/or HCFCs are prohibited under the Non-essential Products Ban.

In the initial SNAP listing of acceptable and unacceptable substitutes for integral skin, EPA listed a number of HCFCs and zero-ODP substitutes as acceptable (59 FR 13044; March 18, 1994). Users of substitutes listed under SNAP are, however, subject to all other environmental, health or safety regulations. Consequently, between January 1, 1994 and January 1, 1996, only the sale and distribution of integral skin foam used for motor vehicle safety could legally be manufactured with HCFCs. After, January 1, 1996 all use of HCFCs was banned in integral skin foam.

Persons who violate Title VI of the Clean Air Act may be subject to civil and administrative penalties of up to $25,000 per day for each violation. Any person who knowingly violates Title VI may be subject to criminal penalties of imprisonment of up to two years or a fine of up to $10,000.

2. Acceptable Substitutes

Under section 612 of the Clean Air Act, EPA is authorized to review substitutes for class I (CFCs) and class II (HCFCs) chemicals. The following listing expands the list of acceptable substitutes for HCFCs in integral skin applications. a. Polyurethane Integral Skin Foam

a. Polyurethane Integral Skin Foam

(a) Saturated Light Hydrocarbons C3–C6

Saturated Light Hydrocarbons C3–C6 are acceptable substitutes for HCFCs in polyurethane integral skin foam. Hydrocarbons are more flammable than CFCs and HCFCs and use would likely require additional investment to assure safe handling, use and shipping. These hydrocarbons have zero global warming potential (GWP) but are volatile organic compounds (VOCs) and must be controlled as such under Title I of the Clean Air Act. Relevant consumer product and other safety requirements necessary for use of hydrocarbon-blown integral skin foam would have to be met.

III. Additional Information

Contact the Stratospheric Protection Hotline at 1–800–296–1996, Monday–Friday, between the hours of 10:00 a.m. and 4:00 p.m. (Eastern Standard Time).

For more information on the Agency's process for administering the SNAP program or criteria for evaluation of substitutes, refer to the SNAP final rulemaking published in the **Federal Register** on March 18, 1994 (59 FR 13044). **Federal Register** notices can be ordered from the Government Printing Office Order Desk (202) 783–3238; the citation is the date of publication. This notice may also be obtained on the World Wide Web at http://www.epa.gov/ozone/title6/snap/snap.html.

List of Subjects in 40 CFR Part 82

Environmental Protection, Administrative Practice and Procedure, Air Pollution Control, Reporting and Recordkeeping Requirements.

Dated: May 23, 1994.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

Note: The following Appendix will not appear in the Code of Federal Regulations.

APPENDIX A.—SUMMARY OF ACCEPTABLE DECISIONS

End-use	Substitute	Decision	Comments
Foam Blowing			
HCFCs, Polyurethane Integral Skin	Saturated Light Hydrocarbons C3–C6	Acceptable	Additional investment is likely to be required to ensure safe handling, use and shipping.
Refrigeration and Air Conditioning			
CFC–12 Centrifugal and Reciprocating Chillers, Industrial Process Refrigeration, Cold Storage Warehouses, Refrigerated Transport, Retail Food Refrigeration, Vending Machines, Water Coolers, Commercial Ice Machines, Household Refrigerators, Household Freezers, and Residential Dehumidifiers (Retrofitted and New).	GHG–X5	Acceptable	Only the composition submitted is acceptable; compositions with different percentages of the components require new submissions.
	MT–31	Acceptable	Only the composition submitted is acceptable; compositions with different percentages of the components require new submissions.
	HCFC–22/HCFC–142b	Acceptable	Only the composition submitted is acceptable; compositions with different percentages of the components require new submissions.
CFC–12 Motor Vehicle Air Conditioning, Automotive and Non-Automotive (Retrofitted and New).	GHG–X5	Acceptable	Only the composition submitted is acceptable; compositions with different percentages of the components require new submissions.

[FR Doc. 97–14447 Filed 6–2–97; 8:45 am]
BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 301–8

[FTR Amdt. 66]

RIN 3090–AG41

Federal Travel Regulation; Reimbursement of Higher Actual Subsistence Expenses in Special or Unusual Circumstances

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: This final rule amends the Federal Travel Regulation (FTR) (41 CFR chapters 301–304) to allow an agency to authorize or approve travel up to 300 percent of the prescribed maximum per diem rate on an actual subsistence expense basis under certain special or unusual circumstances.

DATES: This final rule is effective May 1, 1997, and applies for travel performed on or after May 1, 1997.

FOR FURTHER INFORMATION CONTACT: Jane Groat, Office of Governmentwide Policy (MTT), Washington, DC 20405, telephone (202) 501–1538.

SUPPLEMENTARY INFORMATION: This final rule establishes a reimbursement rate not to exceed 300 percent of the prescribed maximum per diem rate for the actual and necessary expenses of official travel within CONUS. For travel in foreign and nonforeign areas, maximum rates are set by the Departments of State and Defense, respectively.

Further, this rule abolishes the requirements for the Administrator of General Services to establish, at the request of the head of an agency, a higher maximum daily rate for subsistence expenses not to exceed 300 percent of the prescribed maximum per diem rate for official travel to an area within the continental United States (CONUS) where special or unusual circumstances result in an extreme increase in subsistence costs for a temporary period.

The General Services Administration (GSA) has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993. This final rule is not required to be published in the **Federal Register** for notice and comment. Therefore, the Regulatory Flexibility Act does not apply. This rule also is exempt from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Part 301–8

Government employees, Travel, Travel allowances, Travel and transportation expenses.

For the reasons set out in the preamble, 41 CFR part 301–8 is amended to read as follows:

PART 301–8—REIMBURSEMENT OF ACTUAL SUBSISTENCE EXPENSES

1. The authority citation for part 301–8 continues to read as follows:

Authority: 5 U.S.C. 5707.

§ 301–8.2 [Amended]

2. Section 301–8.2(b) is amended to remove the phrase ''150 percent'' where it appears and to replace it with the phrase ''300 percent'', and to revise the fourth sentence to read, ''If the travel is to a location where §301–8.3(c) applies under special or unusual circumstances, the authorizing agency shall determine an appropriate limitation on the amount of reimbursement.''

§ 301–8.3 [Amended]

3. Section 301–8.3 is amended in paragraphs (a)(1) and (b)(1)(i) to remove the phrase ''150 percent'' where it appears and to replace it with the phrase ''300 percent''; by removing paragraph (c); by redesignating paragraph (d) as (c); by amending newly redesignated paragraph (c) to remove the phrase ''paragraphs (a) through (c) of this section'' where it appears and to replace it with the phrase ''paragraphs (a) and (b) of this section''.

§ 301–8.3 [Amended]

4. Section 301–8.3(a)(2) is revised to read as follows:

(a) * * *

(1) * * *

(2) *Travel outside CONUS.* For travel outside CONUS, the maximum daily rate for subsistence expenses shall not

exceed the greater of the amounts prescribed by the Departments of Defense and State, as set forth in the Joint Federal Travel Regulation/Joint Travel Regulation and the Foreign Affairs Manual, respectively, for nonforeign and foreign areas.

Dated: May 27, 1997.

David J. Barram,

Acting Administrator of General Services.

[FR Doc. 97–14434 Filed 6–2–97; 8:45 am]

BILLING CODE 6820–34–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

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

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

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

FOR FURTHER INFORMATION CONTACT: Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2796.

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

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

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

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

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

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

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

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

National Environmental Policy Act

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

Regulatory Flexibility Act

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

Regulatory Classification

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

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform

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

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

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

PART 65—[AMENDED]

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

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

§ 65.4 [Amended]

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

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community no.
Arizona:					
Maricopa (FEMA Docket No. 7208).	Town of Cave Creek.	Dec. 16, 1996, Dec. 23, 1996, *Arizona Republic.*	The Honorable Tom Augerton, Mayor, Town of Cave Creek, 37622 North Cave Creek Road, Cave Creek, Arizona 85331.	Nov. 27, 1996	040129

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community no.
Maricopa (FEMA Docket No. 7208).	City of Phoenix	Jan. 7, 1997, Jan. 14, 1997, *Arizona Republic*.	The Honorable Skip Rimsza, Mayor, City of Phoenix, 200 West Washington Street, Phoenix, Arizona 85003–1611.	Dec. 6, 1996	040051
Maricopa (FEMA Docket No. 7208).	City of Phoenix	Jan. 24, 1997, Jan. 31, 1997, *Arizona Republic*.	The Honorable Skip Rimsza, Mayor, City of Phoenix, 200 West Washington Street, Phoenix, Arizona 85003–1611.	Dec. 19, 1996	040051
Arkansas:					
St. Francis (FEMA Docket No. 7208).	City of Forrest City	Jan. 24, 1997, Jan. 31, 1997, *Forrest City Times-Herald*.	The Honorable Danny Ferguson, Mayor, City of Forrest City, P.O. Box 1074, Forrest City, Arkansas 72335.	Jan. 3, 1997	050187
Benton (FEMA Docket No. 7208).	City of Rogers	Dec. 16, 1996, Dec. 23, 1996, *Benton County Daily Record*.	The Honorable John W. Sampier, Jr., Mayor, City of Rogers, 300 West Poplar, Rogers, Arkansas 72756.	Dec. 3, 1996	050013
White (FEMA Docket No. 7208).	City of Searcy	Jan. 24, 1997, Jan. 31, 1997, *Daily Citizen*.	The Honorable David Evans, Mayor, City of Searcy, 401 West Arch Avenue, Searcy, Arkansas 77143–5392.	Dec. 20, 1996	050229
California:					
Ventura (FEMA Docket No. 7208).	City of Camarillo ..	Jan. 22, 1997, Jan. 29, 1997, *Ventura County Star*.	The Honorable David Smith, Mayor, City of Camarillo, P.O. Box 248, Camarillo, California 93011.	Jan. 2, 1997	065020
Orange (FEMA Docket No. 7208).	City of Fullerton ...	Jan. 23, 1997, Jan. 30, 1997, *Fullerton News-Tribune*.	The Honorable Chris Norby, Mayor, City of Fullerton, 303 West Commonwealth Avenue, Fullerton, California 92832.	Jan. 6, 1997	060219
San Luis Obispo (FEMA Docket No. 7208).	City of Grover Beach.	Dec. 12, 1996, Dec. 19, 1996, *Telegram-Tribune*.	The Honorable Ronald Arnoldsen, Mayor, City of Grover Beach, P.O. Box 365, Grover Beach, California 93483.	Nov. 25, 1996	060306
Sonoma (FEMA Docket No. 7208).	City of Petaluma ..	Jan. 10, 1997, Jan. 17, 1997, *Press Democrat*.	The Honorable M. Patricia Hilligoss, Mayor, City of Petaluma, P.O. Box 61, Petaluma, California 94953.	Dec. 4, 1996	060379
San Luis Obispo (FEMA Docket No. 7208).	City of Pismo Beach.	Dec. 12, 1996, Dec. 19, 1996, *Telegram-Tribune*.	The Honorable John Brown, Mayor, City of Pismo Beach, P.O. Box 3, Pismo Beach, California 93449.	Nov. 25, 1996	060309
Riverside (FEMA Docket No. 7208).	Unincorporated Areas.	Dec. 16, 1996, Dec. 23, 1996, *The Press-Enterprise*.	The Honorable Kay Ceniceros, Chairperson, Riverside County Board of Supervisors, P.O. Box 1486, Riverside, California 92502–1486.	Nov. 27, 1996	060245
Sacramento (FEMA Docket No. 7208).	Unincorporated Areas.	Jan. 22, 1997, Jan. 29, 1997, *Sacramento Bee*.	Mr. Douglas M. Fraleigh, Administrator, Sacramento County Public Works Agency, County Administration Building, 827 Seventh Street, Room 304, Sacramento, California 95814.	Dec. 30, 1996	060262
Colorado: Denver (FEMA Docket No. 7208).	City and County of Denver.	Jan. 23, 1997, Jan. 30, 1997, *The Denver Post*.	The Honorable Wellington E. Webb, Mayor, City and County of Denver, 1437 Bannock Street, Denver, Colorado 80202.	Jan. 8, 1997	080046
Nevada: Clark (FEMA Docket No. 7208).	Unincorporated Areas.	Dec. 16, 1996, Dec. 23, 1996, *Las Vegas Review Journal*.	The Honorable Yvonne Atkinson Gates, Chairperson, Clark County Board of Commissioners, 225 East Bridger Avenue, Las Vegas, Nevada 89155.	Nov. 21, 1996	320003
New Mexico:					
Bernalillo (FEMA Docket No. 7208).	City of Albuquerque.	Jan. 24, 1997, Jan. 31, 1997, *Albuquerque Journal*.	The Honorable Martin J. Chavez, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103.	Jan. 6, 1997	350002
Bernalillo (FEMA Docket No. 7208).	Unincorporated Areas.	Jan. 24, 1997, Jan. 31, 1997, *Albuquerque Journal*.	The Honorable Albert Valdez, Chairman, County Commissioners, Bernalillo County, 2400 Broadway, Southeast, Albuquerque, New Mexico 87102.	Jan. 6, 1997	350001

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community no.
Texas:					
Harris (FEMA Docket No. 7208).	City of Baytown	Dec. 11, 1996, Dec. 18, 1996, *Baytown Sun*.	The Honorable Pete Alfaro, Mayor, City of Baytown, City Hall, 2401 Market Street, Baytown, Texas 77522.	Nov. 19, 1996	485456
Dallas (FEMA Docket No. 7208).	City of Dallas	Dec. 18, 1996, Dec. 24, 1996, *Dallas Morning News*.	The Honorable Ron Kirk, Mayor, City of Dallas, 1500 Marilla Street, Room 5E North, Dallas, Texas 75201.	Nov. 27, 1996	480171
Dallas (FEMA Docket No. 7208).	City of Farmers Branch.	Dec. 18, 1996, Dec. 24, 1996, *Dallas Morning News*.	The Honorable Bob Phelps, Mayor, City of Farmers Branch, P.O. Box 819010, Farmers Branch, Texas 75381–9010.	Nov. 27, 1996	480174
Tarrant (FEMA Docket No. 7208).	City of Haltom City	Dec. 16, 1996, Dec. 23, 1996, *Fort Worth Star-Telegram*.	The Honorable Charles Womack, Mayor, City of Haltom City, P.O. Box 14246, Haltom City, Texas 7611.	Dec. 3, 1996	480599
Harris (FEMA Docket No. 7208).	Unincorporated Areas.	Dec. 13, 1996, Dec. 20, 1996, *Houston Chronicle*.	The Honorable Robert Eckels, Harris County Judge, 1001 Preston Street, Suite 911, Houston, Texas 77002.	Nov. 25, 1996	480287
Harris (FEMA Docket No. 7208).	Unincorporated Areas.	Dec. 11, 1996, Dec. 18, 1996, *Baytown Sun*.	The Honorable Robert Eckels, Harris County Judge, 1001 Preston Street, Suite 911, Houston, Texas 77092.	Nov. 19, 1996	480287
Montgomery (FEMA Docket No. 7208).	Unincorporated Areas.	Dec. 13, 1996, Dec. 20, 1996, *Houston Chronicle*.	The Honorable Alan B. Sadler, Montgomery County Judge, 301 North Thompson, Suite 210, Conroe, Texas 77301.	Nov. 25, 1996	480483
Tarrant (FEMA Docket No. 7208).	City of North Richland Hills.	Dec. 16, 1996, Dec. 23, 1996, *Fort Worth Star-Telegram*.	The Honorable Tommy Brown, Mayor, City of North Richland Hills, P.O. Box 820609, North Richland Hills, Texas 76182–0609.	Dec. 3, 1996	480607
Tarrant (FEMA Docket No. 7208).	City of North Richland Hills.	Jan. 24, 1997, Jan. 31, 1997, *Fort Worth Star-Telegram*.	The Honorable Tommy Brown, Mayor, City of North Richland Hills, P.O. Box 820609, North Richland Hills, Texas 76182–0609.	Dec. 23, 1996	480607
Williamson (FEMA Docket No. 7208).	City of Round Rock.	Dec. 5, 1996, Dec. 12, 1996, *Round Rock Leader*.	The Honorable Charles Culpepper, Mayor, City of Round Rock, 221 East Main, Round Rock, Texas 78664.	Nov. 12, 1996	481048
Williamson (FEMA Docket No. 7208).	Unincorporated Areas.	Dec. 5, 1996, Dec. 12, 1996, *Round Rock Leader*.	The Honorable John Doerfler, Williamson County Judge, County Courthouse, 710 Main Street, Suite 201, Georgetown, Texas 78626.	Nov. 12, 1996	481079
Washington: Spokane (FEMA Docket No. 7208).	Unincorporated Areas.	Dec. 11, 1996, Dec. 18, 1996, *The Spokesman-Review*.	The Honorable Jim Lindow, Chief Executive Officer, Spokane County, 1116 West Broadway, Spokane, Washington 99260.	Nov. 26, 1996	530174

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

Dated: May 22, 1997.

Richard W. Krimm,

Executive Associate Director, Mitigation Directorate.

[FR Doc. 97–14431 Filed 6–2–97; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–7216]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim rule.

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

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

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

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

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

FOR FURTHER INFORMATION CONTACT: Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2796.

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

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

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

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

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

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

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

National Environmental Policy Act

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

Regulatory Flexibility Act

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

Regulatory Classification

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

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform

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

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

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

PART 65—[AMENDED]

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

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

§ 65.4 [Amended]

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

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arizona:					
Pima	Unincorporated Areas.	Apr. 9, 1997, Apr. 16, 1997, *The Arizona Daily Star.*	The Honorable Raul Grijalva, Chairman, Pima County Board of Supervisors, 130 West Congress Street, Tucson, Arizona 85701.	Mar. 19, 1997	040073
Pima	City of Tucson	Apr. 9, 1997, Apr. 16, 1997, *The Arizona Daily Star.*	The Honorable George Miller, Mayor, City of Tucson, P.O. Box 27210, Tucson, Arizona 85726–7210.	Mar. 19, 1997	040076
Pima	City of Tucson	Apr. 9, 1997, Apr. 16, 1997, *The Arizona Daily Star.*	The Honorable George Miller, Mayor, City of Tucson, P.O. Box 27210, Tucson, Arizona 85726–7210.	Mar. 17, 1997	040076
California:					
Los Angeles ...	Unincorporated Areas.	Apr. 9, 1997, Apr. 16, 1997, *Daily Commerce.*	The Honorable Zev Yaroslavsky, Chairperson, Los Angeles County Board of Supervisors, 500 West Temple Street, Suite 821, Los Angeles, California 90012.	Mar. 19, 1997	065043
Orange	City of Placentia ...	Apr. 3, 1997, Apr. 10, 1997, *Placentia News-Times.*	The Honorable Norman Z. Eckenrode, Mayor, City of Placentia, 401 East Chapman Avenue, Placentia, California 92670.	Feb. 27, 1997	060229
Colorado:					
Boulder	City of Boulder	Apr. 23, 1997, Apr. 30, 1997, *Boulder Daily Camera.*	The Honorable Leslie Durgin, Mayor, City of Boulder, P.O. Box 791, Boulder, Colorado 80306.	Apr. 3, 1997	080024

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Adams	City of Thornton ...	Apr. 17, 1997, Apr. 24, 1997, *Northglenn-Thornton Sentinel*.	The Honorable Margaret Carpenter, Mayor, City of Thornton, 9500 Civic Center Drive, Thornton, Colorado 80229.	Mar. 13, 1997	080007
Hawaii: Honolulu ...	City and County ...	Apr. 23, 1997, Apr. 30, 1997, *Honolulu Star-Bulletin*.	The Honorable Jeremy Harris, Mayor, City and County of Honolulu, 650 South King Street, Honolulu, Hawaii 96183.	Apr. 15, 1997	150001
Kansas: Sedgwick	City of Wichita	Apr. 23, 1997, Apr. 30, 1997, *The Wichita Eagle*.	The Honorable Bob Knight, Mayor, City of Wichita, City Hall, 455 North Main Street, Wichita, Kansas 67202.	Apr. 7, 1997	200328
Missouri: St. Charles.	City of Cottleville ..	Apr. 23, 1997, Apr. 30, 1997, *St. Charles Post*.	The Honorable Stephen P. Kochanski, Mayor, City of Cottleville, P.O. Box 387, Cottleville, Missouri 63338.	Mar. 28, 1997	290808
Nebraska: Merrick	City of Central City	Apr. 17, 1997, Apr. 24, 1997. *Central City Republican-Nonpareil*.	The Honorable Calvin C. Lepp, Mayor, City of Central City, P.O. Box 418, Central City, Nebraska 68826.	Mar. 14, 1997	310148
New Mexico: Bernalillo.	Unincorporated Areas.	Apr. 23, 1997, Apr. 30, 1997, *Albuquerque Journal*.	The Honorable Albert Valdez, Chairman, Bernalillo County Board of Commissioners, 2400 Broadway Southeast, Albuquerque, New Mexico 87102.	Apr. 4, 1997	350001
Oklahoma: Oklahoma.	City of Edmond	Apr. 22, 1997, Apr. 29, 1997, *Edmond Evening Sun*.	The Honorable Bob Rudkin, Mayor, City of Edmond, 100 East First, Edmond, Oklahoma 73083–2970.	Mar. 27, 1997	400252
Texas:					
Midland	City of Midland	Apr. 22, 1997, Apr. 29, 1997, *Midland Reporter-Telegram*.	The Honorable Robert E. Burns, Mayor, City of Midland, P.O. Box 1152, Midland, Texas 79702–1152.	Mar. 26, 1997	480477
Montgomery ...	Unincorporated Areas.	Apr. 23, 1997, Apr. 30, 1997, *Houston Chronicle*.	The Honorable Alan B. Sadler, Montgomery County Judge, 301 North Thompson, Suite 210, Conroe, Texas 77301.	Apr. 3, 1997	480483
Montgomery ...	Unincorporated Areas.	Apr. 23, 1997, Apr. 30, 1997, *Conroe Courier*.	The Honorable Alan B. Sadler, Montgomery County Judge, 301 North Thompson, Suite 210, Conroe, Texas 77301.	Mar. 28, 1997	480483
Tarrant	City of North Richland Hills.	Apr. 8, 1997, Apr. 15, 1997, *Fort Worth Star-Telegram*.	The Honorable Tommy Brown, Mayor, City of North Richland Hills, P.O. Box 820609, North Richland Hills, Texas 76182–0609.	Mar. 7, 1997	480607

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

Dated: May 22, 1997.

Richard W. Krimm,

Executive Associate Director, Mitigation Directorate.

[FR Doc. 97–14432 Filed 6–2–97; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

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

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated in the table below.

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

FOR FURTHER INFORMATION CONTACT: Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2796.

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

flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

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

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

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

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

National Environmental Policy Act

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

Regulatory Flexibility Act

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

Regulatory Classification

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

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform

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

List of Subjects in 44 CFR Part 67

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

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

PART 67—[AMENDED]

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

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

§ 67.11 [Amended]

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

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
CALIFORNIA	
Pleasanton (City), Alameda County (FEMA Docket No. 7194)	
Arroyo Mocho:	
Just above Santa Rita Road ...	*336.
At intersection of Stoneridge Drive and Moreno Avenue.	None.
At intersection of Boardwalk Street and West Las Positas Boulevard.	None.
500 feet upstream of confluence of Arroyo Las Positas.	*351.
Arroyo Las Positas:	
At intersection of Pimlico and Fairlands Drives.	None.
At confluence with Arroyo Mocho.	*345.
Maps are available for inspection at the City of Pleasanton City Office, Public Works Department, 200 Old Bernal Avenue, Pleasanton, California.	
OKLAHOMA	
Marshall County (Unincorporated Areas) and Madill (City) (FEMA Docket No. 7206)	
Glasses Creek:	
Approximately 4,000 feet downstream of Burlington Northern Railroad.	*732.
Approximately 60 feet upstream of Burlington Northern Railroad.	*750.
Just upstream of U.S. Highway 70.	*757.
Whiskey Creek:	
Approximately 1,200 feet downstream of Burlington Northern Railroad.	*761.
Just upstream of State Route 99.	*792.
Whiskey Creek Tributary:	
Approximately 70 feet downstream of Park Road.	*785.
Just upstream of Park Road	*791.
Maps are available for inspection at the Marshall County Courthouse, Madill, Oklahoma.	
Maps are available for inspection at the City of Madill City Hall, 201 East Overton Street, Madill, Oklahoma.	

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

Dated: May 22, 1997.

Richard W. Krimm,

Executive Associate Director, Mitigation Directorate.

[FR Doc. 97–14429 Filed 6–2–97; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1312

[STB Ex Parte No. 618]

Regulations for the Publication, Posting and Filing of Tariffs for the Transportation of Property by or With a Water Carrier in the Noncontiguous Domestic Trade

AGENCY: Surface Transportation Board, DOT.

ACTION: Final rule; petition for reconsideration.

SUMMARY: The Board makes technical amendments to the final rule published on April 18, 1997, to ensure that the intended application of the rule is not misunderstood with respect to electronic filings, and in all other respects denies the petition for reconsideration.

EFFECTIVE DATE: These rules are effective June 3, 1997.

FOR FURTHER INFORMATION CONTACT: James W. Greene, (202) 565–1578. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: The Caribbean Shippers Association, Inc. (CSA), filed a petition on April 22, 1997, requesting the Board to reopen and reconsider its final rules decision served April 17, 1997 (62 FR 19058). CSA contends that the Board committed legal error by impermissibly permitting carriers that utilize the Automated Tariff Filing and Information System (ATFI), an electronic tariff filing system developed by the Federal Maritime Commission (FMC), to avoid the

mandatory requirements of the posting provisions of 49 U.S.C. 13702(b)(1).[1]

The provisions of 49 U.S.C. 13702(b)(1) require that carriers publish, file with the Board and keep available for public inspection tariffs containing the rates established for transportation or service in the noncontiguous domestic trade, and that the Board prescribe the form and manner of publishing, filing and keeping such tariffs available for public inspection. In our final rules, we provided that carriers could, at their election, meet the tariff requirements of section 13702(b)(1) by using FMC's ATFI system, and by following all of the posting and filing rules contained in the FMC's regulations at 46 CFR part 514.[2] Our regulations provided that noncontiguous domestic trade tariffs properly filed through the ATFI system would be deemed to be filed with us.[3]

In seeking reconsideration, CSA asserts that the posting requirements in 46 CFR part 514 are not applicable to electronic tariffs filed with the Board, but that, if they are, they do not comport with the requirements of section 13702(b)(1). CSA's position is incorrect.

At the outset, it is clear from our final rules that the posting requirements in 46 CFR part 514 apply to ATFI tariffs filed with the Board. Indeed, CSA cites in its petition a portion of the discussion in our decision that makes such intent abundantly clear. Nevertheless, to remove any doubt, we will modify paragraphs (b) and (d) of § 1312.17 to specifically include the word ''posting.'' These amendments, which further clarify what we believe were already clear regulations, will become effective upon publication.

CSA also seems to assert that the FMC's posting requirements, which we have adopted verbatim in the revised regulations, do not satisfy the law, and it asks that we modify them to ''make it very clear that U.S. governmental ATFI charges may not be assessed by the carriers for the posting compliance required by section 13702(b)(1).'' CSA's point is far from clear, but we will address its statement as well as we can.

At the outset, we note that the posting requirements of 49 U.S.C. 13702, which are implemented in 46 CFR 514.8, require each carrier in the noncontiguous domestic trade to ''make available to the public at each facility at which it receives freight * * * for transportation, or at which it employs a general or sales agent, all tariff material governing transportation to and from the facility in question.'' 46 CFR 514.8(k)(1)(i)(B). In addition to these provisions requiring carriers to provide free access to rate information at their places of business, the general provisions of 46 CFR 514.8(k)(1)(i)(A) require that every carrier using the ATFI system ''promptly make available to the public in paper or electronic form and at a reasonable charge (such as for a regular subscription under § 514.15(b)(30)) all tariff material required by this part to be filed.'' All of these posting requirements apply to carriers, not to the U.S. Government.

CSA seems to equate the provisions of 46 CFR 514.8(k)(1)(i)(A), which permit carriers to charge fees for requests for tariffs other than those made by persons who appear at the carrier's places of business, with ''U.S. Governmental ATFI charges.'' The governmental ATFI charges, however, are very different from permissible carrier tariff dissemination charges. The ATFI fee imposed pursuant to 46 CFR 514.21(g) for remote electronic retrieval is a charge assessed by the United States Government to recover the costs of alternative tariff access that is provided by the United States Government;[4] it is not a charge assessed by carriers to comply with the posting requirement. The remote access for which the Government assesses a charge is not provided pursuant to the posting requirement. Rather, it is simply an alternative form of access made available by the United States Government to persons who might prefer to obtain tariff information from the Government rather than from the carrier pursuant to the posting requirement.

CSA appears to suggest, as it did in its response to the notice of proposed rulemaking (NPR) served December 20, 1996 (61 FR 67291), that no shipper should ever have to pay for any rate information on an ATFI shipment, because the carrier should be required to make electronic tariff information available to any person, through dial-up access by modem, without charge. As we noted in our prior decision, the existing FMC regulations, including the regulations permitting carriers to charge shippers for off-premise tariff information, have been in effect for many years. CSA has presented absolutely no support for its proposal to change these regulations, and we will not adopt it. The existing regulations provide means by which shippers can obtain free tariff information. To require carriers to adapt their existing systems so that any shipper can obtain free tariff information by modem would clearly entail additional costs. As the existing regulations plainly provide all that is required under the statute,[5] and as CSA has not even attempted to show why the carriers, rather than CSA's members, should bear the cost of rate dissemination beyond that required by the statute, CSA's petition for reconsideration will be denied.

Small Entities

The Board certifies that this rule will not have a significant economic effect on a substantial number of small entities.

Environment

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1312

Motor carriers, Noncontiguous domestic trade, Tariffs, Water carriers.

Decided: May 22, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1312 of the Code of Federal Regulations is amended as follows:

[1] Prior to October 1, 1996, the requirements for electronically filed tariffs in the noncontiguous domestic trade were administered by the FMC. On October 1, 1996, in conjunction with the ICCTA's transfer of jurisdiction over port-to-port water carrier transportation in the noncontiguous domestic trade from FMC to the Board, the FMC requirements were adopted for tariffs filed electronically with the Board. See Electronic Filing of Noncontiguous Domestic Trade Tariffs, Special Tariff Authority No. 4, served October 1, 1996.

[2] The conference report accompanying the ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 103 (1995) (ICCTA), urged the Board to continue the FMC's practice of allowing carriers to file their noncontiguous domestic trade tariffs electronically. H. R. Rep. No. 422, 104th Cong., 1st Sess. 206 (1995).

[3] The Board and the FMC entered into an interagency agreement to provide for the use of the ATFI system for tariffs covering services subject to the Board's jurisdiction.

[4] As in the case of printed tariff information available at the Board's office, any person may obtain free access to noncontiguous domestic trade ATFI tariffs at the Board's office. However, as is the case with copies of printed tariffs, ATFI tariffs that a person requests from a remote location will be provided, but at a fee that contributes to the Government's cost of providing the service.

[5] We have reviewed the posting requirements set forth at 46 CFR 514.8(k)(1)(i) (A) and (B), and we conclude that they fully comport with the requirements at 49 U.S.C. 13702(b)(1).

PART 1312—REGULATIONS FOR THE PUBLICATION, POSTING AND FILING OF TARIFFS FOR THE TRANSPORTATION OF PROPERTY BY OR WITH A WATER CARRIER IN NONCONTIGUOUS DOMESTIC TRADE

1. The authority citation for part 1312 continues to read as follows:

Authority: 49 U.S.C. 721(a), 13702(a), 13702(b) and 13702(d).

2. In § 1312.17, paragraphs (b) and (d) are revised to read as follows:

§ 1312.17 Electronic filing of tariffs.

* * * * *

(b) *Compliance with FMC requirements.* All tariffs filed electronically must fully comply with the filing and posting procedures, and the data record format and content requirements, established for the ATFI system (see 46 CFR part 514).

* * * * *

(d) *Relief from this part.* Electronically filed tariffs will not be subject to the filing and posting procedures, and the format requirements, for printed tariffs as set forth in §§ 1312.4, 1312.5, and 1312.7 through 1312.15; however, such tariffs must otherwise fully comply with the requirements of this part.

[FR Doc. 97–14457 Filed 6–2–97; 8:45 am]
BILLING CODE 4915–00–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961107312–7021–02; I.D. 052897A]

Fisheries of the Exclusive Economic Zone Off Alaska; Shortraker and Rougheye Rockfish in the Aleutian Islands Subarea

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

ACTION: Inseason adjustment; request for comments.

SUMMARY: NMFS issues an inseason adjustment prohibiting retention of Pacific cod in the Aleutian Islands subarea of the Bering Sea and Aleutian Islands management area (BSAI) by vessels using trawl gear. This action is necessary to prevent overfishing of the shortraker/rougheye rockfish species group.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), May 29, 1997, until 2400 hrs, A.l.t., December 31, 1997. Comments must be received at the following address no later than 4:30 p.m., A.l.t., June 18, 1997.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief,

Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668 [Attn. Lori Gravel], or be delivered to the fourth floor of the Federal Building, 709 West 9th Street, Juneau, AK.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI

exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Magnuson-Stevens Act requires that conservation and management measures prevent overfishing. The 1997 overfishing level for the shortraker/rougheye rockfish species group in the Aleutian Islands subarea of the BSAI is established by the Final 1997 Harvest Specifications for Groundfish for the BSAI (62 FR 7168, February 18, 1997) as 1,250 metric tons (mt). The acceptable biological catch level for this group is 938 mt. As of May 10, 1997, 1,206 mt of shortraker/rougheye rockfish have been caught.

NMFS closed directed fishing for shortraker/rougheye rockfish in the Final 1997 Harvest Specifications of Groundfish and prohibited retention of shortraker/rougheye rockfish on April 2, 1997 (62 FR 16736, April 8, 1997). Substantial trawl fishing effort will be directed at remaining amounts of Pacific cod in the Aleutian Islands subarea during 1997. These fisheries can have significant bycatch of shortraker/rougheye rockfish.

The Administrator, Alaska Region, NMFS, has determined, in accordance with § 679.25(a)(1)(i) and (a)(2)(iii), that closing the season by prohibiting retention of Pacific cod by vessels using trawl gear is necessary to prevent overfishing of the shortraker/rougheye rockfish species group, and is the least restrictive measure to achieve that purpose. Without this prohibition of retention, significant incidental catch of shortraker/rougheye rockfish would occur by trawl vessels targeting Pacific cod.

Therefore, NMFS is requiring that further catches of Pacific cod by vessels using trawl gear in the Aleutian Islands subarea of the BSAI be treated as prohibited species in accordance with § 679.21(b)(2).

The Assistant Administrator for Fisheries, NOAA, finds for good cause that providing prior notice and public comment or delaying the effective date of this action is impracticable and contrary to the public interest. Immediate effectiveness is necessary to prevent overfishing of shortraker/rougheye rockfish in the Aleutian Islands subarea of the BSAI. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until June 18, 1997.

Classification

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

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

Dated: May 28, 1997.

Bruce Morehead,

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

[FR Doc. 97–14467 Filed 5–29–97; 4:26 pm]
BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961107312–7021–02; I.D. 052897B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Hook-and-Line Gear in Bering Sea and Aleutian Islands

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

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for Pacific cod by vessels using hook-and-line gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the second seasonal apportionment of the 1997 Pacific halibut bycatch allowance specified for the Pacific cod hook-and-line fishery category.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), May 30, 1997, until 1200 hrs, A.l.t., September 15, 1997.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

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

The second seasonal apportionment of the 1997 Pacific halibut bycatch allowance specified for the Pacific cod hook-and-line fishery in the BSAI, which is defined at § 679.21(e)(4)(ii)(A), was established by the Final 1997 Harvest Specifications of Groundfish for the BSAI (62 FR 7168, February 18, 1997) as 40 metric tons.

In accordance with § 679.21(e)(8), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the second seasonal apportionment of the 1997 Pacific halibut bycatch allowance specified for the Pacific cod hook-and-line fishery in the BSAI has been caught. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels using hook-and-line gear in the BSAI.

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

Classification

This action is required by 50 CFR 679.21 and is exempt from review under E.O. 12866.

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

Dated: May 29, 1997.

Bruce Morehead,

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

[FR Doc. 97–14467 Filed 5–29–97; 4:26 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 106
Tuesday, June 3, 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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 70

[FRL–5833–4]

Operating Permits Program

Notice of Availability of Draft Rules and Accompanying Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The EPA has placed in the docket for public review and comment a draft of the regulations and accompanying preamble that would revise the operating permits regulations in part 70 of chapter I, title 40, of the Code of Federal Regulations, and requirements for ''minor'' new source review (NSR) permitting in part 51 of chapter I, title 40, of the Code of Federal Regulations. Revisions to part 70 were proposed on August 29, 1994 and August 31, 1995, and revisions to part 51 were proposed on August 31, 1995. The draft placed in the docket reflects EPA's consideration of comments on the 1994 and 1995 proposals and contains additional proposed regulatory revisions and accompanying preamble discussion on some aspects of parts 70 and 51 in response to those comments, in particular the procedures for ''minor permit revisions.'' The draft placed in the docket is styled as a draft ''final'' rule because EPA does not anticipate substantial additional changes. However, EPA is accepting comments on revisions to the draft final rule that have changed since the earlier proposals. The Agency also has placed in the docket a memorandum of options relating to ''minor permit revisions'' that EPA is still considering for the final rule. The EPA is also accepting comment on these options.

DATES: Comments on the draft notice must be received by July 3, 1997.

ADDRESSES: The draft notice and accompanying information is available in EPA's Air Docket number A–93–50 as items VI–A–1, VI–A–2, and VI–A–3. This docket is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at the address listed below. A reasonable fee may be charged for copying. The address of the EPA air docket is: EPA Air Docket (LE–131), Attention: Docket Number A–93–50, Room M–1500, Waterside Mall, 401 M Street SW, Washington, DC, 20460.

The draft notice and accompanying information may also be downloaded from the Internet at: http://134.67.104.12/html/caaa/t5pg.htm.

Comments on the materials referenced in today's notice must be mailed (in duplicate if possible) to: EPA Air Docket (LE–131), Attention: Docket No. A–93–50, at the above address. Please identify comments as pertaining to today's notice of availability of items VI–A–1, VI–A–2, and VI–A–3.

FOR FURTHER INFORMATION CONTACT: Ray Vogel (telephone 919–541–3153) or Roger Powell (telephone 919–541–5331), Mail Drop 12, EPA, Information Transfer and Program Integration Division, Research Triangle Park, North Carolina, 27711. Internet addresses are: vogel.ray@epamail.epa.gov and powell.roger@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The part 70 regulations were originally promulgated on July 21, 1992 (57 FR 32250). Revisions to part 70 were proposed on August 29, 1994 (59 FR 44460). Revisions to parts 51 and 70 were proposed on August 31, 1995 (60 FR 45530). Due to the length of time that has passed since the proposal notices, EPA has received numerous inquiries about the Agency's intended final action on those proposals. The Agency is making the draft notice available both for informational purposes and for purposes of considering any final comments from interested parties on the part 51 and part 70 revisions prior to final action.

Following EPA review of any additional comments on these materials, the Agency will prepare and publish a final rule that will constitute final action on the proposed revisions to parts 70 and 51.

As noted above, the draft notice reflects EPA's consideration of previously submitted comments, and includes further additional regulatory changes that might be finally adopted, along with accompanying preamble discussion. The EPA seeks comment only on revisions and options in materials referenced in today's notice that have changed since the earlier proposals, including in particular the following issues:

(1) The provisions for minor permit revisions; review by EPA, affected States, and the public; and eligibility criteria for de minimis permit revisions;

(2) The definition of potential to emit, in response to the vacatur and remand of the definition in *Clean Air Implementation Project, et al.* v. *EPA* following petitioners' challenge to the definition's Federal enforceability requirement;

(3) The absence of a mandate for emissions cap permits, including plantwide applicability limits and advance new source review, as a minimum element of State part 70 programs; and

(4) Review of EPA's interpretation of the collocation procedures for part 70 major sources as applied to unlisted sources of fugitive emissions.

With respect to this last issue, section 501 of the Clean Air Act states that a major source for purposes of title V includes any source that is a ''major stationary source'' as defined in section 302 or part D of title I. In defining a major source in the original part 70 rulemaking, EPA accordingly looked to the definitions of major sources in section 302 and part D of title I, with particular focus on the approach followed by EPA in the NSR program as a result of the *Alabama Power* litigation. The EPA concluded that aggregating sources by standard industrial classification (SIC) code at the source site to determine whether a source would be major is the approach intended by Congress (56 FR 21712, 21724). The EPA further concluded that aggregation by SIC code should be done in a manner consistent with established NSR procedures, including application of the collocation rules. The collocation rules applicable to NSR were promulgated on August 7, 1980 (45 FR 52695) and further clarified on November 28, 1989 (54 FR 48870).

The National Mining Association (formerly the American Mining Congress) and the American Forest and Paper Association petitioned for review of the original part 70 rule, in part, because of the Agency's interpretation

that the part 70 major source definition must encompass the established NSR collocation provisions. In particular, the petitioners asserted that the Agency's interpretation of its part 70 collocation provisions would have the effect of subjecting unlisted sources of fugitive emissions to part 70 without undertaking a section 302(j) rulemaking. While not conceding the merits of the petitioners' arguments, EPA sought and received from the United States Court of Appeals for the District of Columbia Circuit a voluntary remand in early 1995 to allow the Agency to reconsider its interpretation.[1] The Agency concluded that one aspect of that reconsideration should include review of whether application of the NSR approach to unlisted sources of fugitive emissions is appropriate for title V purposes.

Prior to the voluntary remand, EPA had clarified its decision to apply the NSR approach to major source determinations for purposes of title V in its August 1994 notice of proposed rulemaking revising the part 70 regulations. Specifically, EPA proposed to amend the definition of major source to make clear that the support facility test applied in NSR also applied in determining the scope of a source for title V. Several industry commenters expressed opposition to including the support facility concept in part 70 source determinations, while several State and local governments generally supported the clarification of the major source definition.

In responding to comments regarding the support facility test, it became apparent to EPA that the issue of whether the NSR approach should be applied to unlisted sources of fugitive emissions is closely connected with the more fundamental question of whether it is appropriate to apply the NSR approach (including the support facility concept) in part 70 source determinations generally. The Agency accordingly has reviewed the questions raised in the petitioners' challenge of the original part 70 regulations of whether the support facility test should be applied to unlisted sources of fugitive emissions or whether such sources constitute a special case requiring a 302(j) rulemaking. The EPA has also reviewed the broader question of whether EPA's approach to the collocation issues as applied to unlisted sources of fugitive emissions should be consistent with the Agency's approach in NSR. As explained in the draft part 70 preamble referenced herein, the Agency has determined at this time that in making major source determinations under title V, it is appropriate to apply the NSR approach and that there is no basis for excluding unlisted sources of fugitive emissions from this general approach.

Dated: May 22, 1997.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

[FR Doc. 97–14443 Filed 6–2–97; 8:45 am]

BILLING CODE 6560–50–P

[1] At the time of the remand, EPA anticipated that the relevant issues would be addressed in a new rulemaking. However, in comments submitted with respect to the supplemental proposal to amend the part 70 regulations (60 FR 45530, August 31, 1995), the National Mining Association requested that EPA clarify in the preamble to the final regulations the terms of the voluntary remand. The EPA now has determined that the current part 70 rulemaking is an appropriate vehicle for addressing all collocation issues that were the subject of the litigation.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SIPTRAX No. PA–4058b; FRL–5832–4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of VOC and NO_x RACT Determinations for Individual Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania for the purpose of establishing volatile organic compound (VOC) and nitrogen oxides (NO_x) reasonably available control technology (RACT) for five major sources located in Pennsylvania. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule and the accompanying technical support document. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If adverse comments are received that do not pertain to all documents subject to this rulemaking action, those documents not affected by the adverse comments will be finalized in the manner described here. Only those documents that receive adverse comments will be withdrawn in the manner described here.

DATES: Comments must be received in writing by July 3, 1997.

ADDRESSES: Written comments on this action should be addressed to David Campbell, Air, Radiation, and Toxics Division, Mailcode 3AT22, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: David Campbell, (215) 566–2196, at the EPA Region III office or via e-mail at campbell.dave@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above Region III address.

SUPPLEMENTARY INFORMATION: See the information pertaining to this action, VOC and NO_x RACT determinations for individual sources located in Pennsylvania, provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: May 19, 1997.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 97–14440 Filed 6–2–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN67–1b; FRL–5827–4]

Approval and Promulgation of State Implementation Plan; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In this action, EPA is proposing to approve a State

Implementation Plan (SIP) revision request submitted by Indiana on August 26, 1996, which requires oxides of nitrogen (NO_x) Reasonably Available Control Technology (RACT) for portland cement kilns, electric utility boilers, and industrial, commercial, or institutional (ICI) boilers in Clark and Floyd Counties. In addition, EPA is proposing to approve an April 30, 1997, negative declaration from Indiana certifying that, to the best of the State's knowledge, there are no remaining major sources of NO_x in Clark and Floyd Counties which need RACT rules. In the final rules section of this **Federal Register**, the EPA is approving this action as a direct final rule without prior proposal because EPA views this as a noncontroversial action 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 that 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 the proposed rule. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received on or before July 3, 1997.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR18–J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, IL 60604.

Copies of the State submittal are available for inspection at: Regulation Development Section, Air Programs Branch (AR18–J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, IL 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Environmental Protection Specialist, Regulation Development Section, Air Programs Branch (AR18–J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, IL 60604, (312) 886–6082.

SUPPLEMENTARY INFORMATION:

For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: May 7, 1997.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 97–14438 Filed 6–2–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[TX–29–1–6085b; FRL–5834–3]

Designation of Areas for Air Quality Planning Purposes; Texas; Revised Geographical Designation of Certain Air Quality Control Regions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes to approve a July 2, 1993, request by the Governor of Texas to revise the geographical boundaries of seven Air Quality Control Regions in the State of Texas to conform to the Texas Natural Resource Conservation Commission regional boundaries. This action also corrects an error for Texas in 40 CFR part 81. In the Rules and Regulations section of this **Federal Register**, the EPA is approving the State's request as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn, and all public comments received during the 30-day comment period set forth below will be addressed in a subsequent final rule based on this proposed rule. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by July 3, 1997.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), Multimedia Planning and Permitting Division, One Fountain Place, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Bill Deese of EPA Region 6 Air Planning Section at (214) 665–7253 and at the Region 6 address above.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is published in the Rules and Regulations section of this **Federal Register**.

Authority: 42 U.S.C. 7401–7671q.

Dated: May 22, 1997.

Myron O. Knudson,

Acting Regional Administrator.

[FR Doc. 97–14451 Filed 6–2–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL–5833–8]

Control of Air Pollution From Motor Vehicles and New Motor Vehicle Engines; Increase of the Vehicle Mass for 3-Wheeled Motorcycles

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: Today's action proposes to change the regulatory definition of a motorcycle to include 3-wheeled vehicles weighing up to 1749 pounds effective for 1997 and later model year motorcycles for which emission standards are in place.

The action proposed today is anticipated to create no detrimental health effects, and will therefore retain the health benefits derived from the current motorcycle regulations in effect.

DATES: Comments must be received on or before August 4, 1997 or 30 days after the date of the public hearing, if one is held. If a public hearing is requested, EPA will conduct a public hearing on this Notice of Proposed Rulemaking on July 3, 1997 at 10:00 AM at the Courtyard by Marriott, 3205 Boardwalk, Ann Arbor, Michigan. To request a hearing, notify the person listed in the ''**FOR FURTHER INFORMATION CONTACT**'' section within 15 days after the publication date of this action. If a request is received by this time, a public hearing will be held. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to find out if a hearing will be held. Further information on the public hearing can be found in Supplementary Information, Section V.B., Public Hearing.

ADDRESSES: Materials relevant to this Rulemaking are contained in Docket No.

A–96–49. The docket is located at the Air Docket section, 401 M Street SW., Washington, DC 20460, and may be viewed in room M–1500 between 8:00 a.m. and 5:30 p.m., Monday through Friday. The telephone number is (202) 260–7548 and the facsimile number is (202) 260–4400. A reasonable fee may be charged by EPA for copying docket material.

All written comments must be identified with the appropriate docket number (Docket No. A–96–49) and must be submitted in duplicate to the address listed above, with a complimentary copy to Frank Lamitola at the address listed below.

FOR FURTHER INFORMATION CONTACT: Frank Lamitola, Vehicle Programs and Compliance Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105. Telephone (313) 668–4479. Email LAMITOLA.FRANK@EPAMAIL.EPA.GOV. Fax (313) 741–7869.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are motorcycle and motor vehicle manufacturers. Tabulated entities include the following:

Category	Examples of regulated entities
Industry	•Motorcycle manufacturers. •Manufacturers of 3-wheeled vehicles. •Importers of motorcycles.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the criteria contained in section 86.402 of title 40 of the Code of Federal Regulations, as modified by today's action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Electronic Availability

Electronic copies of the preamble and the regulatory text of this proposed rulemaking are available via the EPA internet web site. This service is free of charge, except for any cost you already incur for internet connectivity. The official **Federal Register** version is made available on the day of publication on the primary EPA web site listed below. The EPA Office of Mobile Sources also publishes these notices on the secondary web site listed below:

EPA internet web site http://www.epa.gov/docs/fedrgstr/EPA-AIR/ (either select desired date or use Search feature)

OMS web site http://www.epa.gov/OMSWWW/ (look in ''What's New'' or under the specific rulemaking topic)

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

Table of Contents

I. Introduction and Background

Section 202(a) of the Clean Air Act authorizes EPA to promulgate emission standards for motor vehicles, including motorcycles. Section 202 (a)(3)(E) of the Act requires that EPA, when setting emission standards for motorcycles, ''consider the need to achieve equivalency of emission reductions between motorcycles and other motor vehicles to the maximum extent practicable.'' EPA has promulgated emission standards and accompanying regulations controlling emissions from new motorcycles. *See* 42 FR 1122 (January 5, 1977). These regulations included the definition of ''motorcycle.'' EPA originally proposed a definition of ''motorcycle'' which would have included any 3-wheeled vehicle ''which is not a passenger car or passenger car derivative'' regardless of weight.[1] Adverse public comment was received stating that some small 3-wheeled vehicles share characteristics of a passenger car as well as a motorcycle and therefore much confusion would arise as to whether that vehicle should be regulated as a passenger car or a motorcycle. EPA agreed with these comments, and revised its definition of motorcycle in the final rule to be any 2-wheeled vehicle or any 3-wheeled vehicle with a curb mass less than or equal to 680 kilograms (1499 pounds). Any 3-wheeled vehicle over that weight would be classified and regulated as a passenger car. The weight was chosen because it was typical of the weight of 3-wheeled motor vehicles available on the market at that time, and did not approach the weight of light duty vehicles of the time.

In 1995, EPA was informed by a manufacturer of 3-wheeled vehicles that a competitor was allegedly selling vehicles over the weight limit, and that the manufacturer also wished to produce heavier 3-wheeled vehicles. The market for 3-wheeled vehicles, according to the manufacturer, was demanding more amenities which added weight, such as air conditioning, power windows, etc. EPA was requested to consider raising the weight limit to accommodate the market demand. EPA's primary concern with such a change is that there is not much room for increase before there would be overlap between motorcycles and light duty vehicles. Raising the weight limit significantly could result in allowing a 3-wheeled vehicle to pollute much more than a car when it could weigh as much as a car, have all the amenities of a car, and be used much in the same way as a car. This would not be in keeping with the CAA mandate to consider the need to achieve equivalency of emission reductions between motorcycles and other motor vehicles to the maximum extent practicable. EPA believes it is appropriate to propose raising the weight limit to 1749 pounds because it is still low enough to preclude creating a new market for 3-wheeled vehicles being built as passenger cars.[2] The 1749 pound limit is about 60 pounds lower than the lowest weight passenger car being sold in the U.S. today and is substantially lower than the average weight of about 2900 pounds for the sub-compact class of cars sold in the U.S.

EPA acknowledges that market-driven changes can occur in the automotive

[1] On October 22, 1975, a Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register** (40 FR 49496) for the control of exhaust and crankcase emissions from new motorcycles. In the NPRM, ''motorcycle'' was proposed to be defined as ''any motor vehicle designed to operate on not more than three wheels (including any tricycle arrangement) in contact with the ground which is not a passenger car or passenger car derivative.''

[2] Currently, 3-wheeled vehicles are primarily used in special applications, such as police use, postal service, and recreation-type use.

industry, and that it should accommodate such changes to the extent practicable, providing that emission and health benefits are not compromised. It is EPA's opinion that the number of 3-wheeled vehicles affected by this action (i.e., falling between 1499 pounds and 1749 pounds) is going to be very small. Currently, EPA is aware of only two companies certifying 3-wheeled vehicles (Cushman and Westward Industries, Inc.), with a combined annual 3-wheeled vehicle production of less than 1000 units. Furthermore, these affected vehicles are substantially similar to and likely to be used much in the same way as those 3-wheeled vehicles previously regulated as motorcycles. Therefore, EPA believes that increasing the weight limit for 3-wheeled vehicles by 250 pounds will not compromise air quality or health benefits based on the current market for these vehicles. The health benefits currently achieved by the motorcycle emission standards are anticipated to remain, and not be adversely impacted by raising the weight limit of 3-wheeled vehicles. EPA requests comments about the potential for the weight increase to substantially increase the number of such vehicles being sold in the U.S., or the manner in which they are used.

II. Requirements of the Proposed Rule

EPA is proposing to increase the weight limit for 3-wheeled motorcycles from 1,499 pounds (680 Kg) to 1,749 pounds (793 Kg). EPA is also amending the motorcycle testing procedures to account for the increase in weight.

III. Discussion of Issues

A. Impact on automotive industry

The Agency believes that today's proposal will not create a new market for 3-wheeled vehicles that are similar to automobiles but can be certified as motorcycles, primarily because the weight increase being proposed is small, the sales volume of these vehicles is small, and the additional weight is not overlapping with weights of light duty passenger cars. However, the Agency has some concerns that the proposed weight increase may create the possibility that smaller 4-wheeled vehicles could be converted into 3-wheeled passenger vehicles for the purposes of circumventing light duty vehicle emissions standards, and requests comments on this issue. If, during the comment period, new information comes to light about additional 3-wheeled vehicles being introduced into the U.S. market as a result of the increased weight limit, EPA may reconsider or revise this proposal.

B. Revisions to test procedures.

The original test procedures for motorcycles included a table to determine the road load force and inertia weight used for dynamometer testing. This table included values for loaded vehicle mass of up to 760 Kg. With today's proposal, the table has been expanded to included values for loaded vehicle mass up to 870 Kg. To arrive at the values added to this table, EPA extrapolated the data from the existing table. An option exists in the current regulations which allows the manufacturer to perform an actual vehicle road load measurement as outlined under 40 CFR 86 § 529(c), which EPA is not proposing to change.

IV. Cost Effectiveness

No added costs will be incurred by the manufacturers of 3-wheeled vehicles as a result of this proposal. The proposed weight change will allow manufacturers to produce heavier 3-wheeled vehicles, presumably allowing them to add options which will make the vehicles more marketable.

Based on EPA's current knowledge about the size of the affected market, the ramifications on emissions are likely to be very small. By increasing the weight limit, 3-wheeled vehicles weighing between 1499 and 1749 pounds will now be permitted to comply with motorcycle standards, rather than the light duty vehicles standards, which are significantly more stringent. (It should be noted that to date, no 3-wheeled vehicles have been certified to light duty vehicle standards.) EPA requests comments on the potential impact of the proposal on future production of 3-wheeled vehicles.

V. Public Participation

A. Comments and the Public Docket

EPA requests comments on all aspects of this proposed Rulemaking. Commenters are especially encouraged to give suggestions for changing any aspects of the proposal. All comments, with the exception of proprietary information should be addressed to the EPA Air Docket Section, Docket No. A–96–49 (see **ADDRESSES**).

Commenters who wish to submit proprietary information for consideration should clearly separate such information from other comments by (1) labeling proprietary information ''Confidential Business Information'' and (2) sending proprietary information directly to the contact person listed (see **FOR FURTHER INFORMATION CONTACT**) and not to the public docket. This will help insure that proprietary information is not inadvertently placed in the docket. If a commenter wants EPA to use a submission labeled as confidential business information as part of the basis for the final rule, then a nonconfidential version of the document, which summarizes the key data or information, should be sent to the docket.

Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR Part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, the submission may be made available to the public without notifying the commenters.

B. Public Hearing

EPA will conduct a public hearing if one is requested, as discussed in the **DATES** section above. Anyone wishing to present testimony about this proposal at the public hearing should, if possible, notify the contact person (see **FOR FURTHER INFORMATION CONTACT**) at least seven days prior to the day of the hearing. The contact person should be given an estimate of the time required for the presentation of testimony and notification of any need for audio/visual equipment. Testimony will be scheduled on a first come, first served basis. A sign-up sheet will be available at the registration table the morning of the hearing for scheduling those who have not notified the contact earlier. This testimony will be scheduled on a first come, first served basis to follow the previously scheduled testimony.

EPA requests that approximately 50 copies of the statement or material to be presented be brought to the hearing for distribution to the audience. In addition, EPA would find it helpful to receive an advanced copy of any statement or material to be presented at the hearing at least one week before the scheduled hearing date. This is to give EPA staff adequate time to review such material before the hearing. Such advanced copies should be submitted to the contact person listed.

The official records of the hearing will be kept open for 30 days following the hearing to allow submission of rebuttal and supplementary testimony. All such submittals should be directed to the Air Docket Section, Docket No. A–96–49 (see **ADDRESSES**). The hearing will be conducted informally, and technical rules of evidence will not apply. A written transcript of the hearing will be placed in the above docket for review. Anyone desiring to purchase a copy of the transcript should make individual arrangements with the court reporter recording the proceedings.

VI. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or,

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Reporting and Recordkeeping Requirements

This regulation does not impose any new information collection requirements and results in no change to the currently approved collection. The Office of Management and Budget (OMB) has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0104.

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.

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.

C. Impact on Small Entities

EPA has determined that it is not necessary to prepare a draft regulatory flexibility analysis in connection with this proposed rule. This rule will not have a significant adverse economic impact because it will increase the weight limit on these vehicles, thereby allowing the manufacturers of three-wheeled vehicles to produce these vehicles within the weight limit of 1749 pounds (793 Kg). This weight increase will allow manufacturers of vehicles near the existing limit of 1499 pounds (680 Kg) to provide more options on those vehicles and thus share the existing market with competing entities fairly. EPA has identified only two manufacturers currently manufacturing such vehicles. Therefore, the Administrator certifies that this regulation does not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates Act

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, or $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 final approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

List of Subjects in 40 CFR Part 86

Environmental protection, Administrative practice and procedure, Motor vehicle pollution.

Dated: May 23, 1997.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 86 of title 40 of the Code of Federal Regulations is amended as follows:

PART 86—CONTROL OF AIR POLLUTION FROM NEW AND IN-USE MOTOR VEHICLES AND NEW AND IN-USE MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

1. The authority citation for Part 86 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart E—Emission Regulations for 1978 and Later New Motorcycles, General Provisions—[Amended]

2. A new section 86.402–97 is added to read as follows:

§ 86.402–97 Definitions.

The definitions of 86.402–78 remain effective. The definition in this section is effective beginning with the 1997 model year.

Motorcycle means any motor vehicle with a headlight, taillight, and stoplight and having: Two wheels, or Three wheels and a curb mass less than or equal to 793 kilograms (1749 pounds).

3. Paragraph (d) of § 86.406–78 is revised to read as follows:

§ 86.406–78 Introduction, structure of subpart, further information.

* * * * *

(d) Manufacturers who are considering an application should contact: Director, Vehicle Programs and Compliance Division, Environmental Protection Agency, 2565 Plymouth Rd., Ann Arbor, Michigan 48105 and state whether he/she plans to certify for total sales of greater than or less than 10,000 vehicles for the applicable model year.

Subpart F—Emission Regulations for 1978 and Later New Motorcycles; Test Procedures—[Amended]

4. Paragraph (c) of § 86.518–78 is revised to read as follows:

§ 86.518–78 Dynamometer calibration.

* * * * *

(c) The performance check consists of conducting a dynamometer coastdown at one or more inertia-horsepower settings and comparing the coastdown time to the table in Figure F97–9 of § 86.529–97. If the coastdown time is outside the tolerance, a new calibration is required.

5. A new § 86.529–97 is added to read as follows:

§ 86.529–97 Road load force and inertia weight determination.

(a) Road load as a function of speed is given by the following equation:

$F = A + CV^2$

The values for coefficients A and C and the test inertia are given in Figure F97–9. Velocity V is in km/h and force (F) is in newtons. The forces given by this equation shall be simulated to the best ability of the equipment being used.

(b) The inertia given in Figure F97–9 shall be used. Motorcycles with loaded vehicle mass outside these limits shall be tested at an equivalent inertial mass and road load force specified by the Administrator.

FIGURE F97–9

Loaded vehicle mass (kg)	Equivalent inertial mass (kg)	Force coefficients		Force at 65 km/h (nt)	70 to 60 km/h coastdown calibration times		
		A (nt)	C (nt/(km/h)^2)		Target time (sec)	Allowable tolerance	
						Longest time (sec)	Shortest time (sec)
95–105	100	0.0	.0224	94.8	2.95	3.1	2.8
106–115	110	0.82	.0227	96.8	3.18	3.3	3.0
116–125	120	1.70	.0230	98.8	3.39	3.6	3.2
126–135	130	2.57	.0233	100.9	3.60	3.8	3.4
136–145	140	3.44	.0235	102.9	3.80	4.0	3.6
146–155	150	4.32	.0238	104.9	3.99	4.2	3.8
156–165	160	5.19	.0241	107.0	4.10	4.4	4.0
166–175	170	6.06	.0244	109.0	4.36	4.6	4.2
176–185	180	6.94	.0246	111.0	4.53	4.7	4.3
186–195	190	7.81	.0249	113.1	4.69	4.9	4.5
196–205	200	8.69	.0252	115.1	4.85	5.1	4.6
206–215	210	9.56	.0255	117.1	5.00	5.2	4.8
216–225	220	10.43	.0257	119.2	5.15	5.4	4.9
226–235	230	11.31	.0260	121.2	5.30	5.5	5.1
236–245	240	12.18	.0263	123.2	5.43	5.7	5.2
246–255	250	13.06	.0266	125.3	5.57	5.8	5.4
256–265	260	13.93	.0268	127.3	5.70	5.9	5.5
266–275	270	14.80	.0271	129.3	5.82	6.1	5.6
276–285	280	15.68	.0274	131.4	5.95	6.2	5.7
286–295	290	16.55	.0277	133.4	6.06	6.3	5.8
296–305	300	17.43	.0279	135.4	6.18	6.4	6.0
306–315	310	18.30	.0282	137.5	6.29	6.5	6.1
316–325	320	19.17	.0285	139.5	6.40	6.6	6.2
326–335	330	20.05	.0288	141.6	6.50	6.7	6.3
336–345	340	20.92	.0290	143.6	6.60	6.8	6.4
346–355	350	21.80	.0293	145.6	6.70	6.9	6.5
356–365	360	22.67	.0296	147.7	6.80	7.0	6.6
366–375	370	23.54	.0299	149.7	6.89	7.1	6.7
376–385	380	24.42	.0301	151.7	6.98	7.2	6.8
386–395	390	25.29	.0304	153.8	7.07	7.3	6.9
396–405	400	26.17	.0307	155.8	7.16	7.4	6.9
406–415	410	27.04	.0310	157.8	7.24	7.5	7.0
416–425	420	27.91	.0312	159.9	7.33	7.6	7.1
426–435	430	28.79	.0315	161.9	7.41	7.6	7.2
436–445	440	29.66	.0317	163.7	7.49	7.7	7.3
446–455	450	30.54	.0318	164.9	7.61	7.8	7.4
456–465	460	31.41	.0319	166.0	7.73	8.0	7.5
466–475	470	32.28	.0319	167.1	7.84	8.1	7.6
476–485	480	33.16	.0320	168.3	7.95	8.2	7.7
486–495	490	34.03	.0320	169.4	8.06	8.3	7.8
496–505	500	34.90	.0321	170.5	8.17	8.4	7.9
506–515	510	35.78	.0322	171.7	8.28	8.5	8.0
516–525	520	36.65	.0322	172.8	8.39	8.6	8.2
526–535	530	37.53	.0323	173.9	8.49	8.7	8.3
536–545	540	38.40	.0323	175.1	8.60	8.8	8.4
546–555	550	39.27	.0324	176.2	8.70	9.0	8.5
556–565	560	40.15	.0325	177.3	8.80	9.1	8.6
566–575	570	41.02	.0325	178.5	8.90	9.2	8.7
576–585	580	41.90	.0326	179.6	9.00	9.3	8.8
586–595	590	42.77	.0327	180.8	9.10	9.4	8.9
596–605	600	43.64	.0327	181.9	9.19	9.5	8.9
606–615	610	44.52	.0328	183.0	9.29	9.5	9.0
616–625	620	45.39	.0328	184.2	9.38	9.6	9.1
626–635	630	46.27	.0329	185.3	9.47	9.7	9.2
636–645	640	47.14	.0330	186.4	9.56	9.8	9.3
646–655	650	48.01	.0330	187.6	9.65	9.9	9.4
656–665	660	48.89	.0331	188.7	9.74	10.0	9.5
666–675	670	49.76	.0332	189.8	9.83	10.1	9.6
676–685	680	50.64	.0332	191.0	9.92	10.2	9.7

FIGURE F97–9—Continued

Loaded vehicle mass (kg)	Equivalent inertial mass (kg)	Force coefficients		Force at 65 km/h (nt)	70 to 60 km/h coastdown calibration times		
		A (nt)	C (nt/(km/h)^2)		Target time (sec)	Allowable tolerance	
						Longest time (sec)	Shortest time (sec)
686–695	690	51.51	.0333	192.1	10.01	10.3	9.8
696–705	700	52.38	.0333	193.2	10.09	10.4	9.8
706–715	710	53.26	.0334	194.4	10.17	10.4	9.9
716–725	720	54.13	.0335	195.5	10.26	10.5	10.0
726–735	730	55.01	.0335	196.6	10.34	10.6	10.1
736–745	740	55.88	.0336	197.8	10.42	10.7	10.2
746–755	750	56.75	.0336	198.9	10.50	10.8	10.2
756–765	760	57.63	.0337	200.1	10.58	10.9	10.3
766–775	770	58.50	.0338	201.2	10.66	10.9	10.3
776–785	780	59.38	.0338	203.3	10.74	11.0	10.4
786–795	790	60.25	.0339	204.5	10.82	11.1	10.5
796–805	800	61.12	.0339	205.6	10.91	11.2	10.6
806–815	810	62.00	.0340	206.7	10.99	11.3	10.7
816–825	820	62.87	.0341	207.9	11.07	11.4	10.8
826–835	830	63.75	.0341	209.0	11.15	11.5	10.8
836–845	840	64.62	.0342	210.1	11.24	11.5	10.9
846–855	850	65.49	.0343	211.3	11.32	11.6	11.0
856–865	860	66.37	.0343	212.4	11.40	11.7	11.1
866–873	870	67.24	.0344	213.5	11.48	11.8	11.2

(c) The dynamometer shall be adjusted to reproduce the specified road load as determined by the most recent calibration. Alternatively, the actual vehicle road load can be measured and duplicated:

(1) Make at least 5 replicate coastdowns in each direction from 70 to 60 km/h on a smooth, level track under balanced wind conditions. The driver must have a mass of 80 ±10 kg and be in the normal driving position. Record the coastdown time.

(2) Average the coastdown times. Adjust the dynamometer load so that the coastdown time is duplicated with the vehicle and driver on the dynamometer.

(3) Alternate procedures may be used if approved in advance by the Administrator.

[FR Doc. 97–14441 Filed 6–2–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7218]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

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

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

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

FOR FURTHER INFORMATION CONTACT: Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–2796.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Executive Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the

NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

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

Executive Order 12612, Federalism

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

Executive Order 12778, Civil Justice Reform

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

List of Subjects in 44 CFR Part 67

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

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

PART 67—[AMENDED]

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

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

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Arizona	Santa Cruz County (Unincorporated Areas).	Alamo Wash	Just upstream of Interstate 19	None	*3,590
			Approximately 6,500 feet upstream of Interstate 19.	None	*3,669
Maps are available for inspection at the Santa Cruz County Flood Control District and Flood Plain Administration, 2150 North Congress Drive, Nogales, Arizona.					
Send comments to The Honorable Robert Damon, Chairman, Santa Cruz County Board of Supervisors, 2150 North Congress Drive, Nogales, Arizona 85621.					
Arkansas	Cave City (City) Sharp and Independence Counties.	Lick Fork	Just downstream of a low water crossing located at the eastern corporate limit.	None	+595
			Just upstream of Johnson Street	None	+630
			Just upstream of U.S. Highway 167	None	+650
		Curia Creek	Just upstream of East Center Street	None	+610
			Approximately 830 feet upstream of Matlock Road.	None	+682
		South Big Creek Tributary	Just downstream of the dam at Levee Street.	None	+659
			Just upstream of the dam at Levee Street	None	+674
Maps are available for inspection at the Mayor's Office, 107 Spring Street, Cave City, Arkansas.					
Send comments to The Honorable Billy Pinkston, Mayor, City of Cave City, 107 Spring Street, Cave City, Arkansas 72521.					
	Faulkner County and Incorporated Areas.	East Fork Cadron Creek	At U.S. Highway 25	None	*294
			Approximately 150 feet upstream of U.S. Highway 65.	None	*294
Maps are available for inspection at the Faulkner County Tax Assessor's Office, 806 Locust Street, Conway, Arkansas.					
Send comments to The Honorable John Wayne Carter, Judge, Faulkner County Courthouse, 801 Locust Street, Conway, Arkansas 72032.					
	Washington County and Incorporated Areas.	Clear Creek	Approximately 800 feet downstream of State Highway 265.	None	*1,244
			At Hylton Road	None	*1,302
		Clear Creek Tributary	At confluence with Clear Creek	None	*1,251
			Just upstream of State Highway 265	None	*1,310
		Clear Creek Tributary 1	At confluence with Clear Creek	None	*1,262
			Approximately 6,000 feet upstream from Ivey Lane.	None	*1,327
		Clear Creek Tributary 2	Just upstream of Butterfield Coach Road	None	*1,292
			Approximately 200 feet upstream of Hylton Road.	None	*1,321

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Maps are available for inspection at the Washington County Courthouse, 2 North College Avenue, Fayetteville, Arkansas.					
Send comments to The Honorable Charles A. Johnson, Washington County Judge, 280 North College Avenue, Fayetteville, Arkansas 72701.					
Maps are available for inspection at the City of Fayetteville City Hall, 113 West Mountain Street, Fayetteville, Arkansas.					
Send comments to The Honorable Fred Hanna, Mayor, City of Fayetteville, 113 West Mountain Street, Fayetteville, Arkansas 72701.					
Maps are available for inspection at the City of Springdale City Hall, 201 North Spring Street, Springdale, Arkansas.					
Send comments to The Honorable Charles McKinney, Mayor, City of Springdale, 201 North Spring Street, Springdale, Arkansas 72764.					
California	Lake County (Unincorporated Areas).	Putah Creek	Approximately 8,450 feet downstream of confluence of Coyote Creek.	*940	*940
			Approximately 200 feet downstream of confluence of Coyote Creek.	*957	*956
			Approximately 500 feet downstream of State Highway 29.	*964	*964
		Putah Creek Left Overbank.	At the southeast meeting of Mountain Meadow Roads North and South.	N/A	*953
			Approximately 700 feet upstream of confluence of Coyote Creek, east of the levee.	N/A	*955
		Coyote Creek	Approximately 1,400 feet downstream of Hartman Road.	*958	*957
			Approximately 300 feet downstream of Hartman Road.	*961	*961
		Butts Canyon Creek	Approximately 3,600 feet downstream of Loconomi Road.	*1,081	*1,082
			Approximately 4,100 feet upstream of Butts Canyon Road.	None	*1,115
		Copsey Creek	At confluence with Cache Creek	*1,331	1,331
			Approximately 100 feet upstream of Morgan Valley Road.	None	*1,348
			Approximately 950 feet upstream of Morgan Valley Road.	None	*1,351
		Herdon Creek	At confluence with Cache Creek	*1,331	*1,331
			Just upstream of Bonham Road	None	*1,345
			Approximately 4,700 feet upstream of Bonham Road.	None	*1,371
		Long Valley Creek	Approximately 150 feet downstream of New Long Valley Road.	None	*1,099
			Approximately 9,550 feet upstream of Old Long Valley Road.	None	*1,181
		Long Valley Creek—Right Overbank Split Flow.	At convergence with main channel, approximately 1,540 feet upstream of Old Long Valley Road.	None	*1,145
			At divergence from main channel, approximately 4,850 feet upstream of Old Long Valley Road.	None	*1,169
		Wolf Creek	At confluence with North Fork Cache Creek.	None	*1,129
			Approximately 1,350 feet upstream of Wolf Creek Road crossing, upstream of the dam.	None	*1,230
		Morrison Creek	Just upstream of State Highway 20	None	*1,332
			Approximately 540 feet upstream of Foothill Road.	None	*1,368
		Eighth Avenue Drain and North Tributary.	Just downstream of State Highway 20	None	*1,332
			Just downstream of Foothill Road	None	*1,385
		Eighth Avenue Drain—South Tributary.	Approximately 50 feet downstream of Ninth Avenue.	None	*1,349
			Just upstream of Foothill Road	None	*1,384
		17th Avenue Drain	Just upstream of Highway 20	None	*1,332
			Approximately 890 feet upstream of Trailer Park upstream crossing.	None	*1,373
		Thurston Creek	Approximately 5,970 feet downstream of Soda Bay Road.	None	*1,765
			Approximately 4,150 feet upstream of Soda Bay Road, second upstream crossing.	None	*1,869

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Maps are available for inspection at the Department of Public Works, Lake County Courthouse, 255 North Forbes Street, Room 309, Lakeport, California					
Send comments to The Honorable Carl Larson, Chairperson, Lake County Board of Supervisors, Lake County Courthouse, 255 North Forbes Street, Lakeport, California 95453.					
	Sacramento (City) ..	Morrison Creek	Approximately 6,440 feet downstream of confluence with Unionhouse Creek.	*14	*16
	Sacramento County		Approximately 370 feet downstream of Meadowview Road.	*16	*16
		Unionhouse Creek	Approximately 260 feet downstream of Western Pacific Railroad.	*14	*16
			Approximately 530 feet downstream of Franklin Boulevard.	*16	*16
		Elder Creek	At confluence with Morrison Creek	*15	*16
			Approximately 1,700 feet upstream of confluence with Morrison Creek.	*16	*16
Maps are available for inspection at the City of Sacramento City Hall, 915 I Street, Room 207, Sacramento, California.					
Send comments to The Honorable Joe Serna, Jr., Mayor, City of Sacramento, City Hall, 915 I Street, Room 205, Sacramento, California 95814.					
	Sacramento County (Unincorporated Areas).	Morrison Creek	Just downstream of Interstate Highway 5	*14	*16
			Just downstream of Meadowview Road ..	*16	*16
		Laguna Creek	At confluence with Morrison Creek	*14	*16
			Approximately 3,300 feet upstream of the Union Pacific Railroad.	*16	*16
Maps are available for inspection at the Sacramento County Department of Public Works, Water Resources Division, 827 Seventh Street, Room 301, Sacramento, California.					
Send comments to The Honorable Roger Dickinson, Chairman, Sacramento County Board of Supervisors, 700 H Street, Room 2450, Sacramento, California 95814.					
Iowa	Bettendorf (City) Scott County.	Spencer Creek	Approximately 1,300 feet upstream of Wellsferry Road (At downstream corporate limits).	None	*658
			Just upstream of Interstate Highway 80 ..	None	*675
			Approximately 120 feet downstream of Devil's Glen Road.	None	*693
			Approximately 3,000 feet upstream of Devil's Glen Road.	None	*702
Maps are available for inspection at the City of Bettendorf Department of Public Works, 4403 Devil's Glen Road, Bettendorf, Iowa.					
Send comments to The Honorable Ann Hutchinson, Mayor, City of Bettendorf, City Hall, 1609 State Street, Bettendorf, Iowa 52722.					
	Davenport (City) Scott County.	Spencer Creek	Approximately 4,300 feet downstream of Utica Ridge Road.	None	*702
			Approximately 1,000 feet upstream of Utica Ridge Road.	None	*717
		Cardinal Creek	Approximately 400 feet downstream of Chicago Milwaukee-St. Paul & Pacific Railroad.	*672	*664
			Approximately 1,400 feet upstream of Wisconsin Avenue.	*679	*675
			Approximately 400 feet upstream of 46th Street.	*685	*686
Maps are available for inspection at the City of Davenport Department of Public Works, 226 West Fourth Street, Davenport, Iowa.					
Send comments to The Honorable Patrick Gibbs, Mayor, City of Davenport, City Hall, 226 West Fourth Street, Davenport, Iowa 52801.					
	Scott County (Unincorporated Areas).	Spencer Creek	Approximately 320 feet upstream of East Valley Drive.	*580	*575
			Just downstream of Wellsferry Road	*593	*592
			Approximately 150 feet upstream of Forest Grove Drive.	*648	*648
			Approximately 250 feet downstream of Wellsferry Road, second crossing going upstream.	*654	*653
			At 210th Street	None	*722

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Maps are available for inspection at the Scott County Department of Planning and Development, 518 West Fourth Street, Davenport, Iowa.					
Send comments to The Honorable Edwin Winborn, Chairman, Scott County Board of Supervisors, 416 West Fourth Street, Davenport, Iowa 52801.					
Kansas	Jefferson County (Unincorporated Areas).	Kansas River	At Douglas-Jefferson County line	*837	*838
			At confluence of Stone House Creek, near Town of Williamstown.	*841	*840
			At Douglas-Shawnee County line	*861	*862
Maps are available for inspection at the Jefferson County Planning and Zoning Office, 300 West Jefferson, Oskaloosa, Kansas.					
Send comments to The Honorable William Rhodes, Chairperson, Board of County Commissioners, P.O. Box 321, Oskaloosa, Kansas 66066.					
	Leavenworth County (Unincorporated Areas).	Kansas River	At the corner of Douglas, Johnson, and Leavenworth Counties, near the City of Linwood.	*798	*798
			At confluence of Mud Creek	*813	*812
Maps are available for inspection at the Leavenworth County Department of Planning, County Courthouse, Fourth and Walnut Streets, Leavenworth, Kansas.					
Send comments to The Honorable Donald Navinsky, Chairman, Leavenworth County Board of Commissioners, County Courthouse, Fourth and Walnut Streets, Leavenworth, Kansas 66048.					
	Pottawatomie County (Unincorporated Areas).	Kansas River	Approximately 3,600 feet east of confluence of Sand Creek.	*990	*990
			Approximately 5,000 feet upstream of confluence of Big Blue River.	*1,012	*1,012
Maps are available for inspection at the Pottawatomie County Courthouse, 106 Main Street, Westmoreland, Kansas.					
Send comments to The Honorable Wes Holt, Chairman, Pottawatomie County Board of Commissioners, P.O. Box 187, Westmoreland, Kansas 66549.					
	Reno County and Incorporated Areas.	Arkansas River	At extension of Bone Springs Road to Arkansas River.	None	*1,639
			At 108th Avenue bridge over Peace Creek.	None	*1,644
Maps are available for inspection at the Reno County Public Works Department, County Courthouse, 206 West First Street, Hutchinson, Kansas.					
Send comments to The Honorable Robert P. Fischer, Chairman, Reno County Board of Commissioners, 206 West First Street, Hutchinson, Kansas 67501.					
	St. George (City) Pottawatomie County.	Kansas River	In the southeast corner of the City	*993	*993
			At confluence of Blackjack Creek	*994	*994
Maps are available for inspection at the City of St. George City Hall, 214 First Street, St. George, Kansas.					
Send comments to The Honorable Jeremy Meyer, Mayor, City of St. George, P.O. Box 33, St. George, Kansas 66535.					
Missouri	Park Hills (City) St. Francois County.	Flat River	Approximately 3,000 feet upstream of Main Street.	None	*741
			Approximately 4,800 feet upstream of Main Street.	None	*751
Maps are available for inspection at the City of Park Hills City Hall, 10 Municipal Drive, Park Hills, Missouri.					
Send comments to The Honorable Jesse Martin, Mayor, City of Park Hills, P.O. Box 7, Park Hills, Missouri 63601.					
Montana	Wibaux County and Incorporated Areas.	Beaver Creek	Approximately 4,200 feet downstream of Interstate Highway 94.	*2,630	*2,628
			Approximately 4,400 feet upstream of the southernmost corporate limits.	*2,667	*2,662

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Maps are available for inspection at the Town of Wibaux Town Hall, 112 South Wibaux Street, Wibaux, Montana.					
Send comments to The Honorable John D. Evans, Mayor, Town of Wibaux, P.O. Box 219, Wibaux, Montana 59353.					
Maps are available for inspection at the Office of the County Clerk and Recorder, Wibaux County Courthouse, 200 South Wibaux Street, Wibaux, Montana.					
Send comments to The Honorable Leif Bakken, Chairman, Wibaux County Board of Commissioners, P.O. Box 199, Wibaux, Montana 59353.					
Nevada	Eureka County (Unincorporated Areas).	Eureka Canyon	Approximately 650 feet downstream of Reno Avenue.	None	*6,399
			Approximately 250 feet upstream of intersection of U.S. Highway 50 (also County Route 2) and New York Canyon Road.	None	*6,609
Maps are available for inspection at the Eureka County Department of Public Works, County Courthouse Annex, 701 South Main Street, Eureka, Nevada.					
Send comments to The Honorable Pete Goicoechea, Chairperson, Eureka County Board of Commissioners, P.O. Box 257, Eureka, Nevada 89316.					
New Mexico	Bosque Farms (Village) Valencia County.	Rio Grande (East Overbank).	Approximately 36,000 feet above limit of detailed study, at the southern corporate limits.	*4,859	+4,859
			Approximately 37,000 feet above limit of detailed study.	*4,860	+4,860
		Hells Canyon Wash (West Split Flow).	Approximately 8,000 feet downstream of Esperanza Road.	*4,860	+4,860
			Approximately 2,000 feet upstream of Green Acres Lane.	*4,871	+4,873
		Hells Canyon Wash (East Split Flow).	Approximately 36,000 feet above limit of detailed study.	*4,860	+4,860
			Approximately 52,700 feet upstream of limit of detailed study, at the northern corporate limits.	*4,871	+4,873
Note: To convert from NGVD to NAVD, add 2.5 feet.					
Maps are available for inspection at the Village of Bosque Farms Village Hall, 1455 West Bosque Farms, Bosque Farms, New Mexico.					
Send comments to The Honorable Carl Allen, Mayor, Village of Bosque Farms, P.O. Box 660, Peralta, New Mexico 87042.					
	Los Lunas (Village) Valencia County.	Rio Grande (Main Channel).	Just downstream of Main Street	None	+4,854
			Just upstream of Main Street	None	+4,855
		Rio Grande (West Overbank).	Approximately 3,000 feet downstream of Lopez Road.	None	+4,844
			Approximately 13,000 feet upstream of East Main Street.	None	+4,864
		Rio Grande (East Overbank).	Approximately 3,000 feet downstream of State Route 49.	None	+4,848
			Approximately 2,000 feet upstream of State Route 49.	None	+4,853
Maps are available for inspection at the Village of Los Lunas, 660 Main Street, Los Lunas, New Mexico.					
Send comments to The Honorable Louis F. Huning, Mayor, Village of Los Lunas, P.O. Box 1209, Los Lunas, New Mexico 87031.					
	Valencia County (Unincorporated Areas).	Rio Grande (Main Channel).	At limit of detailed study	None	+4,835
			Approximately 48,400 feet above limit of detailed study, at border of the Isleta Indian Reservation.	None	+4,878
		Rio Grande (West Overbank).	At limit of detailed study	None	+4,834
			Approximately 43,500 feet above limit of detailed study, at the Valencia-Bernalillo County border.	None	+4,876
		Rio Grande (East Overbank).	At limit of detailed study	None	+4,832
			Approximately 37,200 feet above limit of detailed study.	*4,860	+4,860
		Hells Canyon Wash (West Split Flow).	Approximately 2,000 feet downstream of Village of Bosque Farms corporate limits.	*4,860	+4,860

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
			Approximately 51,500 feet above limit of detailed study, at the northern County boundary.	*4,873	+4,873
		Hells Canyon Wash (East Split Flow).	Approximately 2,000 feet downstream of Village of Bosque Farms corporate limits.	*4,860	+4,860
			Approximately 52,700 feet upstream of limit of detailed study, at border of the Isleta Indian Reservation.	*4,873	+4,873

Note: To convert from NGVD to NAVD, add 2.5 feet.

Maps are available for inspection at the Valencia County Engineering Office, 444 Luna Avenue, Los Lunas, New Mexico.

Send comments to Mr. Lloyd Sais, Valencia County Manager, P.O. Box 1119, Los Lunas, New Mexico 87031.

Oregon	Bandon (City) Coos County.	Pacific Ocean	Just downstream of the south jetty, near the mouth of the Coquille River.	*24	*19
			At the intersection of Madison Avenue and Fourth Street.	#2	*13
			Approximately 100 feet north of the northern limit of Newport Avenue.	None	#2
			800 feet north of Coquille Point	None	*29
			Approximately 800 feet south of Coquille Point, at the mouth of Tupper Creek.	None	*40
			At the mouth of Johnson Creek	*29	*29

Maps are available for inspection at the City of Bandon Planning Department, 555 Highway 101, Bandon, Oregon.

Send comments to The Honorable Judy Densmore, Mayor, City of Bandon, 1977 Beachloop Drive, Bandon, Oregon 97411.

	Curry County (Unincorporated Areas).	Pacific Ocean	Approximately 1,900 feet north of the north end of Sandy Drive.	*15	*11
			Approximately 600 feet south and 400 feet west of the south end of Sandy Drive.	*15	*13

Maps are available for inspection at the Curry County Planning Department, 145 East Moore Street, Gold Beach, Oregon.

Send comments to The Honorable Bill Roberts, Chairman, Curry County Board of Commissioners, P.O. Box 746, Gold Beach, Oregon 97444.

	Douglas County (Unincorporated Areas).	Cow Creek (near Riddle)	At confluence with South Umpqua River	*656	*656
			Approximately 2,100 feet upstream of Glenbrook Road.	*713	*713
		Cow Creek (near Glendale).	Approximately 3,400 feet downstream of confluence of McCullough Creek.	*1,364	*1,359
			At Reuben Road	*1,395	*1,396
		Cow Creek	Approximately 300 feet upstream of White Horse Creek Road.	*1,701	*1,702
			Approximately 1,700 feet upstream of confluence of Sugar Creek.	*1,928	*1,928

Maps are available for inspection at the Douglas County Planning Department, Justice Building, Room 106, Douglas County Courthouse, Roseburg, Oregon.

Send comments to The Honorable Mike Winters, Chairman, Douglas County Board of Commissioners, County Courthouse, 1036 Southeast Douglas Avenue, Roseburg, Oregon 97470.

	Glendale (City) Douglas County.	Cow Creek	Approximately 4,400 feet downstream of Southern Pacific Railway.	*1,387	*1,386
			Approximately 600 feet downstream of Reuben Road.	*1,395	*1,395

Maps are available for inspection at the City of Glendale City Hall, 124 Third Street, Glendale, Oregon.

Send comments to The Honorable Ron Snelling, Mayor, City of Glendale, P.O. Box 361, Glendale, Oregon 97442.

	Gold Beach (City) Curry County.	Pacific Ocean	Along the shoreline just south of the mouth of Cunniff Creek.	None	*15
			Along the shoreline approximately 3,800 feet north of the mouth of Hunter Creek.	*17	*20

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Maps are available for inspection at the City of Gold Beach City Hall, 29592 Ellensburg Avenue, Gold Beach, Oregon. Send comments to The Honorable Marlyn Schafer, Mayor, City of Gold Beach, 510 South Ellensburg, Gold Beach, Oregon 97444.					
	Riddle (City) Douglas County.	Cow Creek	Approximately 3,200 feet downstream of Main Street.	*667	*667
			Approximately 440 feet upstream of Main Street.	*673	*673
Maps are available for inspection at the City of Riddle City Hall, 647 First Avenue, Riddle, Oregon. Send comments to The Honorable Bill Duckett, Mayor, City of Riddle, P.O. Box 143, Riddle, Oregon 97469.					
South Dakota	Custer (City) Custer County.	French Creek	At eastern corporate limits, approximately 400 feet upstream of County Road 394.	None	*5,270
			Downstream of U.S. Highway 16A	*5,334	*5,333
		Laughing Water Creek	At confluence with French Creek	*5,293	*5,292
			At unnamed road approximately 250 feet upstream of Clay Street.	*5,338	*5,338
		Highway 385 Tributary	At confluence with French Creek	None	*5,318
			Approximately 2,700 feet above mouth	None	*5,347
Maps are available for inspection at the City of Custer City Hall, 622 Crook Street, Custer, South Dakota. Send comments to The Honorable Robert Schillring, Mayor, City of Custer, 622 Crook Street, Custer, South Dakota 57730.					
	Custer County (Unincorporated Areas).	French Creek	Just upstream of Sewage Disposal Plant Road.	*5,252	*5,252
			Just upstream of County Road 394	*5,270	*5,269
			Just downstream of an unnamed road approximately 580 feet upstream of County Road 395.	*5,346	*5,345
		Highway 385 Tributary	Approximately 1,000 feet upstream from confluence with French Creek.	None	*5,327
			At unnamed road approximately 4,400 feet upstream of confluence with French Creek.	None	*5,369
Maps are available for inspection at the Custer County Courthouse, 420 Mt. Rushmore Road, Custer, South Dakota. Send comments to The Honorable Joe McFarland, Chairman, County Commissioners, 420 Mt. Rushmore Road, Custer, South Dakota 57730.					
	Montrose (City) McCook County.	East Fork Vermillion River	At downstream corporate limits (approximately 1,600 feet upstream of State Highway 38).	None	*1,471
			Just upstream of Clark Street	None	*1,474
			At upstream corporate limits (approximately 1,600 feet upstream of Clark Street).	None	*1,477
Maps are available for inspection at the City of Montrose City Hall, 100 West Main Street, Montrose, South Dakota. Send comments to The Honorable Scott Brady, Mayor, City of Montrose City Hall, 100 West Main Street, Montrose, South Dakota 57048.					
Texas	Ellis County and Incorporated Areas.	Chambers Creek	Just downstream of Interstate 35E	None	*476
			At confluence of North and South Fork Chambers Creeks.	None	*505
		North Fork Chambers Creek.	At confluence with South Fork Chambers Creek.	None	*505
			Approximately 1,000 feet upstream of Auburn Road.	None	*557
		Greathouse Branch	At confluence with Chambers Creek	None	*504
			Approximately 3,700 feet upstream of FM Route 66 (Maypearl Road).	None	*676
		Grove Creek	At confluence with Red Oak Creek	*369	*369
			Just upstream of Boyce Road	*464	*466
			Approximately 4,700 feet downstream of U.S. Route 77.	*585	*586
		Waxahachie Creek	Approximately 1,300 feet upstream of Interstate 35E.	*557	*559
			Just upstream of the Southern Pacific Railroad.	None	*564
			Approximately 500 feet upstream of FM Route 1387.	None	*707
		Little Creek	Approximately 0.75 mile downstream of Cockrell Hill Road.	None	*637

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
			Approximately 2,200 feet downstream of Cockrell Hill Road.	None	*646

Maps are available for inspection at the Ellis County Courthouse, Waxahachie, Texas.
Send comments to The Honorable Al Cornelius, Judge, Ellis County Courthouse, Waxahachie, Texas 75165.
Maps are available for inspection at the City of Maypearl City Hall, Maypearl, Texas.
Send comments to The Honorable David Evans, Mayor, City of Maypearl, P.O. Box 143, Maypearl, Texas 76064.
Maps are available for inspection at the City of Midlothian City Hall, 104 West Avenue E, Midlothian, Texas.
Send comments to The Honorable Maurice Osborne, Mayor, City of Midlothian, 104 West Avenue E, Midlothian, Texas 76065.
Maps are available for inspection at the City of Palmer City Hall, Palmer, Texas.
Send comments to The Honorable Wallace Hughey, Mayor, City of Palmer, P.O. Box 489, Palmer, Texas 75152.
Maps are available for inspection at the City of Ovilla City Hall, Ovilla, Texas.
Send comments to The Honorable Leo Wroble, Mayor, City of Ovilla, P.O. Box 5047, Ovilla, Texas 75154.
Maps are available for inspection at the City of Waxahachie City Hall, 401 South Rogers Street, Waxahachie, Texas.
Send comments to The Honorable Rutha Waters, Mayor, City of Waxahachie, 401 South Rogers Street, Waxahachie, Texas 75165.

	Hunt County and Incorporated Areas.	Farber Creek	Just downstream of FM 1903	*487	*488
			Just upstream of southwest bound Interstate Highway 30.	*511	*513
			Approximately 200 feet upstream of Shelby Avenue.	*554	*549
			Approximately 2,750 feet upstream of Shelby Avenue.	*561	*560
		Long Branch Creek	Approximately 3,550 feet above mouth	None	*498
			Approximately 6,200 feet above mouth	None	*504
			Approximately 100 feet upstream of Stonewall Street.	None	*523
			Just upstream of State Highways 66 and 315 and U.S. Highway 69.	None	*560
		Mullaney Creek	Approximately 1,600 feet above mouth	None	*498
			At City of Greenville corporate limits	None	*507
			Just upstream of Tracy Street	None	*546
		Mustang Branch	Approximately 1,300 feet downstream of FM 1570.	None	*505
			Approximately 6,750 feet upstream of County Road 2126.	None	*533
		Turtle Creek	At confluence with Long Branch Creek	None	*508
			Approximately 400 feet upstream of Moulton Street.	None	*581
			Approximately 150 feet downstream of Dent Road.	None	*529

Maps are available for inspection at the Hunt County Courthouse, 2500 Lee Street, Greenville, Texas.
Send comments to The Honorable Joe Bobbitt, County Judge, P.O. Box 1097, Greenville, Texas 75043–1097.
Maps are available for inspection at the City of Greenville Public Works Department, 2315 Johnson Street, Greenville, Texas.
Send comments to Mr. Ed Thatcher, City Manager, City of Greenville, P.O. Box 1049, Greenville, Texas 75401.

Washington	Selah (City) Yakima County.	Yakima River	Approximately 700 feet upstream of Selah Highway Bridge.	*1,089	*1,088
			Approximately 7,700 feet upstream of Selah Highway Bridge.	None	*1,098

Maps are available for inspection at the City of Selah Building Department, City Hall, 115 West Naches Avenue, Selah, Washington.
Send comments to The Honorable Bob Jones, Mayor, City of Selah, City Hall, 115 West Naches Avenue, Selah, Washington 98942–7338.

	Union Gap (City) Yakima County.	Yakima River	Just upstream of Ahtanum Road at the corporate limits.	None	*971
			Approximately 3,700 feet upstream of Ahtanum Road at the corporate limits.	None	*982

Maps are available for inspection at the City of Union Gap Department of Community Development, City Hall, 102 West Ahtanum Road, Union Gap, Washington.
Send comments to The Honorable Dan C. Olson, Mayor, City of Union Gap, City Hall, P.O. Box 3008, Union Gap, Washington 98903.

	Yakima (City) Yakima County.	Yakima River	Approximately 1.1 miles downstream of East Nob Hill Road.	None	*986
			Approximately 1.8 miles upstream of Burlington Northern Railroad.	None	*1,083

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Maps are available for inspection at the City of Yakima Department of Community and Economic Development, City Hall, 129 North Second Street, Yakima, Washington.					
Send comments to The Honorable Lynn K. Buchanan, Mayor, City of Yakima, City Hall, 129 North Second Street, Yakima, Washington 98901.					
	Yakima County (Unincorporated Areas).	Yakima River	Approximately 2,200 feet downstream of Interstate Highway 82 (near Wapato Dam).	None	*945
			Approximately 600 feet upstream of confluence with Selah Creek.	None	*1,152
Maps are available for inspection at the Yakima County Planning Department, Yakima County Courthouse, Room 417, 128 North Second Street, Yakima, Washington.					
Send comments to The Honorable William H. Flower, Chairperson, Yakima County Board of Commissioners, Yakima County Courthouse, 128 North Second Street, Yakima, Washington 98901.					
Wyoming	Rock Springs (City) Sweetwater County.	Bitter Creek	Approximately 500 feet downstream of confluence with Killpecker Creek.	*6,244	*6,246
			Approximately 1,000 feet downstream of Union Pacific Railroad.	*6,262	*6,263
Maps are available for inspection at the City of Rock Springs Department of Public Works, 212 D Street, Rock Springs, Wyoming.					
Send comments to The Honorable Paul Oblock, Mayor, City of Rock Springs, 212 D Street, Rock Springs, Wyoming 82901.					

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

Dated: May 22, 1997.

Richard W. Krimm,

Executive Associate Director, Mitigation Directorate.

[FR Doc. 97–14430 Filed 6–2–97; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 970520120–71–01; I.D. 040297A]

RIN 0648–AJ19

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; 1997 Management Measures for Nontrawl Sablefish

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement management measures recommended by the Pacific Fishery Management Council (Council) for the 1997 limited entry, fixed gear sablefish fishery north of 36° N. lat. These measures are a ''regular'' limited entry, fixed gear sablefish season of no longer than 10 days, with an equal cumulative landing limit for all permit holders with sablefish endorsements, with starting date, ending date, and a landing limit announced by NMFS; closure of both the limited entry and open access fixed gear fisheries for sablefish for 48 hours both immediately before and after the regular fishery; and a cumulative limit mop-up fishery following the regular fishery, to allow any of the harvest guideline that remains after the regular fishery has closed. The proposed rule would also implement several long-term changes recommended by the Council including: A framework to start the regular fishery from August 1 through September 30 and an at-sea closure with a prohibition on setting or pulling fixed gear during the 48 hours after the regular fishery closes. The preamble also discusses the Council's recommendations for a year-round, daily trip limit for limited entry, fixed gear vessels harvesting or landing sablefish south of 36° N. lat. to be implemented as a routine management measure. These actions are intended to reduce the risk to human life and safety inherent in the current ''derby'' fishery.

DATES: Comments must be submitted in writing by July 3, 1997.

ADDRESSES: Comments may be mailed to William Stelle, Jr., Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Seattle, WA 98115–0070; or to William Hogarth, Acting Administrator, Southwest Region, NMFS, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213. Information about this proposed rule is available for public review during business hours at the Office of the Administrator, Northwest Region, NMFS, and at the Office of the Administrator, Southwest Region, NMFS. Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) may be obtained from the Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140, or Rodney R. McInnis at 310–980–4030.

SUPPLEMENTARY INFORMATION: NMFS is proposing this rule based on recommendations of the Council, under the authority of the Pacific Coast Groundfish Fishery Management Plan (FMP) and the Magnuson-Stevens Act. This proposed rule would suspend certain parts of the regulations currently in place and temporarily replace them with the new management measures recommended by the Council through December 31, 1997. The background and rationale for the Council's recommendations are summarized below. More detail appears in the EA/RIR/IRFA prepared by the Council for this action (see **ADDRESSES**).

Background

Sablefish (*Anoplopoma fimbria*) is one of the most valuable species in the groundfish fishery off Washington,

Oregon, and California (WOC). Since 1987, the annual sablefish non-tribal harvest guideline has been divided between trawl gear and fixed gear fisheries. Historically, the sablefish trawl fishery has been managed with trip or period landings limits, which means with a limit on the amount of fish that may be harvested during a fishing trip or during a set time period. Trip or period landings limits mainly have been imposed to extend a fishery throughout most of the year. By contrast, the fixed gear sablefish fishery has historically taken most of its allocation in an intense, open competition called the ''regular'' or ''derby'' season, which has had no trip limits except on small sablefish less than 22 inches (56 cm) in length. In recent years, the fixed gear fleet has operated under daily trip limits (250–500 lb (113–227 kg) per day) outside of the ''primary season'' (i.e., the ''regular'' season combined with the ''mop-up'' season). The limited entry fixed gear fishery for sablefish involves two operationally distinct gear types, pot (or trap) and longline, that compete for the nontrawl (fixed gear) harvest allocation.

The Council's first concern regarding the current management of the limited entry, fixed gear sablefish fishery is that, if this fishery were allowed to continue as a derby, the season would become even shorter and the danger of fishing in the derby would rise. Before 1990, the fixed gear sablefish fishery began on January 1 and usually lasted for the greater part of the year. However, fishing effort increased and quotas were reduced during the late 1980s and early 1990s, resulting in the recent short ''derby'' seasons. In 1995 and 1996, the seasons were 7 and 5 days derbies, respectively. Seasons shorten from year to year because each vessel owner has an incentive to invest in new and better gear each year, hoping to increase the amount of fish that he/she can catch per hour or per day, and because the relatively high price of sablefish provides strong incentives for new entrants to join the fishery annually. With seasons measured in numbers of days, the derby is not just hazardous because it gives fishers strong incentives to stay out during bad weather but also because they work at sea with heavy machinery and with little or no sleep throughout the derby. The 1996 reauthorization of the Magnuson-Stevens Act included new National Standard 10, which requires, to the extent practicable, the promotion of the safety of human life at sea in conservation and management measures.

Beyond the Council's safety concerns with the derby fishery, the Council has also cited economic and conservation detractions of the derby fishery. Just as fishers cannot choose to fish during the best weather, they also cannot choose to fish during periods of highest sablefish market value. Fish caught under derby conditions often cannot be handled or processed into the highest value sablefish products. In a derby for high-value fish like sablefish, lower-value bycatch may be thrown overboard, dead and unused. Magnuson-Stevens Act National Standard 9 supports efforts to minimize bycatch and bycatch mortality. With shortening derby seasons, fishers may also be more likely to abandon their gear at sea, leaving that gear to continue to ''ghost fish'' after the derby has ended. Finally, as the length of the derby decreases, it becomes more difficult for managers to accurately choose a closing date to prevent the harvest from exceeding the allowable catch.

The Council has been exploring an individual fishing quota (IFQ) system for the fixed gear sablefish fishery since 1991, in order to equitably put an end to the derby fishery. However, the Magnuson-Stevens Act was recently amended to prohibit implementation of new IFQ programs until October 1, 2000. Therefore, the Council has turned to other management measures to resolve the problems inherent in the derby. At its August 1996 meeting, the Council continued its efforts to address safety and overcapacity in the limited entry, fixed gear sablefish fishery, by recommending Amendment 9 to the FMP, which would require a sablefish endorsement for vessels taking part in the primary sablefish season, north of 36° N. lat. Under Amendment 9, sablefish endorsement qualifications are a single year of permit catch history in which Council-managed sablefish caught with longline or fishpot gear exceeded 16,000 pounds (7,257 kg) (round weight), during the 1984–1994 qualifying period. Given these qualifications, it is likely that approximately 167 of the current 237 longline and pot permits would qualify for sablefish endorsements. NMFS approved Amendment 9 on May 8, 1997, and the endorsement is expected to be in place for the 1997 season.

Council recommendations from the October 1996 and March 1997 meetings strengthened the separation of sablefish fishing effort north and south of 36° N. lat. New management schemes that would put an end to the derby have been recommended for each area.

North of 36° N. lat.

Cumulative Limit Fishery

At the October 1996 and March 1997 Council meetings, industry members continued the long-standing debate about the future of limited entry, fixed gear sablefish management. Most fishers recognized that the trend in annually decreasing derby duration was likely to continue if there were a derby in 1997. Fear of a future sablefish season that would be measured in hours and frustration with the difficult fishing conditions of the derby brought forth much public testimony against a 1997 derby.

During the industry debates and on the Council floor, it became clear that traditionally low producers and traditionally high producers could not agree on a new management scheme. The traditionally low producers, who make up the majority of the fishery participants, but a minority of the total catch, favored an end to the derby and a system of equal cumulative limits for all participants. While the traditionally high producers did not necessarily wish to continue the derby, many were dissatisfied with the available management options, and saw the derby as the best way to maintain past trends in income distribution between fishery participants.

Members of the Council were forced to weigh the long-voiced anger over the continuing danger of the derby against the severe redistributive results of a management option to set equal cumulative limits for all of the vessels endorsed for the limited entry, fixed gear sablefish fishery. The Magnuson-Stevens Act national standards recognize the importance of both these issues. National Standard 10 places an emphasis on the safety of human life at sea, yet National Standard 4 requires that if allocation of fishing privileges between U.S. fishermen is necessary, then that allocation must be fair and equitable.

The Council's October recommendation was a three-week cumulative limit season, with equal limits for all participants. Although the Council considered the equal cumulative limit fishery to be undesirable for the long term, due to its redistribution of catch and income among fishery participants, it was the only acceptable alternative to the derby amongst the options available to the Council.

Following the October meeting, Council and NMFS staff analyzed the Council's proposal with newly available data from the 1996 fishery. This analysis showed that under a three week equal

cumulative limit fishery, almost all of the fishery participants likely would take their full cumulative limit. If this happened, the implementation of the three week equal cumulative limit fishery would be the implementation of an IFQ program. Since implementation of new IFQ programs is prohibited by the Magnuson-Stevens Act until October 1, 2000, NMFS, on February 28, 1997, rejected the Council's recommendation and requested that the Council either revise the equal limit proposal or adopt a different regime.

In order not to violate the prohibition on implementing any new IFQ programs, the fishery would have to be managed as a true cumulative limit fishery, where the limit is only the upper limit on what can be taken, rather than a fishery where the total allowable catch is divided up such that each participant has an exclusive right to a set amount. Therefore, management of the fishery had to be structured so that it could be expected that a substantial number of vessels would be unlikely to take the cumulative limit. The Council met these conditions by revising its season structure recommendations at the March 1997 meeting by (1) shortening the recommended length for the fishery to not more than 10 days, and (2) recommending a larger, less conservative, but still risk averse, maximum potential harvest.

For 1997 only, the Council recommended that the limited entry, fixed gear sablefish fishery north of 36° N. lat. consist of a no more than 10-day regular season with a single cumulative limit, equal for all vessels. Prior to and following the regular fishery, the current small daily trip limit fishery of 300 pounds (136 kg) per day would continue. Based on the number of permits qualifying for the proposed sablefish endorsement and the amount of harvest taken in the daily trip limit fishery, the cumulative limit amount, and the length in days of the fishery, would be established by the NMFS Regional Administrator, in consultation with the Council, and announced in the **Federal Register**.

Following the cumulative limit regular fishery, there would be a cumulative limit mop-up fishery to allow any of the harvest guideline that remains after the cumulative limit regular fishery and which is in excess of the amount needed for the daily trip limit fishery following the cumulative limit fishery to be taken. The recommendation on the size of the mop-up cumulative limit would be made by the Council's Groundfish Management Team, following a calculation of the actual landed catch from the initial cumulative limit fishery and the daily trip limit fishery. The regular and mop-up seasons are designed to take the entire fixed gear allocation, except for approximately 385 mt for the daily trip limit fishery. The 385 mt for the daily trip limit fishery is slightly higher than the amount taken in the 1996 daily trip limit fishery.

Season Start Date

Before 1995, the start of the regular season off Washington, Oregon, and California was linked to the fixed gear sablefish season opening in the Gulf of Alaska, to reduce effort in the fishery by forcing fishers to choose between participating in the fishery off Alaska or the West Coast fishery. When the individual quota program was introduced for halibut and sablefish fisheries in exclusive economic zone (EEZ) waters off Alaska in 1995, the Council no longer had a reason to set start dates to match the Alaska fisheries. In 1995 and 1996, the Council set start dates of August 6 (60 FR 34472, July 3, 1995) and September 1 (61 FR 16402, April 15, 1996), respectively, because wind and sea conditions are generally safer along the coast at that time of year and to avoid overlapping with other West Coast fisheries and fishing opportunities.

At the October 1996 meeting, the Council decided to improve on 1995 and 1996 management efforts with a framework for future limited entry, fixed gear sablefish season start dates that would allow the start date to occur on any day from August 1 through September 30. The NMFS Regional Administrator would establish the season start date after consulting with the Council, at the June meeting if possible, and taking into account tidal conditions, Council meeting dates, conflicts with alternative fisheries, and industry comments. For 1997 only, establishment of the season start date would be affected by the status of the implementation of the sablefish endorsement program under Amendment 9 and the implementation date of this rule.

48–Hour Pre-Season Enforcement Closure

To facilitate enforcement at the start the 1997 regular cumulative limit fishery, there would be a 48–hour closure before the 10-day cumulative limit fishery, during which time no fixed gear vessel (limited entry and open access) may deploy gear used to take and retain groundfish, or take or retain sablefish north of 36° N. lat. All fixed gear used to take groundfish must be out of the water during this period.

No Pre-Set Gear

In the past, there has been some conflict between longline and pot gear users over whether pot vessels should be allowed to set their gear in advance of the derby. Pots are extremely cumbersome and most pot fishers cannot store and transport all of their gear on board at once without increasing safety risks. Setting pot gear for the limited entry sablefish season may require more than one trip from shore to sea. In the 1995 and 1996 derbies, pot fishers were allowed to set baited gear 24 hours prior to the start of the derby. Longliners were opposed to this practice because it gave pot fishers the chance to choose and then monopolize premium fishing ground positions before the start of the derby. Because of these concerns and because the 1997 10-day fishery period is expected to provide all pot gear participants with sufficient time to set and tend their gear, there would be no opportunities for pot fishers to set their gear before the 1997 regular season start time.

Longliners have recently made requests to pre-set their gear for the derby, hoping to improve their competitive standing against the pre-set allowance for pot fishers. However, with no derby in 1997, and no pot gear pre-set provision, the perceived competitive disadvantage to the longliners is eliminated. Longliners would also not have the opportunity to set their gear before the start of the cumulative limit season.

At-sea closure

The Council decided that safety concerns associated with at-dock closures outweighed the enforcement benefits of at-dock closures. Therefore the Council recommended that at the end of the regular season; fishers must stop fishing, they must stop pulling gear but they need not be at the dock at the end of the regular season. The Council's Enforcement Consultants assured Council members that it would be possible to enforce an at-sea closure under a 10-day cumulative limit system or derby fishery, particularly with a 48–hour post-season closure. A portion of the fleet would have caught the cumulative limit before the end of the season, which means that fewer vessels would be fishing up until the season closure.

48–Hour Post-Season Enforcement Closure

To facilitate enforcement at the end of the regular season, there would be a 48–hour post-season closure, during which time no sablefish taken with fixed gear

(limited entry or open access) may be taken and retained for the 48 hours immediately after the end of the regular season. However, sablefish taken and retained during the regular season may be possessed and landed during that 48–hour period. Gear may remain in the water during the 48–hour post-season closure; however, gear used to take and retain groundfish may not be set or retrieved during this period.

Daily Trip Limit Fishery

Outside of the initial cumulative limit fishery, the mop-up fishery, and the associated 48–hour closures, there would continue to be a daily trip limit fishery. Under Amendment 9's sablefish endorsement program, in order to land limited entry fixed gear sablefish during either the initial cumulative limit fishery or the mop-up fishery, a fisher would be required to have a limited entry permit with a sablefish endorsement. During these fisheries, there would be no daily trip limit sablefish fishing opportunities for limited entry fixed gear vessels without permits with sablefish endorsements. During the time between the end of the 48–hour closure following the cumulative limit period and the beginning of the mop-up fishery, the daily trip limit fishery would be open.

South of 36° N. lat.

Catch taken south of 36° N. lat. counts against the southern area acceptable biological catch (ABC). The available harvest has not been fully exploited in past years, and many southern area vessels have harvested sablefish only in recent years. Therefore, many southern area fishers would not qualify for sablefish endorsements. For these reasons, the Council recommended exempting vessels fishing for sablefish in this area from the sablefish endorsement requirement. In order to prevent all of the unendorsed vessels from northern areas moving to the south, the Council also recommended eliminating the ''primary season'' for waters south of 36° N. lat. Historically, most of the fishing in this area has been low volume, year-round fishing; the Council's recommendations for the southern area preserve that traditional structure. Southern area fishers would have a year-round trip limit fishery, and those without sablefish endorsements would not be permitted to move north to take part in the primary northern season without obtaining permits with sablefish endorsements.

The Council and southern area industry goal for this area was a management regime that would allow traditional sablefish fishing practices, yet discourage an influx of northern vessels into the southern area. Fishers from the southern area wish to continue operating a low-level, year-round harvest, and recognize that this will only happen if the total harvest for that area remains below the southern area ABC. An influx of new effort into the southern area could raise harvest levels above the ABC, leading to more complex management schemes for that area.

At the October 1996 Council meeting, the Council recommended the elimination of the primary season for the southern area, resulting in a year-round daily trip limit fishery south of 36° N. lat. The 1997 daily trip limit began the year at 350 pounds (159 kg) round weight per day (62 FR 700, January 6, 1997), and may be adjusted up or down at a 1997 Council meeting, to ensure that the ABC can be harvested without being exceeded. Southern area fixed gear sablefish fishing would henceforth be managed under routine management measures imposed under 50 CFR 660.323(b). This proposed rule does not amend § 660.323(b) but appropriately references it. Limits would be established in the annual specifications.

Biological Impacts

Biological impacts of the proposed action would be expected to be fairly minimal. However, there may be some negative biological impacts from moving to a non-derby management regime, such as highgrading, trip limit induced discards, and under-reporting of catch.

For vessels able to fully take the cumulative limit in the time available, highgrading provides an opportunity to increase revenues by discarding smaller sablefish in favor of the higher-priced large sablefish. Unrecorded discards can lead to a higher than intended fishing mortality level, although the amount would have to be substantial to measurably alter the sablefish ABC. Because highgrading and catch discard do not necessarily lead to mortality of the catch, the mortality rate associated with highgrading may be below the highgrading rate. Under the 10-day cumulative limit fishery, it is expected that 65 percent of the catch would be taken by vessels able to slow their usual rate of harvest and highgrade.

Trip limit induced discards happen when vessels fishing up to some limit exceed that limit and must discard catch to bring landings down to the limit. The more trip limit periods there are in a fishery, the more frequent the possibilities of trip limit induced discards. Under the proposed management scheme, vessels would have two chances to generate trip limit induced discards, in the initial cumulative limit period and in the mop-up period.

Under a derby fishery, there is no incentive to under-report the amount of fish landed. With cumulative limit management, incentives to under-report are much higher, and under-reporting may occur in the proposed management scheme. Potential under-reporting can be mitigated by strong enforcement presence at the docks and processing plants, but it is not yet known what level of enforcement would be needed to ensure that the new management rules are followed.

All three of these possibilities, highgrading, trip limit induced discards, and under-reporting of landings, could have long-term negative impacts on the sablefish stock. If the true impact of the fishery on the stock cannot be measured, there may be a decrease in sablefish stock abundance that is scientifically ''invisible'' for the short term. If this fishery were introduced as a long-term measure, the West Coast sablefish ABC and associated harvest guideline could decline over time as a result of the unmeasured impacts that this type of fishery may have on the fish stocks. If the level of discards were known, one solution to unintended stock reduction might be to adjust stock assessments to account for unreported discards. Observer data would improve the accuracy of the adjustments.

No significant new biological impacts are expected to result from the change in management structure for the southern area, limited entry, fixed gear sablefish fishery. Only a few vessels in the area have participated in past derbies, and their catches have been comparable to medium and low level harvesters from the rest of the coast.

Socio-Economic Impacts

The major positive sociological impact of ending the derby regime is the improved safety of operation for fishery participants. A trip limit system would be expected to increase safety for those vessels able to easily take the cumulative limit during the allotted time. Under cumulative limits, such a vessel would not lose sablefish harvesting opportunity if it stays in port during bad weather, stops fishing to make repairs, or harvests at slightly slower and safer rate. A 10-day cumulative limit period would still leave a number of vessels unable to take the available limits in the allotted time, thereby giving those fishers an incentive to fish as they would have under derby management. However, even for vessels unable to take the cumulative limit in

the allotted time, there may be a safety benefit to the 10-day fishery because there would be less financial pressure to fish at the frenetic speed of the derby.

Replacing the derby with a 10-day cumulative limit fishery could have significant short and long term economic impacts on the fishery participants. There would likely be a 29 percent redistribution of the harvest from traditionally high producers to traditionally low producers, a redistribution of ex-vessel revenue of about $2.5 to $3.0 million. It is expected that under the single cumulative limit scheme, 38 fishing operations would experience a greater than 5 percent loss in their total gross fishing revenues, a level of loss considered significant for purposes of the Regulatory Flexibility Act. Fishers in the top third of the fleet in terms of production levels would face severe reductions in their sablefish incomes, which would be funneled into distributed gains for the lower producing two-thirds of the fleet. For many of the fleet's top producers, income from past sablefish derbies has represented a significant portion of their total annual incomes.

No substantial reallocative effect is expected from not providing a derby or some other primary sablefish opportunity in the southern area. By maintaining the daily trip limit regime, the Council is discouraging the influx of new effort into the southern area. Without new effort increases, southern area harvests should stay below the ABC, and if the ABC is not exceeded, southern area management would likely remain relatively free of regulatory complexity and reallocative socio-economic impacts on the fishing community.

Classification

This proposed rule has been determined to be not significant for the purposes of E.O. 12866.

The Council prepared an initial regulatory flexibility analysis that describes the impact that this proposed rule, if adopted, would have on small entities. A copy of this analysis is available from the Council (see **ADDRESSES**). The SBA defines a small business in commercial fishing as a firm with receipts up to $2 million annually, which includes all of the vessels that would be affected by this proposed rule.

In general, NMFS has determined that a ''substantial number'' of small entities would be more than 20 percent of those small entities engaged in the fishery. Economic impacts on small business entities are considered ''significant'' if the proposed action would result in any of the following: (a) reduction in annual gross revenues by more than 5 percent; (b) increase in total costs of production by more than 5 percent as a result of compliance costs; (c) compliance costs as a percent of sales for small entities are at least 10 percent higher than compliance costs as a percent of sales for large entities; (d) capital costs of compliance represent a significant portion of capital available to small entities, considering internal cash flow and external financing capabilities; or (e) as a rule of thumb, 2 percent of small business entities being forced to cease operations.

As indicated above and in the EA/RIR/IRFA for this action, 38 of the expected endorsed participants (23 percent of 164 expected endorsed permits north of 36° N. lat.) in the limited entry, fixed gear sablefish fishery would suffer a greater than 5 percent loss in total gross fishing income. The Council views these losses as a necessary burden that comes with the reduction of the greater threat to the general well-being of the fishery posed by the unsafe derby conditions. Additionally, when looking at the nation as a whole, the impact on traditionally high sablefish producers would be mitigated by the benefits of this action to traditionally low sablefish producers, also small businesses.

It is expected that small business entities would not face further compliance or capital costs in order to comply with the proposed regulations. It is also not expected that any small business entities would be forced to cease operations because of the proposed regulations, although several would be forced into severe cutbacks in production and employment. An initial regulatory flexibility analysis (RFA) was prepared with the EA/RIR for this issue.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: May 29, 1997.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Services.

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

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

Subpart G—West Coast Groundfish Fisheries

2. Section 660.323 is amended by revising paragraph (a)(2) to read as follows:

§ 660.323 Catch restrictions.

(a) * * *

(2) *Nontrawl sablefish.* This paragraph (a)(2) applies to the regular and mop-up seasons for the nontrawl limited entry sablefish fishery north of 36° N. lat., except for paragraphs (a)(2)(ii) and (iii) of this section, which also apply to the open access fishery north of 36° N. lat. Limited entry and open access fixed gear sablefish fishing south of 36° N. lat. is governed by routine management measures imposed under paragraph (b) of this section.

(i) *Sablefish endorsement.* In order to lawfully participate in the regular season or mop-up season for the nontrawl limited entry fishery, the owner of a vessel must hold (by ownership or otherwise) a limited entry permit for that vessel, affixed with both a gear endorsement for longline or trap (or pot) gear, and a sablefish endorsement.

(ii) *Pre-season closure—open access and limited entry fisheries.* (A) From August 1, 1997, through December 31, 1997, sablefish taken with fixed gear in the limited entry or open access fishery in the EEZ may not be retained or landed during the 48 hours immediately before the start of the regular season for the nontrawl limited entry sablefish fishery. Beginning January 1, 1998, sablefish taken with fixed gear in the limited entry or open access fishery in the EEZ may not be retained or landed during the 72 hours immediately before the start of the regular season for the nontrawl limited entry sablefish fishery.

(B) From August 1, 1997, through December 31, 1997, all fixed gear used to take and retain groundfish must be out of EEZ waters during the 48 hours immediately before the opening of the regular season for the nontrawl limited entry sablefish fishery. Beginning January 1, 1998, all fixed gear used to take and retain groundfish must be out of EEZ waters during the 72 hours immediately before the opening of the regular season for the nontrawl limited entry sablefish fishery, except that pot gear used to take and retain groundfish may be deployed and baited in the EEZ up to 24 hours immediately before the start of the regular season.

(iii) *Regular season—nontrawl limited entry sablefish fishery; starting in 1998.* The NMFS Regional Administrator will announce a season to start on any day from August 1 through September 30,

based on consultations with the Council, taking into account tidal conditions, Council meeting dates, conflicts with alternative fisheries, and industry comments. During the regular season, the limited entry nontrawl sablefish fishery may be subject to trip limits to protect juvenile sablefish. The regular season will end when 70 percent of the limited entry nontrawl allocation has been or is projected to be taken. The end of the regular season may be announced in the **Federal Register** either before or during the regular season.

(iv) *Post-season closure—limited entry and open access.* No sablefish taken with fixed gear may be taken and retained during the 48 hours immediately after the end of the regular season for the nontrawl limited entry sablefish fishery. Sablefish taken and retained during the regular season may be possessed and landed during that 48–hour period. Gear may remain in water during the 48–hour post-season closure. Fishers may not set or pull from the water fixed gear used to take and retain groundfish during the 48–hour post-season closure. At the end of the post season closure, the daily trip limit regime will resume.

(v) *Mop-up season—limited entry fishery.* A mop-up season to take the remainder of the limited entry nontrawl allocation will begin about 3 weeks after the end of the regular season, or as soon as practicable thereafter. During the mop-up fishery, a cumulative trip limit will be imposed. The length of the mop-up season and the amount of the cumulative trip limit, including the time period to which it applies, will be determined by the Regional Administrator in consultation with the Council or its designees, and will be based primarily on the amount of fish remaining in the allocation, the amount of sablefish needed for the remainder of the daily trip limit fishery, and the number of mop-up participants anticipated. The regular and mop-up seasons are designed to take the entire nontrawl allocation, except for approximately 385 mt for the daily trip limit fishery. The Regional Administrator may determine that too little of the nontrawl allocation remains to conduct an orderly or manageable fishery, in which case there will not be a mop-up season. There will be no daily trip limit fishery during the mop-up season. At the end of the mop-up season, the daily trip limit fishery will resume.

(vi) *Other announcements*; *starting in 1998.* The dates and times that the regular season ends (and trip limits on sablefish of all sizes are resumed), the dates and times for the 48–hour post-season closure, the dates and times that the mop-up season begins and ends, and the size of the trip limit for the mop-up fishery, will be announced in the **Federal Register**, and may be modified. Unless otherwise announced, these seasons will begin and end at 12 noon on the specified date.

(vii) *Regular season*; *from August 1, 1997, through December 31, 1997—limited entry fishery.* (A) The regular season for the nontrawl limited entry sablefish fishery will be a cumulative limit fishery of up to 10 days, with the same cumulative limit for each vessel with a sablefish endorsement. During the regular season, the limited entry nontrawl sablefish fishery may be subject to trip limits to protect juvenile sablefish. There will be no daily trip limit fishery during the regular season.

(B) The NMFS Regional Administrator will announce a season to start on any day from August 1 through September 30, based on consultations with the Council, taking into account tidal conditions, Council meeting dates, conflicts with alternative fisheries, and industry comments.

(C) The Regional Administrator will announce the size of the cumulative limit and the number of days in the fishery based on Council recommendations, taking into account the exact number of vessels qualifying for the sablefish endorsement and the amount of sablefish that has been harvested by the daily trip limit fishery prior to the start of the regular season.

(viii) *Other announcements*; *from August 1, 1997, through December 31, 1997.* The number of days in the regular and mop-up seasons, dates and times that the regular and mop-up seasons start and end (and trip limits on sablefish of all sizes are resumed), dates of the pre- and post-season closures, and the sizes of the trip limits for the regular and mop-up seasons, will be announced in the **Federal Register**, and may be modified. Unless otherwise announced, these seasons will begin and end at 12 noon on the specified date.

* * * * *

[FR Doc. 97–14468 Filed 6–2–97; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 62, No. 106

Tuesday, June 3, 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

Farm Service Agency and Commodity Credit Corporation

Availability of Final Environmental Assessment Regarding Spartina Control Cost-Share Program for Willapa Bay Estuary, WA

AGENCY: Farm Service Agency and Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: In May 1997, the Farm Service Agency (FSA) and Commodity Credit Corporation (CCC) will make available their Final Environmental Assessment regarding their proposed Spartina Control Cost-Share Program. FSA and CCC have an interest in controlling Smooth Cordgrass (Spartina alterniflora) in the Willapa Bay Estuary region of Washington State. The proposed Spartina control action focuses on the coordinated use of mechanical/physical and chemical treatment methods, also known as Integrated Pest Management (IPM), in an environmentally and economically sound manner.

(Authority: Pub. L. 104–127, Sec. 334.)

ADDRESSES: To receive a copy of FSA and CCC's Spartina Control Cost-Share Program Final Environmental Assessment, mail requests to: U.S. Department of Agriculture, Conservation and Environmental Protection Division, ATTN: Mike Linsenbigler, USDA, FSA, CEPD, STOP 0513, 1400 Independence Avenue, S.W., Washington, DC 20250–0513.

FOR FURTHER INFORMATION CONTACT: Mike Linsenbigler, 202–720–6303.

Signed at Washington, DC, on May 26, 1997.

Bruce R. Weber,

Acting Administrator, Farm Service Agency and Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 97–14381 Filed 6–2–97; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Business Development Center Applications: Chicago II, North

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Amendment.

SUMMARY: The Minority Business Development Agency (MBDA) is revising the announcement to solicit competitive applications under its Minority Business Development Center (MBDC) Program to operate the Chicago II MBDC. The revised award number for the Chicago II, North MBDC is 05–10–97002–01. This solicitation was originally published in the **Federal Register**, Tuesday, May 27, 1997, Vol. 62, No. 101, page 28673.

11.800 Minority Business Development Center

(Catalog of Federal Domestic Assistance)

Dated: May 28, 1997.

Frances B. Douglas,

Alternate Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 97–14391 Filed 6–2–97; 8:45 am]

BILLING CODE 3510–21–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052797D]

North Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council (Council) and its advisory committees will meet the week of June 16, 1997, in Kodiak, AK. All meetings are open to the public with the exception of Council executive sessions.

DATES: See SUPPLEMENTARY INFORMATION for specific dates and times of the Advisory Panel (AP), Scientific and Statistical Committee (SSC), Individual Fishing Quota (IFQ) Implementation Team and Council meetings.

ADDRESSES: AP Meeting: Elks Lodge, 102 Marine Way, in Kodiak.

SSC and IFQ Implementation Team: Fishermen's Hall in the Harbormaster's Building, 403 Marine Way West, in Kodiak.

Council Meeting: Harbor Room of the Kodiak Inn, 236 Rezanof Drive West, in Kodiak.

Other committee or workgroup meetings may be held on short notice during the meeting week; notices of any meeting will be posted in the lobby of the Kodiak Inn, 236 Rezanof Drive West, in Kodiak, AK.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Council staff, telephone: 907–271–2809.

SUPPLEMENTARY INFORMATION: The Council, its SSC, AP, and IFQ Implementation Team will meet as follows:

SSC: Monday, June 16, beginning at 8:00 a.m., through Wednesday, June 19, 1997.

AP: Monday, June 16, beginning at 8:00 a.m., through Thursday, June 20, 1997.

IFQ Implementation Team: Monday, June 16, 1997, beginning at 6:30 p.m., ending by 9:30 p.m.

Council: Beginning at 8:00 a.m. on Tuesday, June 17, and ending on Sunday, June 22, 1997.

The agenda for the meetings will include the following issues. The Council may take appropriate action on any of the issues identified.

1. Reports from NMFS and Alaska Department of Fish and Game on the current status of the fisheries off Alaska, NMFS and U.S. Coast Guard reports on enforcement, and a report on Steller sea lions.

2. Finalize alternatives and problem statement and give direction to staff for analysis of allocation of pollock between inshore and offshore fishing operations.

3. Take final action on measures to amend the halibut and sablefish individual fishing quota program to allow transfer of privileges to surviving heirs, and to amend vessel ownership requirements for the program. The Council will also consider initiating an analysis for the North Pacific Loan Program, and receive a response from NMFS on enforcement concerns in the IFQ program.

4. Take final action on seabird avoidance measures in the halibut fisheries.

5. Take final action on a halibut catch sharing plan for International Pacific Halibut Commission halibut regulatory Area 4.

6. Review an initial management plan for the Sitka Sound halibut fishery.

7. Take final action on a regulatory amendment to create and define a halibut subsistence/personal use fishery category.

8. Review a ecosystem research initiative from the U.S. Department of the Interior.

9. Take final action on an amendment to the Gulf of Alaska Groundfish Fishery Management Plan to initiate improved retention and utilization measures.

10. Review a proposed rule for the groundfish and crab license limitation and community development programs and provide comments, and receive progress report on development of industry buyback program for crab fisheries.

11. Discuss and give staff further direction in development of a skipper reporting system.

12. Review and take action on a request to lengthen a vessel for safety reasons under the moratorium.

13. Consider extending existing Observer Program beyond 1997, review alternative observer program structures, and give staff further direction for analysis.

14. Review progress on meeting new requirements under the Magnuson-Stevens Act, including a progress report on essential fish habitat and direction to staff to initiate an analysis.

15. Review a bycatch proposal submitted by the Alaska Marine Conservation Coalition, consider further action.

16. Comment on NMFS proposal to draft a Supplemental Environmental Impact Statement on groundfish management in the Bering Sea/Aleutian Islands (BSAI) and Gulf of Alaska (GOA).

17. Consider final action on reporting requirements.

18. Under GOA groundfish issues, the following subjects will be discussed:

(a) Final action on an amendment to revise management authority of pelagic shelf rockfish.

(b) Initial review of an amendment to initiate rolling closures in the sablefish fisheries during the annual sablefish survey.

(c) Give further direction to staff for analysis of a trawl-only fishery for pollock.

(d) Give further direction to staff for analysis of trip limits for pollock in the Gulf of Alaska.

19. Under BSAI groundfish issues, the following subjects will be discussed:

(a) Final action on an amendment to allocate Atka mackerel to vessels using jig gear.

(b) Discussion and further direction to staff on gear storage and preemption issues.

(c) Discussion and direction to staff on shortraker/rougheye rockfish bycatch.

(d) Take final action on halibut discard mortality rates in the BSAI Pacific cod fishery for second half of 1997.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907–271–2809, at least 5 working days prior to the meeting date.

Dated: May 28, 1997.

Bruce C. Morehead,

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

[FR Doc. 97–14402 Filed 6–2–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability, Environmental Assessment (EA) and Finding of No Significant Impact (FNSI) for the Disposal and Reuse of Fort Sheridan, IL

AGENCY: Department of Army, DoD.

ACTION: Notice of availability.

SUMMARY: The Defense Base Closure and Realignment Act of 1988, Public Law 100–526, directed the Defense Secretary's Commission on Base Closure and Realignment to recommend military installations for realignment or closure. The Commission recommended the closure of Fort Sheridan, Illinois. In accordance with the recommendation, Fort Sheridan closed on June 1, 1993.

This document evaluates the disposal and reuse alternatives of the surplus property at Fort Sheridan, and the socioeconomic and environmental impacts of these actions. It serves as a companion document to the final environmental impact statement for the closure of Fort Sheridan issued in 1990. The result of the assessment was a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Ray Haynes, U.S. Army Corps of Engineers, Louisville District, P.O. Box 59, Louisville, KY 40201–0059 or call (502) 582–6475.

Dated: May 27, 1997.

Richard E. Newsome,

Acting Deputy Assistant Secretary of the Army (Environmental, Safety and Occupational Health), OASA (I, L&E).

[FR Doc. 97–14338 Filed 6–2–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Prepare an Environmental Impact Statement (EIS) on the National Park Seminary Historic District (NPSHD) Located at the Walter Reed Army Medical Center (WRAMC)

AGENCY: Walter Reed Army Medical Center, Department of the Army.

ACTION: Notice of Intent.

SUMMARY: The Army intends to prepare an EIS to assist it in deciding upon a plan of action for the NPSHD. The NPSHD, Forest Glen Annex, is located within the Forest glen area of Montgomery County, Maryland, approximately 1.5 miles north of the District of Columbia. The Annex is bounded by the Capital Beltway (I–495) to the north, Rock Creek Park to the west, Brookville Road to the south, and the main line of the CSX Rail System to the east.

The NPSHD consists of a 26-acre parcel containing 24 buildings, which has been listed as a historic district on the National Register of Historic Places since 1972 and the Montgomery County Master Plan for historic preservation since 1991. The NPSHD is located on the north end of Forest Glen Annex and is bounded by the Capital Beltway (I–495) to the north, Smith Drive on the east, and Linden Lane to the south and west. The NPSHD is comprised of a collection of late 19th and early 20th century architecturally eclectic buildings and structures associated with a land development company and later with a private finishing school. The Army, after acquisition in 1942, utilized the property and its improvements as a

convalescent center through the late 1970's.

Since that time, Walter Reed Army Medical Center has utilized the NPSHD for administrative and logistical purposes such as offices and storage. In 1991, WRAMC determined that the NPSHD was excess to its needs. A recent review by Walter Reed Army Medical Center has revealed that retention of the real property comprising Forest Glen Annex, in its entirety, is necessary to meet mission requirements.

Consistent with its obligations under the National Environmental Policy Act, 42 U.S.C. 4321 et seq.; the regulations published by the Council on Environmental Quality, 40 CFR Part 1500–1508; and Army Regulation 200–2, the U.S. Army intends to prepare an EIS to assist it in deciding on a plan for the reuse and/or disposal of the NPSHD. The purpose of the statement is to ensure that the U.S. Army makes an informed decision, based on full and informed public participation. The EIS will identify all relevant direct, indirect and cumulative environmental impacts associated with the alternatives considered.

Alternatives: The range of alternatives will address a series of options for reuse and/or disposal of the land and the buildings, structures and facilities within the NPSHD. Alternatives to be considered include the following:

a. No Action. The property would remain in caretaker status with the Department of the Army. Minimal maintenance and repairs would be accomplished.

b. Complete demolition of buildings. The Army would document the historical significance of the structures through detailed photographs and drawings as required under a Memorandum of Agreement negotiated between the Army, the Maryland Historical Trust, and the Advisory Council on Historic Preservation. Upon completion of the required documentation, the buildings would be torn down and the land retained by Walter Reed Army Medical Center.

c. Partial demolition of buildings and reuse of remaining rehabilitated structures. The buildings that would be torn down would be documented as described above. Remaining buildings would be rehabilitated and reutilized as described in the EIS.

d. Complete rehabilitation of all structures. All structures located within the historic district will be rehabilitated for future use.

e. Excess, disposal, and sale at fair market value to a private entity.

Scoping: This notice shall initiate a period of public scoping that is intended to invite the participation of all interested members of the public as well as other public agencies. Comments received during the scoping period will be used to assist the Army in identifying significant issues of public concern regarding potential impacts on the quality of the human environment. The scoping period will be followed by development of a reasonable range of reuse alternatives to be incorporated in a draft EIS. The draft EIS will be published and made available for public review and comment prior to its finalization. After review of the draft EIS, the U.S. Army will address public comments in a final EIS that will be released for additional review prior to publication of a Record of Decision (ROD). The ROD will identity the action chosen for implementation. Interested members of the public may be precluded from challenging the adequacy of the final EIS if they fail to participate in the process in a meaningful manner.

The Army will arrange a public scoping meeting within 30 days of the publication of this Notice of Intent at a place and time to be announced in the legal sections of the ''Washington Post,'' ''Washington Times,'' and ''Montgomery Journal'' newspapers. Interested members of the public are invited to provide written comments to Mr. Ben Smith at Walter Reed Army Medical Center, ATTN: MCAT–PA (Ben Smith), 6900 Georgia Avenue, NW, Washington, DC 20307–5001 no later than 15 days following the public scoping meeting.

FOR FURTHER INFORMATION CONTACT: Please contact Mr. Ben Smith, Public Affairs Officer, Walter Reed Army Medical Center, at (202) 782–7177.

Richard E. Newsome,

Acting Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health), OASA (I,L&E).

[FR Doc. 97–14390 Filed 6–2–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability of the Revised Final Environmental Impact Statement for the Disposal of Chemical Agents and Munitions Stored at Pine Bluff Arsenal, AR

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: This announces the availability of the Revised Final Environmental Impact Statement (EIS) on the construction and operation of the proposed chemical agent disposal facility at Pine Bluff Arsenal, Arkansas. The proposed facility will be used to demilitarize all stockpiled chemical agents and munitions currently stored at Pine Bluff Arsenal. The Revised Final EIS examines the potential impacts of on-site incineration, alternative locations within the Pine Bluff Arsenal, and the ''no action'' alternative. The ''no action'' alternative is considered to be a deferral of the demilitarization with continued storage of agents and munitions at Pine Bluff Arsenal.

SUPPLEMENTARY INFORMATION: In its Record of Decision (53 FR 5816–5817, dated February 26, 1988) for the Final Programmatic Environmental Impact Statement on the Chemical Stockpile Disposal Program, the Department of the Army selected on-site disposal by incineration at all eight chemical munition storage sites within the continental United States as the method by which it will destroy its lethal chemical stockpile. On March 29, 1989, the Department of the Army published a Notice of Intent in the **Federal Register** (54 FR 12944–12945) which provided notice that, pursuant to the National Environmental Policy Act and implementing regulations, it would prepare a draft site-specific EIS for the proposed Pine Bluff chemical agent disposal facility. In 1995, the Department of the Army prepared a Draft EIS to assess the site-specific health and environmental impacts of on-site incineration of chemical agents and munitions stored at the Pine Bluff Arsenal. A Notice of Availability was published on June 9, 1995, in the **Federal Register** (60 FR 30537) which provided notice that the Draft EIS was available for comment. All comments from the Draft EIS were considered and responses included in the Final EIS. A Notice of Availability for the Final EIS was published on October 18, 1996, in the **Federal Register** (61 FR 54437). After publication, the Army revised the Final EIS by performing an additional review of the potential impacts. This Revised Final EIS includes a discussion of that review. After a 30-day waiting period the Army will publish a Record of Decision.

WAITING PERIOD: Comments will be accepted during this 30-day waiting period, which begins with the Environmental Protection Agency's publication of the notice of availability.

COPIES: To obtain copies of the Revised Final EIS, contact the Program Manager for Chemical Demilitarization (PMCD), Data and Document Control Center, at

(410) 671–4901. For more information, contact Ms. Cathy Stalcup, OPMCD, or Mr. Jeff Lindblad, Pine Bluff Chemical Activity, at (410) 671–3629 and (501) 540–2429, respectively.

ADDITIONAL INFORMATION: The Environmental Protection Agency (EPA) will also publish a Notice of Availability for the Final EIS in the **Federal Register.**

Dated: May 28, 1997.

Richard E. Newsome,

Acting Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health), OASA (I, L&E).

[FR Doc. 97–14348 Filed 6–2–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Final Environmental Impact Statement (FEIS) for the Western Army National Guard Aviation Training Site (WAATS) Proposed Expansion

LEAD AGENCIES: National Guard Bureau, Department of the Army; Department of the Air Force, DoD.

COOPERATING AGENCY: Federal Bureau of Land Management, Department of the Interior.

ACTION: Notice of availability.

SUMMARY: Expansions to existing training areas and facilities at the WAATS are for the purpose of enhancing readiness and training of National Guard aviation units, improving training safety, constructing facilities to meet training demands, and complying with environmental requirements.

This document addresses the environmental impacts of the proposed actions, reasonable alternatives and the impact upon Guard readiness of taking no action. The proposed action and each alternative action consist of three essential components: (1) Increase the size of the original Tactical Flight Training Area (TFTA) to improve training, enhance training safety through reduced training congestion, allowing limited ground training support activities, and to reduce noise and environmental impacts through closing some parts of the existing TFTA; (2) increase the number of helicopter gunnery training operations through construction of new ranges or modification to existing ranges; and (3) construct new facilities for housing, training, maintenance and to comply with changing environmental requirements. A 45-day public review and comment period was provided for the Draft Environmental Impact Statement (DEIS). The Arizona National Guard WAATS conducted six public hearings to discuss concerns and comments on the DEIS. Public hearings were held in locations throughout the project area. Specific locations, dates and times were announced through letters to those on the project mailing list and to others through notices, display advertisements and Legal Notices in general circulation newspapers. After the comments were compiled and reviewed, responses were prepared to all relevant environmental issues that were raised. These responses to comments and/or any new pertinent information were incorporated into the Draft EIS to constitute the FEIS. After a 30-day waiting period on the FEIS, a Record of Decision will be published.

COPIES: Copies of the FEIS Executive Summary will be mailed to individuals who participated in the public scoping process. Copies of the entire FEIS may be requested from the Project Officer listed below. Copies will also be sent to Federal, state, regional, and local agencies; interested organizations and agencies; and public libraries. Individuals not currently on the mailing list may obtain a copy on request.

FOR FURTHER INFORMATION CONTACT: The FEIS Project Officer, Lieutenant Colonel Richard Murphy, Deputy Commander, Western Army National Guard Aviation Training Site, Building 145–500, Pinal Air Park, Marana, Arizona 85653–9598; (520) 682–4590.

Dated: May 28, 1997.

Richard E. Newsome,

Acting Deputy Assistant Secretary of the Army (Environment, Safety, and Occupational Health), OASA (I, L&E).

[FR Doc. 97–14462 Filed 6–2–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Site-Specific Environmental Impact Statement (EIS) for the Design, Construction and Operation of a Facility To Pilot Test Neutralization (Hydrolysis) Process, Followed by Either On-Site or Off-Site Biotreatment, for Mustard Agent at the Aberdeen Proving Ground (APG), MD

AGENCY: Department of the Army, DoD.

ACTION: Notice of intent.

SUMMARY: This announces the Notice of Intent (NOI) to prepare a site-specific EIS on the potential impacts of the design, construction, and operation of a facility to pilot test, as part of a research and development program, the neutralization (hydrolysis) process, followed by either on-site or off-site biotreatment, as a potential disposal technology for mustard agent in bulk storage containers only. Potential environmental impacts will be examined for several alternative locations of the on-site pilot facility at APG. The ''no action'' alternative will also be examined. The ''no action'' alternative is considered to be deferral of research and development of the neutralization process as an alternative technology, which would cause continued storage of the mustard-filled ton containers at APG. This NOI rescinds the previous NOI announced in the **Federal Register** on January 25, 1991 (56 FR 2911).

SUPPLEMENTARY INFORMATION: In compliance with the National Environmental Policy Act (NEPA) (40 CFR 1500–1508), the Army will prepare a site-specific EIS to assess the health and environmental impacts of the design, construction and operation of a pilot facility to demonstrate, as part of a research and development program, the feasibility of adopting the neutralization process, followed by either on-site or off-site biotreatment, for the mustard agent currently stored in ton containers at APG.

Scoping Meeting

The Army will hold a scoping meeting to aid in determining the significant issues related to the proposed action which will be addressed in the EIS. The scoping process will incorporate public participation, including Federal, State, and local agencies, as well as residents within the affected environment. The date, time, and location of the scoping meeting will be announced in the local news media at least 15 days prior to the meeting.

FOR FURTHER INFORMATION, CONTACT: Program Manager for Chemical Demilitarization, ATTN: SFAE–CD–ME, Aberdeen Proving Ground, Maryland 21010–5401. Individuals desiring to be placed on a mailing list to receive additional information on the public scoping process and copies of the draft and final EIS should contact the Program Manager at the above address.

Dated: May 28, 1997.

Richard E. Newsome,

Acting Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health, OASA (I, L&E).

[FR Doc. 97–14347 Filed 6–2–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Site-Specific Environmental Impact Statement (EIS) for the Design, Construction and Operation of a Facility to Pilot Test the Neutralization (Hydrolysis) Process, Followed by Either On-Site Supercritical Water Oxidation or Off-Site Post Treatment, for VX at Newport Chemical Depot (NECD), IN

AGENCY: Department of the Army, DoD.

ACTION: Notice of intent.

SUMMARY: This announces the Notice of Intent (NOI) to prepare a site-specific EIS on the potential impacts of the design, construction, and operation of a facility to pilot test, as part of a research and development program, the neutralization (hydrolysis) process, followed by either on-site supercritical water oxidation or off-site post treatment in a permitted hazardous waste treatment facility, as a potential disposal technology for VX in bulk storage containers only. The ''no action'' alternative will also be examined. The ''no action'' alternative is considered to be deferral of research and development of the neutralization process as an alternative technology which would cause continued storage of the VX-filled ton containers at NECD. This NOI rescinds the previous NOI announced in the **Federal Register** on February 13, 1992 (57 FR 5254).

SUPPLEMENTARY INFORMATION: In compliance with the National Environmental Policy Act (NEPA) (40 CFR 1500–1508), the Army will prepare a site-specific EIS to assess the health and environmental impacts of design, construction and operation of a pilot facility to demonstrate, as part of a research and development program, the feasibility of adopting the neutralization process, followed by either on-site super-critical water oxidation or off-site post treatment in a permitted hazardous waste treatment facility, for the VX currently stored in ton containers at NECD.

SCOPING MEETING: The Army will hold a scoping meeting to aid in determining the significant issues related to the proposed action which will be addressed in the EIS. The scoping process will incorporate public participation, including Federal, State, and local agencies, as well as residents within the affected environment. The date, time, and location of the scoping meeting will be announced in the local news media at least 15 days prior to the meeting.

FOR FURTHER INFORMATION CONTACT:

Program Manager for Chemical Demilitarization, ATTN: SFAE–CD–ME, Aberdeen Proving Ground, Maryland 21010–5401. Individuals desiring to be placed on a mailing list to receive additional information on the public scoping process and copies of the draft and final EIS should contact the Program Manager at the above address.

Dated: May 28, 1997.

Richard E. Newsome,

Acting Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health), OASA (I, L&E).

[FR Doc. 97–14346 Filed 6–2–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–110–003]

Black Marlin Pipeline Company, Notice of Compliance Filing

May 28, 1997.

Take notice that on May 22, 1997, Black Marlin Pipeline Company (Black Marlin) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1 the tariff sheets listed on Attachment A to the filing, with an effective date of June 1, 1997.

Black Marlin states that the instant filing is in compliance with the Commission's order issued May 7, 1997 in Docket No. RP97–110–001.

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 Commission's Rules and Regulations. All such 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. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–14373 Filed 6–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2774–000]

Cleveland Electric Illuminating Company; Notice of Filing

May 28, 1997.

Take notice that on April 30, 1997, Cleveland Electric Illuminating Company tendered for filing its quarterly report of transactions for the period January 1, 1997 to March 31, 1997.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before June 10, 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 part must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–14366 Filed 6–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–145–003]

Crossroads Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

May 28, 1997.

Take notice that on May 22, 1997, Crossroads Pipeline Company (Crossroads) tendered for filing as part of its FERC Gas Tariff, the tariff sheets listed on Appendix A to the filing. Crossroads asserts that this filing is being made to comply with the requirements of the Commission's May 15, 1977 order on Crossroads' April 1, 1997 compliance filing.

Crossroads states that the purpose of its filing is to reflect changes to its tariff to implement the standards approved by the Gas Industry Standards Board and incorporated into the Commission's regulations.

Crossroads states further that copies of the filing were served on its current firms and interruptible customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 the Commission's rules and regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make protestants parties to the proceeding. Copies of Crossroads' filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–14376 Filed 6–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–371–000]

Dauphin Island Gathering Partners; Notice of Petition for Exemption from Certain Requirements of Order Nos. 587, 587–B and 587–C

May 28, 1997.

Take notice that on May 21, 1997, Dauphin Island Gathering Partners (DIGP) filed with the Commission in the proceeding referenced above a petition requesting an exemption until June 1, 1998 to comply with the provisions of Order Nos. 587, 587–B, and 587–C that require interstate pipelines to comply with all EDI-related, EDM-related, and EDI capacity release-related Principles, Definitions, Standards, and Data Dictionaries approved by the Commission and incorporated by referenced in Section 284.10(b) of the Commission's regulations, 18 CFR Section 284.10(b). DIGP also requests that it be allowed to file to request further exemptions in the event that alternatives to reasonable implementation to the requirements are not available by June 1, 1998.

Any person desiring to be heard or to make protest with reference to said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–14379 Filed 6–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT97–29–000]

Distrigas of Massachusetts Corporation; Notice of Proposed Changes in FERC Gas Tariff

May 28, 1997.

Take notice that on May 23, 1997, Distrigas of Massachusetts Corporation (DOMAC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet, to become effective June 1, 1997:

Second Revised Sheet No. 94

DOMAC states that the purpose of this filing is to record a change in DOMAC's index of customers.

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. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's rules and regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–14368 Filed 6–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP96–128–000 and RP97–231–000]

Eastern Shore Natural Gas Company; Notice of Technical Conference

May 28, 1997.

Take notice that a technical conference will be convened in the above-docketed proceeding on Wednesday, June 4, 1997, at 9:00 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426. Any party, as defined in 18 CFR 385.102(c), any person seeking intervenor status pursuant to 18 CFR 385.214, and any participant, as defined in 18 CFR 385.102(b), is invited to participate.

For additional information, please contact Carolyn Van Der Jagt, 202–208–2246, or Tom Gooding, 202–208–1123, at the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–14365 Filed 6–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–55–006]

Great Lakes Gas Transmission Limited Partnership; Notice of Proposed Changes in FERC Gas Tariff

May 28, 1997.

Take notice that on May 22, 1997, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing, for historical purposes only, Sub 1st Rev First Revised Sheet No. 59 to be included in any cumulative versions of Great Lakes' FERC Gas Tariff, Second Revised Volume No. 1.

Great Lakes states that the above-named tariff sheet is being filed to replace Substitute Second Revised Sheet No. 59 which was incorrectly paginated in the January 29, 1997 filing in this proceeding. While the sheet in question was withdrawn in Great Lakes' filing of March 31, 1997 and replaced with Third Revised Sheet No. 59, Great Lakes is submitting a corrected Sheet No. 59 for the January 29, 1997 filing to provide the Commission with an accurate chronicle of this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission,

888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. 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 Commission's Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–14372 Filed 6–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–25–001]

K N Interstate Gas Transmission Co.; Notice of Refund Report Upon Account No. 858 Tracker Termination

May 28, 1997.

Take notice that on May 23, 1997, K N Interstate Gas Transmission Co. (KNI) filed a refund report pursuant to KNI's October 3, 1996 filing and the Commission's October 30, 1996 Letter Order in Docket No. RP97–25 concerning the elimination of the Account No. 858 component from transportation rates and the termination of KNI's Account No. 858 tracker.

KNI states that the report displays the calculation of refunds made to KNI's eligible shippers, including interest, pursuant to KNI's Account No. 858 rate tracking mechanism. KNI states that the total amount refunded to shippers is $248,514.75.

KNI states that copies of the filing were served upon all affected firm customers of KNI and applicable state agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests must be filed on or before June 3, 1997. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–14371 Filed 6–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–115–001]

Koch Gateway Pipeline Company; Notice of Compliance Filing

May 28, 1997.

Take notice that on May 20, 1997, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, to become effective April 1, 1997:

Eighth Revised Sheet No. 2705
Seventh Revised Sheet No. 2706

Koch states that this filing is in compliance with the Commission's Order following Technical Conference, issued on May 5, 1997, 79 FERC ¶ 61,127 (1997).

Koch also states that it has served copies of this filing upon each person on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's rules and regulations. All such protests must be filed as provided by Section 154.210 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 unavailable for public inspection in the Public Reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–14374 Filed 6–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–176–003]

MIGC, Inc.; Notice of Proposed Changes in FERC Gas Tariff

May 28, 1997.

Take notice that on May 21, 1997, MIGC, Inc. (MIGC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Original Sheet No. 52A, Second Revised Sheet Nos. 56 and 90, and First Revised Sheet Nos. 96 and 115, to be effective June 1, 1997.

MIGC states that the purpose of this filing is to comply with the Commission's Letter Order issued May 6, 1997, in Docket No. RP97–176–001 requiring MIGC to incorporate certain definitions and information required by order Nos. 587 and 587–B into its FERC Gas Tariff.

MIGC states that copies of the filing were served on its customers and interested State Commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such 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. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–14378 Filed 6–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–155–003]

Mobile Bay Pipeline Company; Notice of Compliance Filing

May 28, 1997.

Take notice that on May 21, 1997, Mobile Bay Pipeline Company (Mobile Bay) tendered for filing as part of its FERC Gas Tariff, Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective June 1, 1997.

Mobile Bay states that this filing is in compliance with the Office of Pipeline Regulation Letter Order, issued on May 5, 1997, in the above captioned proceeding. The filing contains the tariff sheets revised to comply with the GISB standards, as specifically directed by the May 5, 1997 Letter Order, including the inclusion of a Trading partner Agreement in Mobile Bay's tariff.

Mobile Bay also states that it has served copies of this filing upon each person on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's rules and regulations. All such protests must be filed as provided by Section 154.210 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–14377 Filed 6–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2884–000]

Pacific Gas and Electric Company; Notice of Filing

May 28, 1997.

Take notice that on May 5, 1997, Pacific Gas and Electric Company (PG&E), tendered for filing three Service Agreements between PG&E and: (1) PacificCorp; (2) Powerex; and (3) NorAm Energy Services, Inc. (NorAm); each entitled, ''Service Agreement for Non-Firm Point-to-Point Transmission Service'' (Service Agreement).

PG&E proposes that the Service Agreements become effective on April 14, 1997 for PacifiCorp, April 24, 1997 for Powerex and April 29 1997 for NorAm. PG&E is requesting any necessary waivers.

Copies of this filing have been served upon the California Public Utilities Commission, PacificCorp, Powerex and NorAm.

Any person desiring to be heard or to protest said filing should file a motion to intervene or to protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and CFR 385.214). All such motions or protests should be filed on or before June 9, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–14367 Filed 6–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–136–003]

Paiute Pipeline Company; Notice of Compliance Filing

May 28, 1997.

Take notice that on May 22, 1997, Paiute Pipeline Company (Paiute) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, to become effective June 1, 1997:

First Revised Sheet No. 55
Substitute Original Sheet No. 56B
Substitute Original Sheet No. 58B
Third Revised Sheet No. 62
Second Revised Sheet No. 63
Substitute Original Sheet No. 63C
Substitute Original Sheet No. 98A
Substitute First Revised Sheet No. 114
Original Sheet No. 114A

Paiute asserts that the purpose of its filing is to effectuate changes to the General Terms and Conditions of Paiute's tariff to comply with a letter order issued May 7, 1997 in Docket No. RP97–136–001.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed 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. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–14375 Filed 6–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–407–012]

Questar Pipeline Company; Notice of Tariff Filing

May 28, 1997.

Take notice that on May 22, 1997, Questar Pipeline Company, tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, Sixth Substitute Alternate Fifth Revised Sheet No. 5 and Fourth Substitute Third Revised Sheet No. 6A, to be effective February 1, 1996.

Questar states that the proposed tariff sheets comply with the Commission's May 7, 1997, letter order in Docket No. RP95–407–011.

Questar states further that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Wyoming Public Service Commission.

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 of Practice and Procedure. All such 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. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–14370 Filed 6–2–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2905–000, et al.]

Illinois Power Company, et al. Electric Rate and Corporate Regulation Filings

May 28, 1997.

Take notice that the following filings have been made with the Commission:

1. Illinois Power Company

[Docket No. ER97–2905–000]

Take notice that on May 9, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm transmission agreements under which Granite City Steel, Division of National Steel Corporation will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of May 1, 1997.

Comment date: June 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Illinois Power Company

[Docket No. ER97–2906–000]

Take notice that on May 9, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm transmission agreements under which Caterpillar, Inc. will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of May 1, 1997.

Comment date: June 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Illinois Power Company

[Docket No. ER97–2907–000]

Take notice that on May 9, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which CMS Marketing, Services and Trading will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of May 1, 1997.

Comment date: June 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Niagara Mohawk Power Corporation

[Docket No. ER97–2909–000]

Take notice that on May 9, 1997, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and Sonat Power Marketing, L.P. This Transmission Service Agreement specifies that Sonat Power Marketing, L.P. has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and Sonat Power Marketing, L.P. to enter into separately scheduled transactions under which NMPC will provide transmission service for Sonat Power Marketing, L.P. as the parties may mutually agree.

NMPC requests an effective date of May 1, 1997. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and Sonat Power Marketing, L.P.

Comment date: June 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Illinois Power Company

[Docket No. ER97–2910–000]

Take notice that on May 9, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which Consumers Power Company (Consumers) and the Detroit Edison Company (Edison, which with Consumers shall be referred to collectively as the Michigan Companies) will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of May 1, 1997.

Comment date: June 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. New York State Electric & Gas Corporation

[Docket No. ER97–2911–000]

Take notice that on May 9, 1997, New York State Electric & Gas Corporation (NYSEG), filed a Service Agreement between NYSEG and Aquila Power Corporation, (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the NYSEG open access transmission tariff filed and effective on January 29, 1997 with revised sheets effective on February 7, 1997, in Docket No. OA96–195–000 and ER96–2438–000.

NYSEG requests waiver of the Commission's sixty-day notice requirements and an effective date of April 25, 1997 for the Aquila Power Corporation Service Agreement. NYSEG has served copies of the filing on The New York State Public Service Commission and on the Customer.

Comment date: June 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Western Resources, Inc.

[Docket No. ER97–2912–000]

Take notice that on May 9, 1997, Western Resources, Inc., tendered for filing a non-firm transmission agreement between Western Resources and Coral Power, L.L.C. Western Resources states that the purpose of the agreement is to permit non-discriminatory access to the transmission facilities owned or controlled by Western Resources in accordance with Western Resources' open access transmission tariff on file with the Commission. The agreement is proposed to become effective May 5, 1997.

Copies of the filing were served upon Coral Power L.L.C. and the Kansas Corporation Commission.

Comment date: June 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Pennsylvania Power & Light Company

[Docket No. ER97–2913–000]

Take notice that on May 9, 1997, Pennsylvania Power & Light Company (PP&L), filed a Service Agreement dated November 20, 1995, with Koch Power Services, Inc., (KPSI) for the sale of capacity and/or energy under PP&L's Short Term Capacity and/or energy Sales Tariff. The Service Agreement adds KPSI as an eligible customer under the Tariff.

PP&L requests an effective date of July 8, 1997, for the Service Agreement.

PP&L states that copies of this filing have been supplied to KPSI and to the Pennsylvania Public Utility Commission.

Comment date: June 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. New York State Electric & Gas Corporation

[Docket No. ER97–2914–000]

Take notice that on May 9, 1997, New York State Electric & Gas Corporation

(NYSEG), tendered for filing a Notice of Cancellation of NYSEG's Service Agreement No. 2 under FERC Electric Tariff, Original Volume No. 1 between NYSEG and Aquila Power Corporation.

NYSEG requests that this cancellation become effective April 24, 1997.

Notice of the proposed cancellation has been served upon The New York State Public Service Commission and on the Customer.

Comment date: June 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Pennsylvania Power & Light Company

[Docket No. ER97–2915–000]

Take notice that on May 9, 1997, Pennsylvania Power & Light Company (PP&L), filed a Service Agreement dated June 5, 1995, with Baltimore Gas & Electric Company (BG&E) for the sale of capacity and/or energy under PP&L's Short Term Capacity and/or energy Sales Tariff. The Service Agreement adds BG&E as an eligible customer under the Tariff.

PP&L requests an effective date of July 8, 1997, for the Service Agreement.

PP&L states that copies of this filing have been supplied to BG&E and to the Pennsylvania Public Utility Commission.

Comment date: June 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Niagara Mohawk Power Corporation

[Docket No. ER97–2916–000]

Take notice that on May 9, 1997, Niagara Mohawk Power Corporation (NMPC), tendered for filing a Notice of Cancellation of NMPC's FERC Rate Schedule No. 223 and any supplements thereto, between NMPC and Sonat Power Marketing, L.P.

NMPC requests that this cancellation become effective May 7, 1997.

Comment date: June 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Boston Edison Company

[Docket No. ER97–2920–000]

Take notice that on May 2, 1997, Boston Edison Company (Boston Edison), tendered for filing a Service Agreement and Appendix A under Original Volume No. 6, Power Sales and Exchange Tariff (Tariff) for Duke/Louis Dreyfus Energy Services (New England) L.L.C. (Duke/Louis Dreyfus). Boston Edison requests that the Service Agreement become effective as of February 1, 1997.

Edison states that it has served a copy of this filing on Duke/Louis Dreyfus and the Massachusetts Department of Public Utilities.

Comment date: June 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Boston Edison Company

[Docket No. ER97–2921–000]

Take notice that on May 2, 1997, Boston Edison Company (Boston Edison), tendered for filing a Service Agreement and Appendix A under Original Volume No. 6, Power Sales and Exchange Tariff (Tariff) for Duke/Louis Dreyfus Energy Services (New England) L.L.C. (Duke/Louis Dreyfus). Boston Edison requests that the Service Agreement become effective as of February 1, 1997.

Edison states that it has served a copy of this filing on Duke/Louis Dreyfus and the Massachusetts Department of Public Utilities.

Comment date: June 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–14420 Filed 6–2–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2891–000, et al.]

Public Service Company of New Hampshire, et al. Electric Rate and Corporate Regulation Filings

May 27, 1997.

Take notice that the following filings have been made with the Commission:

1. Public Service Company of New Hampshire

[Docket No. ER97–2891–000]

Take notice that on May 8, 1997, Public Service Company of New Hampshire (PSNH), filed proposed changes to charges for decommissioning Seabrook Unit 1 to be collected under PSNH Federal Energy Regulatory Commission Rate Schedules Nos. 133, 134, 135 and 142 pursuant to Section 205 of the Federal Power Act. These charges are recovered under a formula rate that is not changed by the filing. The proposed adjustment in charges is necessitated by a ruling of the New Hampshire Nuclear Decommissioning Finance Committee adjusting the funding requirements for decommissioning Seabrook Unit 1.

PSNH has requested an effective date of July 1, 1997 for the adjusted charges.

Copies of this filing were served upon PSNH's jurisdictional customers and the New Hampshire Public Utilities Commission.

Comment date: June 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Central Louisiana Electric Company, Inc.

[Docket No. ER97–2892–000]

Take notice that on May 8, 1997, Central Louisiana Electric Company, Inc., (CLECO), tendered for filing a service agreement under which CLECO will provide non-firm point-to-point transmission service to PacifiCorp Power Marketing, Inc. under its point-to-point transmission tariff.

CLECO states that a copy of the filing has been served on PacifiCorp Power Marketing, Inc.

Comment date: June 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Central Louisiana Electric Company, Inc.

[Docket No. ER97–2893–000]

Take notice that on May 8, 1997, Central Louisiana Electric Company, Inc., (CLECO), tendered for filing a service agreement under which CLECO will provide non-firm point-to-point transmission service to Delhi Energy Services, Inc. under its point-to-point transmission tariff.

CLECO states that a copy of the filing has been served on Delhi Energy Services, Inc.

Comment date: June 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. PanEnergy Power Services, Inc.

[Docket No. ER97–2894–000]

Take notice that on May 8, 1997, PanEnergy Power Services, Inc. (PPSI), tendered for filing a Notice of Cancellation of PPSI's FERC Rate Schedule No. 1 of PPSI, formerly Associated Power Services, Inc. (APSI).

PPSI requests that this cancellation become effective July 7, 1997.

Comment date: June 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Central Hudson Gas and Electric Corporation

[Docket No. ER97–2895–000]

Take notice that on May 9, 1997, Central Hudson Gas and Electric Corporation (CHG&E), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR a Service Agreement between CHG&E and Northeast Utilities Service Company. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Electric Rate Schedule, Original Volume No. 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER97–890–000. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: June 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Central Hudson Gas and Electric Corporation

[Docket No. ER97–2896–000]

Take notice that on May 9, 1997, Central Hudson Gas and Electric Corporation (CHG&E), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR a Service Agreement between CHG&E and Montaup Electric Company. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Electric Rate Schedule, Original Volume No. 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER97–890–000. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: June 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Central Hudson Gas and Electric Corporation

[Docket No. ER97–2897–000]

Take notice that on May 9, 1997, Central Hudson Gas and Electric Corporation (CHG&E), tendered for filing pursuant to Section 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR a Service Agreement between CHG&E and Coral Power, L.L.C. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Electric Rate Schedule, Original Volume No. 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER97–890–000. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: June 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Illinois Power Company

[Docket No. ER97–2898–000]

Take notice that on May 9, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which Equitable Power Services Company will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of May 1, 1997.

Comment date: June 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Illinois Power Company

[Docket No. ER97–2899–000]

Take notice that on May 9, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which South Carolina Public Service Authority will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of May 1, 1997.

Comment date: June 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. United Regional Energy Corporation

[Docket No. ER97–2900–000]

Take notice that on May 9, 1997, United Regional Energy Corp. (United Regional), tendered for filing pursuant to Part 35 of the Regulations under the Federal Power Act, 18 CFR, Part 35, and Rules 204 and 205, of the Commission's Rules of Practice and Procedure, 18 CFR 385.204 and 385.205, a petition for waivers and blanket approvals from the Commission and for an order accepting its FERC Electric Rate Schedule No. 1.

United Regional intends to engage in electric power transactions as a marketer and a broker. In transactions where United Regional sells electric power it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. United Regional is not affiliated with any generation or transmission facilities, nor does it have an electric utility affiliation with a franchised service territory.

Comment date: June 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Kansas City Power & Light Company

[Docket No. ER97–2901–000]

Take notice that on May 9, 1997, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated April 17, 1997, between KCPL and PacifiCorp Power Marketing, Inc. KCPL proposes an effective date of April 28, 1997, and requests waiver of the Commission's notice requirement. This Agreement provides for the rates and charges for Non-Firm Transmission Service.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order No. 888 in Docket No. OA96–4–000.

Comment date: June 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. MidAmerican Energy Company

[Docket No. ER97–2902–000]

Take notice that on May 9, 1997, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50303 submitted for filing with the Commission a Service Agreement dated April 30, 1997 with the City of Hudson, Iowa (Hudson) entered into pursuant to MidAmerican's Rate Schedule for Power Sales, FERC Electric Tariff, Original Volume No. 5 (Tariff), and the Short Term Wholesale Requirements Power Sales Agreement dated April 30, 1997 with Hudson

entered into pursuant to the Service Agreement and the Tariff.

MidAmerican requests an effective date of May 1, 1997 for these Agreements, and accordingly seeks a waiver of the Commission's notice requirement. MidAmerican has served a copy of the filing on Hudson, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: June 9, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–14419 Filed 6–2–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2523–007; Project No. 11496–000]

N.E.W. Hydro, Inc. City of Oconto Falls, Wisconsin; Notice of Availability of Environmental Assessment

May 28, 1997.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) Regulations, 18 CFR 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the applications for a new license for the Oconto Falls Hydroelectric Project, located on the Oconto River, in Oconto County, Wisconsin; and has prepared an Environmental Assessment (EA) for the project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the existing project and has concluded that approval of the project, with appropriate environmental protection measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 2–A, of the Commission's offices at 888 First Street N.E., Washington, DC 20426. For further information, please contact Edward R. Meyer at (202) 208–7998.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–14369 Filed 6–2–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[AD–FRL–5833–5]

Agency Information Collection Activities: Proposed Collection; Comment Request; Information Collection Request for Iron and Steel Foundries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB): Information Collection Request for Iron and Steel Foundries, EPA ICR Number 1809.01. 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 August 4, 1997.

ADDRESSES: Interested parties may submit written comments to the Emission Standards Division, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711. A copy of the draft survey questionnaire may be obtained without charge by writing to this address or by contacting the person in the **FOR FURTHER INFORMATION CONTACT** section. A copy of the draft questionnaire and supporting statement are also available electronically on the Technology Transfer Network (TTN), one of EPA's electronic bulletin boards. The TTN provides information and technology exchange in various areas of air pollution control. The service is free, except for the cost of a phone call. Dial (919) 541–5742 with a modem of up to 14,400 baud per second (BPS). The TTN is also accessible through the Internet at ''TELNET ttnbbs.rtpnc.epa.gov.'' If more information on the TTN is needed, call the help desk at (919) 541–5384. The help desk is staffed from 11 a.m. to 5 p.m., Eastern time. A voice menu system is available at other times.

FOR FURTHER INFORMATION CONTACT: James Maysilles, Metals Group, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541–3265, facsimile number (919) 541–5600, electronic mail address ''maysilles.jim@epamail.epa.gov.''

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are iron and steel foundries, which are facilities primarily engaged in manufacturing iron and steel castings. The Standard Industrial Classification (SIC) codes for these facilities include 3321 (gray and ductile iron foundries), 3322 (malleable iron foundries), 3324 (steel investment foundries), and 3325 (steel foundries, not elsewhere classified).

Title: Information Collection Request for Iron and Steel Foundries, EPA ICR Number 1809.01.

Abstract: The EPA is charged under section 112 of the Clean Air Act (the Act) with developing national emission standards for listed hazardous air pollutants (HAP). Preliminary information indicates that there are major sources of HAP in the iron and steel foundry source categories. These categories were listed pursuant to section 112(c) of the Act on July 16, 1992, and section 112(d) of the Act requires the Administrator to promulgate regulations establishing emission standards for this source category. Standards must be promulgated by November 15, 2000. The responses to the survey are mandatory and are being collected under the authority of section 114 of the Act.

The Emission Standards Division (ESD) of the Office of Air Quality Planning and Standards plans to use the survey responses to develop legally defensible maximum achievable control technology (MACT) standards. The focus of the survey is on determinations of HAP emissions, emission controls, and control performance, which are critical elements in the development of technology-based standards. Other questions in the survey provide information that ESD will use to develop reasonable estimates of impacts associated with potential standards,

including emission reductions, cost, and economic impacts.

Specifically, the information will be used by ESD to develop estimates of emissions of HAP, make determinations with respect to probable ''major'' sources, and develop MACT standards for both new and existing foundries. The data base compiled from the results will be used to make a determination of the MACT floor for existing sources based on the average emission limitation achieved by the best-performing 12 percent of sources. The results will also aid in identifying the best controlled sources for a determination of MACT for new foundries. In addition, the data base will be invaluable to make defensible estimates of the impacts of the standards, including emissions and emission reductions, costs of control options and their cost effectiveness, and economic impacts. Because many foundries meet the definition of small entities, the survey is necessary for EPA to meet the requirements of the Regulatory Flexibility Act of 1980 and the Small Business Regulatory Enforcement Fairness Act of 1996.

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 a 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 the 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 forms of information technology, e.g., permitting electronic submission of responses.

Burden statement: The average burden for a respondent is estimated as 24 hours ($770), including technical, management, and clerical labor. This estimate is the average labor required by eight companies who participated in a pretest of the survey and completed the questionnaire for a total of 12 foundries. The labor required to complete the questionnaire by the facilities that participated in the evaluation ranged from 4 hours for a small foundry to 64 hours for a large corporation. The burden is a one-time occurrence for each of the 742 foundries that must prepare a response. 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: May 16, 1997.

John A. Edwardson,

Acting Director, Emission Standards Division.

[FR Doc. 97–14445 Filed 6–2–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5833–9]

Agency Information Collection Activities: Proposed Collection; Comment Request; Obtaining Unbilled Grant Expenses From Grant Officials at Year-End

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 a proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. The ICR is intended to obtain information on unbilled grant expenses at year end from a sample of EPA grant recipients. Before submitting the ICR to OMB, EPA is soliciting comments on specific aspects of the proposed collection of information as described below.

DATES: Comments must be submitted August 4, 1997.

ADDRESSES: Office of the Chief Financial Officer, Office of the Comptroller, Financial Management Division, Mail Code 2733F, 401 M St. SW Washington D. C. 20460. Interested persons may obtain a copy of the ICR without charge by contacting Mr. Larry Achter.

FOR FURTHER INFORMATION CONTACT: Larry Achter, 202–260–9446, Facsimile Number 202–260–4592, E-MAIL Address: achter.larry@epamail.epa.gov

SUPPLEMENTARY INFORMATION:

Affected entities: EPA will use the Probability Proportionate to Size sampling method to select approximately 110 grants awarded by the Agency and paid through the Automated Clearing House (ACH) process. EPA will contact the recipients of these selected grants to obtain information on unbilled expenses.

Title: Obtaining Unbilled Grant Expenses from Grant Officials at Year-end (EPA ICR No. 1810.01.)

Abstract: EPA's Financial Management Division (FMD) prepares annual financial statements that present the financial position and results of operations for EPA. The financial statements must comply with the Statements of Federal Financial Accounting Standards (SFFAS) and other accounting requirements. EPA's Office of the Inspector General (OIG) audits these financial statements to determine whether they fairly and accurately reflect EPA financial conditions.

To meet the SFFAS requirements, EPA must report the estimated amount of its accrued liabilities. These accrued liabilities include: (1) Grant expenses incurred during the fiscal year that the grant recipient has paid and recorded in its accounting records but has not yet billed to EPA; and (2) grant expenses that vendors have billed the grant recipient between October 1 and November 15 (following the end of the Federal fiscal year) that relate to the prior fiscal year. EPA, working with its OIG, has evaluated the use of existing reports as a source of accrued liability information. However, for grants paid through the ACH electronic funds transfer mechanism, EPA has been unable to determine how to obtain this information without contacting the grant recipients themselves. ACH drawdown requests do not include period of performance data, which is essential for determining accruals. To minimize the amount of burden associated with gathering this data, EPA believes that information from a sample of approximately 110 grants would be sufficient to meet its financial statement needs. EPA would use estimation techniques to project the amount of grant accruals applicable to all EPA grants paid through ACH.

The grant recipients selected in the sample would only be asked to report

the accrual information on the specific grant, and not all EPA grants to that grantee. Further, other EPA grant recipients would not be affected by this information collection request. EPA will also request information from the selected grant recipients on their billing practices in order to conduct additional analyses to improve our accrual estimates.

Unless EPA is able to obtain this information from the selected grant recipients, and develop a reasonable estimate of accruals based on that data, EPA does not believe it will be able to obtain an unqualified (''clean'') audit opinion from the OIG on its financial statements. Thus the information is crucial for EPA to meet its fiduciary responsibilities.

Burden Statement: 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.

EPA believes that a grant recipient should require no more than 6 hours to prepare the information requested, and the data collection will not require grant recipients to purchase new equipment or develop new procedures to compile and report the data. Thus, the total reporting burden would be 660 hours, or a total estimated annual cost of $14,600.

Confidential information: FMD does not believe this information is confidential in nature. Therefore the additional protections afforded confidential data will not be provided.

OMB Control Numbers: 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. In this specific information collection, grant recipient responses will be voluntary.

Comments requested: EPA would like to solicit public comments on:

(i) 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) Whether the Agency's estimate of the burden of the proposed collection of information is accurate, and whether methodology and assumptions used are valid;

(iii) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(iv) Means 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, e.g., permitting electronic submission of responses.

Dated: May 28, 1997.

Jack Shipley,

Director, Financial Management Division.

[FR Doc. 97–14448 Filed 6–2–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5833–2]

Agency Information Collection Activities Under OMB Review

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 the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: National Request for Information (RFI) for Vendor Information System for Innovative Treatment Technologies (VISITT) and Vendor Field Analytical and Characterization Technologies System (Vendor FACTS), OMB Control Number 2050–0114, expiration date July 31, 1997. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 3, 1997.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1583.03.

SUPPLEMENTARY INFORMATION:

Title: National Request for Information (RFI) for Vendor Information System for Innovative Treatment Technologies (VISITT) and Vendor Field Analytical and Characterization Technologies System (Vendor FACTS) (OMB Control No. 2050–0114; EPA ICR No. 1583.03) expiring 7/31/97. This is a request for extension of a currently approved collection.

Abstract: EPA needs to collect data on innovative treatment technologies and measurement and monitoring technologies to address specific problems at contaminated waste sites. EPA will use this information to maintain two publicly available databases used by the remediation, manufacturing, and investment communities, and the general public. More accessible information may lead to increased technology use and export, and to improved environmental protection. One of EPA's highest priorities has been to encourage the use of innovative technologies to speed-up the site remediation process and at the same time to reduce project costs. EPA is working toward these goals by providing the site managers with the necessary information to select the most applicable and cost-effective technology for their site. In order to obtain such critical information, once a year, EPA invites vendors to participate in the databases by submitting or updating information on new technologies as they emerge or become commercially available. Participation in the databases is voluntary. 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 **Federal Register** notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 1/29/97 (62 FR 4282); No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 25 hours for Vendor Information Form (VIF) per response and 13 hours for a VIF update. 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.

Respondents/Affected Entities: Hazardous waste remediation contractors.

Estimated Number of Respondents: 658.

Frequency of Response: Annually.

Estimated Total Annual Hour Burden: 8,232 hours.

Estimated Total Annualized Cost Burden: 0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1583.03, and OMB Control No. 2050–0114 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460.

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: May 20, 1997.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 97–14444 Filed 6–2–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00483; FRL–5722–6]

State FIFRA Issues Research and Evaluation Group (SFIREG) Water Quality and Pesticide Disposal Working Committee; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The State FIFRA Issues Research and Evaluation (SFIREG) Water Quality and Pesticide Disposal Working Committee will hold a 2–day meeting, June 9, and 10, 1997. This notice announces the location and times for the meeting and sets forth the tentative agenda topics. The meeting is open to the public.

DATES: The SFIREG Working Committee on Water Quality and Pesticide Disposal will meet on Monday, June 9, 1997, from 8:30 a.m. to 3:00 p.m. and Tuesday, June 10, 1997, from 8:30 a.m. to 12:00 p.m.

ADDRESSES: The meeting will be held at the National Airport Doubletree Hotel, 300 Army Navy Drive, Arlington-Crystal City, VA 22202.

FOR FURTHER INFORMATION CONTACT: By mail: Elaine Y. Lyon, Field and External Affairs Division, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: (703) 305–5306, (703) 308–1850 (fax); e-mail: Lyon.elaine@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The tentative agenda of the SFIREG Working Committee on Water Quality and Pesticide Disposal includes the following:

1. Update on state management plan review.
2. Status of special review for state management plan products, i.e. simazine.
3. Update on source water protection and assessment and how the comprehensive state groundwater protection program will fit in.
4. Surface water - The generic expected environmental concentration program (GENEEC) - Tier one screening model for aquatic pesticide exposure.
5. Ecological committee on FIFRA risk assessment methods (ECOFRAME).
6. Environmental quality incentives program (EQUIP).
7. Tribal management plans.
8. Office of Pesticide Program's water quality web site.
9. Reports from committee members.
10. Other topics as appropriate.

List of Subjects

Environmental protection.

Dated: May 29, 1997.

Jay Ellenberger,

Acting Director, Field and External Affairs Division, Office of Pesticide Programs.

[FR Doc. 97–14576 Filed 6-2-97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5834–1]

Notice of Proposed Administrative Cost Recovery Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), notice is hereby given of a proposed administrative cost recovery settlement under Section 122(h)(1) of CERCLA concerning the Huth Oil Site, in Cleveland, Ohio, which was signed by the EPA Regional Administrator, Region V, on April 25, 1997. The settlement resolves an EPA claim under Section 107(a) of CERCLA against a group of twenty-one (21) settling respondents. The settlement requires the settling respondents to pay $210,000 to the Hazardous Substances Superfund.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the U.S. EPA District Office, 25089 Central Ridge Road, Westlake, Ohio 44145, and at the U.S. EPA Records Center Room 714, 77 West Jackson Boulevard, Chicago, Illinois.

DATES: Comments must be submitted on or before July 3, 1997.

ADDRESSES: The proposed settlement and additional background information relating to the settlement are available for public inspection at U.S. EPA Eastern District Office, 25089 Central Ridge Road, Westlake, Ohio 44145, and at the U.S. EPA Records Center, Room 714, 77 West Jackson Boulevard, Chicago, Illinois 60604. A copy of the proposed settlement may be obtained from U.S. EPA Office of Regional Counsel, 77 West Jackson Boulevard, Chicago, Illinois 60604. Comments should reference the Huth Oil Site, Cleveland, Ohio and EPA Docket No. 5–CERCLA–97–00 and should be addressed to Mr. Jerome Kujawa, U.S. EPA Office of Regional Counsel, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mr. Jerome Kujawa, U.S. EPA Office of Regional Counsel, 77 West Jackson Boulevard Chicago, Illinois.

William E. Muno,

Director, Superfund Division.

[FR Doc. 97–14449 Filed 6–2–97; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

May 27, 1997.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Pub. L. 104–13. 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 control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0776.

Expiration Date: 11/30/97.

Title: Price Cap Performance Review for Local Exchange Carriers, Fourth Report and Order.

Form No.: N/A.

Estimated Annual Burden: 13 respondents; 331.1 hours per response (avg.); 4331 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: One-time requirement.

Description: In the Fourth Report and Order in CC Docket No. 94–1 and Second Report and Order in CC Docket No. 96–262, the Commission is modifying its method of determining the price cap index, which governs interstate access rates of incumbent price cap Local Exchange Carriers (LECs). The price cap index formula permits incumbent LECs to increase their interstate access rates by no more than inflation minus an ''X-Factor'' representing incumbent LECs' productivity growth. (When the X-Factor is greater than inflation, incumbent price cap LECs are required to lower their rates.) In the Order, the Commission replaces its previous X-Factor with an X-Factor based on total factor productivity (TFP) calculations and the input price differential. We expect this X-Factor to be a more accurate measure of LEC productivity growth. The Order requires incumbent price cap LECs to use the new X-Factor when calculating rates in their annual access filings, but this will not affect the burdens of filing those tariffs. The Order requires incumbent price cap LECs to make a one-time tariff review plan (TRP) filing to reflect the revised price cap index rules in their interstate access rates. Compliance is mandatory. The information collected under this Order would be submitted to the Commission by an incumbent price cap LEC for use in determining whether its interstate access rates are just and reasonable as required by the Communications Act of 1934, as amended.

Public reporting burden for the collection of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, DC 20554.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–14414 Filed 6–2–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Renewal without change in the substance or method of collection.

Title: Notices Required of Government Securities Dealers or Brokers, Insured State Non-Member Banks.

Form Number: G–FIN, G–FINW, G–FIN–4, G–FIN–5.

OMB Number: 3064–0093.

Expiration Date of OMB Clearance: July 31, 1997.

OMB Reviewer: Alex Hunt, (202) 395–7316, Office of Management and Budget, OIRA, Paperwork Reduction Project (3064–0039), Washington, D.C. 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before July 3, 1997.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The Government Securities Act of 1986 established a federal system of regulation of brokers and dealers, including banks and other financial institutions, who deal in or broker government securities. The Form G–FIN and Form G–FINW are used by insured State nonmember banks that are government securities brokers or dealers to notify the FDIC of their status or that they have ceased to function as a government securities broker or dealer. The Form G–FIN–4 is used by associated persons of insured State nonmember banks that are government securities brokers or dealers to provide certain information to the bank and to the FDIC concerning employment, residence, and statutory disqualification. The Form G–FIN–5 is used by insured State nonmember banks that are government securities brokers or dealers to notify the FDIC that an associated person is no longer associated with the government securities broker or dealer function of the bank. All these reports are required and authorized by law (15 U.S.C. 780–4 as amended by the Government Securities Act of 1986).

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 97–14452 Filed 6–2–97; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget a request for OMB review of the

information collection system described below.

Type of Review: Renewal without change in the substance or method of collection.

Title: Public Disclosure by Banks.

Form Number: None.

OMB Number: 3064–0090.

Expiration Date of OMB Clearance: July 31, 1997.

OMB Reviewer: Alex Hunt, (202) 395–7316, Office of Management and Budget, OIRA, Paperwork Reduction Project (3064–0090), Washington, D.C. 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before July 3, 1997.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: This collection implements regulatory requirements found at 12 CFR Part 350. Banks subject to the regulation are required to notify the general public, and in some instances shareholders, that disclosure statements are available on request. Required disclosures consist of financial reports for the current and preceding year which can be photocopied directly from the year-end call reports. Also, on a case-by-case basis, the FDIC may require that descriptions of enforcement actions be included in disclosure statements. The regulation allows, but does not require, the inclusion of management discussions and analysis. The information is intended to aid members of the general public in determining whether to establish or continue a relationship with a particular bank by making publicly available information more accessible. Given the public's ongoing concerns about the health of the banking system and individual banks and its greater awareness of the risks of holding deposits at a bank in excess of the FDIC's insurance coverage, the annual disclosure statement (the objective of which is to make existing bank financial information more directly and readily accessible to the public) is intended to be a convenient and useful mechanism for current and prospective bank customers to obtain information concerning the condition of an institution.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 97–14453 Filed 6–2–97; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Revision of a currently approved collection.

Title: Affordable Housing Certification.

Form Number: N/A.

OMB Number: 3064–0116.

Expiration Date of OMB Clearance: June 30, 1997.

OMB Reviewer: Alex Hunt, (202) 395–7316, Office of Management and Budget, OIRA, Paperwork Reduction Project (3064–0166), Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before July 3, 1997.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The FDIC is requesting OMB approval for the information collection captioned above, which certifies eligibility under the affordable housing program. This certification assists the FDIC in determining an individual's eligibility for purchasing affordable housing properties from the FDIC. Section 241 of the Federal Deposit Insurance Corporation Improvement Act (''FDICIA'') requires the FDIC to implement this program, and authorizes the FDIC to request this information from potential purchasers of affordable housing properties. The certification of eligibility is needed to authorize the sale to certain individuals eligible to purchase affordable housing properties. As stipulated by FDICIA, only those individuals with particular incomes may qualify for the purchase of affordable housing properties. Certification of such income by individuals is necessary to assure compliance with FDICIA.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 97–14454 Filed 6–2–97; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Renewal without change in the substance or method of collection.

Title: Criminal Referral Reporting.

Form Number: FDIC 6710.

OMB Number: 3064–0077.

Expiration Date of OMB Clearance: June 30, 1997.

OMB Reviewer: Alex Hunt, (202) 395–7316, Office of Management and Budget, OIRA, Paperwork Reduction Project (3064–0077), Washington, D.C. 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before July 3, 1997.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above.

Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: Part 353 of the FDIC's Rules and Regulations requires insured nonmember banks to report to the appropriate investigatory and prosecuting authorities and to the FDIC, on a prescribed form, criminal violations of the U.S. Code that involve or affect the banks' affairs. The primary purpose of the reporting requirement is to assure that the specific information needed by investigators and prosecutors for effective law enforcement is provided in an orderly and timely fashion. In addition, the ability of the FDIC to monitor and act to reduce losses of insured nonmember banks as a result of criminal activity is enhanced by receiving the reports. The Criminal Referral form is used by each of the following agencies: the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the National Credit Union Administration, and the Resolution Trust Corporation (Each agency separately seeks OMB approval for the use of this form). FDIC needs this information to monitor white collar crime and insider abuse, which can be serious threats to a bank's security and undermine confidence in banks. FDIC regulation 12 CFR 353 requires that, whenever it appears that a criminal violation of the United States Code involving or affecting the assets or affairs of an insured nonmember bank has been committed or attempted, the bank shall promptly report the apparent violation to be the appropriate field office of the FBI, the applicable U.S. Attorney's Office, and to the FDIC regional director.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 97–14456 Filed 6–2–97; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1175–DR]

Minnesota; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Minnesota (FEMA–1175–DR), dated April 8, 1997, and related determinations.

EFFECTIVE DATE: May 24, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective May 24, 1997.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–14427 Filed 6–2–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1175–DR]

Minnesota; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Minnesota, (FEMA–1175–DR), dated April 8, 1997, and related determinations.

EFFECTIVE DATE: May 19, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Minnesota, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 8, 1997:

Aitkin, Carver, Cass, Douglas, Lyon, Pope, Ramsey, Todd, Wadena, and Winona Counties for Categories C through G under the Public Assistance program (already designated for Individual Assistance, Hazard Mitigation and Categories A and B under the Public Assistance program).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–14428 Filed 6–2–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1174–DR]

North Dakota; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of North Dakota, (FEMA–1174–DR), dated April 7, 1997, and related determinations.

EFFECTIVE DATE: May 20, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of North Dakota, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 7, 1997:

Bowman and Burke Counties for Categories C through G under the Public Assistance program (already designated for Individual Assistance, Hazard Mitigation, Categories A and B under the Public Assistance program).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–14425 Filed 6–2–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1174–DR]

North Dakota; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of North Dakota (FEMA–1174–DR), dated April 7, 1997, and related determinations.

EFFECTIVE DATE: May 24, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective May 24, 1997.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–14426 Filed 6–2–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1173–DR]

South Dakota; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of South Dakota, (FEMA–1173-DR), dated April 7, 1997, and related determinations.

EFFECTIVE DATE: May 13, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of South Dakota, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 7, 1997:

Meade County for Categories C through G under the Public Assistance program (already designated for Individual Assistance, Hazard Mitigation, and Categories A and B under the Public Assistance program).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Catherine H. Light,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 97–14422 Filed 6–2–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1173–DR]

South Dakota; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of South Dakota (FEMA–1173–DR), dated April 7, 1997, and related determinations.

EFFECTIVE DATE: May 24, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective May 24, 1997.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance,)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–14423 Filed 6–2–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1173–DR]

South Dakota; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of South Dakota, (FEMA–1173-DR), dated April 7, 1997, and related determinations.

EFFECTIVE DATE: May 19, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of South Dakota, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 7, 1997:

Butte, Fall River, Gregory, Harding, Jackson, and Todd Counties for Categories C through G under the Public Assistance program (already designated for Individual Assistance, Hazard Mitigation, and Categories A and B under the Public Assistance program).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–14424 Filed 6–2–97; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Worldwide Shipping, 736 Fairview Avenue, Westbury, NY 11590, Lina S. Elbara, Sole Proprietor

Rencor, Inc., 10434 SW 16th Street, Pembroke Pines, FL 33025, Officer: Rene Cormier, President

Global Logistics International Inc., 1207 N.W. 93rd Court, Miami, FL 33172, Officer: Evelyn A. Damian, Vice President

Paccent Express Line Co., 11099 South La Cienega Blvd., # 207, Los Angeles, CA 90045, Officers: Stephen C. Liu, President, Charles Yu, Vice President

Dated: May 28, 1997.

Joseph C. Polking,

Secretary.

[FR Doc. 97–14364 Filed 6–2–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may

express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 17, 1997.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Cooperative Centrale Raiffeisen-Boerenleenbank, B.A., Rabobank Nederland, Utrecht, Netherlands; to engage *de novo* through its subsidiaries, Smith Graham & Co. Asset Managers L.P., Houston, Texas; SGR Global Advisers, Houston, Texas; Robeco Institutional Asset Management US, Inc., Houston, Texas; AEA Global Advisors LLC, New York, New York; and Robeco Group, N.V., in retaining initially up to 40 percent, and in the future to acquire up to 100 percent, of Smith Graham & Co. Asset Managers L.P.; in retaining 100 percent of SGR Global Advisers, a limited partnership; in acquiring 100 percent of Robeco Institutional Asset Management US Inc., a *de novo* corporation; and to acquire initially 33-1/3 percent, and in the future to acquire up to 100 percent of AEA Global Advisors, LLC, a joint venture *de novo* limited liability company, and thereby to engage through Smith Graham & Co. Asset Managers L.P., SGR Global Advisers, Robeco Institutional Asset Management US, Inc., and AEA Global Advisors LLC, in acting as investment or financial advisor (on a discretionary basis) to any person, acting as a general partner to investment partnerships and placing interests in such partnerships; pursuant to § 225.28(b)(6) of the Board's Regulation Y, and in acting as a commodity pool operator, pursuant to *The Bessemer Group*, 82 Fed. Res. Bull. 569 (1996).

2. Dresdner Bank AG, Frankfurt, Germany; to engage *de novo* through its subsidiary, Dresdner Kleinwort Benson, New York, New York, in extending credit and servicing loans, pursuant to § 225.28(b)(1) of the Board's Regulation Y; in activities related to extending credit, pursuant to § 225.28 (b)(2) of the Board's Regulation Y; in leasing personal or real property, pursuant to § 225.28(b)(3) of the Board's Regulation Y; in trust company functions, pursuant to § 225.28(b)(5) of the Board's Regulation Y; in financial and investment advisory activities, pursuant to § 225.28(b)(6) of the Board's Regulation Y; in agency transactional services for customer investment, pursuant to § 225.28(b)(8); and in management consulting and counseling activities, pursuant to § 225.28(b)(9).

A. Federal Reserve Bank of Cleveland (Jeffrey Hirsch, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Huntington Bancshares, Inc., Columbus, Ohio; to engage *de novo* through its subsidiary, Huntington Capital Corp., Columbus, Ohio, in underwriting and dealing to a limited extent in all types of debt securities, including corporate debt securities, sovereign debt securities, mortgage revenue bonds, mortgage-backed securities and consumer-receivable securities. The company would not underwrite convertible debt instruments nor will the company seek to underwrite equity securities, pursuant to *J.P. Morgan & Co., The Chase Manhattan Corp., Bankers Trust New York Corp., Citicorp and Security Pacific Corp.* (75 Fed. Res. Bull. 192 (1989)).

Board of Governors of the Federal Reserve System, May 28, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–14404 Filed 6–2–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 27, 1997.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. First National Bancshares of Gallatin, Inc., Gallatin, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Interim First National Bank of Gallatin, Gallatin, Missouri, and thereby will be merged with First National Bank of Gallatin, Gallatin, Missouri.

Board of Governors of the Federal Reserve System, May 28, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–14405 Filed 6–2–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 17, 1997.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. John C. Sullivan, Livingston, Montana; to acquire an additional 4.40 percent, for a total of 34.74, and Mary C. Hornby, Las Cruces, New Mexico, to acquire an additional 4.22 percent, for a total of 33.34 percent, of the voting shares of Northeastern Wyoming Bank Corporation, Newcastle, Wyoming, and thereby indirectly acquire First State Bank of Newcastle, Newcastle, Wyoming.

Board of Governors of the Federal Reserve System, May 28, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–14406 Filed 6–2–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

Time and Date: 11:00 a.m., Monday, June 9, 1997.

Place: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551

Status: Closed.

Matters to be Considered:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: May 30, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–14610 Filed 5–30–97; 2:58 pm]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

Environmental Impact Statement Modifcations to the Port of Entry in Tecate, California

The General Services Administration (GSA) invites the public to participate in a public scoping meeting for the preparation of an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act.

The EIS will address the proposed modification of the Tecate Port of Entry to eliminate on-site traffic safety hazards for motorists and pedestrians and upgrade inadequate water supply, wastewater and storm water facilities.

A draft Environmental Assessment was prepared and submitted for public review on March 24, 1997. As a result of public comments regarding the preferred action, GSA is preparing an EIS to more fully address environmental and social impacts of the proposed action and alternatives.

Public participation in the scoping process is encouraged to identify potential issues of community concern which should be addressed in the EIS. Both written and oral comments are solicited and will be considered. The public scoping meeting will be held on June 11, 1997 at the Port of Entry, Tecate, California. There will be two sessions; one: 5 to 7 p.m. and one 7 to 9 p.m. to allow for participation by citizens of Mexico and the United States. There will be a translator available. Written comments may be submitted until July 1, 1997.

Send comments to: General Services Administration, Public Buildings Service, Portfolio Management, 450 Golden Gate Ave. 9PT, San Francisco, California 94102, Attn: Rosanne Nieto, Phone (415) 522–3490, FAX (415) 522–3215.

Dated: May 27, 1997.

Ken Schreiber,

Senior Asset Manager, PBS, GSA, Pacific Rim Region.

[FR Doc. 97–14433 Filed 6–2–97; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Public Health and Science

Announcement of Availability of Grants for Family Planning Male Research Projects

AGENCY: Office of Family Planning, Office of Population Affairs, OPHS, HHS.

ACTION: Correction.

SUPPLEMENTARY INFORMATION: In notice document 97–12008, on May 8, 1997, Part VI, **Federal Register**, Vol. 62, No. 89, page 25419, the notice incorrectly states that applicants under this announcement are subject to the requirements of Executive Order 12372. The notice should state that applicants under this announcement are not subject to the requirements of Executive Order 12372.

Dated: May 21, 1997.

Diane J. Osterhus,

Director, Office of Grants Management, Office of Population Affairs.

[FR Doc. 97–14339 Filed 6–2–97; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Commission on Dietary Supplement Labels: Notice of Availability of Draft Report

AGENCY: Office of Disease Prevention and Health Promotion, Office of Public Health and Science.

ACTION: Commission on dietary supplement labels: notice of availability of draft report.

SUMMARY: The Department of Health and Human Services (HHS) is providing notice of the availability of its draft report.

DATES: The draft report of the Commission of Dietary Supplement Labels will be available on or about June 9, 1997. The Commission is making its draft report available to the public for comments and corrections for a period of 45 days. Comments and corrections must be delivered to the address below by close of business on July 25, 1997.

FOR FURTHER INFORMATION CONTACT: Copies of the draft report may be obtained from the Commission's Information Response Center by calling (301–650–0382) or by facsimile request (301–650–0398). For additional information, contact Kenneth D. Fisher, Ph.D., Executive Director, Commission on Dietary Supplement Labels, Office of Disease Prevention and Health Promotion, Room 738G, Hubert H. Humphrey Building, 200 Independence Ave. S.W., Washington, D.C. 20201, (202) 690–5526 or facsimile (303–205–0463).

SUPPLEMENTARY INFORMATION: Public Law 103–417, Section 12, authorized the establishment of a Commission on Dietary Supplement Labels whose seven members were appointed by the President in November, 1995. The appointments to the Commission by the President and the establishment of the Commission by the Secretary of Health and Human Services reflect the commitment of the President and the Secretary to the development of a sound and consistent regulatory policy on labeling of dietary supplements.

The Commission has been conducting a study that will provide recommendations for regulation of label claims and statements for dietary supplements, including the use of supplemental literature in connection with their sale and, in addition, procedures for evaluation of label claims. The Commission has also considered how best to provide truthful, scientifically valid, and non-misleading information to consumers in order that they may make informed health care choices for themselves and their families.

At its meeting on March 4, 1997, the Commission concluded that it was in the public interest to make its draft report available to organizations that provided information in testimony before the Commission, other interested parties, and the general public. The Commission is interested in receiving comments and corrections for consideration in preparing its final report. The final report of the Commission will be completed on or before September 30, 1997.

Written comments and corrections to the draft report should be sent to Kenneth D. Fisher, Ph.D., Executive Director at the address listed above. Written comments and corrections may also be sent by facsimile to the address above. Written communications must be received by close of business on July 25, 1997 in order that they be considered by the Commission on Dietary Supplement Labels for possible inclusion in the final report.

Dated: May 23, 1997.

Susanne A. Stoiber,

Acting Deputy Assistant Secretary for Health (Disease Prevention and Health Promotion), U.S. Department of Health and Human Services.

[FR Doc. 97–14340 Filed 6–2–97; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HUMAN SERVICES

Administration for Children and Families

Early Head Start Evaluation

OMB No.: 0970–0143.

Description: The Head Start Reauthorization Act of 1994 established a special initiative creating funding for services for families with infants and toddlers. In response the Administration on Children, Youth and Families (ACYF) designed the Early Head Start (EHS) program. In September 1995, ACYF awarded grants to 68 local programs to serve families with infants and toddlers. ACYF awarded grants to an addition 75 local programs in September 1996.

EHS programs are designed to produce outcomes in four domains: (1) Child development, (2) family development, (3) staff development, and (4) community development. The Reauthorization required that this new initiative be evaluated. To study the effect of the initiative, ACYF awarded a contract through a competitive procurement to Mathematica Policy Research, Inc. (MPR) with a subcontract to Columbia University's Center for Young Children and Families. The evaluation will be carried out from October 1, 1995 through September 30, 2000. Data collection activities that are the subject of this **Federal Register** notice are intended for the second phase of the EHS evaluation.

The sample for the child and family assessments will be approximately 3,400 families who include a pregnant woman or a child under 12 months of age, in 17 EHS study sites. Each family will be randomly assigned to a treatment group or a control group. The sample for the child care assessments will include the primary child care provider for the focal child in each of the 3,400 study sample families. The surveys and assessments will be conducted through computer-assisted telephone and personal interviewing, pencil and paper self-administered questionnaires, structured observations and videotaping. All data collection instruments have been designed to minimize the burden on respondents by minimizing interviewing and assessment time. Participation in the study is voluntary and confidential.

The information will be used by government managers, Congress and others to identify the features and evaluate the effectiveness of the EHS program.

Respondents: Applicants to the Early Head Start program and child care providers for Early Head Start families and control group families.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
24-Month Parent Interview, Child Assessment, and Videotaping Protocol	1,412	1	2.5	3,530
Parent Services Follow-Up Interview:				
12-Month Follow-Up	1,475	1	1	1,475
18-Month Follow-Up	1,412	1	1	1,412
24-Month Follow-Up	1,365	1	1	1,365
36-Month Follow-Up	1,334	1	1	1,334
Child Care Provider Interview:				
Child Care Centers:				
Center Directors	408	1	.25	102
Direct Provider	408	1	.17	69
Classroom Staff	408	1	.17	69
Family child Care providers	119	1	.5	60
Family Provider Assistants	26	1	.17	4
Relative Care Providers	172	1	.5	86
Relative Provider Assistants	38	1	.17	6
Child Care Provider Observation Protocol:				
Child Care Centers	408	1	2	816
Family Child Care Providers	119	1	2	238
Relative Care Providers	172	1	2	344
Estimated Total Annual Burden Hours: 10,910.				

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 to 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork

Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Ms. Wendy Taylor.

Dated: May 28, 1997.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 97–14415 Filed 6–2–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4169–N–02]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: July 3, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may to obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: May 22, 1997.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Request for Insurance Endorsement Under the Direct Endorsement Program.

Office: Housing.

OMB Approval Number: 2502–0365.

Description of the Need for the Information and its Proposed Use: The Direct Endorsement Program permits mortgage lenders to underwrite applications for mortgage insurance applications without prior HUD review. Lenders then submit the closing package to the Department with a request for insurance endorsement.

Form Number: HUD–54111.

Respondents: Business or Other For-Profit.

Frequency of Submission: On Occasion and Recordkeeping.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–54111	4,800		125		.0834		50,040

Total Estimated Burden Hours: 50,040.

Status: Reinstatement, with changes.

Contact: Daniel E. Kahn, HUD, (202) 708–2121; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

[FR Doc. 97–14385 Filed 6–2–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collections to be Submitted to the Office of Management and Budget (OMB) for Extension Approval

SUMMARY: The collections of information listed below will be submitted to the OMB for extension approval under the provisions of the Paperwork Reduction Act of 1995. Copies of specific information collection requirements, related forms and explanatory material may be obtained by contacting the Service Information Collection Clearance officer at the address and/or phone number listed below.

DATES: Comments must be submitted on or before August 4, 1997.

ADDRESSES: Comments and suggestions on specific requirements should be sent to the Service Information Collection Clearance Officer, US Fish and Wildlife Service, MS 224–ARLSQ: 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Phyllis H. Cook, Service Information Collection Clearance Officer, 703/358–1943; 703/358–2269 (fax).

SUPPLEMENTARY INFORMATION: The Service proposed to submit the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are invited on (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden, including whether the validity of the methodology and assumptions uses; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Under the present clearance, all permit requirements were contained in one submission and they were assigned OMB Approval Number 1018–0022, the

Federal Fish and Wildlife License/ Permit Application and Related Reports, Service form number 3–200. In an attempt to make the comment and application process more ''user friendly,'' similar types of permits have been grouped together and numbered. The application to apply for Service permits issued under subchapter B of Title 50 of the Code of Federal Regulations (CFR), will still require completion of the standard 3–200 form. In addition to the permit application, attachments are often necessary to provide additional information required for each specific type of permit and have assigned numbers, e.g., 3–200.2.

The information on the application form will be used by the Service to review permit applications and allow the Service to make decisions, according to criteria established in various Federal wildlife conservation statues and regulations, on the issuance, suspension, revocation or denial of permits. The frequency of response for the following types of permit applications/licenses is on occasion, and all have been currently assigned OMB Approval Number 1018–0022, unless otherwise noted.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB approval number and the agency informs the potential persons who are to respond to such collections that they are not required to respond to the collection of information unless it displays a currently valid OMB approval number.

1. *Title:* Federal Fish and Wildlife Permit Application.

Service form number: 3–200.

Description and use: The application will be used by any person intending to engage in an activity for which a permit is required by subchapter B of 50 CFR. Persons desiring permit privileges authorized by subchapter B must complete an application for such a permit as required by 50 CFR 13, as well as other regulations which may require additional information for the specific permit desired.

Description of respondents: Individuals and households; business or other for-profit; not-for-profit institutions; farms; state, local, tribal government; and federal government.

Number of respondents: 27,109.

Estimated completion time: .166 (or 10 minutes).

Total annual burden: 4,500 hours.

2. *Title:* Designated Port Exception Permits (Requirements found in 50 CFR 14.31–14.33).

Service form number: 3–200.2.

Description and use: The Endangered Species Act of 1973 (ESA), as amended, requires that fish or wildlife be imported into or exported from the United States only at a designated port or at a nondesignated port under certain limited circumstances. To date, thirteen (13) customs ports of entry are designed for the import and export of wildlife and wildlife products. Exceptions to the designated port requirement are permitted by the Secretary of the Interior under specific terms and conditions. Permits are available to import or export wildlife at nondesignated ports for any one of the three reasons: (1) Scientific purposes; (2) to minimize deterioration or loss; and (3) to alleviate undue economic hardship.

Description of respondents: Individuals or households; business or other for-profit; and not-for-profit institutions.

Number of respondents: 524.

Estimated completion time: 1 hour.

Total annual burden: 524.

3. *Title:* Import/Export License (Requirements found in 50 CFR 14.91–14.93).

Service form number: 3–200.3.

Description and use: This license will allow any person to engage in business as an importer or exporter of fish or wildlife under the Endangered Species Act, unless that person imports or exports certain excepted wildlife or falls within one of the categories of persons excepted from the requirement by the rules found in 50 CFR 14.91–14.93. Currently, licensees must (1) pay $50 for a license plus import/export inspection fees; (2) keep certain specified records and retain them for five years; (3) allow the Service to inspect these records and any inventories of imported wildlife; and, (4) file any requested reports.

Description of respondents: Business or other for-profit institutions; and individuals and households, or any other entities conducting ''commercial'' imports or exports of fish or wildlife.

Number of respondents: 7,000.

Estimated completion time: .75 hours (or 45 minutes).

Total annual burden: 5,250.

4. *Title:* Federal Fish and Wildlife Permit Application for Export or Re-export Permits (Requirements found in 50 CFR 23.12 and 23.15).

Service form number: 3–200.26.

Description and use: These information collection requirements are contained in applications for permits that will allow the re-export of specimens of Appendix II and III species regulated by the Convention on International Trade in Endangered Species (CITES), and the export of specimens of American alligator (*Alligator mississippiensis*); Alaskan brown bear (*Ursus arctos*); Alaskan gray wolf (*Canis lupus*); Bobcat (*Lynx rufus*); Lynx (*Lynx canadensis*); and River otter (*Lutra canadensis*) which are species also regulated by CITES.

Description of respondents: Individuals or households; businesses or other for-profit; and not-for-profit institutions.

Number of respondents: 2,360.

Estimated completion time: .75 hours (or 45 minutes).

Total annual burden: 1,770 hours.

Paul R. Schmidt,

Acting Assistant Director—Refuges and Wildlife.

[FR Doc. 97–14455 Filed 6–2–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for renewal of the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 25). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's clearance officer at the phone number listed below.

Comments and suggestions on the renewal should be made directly to the bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (076–0100), Washington, D.C., 20503, telephone (202) 395–7340.

Title: Land Acquisitions.

OMB approval number: 1076–0100.

Abstract: The Secretary of the Interior has statutory authority to acquire lands in trust status for individual Indians and federally recognized Indian tribes. The Secretary requests information in order to identify the party(ies) involved and describing the land in question. Respondents are Native American tribes or individuals who request real property acquisition for trust status. The Secretary also requests additional information necessary to satisfy those pertinent factors listed in 25 CFR 151.10 or 151.11. The information is used to determine whether or not the Secretary will approve an applicant's request. No specific form is used, but respondents supply information and data so that the

Secretary may make an evaluation and determination in accordance with established Federal factors, rules and policies.

Frequency: As needed.

Description of respondents: Native American tribes and individuals desiring acquisition of lands in trust status.

Estimated completion time: 4 hours.

Annual responses: 9,200.

Annual Burden hours: 36,800.

Bureau clearance officer: James McDivitt (202) 208–4474.

Dated: May 12, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 97–14344 Filed 6–2–97; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proclaiming Certain Lands as Reservation for the Cow Creek Band of Umpqua Tribe of Indians in Oregon

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Reservation Proclamation.

SUMMARY: The Assistant Secretary—Indian Affairs proclaimed approximately 4.76 acres, more or less, as an addition to the reservation of the Cow Creek Band of Umpqua Tribe of Indians on May 8, 1997. This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.3A.

FOR FURTHER INFORMATION CONTACT: Larry E. Scrivner, Bureau of Indian Affairs, Division of Real Estate Services, MS–4510/MIB/Code 220, 1849 C Street, N.W., Washington, D.C. 20240, telephone (202) 208–7737.

SUPPLEMENTARY INFORMATION: A proclamation was issued on May 8, 1997, according to the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 467), for the tracts of land described below. The land was proclaimed to be an addition to and part of the reservation of the Cow Creek Band of Umpqua Tribe of Indians for the exclusive use of Indians on that reservation who are entitled to reside at the reservation by enrollment or tribal membership.

Reservation of the Cow Creek Band of Umpqua Tribe of Indians

Douglas County, Oregon

The following described real property is located in the Northeast quarter of Section 12, Township 27 South, Range 6 West, Willamette Meridian, Douglas County, Oregon, according to plat M119–72 filed in Douglas County, Oregon, on October 30, 1995.

Parcel One: That portion of Block 2, Amended Plat of Dixon's Addition to Fruitvale; Douglas County, Oregon, in Section 12, Township 27 South, Range 6 West, W.M., as shown on the official plat on file in the office of the County Clerk of Douglas County, Oregon, which is described as follows: Beginning at an iron pipe which is 297.0 feet East and 220.0 feet North of the Southwest corner of said Block 2; thence running North 100.0 feet to an iron pipe; thence East 100.0 feet to an iron pipe; thence South 100.0 feet to an iron pipe; thence West 100.0 feet to the place of beginning.

That portion of Block 2, Amended Plat of Dixon's Addition to Fruitvale, according to the official plat on file in the office of the County Clerk of Douglas County, which is described as follows: Beginning at an iron pipe on the East right of way line of the Pacific Highway and at a point which is 30 feet East and 80 feet North of the Southwest corner of said Block 2; thence running North 50 feet along the East line of the Pacific Highway to a point; thence East 267 feet; thence South 20 feet; thence West 25 feet; thence South 30 feet to the Northeast corner of the Bales property; thence West 242 feet along the North line of the Bales property, to the place of beginning. Except that portion described in deed to State of Oregon, Department of Transportation recorded in Book 1147, Page 711, Recorder's No. 91–12581, records of Douglas County, Oregon.

Also, that portion of Block 2, Amended Plat of Dixon's Addition to Fruitvale, according to the official plat on file in the office of the County Clerk of Douglas County, in Section 12, Township 27 South, Range 6 West, W.M., which is described as follows: Beginning at an iron pipe on the South side of Block 2, which is 272 feet East of the southwest corner of said Block; thence running North 110 feet to an iron pipe; thence East 25 feet; thence North 110 feet to an iron pipe; thence East 584 feet, more or less, to the East line of said Block 2; thence South 220 feet along the East side of said Block 2 to the Southeast corner of said block; thence West 609 feet, along the South side of said block to the place of beginning.

Excepting therefrom that portion, if any, lying southerly of the line as established by that certain agreement between Mollie B. Hewitt, et al., and Clover Kerr, as recorded in Volume 119, Page 135, Deed Records of Douglas County, Oregon.

Parcel Two: That portion of Block 2, Amended Plat of Dixon's Addition to Fruitvale, according to the official plat on file in the office of the County Clerk of Douglas County, which is described as follows: Beginning at a point on the East right of way line of the Pacific Highway and at a point which is 30 feet East and 160 feet North of the Southwest corner of said Block 2, said point being the Northwest corner of that parcel of land described in Instrument No. 76–11688, Book of Records, Douglas County, Oregon; thence East along the North line of said property 267.00 feet to a point; thence North 303.40 feet to a point on the South right of way line of Hewitt Lane; thence West along said South line 80.00 feet to a point which is 217.00 feet East of the West line of Block 2; thence South 63.4 feet; thence East 55.00 feet; thence South 80.00 feet to a point; thence West 242 feet to a point on the East right of way line of Northeast Stephens Street, said point being 320.2 feet North and 30 feet East of the Southwest corner of said Block 2; thence South along said East right of way line to the point of beginning.

Except that portion described in deed to State of Oregon, Department of Transportation recorded in Book 1147, Page 711, Recorder's No. 91–12581, records of Douglas County, Oregon.

Parcel Three: That portion of Block 2, Amended Plat of Dixon's Addition to Roseburg, Douglas County, Oregon, in Section 12, Township 27 South, Range 6 West, W.M., which is described as follows: Beginning at an iron pipe on the East right of way line of the Pacific Highway and at a point which is 30.0 feet East and 130.00 feet North of the Southwest corner of said Block 2; thence running North 30.0 feet along the East line of the Pacific Highway to a point; thence East 267.0 feet; thence South 30.0 feet; thence West 267.00 feet to the place of beginning. The above-described parcels contain a total of 4.76 acres, more or less.

Title to the land described above is conveyed subject to any valid existing easements for public roads and highways, for public utilities and for railroads and pipelines and any other right-of-way or reservation of record.

Dated: May 8, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 97–14341 Filed 6–2–97; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proclaiming Certain Lands as Reservation for the Klamath Indian Tribe of Oregon

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Reservation Proclamation.

SUMMARY: On May 6, 1997, the Assistant Secretary—Indian Affairs proclaimed 8.87 acres, more or less, as an addition to the reservation of the Klamath Tribe of Oregon. This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.3A.

FOR FURTHER INFORMATION CONTACT: Larry E. Scrivner, Bureau of Indian Affairs, Division of Real Estate Services, MS–4510/MIB/Code 220, 1849 C Street, N.W., Washington, D.C. 20240, telephone (202) 208–7737.

SUPPLEMENTARY INFORMATION: In 1900 and 1911, the Secretary of the Interior reserved a parcel of land within the Klamath Reservation in Oregon for cemetery purposes. In furtherance of the Klamath Termination Act of 1954 (68 Stat. 718), the Secretary revoked the reservation status as to the entire parcel and conveyed 1.13 acres of the parcel to a private cemetery association. However, 8.87 acres remained held by the Secretary. In 1986 Congress restored the Klamath Tribe. Therefore, under the Klamath Indian Tribe Restoration Act, P.L. 99–398 (100 Stat. 849), the remaining 8.87 acres, described below, is declared to be held by the United States in trust for the Klamath Tribe and declared to be part of their reservation for the exclusive use of the Indians on that reservation who are entitled by enrollment or tribal membership to residence at the reservation.

Klamath County, Oregon

That portion of the Southeast quarter of the Southeast quarter of the Southeast quarter (SE¼SE¼SE¼) excepting therefrom Lot 20, of Section 34, Township 34 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon, containing 8.87 acres, more or less.

Title to the land described above is conveyed subject to any valid existing easements for public roads, highways, public utilities, pipelines, and any other valid easements or rights of way now on record.

Dated: May 6, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 97–14342 Filed 6–2–97; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proclaiming Certain Lands as Reservation for the Reno-Sparks Indian Colony of the State of Nevada

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Reservation Proclamation.

SUMMARY: The Assistant Secretary—Indian Affairs proclaimed three parcels, containing approximately 8.65 acres, more or less, as an addition to the Reno-Sparks Indian Reservation on May 12, 1997. This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

FOR FURTHER INFORMATION CONTACT: Larry E. Scrivner, Bureau of Indian Affairs, Division of Real Estate Services, MS–4510/MIB/Code 220, 1849 C Street N.W., Washington, D.C., 20240, telephone (202) 208–7737.

SUPPLEMENTARY INFORMATION: On May 12, 1997, by proclamation issued according to the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. § 467), the following-described parcels, totaling 8.65 acres, were proclaimed to be an addition to, and made a part of, the Reno-Sparks Indian Reservation for the exclusive use of Indians on that reservation who are entitled to reside at the reservation by enrollment or tribal membership.

Reno-Sparks Indian Colony

Mount Diablo Meridian

Washoe County, Nevada

1.9-acre Parcel

All that portion of the Northeast quarter of Section 17, Township 18 North, Range 20 East, M.D.B.&M., described as follows: Beginning at the Southwest corner of parcel conveyed to Heinz Sauer et us, by Deed recorded April 8, 1950, under Document No. 301435, Washoe County, Nevada, records; then along the Southerly and Westerly line of said parcel the following two courses and distances: North 63°23′44″ East, 619.5 feet and South 26°27′ East, a distance of 135.7 feet to a point on the Southerly line of parcel conveyed to Edwin Schloerb et us, by Deed recorded May 2, 1957, under Document No. 273546, Washoe County, Nevada, records; thence along the Southerly line of said parcel South 63°33′ West, a distance of 619.07 feet to the most Easterly corner of parcel conveyed to the State of Nevada, by Deed recorded June 2, 1955, under Document No. 244832, Washoe County, Nevada, records; thence along the Easterly line of said parcel, North 26°33′40″ West, a distance of 133.67 feet more or less to the point of beginning.

.69-acre Parcel

Commencing at a point of intersection of the North line of East Second Street and the Westerly Right of Way line of U.S. 395, from which the West quarter corner of Section 7, Township 19 North, Range 20 East, M.D.B.&M., bears South 87°58′33″ West 1268.57 feet; thence North 0°43′27″ West along said Westerly line of U.S. 395 491.53 feet; thence South 89°1′46″ West along said Westerly line 15.00 feet to the TRUE POINT OF BEGINNING; thence continuing South 89°13′46″ West 484.22 feet; thence North 0°38′25″ West 294.17 feet; thence North 88°20′03″ East 25.00 feet; thence North 16°01′03″ East 191.23 feet; thence South 70°13′58″ East 147.01 feet; thence South 40°25′49″ East 115.13 feet; thence North 71°16′11″ East 32.69 feet to the said Westerly Right of Way line of U.S. 395; thence South 31°01′44″ East along said Westerly line 152.56 feet; thence continuing South 22°07′48″ East along said Westerly line 231.18 feet to the true point of beginning.

Said parcel is situated wholly within the SW¼ of the NW¼ of Section 7, Township 19 North, Range 20 East, M.D.B.& M.

3.064-acre Parcel

All that certain lot, piece or parcel of land situate in the City of Reno, County of Washoe, State of Nevada, described as follows: Being a portion of the Northwest ¼ of the Southwest ¼ (Lot No. 2) of Section 7, Township 19 North, Range 20 East, M.D.B.&M. and more fully described by metes and bounds as follows to wit: Beginning at a point on the right or Easterly right-of-way line of Kietzke Lane 66.00 feet right of and at right angles to Highway Engineer's Station ''04'' 116+77.16 P.O.T.; said point further described as bearing South 16°0′13″ East a distance of 186.08 feet from the West quarter corner of Section 7, Township 19 North, Range 20 East, M.D.B.&M.; thence from a tangent which bears North 0°51′39″ West, curving to the right along said right-of-way line with a radius of 115 feet through an angle of 89°15′34″, an arc distance of 179.16 feet to a point on the right or Southerly right-of-way line of Second Street; thence along said right-of-way line North 89°58′32″ East a distance of 146.19 feet to a point on the Westerly right-of-way line of Sunshine Lane; thence along said right-of-way line South 0°17′40″ East a distance of 546.65 feet to a point on the Northerly right-of-way line of Lewis Street; thence along said right-of-way line North 89°17′20″ West a distance of 253.05 feet to a point; thence from a tangent which bears the last described course, curving to the right along said right-of-way line, with a radius of 15 feet, through an angle of 92°11′26″ an arc distance of 24.14 feet to a point on the right or Easterly right-of-way line of Kietzke Lane; thence along said right-of-way line North 2°54′06″ East a distance of 159.05 feet to a point; thence along said right-of-way line North 0°13′38″ West a distance of 252.16 feet to the point of beginning.

Title to the land described above is conveyed subject to any valid existing easements for public roads, highways, public utilities, pipelines, and any other valid easements or rights-of-way now on record.

Dated: May 12, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 97–14343 Filed 6–2–97; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–01; N–58520]

Notice of Realty Action: Non-Competitive Sale of Public Lands

AGENCY: Bureau of Land Management.

ACTION: Segregation Continued for Non-Competitive Sale of Public Lands in Clark County, Nevada.

SUMMARY: The following described public land in Henderson, Clark County, Nevada has been examined and found

suitable for sale utilizing non-competitive procedures, at not less than the fair market value. Authority for the sale is Public Law 522 (70 Stat.156) and Section 203 and Section 209 of the Federal Land Policy and Management Act of 1976 (FLPMA).

Mount Diablo Meridian, Nevada

T. 21 S., R. 63 E.,
Sec. 33: N½SE¼NE¼, E½NW¼NE¼, NE¼NE¼.

Containing 83.730 acres, more or less.

This parcel of land, situated in Henderson, Nevada is being offered as a direct sale to the City of Henderson.

This land is not required for any federal purposes. The sale is consistent with current Bureau planning for this area and would be in the public interest. In the event of a sale, conveyance of the available mineral interests will occur simultaneously with the sale of the land. The mineral interests being offered for conveyance have no known mineral value. Acceptance of a direct sale offer will constitute an application for conveyance of those mineral interests. The applicant will be required to pay a $50.00 nonreturnable filing fee for conveyance of the available mineral interests.

The patent, when issued, will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. Oil, gas, sodium, potassium and saleable minerals. and will be subject to an easement for roads, public utilities and flood control purposes in accordance with the transportation plan for the City of Henderson.

3. Those rights for slope easement purposes which have been granted to the City of Henderson by Permit No. N–54101 under the Act of October 21, 1976(43 U.S.C.1761).

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for sales and disposals under the mineral disposal laws. This segregation will terminate upon issuance of a patent or 270 days from the date of this publication, whichever occurs first.

This notice continues the segregation of the lands that began, by publication in the **Federal Register**, on October 27, 1995. The Bureau of Land Management may accept or reject any or all offers, or withdraw any land or interest in the land from sale, if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with FLPMA, or other applicable laws.

Dated: May 20, 1997.

Michael F. Dwyer,

District Manager, Las Vegas, NV.

[FR Doc. 97–14421 Filed 6–2–97; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–931–1430–01; AA–80005]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, has filed an application to withdraw approximately 600 acres of National Forest System land for the Spencer Glacier Material Site. The proposed withdrawal will aid in making high quality rock and gravel available to nearby communities for private and public works projects. This notice closes the land for up to 2 years from location and entry under the United States mining laws. The land will remain open to all uses which can be made of National Forest lands, including disposition of materials under the Act of July 31, 1947, as amended.

DATES: Comments and requests for a public meeting must be received by September 2, 1997.

ADDRESSES: Comments and meeting requests should be sent to the Alaska State Director, BLM Alaska State Office, 222 West 7th Avenue, No. 13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Robbie J. Havens, BLM Alaska State Office, 907–271–5477.

SUPPLEMENTARY INFORMATION: On May 15, 1997, the U.S. Department of Agriculture, Forest Service, filed an application to withdraw the following described National Forest System land from location and entry under the United States mining laws, subject to valid existing rights:

Seward Meridian

Chugach National Forest

T. 7 N., R. 2 E., unsurveyed,
Sec. 11, S½SE¼;
Sec. 12, SW¼SW¼;
Sec. 13, NW¼;
Sec. 14, NE¼, E½NW¼, N½SE¼.

The area described contains approximately 600 acres.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Alaska State Director of the Bureau of Land Management at the address indicated above.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Alaska State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date.

The land will be managed in accordance with the various acts that govern occupancy and use of National Forest System lands. Temporary uses which may be permitted during this segregative period would be for land use authorizations that are compatible with intended uses allowed under the discretion of the authorized officer.

Dated: May 28, 1997.

Donald W. Baggs,

Lands and Minerals Group Supervisor, Division of Lands, Minerals, and Resources.

[FR Doc. 97–14389 Filed 6–2–97; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 24, 1997. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington,

D.C. 20013–7127. Written comments should be submitted by June 18, 1997.

Carol D. Shull,

Keeper of the National Register.

ARIZONA

Pima County

USDA Tucson Plant Materials Center, 3241 N. Romero Rd., Tucson, 97000592

COLORADO

Douglas County

Keystone Hotel, 219 and 223 4th St., Castle Rock, 97000594

Garfield County

Sumers Lodge, 1200 Mountain Dr., Glenwood Springs vicinity, 97000593

INDIANA

Allen County

de Richardville, Chief Jean-Baptiste, House, 5705 Bluffton Rd., Fort Wayne, 97000595

Clay County

Brazil Downtown Historic District, E. and W. National Ave. between Depot and Forest Aves., Brazil, 97000601

Meridian—Forest Historic District, Roughly bounded by N. Meridian, E. Chestnut, N. Forest, E. and W. Church, and State Sts., Brazil, 97000600

Daviess County

Jefferson Elementary School, Donaldson Rd., .25 mi. E of IN 57, Washington vicinity, 97000597

Huntington County

Sunken Gardens, West Park Dr., SW of jct. of US 24 and and La Fontaine St., Huntington vicinity, 97000596

Marion County

Cole, Joseph J., Jr., House and 1925 Cole Brouette No. 70611, 4909 N. Meridian St., Indianapolis, 97000599

Morgan County

Mooresville Gymnasium, 244 N. Monroe St., Mooresville, 97000598

MAINE

Aroostook County

Gustaf Adolph Lutheran Church, E side of Capitol Hill Rd., .5 mi. N of jct. with ME 161, New Sweden, 97000608

Cumberland County

Cousins Island Chapel, E side of Cousins Rd., 1.9 mi. SE of jct. with Morton Rd., Cousins Island, 97000605

Oxford County

Center Meeting House and Common, 476 Main St., Oxford vicinity, 97000606

Sagadahoc County

First Baptist Church of Bowdoin and Coombs Cemetery, Off W side of US 201, .65 N of jct. with ME 125, Bowdoin Center vicinity, 97000604

Washington County

Columbia Union Church, N side of ME 29–608, .05 mi. E of jct. with ME 29–610, Epping vicinity, 97000607

York County

First Congregational Church and Parsonage (Boundary Increase), N and S side of Whipple (Pepperell) Rd., 2.3 mi. E of jct. with US 1, Kittery Point vicinity, 97000602

Sanford Naval Air Station Administration Building—Control Tower, Former, SW corner of Sanford Municipal Airport, SW of jct. of ME 99 and ME 109, South Sanford vicinity, 97000603

NEBRASKA

Jefferson County

Fairbury Commercial Historic District, Roughly bounded by 6th, F, 3rd, and B Sts., and RR tracks, Fairbury, 97000610

Lancaster County

Chicago, Burlington & Quincy Steam Locomotive No. 710, Near jct. of 7th and Q Sts., Lincoln, 97000609

Greek Row Historic District, Roughly, R St. from 14th to 17th Sts. and 16th St. from R toVine Sts., Lincoln, 97000611

OKLAHOMA

Garfield County

Lamerton House, 1420 W. Indian Dr., Enid, 97000613

Oklahoma County

Shepherd Historic District, Roughly bounded by NW. 30th and NW. 25th Sts., N. Pennsylvania Ave. and N. Youngs Blvd., Oklahoma City, 97000612

Sequoyah County

Sallisaw High School, 200 W. Creek St., Sallisaw, 97000614

TEXAS

Tom Green County

Freeze Building, (San Angelo MPS), 18 W. Concho Ave., San Angelo, 97000615

[FR Doc. 97–14469 Filed 6–2–97; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Overseas Private Investment Corporation

Submission for OMB Review; Comment Request

AGENCY: Overseas Private Investment Corporation, IDCA.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to publish a notice in the **Federal Register** notifying the public that the Agency has prepared an information collection request for OMB review and approval and has requested public review and comment on the submission. OPIC published its first **Federal Register** notice on this information collection request on March 21, 1997, in 62 FR 13589, at which time a 60-calendar day comment period was announced. This comment period ended on May 21, 1997. No comments were received in response to the notice.

This information collection submission has not been solicited to OMB for review. Comments are again being solicited on the need for the information, its practical utility, the accuracy of the Agency's burden estimate, and on ways to minimize the reporting burden, including automated collected techniques and uses of other forms of technology.

The proposed form under review is summarized below.

DATES: Comments must be received on or before July 3, 1997.

ADDRESSES: Copies of the subject form and the request for review submitted to OMB may be obtained from the Agency Submitting Officer. Comments on the form should be submitted to the OMB reviewer.

FOR FURTHER INFORMATION CONTACT:

OPIC Agency Submitting Officer: Lena Paulsen, Manager, Information Center, Overseas Private Investment Corporation, 1100 New York Avenue, N.W., Washington, D.C. 20527; 202/336–8565.

OMB Reviewer: Victoria Wassmer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Docket Library, Room 10102, 725 17th Street, N.W., Washington, D.C. 20503, 202/395–5871.

Summary of Form Under Review

Type of Request: New form.

Title: Small Business Application for Financing.

Form Number: OPIC 220.

Frequency of Use: Once per investor per project.

Type of Respondents: Business or other institutions (except farms); individuals.

Standard Industrial Classification Codes: All.

Description of Affected Public: U.S. companies or citizens investing overseas.

Reporting Hours: 3 hours per project.

Number of Responses: 100 per year.

Federal Cost: $3,000.00 per year.

Authority for Information Collection: Sections 231 and 234 (b) and (c) of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The application is sent to U.S. companies requesting information concerning OPIC's finance program. The information provided by these companies is reviewed by OPIC finance officers to determine the soundness of the proposed project and the applicants qualification for receiving OPIC financial assistance.

Dated: May 22, 1997.

James R. Offutt,

Assistant General Counsel, Department of Legal Affairs.

[FR Doc. 97–14356 Filed 6–2–97; 8:45 am]

BILLING CODE 3210–01–M

INTERNATIONAL TRADE COMMISSION

[USITC SE–97–07]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

Time and Date: June 17, 1997 at 11:00 a.m.

Place: Room 101, 500 E Street SW., Washington, DC 20436.

Status: Open to the public.

Matters to be Considered:

1. Agenda for future meeting: None.
2. Minutes.
3. Ratification List.
4. Inv. No. 731-TA–749 (Final) (Persulfates from China) — briefing and vote.
5. Outstanding action jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: May 29, 1997.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–14585 Filed 5–30–97; 2:49 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OJP(BJA)–1129]

RIN 1121–ZA75

Metropolitan Firefighter and Emergency Services National Training Program for First Responders to Terrorist Incidents

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 and local agencies for firefighting and emergency services training programs. This solicitation is to announce a competitive grant program to fund three or four demonstration sites and encourages State and local agencies that have innovative first responder training programs to conduct firefighting and emergency services responding to terrorist incidents to apply. To apply for funding, applicants must demonstrate: (1) that its firefighting and emergency services operations are innovative; (2) that they can be easily replicated in other metropolitan jurisdictions; (3) and that their firefighting and emergency services operations are relevant for first responders to terrorist incidents in urban jurisdictions. This grant program is authorized by Title VIII, Subtitle B, Section 819, of the Anti-Terrorism and Effective Death Penalty Act of 1996. This announcement is to advise interested State and local agencies of the availability of funding for a demonstration project, pursuant to Public Law 104–208, the Omnibus Consolidated Appropriations Act of 1997.

DATES: Applications for funding must be received by the Bureau of Justice Assistance not later than the close of business, August 7, 1997.

ADDRESS: Applications must be mailed to: Control Desk, Bureau of Justice Assistance, 633 Indiana Avenue, Washington, D.C., N.W., 20531.

FOR FURTHER INFORMATION CONTACT: The U.S. Department of Justice Response Center at 1–800–421–6770. You may also read an online fact sheet regarding this initiative, or download and print a copy of this announcement by accessing BJA's homepage at http://www.ojp.usdoj.gov.BJA/ and clicking on What's New.

SUPPLEMENTARY INFORMATION: Applicants should present their firefighting and emergency services first responder programs as a model program that demonstrates a significant capacity to enhance urban jurisdictions' abilities to train first responders to respond to incidents of terrorism and the use of weapons of mass destruction (e.g., chemical, biological, and nuclear incendiary and explosive devices). Eligible applicants must have an existing firefighting and emergency services capability that they believe could serve as a model for first responders in urban jurisdictions. Selection as a demonstration site will be based upon the applicant's innovativeness in its approach to first responder operations and the program's replication potential in other jurisdictions. Most importantly, applicants must demonstrate a capability to effectively respond to the demands placed upon first responders in the crisis management phase of a terrorist incident.

Grant Offering: BJA will provide funding for three or four demonstration sites to document and test the effectiveness of first responder training programs.

Eligible Applicants: Eligibility for funding under this announcement is limited to State and local agencies that have an existing first responder training capacity or provide direct services and support on a continuing basis for urban fire fighting and emergency medical services operations.

Application Procedures

A. Description of First Response Capabilities

Applicants applying for demonstration grant funding shall describe the first responder resources in their jurisdiction. Descriptions should comprehensively portray the status of firefighting and emergency medical services as they exist within the metropolitan jurisdiction and address the extent to which first responders have received training in the systems and/or methods they will use to deal with weapons of mass destruction. Descriptions shall also include: the names and designations of organizations and political subdivisions comprising the metropolitan jurisdiction (e.g., towns, townships, cities, and counties); the names of emergency medical services organizations, such as hospitals, clinics, regional medical centers/trauma centers; firefighting companies; private ambulance and emergency response services; State and local law enforcement agencies; civil defense organizations; medical ground and air evacuation units/organizations; search and rescue teams; and components of the National Guard or U.S. Army Reserve designated to respond in emergency situations.

B. Description of First Responder Operational Procedures

The applicant shall provide information pertaining to its first responder operations that clearly describe organizational tasks and responsibilities as they relate to specific issues concerning crisis and consequence management (e.g., designated on site commanders (OSC), incident command structure (ICS), hazardous materials reconnaissance and collection teams, decontamination teams, firefighters, explosive ordnance

disposal units, and medical services teams). Descriptions shall also contain general operating procedures/guidelines for first responders, as well as special instructions for handling evacuees, triage, hazardous materials, and contaminated areas.

C. Goals and Objectives

The applicant should clearly state the goals and objectives of the demonstration project and its desired outcome. For example, the goals of the demonstration project should result in a product that represents and documents sound strategic planning, jurisdiction-wide collaboration, community input, stakeholder representation, and integrated planning both horizontally and vertically between, among, and within participating first responder agencies. The primary objective of the demonstration project should be to develop a first responder training program that can be easily replicated in other large metropolitan jurisdictions.

D. Project Implementation Plan

The applicant should include an overall implementation plan outlining significant events, milestones, benchmarks, and outcomes. For example, the applicant should describe the structure and timing of special training programs to support first responder operations, the design and development of strategic planning documents, scheduling of stakeholder meetings/conferences, meetings with external agencies and constituencies, and scheduled training exercises and the description of scenarios to test operating procedures. The implementation plan should be submitted using a timeline covering a 12 to 18 month period from the date of the award.

E. Project Management

The applicant should submit a detailed description concerning the management and structure of the project. For example, the applicant should identify the qualifications and experience of the project managers, the director, and the staff. Detailed information should be provided concerning their roles and responsibilities.

F. Organizational Capability

The applicant should submit documentation concerning the organizational experience from a programmatic and financial perspective that demonstrates the ability of the applicant to manage the project.

G. Application Kits

Interested applicants are encouraged to contact the Department of Justice Response Center at 1–800–421–6770 to request an application kit for the Metropolitan Firefighter and Emergency Services National Training Program for First Responders to Terrorist Incidents. An application kit containing the necessary forms will be mailed upon request. Within the metropolitan Washington, D.C. area, please call 202–307–1480.

Dated: May 27, 1997.

Richard H. Ward,

Acting Director,

Bureau of Justice Assistance.

[FR Doc. 97–14203 Filed 6–2–97; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

May 29, 1997.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Theresa M. O'Malley ((202) 219–5096 ext. 143) or via E-Mail to TOMalley@dol.gov. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

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

Agency: Bureau of Labor Statistics.

Title: National Compensation Survey.

OMB Number: 1220–0000 (new collection).

Affected Public: Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Form	Total respondents	Frequency	Total responses	Average time per response (minutes)	Total burden hours (est.)
Government Establishment Form	4,677	Annual or Quarterly	6,393	9	1,029.
Government Generic Level Form #1	4,677	Annual or Quarterly	6,393	9	1,029.
Government Generic Level Form #2	4,677	Annual or Quarterly	6,393	9	1,029.
Government Wage Form	4,677	Annual or Quarterly	6,393	9	1,029.
Government Work Schedule Form	4,677	Annual or Quarterly	6,393	9	1,029.
Government Benefits Collection Form (FYS 98 and 99 only).	1,715	Annual or Quarterly	4,193	49	2,287 (3,430-avg. per year used).
Private Establishment Form	21,823	Annual or Quarterly	32,497	9	4,801
Private Generic Level, Form #1	21,823	Annual or Quarterly	32,497	9	4,801.
Private Establishment Generic Level Form #2	21,823	Annual or Quarterly	32,497	9	4,801.
Private Establishment Wage Form	21,823	Annual or Quarterly	32,497	9	4,801.

Form	Total respondents	Frequency	Total responses	Average time per response (minutes)	Total burden hours (est.)
Private Establishment Work Schedule Form	21,823	Annual or Quarterly	32,497	9	4,801.
Private Establishment Benefits Collection Form (FYS 98 and 99 only).	8,005	Annual or Quarterly	19,567	49	10,673 (16,009 Avg. Per year used).
Government Benefit Tests Form (FY 97 only)	133	Annual	133	262	194 (583 Avg. Per year used).
Private Establishment Benefit Tests Form (FY 97 only)	623	Annual	623	262	906 (2,718 Avg. Per year used).
Employment Cost Index Collection Form (FYS 97 and 98 only).	158	Annual	158	220	518 (777 Avg. Per year used)
Employment Cost Index Update Form	5,614	Quarterly	22,456	30	11,228
Employment Cost Index Quality Assurance Form (FYS 97 and 98 only).	8	Annual	8	15	2 (3 Avg. Per year used)
Collection done solely on computer	16,545	Annual	16,545	25	7,261
Total	32,578		82,293		62,221

NOTE: All figures are based on a three-year average. The total respondents and total responses column do not equal the totals, because most respondents are asked to give data that will be used on several forms.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: This collection is the implementation of the new National Compensation Survey (NCS), formally called COMP2000 program. NCS, when fully implemented, will integrate three separate BLS compensation programs—the Occupational Compensation Survey Program (OCSP), the Employment Cost Index (ECI), and the Employee Benefits Survey (EBS). Data are collected from both the private non-farm economy and State and local governments. Data produced from this survey are critical in determining pay increases for Federal workers; in determining monetary policy, and for use by compensation administrators and researchers in the private sector.

Agency: Employment Standards Administration.

Title: Wage Statement (English and Spanish).

OMB Number: 1215–0148 (extension).

Frequency: On occasion.

Affected Public: Individuals or households; Business or other for-profit; Farms.

Number of Respondents: 1,500,000.

Estimated Time Per Respondent: ½ minute.

Total Burden Hours: 650,000.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The Migrant and Seasonal Agricultural Worker Protection Act requires employers of agricultural workers to maintain specific weekly payroll information and to provide a written statement of this information to each migrant or seasonal worker. Forms WH–501R and WH–501R(S) are optional forms which employers may use to record this required information and provide to their workers.

Agency: Occupational Safety and Health Administration.

Title: Reporting of Fatality or Multiple Hospitalization Incidents (29 CFR 1904.8).

OMB Number: 1218–0007 (extension).

Frequency: On occasion.

Affected Public: Business or other for-profit; Not-for-profit institutions; Farms; State, Local or Tribal Government.

Number of Respondents: 6,349

Estimated Time Per Respondent: 15 minutes.

Total Burden Hours: 1,587

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: All workplace fatalities and incidents involving the in-patient hospitalization of three or more employees must be reported to the Occupational Safety and Health Administration to allow the Agency to schedule an inspection/investigation of the occurrence. Such reporting is required by law.

Agency: Bureau of Labor Statistics.

Title: Veterans Supplement to the CPS.

OMB Number: 1220–0102 (reinstatement with change).

Frequency: Biennially.

Affected Public: Individuals or households.

Number of Respondents: 12,000.

Estimated Time Per Respondent: 1 minute.

Total Burden Hours: 200.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The supplement data will provide estimates of disabled and Vietnam-theater veterans in the labor force, recently separated veterans, the number of veterans who feel their disability affects labor force participation, and information about veterans who use programs that are available to them. Data are necessary to evaluate veterans' programs and to meet a legislative mandate for a labor market study.

Agency: Pension and Welfare Benefits Administration.

Title: Prohibited Transaction Exemption (Exemption Application No. D–09988) Class Exemption for Collective Investment Fund Conversion Transactions.

OMB Number: 1210–0000 (new collection).

Frequency: On occasion.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 75, category 1=33, category 2=42.

Estimated Time Per Respondent: category 1=9 hours, category 2=35 hours.

Total Burden Hours: 1,767.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $119,250.

Description: This class exemption permits an employee benefit plan (the Client Plan) to purchase shares of a registered investment company (the Fund), the investment adviser for which is a bank (the Bank) or plan adviser (the Plan Adviser) registered under the Investment Advisers Act of 1940 (the Advisers Act), that also serves as a fiduciary of a Client Plan, in exchange for plan assets transferred in-kind to the Fund from a collective investment fund (CIF) maintained by the Bank or Plan Adviser, in connection with a complete withdrawal of a Client Plan's assets from the CIF.

Agency: Occupational Safety and Health Administration.

Title: Ethylene Oxide 1910.1047.

OMB Number: 1218–0108 (extension).

Frequency: On occasion.

Affected Public: Business or other for-profit; Federal Government; State, and Local or Tribal governments.

Number of Respondents: 52,546.

Estimated Time Per Respondent: 58 minutes.

Total Burden Hours: 50,300.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $1,500,593.

Description: The Ethylene Oxide Standard and its information collection requirements are designed to provide protection for employees from adverse health effects associated with occupational exposure to ethylene oxide (EtO).

The Standard requires employers to monitor employee exposure to EtO and provide notification to employees of their exposure to ethylene oxide. If monitoring indicates exposure above the 8-hour time weight average of one part EtO per million parts of air, or in excess of five parts of EtO per million part of air as averaged over sampling period of 15 minutes, then the employer is required to make available medical exams to employees who are, or may be exposed to EtO at or above the action level (.5 parts per million calculated as an eight time-weight average), without regard to the use of respirators, for at least 30 days a year. Exposure monitoring and medical records are to be retained for prescribed amounts of time, and under certain circumstances such records may be transferred to the National Institute for Occupational Safety and Health. Employers are also required to communicate the hazards associated with exposure to EtO through signs, labels, material safety data sheets and training.

Theresa M. O'Malley,

Departmental Clearance Officer.

[FR Doc. 97–14435 Filed 6–2–97; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act Allotments; Wagner-Peyser Act Preliminary Planning Estimates; Program Year (PY) 1997

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces States' Job Training Partnership Act (JTPA) allotments for Program Year (PY) 1997 (July 1, 1997–June 30, 1998) for JTPA Titles II–A, II–C, and III; JTPA Title II–B Summer Youth Employment and Training Program for Calendar Year (CY) 1997; and preliminary planning estimates for public employment service activities under the Wagner-Peyser Act for PY 1997.

FOR FURTHER INFORMATION CONTACT: For JTPA allotments, contact Mr. James M. Aaron, Director, Office of Employment and Training Programs, Room N4666, 200 Constitution Avenue, NW., Washington, D.C. 20210; Telephone: 202–219–5580. For Employment Service planning levels contact Mr. John R. Beverly, Director, U.S. Employment Service, Room N–4470, 200 Constitution Avenue, NW., Washington, D.C. 20210; Telephone: 202–219–5257. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Department of Labor (DOL or Department) is announcing Job Training Partnership Act (JTPA) allotments for Program Year (PY) 1997 (July 1, 1997–June 30, 1998) for JTPA Titles II–A, II–C, and III, and for the Summer Youth Employment and Training Program in Calendar Year (CY) 1997 for JTPA Title II–B; and, in accord with Section 6(b)(5) of the Wagner-Peyser Act, preliminary planning estimates for public employment service (ES) activities under the Wagner-Peyser Act for PY 1997. The allotments and estimates are based on the appropriations for DOL for Fiscal Year (FY) 1997.

Attached is a listing of the allotments for PY 1997 for programs under JTPA Titles II–A, II–C, and III; allotments for the CY 1997 Summer Youth Employment and Training Program under Title II–B of JTPA; and preliminary planning estimates for public employment service activities under the Wagner-Peyser Act. The PY 1997 allotments for Titles II–A, II–C, and III and the ES preliminary planning estimates, are based on the funds appropriated by the Omnibus Consolidated Appropriations Act of 1997, Public Law 104–208, for FY 1997.

These JTPA allotments will not be updated for subsequent unemployment data. The Employment Service preliminary estimates are based on averages for the most current 12 months ending September 1996 for each State's share of the civilian labor force and unemployment. Final planning estimates will be published in the **Federal Register** based on Calendar Year 1996 unemployment data.

Title II–A Allotments

The Attachment shows the PY 1997 JTPA Title II–A Adult Training Program allotments by State for a total appropriation of $895,000,000. For all States, Puerto Rico and the District of Columbia, the following data were used in computing the allotments:

—Data for areas of substantial unemployment (ASU) are averages for the 12-month period, July 1995 through June 1996.

—The number of excess unemployment individuals or the ASU excess (depending on which is higher) are averages for this same 12-month period.

—The economically disadvantaged adult data (age 22 to 72, excluding college students and military) are from the 1990 Census.

The allotments for the Insular Areas, including the Freely Associated States, are based on unemployment data from 1990 Census or, if not available, the most recent data available. A 90 percent relative share ''hold-harmless'' of the PY 1996 Title II–A allotments for these areas and a minimum allotment of $75,000 were also applied in determining the allotments.

Title II–A funds are to be distributed among designated service delivery areas (SDAs) according to the statutory formula contained in Section 202(b) of JTPA, as amended by Tile VII, Miscellaneous Provisions of the JTPA Amendments of 1992. (This Title VII

provides an interim allocation methodology which applies to the PY 1997 allotments). This is the same formula that has been used in previous program years; however, prior to PY 1993 a different definition of ''economically disadvantaged'' was used.

JTPA Title II–B Allotments

The Attachment shows the CY 1996 JTPA Title II–B Summer Youth Employment and Training Program allotments by State based on the total available appropriation for CY 1997 of $871,000,000. These funds were obligated as *Fiscal Year 1996* funds, not as Program Year 1996 funds.

The data used for these allotments are the same unemployment data as were used for Title II–A, except that data for the number for economically disadvantaged youth (age 16 to 21, excluding college students and military) from the 1990 Census was used. For the Insular Areas and Native Americans, the allotments are based on the percentage of Title II–B funds each received during the previous summer.

Title II–B funds for the 1997 Summer Program are to be distributed among designated SDAs in accordance with the statutory formula contained in Section 252(b) of JTPA, as amended by Title VII, Miscellaneous Provisions, of the JTPA Amendments of 1992. This Title VII provides an interim allocation methodology which applies to the PY 1996 allotments. The Title II–B formula is the same as for Title II–C. This is the same formula which was used in the previous program year.

JTPA Title II-C Allotments

The Attachment shows the PY 1997 JTPA Title II-C Youth Training Program allotments by State for a total appropriation of $126,672,000. For all States, the Insular Areas, Puerto Rico, and the District of Columbia, the data used in computing the allotments are the same data as were used for Title II-B allotments.

The allotments for the Insular Areas are based on unemployment data from the 1990 census or, if not available, the most recent data available. Title II-C funds are to be distributed among designated SDAs in accordance with the statutory formula contained in Section 262(b) of JTPA, as amended by Title VII, Miscellaneous Provisions, of the JTPA Amendments of 1992. The Title II-C formula is the same as for Title II-B. This is the same formula which was used in the previous program year.

JTPA Title III Allotments

The Attachment shows the PY 1997 JTPA Title III Dislocated Worker Program allotments by State, for a total of $1,286,200,000. The total includes 80 percent allotted by formula to the States and 20 percent for the National Reserve, including funds allotted to the Insular Areas.

Title III formula funds are to be distributed to State and substate grantees in accordance with the provisions in Section 302 (c) and (d) of JTPA, as amended.

Except for the Insular Areas, the unemployment data used for computing these allotments, relative numbers of unemployed and relative numbers of excess unemployed, are averages for the October 1995 through September 1996 period. Long-term unemployed data used were for CY 1995. Allotments for the Insular Areas are based on the PY 1997 Title II-A allotments for these areas.

A reallotment of these published Title III formula amounts, as provided for by Section 303 of JTPA, as amended, will be based on completed program year expenditure reports submitted by the States and received by October 1, 1997. The Title III allotment for each State will be adjusted upward or downward, based on whether the State is eligible to share in reallotted funds or is subject to recapture of funds.

Wagner-Peyser Act Employment Service Final Planning Estimates

The Attachment shows preliminary planning estimates which have been produced using the formula set forth at Section 6 of the Wagner-Peyser Act, 29 U.S.C. 49e. These allotments are based on averages for the most current 12 months ending September 1996 for each State's share of the civilian labor force and unemployment. Final planning estimates will be published in the **Federal Register**, based on Calendar Year 1996 data, as required by the Wagner-Peyser Act.

The total planning estimate includes $18,000,000 of the total amount available, which is being withheld from distribution to States to finance postage costs associated with the conduct of Employment Service business for PY 1997.

The Secretary of Labor has set aside 3 percent of the total available funds to assure that each State will have sufficient resources to maintain statewide employment services, as required under Section 6(b)(4) of the Wagner-Peyser Act. In accordance with this provision, $22,312,050 is set aside for administrative formula allocation. These set-aside funds are included in the total planning estimate. Set-aside funds are distributed in two steps to States which have lost in their relative share of resources from the prior year. In step one, States which have a CLF below one million and are below the median CLF density are maintained at 100 percent of their relative share of prior year resources. All remaining set-aside funds are distributed on a pro rata basis in step two to all other States losing in relative share from the prior year, but which do not meet the size and density criteria for step one.

Ten percent of the total sums allotted to each State shall be reserved for use by the Governor to provide performance incentives for public employment service offices, services for groups with special needs, and for the extra costs of exemplary models for delivering job services.

Signed at Washington, D.C., this 28 day of April, 1996.

Raymond Uhalde,

Acting Assistant Secretary of Labor for Employment and Training.

BILLING CODE 4510–30–M

U. S. Department of Labor — Employment and Training Administration

PY 1997 State Allotments

State	JTPA II-A Adult Training	JTPA II-B Summer Youth	JTPA II-C Youth Training	JTPA III Dislocated Workers	Wagner-Peyser Employment Service*
Total	**895,000,000**	**871,000,000**	**126,672,000**	**1,286,200,000**	**761,735,000**
Alabama	15,425,171	14,731,389	2,179,730	14,887,940	10,904,884
Alaska	2,827,324	2,713,384	401,486	3,931,646	8,084,754
Arizona	13,052,545	12,757,991	1,887,368	10,790,780	10,643,182
Arkansas	6,880,709	6,572,890	972,558	5,898,001	6,106,428
California	153,250,166	150,622,655	22,286,883	226,611,355	90,164,373
Colorado	7,022,108	6,641,072	982,646	6,569,865	9,866,799
Connecticut	7,539,440	7,136,668	1,055,977	12,269,326	9,009,153
Delaware	2,231,569	2,134,275	315,841	1,966,568	2,077,382
District of Columbia	3,672,453	3,471,224	513,620	5,631,401	3,831,127
Florida	40,250,591	37,105,802	5,490,360	47,487,185	35,726,695
Georgia	17,482,987	16,950,758	2,508,119	15,447,527	17,969,460
Hawaii	4,091,170	3,714,505	549,617	5,392,433	3,064,319
Idaho	3,096,922	3,030,548	448,415	3,203,461	6,736,039
Illinois	35,584,557	34,222,338	5,063,709	41,727,268	31,510,894
Indiana	13,641,788	13,124,158	1,941,916	11,375,233	15,117,782
Iowa	3,708,805	3,398,347	524,918	4,209,472	7,201,885
Kansas	4,360,906	4,099,922	605,939	4,690,124	6,481,486
Kentucky	14,565,605	13,445,916	1,989,525	11,913,534	9,386,734
Louisiana	20,037,136	19,306,183	2,856,082	22,984,811	10,974,924
Maine	3,945,611	3,700,352	547,416	4,643,804	4,005,859
Maryland	12,140,216	11,342,614	1,678,310	16,322,396	13,542,846
Massachusetts	16,130,350	15,441,110	2,282,976	18,455,865	16,745,732
Michigan	27,130,219	26,548,210	3,928,206	24,798,043	24,981,099
Minnesota	8,114,266	7,748,557	1,146,515	8,025,182	11,886,559
Mississippi	11,212,504	11,420,936	1,689,899	10,812,972	6,676,054
Missouri	11,967,379	11,304,305	1,671,008	10,875,026	13,728,447
Montana	3,372,198	3,055,548	452,114	3,531,457	5,504,726
Nebraska	2,231,569	2,134,275	315,841	1,594,122	6,615,599
Nevada	4,347,763	4,138,898	612,293	4,632,379	5,351,173
New Hampshire	2,646,666	2,483,970	369,811	2,260,095	3,126,009
New Jersey	27,890,530	26,201,798	3,876,949	44,679,005	21,859,724
New Mexico	7,363,339	7,122,519	1,053,884	8,607,771	6,177,271
New York	68,296,582	62,275,486	9,214,593	91,917,963	46,723,455
North Carolina	16,354,361	15,370,819	2,274,343	13,056,615	17,597,980
North Dakota	2,231,569	2,134,275	315,841	911,735	5,605,458
Ohio	34,097,534	32,431,985	4,798,799	30,158,145	28,162,334
Oklahoma	8,296,080	7,801,012	1,152,970	6,134,591	9,025,812
Oregon	8,362,790	7,910,738	1,169,798	8,292,745	8,476,270
Pennsylvania	39,717,704	36,804,007	5,445,705	47,736,539	30,949,080
Puerto Rico	41,082,705	38,928,677	5,760,082	39,306,758	9,791,591
Rhode Island	3,203,008	2,967,817	439,047	4,450,933	2,787,104
South Carolina	11,215,056	10,721,280	1,586,374	13,502,936	9,617,652
South Dakota	2,231,569	2,134,275	315,841	815,418	5,180,731
Tennessee	17,572,763	16,486,908	2,439,485	15,412,716	13,646,200
Texas	73,505,460	72,997,242	10,801,038	81,382,699	50,682,998
Utah	2,319,939	2,605,416	385,510	2,503,785	11,148,523
Vermont	2,231,569	2,134,275	315,841	1,060,691	2,426,951
Virginia	14,404,122	13,687,190	2,025,225	13,354,807	16,742,257
Washington	19,694,580	18,972,021	2,807,195	26,317,878	15,105,407
West Virginia	9,333,487	8,808,248	1,303,312	12,065,944	5,929,859
Wisconsin	9,030,434	8,580,958	1,269,434	8,791,150	13,243,509
Wyoming	2,231,569	2,134,275	315,841	999,905	4,019,463
American Samoa	158,403	66,121	22,419	183,561	0
Guam	445,536	806,424	63,058	516,299	348,011
Marshall Islands	336,443	23,765	47,618	389,879	0
Micronesia	501,610	56,317	70,995	581,279	0
Northern Marianas	134,403	30,931	19,022	155,750	0
Palau	102,548	9,326	14,514	118,835	0
Virgin Islands	693,614	457,253	98,169	803,778	1,464,957
Native Americans	0	15,839,842	0	0	0
National Reserve	0	0	0	249,050,619	0
Postage/ Other	0	0	0	0	18,000,000

* Preliminary

[FR Doc. 97–14436 Filed 6–2–97; 8:45 am]
BILLING CODE 4510–30–C

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 97–079]

Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Candace L. Caminati, doing business as BioMetric Systems, of Houston, Texas, has applied for an exclusive license to practice the invention described and claimed in NASA Case No. ARC 14048–1, entitled ''Autogenic-Feedback Training Exercise (AFTE) Method and System,'' for which a United States Patent Application was filed by the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Ames Research Center.

DATE: Responses to this notice must be received by August 4, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth L. Warsh, Patent Counsel, NASA Ames Research Center, Mail Stop 202A–3, Moffett Field, CA 94035, telephone (415) 604–5104.

Dated: May 27, 1997.

Edward A. Frankle,

General Counsel.

[FR Doc. 97–14465 Filed 6–2–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 97–080]

Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Houston Advanced Research Center (HARC), of Woodlands, Texas, has applied for an exclusive license to practice the invention described and claimed in U.S. Patent No. 5,225,065 entitled, ''Conically Scanned Holographic Lidar Telescope,'' which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Goddard Space Flight Center.

DATE: Responses to this notice must be received by August 4, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Guy M. Miller, Patent Counsel, Goddard Space Flight Center, Mail Code 204, Greenbelt, MD 20771, telephone (301) 286–7351.

Dated: May 27, 1997.

Edward A. Frankle,

General Counsel.

[FR Doc. 97–14466 Filed 6–2–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 97–078]

Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Thomas Jensen, of Boise, Idaho, George Gordon, of Denver, Colorado, and Andrew McKittrick, of Plantation, Florida, have applied for an exclusive license to practice the invention described and claimed in NASA Case No. ARC 14048–1, entitled ''Autogenic-Feedback Training Exercise (AFTE) Method and System,'' for which a United States Patent Application was filed by the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Ames Research Center.

DATE: Responses to this notice must be received by August 4, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth L. Warsh, Patent Counsel, NASA Ames Research Center, Mail Stop 202A–3, Moffett Field, CA 94035, telephone (415) 604–5104.

Dated: May 27, 1997.

Edward A. Frankle,

General Counsel.

[FR Doc. 97–14464 Filed 6–2–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 97–077]

Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice of intent that Telectro-Mek, Inc., of Fort Wayne, IN 46857–1289, has applied for an exclusive license to practice the invention described and claimed in U.S. Patent No. 5,050,081, entitled ''Method and System for Monitoring and Displaying Engine Performance Parameters,'' which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to NASA Langley Research Center.

DATES: Responses to this notice must be received by August 4, 1997.

FOR FURTHER INFORMATION CONTACT: George F. Helfrich, Patent Counsel, NASA Langley Research Center, Mail Stop 212, Hampton, VA 23681–0001; telephone (757) 864–9260; fax (757) 864–9190.

Dated: May 27, 1997.

Edward A. Frankle,

General Counsel.

[FR Doc. 97–14463 Filed 6–2–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: Office of Records Services, National Archives and Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that propose the destruction of records not previously authorized for disposal, or reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before July 18, 1997. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Civilian Appraisal Staff (NWRC), National Archives and Records Administration, College Park, MD 20740–6001. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

FOR FURTHER INFORMATION CONTACT: Michael L. Miller, Director, Records Management Programs, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001, telephone (301)713–7110.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of the Army (N1–AU–97–7). Professional conduct and legal mismanagement records accumulated in the office of the Judge Advocate General.

2. Department of Commerce, National Oceanic and Atmospheric Administration (N1–370–96–8). Nautical chart source standard files.

3. Department of Justice (N1–60–97–3). Case files relating to enforcement of the Americans with Disabilities Act of 1990.

4. Department of Justice (N1–118–97–1). Reading files maintained by U.S. Attorneys.

5. Department of Justice, United States Marshals Service (N1–527–97–8). Special assignments files.

6. Department of State, Bureau of Public Affairs (N1–59–97–11). ''U.S. Foreign Affairs on CD–ROM'' prepared by the Office of Public Communications.

7. Department of State (N1–59–97–16). Routine, facilitative, duplicative, or fragmentary records of Bureau of African Affairs, Bureau of Inter-American Affairs, Bureau of Intelligence and Research, and the Executive Secretariat.

8. Department of the Treasury, Office of the Comptroller of the Currency (N1–101–97–3). Bank examination working papers.

9. Consumer Product Safety Commission (N1–424–94–1). Case files maintained by the Office of General Counsel.

10. Federal Retirement Thrift Investment Board (N1–474–96–1, N1–474–96–3 through 5; N1–474–97–1 through 5). Comprehensive schedules for all offices except General Counsel.

11. Institute of Museum and Library Services (N1–288–97–1 and N1–288–97–2). Formula grant-related records and working papers to discretionary grants.

12. National Indian Gaming Commission (N1–220–97–6). Comprehensive schedule for textual and audiovisual records (substantive program records are designated for permanent retention).

13. Pension Benefit Guaranty Corporation (N1–465–95–4). Records of the Office of General Counsel.

14. President's Council on Physical Fitness and Sports (N1–220–97–5). Comprehensive records schedule.

Dated: May 27, 1997.

Michael J. Kurtz,

Assistant Archivist, for Record Services—Washington, DC.

[FR Doc. 97–14403 Filed 6–2–97; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

Time: 9:30 a.m., Tuesday, June 10, 1997.

Place: The Board Room, 5th Floor 490, L'Enfant Plaza, S.W.,Washington, D.C. 20594.

Status: Open.

Matters to be Discussed:

6794A Recommendations on Air Bags and Occupant Restraint Use.

6595A Marine Accident Report: Grounding of the Liberian Passenger Ship STAR PRINCESS on Poundstone Rock, Lynn Canal, Alaska, June 23, 1995.

News Media Contact: Telephone: (202) 314–6100.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 314–6065.

Dated: May 30, 1997.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 97–14554 Filed 5–30–97; 2:48 pm]

BILLING CODE 7533–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–30691 License No. 35–26953–01 EA 96–502]

In the Matter of Barnett Industrial X-Ray, Inc., Stillwater, OK; Order Imposing Civil Monetary Penalty

I

Barnett Industrial X-Ray, Inc., (BIX or Licensee) is the holder of Materials License No. 35–26953–01 issued by the Nuclear Regulatory Commission (NRC or Commission) on December 28, 1988, and last renewed on March 21, 1996. The license authorizes the Licensee to possess sealed radioactive sources for use in conducting industrial radiography activities in accordance with the conditions specified therein.

II

An inspection and investigation of the Licensee's activities was conducted October 3, 1996, through December 9, 1996, in response to a radiography incident which the Licensee reported to the NRC. The results of this inspection and investigation indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (notice) was served upon the Licensee by letter dated February 24, 1997. The Notice described the nature of the violations, the provisions of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violations.

The Licensee responded to the Notice in a letter dated March 11, 1997. In its

response, the Licensee admitted the violations, but requested that the civil penalty be remitted based on the circumstances of this case (see Appendix).

III

After consideration of the Licensee's response and the arguments for mitigation contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that the penalty proposed for the violations designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *it is hereby ordered that:*

The Licensee pay a civil penalty in the amount of $4,000 within 30 days of the date of this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to Mr. James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738.

V

The Licensee may request a hearing within 30 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission Washington, D.C. 20555, and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a ''Request for an Enforcement Hearing'' and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission Washington, D.C. 20555, with a copy to the Commission's Document Control Desk, Washington, D.C. 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, Texas 76011.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order (or if written approval of an extension of time in which to request a hearing has not been granted), the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

Whether on the basis of the violations admitted by the Licensee, this Order should be sustained.

Dated at Rockville, Maryland this 23rd day of May 1997.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

Appendix

Evaluation and Conclusions

On February 24, 1997, a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was issued for violations identified during an NRC inspection and investigation. Barnett Industrial X-Ray, Inc., (BIX or Licensee) responded to the Notice on March 11, 1997. BIX admitted the violations, but requested that the civil penalty be remitted based on the circumstances of this case. The NRC's evaluation of the Licensee's request and conclusions follow:

Summary of Licensee's Request for Mitigation

BIX stated that the employees who committed the violations were amply trained in radiation safety as well as proper radiography techniques and were audited by BIX more often than required by NRC regulations. BIX further stated that it feels the ''two men in question took it upon themselves to disregard what they knew to be right and legal.'' BIX stated that 50 percent responsibility on the part of the company, as the penalty implies,[1] is inequitable, and requested that the penalty be remitted in light of the circumstances of the case and BIX's actions in responding to and reporting the incident.

NRC Evaluation of Licensee's Request for Mitigation

The NRC recognizes that BIX's employees were fully trained and audited in accordance with NRC requirements. The NRC's Enforcement Policy, however, does not allow mitigation of a civil penalty for that reason because training and auditing are required by NRC regulations. While the NRC acknowledges that Licensee employees may have been audited more frequently than what is required by NRC requirements, it appears that such frequency was not sufficient to prevent the violations described in the Notice. NRC regulations set forth minimum auditing requirements. It is BIX's responsibility to control its activities, including auditing as necessary to ensure compliance. In that regard, it is noteworthy that BIX stated, in its March 11, 1997 response to the Notice, that it has ''increased the number of jobsite audits by 100% per radiographic crew.''

As to BIX's statement that the radiographers disregarded regulatory requirements, the NRC considered the radiographers' conduct in its enforcement decision. Specifically, on April 15, 1997, the NRC issued a Confirmatory Order to the radiographer prohibiting him from engaging in NRC-licensed activities for a period of three years, and a letter to the assistant radiographer reminding him that similar misconduct in the future may lead to significant enforcement action against him.

Nevertheless, the radiographers' conduct on October 3, 1996, does not relieve BIX of its responsibility as a licensee of the Commission. As noted below, the Commission has left no doubt that licensees are responsible for violations of NRC requirements regardless of whether they occurred as a result of negligence or willful misconduct. BIX's argument that it should not be held fully responsible for the actions of its employees is contrary to NRC requirements, the Enforcement Policy, and past enforcement actions.

10 CFR 34.2, defines Radiographer as ''any individual who performs or who, in attendance at the site where the sealed source or sources are being used, personally supervises radiographic operations and who is *responsible to the licensee* for assuring compliance with the requirements of the Commission's regulations and the conditions of the license.'' [Emphasis added]

Section VI.A. of the Enforcement Policy states, in part, that ''licensees are not ordinarily cited for violations resulting from matters not within their control, such as equipment failures that were not avoidable by reasonable licensee quality assurance measures or management controls. Generally, however, licensees are held responsible for the acts of their employees.''

The Commission formally considered the responsibility issue between a licensee and its employees in its decision concerning the Atlantic Research Corporation case, CLI–80–7, dated March 14, 1980. In that case, the Commission stated, in part, that ''a division of responsibility between a licensee and its employees has no place in the NRC regulatory regime which is designed to implement our obligation to provide adequate protection to the health and safety of the public in the commercial nuclear field.'' Therefore, the Licensee's understanding of its responsibility (i.e., 50 percent responsibility on the part of BIX) is incorrect. The NRC holds its licensees 100 percent responsible for licensed activities. To hold otherwise, would mean that BIX improperly transferred control of licensed material to its employees.

The NRC does not specifically license the management or the employees of a company; rather, the NRC licenses the entity. The licensee uses, and is responsible for the possession of, licensed material. The licensee is the entity that hires, trains, and supervises the employees. All licensed activities are carried out by employees of the licensee and, therefore, all violations are caused by employees. A licensee obtains the benefits of good employee performance and suffers the consequences of poor employee performance. Not holding the licensee responsible for the actions of its employees, whether such actions result from negligence or willful

[1] The proposed penalty was one half of the base value for a Severity Level II problem.

misconduct, is tantamount to not holding the licensee responsible for the use or possession of licensed material. If the NRC adopted this position, there would be less incentive for licensees to monitor their own activities to assure compliance because licensees could attribute noncompliance to employee negligence or misconduct.

With regard to BIX's argument that its actions in responding to and reporting the incident should be considered, the NRC notes that BIX's actions were considered in proposing the civil penalty. In fact, as stated in the NRC's February 24, 1997 letter, BIX's prompt voluntary reporting of the incident to the NRC and its prompt and comprehensive corrective actions formed the basis for proposing a civil penalty limited to one-half of the base value for a Severity Level II problem. Thus, the NRC believes that the circumstances of this case were appropriately considered in determining the proposed penalty amount.

NRC Conclusion

The NRC rejects BIX's arguments that it should not be held fully responsible for the violations, and believes that BIX's actions in responding to and reporting the incident were appropriately considered in determining the proposed penalty amount. The NRC concludes, therefore, that the Licensee has not provided adequate justification for a reduction or remission of the proposed civil penalty. Consequently, the proposed civil penalty in the amount of $4,000 should be imposed by order.

[FR Doc. 97–14394 Filed 6–2–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[IA 97–032]

In the Matter of Mr. Daniel R. Baudino; Order Prohibiting Involvement in NRC-Licensed Activities

I

Mr. Daniel R. Baudino was formerly employed by Bechtel Constructors Inc. (Bechtel) at the Commonwealth Edison Company's Dresden Nuclear Station (ComEd, Dresden, or Licensee) where he was granted unescorted access. ComEd holds Facility Licenses No. DPR–2, No. DPR–19, and No. DPR–25 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 50. These licenses authorize ComEd to operate the Dresden Nuclear Station, Units 2 and 3, and possess and maintain but not operate Unit 1 (Dresden Station) located near Morris, Illinois, in accordance with the conditions specified therein.

II

In accordance with 10 CFR 73.56, nuclear power plant licensees must conduct access authorization programs for individuals seeking unescorted access to protected and vital areas of the plant with the objective of providing high assurance that individuals granted unescorted access are trustworthy and reliable and do not constitute an unreasonable risk to the health and safety of the public. The unescorted access authorization program must include a background investigation, including criminal history. The decision to grant unescorted access authorization must be based on the licensee's review and evaluation of all pertinent information.

In order to be certified for unescorted access at Dresden Station as a contractor employee, Mr. Baudino completed Dresden Station forms entitled ''Personal History Questionnaires for Unescorted Access'' (personal history questionnaires) on several occasions, including January 16, 1992, and October 5, 1992. On each of these forms, Mr. Baudino indicated and certified with his signature that he had never been arrested and convicted of a criminal proceeding for the violation of any law, regulation or ordinance, including driving under the influence or traffic offenses other than non-personal injury traffic or parking offenses. Mr. Baudino was subsequently granted unescorted access to the Dresden station on each occasion, based in part on his representations on the personal history questionnaires that he had no criminal history. Mr. Baudino's unescorted access to the Dresden Station was revoked for cause by the Licensee on December 5, 1995, for other reasons than accurately completing his personal history questionnaire.

During an investigation by the NRC Office of Investigations (OI) at the Dresden Station, Mr. Baudino was interviewed by OI on March 14, 1996. During the interview, Mr. Baudino was shown copies of the personal history questionnaires referenced above and acknowledged that the signatures on each of the forms were his.

Mr. Baudino also acknowledged that his marking of an ''x'' in the ''no'' block under the question regarding criminal history indicated that he had not been arrested or convicted of any offenses. When confronted with the arrest records that OI had obtained from the Grundy County, Illinois, Circuit Court, which revealed that Mr. Baudino had multiple arrests and convictions during the period of 1987 to October 5, 1992, Mr. Baudino admitted they were records of his arrests. Mr. Baudino stated that he thought the questions pertained to federal arrests and convictions when asked why he falsely reported on the forms that he had no criminal history.

In a report issued on September 23, 1996, OI concluded that Mr. Baudino deliberately falsified his criminal history information on the personal history questionnaires in order to gain unescorted access to the Dresden Station.

III

Based on the above, the NRC has concluded that Mr. Baudino engaged in deliberate misconduct on January 16, 1992, and October 5, 1992, by deliberately falsely stating on the personal history questionnaires he signed on those dates that he had no criminal history. Mr. Baudino's actions constitute a violation of 10 CFR 50.5(a)(2), which prohibits an individual from deliberately providing information to a licensee or contractor that the individual knows is inaccurate or incomplete in some respect material to the NRC. The information that Mr. Baudino provided regarding his criminal history was material because, as indicated above, licensees are required to consider such information in making unescorted access determinations in accordance with the requirements of 10 CFR 73.56.

The NRC must be able to rely on the Licensee, its contractors, and the Licensee and contractor employees to comply with NRC requirements, including the requirement to provide information that is complete and accurate in all material respects. Mr. Baudino's actions in deliberately providing false information to the Licensee constitute deliberate violations of Commission regulations, and his doing so on multiple occasions raises serious doubt as to whether he can be relied upon to comply with NRC requirements and to provide complete and accurate information to NRC Licensees and their contractors in the future, and raises doubt about his trustworthiness and reliability.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public would be protected if Mr. Baudino were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health, safety and interest require that Mr. Baudino be prohibited from any involvement in NRC-licensed activities for a period of five years from the date of this Order, and if Mr. Baudino is currently involved with another licensee in NRC-licensed activities, Mr. Baudino must immediately cease such activities, and inform the NRC of the name, address and telephone number of

the employer, and provide a copy of this Order to the employer. Additionally, Mr. Baudino is required to notify the NRC of his first employment in NRC-licensed activities following the prohibition period. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of Mr. Baudino's conduct described above is such that the public health, safety and interest require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 103, 161b, 161c, 161i and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 50.5 and 10 CFR 150.20, *It is hereby ordered, effective immediately, that*:

1. Mr. Daniel R. Baudino is prohibited from engaging in activities licensed by the NRC for five years from the date of this Order. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.

2. For a period of five years after the five year period of prohibition has expired, Mr. Baudino shall, within 20 days of his acceptance of each employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. In the first notification, Mr. Baudino shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission shall have confidence that he will now comply with applicable NRC requirements.

The Director, OE, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Baudino of good cause.

V

In accordance with 10 CFR 2.202, Mr. Baudino must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Baudino or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U. S. Nuclear Regulatory Commission, ATTN: Chief, Rulemakings and Adjudications, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, Region III, U.S. Nuclear Regulatory Commission, 801 Warrenville Road, Lisle, Illinois 60532–4351, and to Mr. Baudino, if the answer or hearing request is by a person other than Mr. Baudino. If a person other than Mr. Baudino requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Mr. Baudino or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Baudino may, in addition to demanding a hearing, at the time that answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for a hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland this 27th day of May 1997.

For the Nuclear Regulatory Commission.

Edward L. Jordan,

Deputy Executive Director for Regulatory Effectiveness.

[FR Doc. 97–14396 Filed 6–2–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–327 and 50–328, License Nos. DPR–77 and DPR–79, EA 96–414]

In the Matter of Tennessee Valley Authority, Sequoyah Nuclear Plant, Units 1 and 2; Order Imposing Civil Monetary Penalty

I

Tennessee Valley Authority (Licensee) is the holder of Operating License Nos. DPR–77 and DPR–79 issued by the Nuclear Regulatory Commission (NRC or Commission) on September 17, 1980, and September 15, 1981, respectively. The licenses authorize the Licensee to operate the Sequoyah Nuclear Plant, Units 1 and 2 in accordance with the conditions specified therein.

II

An inspection of the Licensee's activities at the Sequoyah Nuclear Plant was conducted during the period September 19 through November 2, 1996. The results of this inspection indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalties (Notice) was served upon the Licensee by letter dated December 24, 1996. The Notice stated the nature of the violations, the provisions of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violations.

The Licensee responded to the Notice in a letter dated January 23, 1997. In its response, the Licensee agreed that the violations occurred but contested NRC's application of the Enforcement Policy and requested the NRC to reconsider its decision to categorize Violations A(1), A(2) and A(3) as a Severity Level III problem and mitigate the proposed civil penalty for Violations A(1), A(2) and A(3) in its entirety. The Licensee's request was based on its view that NRC's categorization of Violations A(1), A(2) and A(3) as a Severity Level III problem and the proposed imposition of a $50,000 civil penalty was inconsistent with the NRC Enforcement Policy.

III

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that the violations occurred as stated and that the penalty proposed for the violations designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *It is hereby ordered That:*

The Licensee pay a civil penalty in the amount of $50,000 within 30 days of the date of this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738.

V

The Licensee may request a hearing within 30 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a ''Request for an Enforcement Hearing'' and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the Commission's Document Control Desk, Washington, D.C. 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region II, Atlanta Federal Center, 61 Forsyth Street, S.W., Suite 23T85, Atlanta, Georgia 30303.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order (or if written approval of an extension of time in which to request a hearing has not been granted), the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issue to be considered at such hearing shall be:

Whether on the basis of the violations admitted by the Licensee, this Order should be sustained.

Dated at Rockville, Maryland this 23d day of May 1997.

For the Nuclear Regulatory Commission.

Edward L. Jordan,

Deputy Executive Director for Regulatory Effectiveness, Program Oversight, Investigations and Enforcement.

Evaluations and Conclusion

Violations A(1), A(2) and A(3)

On December 24, 1996, the NRC issued to Tennessee Valley Authority (licensee or TVA) a Notice of Violation and Proposed Imposition of Civil Penalties (NOV) including three violations, described as A(1), A(2) and A(3), identified during an NRC inspection conducted during the period September 19 through November 2, 1996, at the Sequoyah Nuclear Plant. In its response dated January 23, 1997, the licensee agreed that the violations occurred but stated that NRC's categorization of Violations A(1), A(2) and A(3) as a Severity Level III problem and the proposed imposition of a $50,000 civil penalty was inconsistent with the NRC Enforcement Policy. The licensee requested that the NRC reconsider its decision regarding the severity level of the violations and/or mitigate the proposed civil penalty in its entirety. The NRC's evaluations and conclusion regarding the licensee's requests are as follows:

Summary of Licensee's Request for Reduction in Severity Level

In its request for reconsideration of the severity level of Violations A(1), A(2) and A(3), the licensee maintained that site management had begun a series of initiatives designed to improve corrective action program effectiveness. The initiatives included: (1) Providing root cause analysis training to engineering personnel, (2) increasing engineering awareness of maintenance and plant activities, (3) lowering the threshold for identifying deficient plant conditions through management monitoring and coaching in the field, and (4) adding senior management review of equipment root cause analysis to reinforce management expectations.

With regard to TVA's history of activities to upgrade the Sequoyah corrective action program, the licensee maintained that as early as July 1996, TVA had identified the fact that problems existed with corrective action program implementation. In a management meeting with the NRC on August 8, 1996, TVA informed the NRC that corrective actions did not always achieve problem resolution. Additionally, based on a 1995 TVA quality assurance audit, an accelerated audit schedule was initiated in the area of the corrective action program. The September 1996 corrective action audit identified that corrective action program implementation was not totally effective. Therefore, the licensee concluded that the root cause for the October 11, 1996 equipment failures (inadequate corrective action program implementation) was previously identified by TVA in advance of the equipment failures.

In addition, TVA noted that the NRC's Enforcement Policy specifically recognizes that credit for identification is warranted in those situations where the problem is identified through an event, and the licensee has made a noteworthy effort in determining the root cause associated with the violations. TVA stated that it believed that such credit is especially warranted in this case because TVA had identified the root cause even before the equipment failures arose and was taking action, both at the time of the failures and after the failures took place, to address the cause. The following summarizes the violations cited by NRC and information submitted by TVA in support of a request for reduction in severity level.

Violation A(1)

This violation involved the licensee's failure to perform adequate evaluations of deficient conditions and to take adequate corrective actions to preclude repetition of significant conditions adverse to quality for the main feedwater isolation valve (MFIV) failures in January 1989, September 1990, September 1994, and April 1995. The failure to preclude repetition of this adverse condition resulted in the failure of MFIV 2–MVOP–003–0100–B to close on October 11, 1996, after receiving a valid feedwater isolation signal.

The licensee stated that the listing of the earlier MFIV ''failures'' oversimplified the maintenance history of the subject valve. The January 1989 failure marked the first failure of a MFIV due to corrosion build-up on the brake. Extensive corrective actions were taken, and it was believed that those actions were fully adequate to prevent recurrence following the 1990 MFIV failure. The licensee noted that the motor did not fail to stroke in September 1994; however, water and rust were found in the brake assembly. The licensee stated that in April 1995,

the MFIV did not initially travel to the closed position on operator demand due to an electrical short in the brake circuitry and the problem was not associated with motor brake corrosion.

In addition, the licensee noted that the NOV cover letter discussed failures of the MFIV to stroke on four previous occasions. The licensee, in clarification of the previous failures, noted that the valve failed to stroke on two occasions due to corrosion of the brake assembly and failed a third time due to an electrical problem. The licensee also indicated that the brake was not tested prior to maintenance in September 1994 and, therefore, the NRC statement that the valve failed to stroke was not accurate.

Violation A(2)

This violation involved the licensee's failure to implement a corrective action plan developed in late 1993 to address issues identified in NRC Inspection and Enforcement (IE) Bulletin 78–14, ''Deterioration of Buna-N Components in ASCO Solenoids,'' and Generic Letter 91–15, ''Operating Experience Feedback Report, Solenoid-Operated Valve Problems at United States Reactors.'' This violation also addressed the licensee's failure to implement effective corrective actions for Problem Evaluation Report (PER) SQPER930001, which identified previous deficiencies in the operation of ASCO solenoid valves due to degradation of the Buna-N material.

The December 24, 1996 NRC letter stated that the failure of the ASCO solenoid valve caused excessive reactor coolant pump (RCP) seal leakage. The licensee stated that, more accurately, TVA shut down the unit in accordance with procedural guidance for an alarm condition, that RCP total seal flow remained stable, that the No. 2 RCP seal is designed for 100 hours of operation at full reactor coolant system pressure, and that as such, the condition of the No. 2 RCP seal was within its design basis.

In addition, the licensee contended that the December 24 letter inaccurately stated that a number of other valves were subsequently determined to be degraded. In response, TVA noted that some of the valves containing the Buna-N material had signs of aging, but were capable of performing their intended safety function.

The licensee further noted that the December 24 letter stated that TVA had been alerted to problems with Buna-N by NRC Bulletin 78–14 and Generic Letter 91–15, however; the licensee maintained that these documents did not specifically identify the problems that TVA experienced. The licensee noted that NRC Bulletin 78–14 discussed deterioration through natural aging and did not specifically address thermal degradation of the Buna-N materials. The licensee also stated that Generic Letter 91–15 discussed the reliability of solenoid valves used in safety applications and then stated that the RCP seal return isolation valve solenoid was not safety related.

Finally, the licensee noted that PER SQPER930001 was initiated to address solenoid valves that were mounted directly to hot piping systems and that the solenoid valve on the RCS pump seal return flow control valve operated in a much more moderate temperature and was not mounted directly to any hot piping system.

Violation A(3)

This violation involved the licensee's failure to develop an adequate corrective action plan and the failure to implement adequate corrective actions for the inadvertent fire system deluge actuation in July 1996.

In response, TVA noted that it had corrected the leaking water source, replaced the failed fire detector, and conducted a post-deluge walkdown of the area, but did not inspect the affected junction box. The licensee also noted that it would have been difficult to recognize the water intrusion path.

The licensee concluded that given TVA's early identification and initiation of corrective actions and its several initiatives to upgrade the plant's material condition, sufficient bases exists for not imposing any civil penalty for the events associated with the October 11, 1996, Unit 2 shutdown. The licensee concluded that the violations could more appropriately be cited as separate Severity Level IV violations or that enforcement discretion should be exercised based on credit for TVA's identification and comprehensive corrective action. TVA also noted that a civil penalty under the facts and circumstances at hand would serve no purpose other than to punish the licensee and would be in contrast to the enforcement policy's stated purpose which is to, among other things, focus on the current performance of the licensee.

NRC Evaluation of Licensee's Request for Reduction in Severity Level

In reviewing the licensee's response, no additional information was provided that was not previously considered by the NRC in its deliberations regarding this matter.

The NRC acknowledges the licensee's position that, individually, the safety consequences of these violations were not a major concern. However, based on the fact that the three equipment failures that resulted from failures to take adequate corrective action all complicated the recovery from one event, the NRC concludes the regulatory significance of failing to take adequate corrective action and the potential safety consequences of the resulting multiple equipment failures during an event represents a significant regulatory concern. As stated in Section IV.A of the Enforcement Policy (NUREG–1600), a group of Severity Level IV violations may be evaluated in the aggregate and assigned a single, increased severity level, thereby resulting in a Severity Level III problem, if the violations have the same underlying cause or programmatic deficiencies. The purpose of aggregating violations is to focus the licensee's attention on the fundamental underlying causes for which enforcement action is warranted and to reflect the fact that several violations with a common cause may be more significant collectively than individually and may, therefore, warrant a more substantial enforcement action. In this case, the NRC determined that the violations have the same underlying cause: inadequate implementation of the corrective action program; and therefore, were considered to be a significant regulatory concern.

The licensee's position that the NRC should exercise discretion for identifying corrective action program problems and the improvements initiated in September 1996 cannot be supported. The NRC recognizes that improvement steps have been taken. However, inadequate implementation of the corrective action program has been identified as a continuing problem. NRC-identified corrective action program implementation deficiencies were noted in multiple inspection reports and previous Systematic Assessments of Licensee Performance (SALP) reports, in addition to present findings from licensee audits indicating the need for further improvements. Specifically, the Sequoyah Quality Assurance (QA) organization recently published similar conclusions. QA's ''Sequoyah Executive Summary—First Quarter Fiscal Year 1997'' report identified that both the Maintenance and Engineering organizations had failed to correct long-standing issues. In addition, recent, continuing QA audits of the corrective action program have identified poor corrective action program implementation in that a significant number of PERs were being rejected due to inadequate root cause

determination or insufficient corrective actions. The most recent NRC SALP report, NRC Inspection Report (IR) 50–327 and 50–328/96–99, dated September 6, 1996, also stated that corrective actions were untimely and not fully effective in many cases. Prior to that, the 1995 NRC SALP report, IR 95–99, dated February 21, 1995, noted several instances where ineffective corrective actions were observed. IRs 327, 328/96–09, 96–08, 96–01, and 95–26 identified various ineffective corrective action issues or violations. In addition, IR 327, 328/95–25, the Final Integrated Performance Assessment Process Report, noted in the area of Engineering, a ''Weakness'' in Problem Identification/Problem Resolution and in the area of Safety Assessment/Corrective Action, noted a ''Significant Weakness'' in the area of Problem Resolution. These problems with the corrective action program indicated continuing weak program implementation and weak expectations regarding equipment failure trending, which related to a lack of management oversight and control of the corrective action program. Accordingly, enforcement discretion is not warranted.

A discussion of the licensee's specific comments on each violation is described in detail below:

Violation A(1)

Enclosure 1 of the NOV cited TVA's failure to perform adequate evaluations or to take adequate corrective actions for MFIV failures in January 1989, September 1990, September 1994, and April 1995. The licensee stated ''this listing of MFIV failures oversimplified the maintenance history of the subject MFIV.'' The licensee provided a short history of each of the brake failures, and noted that the MFIV only failed to stroke on two occasions. In addition, the licensee stated: ''In April 1995, the MFIV did not initially travel to the closed position on operator demand because of an electrical short circuit. The problem was not associated with motor brake corrosion.''

The NRC does not disagree with the licensee's clarification regarding the number of times the MFIV failed to stroke. However, the licensee has not provided a sufficient basis to support its conclusion that the April 1995 MFIV failure was due to an electrical short circuit, and the NRC does not agree with the licensee's evaluation. The work order associated with the April 1995 failure listed an ''electrical ground'' as the cause of the failure, not an electrical short. A grounded lead would not have affected the functioning of the MFIV. A circuit short would have caused the motor brake assembly circuit fuses to blow, which was not documented. Regardless, neither an electrical ground nor a short circuit would have prevented the operation of the MFIV. The inspectors were informed by the licensee that the motor is designed to override the brake assembly and to close the valve if the brake does not electrically release. In addition, the inspectors noted that the brake assembly was discarded due to a grounded lead, which did not appear to be reasonable for an expensive piece of equipment, and that an evaluation or root cause determination of the brake assembly was not performed. In addition, maintenance workers extensively applied a sealant to the brake assembly housing, indicating that water intrusion was a known problem for this valve. This was especially apparent since none of the other seven MFIVs had any sealant applications.

In this example, the NRC violation specifically cited the licensee's failure to perform adequate evaluations of deficient conditions. Although the actual root cause of the April 1995 failure, is unknown and debatable, the inspectors concluded that the licensee's documented root cause, ''grounded lead,'' would not have resulted in the observed failure. Therefore, the NRC concluded that the licensee failed to perform an adequate evaluation for the April 1995, failure and subsequently did not identify appropriate corrective actions.

Nevertheless, the NRC continues to believe numerous opportunities existed to identify this particular component as problematic and to perform the necessary evaluation to identify the MFIV moisture intrusion problem. TVA failed to identify the root cause and take adequate corrective actions for the recurring failures.

Violation A(2)

The licensee indicated that the NRC December 24, 1996 letter statement, ''* * * the failure of the ASCO solenoid valve caused excessive RCP seal leakage,'' was not accurate. The licensee took exception to the word ''excessive'' and then stated, ''More accurately, TVA shut down the unit in accordance with procedural guidance applicable to the alarm condition resulting from low No. 1 seal return flow. Specifically, the closure of the No. 1 seal return flow control valve resulted in the normal No. 1 seal return flow cascading to the Nos. 2 and 3 seals. Overall, total seal flow to the RCP remained stable. The No. 2 RCP seal is designed for 100 hours of operation at full RCS pressure to allow operators time to react. As such, the condition to which the No. 2 seal was subjected was within the design condition for that seal.''

The inspectors noted that, on October 11, 1996, a seal leakoff low flow alarm for the No. 4 RCP annunciated, followed shortly by the RCP standpipe alarm high/low annunciation. The operators entered Abnormal Operating Procedure R.04, ''Reactor Coolant Pump Malfunctions,'' Section 2.3, ''RCP #1 Seal Leakoff Low Flow.'' Step 6 of Section 2.3, ''Verify RCP #2 seal leakoff less than or equal to 0.5 gpm,'' directed the operators to Section 2.4, ''RCP #2 Seal Leakoff High Flow.'' A note in Section 2.4 states, ''A leakoff of greater than 0.5 gpm indicates that a seal problem exists.'' Step 3 of Section 2.4 directs the operators to ''Monitor RCP #2 seal Intact: Verify RCP #2 seal leakoff less than or equal to 0.5 gpm. * * *'' If RCP #2 seal is greater than 0.5 gpm, the operators are directed to perform a plant shutdown within 8 hours. Also, Summary Report, Failure of 2–FCV–62–48, RCP #4 Seal Leak Off Isolation Valve, stated, ''An entry was made in containment to check the Loop 4 No. 1 Seal Leak Off Isolation valve and it was found to be closed, resulting in abnormally high leak off from the No. 2 seals. * * *''

The NRC realizes that total seal leakage for this event was not significant when based on overall RCS inventory. However, based on leakage that exceeded the alarm setpoint and which required a plant shutdown, the NRC still considers the term ''excessive'' to be appropriate as used in this context.

The licensee indicated that the December 24 NRC letter inaccurately stated that ''* * * a number of other valves were subsequently determined to be degraded.'' The licensee stated, ''More accurately, following the October 11, 1996 event, TVA's extent of condition review found no other instances where solenoid valves had failed. The review did identify some solenoid valves containing Buna-N material with signs of aging. As a conservative measure to increase equipment reliability, these solenoid valves were replaced. The replaced solenoid valves were capable of performing their intended function in their 'as-found' condition.''

The NRC disagrees with this licensee position. The NRC's statement was based on information provided to the NRC by the licensee which indicated that several of the valves were determined to be ''leaking through'' and/or had reduced o-ring elastomer resiliency. The NRC considers these ''signs of aging'' to be indications of

degradation. In addition, the ASCO solenoid valves with the Buna-N material were only qualified for environmental conditions of less than 125 degrees F. However, they were installed where area temperatures exceeded 125 degrees F, which greatly reduced their qualified life. The licensee documented that the valves remained in service for extended periods past their qualified life and as a result, showed signs of aging.

The licensee quoted a statement in the NRC December 24 letter accompanying the violation that ''TVA had been alerted to problems with Buna-N by NRC Bulletin 78–14, Generic Letter 91–15, and a SQN Problem Evaluation Report (PER);'' and stated that ''Listing these documents gives the impression that each document directly addressed the problem at hand. This is not the case.''

The NRC's intent in listing these documents was to indicate that generic information was available on thermal aging of Buna-N that should have been implemented into Sequoyah's corrective action program. Generic communications are not intended to address every possible failure mechanism. However, in this case Generic Letter 91–15 referenced NUREG–1275, Vol. 6, Operating Experience Feedback Report—Solenoid-Operated Valve Problems, which focused on solenoid operated valve (SOV) failures from 1984 through 1989. Section 5.1.1.3 of NUREG–1275 discussed localized ''hot spots'' in containment and reductions in qualified life of the SOVs, which was the precise condition TVA experienced. In addition, based on Generic Letter 91–15, in December 1993, TVA developed corrective actions to implement the Generic Letter concerns (PER SQPER930001), which if broadly implemented had the potential to identify and correct the adverse Buna-N condition; however, at the time of the event, the corrective actions had not been implemented. The NRC's conclusions regarding the ASCO solenoid valve failure were based on the licensee's root cause investigation, which stated that TVA never implemented the action plan developed in 1993.

Further, the NRC noted that following the event, PER No. SQ962633 was initiated and stated, ''Although this type of failure had occurred previously at Sequoyah and had been addressed in an NRC Generic Letter, actions were not taken by plant personnel to prevent future similar failures. The root cause of the valve failure is ineffective application of plant and industry operating experience.'' Based on this documented statement, the licensee's contention that they had not been alerted to the problem is inconsistent with what was said previously in PER No. SQ962633.

Violation A(3)

The licensee's interpretation noted that TVA had corrected the leaking water source, replaced the failed fire detector, conducted a post-deluge walkdown of the area but did not inspect the affected junction box. TVA also noted that it would have been difficult to recognize the water intrusion path.

The NRC was aware of the immediate corrective action plan initiated by the licensee in response to the high-pressure fire protection system deluge header actuation in the Unit 2 turbine building which occurred on July 16, 1996. However, that action plan was not thorough in that it did not consider water intrusion into junction boxes. The licensee stated in their reply to the Notice of Violation that, subsequent to the Unit 2 turbine runback and trip on October 11, 1996, a total of 66 Unit 2 local instrument panels and 70 Unit 1 junction boxes were inspected and evaluated, and repairs were either completed during the forced outage or scheduled within the work scheduling process. During that review, additional junction boxes in the turbine buildings for both units were identified where previous water intrusion was evident. The NRC concluded that a thorough corrective action plan following the July 1996 deluge event would have at least considered the possibility of water intrusion into junction boxes and instrument panels.

In sum, the failure to take appropriate corrective actions as demonstrated by the three violations represent a significant regulatory concern as the inadequate corrective actions contributed to plant events. The licensee has not provided an adequate bases to modify the Severity Level determination.

Summary of Licensee's Request for Mitigation of Civil Penalty

The licensee believes the civil penalty should be mitigated in its entirety because the current site management team was ''keenly aware'' that the quality of past corrective actions was still impacting current performance. In addition, the problems associated with the corrective action program were being aggressively addressed by ongoing improvement initiatives. TVA noted that the comprehensive actions greatly mitigated any regulatory significance that might otherwise exist in this area. TVA requested the NRC to view events in the broader perspective of the improved corrective action program and plant material condition upgrades in exercising discretion to mitigate the civil penalty associated with these violations.

NRC Evaluation of Licensee's Request for Mitigation of Civil Penalty

The NRC does not fully agree with the licensee's position that TVA identified the corrective action program implementation problems and then took comprehensive actions in September 1996. Previous inspection reports and SALP reports noted corrective action program implementation problems. However, the licensee did not fully address the problems in September 1996, and significant corrective action program problems are still being identified. The problems with the corrective action program indicated continuing weak program implementation and weak expectations regarding equipment failure trending, which related to a lack of management oversight and control of the corrective action program.

Contrary to the licensee's statements, the NRC did consider the licensee's efforts to improve the corrective action program's effectiveness prior to the October 11, 1996 event. However, as evidenced by the violations cited in the Notice and the specific circumstances surrounding them, as described in the inspection report, the NRC concluded that (1) the licensee's corrective actions prior to the equipment failures associated with the October 11, 1996 Unit 2 shutdown, were not fully effective in assuring adequate resolution of repetitive equipment failures and avoiding additional non-compliances, and (2) the violations were the result of ineffective corrective action program implementation. Specifically, the examples of inadequate corrective actions identified in Violations A(1), A(2) and A(3) indicate that previous initiatives had not achieved the desired results.

The guidance described in Section VI.B.2.b of the Enforcement Policy was used to evaluate the licensee's actions related to the factor of Identification. Specifically, the NRC concluded that Violations A(1), A(2) and A(3) were revealed through an event. The three violations were identified as a result of the failure of the components involved during the October 11, 1996 event. When violations are identified through an event, Section VI.B.2.b of the Enforcement Policy states that the decision on whether to give the licensee

credit for actions related to identification normally should consider: (1) the ease of discovery; (2) whether the event occurred as the result of a licensee self-monitoring effort; (3) the degree of licensee initiative in identifying the problem or problems requiring corrective action, and (4) whether prior opportunities existed to identify the problem. Enforcement Policy Section VI.B.2.b further states that any of these considerations may be overriding if particularly noteworthy or particularly egregious.

With regard to ease of discovery and prior opportunities, the NRC believes that sufficient information was available to the licensee in each case that led to a violation to indicate that a problem existed. The failure to consider adequately the potential scope of the problems indicated by previous equipment failures and generic communications was an overriding reason to deny credit for identification.

With regard to the degree of licensee initiative in identifying the problem, the fact that TVA had previously recognized the shortcomings of the corrective action program as early as 1995 but failed to identify the violations was of concern to the NRC. In the licensee response, the highlighted corrective actions only addressed actions to ensure future identification of problems and did not address correction of previous failures of the corrective action program to resolve deficiencies.

The event did not occur as a result of a licensee self-monitoring activity; therefore, the NRC concluded, as stated in the December 24, 1996 letter, that credit was not warranted for the factor of Identification. The licensee has not provided an adequate argument to mitigate the civil penalty based on the identification factor.

The NRC did conclude in the December 24, 1996 letter that credit was warranted for the factor of Corrective Action, based on the extensive corrective actions outlined by the licensee at the December 16, 1996 predecisional enforcement conference to improve (1) plant material conditions, (2) management effectiveness, and (3) implementation of the corrective action program. The NRC acknowledged that the licensee had taken and proposed steps, at the time of the predecisional enforcement conference, to improve corrective actions at Sequoyah. However, based on subsequent QA findings, it appears that even TVA's most recent efforts to improve the corrective action program have not been fully effective. While the NRC is not reconsidering the decision to grant Corrective Action credit, the NRC remains concerned and emphasizes again the importance of prompt and comprehensive corrective action.

NRC Conclusion

The NRC concludes that the violations occurred as stated and that collectively they represent a Severity Level III problem. The licensee had opportunities to resolve the issues, in some cases multiple opportunities, however, the deficiencies remained until clearly identified as a result of the October 11, 1996, plant event. Therefore, the NRC has concluded that, neither an adequate basis for a reduction of the severity level nor for mitigation of the civil penalty were provided by the licensee. Consequently, the proposed civil penalty in the amount of $50,000 should be imposed.

Response to Licensee Comments on Violations B(1), B(2) and B(3)

In its response of January 23, 1997, TVA expressed the following concerns with the descriptions of violations B(1), B(2), and B(3) in the NOV.

1. The licensee noted that the December 24, 1996 NRC letter identified one of the root causes of the violations as poor communications among Operations, Maintenance, and Engineering, and the licensee also noted that it could be inferred that poor communication was prevalent throughout the event. In addition, the licensee stated its belief that the poor communications were limited to the subsequent analysis of the equipment condition.

The December 24 letter statement was intended to be a general statement and was not intended to infer that poor communications were ''prevalent'' throughout the event. However, NRC findings indicated that poor communication was not limited only to the subsequent analysis of the condition. Interviews indicated that the Shift Manager, Unit Shift Supervisor and operators had concerns with operability of the reactor trip breaker; however, the differences between Operations and Maintenance/ Engineering were not resolved without management intervention, which resulted in the Limiting Condition for Operation (LCO) being exceeded. This was considered to be a communications issue. In addition, the initial PER did not identify in writing the issue regarding the P–4 turbine trip function, that was later added to the PER due to the Shift Manager's request the following day. This was also considered to be a communications issue. These issues, i.e., the fact that the event review team knew that the disconnected reactor trip breaker contacts affected the operability of the breaker, Technical Support had evaluated the disconnected contact condition, compliance personnel had evaluated the disconnected contacts, management was not notified of the adverse condition and, the event review did not document the adverse condition, were collectively considered to represent poor communications.

2. The licensee noted that the December 24, 1996 NRC letter identified non-conservative decision making as one of the root causes of the violations. This was based on Operations' failure to remove the suspect reactor trip breaker (RTB) for a number of hours. An early, conservative decision on RTB operability could have precluded exceeding the LCO. The licensee stated that at the time the LCO expired, available information/data, did not indicate any abnormality beyond a set of dirty contacts or a loose connection associated with the RTB computer input circuit, and a ''conservative decision'' was made ''not'' to remove the RTB until: (1) An evaluation was made related to the potential for a transient and (2) the breaker was determined to be the most likely cause of the alarm.

The intent of the December 24 letter comment was to put the licensee on notice that a conservative decision ''could'' have prevented exceeding the LCO. In this case, when the breaker abnormality was indicated by an alarm following refurbishment activities, it was not a conservative decision to assume the cause prematurely and leave the breaker in place. A conservative decision would have been instead to remove the suspect equipment until further testing could be completed to ensure operability.

3. The licensee noted that the December 24, 1996 NRC letter stated that Maintenance and Engineering personnel failed to recognize the significance of the rod deviation computer alarm and failed to understand its potential impact on operability. The licensee stated that this NRC comment was based on the licensee staff proposal to troubleshoot the RTB and to ''dummy'' a signal to the computer. In the TVA clarification, the licensee stated that there were no indications that more than one contact was suspect and that the dummied computer value allowed continuous rod deviation monitoring which relieved operators from additional LCO actions. In addition, the licensee stated that it considered the insertion of the dummied value to be more conservative and that the activity was not performed to mask the alarm condition. The

licensee also stated that it did not agree with the NRC's statement that resources were diverted for insertion of a value into the computer in order to clear the alarm.

It is the NRC's conclusion that the licensee failed to recognize the significance of the rod deviation alarm. The licensee stated that there were no indications that more than one contact was involved, however, two previous Westinghouse letters from 1979 and 1987, available to the licensee, identified that the reactor trip breaker P–4 circuitry contained potentially undetectable failures, and in fact several contacts were involved with this event and they were ''undetectable'' without the proper testing. Had appropriate actions in response to the Westinghouse letters been taken, this event potentially would have been avoided. With regard to the ''dummied'' computer input, during initial NRC interviews with the Shift Manager, Unit Shift Supervisor and other control room personnel, the inspector noted that it was the control room staff's belief that, if the computer point could have been readily fixed, no further action would be necessary. In addition, the control room staff expressed an opinion that they had performed above and beyond normal just to get the faulty breaker out of the cubicle. The inspector noted that the insertion of a dummied signal eliminated relatively minor surveillance activities which did not appear to be warranted until the cause for the alarm was positively identified.

[FR Doc. 97–14397 Filed 6–2–97; 8:45 am]
BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8943]

Crow Butte Resources Inc.

AGENCY: Nuclear Regulatory Commission.

ACTION: Final finding of no significant impact notice of opportunity for hearing.

SUMMARY: The U.S. Nuclear Regulatory Commission proposes to amend NRC Source Material License SUA–1534 to allow the licensee, Crow Butte Resources, Inc., to process the approved maximum production flow rate of 5000 gallons per minute using existing upflow ion exchange (IX) columns, rather than the previously-approved combination of upflow and pressurized downflow IX columns, at its in-situ leach uranium mining facility in Dawes County, Nebraska. An Environmental Assessment was performed by the NRC staff in accordance with the requirements of 10 CFR Part 51. The conclusion of the Environmental Assessment is a Finding of No Significant Impact for the proposed licensing action.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Park, Uranium Recovery Branch, Mail Stop TWFN 7–J9, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone 301/415–6699.

SUPPLEMENTARY INFORMATION:

Background

During April 1991, Crow Butte Resources, Inc. (CBR) commenced uranium recovery operations at its Crow Butte in-situ leach (ISL) uranium mining facility in Dawes County, Nebraska. These activities are authorized by NRC Source Material License SUA–1534. The NRC staff prepared an Environmental Assessment (EA) based on its review of CBR's original license application and environmental report (ER); a final Finding of No Significant Impact (FONSI) concerning the issuance of SUA–1534 was published in the **Federal Register** on December 27, 1989 (54 FR 53200). Since the issuance of SUA–1534, the NRC staff has prepared supplemental EAs and published FONSIs based on its review of CBR's amendment requests to: (1) increase its maximum processing flow rate from 2500 gallons per minute (gpm) to 3500 gpm (58 FR 13561; March 12, 1993); (2) increase the processing flow rate from 3500 gpm to the currently approved level of 5000 gpm and the approved restoration flow rate from 1893 lpm (500 gpm) to 3785 lpm (1000 gpm) (61 FR 7541; February 28, 1996); and (3) increase the concentrations of radioactive and non-radioactive constituents in waste streams disposed of through deep well injection (61 FR 34451; July 2, 1996).

Summary of the Environmental Assessment

Identification of the Proposed Action

The proposed action is an amendment to SUA–1534 to allow Crow Butte to process at the approved maximum flow rate using existing upflow IX columns. The NRC staff's review was conducted in accordance with the requirements of 10 CFR 40.32 and 10 CFR 40.45.

Environmental Impacts of the Proposed Action

There will be no construction impacts or land disturbance associated with the proposed action, because CBR will be using existing IX columns, and no increase in the amounts or concentrations of liquid effluents beyond the levels previously assessed. Liquid effluents will be disposed by any of three waste disposal options (in solar evaporation ponds, by deep disposal well, or by land application), all of which have been previously approved for use at the Crow Butte facility.

The proposed action will result in an increase in annual radon emissions to the environment. However, the NRC staff's review found that the results of modeling satisfactorily show that the potential impacts to offsite individuals remain well below the 1 millisievert per year (mSv/yr) (100 millirem per year (mrem/yr)) public dose limit of 10 CFR 20.1301. The largest dose estimate was 0.23 mSv/yr (23 mrem/yr) for the receptor located approximately 1.0 kilometer from the processing plant vent location.

Conclusion

The NRC staff concludes that approval of Crow Butte's amendment request to process its maximum production flow rate using existing upflow IX columns will not cause significant environmental impacts. The following statements summarize the conclusions resulting from the environmental assessment:

(1) In-plant radiological impacts from the proposed amendment request will be negligible. Radiological impacts to the public will remain well below the applicable NRC regulatory limits;

(2) The proposed amendment will not affect CBR's yellowcake possession limits at the facility.

(3) No additional lands will be disturbed by the proposed action;

(4) There will be no increase in the amounts or concentrations of liquid effluents; and

(5) Because the staff has determined that there will be no significant impacts associated with approval of the amendment request, there can be no disproportionately high and adverse effects or impacts on minority and low-income populations. Consequently, further evaluation of 'Environmental Justice' concerns, as outlined in Executive Order 12898 and NRC's Office of Nuclear Material Safety and Safeguards Policy and Procedures Letter 1–50, Rev.1, is not warranted.

Alternatives to the Proposed Action

Since the NRC staff has concluded that there are no significant environmental impacts associated with the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated. The principal alternative to the proposed action would be to deny the requested action. Because the environmental impacts of the proposed action and this no-action alternative are similar, there is no need to further evaluate alternatives to the proposed action.

Agencies and Persons Consulted

The NRC staff consulted with the State of Nebraska, Department of Environmental Quality (NDEQ), in the development of the Environmental Assessment. A facsimile copy of the final Environmental Assessment was transmitted to Mr. Frank Mills of the NDEQ on May 1, 1997. In a telephone conversation on May 6, 1997, Mr. Mills indicated that the NDEQ had no comments on the Environmental Assessment.

Finding of No Significant Impact

The NRC staff has prepared an Environmental Assessment for the proposed amendment of NRC Source Material License SUA–1534. On the basis of this assessment, the NRC staff has concluded that the environmental impacts that may result from the proposed action would not be significant, and therefore, preparation of an Environmental Impact Statement is not warranted.

The Environmental Assessment and other documents related to this proposed action are available for public inspection and copying at the NRC Public Document Room, in the Gelman Building, 2120 L Street NW., Washington, DC 20555.

Notice of Opportunity for Hearing

The Commission hereby provides notice that this is a proceeding on an application for a licensing action falling within the scope of Subpart L, ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings,'' of the Commission's Rules of Practice for Domestic Licensing Proceedings in 10 CFR Part 2 (54 FR 8269). Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(c), a request for a hearing must be filed within thirty (30) days from the date of publication of this **Federal Register** notice. The request for a hearing must be filed with the Office of the Secretary either:

(1) By delivery to the Rulemakings and Adjudications Staff of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemakings and Adjudications Staff.

Each request for a hearing must also be served, by delivering it personally or by mail to:

(1) The applicant, Crow Butte Resources, 216 Sixteenth Street Mall, Suite 810, Denver, Colorado 80202; and

(2) The NRC staff, by delivery to the Executive Director of Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the Commission's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

(3) the requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

Any hearing that is requested and granted will be held in accordance with the Commission's ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings'' in 10 CFR Part 2, Subpart L.

Dated at Rockville, Maryland, this 23rd day of May 1997.

For the Nuclear Regulatory Commission.

Joseph J. Holonich,

Chief, Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–14401 Filed 6–2–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271]

Vermont Yankee Nuclear Power Corporation; Vermont Yankee Nuclear Power Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from Facility Operating License No. DPR–28, issued to Vermont Yankee Nuclear Power Corporation (the licensee), for operation of the Vermont Yankee Nuclear Power Station (the facility) located in Windham County, Vermont.

Environmemtal Assessment

Identification of Proposed Action

The proposed exemption would grant relief from the technical requirements of Section III.G and III.L of Appendix R to Title 10 of the *Code of Federal Regulations*, Part 50 (1) to use the automatic depressurization system (ADS) in conjunction with low pressure injection systems as an alternative post-fire safe shutdown capability for certain fire zones and (2) to use the Vernon tie-line as an alternative to the on-site emergency diesel generator for certain fire events.

The proposed exemption is in accordance with the licensee's application for exemption dated April 4, 1996, as supplemented by letters dated May 21, 1996, November 4, 1996, December 13, 1996, and January 8, 1996 (sic [1997]).

The Need for the Proposed Action

The need for this action arises because the licensee requested the use of the ADS in conjunction with low pressure injection systems as an alternative post-fire safe shutdown capability for certain fire zones and (2) to use the Vernon tie-line as an alternative to the on-site emergency diesel generator for certain fire events. This proposal required exemptions from the following sections of Appendix R: Section III.L.2.(b) (maintain the reactor coolant level above the top of the core), and Section III.G.3 (fire detection and fire suppression installed in the area, room or zone under consideration). Section III.L.3 (accommodation of post-fire conditions where offsite power is not available for 72 hours).

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed exemption

and concludes that the proposed exemption will provide sufficient fire protection that there is no increase in the risk of fires at the facility. Consequently, the probability of fires has not been increased and the post-fire radiological releases will not be greater than previously determined, nor does the proposed exemption otherwise affect radiological plant effluents.

The change will not increase the probability or consequences of accidents. No changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed actions do not affect nonradiological plant effluents and have no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed actions.

Alternatives to the Proposed Actions

Since the Commission has concluded there is no measurable environmental impact associated with the proposed actions, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed actions, the staff considered denial of the proposed actions. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed actions and the alternative action are similar.

Alternative Use of Resources

These actions do not involve use of resources not previously considered in the Final Environmental Statement for the Vermont Yankee Nuclear Power Station.

Agencies and Persons Consulted

In accordance with its stated policy, on April 3, 1997, the staff consulted with the Vermont State official, Mr. William K. Sherman of the Vermont Department of Public Service, regarding the environmental impact of the proposed actions. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed actions will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to the proposed action, see the application dated April 4, 1996, as supplemented May 21, 1996, and supporting information dated November 4, 1996, December 13, 1996, January 8, 1996 (sic [1997]), January 15, 1997, and February 19, 1997, 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 Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

Dated at Rockville, Maryland, this 27th day of May 1997.

For the Nuclear Regulatory Commission.

Patrick A. Milano,

Acting Director, Project Directorate I–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–14399 Filed 6–2–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271]

Vermont Yankee Nuclear Power Corporation; Vermont Yankee Nuclear Power Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from Facility Operating License No. DPR–28, issued to Vermont Yankee Nuclear Power Corporation (the licensee), for operation of the Vermont Yankee Nuclear Power Station (the facility) located in Windham County, Vermont.

Environmental Assessment

Identification of Proposed Action

The proposed exemption would grant relief from the technical requirements of Section III.G of Appendix R to Title 10 of the *Code of Federal Regulations,* Part 50, to the extent that it specifies the separation of certain redundant safe shutdown circuits with fire-rated barriers. Alternatively, the licensee proposes to use fire resistant cables in plant areas on the 280 foot elevation of the Reactor Building.

The proposed exemption is in accordance with the licensee's application dated May 28, 1996, as supplemented by letters dated July 26, 1996, and November 15, 1996.

The Need for the Proposed Action

The need for this action arises because Paragraph III.G.2.c of Section III.G, ''Fire protection of safe shutdown capability,'' of Appendix R to 10 CFR Part 50, requires:

Enclosure of cable and equipment and associated non-safety circuits of one redundant train in a fire barrier having a 1-hour fire rating. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area.

The licensee requested an exemption from these requirements to allow the use of fire resistant cables instead of enclosing the cables in fire barriers having a 1-hour fire resistance rating. The licensee proposed to use Rockbestos Firezone R Appendix R fireproof cable to control equipment necessary to ensure Reactor Building corner room cooling in the event of a fire in the Cable Vault. An exemption is needed because the Firezone R cables do not meet the literal requirements of the regulation.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed exemption and concludes that the proposed exemption will provide sufficient fire protection and that there is no increase in the risk of fires at the facility. Consequently, the probability of fires has not been increased and the post-fire radiological releases will not be greater than previously determined, nor does the proposed exemption otherwise affect radiological plant effluents.

The change will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed actions involve features located entirely within the restricted area as defined in 10 CFR Part 20. They do not affect nonradiological plant effluents and have no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed actions.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental

impact associated with the proposed actions, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed actions, the staff considered denial of the proposed actions. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed actions and the alternative action are similar.

Alternative Use of Resources

These actions do not involve use of resources not previously considered in the Final Environmental Statement for the Vermont Yankee Nuclear Power Station.

Agencies and Persons Consulted

In accordance with its stated policy, on April 3, 1997, the staff consulted with the Vermont State official, Mr. William K. Sherman of the Vermont Department of Public Service, regarding the environmental impact of the proposed actions. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed actions will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to the proposed actions, see the application dated May 28, 1996, as supplemented by letters dated July 26, 1996, and November 15, 1996, 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 Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301.

Dated at Rockville, Maryland this 28th day of May 1997.

For the Nuclear Regulatory Commission.

Vernon L. Rooney,

Senior Project Manager, Project Directorate I–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–14400 Filed 6–2–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations; Correction

This document corrects a notice appearing in the **Federal Register** on May 21, 1997 (62 FR 27807). The action is necessary to add a **Federal Register** publication date, citation number, and a sentence.

On page 27808, in the first column, in the second complete paragraph, following ''Date of initial notice in **Federal Register**,'' insert ''August 14, 1996 (61 FR 42285). The February 7, 1997 supplement contained clarifying information which did not affect the no significant hazards consideration.''

Dated: at Rockville, Maryland, this 28th day of May 1997.

For the Nuclear Regulatory Commission.

David L. Meyer,

Rules and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 97–14398 Filed 6–2–97; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Form 18; SEC File No. 270–105; OMB Control No. 3235–0121

Form 18–K; SEC File No. 270–108; OMB Control No. 3235–0120

Form F–80; SEC File No. 270–357; OMB Control No. 3235–0404

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Form 18 is used for the registration of securities under the Securities Exchange Act of 1934 of any foreign government or political subdivision thereof. It is filed on occasion. An estimated 5 respondents file Form 18 annually for a total burden of 40 hours.

Form 18–K is an annual report for foreign governments and political subdivisions thereof. It provides updated information concerning registered securities. An estimated 11 respondents file Form 18–K annually for a total burden of 88 hours.

Form F–80 is a form used to register under the Securities Act of 1933 securities of certain issuers to be issued in exchange offers or a business combination. It is filed on occasion. An estimated 5 respondents file Form F–80 annually for a total burden of 10 hours.

Written 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: May 26, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–14351 Filed 6–2–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, 450 Fifth Street, N.W., Washington, D.C. 20549.

Extensions:

Rule 11a–3; SEC File No. 270–321; OMB Control No. 3235–0358

Rule 17g–1; SEC File No. 270–208; OMB Control No. 3235–0213

Rule 206(4)–3; SEC File No. 270–218; OMB Control No. 3235–0242

Rule 206(4)–4; SEC File No. 270–304; OMB Control No. 3235–0345

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities

and Exchange Commission (the ''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Rule 11a–3 under the Investment Company Act of 1940 [17 CFR 270.11a–3] is an exemptive rule that permits open-end investment companies (''funds''), other than insurance company separate accounts, and funds' principal underwriters, to make certain exchange offers to fund shareholders and shareholders of other funds in the same group of investment companies. The rule requires a fund, among other things, (i) to disclose in its prospectus and advertising literature the amount of any administrative or redemption fee imposed on an exchange transaction, (ii) if the fund imposes an administrative fee on exchange transactions, other than a nominal one, to maintain and preserve records with respect to the actual costs incurred in connection with exchanges for at least six years, and (iii) give the fund's shareholders a sixty day notice of a termination of an exchange offer or any material amendment to the terms of an exchange offer (unless the only material effect of an amendment is to reduce or eliminate an administrative fee, sales load or redemption fee payable at the time of an exchange).

The rule's requirements are designed to protect investors against abuses associated with exchange offers, provide fund shareholders with information necessary to evaluate exchange offers and certain material changes in the terms of exchange offers, and enable the Commission staff to monitor funds' use of administrative fees charged in connection with exchange transactions.

It is estimated that approximately 2,500 funds may choose to rely on the rule, and each fund may spend one hour annually complying with the recordkeeping requirement and another hour annually complying with the notice requirement. The total annual burden associated with the rule is estimated to be 5,000 hours. The burdens associated with the disclosure requirement of the rule are accounted for in the burdens associated with the Form N–1A registration statement for funds.

Rule 17g–1 under the Investment Company Act of 1940 governs the fidelity bonding of officers and employees of registered management investment companies (''funds''). Rule 17g–1 requires, among other things, that:

(1) *Fidelity Bond Content Requirements.* The fidelity bond must provide that it shall not be canceled, terminated or modified except upon a 60-day written notice by the acting party to the affected party. In the case of a ''joint bond'' covering several funds or certain other parties, the notice also must be given to each fund and to the Commission. In addition, a joint bond must provide that a copy of the bond, any amendments to the bond, any formal filing of a claim on the bond, and notification of the terms of any settlement on such claim, will be furnished to each fund promptly after the execution.

(ii) *Independent Directors' Approval Requirements.* At least annually, the independent directors of a fund must approve the form and amount of the fidelity bond. The amount of any premium paid for any joint bond also must be approved by the independent directors of a fund.

(iii) *Joint Bond Agreement Requirement.* A fund that is insured by a joint bond must enter into an agreement with all other parties insured by the joint bond regarding recovery under the joint bond.

(iv) *Required Filings with the Commission.* Upon execution of a fidelity bond or any amendment thereto, a fund must file with the Commission a copy of: (i) the executed fidelity bond; (ii) the resolution of the fund's directors approving the fidelity bond; and (iii) a statement as to the period for which the fidelity bond premiums have been paid. In the case of a joint bond, a fund also must file a copy of: (i) a statement showing the amount of a single insured bond the fund would have maintained under the rule had it not been named under a joint bond; and (ii) each agreement between the fund and all other insured parties. A fund also must notify the Commission in writing within 5 days of any claim and settlement on a claim made under a fidelity bond.

(v) *Required Notices to Directors.* A fund must notify by registered mail each member of its board of directors (i) of any cancellation, termination or modification of the fidelity bond at least 45 days prior to the effective date; and (ii) of the filing or settlement of any claim under the fidelity bond when the notification is filed with the Commission.

The fidelity bond content requirements, the joint bond agreement requirement, the independent directors' annual review requirement and the required notices to directors are designed to ensure the safety of fund assets against losses due to the conduct of persons who may obtain access to those assets, and facilitate oversight of a fund's fidelity bond. The rule's required filings with the Commission are designed to assist the Commission in monitoring funds' compliance with the fidelity bond requirements.

The Commission estimates that approximately 3,200 funds are subject to the requirements of rule 17g–1, and that on average a fund spends approximately one hour per year on complying with the rule's paperwork requirements. The total annual burden of the rule's paperwork requirements thus is estimated to be 3,200 hours.

Rule 206(4)–3, entitled ''Cash Payments for Client Solicitations'' provides restrictions on cash payments for client solicitations. The rule imposes two sets of information collection requirements. Where only impersonal advisory services are to be provided or an affiliation between the solicitor and adviser exists, the rule requires that the fee be paid pursuant to a written agreement and that the prospective client be advised of any affiliation between the adviser and the solicitor. Where individualized services are to be provided, the solicitor must furnish the prospective client with a copy of the adviser's brochure and a disclosure document containing specified information. The information collection and disclosure requirements in rule 206(4)–3 permit the Commission's inspection staff to monitor the activities of investment advisers and protect investors. Rule 206(4)–3 is applicable to all registered investment advisers.

The Commission believes that approximately 4,577 of these advisers have cash referral fee arrangements. Under the recently enacted National Securities Markets Improvement Act of 1996 (the ''1996 Act''), however, only about 1,281 advisers will be subject to the rule after the legislation becomes effective on July 8, 1997. The rule requires approximately 7.04 burden hours per year per adviser and would result, after July 8, 1997, in a total of approximately 9,018 total burden hours (7.04×1281) for all advisers.

Rule 206(4)–4, entitled ''Financial and Disciplinary Information that Investment Advisers Must Disclose to Clients,'' requires advisers to disclose certain financial and disciplinary information to clients. The disclosure requirements in rule 206(4)–4 are designed so that a client will have information about an adviser's financial condition and disciplinary events that may be material to a client's evaluation of the adviser's integrity or ability to meet contractual commitments to clients. The Commission does not use the information disclosed to clients.

It is estimated that approximately 3,222 advisers are currently subject to this rule, but that after the 1996 Act becomes effective only 902 advisers will be subject to the rule. The rule requires approximately 7.5 burden hours per year per adviser and, after July 8, 1997, would amount to approximately 6,765 total burden hours (7.5 × 902) for all advisers.

Rule 206(4)–3 does not specify a retention period for its recordkeeping requirements. The disclosure and recordkeeping requirements of rule 206(4)–3 and the disclosure requirements of rule 206(4)–4 are mandatory. Information subject to the recordkeeping and disclosure requirements of rules 206(4)–3 and –4 is not submitted to the Commission, so confidentiality is not an issue.

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 control number.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Written comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W., Washington, DC 20549.

Dated: May 20, 1997.

Margaret H. McMarland,

Deputy Secretary.

[FR Doc. 97–14352 Filed 6–2–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–22683; 812–10442]

Warburg, Pincus Balanced Fund, Inc., et al.; Notice of Application

May 27, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for Exemption Under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Warburg, Pincus Balanced Fund, Inc., Warburg, Pincus Capital Appreciation Fund, Warburg, Pincus Cash Reserve Fund, Inc., Warburg, Pincus Emerging Growth Fund, Inc., Warburg, Pincus Emerging Markets Fund, Inc., Warburg, Pincus Fixed Income Fund, Warburg, Pincus Global Fixed Income Fund, Inc., Warburg, Pincus Global Post-Venture Capital Fund, Inc., Warburg, Pincus Growth & Income Fund, Inc., Warburg, Pincus Health Sciences Fund, Inc., Warburg, Pincus Institutional Fund, Inc., Warburg, Pincus Intermediate Maturity Government Fund, Inc., Warburg, Pincus International Equity Fund, Inc., Warburg, Pincus Japan Growth Fund, Inc., Warburg, Pincus Japan OTC Fund, Inc., Warburg, Pincus New York Intermediate Municipal Fund, Warburg, Pincus New York Tax Exempt Fund, Inc., Warburg, Pincus Post-Venture Capital Fund, Inc., Warburg, Pincus Small Company Growth Fund, Inc., Warburg, Pincus Small Company Value Fund, Inc., Warburg, Pincus Strategic Value Fund, Inc., Warburg, Pincus Tax Free Fund, Inc., Warburg, Pincus Trust, Warburg, Pincus Trust II (collectively, the ''Warburg Pincus Funds''), Warburg, Pincus Counsellors, Inc. (''Warburg''), and any other registered investment companies that now or in the future are advised by Warburg (together with the Warburg Pincus Funds, the ''Funds'' and individually a ''Fund'').

RELEVANT ACT SECTION: Order requested under section 17(d) and rule 17d–1 thereunder.

SUMMARY OF APPLICATION: Applicants request an order to permit certain investment companies to deposit their uninvested cash balances in one or more joint accounts to be used to enter into repurchase agreements.

FILING DATES: The application was filed on November 21, 1996 and amended on April 30, 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 applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 20, 1997, and should be accompanied by proof of service on applicants 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 5th Street, NW., Washington, DC 20549. Applicants, Warburg, Pincus Counsellors, Inc., 466 Lexington Avenue, New York, NY 10017–3147.

FOR FURTHER INFORMATION CONTACT: Suzanne Krudys, Senior Counsel, at (202) 942–0641, or Mercer E. Bullard, Branch Chief, (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Warburg Pincus Funds, organized as either Maryland corporations or Massachusetts business trusts, are registered under the Act as open-end, single class or multi-class management investment companies, some of which consist of the serious type. The Funds currently consist of 28 investment companies or portfolios. All Funds that currently intend to rely upon the requested order are named as applicants.[1]

2. Warburg, organized in 1970 as a Delaware corporation, is registered with the SEC as an investment adviser under the Investment Advisers Act of 1940. Warburg is a wholly-owned subsidiary of Warburg, Pincus Counsellors G.P. Warburg supervises and directs the purchase and sale of investment securities (or some portion thereof) for each of the Funds, subject to the direction of the Fund's board of directors or trustees and, in certain cases, subject to the supervision of another investment adviser or manager. The term ''Warburg'' includes, in addition to the corporation itself, any other entity controlling, controlled by or under common control with Warburg

[1] Any future series of a Fund or any registered investment company now or in the future advised by Warburg that intends to rely upon the requested order in the future would, at that time, comply with the terms and conditions contained in the application.

that acts in the future as an investment adviser for the Funds or other investment companies.

3. Each of the Funds has its own separate investment objective or objectives, policies and restrictions and segregated assets as described in each Fund's currently effective registration statement. All of the Funds currently are authorized to invest at least a portion of their uninvested cash balances in short-term repurchase agreements.

4. The assets of the Funds are held by bank custodians. At the end of each trading day, applicants expect that some or all of the Funds will have uninvested cash balances in their respective custodian banks that would not otherwise be invested in portfolio securities. The amount of such cash balances on any given day is a function of, among other things, the temporary unavailability or other delays in planned purchases of securities, shareholder purchases and redemptions, and/or unanticipated delays in settlement of trades. In order to provide liquidity and to earn additional income for the Funds, Warburg may invest such cash balances in repurchase agreements provided that (a) a Fund will not invest in a repurchase agreement having a maturity in excess of 7 days if such investment would cause the Fund to exceed its limitation regarding investments in illiquid securities and (b) the repurchase agreements are ''collateralized fully'' as defined in rule 2a–7 under the Act (''Short-Term Repurchase Agreements''), as authorized by the investment policies of the Funds. Currently, Warburg purchases repurchase agreements separately on behalf of each Fund.

5. Applicants propose to deposit some or all of the uninvested cash balances of the Funds remaining at the end of the trading day into one or more joint accounts (the ''Joint Accounts'') and to invest the daily balance of the Joint Accounts into Short-Term Repurchase Agreements. The Funds would invest through a Joint Account only in Short-Term Repurchase Agreements that are consistent with the investment objective or objectives, policies and restrictions of each participating Fund. The existence of the Joint Accounts will not influence the extent to which Funds will invest in Short-Term Repurchase Agreements. A Fund's decision to use the Joint Accounts would be based on the same factors as a Fund's decision to make any other short-term liquid investment. Those factors would primarily be whether such Short-Term Repurchase Agreements offer a competitive investment on the basis of yield, creditworthiness and liquidity. The Joint Accounts would only be used to aggregate what otherwise would be one or more daily individual transactions necessary for the management of each Fund's daily uninvested cash balance.

6. Warburg would not participate as an investor in the Joint Accounts. Warburg also would not collect any additional fee for its management of the Joint Accounts, but would continue to receive from the Fund's primary adviser, as relevant, its asset-based advisory fees. Warburg would be responsible for investing funds held by the Joint Accounts, establishing accounting and control procedures, and ensuring fair and equitable treatment of the Funds.

7. Warburg would manage investments in the Joint Accounts in essentially the same manner as if it had invested in such instruments on an individual basis for each Fund. Any joint repurchase agreement transactions entered into through the proposed Joint Accounts would comply with the standards and guidelines set forth in Investment Company Act Release No. 13005 (February 2, 1983), and any other existing and future positions taken by the Commission or its staff by rule, release, letter or otherwise relating to repurchase agreement transactions. Applicants acknowledge that they have a continuing obligation to monitor the SEC's published statements on repurchase agreements, and represent that repurchase agreement transactions will comply with future positions of the SEC to the extent that such positions set forth different or additional requirements regarding repurchase agreements.

Applicants' Legal Analysis

1. Section 17(d) of the Act and rule 17d–1 thereunder prohibit an affiliated person of a registered investment company, or an affiliated person of such a person, from participating in any joint enterprise or arrangement in which such investment company is a participant, unless the SEC has issued an order authorizing the arrangement.

2. Applicants believe that each Fund might be deemed to be an ''affiliated person'' of each other Fund under the definition set forth in section 2(a)(3) of the Act if Warburg, as investment adviser, were deemed to control each Fund. Applicants also believe that, because each Warburg Pincus Fund has the same governing board as each other Warburg Pincus Fund, the Warburg Pincus Funds could be deemed to be affiliated persons of each other by virtue of being under common control, within the meaning of subsection (C) of section 2(a)(3). Each Fund, by participating in the Joint Accounts, and Warburg, by managing the Joint Accounts, could be deemed to be a ''joint participant'' in a ''transaction'' within the meaning of section 17(d) of the Act.

3. Applicants believe that the Joint Accounts could result in certain benefits to the Fund. Applicants state that the Funds would save on yearly transaction fees because purchasing Short-Term Repurchase Agreements through the Joint Accounts would require fewer transactions than the Fund would otherwise engage in individually. Applicants believe that the Funds may also earn a higher rate of return on investments through the Joint Accounts relative to the rates they could earn individually because under most market conditions, it is possible to negotiate a rate of return on larger repurchase agreements that is higher than the rate of return on smaller repurchase agreements. Applicants contend that the Joint Accounts may reduce the potential for error by reducing the number of trade tickets and cash wires that must be processed by the sellers of Short-Term Repurchase Agreements and by the Funds' custodians and accountants. Applicant also submit that the Joint Accounts also may increase the number of dealers willing to enter into Short-Term Repurchase Agreements with smaller funds and may reduce the possibility that their cash balances remain uninvested.

4. Applicants believe that no Fund will be in a less favorable position as a result of the Joint Accounts. Applicants assert that a Fund's investment in the Joint Accounts will not be subject to the claims of creditors, whether bought in bankruptcy, insolvency or other legal proceeding, of any other participant Fund in the Joint Accounts. Applicants believe that each Fund's liability on any Short-Term Repurchase Agreement will be limited to its interest in such investment; no Fund will be jointly liable for the investments of any other Fund. Finally, the assets of all Funds will continue to be held under proper custodian procedures.

5. Applicants believe that the proposed operation of the Joint Accounts will not result in any conflicts of interest between any of the Funds and Warburg. Applicants state that, in making investments for the Joint Accounts, Warburg will be obligated to consider each Fund's investment objective or objectives, policies and restrictions; its obligation to fairly allocate investment opportunities among the Funds; and the need for diversification.

6. Applicants note that the board of directors of each Fund has considered

the proposed Joint Accounts and determined that the use of the Joint Accounts would be fair, economically desirable and beneficial to the Fund. Applicants also note that each board has determined that the operation of the Joint Accounts would be free of any inherent bias favoring one Fund over another, and the anticipated benefits flowing to each Fund would fall within an acceptable range of fairness.

7. For the reasons set forth above, applicants believe that granting the requested order is consistent with the provisions, policies, and purposes of the Act and the Funds would participate in the Joint Account on a basis no different from or less advantageous than that of any other Participant.

Applicants' Conditions

Applicants would comply with the following as conditions to any other granted by the SEC:

1. The Joint Accounts would consist of one or more separate cash accounts established at a custodian bank. A Joint Account may be established at more than one custodian bank and more than one Joint Account may be established at any custodian bank. A Fund may transfer a portion of its daily cash balances to more than one Joint Account. After the calculation of its daily cash balance and at the direction of Warburg, each Fund would transfer into one or more Joint Accounts the cash it intends to invest through the Joint Accounts. Each Fund whose regular custodian is a custodian other than the bank at which a proposed Joint Account would be maintained and that wishes to participate in the Joint Account would appoint the latter bank as sub-custodian for the limited purpose of: (a) Receiving and disbursing cash; (b) holding any Short-Term Repurchase Agreements; and (c) holding collateral received from a transaction effected through the Joint Account. All Funds that appoint such sub-custodians will have taken all necessary actions to authorize such bank as their legal custodian, including all actions required under the Act.

2. The Joint Accounts will not be distinguishable from any other accounts maintained by the Funds at their custodians except that monies from the Funds will be deposited in a Joint Account on a commingled basis. The Joint Accounts will not have a separate existence and will not have any indicia of a separate legal entity. The Joint Accounts will only be used to aggregate individual transactions necessary for the management of each fund's daily uninvested cash balance.

3. Cash in the Joint Accounts would be invested in one or more repurchase agreements provided that (a) a Fund will not invest in a repurchase agreement having a maturity in excess of 7 days if such investment would cause the Fund to exceed its limitation regarding investments in illiquid securities and (b) the repurchase agreements are ''collateralized fully'' as defined in rule 2a-7 under the Act and satisfy the uniform standards set by the Funds for such investments. The securities subject to the repurchase agreement will be transferred to a Joint Account, and they will not be held by the Fund's repurchase counterparty or by an affiliated person of that counterparty.

4. Each Fund would participate in a Joint Account on the same basis as every other Fund in conformity with its respective investment objective or objectives, policies and restrictions. Any future Funds that participate in a Joint Account would be required to do so on the same terms and conditions as the existing funds.

5. Each Fund, through its investment adviser and/or custodian, will maintain records (in conformity with Section 31 of the Act and the rules thereunder) documenting for any given day its aggregate investment in a Joint Account and its pro rata share of each Short-Term Repurchase Agreement made through such Joint Account.

6. All assets held in the Joint Accounts would be valued on an amortized cost basis to the extent permitted by applicable SEC releases, rules or orders.

7. Each Fund valuing its net assets based on amortized cost in reliance on rule 2a-7 under the Act will use the average maturity of the instrument(s) in the Joint Accounts in which such Fund has an interest (determined on a dollar-weighted basis) for the purpose of computing its average portfolio maturity with respect to the portion of its assets held in a Joint Account on that day.

8. Not every Fund participating in the Joint Accounts will necessarily have its cash invested in every Short-Term Repurchase Agreement. However, to the extent a Fund's cash is applied to a particular Short-Term Repurchase Agreement, the Fund will participate in and own its proportionate share of such Short-Term Repurchase Agreement, and any income earned or accrued thereon, based upon the percentage of such investment purchased with amounts contributed by such Fund.

9. To assure that there will be no opportunity for one fund to use any part of a balance of a Joint Account credited to another Fund, no Fund will be allowed to create a negative balance in any Joint Account for any reason. Each Fund would be permitted to draw down its entire balance at any time, provided Warburg determines that such draw down would have no significant adverse impact on any other Fund participating in the Joint Account. Each Fund's decision to invest in a Joint Account would be solely at its option, and no Fund will be obligated either to invest in the Joint Accounts or to maintain any minimum balance in the Joint Accounts. In addition, each Fund will retain the sole rights of ownership to any of its assets, Including interest payable on such assets, invested in the Joint Accounts.

10. Warburg will administer, manage and invest the cash balance in the Joint Accounts in accordance with and as part of its duties under the existing or any future investment advisory contract with each Fund. Warburg will not collect any additional or separate fee for advising or managing any Joint Account.

11. The administration of the Joint Accounts will be within the fidelity bond coverage required by section 17(g) of the Act and rule 17g-1 thereunder.

12. The board of directors or trustees of the Funds participating in the Joint Account will adopt procedures pursuant to which the Joint Accounts will operate and which will be reasonably designed to provide that the requirements set forth in the application are met. The directors or trustees will make and approve such changes that they deem necessary to ensure that such procedures are followed. In addition, the directors or trustees will determine, no less frequently than annually, that the Joint Accounts have been operated in accordance with the proposed procedures, and will permit a Fund to continue to participate therein only if it determines that there is a reasonable likelihood that the Fund and its shareholders will benefit from the Fund's continued participation.

13. Investments held in a Joint Account generally will not be sold prior to maturity except: (a) If Warburg believes the investment no longer presents minimal credit risks; (b) if, as a result of a credit downgrading or otherwise, the investment no longer satisfies the investment criteria of all Funds participating in the investment; or (c) if the counterparty defaults. A Fund may, however, sell its fractional portion of an investment in a Joint Account prior to maturity of the investment in such Joint Account if the cost of such transaction will be borne solely by the selling Fund and the transaction would not adversely affect the other Funds participating in that

Joint Account. In no case would an early termination by less than all participating Funds be permitted if it would reduce the principal amount or yield received by other Funds participating in a particular Joint Account or otherwise adversely affect the other participating Funds. Each Fund participating in such Joint Account will be deemed to have consented to such sale and partition of the investments in such Joint Account.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–14354 Filed 6–2–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 5500–1]

Amquest International, Ltd.; Order of Suspension of Trading

May 30, 1997.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Amquest International, Ltd. (''Amquest'' or the ''Company''), a Florida based company which holds itself out to be part of an integrated system of companies for the provision of mortgage banking, investment and consumer credit services, because of questions regarding the accuracy of assertions by Amquest, and by others, in documents filed with the Commission and distributed to investors and market-makers of the stock of Amquest, concerning, among other things, Amquest's ownership of certain Brazilian ''Rights'' and other assets, the value of certain assets claimed by Amquest, the amount of income, if any, Amquest has generated, the acquisition by Amquest of certain entities, and the composition and involvement in Company affairs of Amquest's purported management.

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, May 30, 1997 through 11:59 p.m. EDT, on June 12, 1997.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–14541 Filed 5–30–97; 11:21 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38678; File No. SR–NASD–97–27]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval to Proposed Rule Change To Decrease the Minimum Quotation Increment for Certain Securities Listed and Traded on The Nasdaq Stock Market to 1/16th of $1.00

May 27, 1997.

I. Introduction

On April 17, 1997, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] And Rule 19b–4 thereunder,[2] a proposed rule change to modify The Nasdaq Stock Market's (''Nasdaq'') automated quotation system to permit Nasdaq securities whose bid is $10 or higher to be quoted in increments as small as one-sixteenth of a dollar.

The proposed rule change was published for comment in the **Federal Register** on April 25, 1997.[3] After the comment period expired, the Commission received a number of comment letters.[4] This order approves the proposal.

II. Description

Presently, Nasdaq's automated quotation system is configured so that a market maker or electronic communications network (''ECN'') can only enter a quote for a particular security in an increment of 1/8 of $1 if the market maker's bid price in that security is equal to or greater than $10. If a market maker's bid is less than $10, it may enter quotes in increments of 1/32 of $1. Nasdaq proposes to modify a system parameter in its automated quotation system to enable market makers and ECNs to enter quotations in sixteenths for Nasdaq securities when their bid price is equal to or greater than $10.

Nasdaq believes allowing Nasdaq market makers and investors to display their trading interest in these securities in sixteenths will enhance the transparency of the Nasdaq market, provide investors with a greater opportunity to receive better execution prices, facilitate greater quote competition, promote the price discovery process, contribute to narrower spreads, and enhance the capital formation process. Moreover, Nasdaq believes the proposed rule change is wholly consistent with, and in furtherance of, the important investor protection goals underlying the Order Execution Rules.[5] Customer limit orders and orders entered into ECNs priced in sixteenths are currently rounded to the nearest eighth for public display.[6] The proposal would allow all such orders to be publicly displayed at their actual price. By displaying these orders at their actual prices, Nasdaq believes the already substantial benefits provided by implementation of the Order Execution rules will be commensurately increased. Nasdaq also believes it is appropriate to reduce the minimum quotation increment for these securities in light of the SEC's decision to modify the phase-in schedule of the Order Execution Rules.[7]

III. Summary of Comments

As of May 22, 1997, the Commission received 111 comment letters concerning the proposed rule change.[8]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No 38531 (Apr. 21, 1997), 62 FR 20233 (Apr. 25, 1997).

[4] As of May 22, 1997, the Commission received 111 comment letters. These letters, as well as any others received after this order, may be found in the Commission's Public Reference Room in File No. SR–NASD–97–27.

[5] On August 28, 1996, the Commission adopted Rule 11Ac1–4, the ''Limit Order Display Rule,'' and amendments to Rule 11Ac1–1, the ''ECN Rule,'' to require over-the-counter (''OTC'') market makers and exchange specialists to display certain customer limit orders, and to publicly disseminate the best prices that the OTC market maker or exchange specialist has placed in certain ECNs, or to comply indirectly with the ECN Amendment by using an ECN that furnishes the best market maker and specialist prices therein to the public quotation system (collectively, the ''Order Execution Rules'' or the ''Rules''). *See* Securities Exchange Act Release No. 37619A (Sept. 6, 1996), 61 FR 48290 (Sept. 12, 996).

[6] In particular, orders to buy (sell) are rounded down (up) to the nearest eighth.

[7] *See* Securities Exchange Act Release No. 38490 (Apr. 9, 1997), 62 FR 18514 (Apr. 16, 1997) (announcing the revised phase-in schedule, providing exemptive relief to accommodate the new schedule, and providing exemptive relief from compliance with the 1% requirement of the Quote Rule with respect to non-19c–3 securities.)

[8] *See* letters to Jonathan G. Katz, Secretary, SEC, from Daniel J. Balber, dated May 12, 1997, Stephen S. Baldente, undated, Adam Bandel, undated, Laurence Bag, undated, Sayan Bhattacharyya, dated May 14, 1997, Jessica Brooks, dated May 16, 1997, Michael Broudo, dated May 14, 1997, John Bucci, dated May 15, 1997, David M. Burns, dated May 16,

Continued

All of the commenters supported the proposal. In expressing their support, the commenters stated that reducing the minimum quotation increment would improve market transparency by allowing a more complete display of the buying and selling interest in the affected securities. In general, they maintained that this would facilitate quote competition which would reduce spreads and, in turn, provide investors with better prices. Furthermore, they explained that this would increase investors' confidence in the market and, thus, would encourage greater participation and increase liquidity. Several commenters also addressed the issue of pricing stocks in decimals.[9]

IV. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with Sections 11A and 15A of the Act.[10]

The Commission believes the quality of the market for the affected Nasdaq securities [11] will likely be enhanced by allowing a minimum quotation increment of a sixteenth, rather than an eighth.[12] Decreasing the minimum quotation increment should help to produce more accurate pricing of such securities and can result in tighter quotations. In addition, if the quoted markets are improved by reducing the minimum quotation increment, the change could result in added benefits to the market such as reduced transaction costs.[13]

Furthermore, this change in the minimum increment will compliment the Order Execution Rules.[14] Currently, customer limit orders and orders entered into ECNs priced in sixteenths are rounded to the nearest eight for public display.[15] The proposed change will allow such orders to be publicly displayed at their actual price, thus allowing a more complete display of the buying and selling interest in Nasdaq securities, giving these orders greater visibility, and facilitating quote competition. Moreover, the enhanced transparency will improve access to the best available prices.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that the proposed rule change (SR–NASD–97–27) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–14413 Filed 6–2–97; 8:45 am]

BILLING CODE 8010–01–M

1997, Matthew H. Carlson, dated May 12, 1997, Cornel Catrrina, dated May 14, 1997, Donald Cherry, dated May 12, 1997, Mark Chin, dated May 13, 1997, Robert Chung, dated May 15, 1997, Charles Cianfrani Jr., dated May 12, 1997, Richard D. Connell, undated, Henry Davar, dated May 15, 1997, Michael Di Domenico, dated May 15, 1997, Omar Divina, dated May 13, 1997, Patrick G. Dolan, dated May 13, 1997, Michael Eisner, dated May 12, 1997, David Filibertro, undated, Douglas Y. Finn, dated May 16, 1997, Campbell Foster, undated, James W. Frame, undated, Aaron Francis, dated May 12, 1997, Louis C. Galli, dated May 14, 1997, John Geisler, dated May 13, 1997, Nicolas Gentin, dated May 10, 1997, James R. Gibbs, dated May 12, 1997, Michael S. Gleeson, dated May 16, 1997, Jason B. Gold, dated May 11, 1997, J. Michael Gostigan, dated May 14, 1997, Kurt J. Hellmers, dated May 16, 1997, Anthony J. Hernandez, dated May 14, 1997, Bryan Hollander, undated, Hirokazu Iwasa, dated May 14, 1997, Greg Honan, dated May 14, 1997, Patrick Hsieh, dated May 13, 1997, Scott S. Ignall, undated, Marina Kaneti, dated May 10, 1997, Matthew Kansler, dated May 13, 1997, Andrew Kashdan, undated, Gene Keyser, dated May 12, 1997, Devon B. Kitchens, dated May 13, 1997, Jason Klarreich, dated May 15, 1997, Michael D. Klug, dated May 16, 1997, Stephen M. Kovacs, dated May 14, 1997, Seth C. Koppel, dated May 13, 1997, David D. Kuang, dated May 13, 1997, Gabriel Levin, dated May 9, 1997, Eben Light, undated, Robert Lindauer, undated, Louis Liu, undated, Jamie Maltese, undated, Andrew A. Mancuso III, dated May 15, 1997, Daniel Mandell, dated May 16, 1997, Richard Marble, undated, James Maroney, dated May 14, 1997, John F. McEnroe III, dated May 15, 1997, Gordon McDonald, dated May 14, 1997, Kevin McGrory, dated May 13, 1997, John P. McMullan, dated May 12, 1997, Robert Meurer, dated May 13, 1997, Winston Meyer, dated March 11, 1997, Jeffrey L. Miller, undated, Marcus Motroni, undated, Kenneth Nadan, dated April 24, 1997, Paul Naden, dated April 24, 1997, Seth Nemeroff, dated May 13, 1997, Michael O'Buachalla, dated April [sic] 17, 1997, Michael O'Reilly, dated May 15, 1997, Randall Oser, dated May 12, 1997, Christopher M. Owens, dated May 13, 1997, M. Yousuf Paracha, dated May 13, 1997, Tausif Paracha, undated, John Parente, undated, Mike Parsons, dated May 12, 1997, Ilian P. Petrov, dated May 13, 1997, Antonio J. Cecin, Managing Director and Director of Equity Trading, Piper Jaffray, Inc., dated May 16, 1997, Dario J. Pompeo, undated, Reid Richman, undated, Joel Rebhun, undated, Marcie D. Rebhun, undated, Tami Beth Rock, dated May 12, 1997, Noah Roffman, dated May 18, 1997, Jason Rosen, dated May 12, 1997, David G. Rosenberg, dated May 14, 1997, Paul R. Rudd, dated May 15, 1997, Shahriar Saadullah, dated May 13, 1997, Kevin J. Sanbeg, dated May 12, 1997, Patrick S. Schultz, dated May 10, 1997, Cary S. Segall, dated May 16, 1997, Gil Shapiro, dated May 12, 1997, Hiro Shinohara, dated May 12, 1997, Daniel Sherwood, dated May 11, 1997, Joseph Socolof, dated May 13, 1997, Drew Sohn, dated May 15, 1997, Alphonse Soued, dated May 15, 1997, Feral Talib, undated, Mark Tashea, dated May 13, 1997, Howard Teitelman, dated May 10, 1997, Alexis Theofilactidis, dated May 12, 1997, Michael E. Tobin, undated, Nancy Tom, dated May 15, 1997, Tai Truong, dated May 13, 1997, Abbott Wang, dated May 16, 1997, Oliver Wang, dated May 13, 1997, Alan Weber, dated May 14, 1997, Timothy Whelan, dated May 12, 1997, Timothy J. Wilson, dated May 15, 1997.

[9] *See* letters to Jonathan G. Katz, Secretary, SEC, from Sayan Bhattacharyya, dated May 14, 1997 (stating that decimalization is a very good idea), Robert Chung, dated May 15, 1997 (encouraging the SEC to study the feasibility of a decimal pricing system), Michael S. Gleeson, dated May 16, 1997 (recommending the use of decimals as a means to add further transparency and liquidity to the market), Hirokazu Iwasa, dated May 14, 1997 (encouraging Nasdaq to adopt decimals), Andrew Kashdan, undated (awaiting consideration of decimal quotes to further increase efficiency), Eben Light, undated (anticipating the NASD's study), Richard Marble, undated (supporting the idea of decimalization), Winston Meyer, dated March 11, 1997 (stating that decimals should vastly improve the pricing mechanism), Paul Naden, dated April 24, 1997 (supporting decimalization of stock prices), Michael O'Buachalla, dated April [sic] 17, 1997 (same), M. Yousuf Paracha, dated May 13, 1997 (categorizing the proposal as an intermediate step towards trading in decimals), Shahriar Saadullah, dated May 13, 1997 (encouraging the NASD to pursue the idea of decimal pricing), Cary S. Segall, dated May 16, 1997 (categorizing the proposal as an intermediate step towards trading in decimals), Gil Shapiro, dated May 12, 1997 (same), Alexis Theofilactidis, dated May 12, 1997 (encouraging a further move to a decimal pricing system), Michael E. Tobin, undated (categorizing the proposal as the first step towards the ultimate goal of decimalization), Timothy Whelan, dated May 12, 1997 (encouraging the adoption of decimals).

[10] 15 U.S.C. §§ 78k–1, 78*o*–3

[11] Nasdaq noted in its proposal that, as of March 31, 1997, there were 2,714 Nasdaq securities (43.2% of all Nasdaq securities) priced equal to or greater than $10. These securities represent 90% of the capitalization of the Nasdaq market and 68.6% of the share volume in Nasdaq. Nasdaq also noted that 98.7% of all trades in Nasdaq securities priced equal to or greater than $10 occur in increments equal to or greater than a sixteenth and 98.5% of all share volume in such securities occurs in increments equal to or larger than sixteenth.

[12] A study that analyzed the reduction in the minimum tick size from ⅛ to 1/16 for securities listed on the American Stock Exchange priced between $1.00 and $5.00 found that, in general, the spreads for those securities decreased significantly while trading activity and market depth was relatively unaffected. *See* Hee-Joon Ahn, Charles Q. Chao, and Hyuk Choe, *Tick Size, Spread, and Volume*, 5 J. Fin Intermediation 2 (1996).

[13] The rule change is consistent with the recommendation of the Division of Market Regulation (''Division'') in its Market 2000 Study, in which the Division noted that the ⅛ minimum variation can cause artificially wide spreads and hinder quote competition by preventing offers to buy or sell at prices inside the prevailing quote. *See* SEC, Division of Market Regulation, *Market 2000: An Examination of Current Equity Market Developments* 18–19 (Jan. 1994).

[14] *See supra* note 5.

[15] In particular, orders to buy (sell) are rounded down (up) to the nearest eight.

[16] 15 U.S.C. 78s(b)(2).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38679; International Series Release No. 1086; File No. SR–PHLX–97–07]

Self-Regulatory Organizations; Order Approving Proposed Rule Change And Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 of the Philadelphia Stock Exchange, Inc. Regarding 3D Foreign Currency Option Holiday Expirations

May 27, 1997.

On March 14, 1997, the Philadelphia Stock Exchange, Inc. (''PHLX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] a proposed rule change not to list any 3D foreign currency options (''3D FCOs'') that would expire during the period December 20 through and including January 2 of each year.

Notice of the proposed rule change, together with the substance of the proposal, was published in the **Federal Register.**[2] No comment letters were received. The Exchange subsequently filed Amendment No. 1 to the proposal on April 18, 1997.[3] This order approves the proposed rule change, as amended.

I. Background

The Exchange proposes not to list any 3D FCOs that would expire during the period December 20 through and including January 2 of each year. 3D FCOs are presently traded on the PHLX on the German mark and the Japanese yen.[4] These are cash settled options that have an expiration every Monday at 11:59 p.m. Eastern Time (or the following business day if Monday is a holiday). The settlement value is based on a formula which averages random samples of bids and offers from contributor banks. The Exchange's experience with the 3D FCO on the German mark over the last two years has shown that it is often difficult to gather enough updated quotes during the Christmas and New Year's weeks each year. Thus, the Exchange believes the integrity of the derived settlement value may be called into question. Accordingly, the Exchange has determined not to list for trading any series of 3D FCOs which would expire between December 20 each year and January 2 of the following year. As a result of approval of this change, in 1997 the last expiration date of 3D FCOs would occur on December 15, 1997. After the December 15 expiration, the next 3D FCO expiration would occur on January 5, 1998.

The Exchange also proposed to adopt a permanent list of holidays which, if they fall on a Monday, would cause the 3D FCOs scheduled to expire that day to expire the next business day pursuant to Exchange Rule 100(b)(21)(iii).[5] The holidays are: Martin Luther King, Jr. Day; Memorial Day; Presidents Day; Independence Day; Easter Monday; Labor Day; May Day; Columbus Day and Veterans Day.

II. Discussion

The Commission finds that the proposed rule change is consistent with Section 6 of the Act in general, and in particular, with Section 6(b)(5) in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest in that it allows the Exchange to forego or postpone expirations of 3D FCOs on days when the integrity of the settlement value may be questionable. As noted above, the Exchange's experience with the 3D FCO on the German mark over the last two years has shown that it is often difficult to gather enough updated bids and offers from contributor banks during the Christmas and New Year's weeks each year. Although the Exchange does not have any trading experience with expiring 3D FCOs on the Japanese yen during the month of December, the Commission believes that, based on PHLX's experience with the German mark, it is reasonable for the Exchange to conclude that the same problems in obtaining updated quotes would occur for FCOs in the Japanese yen.[6] As a result of these concerns, the Commission believes that the Exchange's decision not to list 3D FCOs during the Christmas and New Year's weeks each year will help to maintain the integrity of the settlement values by ensuring that 3D FCOs will not be expiring when the available pool of bids and offers may be stale.

Further, to avoid confusion, the Exchange has committed to notify members in early November of each year that 3D FCOs expiring between December 20 and January 2 will not be available and again in early December when the PHLX announces 3D FCOs about to be listed. The PHLX has also committed to include in any marketing information on 3D FCOs the unavailability of expirations during the holiday period. These modifications should provide members and investors with adequate information far enough in advance to make any desired adjustments to their trading strategies due to the lack of 3D FCOs expiring during the holiday period.

The Commission also finds that by adopting a permanent schedule of holidays, the Exchange and investors will know for certain, in advance, when a holiday expiration will occur.[7] The holidays on the schedule were chosen because they are either U.S. bank holidays or European bank holidays (May Day). On those days, the interbank foreign exchange participants which provide quotations for the settlement value are not open for business so it would be very difficult to obtain enough updated quotations to provide a random sample. The Commission also believes that publishing the list of holidays to the Exchange's membership in a circular each year and through weekly expiration memos that note when certain options expire on a day other than a Monday due to a holiday should adequately inform Exchange members of the 3D FCOs that will not be listed during the holidays.

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing of the proposed rule change in the **Federal Register** to require the Exchange to begin providing notice to its membership of the dates when 3D FCOs will not be listed, without further delay. Amendment No. 1 ensures that members will have adequate notice that 3D FCOs will not be listed if their

---

[1] 15 U.S.C. § 78s(b)(1).

[2] Securities Exchange Act Release No. 38527 (April 18, 1997), International Series Release No. 1075, 62 FR 20055 (April 24, 1997).

[3] Amendment No. 1 states that the Exchange will provide notice to its membership that it is not listing any 3D FCOs that would expire during the period December 20 through and including January 2 of each year: (1) upon approval of this proposed rule change; (2) in any marketing literature respecting the 3D FCOs which is printed in the future; (3) in early November of each year to remind the membership; and (4) in a circular at the time when the 3D FCO contracts that are not being listed, would have been listed (approximately early in December). Letter from Michele R. Weisbaum, Vice President and Associate General Counsel, PHLX, to Karl Varner, Staff Attorney, Office of Market Supervision, Division of Market Regulation, SEC, dated April 18, 1997.

[4] The Exchange has traded 3D German marks since September of 1994. *See* Securities Exchange Act Release No. 33732 (March 8, 1994), 59 FR 12023 (March 15, 1994). The Exchange recently started trading 3D options on the Japanese yen on February 24, 1997. *See* Securities Exchange Act Release No. 36505 (Nov. 22, 1995), International Series Release No. 889, 60 FR 61277 (Nov. 29, 1995).

[5] The rule originally required expirations to fall back to the preceding business day (usually Friday) when Monday was a holiday but was changed so that the options would still capture weekend risk. *See* Securities Exchange Act Release No. 35097 (Dec. 13, 1994), 59 FR 65559 (Dec. 20, 1994).

[6] *See* note 4 *supra.*

[7] *See* note 5 and accompanying text.

expirations would occur during the period December 20 through and including January 2 of each year. The Exchange will provide additional notices to their membership: (1) Upon approval of this proposed rule change; (2) in any marketing literature respecting the 3D FCOs which is printed in the future; (3) in early November of each year to remind the membership; and (4) in a circular at the time when the 3D FCO contracts that are not being listed, would have been listed (approximately early in December). These additional notices serve to minimize the potential for confusion concerning the application of the Exchange's rules regarding the dates of listing of 3D FCOs, and will ensure investors have adequate time to adjust their trading strategies if they so desire.

The Commission also believes that Amendment No. 1 does not raise any significant new issues that require public notice prior to approval, because Amendment No. 1 only addresses the notification provided to the Exchange's membership concerning the dates the dates when 3D FCOs will not be listed and no comments were received on the substance of the original proposal. Accordingly, the Commission believes it is consistent with Section 6(b)(5) of the Act to approve Amendment No. 1 to the proposed rule change on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PHLX. All submissions should refer to File No. SR–PHLX–97–07 and should be submitted by June 24, 1997.

III. Conclusion

For the reasons discussed above, the Commission finds that the proposed rule change, as amended, is consistent with the Act and Section 6 of the Act in particular.

It is therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change, SR–PHLX–97–07 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–14353 Filed 6–2–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38683; File No. SR–Phlx–97–24]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. To Adopt an AUTOM Rule and To Request Permanent Approval for the AUTOM Pilot Program

May 27, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 2, 1997, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to adopt Rule 1080, Philadelphia Stock Exchange Automated Options Market (''AUTOM'') and Automatic Executive System (''AUTO–X''), codifying and amending the policies and procedures concerning AUTOM. The Exchange also requests permanent approval of the AUTOM pilot program. The AUTOM System and the proposed rule are described below.

Proposed AUTOM Rule

Proposed Rule 1080 describes the AUTOM System and its features, with paragraph (a) as the general introduction. AUTOM is the Exchange's electronic order delivery and reporting system, which provides for the automatic entry and routing of Exchange-listed equity options and index options orders to the Exchange trading floor. Option orders entered by Exchange member organizations into AUTOM are routed to the appropriate specialist unit on the Exchange trading floor. Orders delivered through AUTOM may be executed manually, or certain orders are eligible for AUTOM's automatic execution feature, AUTO–X, in accordance with the provisions of this Rule. Equity option and index option specialists are required by the Exchange to participate in AUTOM and its features and enhancements. This paragraph also provides that Rule 1080 shall govern the orders, execution reports and administrative messages (''order messages'') transmitted between the offices of member organizations and the trading floors of the Exchange through AUTOM.

Proposed Rule 1080(b) lists the types of orders eligible for AUTOM. Generally, only agency orders may be entered. With respect to U.S. Top 100 Index options (''TPX''), broker-dealer orders may be entered into AUTOM, but are not eligible for AUTO–X.[3] For purposes of AUTOM, an agency order is an order entered on behalf of a public customer, and does not include any order entered for the account of a broker-dealer or any account in which a broker-dealer or an associated person of a broker-dealer has any direct or indirect interest. In addition, respecting order size, orders up to the maximum number of contracts permitted by the Exchange may be entered. Currently, orders up to 100 contracts are eligible for AUTOM,[4] except the maximum order size for TPX options if 500 contracts.[5] Separate maximum order sizes apply to AUTO–X, which is discussed below.

The following types of orders are eligible for AUTOM: day, good-till-cancelled (''GTC''), market, limit, stop, stop limit, all or none, or better, simple cancel, simple cancel to reduce size (cancel leaves), cancel to change price, cancel with replacement order, market close, market on opening, limit on opening, limit close, and possible

---

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 36429 (October 27, 1995), 60 FR 55874 (November 3, 1995) (SR–Phlx–95–35).

[4] *See* Securities Exchange Act Release No. 28516 (October 3, 1990), 55 FR 41408 (October 11, 1990) (SR–Phlx–90–18).

[5] *See* Securities Exchange Act Release No. 38782 (May 30, 1995), 60 FR 30136 (June 7, 1995) (SR–Phlx–90–30). Although the Exchange received approval to expand the maximum AUTOM order size to 500 contracts, the Exchange's Board of Governors has limited implementation to TPX only.

duplicate orders.[6] The Exchange's Options Committee may determine to accept additional types of orders as well as to discontinue accepting certain types of orders. Orders may not be unbundled for the purposes of eligibility for AUTOM and AUTO–X, nor may a firm solicit a customer to unbundle an order for this purpose.

Proposed paragraph (c) defines AUTO–X. AUTO–X is a feature of AUTOM that automatically executes public customer market and marketable limit orders up to the number of contracts permitted by the Exchange for certain strike prices and expiration months in equity options and index options, unless the Options Committee determines otherwise. AUTO–X automatically executes eligible orders using the Exchange disseminated quotation and then automatically routes execution reports to the originating member organization. AUTOM orders not eligible for AUTO–X are executed manually in accordance with Exchange rules. Manual execution of otherwise AUTO–X eligible orders may also occur when AUTO–X is not engaged.

This paragraph also provides that the Options Committee may, for any period, restrict the use of AUTO–X on the Exchange in any option, series, user or account type. Currently, orders up to 50 contracts, subject to the approval of the Options Committee, are eligible for AUTO–X.[7]

In addition, the Options Committee may, in its discretion, increase the size of orders in one or more classes of multiply-traded equity options eligible for AUTO–X to the extent necessary to match the size of orders in the same options eligible for entry into the automated execution system of any other options exchange, provided that the effectiveness of any such increase shall be conditioned upon its having been filed with the Commission pursuant to Section 19(b)(3)(A) of the Act.

The hours of the AUTOM System are contained in paragraph (d). The AUTOM System accepts orders beginning at 8:00 a.m. (ET). Orders received by the close of trading, as determined electronically by the AUTOM System, are eligible for execution. Orders received after such time will be rejected and returned to the order entry firm.

The functioning of AUTOM in extraordinary circumstances is governed by paragraph (e) of the proposed rule, which specifies the procedure for re-routing AUTOM orders or disengaging AUTO–X. In the event extraordinary circumstances exist in connection with a particular class of options, two Floor Officials may determine to disengage AUTO–X with respect to that option, in accordance with Exchange procedures. In the event extraordinary conditions exist floor-wide, two Exchange Floor Officials, the Chairperson of the Options Committee or his designee may determine to disengage the AUTO–X feature floor-wide. To ensure proper notification to AUTOM users, a specialist must promptly notify the Surveillance Post of any AUTOM-related Floor Official exemptions in order for such an exemption to be valid. The Exchange's Emergency Committee, pursuant to Rule 98, may take other action respecting AUTOM in extraordinary circumstances.

Paragraph (f) outlines the specialist's obligations respecting AUTOM orders. A specialist must accept eligible orders delivered through AUTOM. A specialist must comply with the obligations of Rule 1014, as well as other Exchange rules, in the handling of AUTOM orders. A specialist is responsible for engaging AUTO–X with respect to an assigned option within three minutes after completing an opening or reopening rotation of that option. However, where extraordinary circumstances exist, an exemption may be obtained pursuant to paragraph (e) above.

A specialist must respond promptly to all messages communicated through AUTOM, including order entry, execution and cancellation and replacement of orders as well as administrative messages. A specialist is responsible for the remainder of an AUTOM order where a partial execution occurred. Lastly, a specialist is responsible for the visibility to the trading crowd of both the screens displaying incoming AUTO–X orders as well as the bids/offers for the at-the-money strike prices in displayed options.

Proposed paragraph (g) contains Wheel provisions, which are discussed below.

Proposed paragraph (h) is entitled ''Responsibility for AUTOM Orders.'' A member organization who initiates the transmission of an order message to the floor through AUTOM is responsible for that order message up to the point that a legible and properly formatted copy of the order message is received on the trading floor by the specialist unit. Thereafter, the specialist who is registered in the option specified in the order message is responsible for the contents of the order message received and is responsible for the order until one of the following occurs: (i) an execution report for the entire amount of the order is properly sent; (ii) a cancellation acknowledgment is properly sent; or (iii) an order properly expires.

For the convenience of members using AUTOM, the Exchange provides an AUTOM Service Desk on the trading floor to assist in the operation of AUTOM.[8] In accordance with Exchange By-Law Article XII, Section 12–11, the Exchange shall not be liable for any loss, expense or damage resulting from or claimed to have resulted from the acts, errors or omissions of its agents, employees or members in connection with AUTOM, or of the AUTOM System.

Lastly, proposed Commentary .01 to the Rule pertains to Auto-Quote, another feature of AUTOM. Automatic Quotation (''Auto-Quote'') is the Exchange's electronic options pricing system, which enables specialists to automatically monitor and instantly update quotations. Commentary .02 states that the Electronic Order Book is the Exchange's automated specialist limit order book, which automatically routes unexecuted AUTOM orders to the book and displays orders real-time in order of price/time priority. Orders not delivered through AUTOM may also be entered onto the Electronic Order Book.

Wheel Provisions

The Wheel is an automated mechanism for assigning floor traders (*i.e.* specialists and Registered Options Traders (''ROTs'')), on a rotating basis, as contra-side participants to AUTO-X orders. The Exchange's Wheel provisions were approved by the Commission in 1994 as Floor Procedure Advice (''Advice'') F–24,[9] but do not currently appear in other Exchange rules. Certain Wheel provisions are currently being amended, separately.[10]

[6] See Securities Exchange Act Release No. 35601 (April 13, 1995), 60 FR 19616 (April 19, 1995) (SR–Phlx–95–18).

[7] *See* Securities Exchange Act Release No. 36601 (December 18, 1995), 60 FR 66817 (December 26, 1995) (SR–Phlx–95–39).

[8] *See* Securities Exchange Act Release No. 25540 (March 31, 1988), 53 FR 11390) (April 6, 1988) (SR–Phlx–88–10 stating the Exchange shall establish an AUTOM service desk on the options trading floor to handle AUTOM trade inquiries and status of reports).

[9] *See* Securities Exchange Act Release No. 35033 (November 30, 1994), 59 FR 63152 (December 4, 1994) (SR–Phlx–94–32).

[10] *See* SR–Phlx–97–20 (proposing to amend Wheel provisions to reduce the rotation frequency for the specialist in large crowds) and SR–Phlx–97–21 (proposing to establish a procedure for the removal of ROTs from the Wheel to extend the Wheel assignment area in certain circumstances. *See also* Securities Exchange Act Release No. 37977

Continued

At this time, the Exchange is proposing to incorporate the Wheel provisions of Advice F–24 into the proposed AUTOM Rule as paragraph (h).

Specifically, contra-party participation for AUTO–X automatic executions shall rotate among Wheel Participants (which are specialists and ROTs signed-up on the Wheel for that listed option) in each option in accordance with procedures established by the Exchange. The Wheel will be activated each trading day within three minutes following the completion of the opening rotation for that listed option. An ROT must be present in his Wheel assignment area to participate in Wheel Executions. Specialists on the options floor are required to participate on the Wheel in assigned issues.

No two associated or dually-affiliated ROTs may be on the Wheel for the same option at the same time. Regardless of an ROT's total assigned issues, an ROT may only sign-on the Wheel in line assignment area at any given time. [11] In order to be placed on the Wheel for an entire trade day, the respective ROT must sign-on, in person, on the trading floor for that listed option.

AUTO–X participation shall be assigned to Wheel Participants on a rotating basis, beginning at a random place on the rotational Wheel each day, from those participants signed-on in the listed option. The Wheel shall rotate and assign contracts in accordance with procedures established by the Exchange.

Permanent Approval of Pilot Program

The AUTOM system has operated on a pilot basis since 1998, when it was first approved by the Commission for market orders of up to five contracts for twelve Phlx near-month equity options. [12] Since that time, AUTOM has been extended several times, generally in one-year increments. [13] AUTOM has also been amended several times. [14]

At this time, the Exchange proposes permanent approval of the AUTOM pilot program. In the most recent extension of the pilot program until June 30, 1997, the Commission stated that the Exchange's request for permanent approval should be accompanied by a report covering the period between June 30, 1996 and January 1, 1997, describing: (1) the benefits provided by AUTOM; (2) the degree of AUTOM usage, including the number and size of orders routed through AUTOM as well as the number and size of orders routed through AUTO–X; (3) the system capacity of AUTOM and AUTO–X; and (4) any problems the Exchange has encountered with the routing and execution features. This report is submitted separately. Generally, the Exchange believes that, since the last extension of the pilot program, AUTOM has functioned properly and efficiently, without any material problems reported by Phlx members or AUTOM users, and without significant malfunctions or operational failures.

The complete text of the proposed rule change is available at the Office of the Secretary, the Phlx, and at the Commission.

II. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, the Exchange has no rule in place respecting the use of AUTOM, such as Rule 229, Philadelphia Stock Exchange Automated Communication and Execution System (''PACE''). Most other exchanges have adopted such rules with respect to their automated systems.[15] These rules generally describe the systems and its features, eligible orders and responsibilities pertaining to the systems. The purpose of the proposed rule change is to adopt Rule 1080 to govern as the AUTOM Rule. Future amendments to AUTOM, such as increasing the size of eligible orders, would include an amendment to the proposed rule.

This proposal identifies three types of proposed amendments within the AUTOM Rule. The first category consists of provisions previously approved by the Commission. The second category is comprised of provisions which, although not

(November 25, 1996), 61 FR 63889 (December 2, 1996) (SR–Phlx–96–49).

[11] However, the Exchange recently filed with the Commission a proposed rule change (SR–Phlx–97–21) to permit a floor trader to participate on Wheels not located within one assignment area, defined as two contiguous quarter turrets, so long as the floor trade obtained the approval of two floor officials and the agreement of the specialists and participants on those particular Wheels.

[12] *See supra* note 8.

[13] *See* Securities Exchange Act Release Nos. 25868 (June 30, 1988), 53 FR 25563 (SR–Phlx–88–22 extended through December 31, 1988); 26354 (December 13, 1988), 53 FR 51185 (SR–Phlx–88–33 extended through June 30, 1989); 26522 (February 3, 1989), 54 FR 6465 (SR–Phlx–89–01 extended through December 31, 1989); 27599 (January 9, 1990), 55 FR 1751 (SR–Phlx–89–03 extended through June 30, 1990); 28265 (July 26, 1990), 55 FR 31274 (SR–Phlx–90–16 extended through December 31, 1990); 28978 (March 15, 1991), 56 FR 12050 (SR–Phlx–90–34 extended through December 31, 1991); 32559 (June 30, 1993), 58 FR 36496 (SR–Phlx–93–03 extended through December 31, 1993); 33405 (December 30, 1993), 59 FR 790 (SR–Phlx–93–57 extended through December 31, 1994); 35183 (December 30, 1994), 60 FR 2420 (SR–Phlx–94–41 extended through December 31, 1995); 36582 (December 13, 1995), 60 FR 65364 (SR–Phlx–95–78 extended through December 31, 1996); and 38104 (December 31, 1996), 62 FR 1017 (SR–Phlx–96–51 extended through June 30, 1997).

[14] *See* Securities Exchange Act Release Nos. 25868 (June 30, 1988), 53 FR 25563 (SR–Phlx–88–22 AUTOM extended to 37 options); 26354 (December 13, 1988), 53 FR 51185 (SR–Phlx–88–33 expanded from 5 to 10 contracts in all strikes and months); 26522 (February 3, 1989), 54 FR 6455 (SR–Phlx–89–01 adding 25 additional equity options totaling 62); 2,599 (January 9, 1990), 55 FR 1751 (SR–Phlx–89–03 approving AUTO–X for market and marketable limit orders in three strikes and all months up to ten contracts in 12 equity options and day limit orders deliverable though AUTOM); 28516 (October 3, 1990), 55 FR 41408 (SR–Phlx–90–18 expanding from 10 to 100 contracts); 28978 (March 15, 1991), 56 FR 12050 (SR–Phlx–90–34 extending AUTO–X to all equity options and AUTOM to accept GTC and cabinet orders); 29782 (October 3, 1991), 56 FR 55146 (SR–Phlx–91–19 extending AUTO–X to all strike prices and expiration months); 29662 (September 9, 1991), 56 FR 46816 (SR–Phlx–91–31 expanding AUTO–X to 20 contracts for Duracell options to match CBOE/Amex/NYSE); 29837 (October 18, 1991), 56 FR 36496 (SR–Phlx–91–33 expanding AUTO–X from ten to 20 contracts); 32906 (September 15, 1993), 58 FR 15168 (SR–Phlx–92–38 expanding AUTO–X from 20 to 25 contracts); 34920 (October 31, 1994), 59 FR 55510 (SR–Phlx–94–40 codifying AUTOM for index options); 35033 (November 30, 1994), 59 FR 63152 (SR–Phlx–94–32 adopting the Wheel); 35601 (April 13, 1995), 60 FR 19616 (SR–Phlx–95–18 codifying order types);35781 (May 30, 1995), 60 FR 30131 (SR–Phlx–95–29 expanding AUTO–X to 50 contracts for TPX only); 35782 (May 30, 1995), 60 FR 30136 (SR–Phlx–95–30 extending AUTOM from 100 to 500 contracts); 36429 (October 27, 1995); 60 FR 55874 (SR–Phlx–95–35 permitting broker-dealer orders in AUTOM for TPX only); 36467 (November 8, 1995), 60 FR 57615 (SR–Phlx–95–33 limiting AUTO–X in XOC); 36601 (December 18, 1995), 60 FR 66817 (SR–Phlx–95–39 expanding AUTO–X from 25 to 50 contracts); and 37977 (November 25, 1996), 61 FR 63889 (SR–Phlx–96–49 amending Wheel provisions).

[15] *See e.g.,* American Stock Exchange (''Amex'') Rule 60.

specifically approved by the Commission, codify existing practice. The remaining provisions, included in the third category, are being introduced into AUTOM by way of this proposal.

a. Existing Provisions

First, the definition of the AUTOM System was specifically approved by the Commission and appears repeatedly in Commission orders amending and extending the pilot program.[16] AUTOM is described as the Exchange's electronic order delivery and reporting system through which automatically-entered orders are routed directly to the appropriate specialist on the Exchange's equity/index option trading floor.

Second, Rule 1080(b) is intended to identify the types of orders eligible for entry into AUTOM. The eligibility of specific sizes and order types has been approved by the Commission.[17] The prohibition against unbundling orders was also approved by the Commission.[18]

Rule 1080(c) defines AUTO–X and lists the types of orders eligible for automatic execution. In 1991, the commission approved the use of AUTO–X as part of the AUTOM pilot program for market and marketable limit orders.[19] Thus, AUTO–X has been previously described and approved by the Commission.

Lastly, the Exchange proposes to incorporate the provisions of Advice F–24, concerning the Wheel, into the proposed AUTOM Rule. The purpose of the Wheel is to increase the efficiency and liquidity of order execution through AUTO–X by including all floor traders in the automated assignment of contra-parties to incoming AUTO–X orders. Thus, the Wheel is intended to make AUTO–X more efficient, as contra-side participation will be assigned automatically, and no longer entered manually. The Wheel is also intended to promote liquidity by including ROTs, as opposed to solely Specialists, as a contra-side to AUTO–X orders. The floor-wide roll-out of the Wheel was completed the week of April 21, 1997.

b. Codification Provisions

Certain parts of the proposed rule merely explain aspects of AUTOM and codify existing policies respecting the System. For example, in Rule 1080(a), the requirement that equity option and index option specialists are required to participate in AUTOM is implicit to the functioning of AUTOM, but is not codified in any Exchange rule. This requirement is rooted in the obligations of Rule 1014, such that Exchange specialists are required to participate in facilitating AUTOM orders, because depth and liquidity are integral to the fair execution of such orders.

Proposed sub-paragraph (b)(iii) would state that the Exchange's Options Committee determines the eligibility of order types for AUTOM and AUTO–X, including to discontinue accepting certain order types. Although this statement has not been specifically approved by the Commission, it restates the authority of the Options Committee, which is enumerated in Exchange By-Law Article X, Section 10–18.[20]

Rule 1080(e) governs extraordinary circumstances respecting AUTOM and AUTO–X. In the event such circumstances arise with respect to a particular option class, pursuant to Advice A–13, two Floor Officials may authorize the disengagement of AUTO–X.[21] Accordingly, this existing requirement would be incorporated into the proposed AUTOM Rule. Further, the requirement in Advice A–13 that the specialist engage AUTO–X within three minutes of completing an opening rotation is also codified in Rule 1080(e). However, in the event the extraordinary circumstances prevail floor-wide, the approval of two Floor Officials as well as the Chairperson of the Options Committee would be required to disengage AUTO–X.

Commentaries .01 and .02 describe two AUTOM System features currently in place. As stated above, Auto-Quote is the Exchange's electronic options pricing system, which enables specialists to automatically monitor and instantly update quotations. The Electronic Order Book is the automated specialist limit order book, which automatically routes unexecuted AUTOM orders to the book and displays orders real-time in order of price/time priority. Both are existing features being codified into the AUTOM Rule.

c. New AUTOM Provisions

The first new provision respecting AUTOM is the second paragraph of Rule 1080(a), which states that Rule 1080 shall govern all order messages transmitted between the offices of member organizations and Phlx trading floors through AUTOM. This provision is intended to establish Rule 1080 as the AUTOM Rule. Sub-paragraph (b)(i) provides that only agency orders may be entered into AUTOM. The purpose of this provision is to incorporate a general agency definition, similar to other systems rules.[22]

The Exchange is proposing to codify the ability of the Options Committee to restrict the use of AUTO–X with respect to a particular option class, series, user or account type. As the Exchange standing committee governing options trading floor systems pursuant to Exchange By-Law Article X, Section 10–18, the Options Committee currently determines the maximum order size eligibility for AUTOM and AUTO–X, as well as any other AUTOM-related issues.[23] The Exchange believes that the ability to limit the availability of AUTO–X may be necessary to maintain fair and orderly markets and maintain AUTO–X volume guarantees, consistent with AUTO–X's purpose of facilitating expeditious executions of small customer orders at fair prices.

The Exchange notes that AUTO–X is generally available for all option series. In 1995, the Exchange received Commission approval to limit the availability of AUTO–X for certain, high-priced series of National Over-the-Counter Index options (''XOC'').[24] At this time, the Exchange proposes to restore these XOC series to AUTO–X eligibility. The Exchange seeks to codify a provision enabling the Options Committee to restrict AUTO–X to certain series or options, as stated above. The Exchange believes that this is consistent with the provisions and practices of other exchanges.[25] The Exchange believes that such a limitation is appropriate in light of the market conditions respecting certain options or series that may render it difficult for floor traders to quickly update their

[16] *See e.g.,* Securities Exchange Act Release No. 32559 (June 30, 1993), 58 FR 36496 (July 7, 1993) (SR–Phlx–93–03 at I. and II.A., second paragraph).

[17] *See supra* note 6.

[18] *See* Securities Exchange Act Release No. 27599 (January 9, 1990), 55 FR 1751 (January 18, 1990) (SR–Phlx–89–03 at note 9, which states that a retail user of the AUTOM System may not separate a 20 contract order into two 10 contract orders for the purpose of making such order eligible for automatic execution). *See also* Phlx Rules 229.19 and 1015(a)(vii).

[19] *See* Securities Exchange Act Release No. 28978 (March 15, 1991), 56 FR 12050 (March 21, 1991) (SR–Phlx–90–34).

[20] Generally, the Options Committee has supervision over the dealings of members on the equity/index options trading floor, including floor employees of members, and of the premises of the Exchange facility, including the location of equipment and the use of space. Specifically, the Options Committee supervises all connections or means of communications with the equity/index options floor.

[21] *See* Securities Exchange Act Release No. 29575 (August 16, 1991), 56 FR 41715 (August 22, 1991) (SR–Phlx–91–16).

[22] *See e.g.,* Phlx Rule 229.02.

[23] *See supra* note 23.

[24] *See* Securities Exchange Act Release No. 36467 (November 8, 1995), 60 FR 57615 (November 16, 1995) (SR–Phlx–95–33 limiting AUTO–X eligibility to XOC series where the bid is $10 or less).

[25] *See supra* note 24 at footnotes 16–17 and accompanying text. *See* CBOE Rule 6.8(e).

quotations. Thus, the Exchange believes that the proposed language is a reasonable balance between preserving the availability of AUTO–X and enabling the floor traders who honor the markets subject to automatic execution to properly update such markets.

The second paragraph of Rule 1080(c) propose the ability to increase the maximum size of orders eligible for AUTO–X to correspond to the largest maximum size permitted by any options exchange on which a multiply-traded issue trades. This provision is intended to provide consistent eligibility standards for the automatic execution of orders among options exchanges. For example, assuming XYZ is a multiply-traded option, if another options exchange receives Commission approval to increase the automatic execution size eligibility, which thus becomes applicable to XYZ option, then the Phlx would file a proposed rule change pursuant to Section 19(b)(3)(A) of the Act with the Commission [26] to identically increase the automatic execution size eligibility of XYZ respecting Phlx AUTO–X orders to match such higher amount. The higher size eligibility would only apply to a Phlx option meeting these requirements—all other Phlx options could only be subject to a higher AUTO–X size eligibility standard by Commission approval of a proposed rule change pursuant to Section 19(b)(2) of the Act. The Exchange believes that this provision should facilitate uniformity and efficiency by eliminating duplicative filings published for comment from the various options exchanges.[27]

Rule 1080(d), Hours, states that AUTOM orders are accepted beginning at 8:00 AM (ET) until the close of trading. Orders received after such time, as determined electronically by the AUTOM System, are rejected and returned to the order entry firm. Although this provision was not discussed in the AUTOM pilot program, the AUTOM System obviously has certain hours during which orders can be entered. Thus, the Exchange proposes at this time to codify such hours into its AUTOM Rule.

Next, proposed paragraph (f) pertains to a specialist's obligations respecting AUTOM, and generally requires that a specialist must accept all eligible orders and handle such orders consistent with Rule 1014. For example, Rule 1014 requires the specialist to maintain fair and orderly markets. Further, sub-paragraph (f)(ii) provides that a specialist must respond promptly to all AUTOM messages, which is intended to promote just and equitable principles of trade. Sub-paragraph (f)(iii) states that a specialist is responsible for the remainder of partially executed orders, consistent with the maintenance of fair and orderly markets. The specialist will be responsible for the visibility to the trading crowd of both the OpView screens displaying incoming AUTO–X orders as well as the at-the-money strikes in displayed options. Disputes within the trading crowd regarding what should be displayed are to be referred to a Floor Official. The purpose of this provision is to provide the trading crowd with the most pertinent trading information.

In the event extraordinary conditions exist floor-wide, two Exchange Floor Officials and the Chairperson of the Options Committee or his designee may determine to disengage the AUTO–X feature floor-wide. This provision represents a change to prior representations that the Emergency Committee must authorize any floor-wide disengagement or nonactivation of AUTO–X. At the same time, this provision codifies Advice A–13 into the proposed AUTOM Rule. Although the Exchange believes that AUTO–X is an important feature of the AUTOM System, there are situations where, as contemplated by Advice A–13, it may be inappropriate to engage AUTO–X.

The Exchange is also proposing to adopt a liability provision, premised with a paragraph on member responsibility. The purpose of the provision is to recognize that, absent such language, specialists may be deemed accountable for AUTOM orders, regardless of the circumstances. Thus, apportioning responsibility for AUTOM messages based on the status of such message is intended to place responsibility on the party taking the last action respecting that message. In the interest of fairness and certainty, the Exchange believes that party is best suited to follow-up on the order message. This provision is similar to that of other exchanges.[28] As for Exchange liability, express reference is made to the important Exchange by-law stating that the Exchange shall not be liable for any damages sustained by a member or member organization growing out of the use or enjoyment of the facilities afforded to members for the conduct of their business.

2. Statutory Basis

In view of its automatic order routing, delivery and execution functions, the Exchange believes that the AUTOM System increases the speed and efficiency of the execution of its orders. The proposed rule change is intended to incorporate the many features, benefits and procedures of the AUTOM System into an AUTOM Rule. In sum, the Exchange believes that the proposal is consistent with Section 6 of the Act[29] in general and in particular with Section 6(b)(5),[30] because it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, as well as to protect investors and the public interest. Some provisions of the AUTOM rule incorporate different Exchange statements approved in prior proposed rule changes respecting the AUTOM pilot program. Other provisions codify the functions, features and obligations respecting AUTOM, including incorporating different Exchange statements from prior proposed rule changes respecting the AUTOM pilot program. The Exchange believes that a single AUTOM Rule should facilitate AUTOM System usage and certainty respecting order handling, by providing an easy reference for users of the System.

The Exchange believes that the new AUTOM provisions should solidify AUTOM procedures, which should, in turn, promote liquidity, enhance the use of AUTOM and facilitate transactions through AUTOM. More specifically, the Phlx believes that the proposed amendment relating to maximum automatic execution order size should promote the use of exchange automated systems and prevent investor confusion by fostering uniformity among exchanges in maximum automatic execution order sizes in multiply-traded issues.

The Exchange also believes that the proposed rule change is consistent with Section 11A(a)(1)(B) of the Act,[31] in that AUTOM is intended to improve, through the use of new data processing and communications techniques, the efficiency with which transactions in Phlx equity and index options are executed. Further, the Exchange believes that AUTOM fosters competition among the options

[26] Such a proposed rule change may qualify as a systems change that could become effective upon filing pursuant to Rule 19b–4(e)(5).

[27] *See e.g.*, Securities Exchange Act Release Nos. 36420 (October 26, 1995), 60 FR 55619 (November 1, 1995) (SR–CBOE–95–66); and 32956 (September 24, 1993), 58 FR 51893 (October 5, 1993) (SR–CBOE–92–40). *See also* CBOE Rule 6.8, Interpretation and Policies .01.

[28] *See e.g.*, Amex Rule 60.

[29] 15 U.S.C. 78f(b).

[30] 15 U.S.C. 78f(b)(5).

[31] 15 U.S.C. 78k–1(a)(1)(B).

exchanges, which have similar systems in place.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** within such longer period (i) as the Commission may designate up to 90 days or such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Phlx consents, the Commission will:

(A) by order approve such proposed rule change, or,

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–97–24 and should be submitted by June 24, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[32]

[32] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–14412 Filed 6–2–97; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

Invitation for Public Comments on DOT Draft Cargo Liability Study

AGENCY: Office of the Secretary, DOT.

ACTION: Invitation for Public Comments on DOT Draft Cargo Liability Study.

The Department of Transportation (DOT) is required by the Interstate Commerce study to determine whether any modifications or reforms should be made to the loss and damage provisions on motor carriage, including those relating to limitations of liability. The statute requires the Secretary, at a minimum, to consider the following factors:

a. Efficient delivery of transportation services
b. International harmony
c. Intermodal harmony
d. The public interest; and
e. The interests of carriers and shippers

The study is to be submitted to the Congress. DOT has previously invited public comments (see **Federal Register**, Vol. 61 (6056) February 15, 1996).

The public is now invited to comment on a draft of the DOT study. The draft may be accessed electronically on http://ostpxweb.dot.gov/ and a hard copy may be obtained from the contact person listed below. In the current draft the statistics of the 1975 DOT study of cargo liability are used in several places as markers and as basis for requests to shippers, carriers and insurance interest either to produce better statistics or to verify that the loss and damage component of the value of cargo remains approximately as before.

DOT will accept comments for thirty days from the date of publication of this notice. At the end of the comment period DOT plans to review all comments and to complete the study.

For further information contact: Paul B. Larsen, Office of the General Counsel, room 10102, 400 7th Street SW., Washington DC 20590. (202) 366–9163. E-mail: Paul.Larsen@ost.dot.gov

Dated: May 19, 1997.

Joseph F. Camy,

Deputy Assistant Secretary of Transportation for Transportation Policy.

[FR Doc. 97–14386 Filed 6–2–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket Nos. 97–017; Notice 2, 97–018; Notice 2, 97–019; Notice 2]

Decision That Certain Nonconforming Motor Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that certain nonconforming motor vehicles are eligible for importation.

SUMMARY: This notice announces decisions by NHTSA that certain motor vehicles not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to vehicles originally manufactured for importation into and/or sale in the United States and certified by their manufacturers as complying with the safety standards, and they are capable of being readily altered to conform to the standards.

DATES: These decisions are effective as of June 3, 1997.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has

received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania (Registered Importer 90–009) petitioned NHTSA to decide whether the vehicles listed in Annex A to this notice are eligible for importation into the United States. To afford an opportunity for public comment, NHTSA published notice of these petitions as specified in Annex A. The reader is referred to those notices for a thorough description of the petitions. No comments were received in response to these notices. Based on its review of the information submitted by the petitioners, NHTSA has decided to grant the petitions.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. Vehicle eligibility numbers assigned to vehicles admissible under this decision are specified in Annex A.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that each motor vehicle listed in Annex A to this notice, which was not originally manufactured to comply with all applicable Federal motor vehicle safety standards, is substantially similar to a motor vehicle manufactured for importation into and/or sale in the United States, and certified under 49 U.S.C. § 30115, as specified in Annex A, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 28, 1997.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

Annex A

Nonconforming Motor Vehicles Decided To Be Eligible for Importation

1. Docket No. 97–017
   Nonconforming Vehicle: 1990 Porsche 928 S4
   Substantially similar U.S.-certified vehicle: 1990 928 S4
   Notice of Petition published at: 62 FR 14499 (March 26, 1997)
   Vehicle Eligibility Number: VSP–210
2. Docket No. 97–018
   Nonconforming Vehicles: 1991 Jeep Cherokee (European market)
   Substantially similar U.S.-certified vehicles: 1991 Jeep Cherokee
   Notice of Petition published at: 62 FR 16640 (April 7, 1997)
   Vehicle Eligibility Number: VSP–211
3. Docket No. 97–019
   Nonconforming Vehicle: 1990 Mercedes-Benz 420 SEC
   Substantially similar U.S.-certified vehicle: 1990 Mercedes-Benz 560 SEC
   Notice of Petition published at: 62 FR 16888 (April 8, 1997)
   Vehicle Eligibility Number: VSP–209

[FR Doc. 97–14380 Filed 6–2–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

May 15, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0108.

Form Number: IRS Form 1096.

Type of Review: Extension.

Title: Annual Summary and Transmittal of U.S. Information Returns.

Description: Form 1096 is used to transmit information returns (Forms 1099, 1098, 5498, and W–2G) to the IRS Service Center. Under Internal Revenue Code (IRC) section 6041 and related sections, a separate Form 1096 is used for each type of return sent to the service center by the payer. It is used by IRS to summarize and categorize the transmitted forms.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 5,197,271.

Estimated Burden Hours Per Respondent: 10 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 966,805 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 97–14358 Filed 6–2–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 16, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Departmental Offices/Office of International Investment

OMB Number: 1505–0121.

Form Number: None.

Type of Review: Extension.

Title: Regulations Pertaining to Mergers, Acquisitions and Takeovers by Foreign Persons.

Description: Treasury disseminates to other agencies that are members of the Committee on Foreign Investment in the United States information collected under the regulations from parties involved in a foreign acquisition of a United States company in order to do a national security analysis of the acquisition.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 100.

Estimated Burden Hours Per Respondent: 60 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 6,000 hours.

Clearance Officer: Lois K. Holland, (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, N.W., Washington, DC 20220.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New

Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 97–14359 Filed 6–2–97; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

May 22, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–1251.

Regulation Project Number: PS–5–91 Final.

Type of Review: Extension.

Title: Limitations on Percentage Depletion in the Case of Oil and Gas Wells.

Description: Section 1.613A–3(e)(6)(i) of the regulations requires each partner to separately keep records of the partner's share of the adjusted basis of partnership oil and gas property.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 1,500,000.

Estimated Burden Hours Per Recordkeeper: 2 minutes.

Estimated Total Recordkeeping Burden: 49,950 hours.

OMB Number: 1545–1533.

Revenue Procedure Number: Revenue Procedure 97–22.

Type of Review: Extension.

Title: 26 CFR 601.105 Examination of Returns and Claims for Refund, Credits, or Abatement, Determination of Correct Tax Liability.

Description: The information requested in Revenue Procedure 97–22 under sections 4 and 5 is required to ensure that records maintained in an electronic storage system will constitute records within the meaning of section 6001.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

Estimated Number of Recordkeepers: 50,000.

Estimated Burden Hours Per Recordkeeper: 20 hours, 1 minute.

Estimated Total Recordkeeping Burden: 1,000,400 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 97–14360 Filed 6–2–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 27, 1997.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Bureau of the Public Debt (BPD)

OMB Number: 1535–0025.

Form Number: PD F 3360.

Type of Review: Extension.

Title: Request for Reissue of United States Savings Bonds/Notes in the Name of a Person or Persons Other Than the Owner (Including Legal Guardian, Custodian for a Minor Under a Statute, Etc.).

Description: PD F 3360 is used by the owner to request reissue of Savings Bonds/Notes in the name of another person.

Respondents: Individuals or households.

Estimated Number of Respondents: 50,000.

Estimated Burden Hours Per Response: 10 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 8,350 hours.

OMB Number: 1535–0032.

Form Number: PD F 3565.

Type of Review: Extension.

Title: Application for Disposition of Retirement Plan and/or Individual Retirement Bonds Without Administration of Deceased Owner's Estate.

Description: PD F 3565 is used by heirs of deceased owners of Retirement Plan and/or Individual Retirement bonds to request disposition when no beneficiaries are designated.

Respondents: Individuals or households.

Estimated Number of Respondents: 50.

Estimated Burden Hours Per Response: 20 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 17 hours.

OMB Number: 1535–0055.

Form Number: PD F 1050.

Type of Review: Extension.

Title: Creditor's Consent to Disposition of United States Securities and Related Checks Without Administration of Deceased Owner's Estate.

Description: PD F 1050 is used to obtain creditor's consent to dispose of Savings Bonds/Notes in settlement of a deceased owner's estate without administration.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents: 3,000.

Estimated Burden Hours Per Response: 6 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 300 hours.

OMB Number: 1535–0084.

Form Number: PD F 5263 and PD F 5263–1.

Type of Review: Extension.

Title: Order for Series EE U.S. Savings Bonds (5263); and Order for Series EE U.S. Savings Bonds to be Registered in Name of Fiduciary (5263–1).

Description: PD F 5263 and PD F 5263–1 are completed by the purchaser to issue Series EE United States Savings Bonds.

Respondents: Individuals or households.

Estimated Number of Respondents: 10,000,000.

Estimated Burden Hours Per Response:

PD F 5263—5 minutes.

PD F 5263–1—5 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 830,000 hours.

Clearance Officer: Vicki S. Thorpe, (304) 480–6553, Bureau of the Public

Debt, 200 Third Street, Parkersburg, West VA 26106–1328.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Report's Management Officer.

[FR Doc. 97–14361 Filed 6–2–97; 8:45 am]

BILLING CODE 4810–40–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

May 23, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

U.S. Customs Service (CUS)

OMB Number: 1515–0042.

Form Number: CF 4455 and CF 4457.

Type of Review: Extension.

Title: Certificate of Registration.

Description: The Certificate of Registration is used to expedite free entry or entry at a reduced rate on foreign made personal articles which are taken abroad. These articles are dutiable each time they are brought into the United States unless there is acceptable proof of prior possession.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 200,000.

Estimated Burden Hours Per Respondent: 3 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 10,000 hours.

OMB Number: 1515–0043.

Form Number: CF 3311.

Type of Review: Extension.

Title: Declaration for Free Entry of Returned American Products.

Description: This collection of information is used as a supporting document which substantiates the claim for duty free status for returning American products.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents/ Recordkeepers: 12,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 6 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 51,000 hours.

OMB Number: 1515–0130.

Form Number: None.

Type of Review: Extension.

Title: Free Admittance Under Conditions of Emergency.

Description: This collection of information will be used in the event of emergency or catastrophic event to monitor goods temporarily admitted for the purpose of rescue or relief.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions.

Estimated Number of Respondents/ Recordkeepers: 1 hour.

Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 1 hour.

Clearance Officer: J. Edgar Nichols, (202) 927–1426, U.S. Customs Service, Printing and Records Management Branch, Room 6216, 1301 Constitution Avenue, N.W., Washington, DC 20229.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 97–14362 Filed 6–2–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Domestic Finance Notice of Open Meeting of the Advisory Committee; U.S. Community Adjustment and Investment Program

The Department of the Treasury, pursuant to the North American Free Trade Agreement (''NAFTA'') Implementation Act (Pub. L. No. 103–182), established an advisory committee (the ''Advisory Committee'') for the community adjustment and investment program (the ''Program''). The Program will provide financing to businesses and individuals in communities adversely impacted by NAFTA to create new jobs. The charter of the Advisory Committee has been filed in accordance with the Federal Advisory Committee Act of October 6, 1972 (Pub. L. No. 92–463), with the approval of the Secretary of the Treasury.

The Advisory Committee consists of nine members of the public, appointed by the President, who collectively represent: (1) Community groups whose constituencies include low-income families; (2) scientific, professional, business, nonprofit, or public interest organizations or associations, which are neither affiliated with, nor under the direction of, a government; and (3) for-profit business interests.

The objectives of the Advisory Committee are to: (1) Provide informed advice to the President regarding the implementation of the Program; and (2) review on a regular basis, the operation of the Program, and provide the President with the conclusions of its review. Pursuant to Executive Order No. 12916, dated May 13, 1994, the President established an interagency committee to implement the Program and to receive, on behalf of the President, advice of the Advisory Committee. The committee is chaired by the Secretary of the Treasury.

A meeting of the Advisory Committee, which will be open to the public, will be held in Washington, D.C. at the Marriott Hotel at Metro Center, Salon B, 775 12th Street, N.W., Washington, D.C. 20005, from 9 a.m. to 4 p.m. on Friday, June 20, 1997. The meeting room will accommodate approximately 50 persons and seating is available on a first-come, first-serve basis, unless space has been reserved in advance. Due to limited seating, prospective attendees are encouraged to contact the person listed below prior to June 13, 1997. If you would like to have the Advisory Committee consider a written statement, material must be submitted to the U.S. Community Adjustment and Investment Program, Advisory Committee, Department of the Treasury, 1500 Pennsylvania Avenue, NW, Room 3040, Washington, DC 20220 no later than June 13, 1997. If you have any questions, please call Dan Decena at (202) 622–0637. (Please note that this telephone number is not toll-free.)

Mozelle W. Thompson,

Principal Deputy Assistant Secretary, Government Financial Policy.

[FR Doc. 97–14388 Filed 6–2–97; 8:45 am]

BILLING CODE 4810–15–U

DEPARTMENT OF THE TREASURY

[Treasury Directive Number 27–02]

Organization and Functions of the Fiscal Service

Dated: May 23, 1997.

1. *Purpose.* This Directive describes the organization and functions of the Fiscal Service.

2. *Organization Structure.* In accordance with 31 U.S.C. 306, the Fiscal Service consists of the Office of the Fiscal Assistant Secretary; the Financial Management Service, which has as its head a Commissioner; and the Bureau of the Public Debt, which has as its head a Commissioner. The Fiscal Assistant Secretary is the head of the Fiscal Service and is appointed by the Secretary of the Treasury, in accordance with 31 U.S.C. 301(d).

3. *Office of the Fiscal Assistant Secretary.* The officials, organization and functions of the Office of the Fiscal Assistant Secretary are as follows.

a. *The Fiscal Assistant Secretary* is responsible for the following principal functions.

(1) Provides general supervision, policy oversight, management, and coordination of the Financial Management Service and the Bureau of the Public Debt.

(2) Oversees the development of policies, programs, and systems for the collection, disbursement, management and security of public monies in the United States and in foreign countries and the related governmentwide accounting and reporting for such funds.

(3) Oversees the development of policies, programs, and systems for financing and accounting for the public debt.

(4) Provides general supervision and policy oversight of the Department's role as lead agency in improving cash management, credit administration, debt collection and financial management systems on a governmentwide basis.

(5) Provides policy advice and general oversight regarding international cash management activities and improvements, including agreements to purchase foreign currencies and the holding and disbursement of these funds.

(6) Ensures the timely consolidation and publication of information on the Federal Government's financial operations and financial position for use by decision-makers in the Government and in private sector financial markets.

(7) Directs the implementation of security enhancements to ensure the authentication and integrity of data affecting electronic funds transfers.

(8) Oversees the administration and investment of the Federal Government accounts and trust funds.

(9) Oversees the management of the Treasury's daily cash position and the investment of excess operating cash balances.

(10) Provides estimates of the Treasury's future cash and debt position for use by the Department in connection with its financing activities and other financial operations.

(11) Provides direction and oversight of the performance of fiscal agency functions by the Federal Reserve banks as fiscal agents of the Treasury.

(12) Approves new and revised principles and standards and system designs for Treasury's fiscal accounting systems operated and maintained by the Financial Management Service and Bureau of the Public Debt, and coordinates efforts to review, improve and report such systems in accordance with Section 4 of the Federal Managers' Financial Integrity Act, Pub. L. 97–255 (31 U.S.C. 3512(d)(2)(B)).

(13) Approves, in accordance with applicable Treasury directives, regulations pertaining to the Government securities market and participates in the development of policy issues affecting the liquidity, integrity and efficiency of the market.

(14) Provides policy advice to the Assistant Secretary (International Affairs) regarding terms and conditions of agreements for borrowing from foreign international monetary authorities.

(15) Represents the Secretary in directing the Treasury's participation in the Joint Financial Management Improvement Program for improvement of all aspects of financial management in the Government.

(16) Represents the Secretary on various interdepartmental commissions, boards, and committees.

b. *The Deputy Fiscal Assistant Secretary* shares in carrying out the functions and responsibilities of the Fiscal Assistant Secretary and works with the Fiscal Assistant Secretary in managing program areas for which the latter is responsible.

c. *The Assistant Fiscal Assistant Secretary* serves as the principal advisor to the Fiscal Assistant Secretary and the Deputy Fiscal Assistant Secretary on matters relating to fiscal policy and banking relationships.

d. *The Director, Office of Cash and Debt Management,* is the principal advisor to the Fiscal Assistant Secretary and the Deputy Fiscal Assistant Secretary on matters relating to Treasury cash and debt position management, cash flow forecasting, borrowing and investment activities.

4. *The Financial Management Service.*

a. *Organization.* The Financial Management Service is comprised of the Washington headquarters and Regional Financial Centers. In the Washington headquarters, the Office of the Commissioner consists of the Commissioner, the Deputy Commissioner, the Office of Quality and Diversity Management, and the Office of Legislative and Public Affairs. The headquarters office also includes the Chief Counsel, who is located in the Office of the Commissioner. The Chief Counsel is an official of the Department's Legal Division and under the supervision of the Department's General Counsel. The Commissioner and Deputy Commissioner direct the activities of the Service through seven Assistant Commissioners: Management/Chief Financial Officer, Regional Operations, Financial Information, Federal Finance, Agency Services, Debt Management Services, and Information Resources.

b. *Functions.* The Financial Management Service acts as the Government's financial manager and central accountant and is responsible for improving the quality of government financial management through the following functions:

(1) Develops and implements policies and programs to improve financial management, including cash management, credit management, and debt collection.

(2) Issues electronic funds transfer payments and Treasury checks, reconciles all payments, and settles claims for Treasury checks cashed under forged endorsements or lost, stolen or destroyed.

(3) Operates and maintains the systems for the deposit of receipts, and designates and oversees the performance of Government depositaries.

(4) Maintains the central system that accounts for the monetary assets and liabilities of the Treasury and tracks collection and payment operations.

(5) Provides direct debt collection and debt management services to Federal agencies.

(6) Develops and publishes financial reports on the Government's financial operations and condition and provides financial management information to decision makers through financial reports that show budget results and the Government's overall financial status, such as the *Daily Treasury Statement,* the *Monthly Treasury Statement,* the *Quarterly Treasury Bulletin,* the *Annual Report of the U.S. Government,* and the *Consolidated Financial Statement.*

(7) Performs a wide range of financial services for Federal agencies including accounting cross-servicing, providing financial advice and guidance, consulting on financial management services, assisting with financial

systems, and training of accounting and finance staffs.

5. *The Bureau of the Public Debt.*

a. *Organization.* The Bureau of the Public Debt is comprised of the Washington headquarters and operations facilities in Washington and in Parkersburg, West Virginia. In the Washington headquarters, the Office of the Commissioner consists of the Commissioner, the Deputy Commissioner, the Government Securities Regulations Staff, and the Program Advisory Staff. The headquarters office also includes the Office of the Chief Counsel. The Chief Counsel is an official of the Department's Legal Division and under the supervision of the Department's General Counsel. The Commissioner and Deputy Commissioner direct the Bureau's activities through six Assistant Commissioners: Securities and Accounting Services; Public Debt Accounting; Administration; Automated Information Systems; Savings Bond Operations; and Financing; and the Executive Director of the Savings Bond Marketing Office.

b. *Functions.* The Bureau of the Public Debt borrows the money needed to operate the Federal Government and accounts for the resulting public debt, and is responsible for the following functions:

(1) Maintains accounting controls over public debt receipts and expenditures, securities and interest costs, and publishes the *Monthly Statement of the Public Debt of the United States.*

(2) Participates with the Deputy Assistant Secretary (Federal Finance) in the development of policies and plans pursuant to the Government Securities Act of 1986 and, on a day-to-day basis, carries out duties pursuant to the Act.

(3) Issues regulations and instructions pertaining to public debt securities, such as commercial and direct access book-entry securities, definitive securities, savings-type securities, and other special purpose securities.

(4) Prepares Treasury announcements and offering circulars for public debt securities, including savings bonds.

(5) Conducts the auction and allotment of public debt securities and issues such securities.

(6) Provides policy direction and exercises general oversight responsibility for the commercial book-entry system for Treasury marketable securities, and ensures the availability of an efficient mechanism for the conduct of secondary market transactions and the Treasury Direct System.

(7) Plans and implements a national marketing program for U.S. Savings Bonds.

(8) Maintains accounts, processes transactions, and authorizes payments for investors whose book-entry, registered and/or savings bond accounts are held directly with the Treasury.

(9) Provides policy direction and exercises general oversight responsibility for the nationwide network of institutions authorized to issue and redeem savings bonds.

(10) Invests, approves schedules for withdrawals and charges, and accounts for the Federal trust and deposit funds as directed by statute.

(11) Certifies interest rates determined by the Secretary.

(12) Disposes of obligations, including bonds, notes or other securities, acquired by the Secretary for the Government or delivered by an executive agency pursuant to 31 U.S.C. 324, and performs any functions necessary to effect such disposition.

(13) Oversees the lending of funds to agencies with borrowing authority, as prescribed by the Secretary pursuant to the Federal Credit Reform Act of 1990 (Pub. L. 101–508, as amended) and other statutory authority.

6. *Authority.* Treasury Order 101–05, ''Reporting Relationships and Supervision of Officials, Offices and Bureaus, Delegation of Certain Authority, and Order of Succession in the Department of the Treasury.''

7. *Cancellation.* Treasury Directive 27–02, ''Organization and Functions of the Fiscal Service,'' dated April 6, 1995, is superseded.

8. *Expiration Date.* This Directive expires three years after the date of issuance unless canceled or superseded prior to that date.

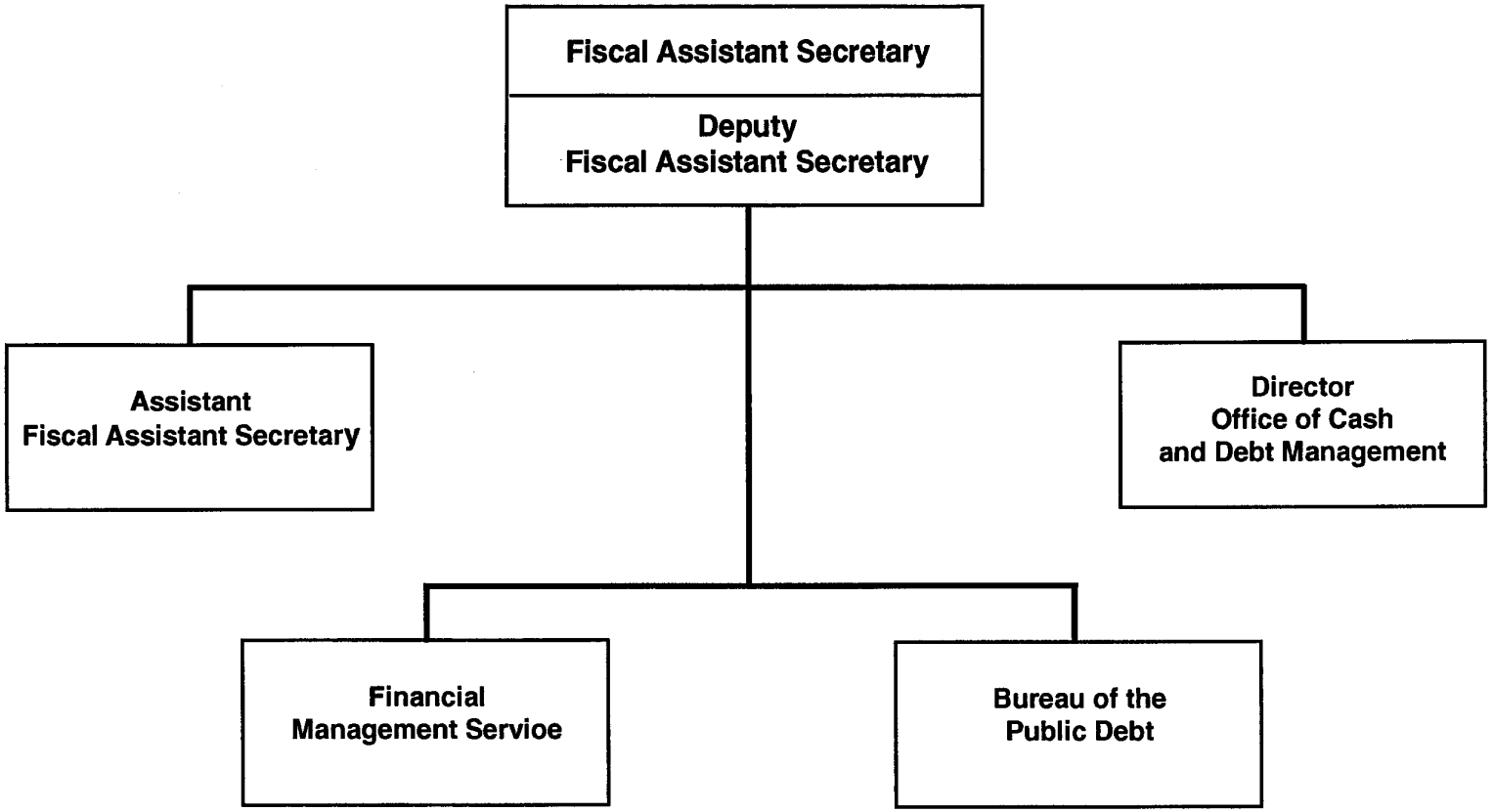
9. *Office of Primary Interest.* Office of the Fiscal Assistant Secretary.

Gerald Murphy,

Fiscal Assistant Secretary.

BILLING CODE 4810–25–P

The Fiscal Service



Department of the Treasury

Gerald Murphy
Fiscal Assistant Secretary

MAY 23 1997
Date

[FR Doc. 97–14355 Filed 6–2–97; 8:45 am]
BILLING CODE 4810–25–C

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 97–46]

Policy Statement Regarding Violations of 19 U.S.C. 1592 by Small Entities

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: On March 29, 1996, the President signed the Small Business Regulatory Enforcement Fairness Act of 1996. Section 223 of that law requires an agency to establish a policy or program which reduces, and under appropriate circumstances, waives civil penalties for violations of a statutory or regulatory requirement by a small entity. As a first step in implementing this law, we are setting forth in this document the circumstances and procedures whereby the assessment of a civil penalty under the provisions of 19 U.S.C. 1592 will be waived for violations committed by small entities.

FOR FURTHER INFORMATION CONTACT: Alan Cohen, Penalties Branch, Office of Regulations and Rulings, 202–482–6950.

SUPPLEMENTARY INFORMATION: On March 29, 1996, the President signed the Small Business Regulatory Enforcement Fairness Act of 1996, Pub. L. 104–121, 101 Stat. 847. Section 223 of that law requires an agency to establish a policy or program which reduces, and under appropriate circumstances, waives civil penalties for violations of a statutory or regulatory requirement by a small entity.

Customs Policy Statement Regarding Violations of 19 U.S.C. 1592 by Small Entities

Section 592 of the Tariff Act of 1930 (19 U.S.C. 1592) prohibits persons, by fraud, gross negligence or negligence, from entering or introducing, attempting to enter or introduce, or aiding and abetting the entry or introduction of merchandise into the commerce of the United States, by means of statements or acts that are material and false, or by means of omissions which are material. Under Customs discretionary authority pursuant to sections 592(b)(2) and 618, Tariff Act of 1930, as amended (19 U.S.C. 1592(b)(2) and 1618), Customs has published national guidelines applicable to its statutory authority to assess civil penalties against persons who violate 19 U.S.C. 1592. These guidelines provide for a reduction in the initial assessment of civil penalties, and a reduction in the penalties amount found to be ultimately due, because of the presence of specified mitigating factors.

In considering petitions filed pursuant to sections 592(b)(2) and 618, mitigating factors which apply to small entities include: (1) Reasonable reliance on misleading or erroneous advice given by a Customs official; (2) cooperation with the investigation beyond that expected for an entity under investigation; (3) immediate remedial action, including the payment of the actual loss of duties prior to the issuance of a penalty notice and within 30 days of the determination of the duties owed; (4) inexperience in importing, provided the violation is not due to fraud or gross negligence; (5) prior good record, provided that the violation is not due to fraud; (6) the inability of the alleged violator to pay the penalty claim; (7) extraordinary expenses incurred by the violator in cooperating with the investigation or in undertaking immediate remedial action; and (8) actual knowledge by Customs of a violation not due to fraud, where Customs failed to inform the entity so that it could have taken earlier corrective action. This list of factors is not exclusive.

In compliance with the mandate of the Small Business Regulatory Enforcement Fairness Act of 1996, the Customs Service is implementing a procedure whereby, under appropriate circumstances, the issuance of a penalty notice under 19 U.S.C. 1592(b)(2) will be waived for businesses qualifying as small business entities. Specifically, an alleged violator which has been issued a prepenalty notice under 19 U.S.C. 1592(b)(1) may assert in its response to the prepenalty notice that it is a small business entity, as defined in section 221(1) of the Small Business Regulatory Enforcement Fairness Act of 1996, and in 5 U.S.C. 601, and that all of the following circumstances are present: (1) The small entity has taken corrective action within a reasonable correction period, including the payment of all duties, fees and taxes owed as a result of the violation within 30 days of the determination of the amount owed; (2) the small entity has not been subject to other enforcement actions by Customs; (3) the violation did not involve criminal or willful conduct, and did not involve fraud or gross negligence; (4) the violation did not pose a serious health, safety or environmental threat, and (5) the violation occurred despite the small entity's good faith effort to comply with the law.

The alleged violator will have the burden of establishing, to the satisfaction of the Customs officer issuing the prepenalty notice, that it qualifies as a small entity as defined in section 221(3) of the Small Business Regulatory Enforcement Fairness Act of 1996, and that all five of the above circumstances are present. In establishing that it qualifies as a small entity, the alleged violator should provide evidence that it is independently owned and operated; that is, there are no related parties (domestic or foreign) as defined in 19 U.S.C. 1401a(g)(1), that would disqualify the business as a small business entity. Furthermore, the alleged violator must establish that it is not dominant in its field of operation. Finally, the alleged violator must provide evidence, including tax returns for the previous three years and a current financial statement from an independent auditor, of its annual average gross receipts over the past three years, and its average number of employees over the previous twelve months.

Each claim by an alleged violator that it qualifies as a small business entity will be considered on a case by case basis. In considering such claims, the Customs Service will consult the size standards set by the Small Business Administration, 13 CFR § 121.201, for guidance in determining whether the alleged violator qualifies as a small business. If the alleged violator's claims for a waiver of the penalty under the Small Business Regulatory Enforcement Fairness Act of 1996 are not accepted and a penalty notice is issued, or if the alleged violator fails to assert a claim for a waiver of the penalty under this Act when the prepenalty notice is issued, the alleged violator may pursue its claim for a waiver of the penalty in a petition filed pursuant to 19 U.S.C. 1592(b)(2).

The policies set forth in this notice are issued pursuant to the discretionary authority granted to the Secretary of the Treasury under 19 U.S.C. 1618 to remit and mitigate penalties, and do not limit the government's right to initiate a civil enforcement action under 19 U.S.C. 1592(e), nor do they limit the penalty amount which the government may seek in such an enforcement act, nor do they confer upon the alleged violator any substantive rights in such an enforcement action.

Dated: May 21, 1997.

Samuel H. Banks,

Acting Commissioner of Customs.

[FR Doc. 97–14411 Filed 6–2–97; 8:45 am]

BILLING CODE 4820–02–P

federal register

Tuesday
June 3, 1997

Part II

Department of Housing and Urban Development

NOFA for Lead-Based Paint Hazard Control in Privately-Owned Housing, Fiscal Year 1997; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4211–N–01]

NOFA for Lead-Based Paint Hazard Control in Privately-Owned Housing, Fiscal Year 1997

AGENCY: Office of the Secretary—Office of Lead Hazard Control, HUD.

ACTION: Notice of funding availability for Fiscal Year (FY) 1997.

SUMMARY: This notice announces the competition for two categories of grant funding: Category A for approximately $46 million for a grant program for State and local governments to undertake lead-based paint hazard control in eligible privately-owned housing units; and Category B for approximately $4 million for grants to State and local governments for assistance in undertaking lead-based paint hazard control in eligible privately-owned housing units on or near Superfund or ''Brownfield'' sites.

Approximately 12–15 grants of $1 million-$4 million each will be awarded under Category A and a maximum of 8 grants of $500,000 to $2 million each will be awarded under Category B. The grant sum requested by applicants under either category must constitute the total request for the maximum thirty six (36) months for the expected duration of the proposed project. Proposals can be submitted by jurisdictions for both categories of assistance. As part of HUD's reinvention efforts, this Notice of Funding Availability (NOFA) includes changes that HUD believes will make the application for lead-based paint hazard control grant funds simpler and less time-consuming. This NOFA limits a Category A applicant's response to the Rating Factors to a maximum of 25 pages, has specific format instructions, and reduces the number of budget forms required. (There are no page limitations for Category B applicant's responses to the Rating Factors.) The application kit developed for this NOFA provides additional details to further guide and assist those eligible to apply.

This document includes information concerning the following:

(1) The purpose of the NOFA, eligibility, available amounts, and selection criteria;

(2) Application processing, including how to apply and how selections will be made; and

(3) A checklist of steps and exhibits involved in the application process.

Appendices to the NOFA identify relevant regulations and guidelines referenced throughout the NOFA, define ''administrative costs'', list HUD housing programs eligible to receive assistance under this grant program, and provide a relevant statutory provision.

DATES: An original and five copies of the completed application must be received by HUD no later than 3:00 p.m. (Eastern Time) on August 5, 1997. The application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after its deadline. Applicants should take this factor into account and make early submission of their materials to avoid loss of eligibility brought about by unanticipated delays or other delivery-related problems. Sections 5 and 7 of this NOFA provide further information on what constitutes proper submission of an application for Category A and B respectively.

ADDRESSES: Application kits may be obtained from the Office of Lead Hazard Control, Department of Housing and Urban Development, Room B–133, 451 Seventh Street, S.W., Washington, D.C. 20410, or by calling Ms. Phyllis Horace at (202) 755–1785, extension 120 (this is not a toll-free number), or by making an e-mail request to: phyllis__d.__horace@hud.gov (use underscore characters). The Department is also planning to make the NOFA and application kit accessible via the Internet World Wide Web (http://www.hud.gov/lea/leahome.html). Completed applications must be submitted to the mailing address, and may not be faxed or electronically transmitted.

FOR FURTHER INFORMATION CONTACT: For Category A applicants: Ellis G. Goldman, Director, Program Management Division, Office of Lead Hazard Control, Room B–133, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 755–1785, extension 112 (this is not a toll-free number). For Category B applicants: Melissa F. Shapiro, telephone (202) 755–1785, extension 153 (this is not a toll-free number). For hearing-and speech-impaired persons, the telephone number may be accessed via TTY (text telephone) by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

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, the Department 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.

HUD is publishing the following related NOFA elsewhere in today's **Federal Register**: The HOPE VI Public Housing Demolition NOFA. HUD has also recently published the following related NOFAs: the NOFA for the Revitalization of Severely Distressed Public Housing (HOPE VI) (62 FR 18242, April 14, 1997), and the Comprehensive Improvement Assistance Program (CIAP) NOFA (62 FR 23928, May 1, 1997).

To foster comprehensive, coordinated approaches by communities, the Department 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.

To help in obtaining a copy of your community's Consolidated Plan, please contact the community development office of your municipal government.

Table of Contents

Section 1. Paperwork Reduction Act Statement

The information collection requirements contained in this NOFA have been approved by the Office of Management and Budget (OMB), under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control number 2539–0005. 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.

Section 2. Definitions

The following definitions apply to this grant program:

Abatement—Any set of measures designed to permanently eliminate lead-based paint or lead-based paint hazards. For the purposes of this definition, permanent means at least 20 years effective life. Abatement includes:

(a) The removal of lead-based paint and lead-contaminated dust, the permanent enclosure or encapsulation of lead-based paint, the replacement of components or fixtures painted with lead-based paint, and the removal or permanent covering of soil; and

(b) All preparation, cleanup, disposal, and post-abatement clearance testing activities associated with such measures.

Accredited Laboratory—A laboratory that is accredited by an EPA-approved lead laboratory accrediting organization and recognized by the National Lead Laboratory Accreditation Program (NLLAP) as being capable of performing lead analyses of samples of paint, dust wipes, and/or soil. (A list of recognized laboratories and EPA-approved lead laboratory accrediting organizations is available from the National Lead Information Center at (800–424–LEAD [5323])).

Administrative Costs—(See Appendix B of this NOFA for a detailed definition.)

Applicant—A State or a unit of general local government with a currently approved Consolidated Plan that applies for funding under this NOFA.

Certified Contractor—A contractor, inspector, risk assessor, supervisor or other who has successfully completed a training program approved by the appropriate Federal agency and who meets any other requirements for certification or licensure established by such agency or who is certified by any State through a program which has been found by such Federal agency to be at least as rigorous as the training and certification standards and requirements found in Appendix E of this NOFA. All lead-hazard identification or control work shall be performed by workers and supervisors who have passed a Federal training program or a State training program found by such Federal agency to be at least as rigorous as the Federal program.

Certified Inspector and Certified Risk Assessor—Included in the definition of ''certified contractor,'' above.

Clearance Testing and Examination—A HUD-required visual examination and collection of environmental samples by a certified inspector or certified risk assessor, and laboratory analysis by an accredited laboratory upon completion of lead-hazard control work. The unit must undergo wipe testing showing that it has lead dust levels below HUD's interim standards. Current standards are: for bare and carpeted floors (100 μg/ft² [micrograms/square foot]); interior window sills (500 μg/ft²); and window troughs (wells), exterior concrete or other rough surfaces (800 μg/ft²). (These interim standards may be revised subject to EPA's issuance of regulations.)

Eligible Housing—Target housing that qualifies as eligible housing under section 1011(a) of the Residential Lead-Based Paint Hazard Reduction Act of 1992, as amended by section 217 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104–134; 110 Stat. 1321, approved April 26, 1996) (See Appendix C of this NOFA for criteria for eligible housing units and Appendix D for a list of HUD's programs and their eligibility or ineligibility for receiving assistance under this grant program.) The term does not include any public housing (whether Federal or locally supported), any federally owned housing, or any federally assisted housing.

Encapsulation—The application of any covering or coating that acts as a barrier between the lead-based paint and the environment and that relies, for its durability, on adhesion between the encapsulant and the painted surface, and on the integrity of the existing bonds between paint layers, and between the paint and the substrate.

Enclosure—The use of rigid, durable construction materials that are mechanically fastened to the substrate to act as a barrier between the lead-based paint and the environment.

Federally Assisted Housing—Residential dwellings receiving project-based assistance under programs including:

(1) Section 221(d)(3) or section 236 of the National Housing Act;

(2) Section 1 of the Housing and Urban Development Act of 1965;

(3) Section 8 of the United States Housing Act of 1937; or

(4) Sections 502(a), 504, 514, 515, 516, and 533 of the Housing Act of 1949.

''Federally Assisted Housing'' *is not eligible* for assistance under the HUD Lead-Based Paint Hazard Control Grant Program. (See Appendix D of this NOFA.)

Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing (June 1995)—HUD's manual of lead hazard control practices (commonly referred to as the Guidelines) which provide detailed, comprehensive, technical information on how to identify lead-based paint hazards in housing and how to control such hazards safely and efficiently. (The Guidelines replace the HUD ''Lead-Based Paint: Interim Guidelines for Hazard Identification and Abatement in Public and Indian Housing.'')

Hazardous Waste—As defined in EPA regulations (40 CFR 261.3). Solid waste, or a combination of solid wastes, that because of its quantity; concentration; or physical, chemical, or infectious characteristics may:

(1) Cause, or significantly contribute to increases in mortality, serious and irreversible, or incapacitating but reversible illness; or

(2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed.

HEPA Vacuum—(High Efficiency Particulate Air)—A vacuum cleaner fitted with a filter capable of removing particles of 0.3 microns or larger at 99.97 percent or greater efficiency from the exhaust air stream.

Interim Controls—A set of measures designed to temporarily reduce human exposure or possible exposure to lead-based paint hazards. Such measures include specialized cleaning, repairs, maintenance, painting, temporary containment, and management and resident education programs. Interim controls include dust removal; paint film stabilization; treatment of friction and impact surfaces; installation of soil coverings, such as grass or sod; and land-use controls.

Laboratory Analysis—As used for paint, dust-wipes or soil, analysis for lead by an accredited laboratory in accordance with the requirements and limitations of its accreditation.

Lead-Based Paint—Any paint, varnish, shellac, or other coating that contains lead equal to or greater than 1.0 mg/cm^2 as measured by XRF or laboratory analysis, or 0.5 percent by weight (5,000 µg/g, 5,000 ppm, or 5,000 mg/kg) as measured by laboratory analysis. (Local definitions may vary.)

Lead-Based Paint Hazard—A condition in which exposure to lead from lead-contaminated dust, lead-contaminated soil, or deteriorated lead-based paint would have an adverse effect on human health (as established by the EPA Administrator under Title IV of the Toxic Substances Control Act). Lead-based paint hazards include for example, deteriorated lead-based paint, dust levels above applicable standards, and bare leaded soil above applicable standards.

Lead-Based Paint Hazard Control: Activities to control and eliminate lead-based hazards, including interim controls, abatement and complete abatement.

Lead-Contaminated Dust—Surface dust in residences that contains an area or mass concentration of lead in excess of the standard established by the EPA Administrator, pursuant to Title IV of the Toxic Substances Control Act. Until the EPA standards are established, the HUD-recommended clearance and risk assessment standards for leaded dust are 100 $\mu g/ft^2$ on floors, 500 $\mu g/ft^2$ on interior window sills, and 800 $\mu g/ft^2$ on window troughs (wells), exterior concrete or other rough surfaces; criteria for work under this grant shall be at least as stringent as these standards.

Lead-Contaminated Soil—Bare soil on residential property that contains lead in excess of the standard established by the EPA Administrator, pursuant to Title IV of the Toxic Substances Control Act. The HUD-recommended standard and interim EPA guidance is 400 µg/g for high-contact play areas and 2,000 µg/g in other bare areas of the yard; criteria for work under this grant shall be at least as stringent as these standards. Soil contaminated with lead at levels greater than or equal to 5,000 µg/g should be abated by removal or paving.

mg—milligram; 1/1,000 of a gram; equal to about 35/1,000,000 (35 millionths) of an ounce (an ounce is equal to about 28,400 mg).

Potentially Responsible Party (PRP)—Any individual or entity including owners, operators, transporters, or generators who may be liable under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) section 107(a).

Replacement—A strategy of abatement that entails the removal of building components coated with lead-based paint (such as windows, doors, and trim) and the installation of new components free of lead-based paint.

Residential Dwelling—This term means either:

(1) A single-family dwelling, including attached structures, such as porches and stoops; or

(2) A single-family dwelling unit in a structure that contains more than one separate residential dwelling unit and in which each unit is, or is intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

Risk Assessment—An on-site investigation of a residential dwelling to discover any lead-based paint hazards. Risk assessments include an investigation of the age, history, management, maintenance of the dwelling, and the number of children under age 6 and women of child-bearing age who are residents; a visual assessment; limited environmental sampling (i.e., collection of dust wipe samples, soil samples, and deteriorated paint samples); and preparation of a report identifying acceptable abatement and interim control strategies based on specific conditions.

State Certification Program—(see Appendix E of this NOFA—Elements of a State Certification Program)

Substrate—A surface on which paint, varnish, or other coating has been applied or may be applied. Examples of substrates include wood, plaster, metal, and drywall.

Target Housing—Any residential unit constructed before 1978, except dwellings for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any 0-bedroom dwelling.

Testing—The measurement of lead in painted surfaces by Federal- or State-certified personnel using a portable X-ray fluorescence analyzer (XRF) operated in accordance with its manufacturer's operating instructions and its Performance Characteristics Sheet (PCS), laboratory analysis by an accredited laboratory of paint samples, or other method(s) approved by HUD.

Title X—The Residential Lead-Based Hazard Reduction Act of 1992 (Title X of the Housing and Community Development Act of 1992, Pub. L. 102–550, approved October 28, 1992).

Trained Worker—For lead hazard control work, a worker who has successfully met all the requirements of a Federal or State-accredited lead-based paint training course in a particular discipline which meets, at a minimum, the requirements found in Appendix E of this NOFA.

µg *(or ug)*—Micrograms. The prefix micro means 1/1,000,000 (or one-millionth); a microgram is 1/1,000,000 of a gram and 1/1,000 of a milligram; equal to about 35/1,000,000,000 (35 billionths) of an ounce (an ounce is equal to 28,400,000 µg).

Wipe Sampling for Settled Lead-Contaminated Dust—The collection of settled dust samples from surfaces to measure for the presence of lead. Samples must be analyzed by an accredited laboratory. For clearance purposes, settled dust sampling shall be performed in accordance with the HUD Guidelines. Surfaces sampled must meet the current HUD standards for clearance. All surfaces shall have no more than the maximum allowable standards. (See ''Clearance Testing and Examination.'')

XRF Analyzer—An instrument that determines lead area concentration in painted surfaces in units of milligrams per square centimeter (mg/cm^2) using the principle of x-ray fluorescence (XRF). For purposes of the grant program, and as used in the Guidelines, the term XRF analyzer only refers to portable instruments manufactured to

analyze paint, and does not refer to laboratory-grade units or portable instruments designed to analyze soil or dust. XRF analyzers are to be operated in accordance with their manufacturer's operating instructions and their Performance Characteristics Sheet (PCS).

Section 3. Purpose and Description

3.1 Purpose and Authority

Hazard-control grants are to assist State and local governments in undertaking programs for the identification and control of lead-based paint hazards in eligible privately-owned housing units for rental occupants and owner occupants. (Appendix D of this NOFA lists HUD-associated housing programs that may have dwellings that meet the definition of eligible housing.) Approximately forty-six million dollars ($46 million) is being made available to fund approximately 12–15 Category A grants to assist State and local governments in undertaking lead-based paint hazard control in eligible privately-owned housing. Previously unfunded applicants are eligible to receive grants of $1 million to $4 million each. Existing grantees which are applicants are eligible to receive Category A grants of $1 million to $3 million each. A maximum of 33 percent of the funds under Category A of this NOFA shall be available to previous Lead-Based Paint Hazard Control grantees which meet the additional performance-based threshold criteria set forth in this NOFA. The applications of existing grantees shall be evaluated and scored as a separate class and will not be in competition with previously unfunded applicants. This limitation is imposed to build capacity in those areas where no previous grant supported work has been done, but still retain the Department's ability to target some funds to areas of greatest need. Approximately four million dollars ($4 million) will be available to fund a maximum of eight (8) Category B grants of $500,000 to $2 million each. Funds available under Category B are intended to promote coordination between Superfund or the brownfield initiative with the HUD Lead-Based Paint Hazard Control Grant Program, to maximize the benefits provided under each program, and to involve the private sector. These funds are to be used to control lead-based paint hazards at Superfund or brownfield sites where Superfund or brownfield dollars will be spent to control lead-contaminated soil, and probably housing exteriors, and HUD grant dollars will be used to control lead-based paint hazards in eligible privately-owned housing units.

Proposals may be submitted under both categories of assistance. The amounts constitute the total request for the duration of the project. Grants are authorized under section 1011(a)–(f) of Title X.

The purposes of this program include:

(a) Implementation of a national strategy, as defined in Title X, to build the infrastructure necessary to eliminate lead-based paint hazards in all housing, as widely and expeditiously as possible;

(b) Encouragement of effective action to prevent childhood lead poisoning by establishing a workable framework for lead-based paint hazard identification and control;

(c) Mobilization of public and private resources, involving cooperation among all levels of government and the private sector, to develop the most promising, cost-effective methods for identifying and controlling lead-based paint hazards; and

(d) To the greatest extent feasible, promoting job training, employment, and other economic lift opportunities for low-income and minority residents and businesses which are owned by and/or employ low-income and minority residents as defined in 24 CFR 135.5 (See 59 FR 33881, June 30, 1994).

3.2 Background

Lead is a powerful toxicant that attacks the central nervous system and is particularly damaging to the neurological development of young children. Pregnant women can transfer lead through the placenta to the fetus. Lead-based paint (LBP) is one of the major sources of lead in the environment. In addition to paint, lead may be found in dust, soil, drinking water, food, emissions from leaded gasoline combustion, and industrial emissions. Human exposure to lead is found by measuring blood samples for the presence of lead.

Based upon additional analysis in 1995 of the data generated from the national housing survey conducted for HUD (Report on the National Survey of Lead-Based Paint in Housing, June 1995), of all occupied housing units built before Congress banned the use of lead-based paint in 1978, approximately 83 percent or 64.4 million housing units are estimated to have lead-based paint somewhere on the exterior or interior of the building. Approximately 90 percent of the dwellings built prior to 1960 have lead-based paint. Older dwellings are more likely to have higher concentrations of lead on painted surfaces and greater surface area coverage. Although intact lead-based paint poses little immediate risk to occupants, non-intact paint which is chipping, peeling, or otherwise deteriorating may present an immediate risk to occupants. Therefore, of particular concern are the 14.4 million housing units that contain deteriorated lead-based paint and/or lead-contaminated dust and the 3.3 million units that are occupied by young children. Approximately half of these units are occupied by families with incomes lower than the national median.

HUD has been actively engaged in a number of activities relating to lead-based paint as a result of the Lead-Based Paint Poisoning Prevention Act (LBPPPA), 1971, as amended, 42 U.S.C. 4801–4846. Title X provides major initiatives and more detailed requirements for this NOFA. (Appendix A of this NOFA identifies relevant Federal regulations and guidelines referred to in this NOFA.)

In June 1995, HUD published Guidelines for the Evaluation and Control of Lead-Based Paint in Housing (Guidelines) (See Appendix A of this NOFA). These Guidelines provide detailed, comprehensive, technical information on how to identify lead-based paint hazards in housing and how to control such hazards safely and efficiently. These Guidelines replace the Interim Guidelines developed in 1990.

In July 1995, the Task Force on Lead-Based Paint Hazard Reduction and Financing, which was established pursuant to Section 1015 of Title X, presented its final report to HUD and the Environmental Protection Agency (EPA). The Task Force Report, entitled Putting the Pieces Together: Controlling Lead Hazards in the Nation's Housing, (See Appendix A of this NOFA) recommended a number of actions which are needed to develop comprehensive, health-protective, cost-effective, and feasible approaches to solving the most significant environmental health hazard facing America's children. In dealing with the estimated 64.4 million housing units with lead-based paint, the Task Force, using the Title X framework for redefining the problem, moved beyond the mere presence of lead-based paint and focused on the conditions that can expose a child to lead hazards—deteriorating lead-based paint, lead-contaminated dust and bare lead-contaminated soil. The Task Force recommendations therefore focus on addressing lead hazards in the approximately 15 million housing units estimated to contain lead hazards, and preventing new lead hazards in the balance of the housing stock. Children

with elevated blood lead levels are disproportionately located in older and poorer neighborhoods in the nation's central cities. More than one-third of African-American children living in large central cities have elevated blood lead levels. This NOFA incorporates many of the recommendations outlined in the Task Force Report.

The Environmental Protection Agency (EPA), with assistance from HUD and the Centers for Disease Control and Prevention (CDC), operates the National Lead Information Center which includes an automated consumer information Hotline 1–800–LEADFYI (1–800–532–3394) and a Clearinghouse for lead-based paint resources and assistance 1–800–424–LEAD (1–800–424–5323).

In the **Federal Register** of August 29, 1996, the EPA published the final rule pursuant to sections 402 and 404 of the Toxic Substances Control Act (TSCA), as amended by Title X (see 40 CFR part 745 Lead; Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities) for training and certification requirements for lead-based paint contractors, inspectors, risk assessors, designers and workers; and its requirements for a model state program. Until State Lead-Based Paint Contractor Certification and Accreditation Programs are authorized by EPA, State programs should be at least as protective as outlined in Appendix E of this NOFA. State Lead-Based Paint Contractor Certification and Accreditation Programs meeting the requirements under Appendix E of this NOFA are considered acceptable to HUD and EPA for purposes of the grant programs announced in this NOFA.

3.2.1 Previous Lead-Based Paint Hazard Control Grant Awards

This NOFA is for a fifth round of grants. In Fiscal Years 1992, 1993, 1994, and 1996, HUD conducted competitions and approved a total of 84 Lead-Based Paint Hazard Control grants for approximately $335 million dollars. There was no competition in FY 1995.

3.3 Allocation Amounts

(a) Amounts

Approximately $46 million will be made available for the Category A grant program from the appropriations made for the lead-based paint hazard reduction program in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Pub.L. 104–204, approved September 26, 1996) (FY 1997 Appropriations Act).

(b) Residual Funds

In the selection process, once available funds have been allocated to meet the full requested and/or negotiated amounts of the top eligible applicants, HUD reserves the right, in successive order, to offer any residual amount as partial funding to the next eligible applicant. Such applicant(s) shall have not more than 7 calendar days to accept, or to decline and reapply in a future round, provided HUD, in its sole judgment, is satisfied that the residual amount is sufficient to support a viable, though reduced effort, by such applicant(s).

(c) Goals

Because lead-based paint is a national problem, these funds are awarded in a manner that:

- Maximizes the number of housing units in which lead-hazard control occurs;
- Stimulates cost-effective State and local approaches that can be replicated in as many settings as possible;
- Disperses the grants as widely as possible across the nation;
- Builds local capacity; and
- Affirmatively furthers fair housing and environmental justice.

HUD expects to award approximately 12–15 Category A grants of $1 million to $4 million each on a cost-reimbursable basis.

3.4 Eligibility

Title X specifies the following eligibility requirements for grants to identify and control lead-based paint hazards in housing:

(a) Eligible Applicants

A State or unit of local government that has a currently approved Consolidated Plan is eligible to apply for a grant. However, applicants are advised that in selecting grantees under this NOFA, the Secretary or his designee is unlikely to select applicants that were previously funded under the FY 1996 NOFA (Round Four), issued May 14, 1996 (61 FR 24408) or any applicant which has been awarded two (2) Lead-Based Paint Hazard Control Grants. As stated previously, approximately forty-six million dollars ($46 million) is being made available to fund approximately 12–15 Category A grants to assist State and local governments in undertaking lead-based paint hazard control in eligible privately-owned housing. Previously unfunded applicants are eligible to receive grants of $1 million to $4 million each. Existing grantees which are applicants are eligible to receive Category A grants of $1 million to $3 million each. A maximum of 33 percent of the funds under Category A of this NOFA shall be available to previous Lead-Based Paint Hazard Control grantees which meet the additional performance-based threshold criteria set forth in this NOFA. The applications of existing grantees shall be evaluated and scored as a separate class and will not be in competition with previously unfunded applicants. This selection decision will be pursuant to the Secretary's authority to ensure geographic distribution and to ensure that available funds are used effectively to promote the purposes of Title X. (See Section 4.3, Rating Factors, for additional discussion of this consideration for selection.)

(b) Certified Performers

Funds shall be available only for projects conducted by contractors, risk assessors, inspectors, workers and others engaged in lead-based paint activities who meet the requirements of a State Lead-Based Paint Contractor Certification and Accreditation Program that is at least as protective as the Federal certification program standards outlined in Appendix E to this NOFA or which meets the requirements of a State program authorized by EPA under the requirements of Section 404 of the Toxic Substances Control Act (TSCA).

(c) Eligible Activities

The following direct and support activities are eligible under this grant program: (HUD encourages local innovation in performing work under this grant.) HUD reserves the right, in negotiating the grant agreement, to delete budget items that, in its judgment, are not necessary for the direct support of program purposes, and to request the grantee to redirect the deleted sums to other acceptable purposes, or to make a corresponding reduction in the grant award.

(1) *Direct Project Elements* (whether activities of the grantee or sub-grantees or other sub-recipients):

- Performing risk assessments, inspections and testing of eligible housing constructed prior to 1978 to determine the presence of lead-based paint, lead dust, or leaded soil through the use of acceptable testing procedures.
- Conducting Lead Hazard Control which may include any combination of the following:
- Interim control of lead-based paint hazards in housing;
- Hazard abatement for programs that apply a differentiated set of resources to each unit, dependent upon conditions of the unit and the extent of hazards; and

• Complete abatement of lead-based paint and lead-based paint hazards, including soil and dust, by means of removal, enclosure, encapsulation, or replacement methods.

• Carrying out temporary relocation of families and individuals during the period in which hazard control is conducted and until the time the affected unit receives clearance for reoccupancy.

• Conducting pre-hazard control blood lead testing of children under the age of six residing in units undergoing risk assessment, inspection or hazard control.

• Performing blood lead testing and air sampling to protect the health of the hazard-control workers, supervisors, and contractors.

• Undertaking minimal housing rehabilitation activities under this program that are specifically required to carry out effective hazard control, and without which, the hazard control could not be effected. Grant funds from this program may also be used for the lead-based paint hazard-control component in conjunction with other housing rehabilitation programs.

• Conducting pre and post-hazard control dust-wipe testing and analysis.

• Carrying out engineering and architectural costs that are necessary to, and in direct support of, lead hazard control.

• Providing training to low-income persons for the purposes of lead-based paint worker or contractor certification and/or licensing.

• Conducting general or targeted community awareness or education programs on lead hazard control and lead poisoning prevention. This activity would include educating owners of rental properties to the provisions of the Fair Housing Act. It would also include making all materials available in alternative formats for persons with disabilities (e.g.; braille, audio, large type), upon request.

• Securing liability insurance for lead-hazard control activities.

• Supporting data collection, analysis, and evaluation of grant program activities. This direct project activity includes compiling and delivering such data as may be required by HUD. For estimating purposes, an applicant should consider devoting 3 percent of the total grant sum for this purpose. (This 3 percent does not include the blood lead and environmental testing costs.) Note that this activity is *not* included in administrative costs, for which there is a separate 10 percent limit.

• Preparing a final report at the conclusion of grant activities.

(2) *Support Elements:*

• Administrative costs of the grantee (maximum of 10 percent; (see Appendix B of this NOFA for definition)).

• Program planning and management costs of sub-grantees and other sub-recipients.

(d) Ineligible Activities

Grant funds shall not be used:

(1) To purchase real property.

(2) To purchase capital equipment having a per unit cost in excess of $5,000, except for XRF analyzers. If purchased, capital equipment and the XRF analyzers shall remain the property of the grantee at the conclusion of the project. Funds may be used, however, to lease equipment specifically for the Lead-Based Paint Hazard Control Grant Program. If leased equipment, other than XRF analyzers, becomes the property of the grantee as the result of a lease arrangement, the leased equipment becomes the property of the grantee at the end of the grant period; and

(3) For chelation or other medical treatment costs related to children with elevated blood lead levels. Non-Federal funds used to cover these costs may be counted as part of the required matching contribution.

3.5 Limitations on the Use of Assistance

(a) Pursuant to the Coastal Barrier Resources Act (16 U.S.C. 3501), grant funds may not be used for properties located in the Coastal Barrier Resources System.

(b) Under the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001–4128), grant funds may not be used for construction, reconstruction, repair or improvement or lead-based paint hazard control of a building or mobile home which is 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 in accordance with the applicable regulations (44 CFR parts 59–79), or less than a year has passed since FEMA notification regarding these hazards; and

(2) Where the community is participating in the National Flood Insurance Program, flood insurance on the property is obtained in accordance with section 102(a) of the Flood Disaster Protection Act (42 U.S.C. 4012a(a)). Applicants are responsible for assuring that flood insurance is obtained and maintained for the appropriate amount and term.

(c) The National Historic Preservation Act of 1966 (16 U.S.C. 470) (NHPA) and the regulations at 36 CFR part 800 apply to the lead-based paint hazard control activities that are undertaken pursuant to this NOFA. HUD and the Advisory Council for Historic Preservation have developed an optional Model Agreement for use by grantees and State Historic Preservation Officers in carrying out activities under this NOFA. (See Section 3.6, Environmental Review and Section 10, Findings and Certifications, in this NOFA.)

(d) The applicant/grantee, subgrantee, or other subrecipient shall comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) (42 U.S.C. 4601–4655). These policies are described in HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition. No displacement (a permanent, involuntary move) is anticipated. However, to preclude avoidable claims for relocation assistance, all occupants (owner and tenants) shall, as soon as feasible, be notified in writing that they will not be displaced by the lead-based paint hazard-control program. In most cases, tenants and owner-occupants will be required to relocate temporarily to permit lead-based paint hazard-control activities to be carried out. All conditions of the temporary relocation must be reasonable. The policy regarding temporary relocation costs for owner-occupants who elect to participate in hazard-control is a matter of grantee discretion. However, the policy on paying for such costs should be in writing and administered consistently in all cases. With respect to tenants who will be required to relocate temporarily, at a minimum the tenant shall be provided:

(1) Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and any increase in monthly rent/utility costs at that housing; and

(2) Appropriate advisory services, including reasonable advance written notice of the date and approximate duration of the temporary relocation; the address of the suitable, decent, safe, and sanitary dwelling to be made available for the temporary period; the reimbursement provisions of paragraph (e) of this section; and information on a resident's rights under the Fair Housing Act.

(e) Abatement waste disposal will be handled according to the requirements of the appropriate State or Federal regulatory agency. (See HUD Guidelines

for the disposal of hazard control waste that contains lead-based paint but is not classified as hazardous.)

(f) The applicant shall observe the procedures for worker protection established in the HUD Guidelines, as well as the requirements of the Occupational Health and Safety Administration (OSHA) (29 CFR 1926.62—Lead Exposure in Construction) (See Appendix A of this NOFA), or the State or local occupational safety and health regulations, whichever are most stringent. If other OSHA requirements published prior to the start of actual abatement included as part of lead hazard control work at any individual project site are more stringent than the Guidelines, those more stringent OSHA standards shall govern.

(g) Lead hazard control methods that will not be allowed are: open-flame burning, dry scraping (except immediately around electrical circuits and plumbing fixtures), uncontrolled abrasive blasting, machine sanding without HEPA attachments or use of chemicals containing methylene chloride. The applicant is cautioned that methods that generate high levels of lead dust, such as abrasive sanding, shall be undertaken only with requisite worker protection, containment of dust and debris, suitable clean-up, and clearance.

3.6 Environmental Review

In accordance with the Multifamily Housing Property Disposition Reform Act of 1994, HUD regulations in 24 CFR part 58 provide that recipients of lead-based paint hazard control grants will assume Federal environmental review responsibilities. Recipients of a grant under this NOFA will be given guidance in carrying out these responsibilities.

3.7 Objectives and Requirements

(a) Generally

Grantees will be afforded considerable latitude in designing and implementing the methods of lead-based paint hazard control to be employed in their jurisdictions. HUD is interested in promoting lead hazard control approaches that result in the reduction of this health threat for the maximum number of low-income residents, and that demonstrate replicable techniques that are cost-effective and efficient. Flexibility will be allowed within the parameters established below. It is critical that written policies and procedures for all phases of lead hazard control, including risk assessment, inspection, pre-hazard control blood lead testing, financing, relocation and clearance testing be clearly established in writing and adhered to by all applicants, subcontractors, sub-grantees, sub-recipients, and their contractors. The Department has found that the establishment of written procedures clearly assigning duties to participating agencies and individuals helps to protect children, families, and workers during lead hazard control work.

Proposed methods requiring a variance from the standards or procedures cited below will be considered on their merits in a separate HUD review and approval process after the grant award is made and a specific justification has been presented. When such a request is made, either in the application or during the planning phase, HUD intends to consult with experts from both the public and private sector as part of its final determinations and will document its findings in an environmental impact assessment. Approval of any proposed modifications will not involve a lowering of standards that would have a potential to adversely affect the health of residents, contractors or workers, or the quality of the environment.

(b) Data Collection

Grantees will be required to collect the data necessary to document the various lead hazard control methods employed in order to determine the relative cost and effectiveness of these methods in reducing or eliminating lead-based paint hazards. Pre- and post-lead hazard control environmental dust-wipe sampling and laboratory analysis is a requirement.

(c) Lead Hazard Control Testing—Schedule

In developing the application cost proposal, applicants shall include costs for the pre- and post hazard control testing for each dwelling that will undergo either a lead-based paint risk assessment and/or inspection and hazard control according to HUD Guidelines, as follows:

(1) *XRF on-site (or supplementary laboratory) testing:* Conducted according to HUD Guidelines. Pretest every room or area in each dwelling unit planned for hazard control, using each XRF analyzer in accordance with its manufacturer's operating instructions and its Performance Characteristics Sheet (PCS);

(2) *Blood lead testing:* Before lead hazard control work begins, the testing of each occupant who is a child under six years old according to the recommendations contained in Preventing Lead Poisoning in Young Children, 1991 Centers for Disease Control and Prevention (CDC). (See Appendix A of this NOFA.)

(3) *Dust testing:* Conducted according to the HUD Guidelines.

(A) Pretest before lead hazard control work begins;

(B) Clearance testing before reoccupying a unit or area; and

(C) Test at 12-months after the unit is reoccupied.

(d) Testing

(1) *Generally.* All testing and sampling shall conform to the HUD Guidelines. Note that it is particularly important to provide this full cycle of testing for hazard control, including interim controls, even though the testing itself may become a substantial part of the cost per unit.

(2) *Required Thresholds for Hazard Control.* While the Department's Guidelines (see Appendix A of this NOFA) employ two hazard-control thresholds, one milligram per square centimeter (1.0 mg/cm^2) or 0.5 percent by weight, applicants may utilize other thresholds, provided that the alternative threshold is justified adequately and is accepted by HUD. The justification must state why the applicant believes the proposed threshold will provide satisfactory health protection for occupants, and must discuss cost savings and benefits expected to result from using the proposed approach.

(3) *Surfaces which require lead hazard control.* HUD's Guidelines identify hazards considered to be of greatest immediate concern to young children and which require hazard control to be undertaken. Children are most frequently exposed to the following hazards: Lead-contaminated dust, deteriorated lead-based paint; and bare, accessible lead contaminated soil. Friction, chewable, and impact surfaces with intact lead-based paint are also of concern, but do not necessarily need to be treated, depending on dust testing results. Friction surfaces are subject to abrasion and may generate lead-contaminated dust in the dwelling; chewable surfaces are protruding surfaces that are easily chewed on by young children; and impact surfaces may become deteriorated through forceful contact. The applicant may choose to treat fewer surfaces or apply other hazard control techniques, provided that an adequate rationale, including periodic monitoring, is presented to and accepted by HUD. The rationale must state why the applicant believes the proposed approach will provide satisfactory health protection for occupants and at the same time, provide cost savings or other benefits.

(4) Grantees shall be required to meet the post-hazard control wipe-test clearance thresholds contained in the HUD Guidelines (See Appendix A of this NOFA). Wipe tests shall be conducted by a certified inspector who is independent of the lead hazard control contractor. Dust-wipe and soil samples, and any paint samples to be analyzed by a laboratory, must be analyzed by a laboratory accredited to perform those analyses (see Definitions). Units shall not be reoccupied until clearance levels are achieved.

Section 4. Grant Application Process for Category A

4.1 Submitting Applications for Grants

To be considered for Category A funding, an original and two copies of the application must be physically received in the Office of Lead Hazard Control, Department of Housing and Urban Development, Room B–133, 451 Seventh Street, S.W., Washington, D.C. 20410, no later than 3:00 P.M. (Eastern Time) on August 5, 1997. Electronic (FAX or equivalent) transmittal of the application is *not* an acceptable transmittal mode.

Separate proposals may be submitted by a jurisdiction for each category of assistance.

For Category A, the application must have clearly numbered pages, a complete table of contents and a limited number of appendices. The applicant narrative response to the Rating Factors is limited to a maximum of 25 pages. Responses must be typewritten on one (1) side only on 8½″ x 11″ paper using a 12 point font.

The above-stated application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this factor into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays, equipment breakdown, or delivery-related problems.

HUD will review each application to determine whether it meets all of the threshold criteria established for Category A under Section 4.2 of this NOFA. Nonresponsive applications will be declared ineligible for further consideration. Applications that meet all of the threshold criteria will be eligible to be scored and ranked, based on the total number of points allocated for each of the rating factors for Category A in Section 4.3 of this NOFA.

HUD intends to fund the highest ranked applications within the limits of funding availability, but reserves the right to advance other eligible applicants in funding rank, if necessary, to assure geographic diversity, to promote the purposes of Title X, to broaden the range of hazard control alternatives to be tested, or to enhance data reliability.

4.2 Threshold Requirements for Category A Grants

(a) Purpose

The application must be for funds to identify and control lead hazards in eligible housing (see Appendix D of this NOFA for program-by-program listing of eligible HUD-associated housing programs).

(b) Eligible Applicants

An applicant must be a State or unit of local government that has a currently approved Consolidated Plan. Applicants under this NOFA are permitted to submit documentation that HUD approved their current program year Consolidated Plan. Applicants are to submit, as an appendix, a copy of the lead-based paint element included in the approved Consolidated Plan. Applicants that do not have a currently approved Consolidated Plan, but are otherwise eligible for this grant program, must include their abbreviated Consolidated Plan which includes a lead-based paint hazard control strategy developed and submitted in accordance with 24 CFR 91.235. Applicants with outstanding findings of civil rights violations are not eligible for funding.

(c) Matching Contribution

Each applicant shall provide a matching contribution of at least 10 percent of the requested grant sum. This may be in the form of a cash or in-kind contribution or a combination of both.

(d) Contractor Certification Program Requirement

Each applicant must carry out its hazard control program under an operational State program established pursuant to lead-based paint contractor certification and accreditation legislation that is at least as protective as the training and certification program requirements cited in Appendix E of this NOFA. Applicants should indicate which of the following situations, (1) or (2), applies with respect to contractor certification.

(1) A State applicant shall furnish copies of the existing statutes, regulations or other appropriate documentation regarding the State's Lead-Based Paint Contractor Certification and Accreditation Program which meet the standards set forth in paragraph (d) above.

(2) Other applicants may be approved for a conditional grant with funding subject to the following provisions:

(A) A State applicant which has existing legislation acceptable to HUD, but which has not implemented an acceptable lead-based paint contractor certification program, shall furnish at the time of the application, written assurances from the Governor that an acceptable certification program will be implemented within 1 year from the date of the application deadline date and that the designated agency implementing the certification program shall offer training sessions for contractors leading to certification within six (6) months of the effective date of implementing regulations. If legislative approval of proposed regulations is also required, a similar written assurance must be provided by the chairs of committees having jurisdiction.

With the exception of costs incurred for planning purposes, HUD will not release any funds for the lead hazard control phase of the grant program until the State has implemented an acceptable lead-based paint contractor certification and accreditation program and has submitted and secured HUD approval of the grantee Request for Release of Funds (HUD Form 7015.15) which certifies that the grantee has fulfilled the environmental review requirements of the grant.

(B) Local government applicants in States which have not implemented an acceptable contractor certification program must provide assurances that only certified contractors and trained workers from other State certification programs acceptable to HUD will be used in conducting lead hazard control work.

Applicants are advised that if the commitment to implement a certification/training program or use certified contractors is not fulfilled within the stated time, the conditional grant agreement may be immediately terminated.

(e) Continued Availability of Lead Safe Housing to Low-Income Families

Units in which lead hazards have been controlled under this program shall be occupied by and/or continue to be available to low-income residents as required by the statute (see Appendix C of this NOFA). Grantees are encouraged to maintain a listing of units in which lead hazards have been controlled for distribution and marketing to agencies

and families as suitable housing for children under six.

(f) Cooperation With Related Research and Evaluation

Applicants shall cooperate fully with any research or evaluation sponsored by HUD and associated with this grant program, including preservation of the data and records of the project and compiling requested information in formats provided by the researchers, evaluators or HUD. This cooperation may also include the compiling of certain relevant local demographic, dwelling unit, and participant data not contemplated in the applicant's original proposal. Participant data shall be subject to Privacy Act protection. For estimating purposes, an applicant shall devote three percent of the total grant sum for data collection and evaluation purposes, as discussed in Section 3.4, Eligibility, of this NOFA.

4.3 Rating Factors

HUD will use the following technical and financial criteria to rate and rank applications received in response to Category A of this NOFA. The Request for Grant Applications (RFGA) will provide guidance in responding to all the Rating Factors. The technical quality of an application will be rated, and then the strength, quality, and completeness of the financial and resources plan will be used to assess the likelihood that the technical plan can be carried out using the available resources. The maximum score possible under the rating factors is 110 points for previously unfunded applicants and 125 points for applicants which are existing grantees. (Applicants which are existing Lead-Based Paint Hazard Control grantees are eligible to receive a maximum of 15 additional points for performance related to implementing their most recent grant award.) The applications of existing grantees shall be evaluated and scored as a separate class and will not be in competition with previously unfunded applicants.

Applicants are advised, however, that in selecting grantees under this NOFA, the Secretary or his designee is unlikely to select applicants who were previously funded under the FY 1996 NOFA (Round Four) issued May 14, 1996 (61 FR 24408), or any applicant which has been awarded two (2) Lead-Based Paint Hazard Control Grants). As stated previously, approximately forty-six million dollars ($46 million) is being made available to fund approximately 12–15 Category A grants to assist State and local governments in undertaking lead-based paint hazard control in eligible privately-owned housing. Previously unfunded applicants are eligible to receive grants of $1 million to $4 million each. Existing grantees which are applicants are eligible to receive Category A grants of $1 million to $3 million each. A maximum of 33 percent of the funds under Category A of this NOFA shall be available to existing Lead-Based Paint Hazard Control grantees which meet the additional performance-based threshold criteria set forth in this NOFA. This selection prerogative will be exercised under the Secretary's authority to ensure that available funds are used effectively and to promote the purposes of Title X. See section 1011(d)(5) of Title X (42 U.S.C. 4852(d)(5)).

(a) Need (10 Points)

The scope and magnitude of the applicant's current lead-based paint problem for which grant program funds can be expected to have an impact. The applicant should document its unmet need for assistance. Examples should be the number and proportion of children with elevated blood lead levels; the number and proportion of housing units with deteriorating interior or exterior lead-based paint, lead-contaminated dust or bare lead-contaminated soil.

It is desirable for the applicant to include:

(1) The age and condition of housing;

(2) The number and percentage of low income families whose incomes do not exceed 80 percent of the median income for the area as determined by HUD, with adjustments for smaller and larger families;

(3) The number and proportion of children at risk of lead poisoning; and

(4) Other socioeconomic or environmental factors that document a need to establish or continue lead hazard control work in the applicant's jurisdiction.

(These data may be available in the applicant jurisdiction's currently approved Consolidated Plan, or derived from 1990 Census Data)

(b) Work Plan and Budget (50 Points)

The quality and cost-effectiveness of the applicant's proposed lead-based paint hazard control program. The work plan and budget should include the following elements:

(1) *Program Management (10 points)*—A description of the way in which the project will be carried out during the period of performance (up to 36 months), including the participation of sub-grantees, contractors, sub-recipients, and others assisting in implementing the project. Specific time phased and measurable objectives should be identified and described for carrying out the program plan. Existing grantees must provide an assurance that the lead hazard control activities proposed in the application will commence *concurrently* with lead hazard control work being conducted with previously awarded HUD lead-based paint grant funds. A detailed description of how this will be accomplished shall be provided.

(2) *Lead Hazard Control Strategy (35 points)*—

- The total number of owner occupied and rental units in which lead hazard control interventions will be undertaken.
- The degree to which the work plan focuses on eligible privately-owned housing units with children under the age of 6 years. Description of the planned approach to control lead hazards before children are poisoned and/or to control lead hazards in units where children have already been identified with an elevated blood lead level, including the referral of children with elevated blood lead levels for medical case management.
- The degree to which lead hazard control work will be done in conjunction with other housing rehabilitation, weatherization, code violation or other work.
- A description of the applicant's previous experience in reducing or eliminating lead-based paint hazards in conjunction with other Federal, State or locally funded programs.
- The process for the selection, prioritization, risk assessment and/or inspection, and enrollment of units of eligible privately-owned housing in which lead hazard control will be undertaken. (Housing having a risk assessment or inspection performed in accordance with the HUD Guidelines within 12 months of a grant award and identified with lead-based paint may be included in the already inspected inventory.)
- The testing methods, schedule, and costs for performing blood lead testing, risk assessments and/or inspections. (Identify the lead-based paint threshold for undertaking lead hazard control—e.g. 0.5 percent, 1.0 mg/cm^2 or other threshold established by statute, regulation or local ordinance.)
- The lead hazard control methods to be undertaken and the number of units to be treated for each method selected (Interim Controls, hazard abatement, and complete abatement). Provide an estimate of the per unit costs for each method planned in conducting lead hazard control and the time frames projected to initiate and complete lead hazard control work in units selected. Efforts to incorporate cost-effective

recommendations of the HUD Task Force Report: Putting the Pieces Together: Controlling Lead Hazards in the Nation's Housing (see Appendix A of this NOFA) should be included.

- A description of the financing mechanism, including eligibility criteria, terms, conditions and amounts available, to be employed in carrying out lead hazard control activities and the way in which these funds will be administered (e.g. use of grants, deferred loans, forgivable loans, other resources, private sector financing, etc.).
- The applicant's plan for the *temporary* relocation of occupants of units selected for lead hazard control work. (Use of safe houses and other housing arrangements, storage of household goods, stipends, incentives, etc.)
- Proposed community awareness, education and outreach programs in support of the applicant's work plan and objectives. General and/or targeted efforts undertaken to assist the program in reducing lead poisoning. To the extent possible, programs should be culturally sensitive, developmentally appropriate, and linguistically specific.

Existing grantees must provide a complete description of their progress and accomplishments related to implementing their original or amended lead hazard control strategy under their most recent grant award. If the strategy and/or methods proposed in this application differ from the applicant's existing grant, a description of the basis for this modified strategy should be included.

(3) *Program Evaluation and/or Data Collection* (5 points)—The applicant must identify the specific methods to be used, in addition to using HUD reporting or data collection forms, to measure progress and evaluate the program's effectiveness. The applicant should describe how the information will be obtained, documented and reported.

(4) *Budget (Not Scored)*—The applicant's proposed budget (for the maximum 36 month period of performance) will be evaluated for the extent to which it is reasonable, clearly justified, and consistent with the intended use of grant funds. HUD is not required to approve or fund all proposed activities. Applicants may devote up to 24 months for the planning and completion of lead hazard control activities and up to an additional 12 months for post-hazard control testing.

- All budget categories and costs (Part B of Standard Form 424A) and major tasks should be thoroughly documented and justified. Describe in detail the budgeted costs for each program element included in the overall plan (administrative costs, program management, lead hazard control strategy, community awareness, education and outreach, and program evaluation and data collection).

(c) Community and Private Sector Participation—[Place-Based Factor] (20 Points)

For this rating factor, the Secretary's Representative will review and score all eligible applications received from their designated State and local jurisdictions. The extent to which the applicant has enlisted the broad participation of neighborhood, community, governmental and nongovernmental organizations and the private sector (for-profit and not-for-profit entities) in the hazard control program through specific commitments of time, effort, and resources. In implementing a lead-based paint hazard control program, substantial efforts must be made to collaborate and coordinate activities with other housing, health and environmental agencies and organizations in the applicant's jurisdiction. Such efforts might include: the formation of broad-based lead task forces; expansion of public and private cooperation and coordination of lead hazard control program services with other revitalization efforts such as Federally designated Urban or Rural Empowerment Zones, Enterprise Communities, or Supplemental Empowerment Zones, and, implementation of programmatic responses to environmental justice issues. (10 points)

To the greatest extent feasible, the applicant should promote job training, employment, and other economic lift opportunities for target area low-income residents and businesses in the hazard control program. (10 points)

Evidence of commitments should include organization names, their proposed levels of effort, resources and responsibilities of these participants, including clearly proposed plans for the employment of low-income residents. The absence of firm commitments, memoranda of understanding or agreements, and letters of participation and/or a discussion of levels of effort and responsibility will result in a reduced rating under this factor.

Existing grantees must provide a detailed description of their progress and accomplishments related to their efforts to enlist broad-based support and participation of the community and private sector as well as any plans to expand or enhance their efforts under this NOFA.

(d) Applicant Capacity and Commitment to Hazard Control. (15 Points for Previously Unfunded Applicants; 30 Points for Existing Grantees)

(The applications of existing grantees shall be evaluated and scored as a separate class and will not be in competition with previously unfunded applicants)—The capacity of the applicant to initiate and carry out the lead-based paint testing and hazard-control program successfully within the period of performance established. An existing grantee applicant must provide a description of its progress and achievements in implementing its most recent grant award within the period of performance. Existing grantee applicants must describe their plans to *concurrently* implement lead hazard control activities under this NOFA with work already undertaken with their most recent grant award.

- Describe the applicant's administrative organization, including staff who will be responsible for carrying out the responsibilities of the program. (As an appendix, the applicant should include a clearly identified organizational chart, as well as resumes, position descriptions, and vacancy announcements, including salaries of key personnel identified to carry out the requirements of this grant program.) Indicate for key personnel, the percentage of time to be devoted to the project and any portion of salary to be paid by the grant. A full-time day-to-day program manager is recommended. Describe how other principal components of the applicant agency or other organizations will participate in or otherwise support the grant program. (5 points)
- Describe the knowledge and experience of the overall proposed project director and day-to-day program manager in planning and managing large and complex interdisciplinary programs, especially involving housing rehabilitation, public health, or environmental programs. The percentage of time devoted to the project as well as the knowledge and experience of the project director and day-to-day program manager are significant factors to be considered. (3 points)
- The institutional capacity of the applicant, as demonstrated by prior experience in initiating and implementing lead hazard control efforts and/or related environmental, health, or housing projects should be thoroughly described. The applicant should indicate how this prior experience will be used in carrying out

its planned comprehensive Lead-Based Paint Hazard Control Grant Program. (5 points)

• At a minimum, the applicant shall provide a matching contribution of at least 10 percent of the requested grant sum. That contribution may be in cash, in-kind or a combination of both. In-kind contributions shall be given a monetary value. Community Development Block Grant funds are the only Federal funds which may be considered part of the 10 percent matching contribution and only when they are specifically dedicated as an integral part of the project (e.g. CDBG rehabilitation funds used in conjunction with lead hazard control work in units). Other resources committed to the program that exceed the minimum required 10 percent match will provide points for this rating factor. Each source of contributions, cash or in-kind, both for the required minimum and additional amounts, shall be supported by a letter of commitment from the contributing entity, whether a public or private source, which shall describe the contributed resources that will be used in the program. Staff in-kind contributions should be given a monetary value as discussed above. The absence of letters providing specific details and amount of the actual contributions will result in those contributions not being counted. (2 points)

• *Performance-Based Criteria for Existing Grantees Only.*

Applicants are advised that in selecting grantees under this NOFA, the Secretary or his designee is unlikely to select applicants which were previously funded under the FY 96 NOFA (Round Four) issued May 14, 1996 (61 FR 24408), or any applicant which has two (2) Lead-Based Paint Hazard Control Grants. This selection decision is pursuant to the Secretary's authority to ensure geographic distribution and to ensure that funds available under this NOFA are used effectively to promote the purposes of Title X and to target funds to areas of greatest need.

Grantees which have demonstrated measurable progress in the implementation of their *most recent grant award* as measured by expenditures and/or units completed or in-progress will receive more favorable consideration under this factor for award relative to other existing grantees applying under this NOFA. Progress will be judged from the effective starting date of the applicant's most recent lead-based paint hazard control grant award. (15 points)

(e) Actions Affirmatively Furthering Fair Housing in Department Programs (10 Points)

Extent to which proposal affirmatively furthers fair housing and environmental justice for all persons regardless of race, color, national origin, religion, sex, disability (including children with EBL), or familial status (size of family and number of children). Special consideration will be given to particularly innovative strategies and those designed to remedy the effects of identified past discrimination. Applicants with existing grants should discuss outstanding current activity on the factors specified below. Proposals which receive the full ten points will have addressed, in depth, the following issues:

(1) Outreach strategies and methodologies to provide lead hazard-free housing to all segments of the population: homeowners, owners of rental properties, and tenants; especially for occupants least likely to receive its benefits. Once the population to which outreach will be ''targeted'' is identified, (e.g.; homeowners who are racial minorities living in minority-concentrated areas or owners of properties with under-served tenants such as minority renters with large families containing young children), outreach strategies directed specifically to them should be multifaceted. This criterion goes beyond testing and hazard control; it concerns what happens to the units after the lead hazard control and tries to ensure that all families will have adequate, lead hazard-safe housing.

(2) Demonstrate how the funding would be used in conjunction with the State or local government's Fair Housing Planning strategy to overcome any identified impediment to fair housing choice, which pertains to lead-based paint, and how experience with this program will be used to update these documents. Specific impediments, plans for correcting the identified impediments, and planned updates to the analysis of impediments should be described.

(f) Lead-Hazard Control Integration (5 Points)

A description and/or specific plan of how the applicant will integrate lead hazard control activities with other housing, health, and environmental programs after the grant is completed. Applicants should review the Lead-Based Paint Hazard Reduction and Financing Task Force Report: Putting the Pieces Together: Controlling Lead Hazards in the Nation's Housing (See NOFA, Appendix A). Lead hazard control integration plans may include: (1) Incorporating lead-based paint maintenance and hazard control standards into housing codes and health regulations; (2) incorporating lead-based paint hazard control with other housing rehabilitation or code violation activities; (3) the use of public subsidies or other resources; (4) developing public-private lending partnerships to finance lead hazard control as part of acquisition and rehabilitation financing; (5) the use of revolving loan funds to finance future lead hazard control activities; and (6) the development and maintenance of a registry of lead-safe units with valid documentation of compliance with standards of lead hazard control and the process by which children, particularly those under age 6, are matched to lead-safe units.

Existing grantees must provide a description of the efforts they have undertaken to integrate lead hazard control activities beyond the duration of their currently funded program and how they plan on continuing and enhancing such efforts in the future.

Section 5. Checklist of Application Submission Requirements—Category A

5.1 Applicant Data

Applicants must complete and submit applications in accordance with the format and instructions contained in the application kit. The following is a checklist of the application contents that will be specified in the application kit:

(a) The name, mailing address, telephone number, and principal contact person of the applicant. If the applicant has consortium associates, sub-grantees, partners, major subcontractors, joint venture participants, or others contributing resources to the project, similar information shall also be provided for each of them.

(b) For State applicants, copies of existing statutes, regulations or other appropriate documentation regarding the State's Lead-Based Paint Contractor Certification and Accreditation Program. A State applicant which has existing legislation acceptable to HUD, but which has not implemented an acceptable lead-based paint contractor certification program, shall furnish assurances from the Governor that an acceptable certification program will be implemented within 1 year from the date of the application deadline date and that the designated agency implementing the certification program shall offer training sessions leading to certification within 6 months of the effective date of implementing

regulations. If legislative approval of proposed regulations is also required, a similar assurance must be provided by the chairs of committees having jurisdiction. Local government applicants in States which have not implemented an acceptable contractor certification program must provide assurances that only certified contractors and trained workers from State certification programs acceptable to HUD will be used in conducting lead hazard control work. (See Section 4.2(d) of this NOFA regarding this requirement.)

(c) Evidence of the applicant's commitment and experience in eliminating or reducing significant lead-based paint hazards in privately-owned eligible housing as detailed in the applicant's work plan for lead-based paint hazard control (See Rating Factor, Work Plan and Budget, in Section 4.3 of this NOFA).

(d) A detailed description of the funding mechanism, selection process, and other proposed activities that the applicant plans to use to assist any sub-grantees or sub-recipients under this grant.

(e) A detailed total budget with supporting cost justification for all budget categories of the Federal grant request. There shall be a separate estimate for the overall grant management element, ''Administrative Costs,'' which are more fully defined in Appendix B of this NOFA. The budget shall include not more than 10 percent for administrative costs and not less than 90 percent for direct project elements (See Section 3.4 (c) Eligible Activities of this NOFA).

(f) Certification assuring that the applicant will conduct lead hazard control activities safely and effectively.

(g) An itemized breakout of the applicant's required matching contribution, including values placed on donated in-kind services; letters or other evidence of commitment from donors; and the amounts and sources of contributed resources.

(h) Memoranda of Understanding or Agreement, letters of commitment or other documentation describing the proposed roles of agencies, local broad-based task forces, participating community or neighborhood-based groups or organizations, local businesses, and others working with the program.

(i) Completed Forms HUD–2880, Applicant/Recipient Disclosure/Update Report, and SF–LLL, Disclosure of Lobbying Activities, where applicable (See Section 10. Findings and Certifications in this NOFA).

(j) Standard Forms SF–424, 424A, 424B, and other certifications and assurances listed in section 5.3 of this NOFA.

(k) A copy of the applicant's approval notification for the current program year for its Consolidated Plan. A copy of the applicant's lead hazard control element included in the current program year Consolidated Plan.

5.2 Proposed Activities

(a) Affected Housing and Population To Be Served

The applicant shall describe the size and general characteristics of the target housing within its jurisdiction, including a description of the housing's location, condition, and occupants, and a current estimate of the number of children under the age of six in these units. Other characteristics described in Section 4.3 *Rating Factor* (a)—''*Need*'' should be provided. If specific area(s) (neighborhoods, census tracts, etc.) within an applicant's jurisdiction are specifically targeted for lead hazard control activities, the applicant shall describe these same characteristics for the area. Maps may be included as an appendix.

To the extent practical, preference shall be given to occupied eligible housing units with children under the age of 6. Vacant housing that subsequently will be occupied by low-income renters or owners should also be included in this description. In addition, as a measure of its ongoing commitment to lead-based paint programs, the applicant shall provide information on the magnitude and extent of the childhood lead poisoning problem within its jurisdiction and for any area(s) to be included in the lead hazard control program. Current efforts undertaken to provide health care services for children with elevated blood lead levels and efforts to address lead-based paint hazards shall be described.

(b) Discussion of Program Activities. (See Section 4.3 Rating Factors)

The applicant shall provide a discussion of the overall proposed hazard control program, including, but not limited to, information on the following:

- Needs Assessment
- Program Work Plan and Budget to include:

—Program Management;
—Lead Hazard Control Strategy:
—Number of eligible housing units, hazard control methods, blood lead and environmental testing methods, costs, financing mechanisms, relocation plans, and community awareness and education;

- Program Evaluation and Data Collection;
- Budget Request;
- Community and Private Sector Participation;
- Ability to Implement the Lead Hazard Control Grant Program
- Methods to Affirmatively Further Fair Housing; and
- Future Integration and Coordination of Lead Hazard Control Activities With Other Programs.

5.3 Certifications and Assurances

The following certifications and assurances are to be included in all Category A applications:

(a) Compliance with environmental laws and authorities (24 CFR part 58).

(b) Compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. (Implementing Regulations at 49 CFR part 24; and HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition.)

(c) Compliance with Federal civil rights laws and requirements, including the authorities cited at 24 CFR 5.105.

(d) Assurance that financial management system meets the standards for fund control and accountability (24 CFR 85.20).

(e) Assurance that pre-hazard control, clearance, and 12 month post-hazard control testing will be conducted by certified performers.

(f) Assurance, to the extent possible, that blood lead testing, blood lead level test results, and medical referral and follow up are conducted for children under six years of age occupying affected units according to the recommendations of the Centers for Disease Control and Prevention (CDC). (See Appendix A of this NOFA-Preventing Lead Poisoning in Young Children, October, 1991.)

(g) Assurance that Lead-Based Paint Hazard Control Grant Program funds will not replace existing resources dedicated to any ongoing project.

(h) The application shall contain any other assurances that HUD includes in the application kit under this NOFA, including certification of compliance with the Drug-Free Workplace Act of 1988 in accordance with the requirements set forth at 24 CFR part 24, subpart F.

Section 6. Application Process for Category B

Section 6 Purpose and Description

6.1 Purpose and Authority

Category B provides funds for two Federal government agencies to work

cooperatively to reduce lead hazards to children. This category provides funds to control lead-based paint hazards at Superfund sites where Superfund dollars will be spent to control lead in soil hazards and HUD dollars will be spent to control lead-based paint hazards in residences.

In addition, for the first time, HUD is expanding the scope of Category B to include Brownfield sites. HUD hopes that by making funds available for use at Brownfield sites, the Department can fulfill an important part of its mission to provide safe, affordable housing. By including Brownfields, the Department is continuing another successful partnership with EPA that it began last year with the development of Category B. This partnership has enabled State and local governments to combine Federal programs to remedy specific problems, cutting across traditional program boundaries. This NOFA is an example of how HUD and EPA are working together to enable communities to determine how best to solve specific problems in their own jurisdictions.

For purposes of this NOFA, an eligible Brownfield site is one where the State or local government has made the Brownfield designation; there are one or more buildings that will be converted into low-income family residential units; the buildings to be converted are likely to have lead-based paint hazards that must be controlled and that the residential units will be for income eligible families.

Approximately 4 million dollars will be available in awards ranging from five-hundred thousand dollars ($500 thousand) to 2 million dollars ($2 million) available to each grantee. The amounts are for the total, multiyear work of a proposed project. Grants are authorized under section 1011(a)-(f) of Title X of the Housing and Community Development Act of 1992.

The purposes of this program include:

(a)(1) To demonstrate that Potentially Responsible Parties (PRPs), State and local governments, and other affected parties such as low-income residents can work together to maximize benefits both from Superfund actions and other lead-based paint hazard control activities. (A Potentially Responsible Party (PRP) is defined by Superfund as any individual or entity including owners, operators, transporters or generators who may be liable under section 107(a) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA)).

(2) To address the difficult urban housing problems at Brownfield sites that have been passed over for development and to demonstrate how HUD and EPA, together with State and local governments and the private sector can work to solve this problem.

(b) To promote job training, employment, and other economic lift opportunities for low-income residents and businesses as defined in 24 CFR 135.5 (see 59 FR 33881, June 30, 1994, and Category A Section 3.1(d) of this NOFA).

Section 6.2 Background

This category brings together two Federal agencies, HUD and the Environmental Protection Agency (EPA), to address housing and environmental issues. These funds will be targeted to communities that have received a Brownfield site designation, or within 18 months of the application submission deadline date have undergone EPA Superfund cleanup activity. These funds will be used primarily for interior lead-based paint hazard control. Under this Category, HUD funds *may not* be used for soil cleanup at Superfund sites but may be used for soil cleanup at Brownfield sites.

A multiagency approach is needed to address deteriorating interior paint, exterior paint, and contaminated soil and dust simultaneously. HUD's lead-based paint hazard control grant program has typically been used to control primarily lead-based paint and dust both inside and outside homes. The HUD lead-based paint hazard control grant program may be also be used to deal with lead in soil on an optional basis as determined by grantees. EPA Superfund normally cleans up residential soils that are contaminated with hazardous substances from local Superfund sites. EPA Superfund does not generally address the problem of deteriorating interior lead-based paint because exposures from interior paint are generally not within the jurisdiction of the Superfund program. Exterior lead-based paint hazard control may be considered an eligible activity by the Superfund program.

As part of HUD's efforts towards the joint goals of environmentally safe housing and urban redevelopment of bypassed Brownfields sites, certain Brownfield sites will be eligible. HUD wants to encourage the provision of privately-owned low-income housing on sites that were once abandoned.

Category B targets: (1) Communities with Superfund sites that may or may not have participated in previous HUD lead-based paint hazard control grant programs; and (2) communities with eligible Brownfield sites. In addition, States or units of local government, where privately-owned income eligible housing exists near Federal Facilities designated as Superfund sites, may apply for assistance under this NOFA. This Category will create a means for communities with a Superfund site(s) and/or Brownfield sites to address both lead-based paint inside and outside houses as well as soil cleanup. HUD has developed a place-based strategy that empowers local communities to combine government programs to remedy specific problems, cutting across traditional program boundaries. This NOFA is an example of how HUD and EPA are working together to enable communities to determine how best to solve specific problems in their local area.

An important product of this grant program will be to demonstrate how to address lead-based paint abatement issues at sites with multiple sources of lead, thereby addressing housing and environmental problems simultaneously. HUD expects that additional experience in this area will reduce abatement costs and offer creative strategies for overall lead risk reduction.

Section 6.3 Allocation Amounts

(a) Amounts

Approximately $4 million will be available for the Category B grant program from the appropriations made for the lead-based paint hazard reduction program in the FY 1997 Appropriations Act.

(b) Residual Funds

In the selection process, once available funds have been allocated to meet the full requested amounts of the top eligible applicants, HUD reserves the right to offer any residual amount as partial funding to the next eligible applicant in successive order. Any such applicant shall have not more than 7 calendar days to accept or decline the grant. In addition, HUD reserves the right to award only one grant, should only one applicant be able to support a credible effort.

Section 6.4 Eligibility

Title X specifies the following eligibility requirements for grants to identify and control lead-based paint hazards in housing:

(a) Eligible Applicants

A State or unit of local government that has a current year approved Consolidated Plan is eligible to apply for a grant. Applicants that do not have a currently approved CHAS or Consolidated Plan, but are otherwise eligible for this grant program, must

include their abbreviated Consolidated Plan which includes a lead-based paint hazard control strategy developed and submitted in accordance with 24 CFR 91.235.

Under Category B, all eligible applicants compete equally, regardless of previous awards under the HUD Lead-Based Paint Hazard Control grant program. However, applicants are advised that in selecting grantees under this NOFA, the Secretary or his designee is unlikely to select applicants that were previously funded under Category B of the FY 1996 NOFA (Round Four), issued May 14, 1996 (61 FR 24408)

(b) Certified Performers

See Category A, Section 3.4(b).

(c) Eligible Activities

See Category A, Section 3.4(c).

(d) Ineligible Activities

See Category A, Section 3.4(d).

Section 6.5 Limitations on the Use of Assistance

See Category A, Section 3.5.

Section 6.6 Environmental Review

See Category A, Section 3.6.

Section 6.7 Objectives and Requirements

See Category A, Section 3.7.

Section 7 Grant Application Process

Section 7.1 Submitting Applications for Grants

See Category A, Section 4.1.

(There are no page restrictions or format requirements for Category B applications.)

Section 7.2 Threshold Requirements for Category B

(a) Purpose

The application must be for funds to identify and control lead hazards in privately-owned eligible housing units at or near Superfund sites where lead has been identified as a major contaminant or for privately-owned eligible housing units at or near Brownfield sites. (See Appendix D of this NOFA for program-by-program listing of eligible HUD-associated housing programs.)

See Category A (Section 4.2(b)–(f)) for eligible applicants, matching contribution, contractor certification program requirement, and other threshold requirements.

(b) Status of Superfund Remediation

Jurisdictions are eligible only if remediation activity was completed within 18 months of the application submission deadline date, or the jurisdiction has a Record of Decision with a completion date for the remediation work of no more than three years from the date of application submission deadline date, or the site is undergoing remedial action or will undergo removal action within 18 months after the application submission deadline date.

(c) Brownfield Sites

Jurisdictions are eligible where the State or local Government has made the Brownfield designation; there are one or more buildings that will be converted into residential units; the buildings to be converted are likely to have lead-based paint hazards that must be controlled; and the residential units will be for income eligible families.

Section 7.3 Rating Factors

HUD will use the following technical and financial criteria to rate and rank applications received in response to this NOFA. The Request for Grant Application (RFGA) kit will provide guidance in responding to all the Rating Factors. The technical quality of an application will be rated, and then the strength, quality, and completeness of the financial and resources plan will be used to assess the likelihood that the technical plan can be carried out using the available resources.

In selecting successful Superfund applicants, HUD is very interested in applicants who have managed to involve PRPs yet HUD explicitly recognizes that there are a number of sites where there is no PRP and it is unlikely one will ever be found. These sites often have environmental justice issues which reflect the cumulative effects from multiple sources of lead exposure. These ''orphan'' Superfund sites are similar to Brownfield sites in that neither has the resources of a contributing PRP available to them. For this reason orphan Superfund sites and Brownfield sites will be evaluated similarly under Category B of the NOFA. However Superfund sites where one or more PRPs have been identified, and where PRPs are contributing less than 1% of the requested grant amount, will have a reduced score under this rating factor (see Section 7.3(a)(2)). Under Category B, HUD seeks a balance between those sites who have active and willing PRPs and those orphan Superfund sites and Brownfield sites that have no other means to accomplish lead-based paint hazard control. HUD believes that the best way to achieve this balance is to recognize PRP involvement and provide points for this involvement in one of the factors and at the same time not exclude orphan Superfund or Brownfield sites. Therefore, since neither orphan Superfund sites nor Brownfield sites have PRP's, PRP involvement is *not* a prerequisite threshold requirement for eligibility or selection of an award.

The maximum score possible under the rating factors is 110 points.

(a) Coordination (35 Points)

(1) Describe the history of the working relationship of the applicant, EPA, any other Federal agencies, residents or neighborhood-based organizations, and each Potentially Responsible Party (PRP), if any. When describing the working relationship with EPA, applicants should include Superfund activity, if appropriate, or Brownfield activity. Describe any site-specific community relations plans and activities including public meetings and other outreach activities that present a complete picture of the community's involvement and any likely issues that may arise. (25 points)

(2) Discuss the financial, technical, and other resources contributed. (10 points)

Applicants will be scored according to ONLY one of the following situations:

(i) The site is an orphan Superfund site or a Brownfield site. The applicant will receive the full score. (5 points)

or

(ii) The site is a Superfund site and the total PRP contributions are equal to or exceed 1% of the requested grant sum. (10 points)

or

(iii) The site is a Superfund site and one or more PRPs have been identified and total contributions are less than 1% of the requested grant sum. (5 points)

(b) Activities (25 Points)

(1) (i) *For Superfund sites:* Describe the extent of the remediation work on the soil; provide a comprehensive picture of cleanup activities, both planned and undertaken, including any relevant site information that demonstrates the applicant's need, and describe how coordinated efforts of the applicant, PRPs, residents, and Superfund activities will reduce overall lead risk. (15 points)

or

(ii) *For Brownfield sites:* Applicants must provide information about whether or not lead soil contamination exists (if known) including the level of contamination. If soil lead levels exist, or are likely to exist, that need remediation, applicants must describe how remediation will occur. (15 points)

(2) Describe which non-HUD funding sources have been secured to abate

exterior lead-based paint hazards. (10 points)

(c) Strategy (20 Points)

(1) Discuss the quality and cost-effectiveness of the proposed lead-based paint hazard control strategy, especially as it relates to Superfund cleanup activities or Brownfield sites, HUD lead-based paint hazard control, and how they fit into an overall environmental lead risk reduction scenario. The overall plan must include: the selection of sub-grantees and other sub-recipients to assist in implementing the project; the total number of units to be tested and treated and the rationale for this total; the abatement/hazard control methods and levels of treatment proposed, and number of units by type of treatment; the amount of prior hazard control experience; financing mechanisms for hazard control activities and the process for recruiting property owners (if applicable); temporary relocation plans, if needed; and the degree to which the strategy focuses on households in eligible housing with children under the age of 6 years (if applicable). (8 points)

(2) The level of coordination between the applicant, HUD, and the Superfund program or the Brownfield program; the experience of the applicant with environmental issues; the experience of the applicant with environmental justice issues; the experience of the applicant in dealing with the private sector, especially for Superfund sites with PRPs. (7 points)

(3) A program for education and outreach to the people residing on or near the Superfund site or on or near the Brownfield site on the hazards of lead in paint, soil, and dust, including blood lead screening of young children and, if necessary, referral for medical treatment. Include roles and responsibilities and approaches undertaken by the groups and organizations involved in both education and outreach, and blood lead testing and medical follow-up. (5 points)

(d) Management and Budget Plan (20 Points)

The Management and Budget Plan shall include:

(1) A narrative describing how the process and tasks of the grant program will be coordinated and managed by the personnel discussed in the strategy rating factor. Provide a brief narrative for each major budget subtask and justification for each functional cost element, explaining its planned use. (8 points)

(2) A budget proposal for each major cost element of the HUD grant, a task by task spreadsheet for the HUD grant and Part B of Standard Form 424A, for the match and other resources contributed by the applicant and the budget for the Superfund part of the project or the Brownfield part of the project as applicable. If applicable, describe specifically how Superfund dollars and HUD dollars will be allocated and tracked and whether or not Superfund dollars will be used to control exterior lead-based paint hazards as part of the soil remediation plan. (8 points)

(3) At a minimum, the applicant shall provide a 10 percent matching contribution of the requested grant sum. Points for this factor will be awarded only for the amount of the *net* contributions that *exceed* the 10 percent statutory minimum. Contributions may be cash or in-kind, or a combination of both. In-kind contributions must be given a monetary value. PRPs may contribute cash to meet this 10 percent matching contribution requirement. Community Development Block Grant funds are the only Federal funds which may be considered part of the 10 percent matching contribution, when they are specifically dedicated to this project. Additional resources committed to the program that exceed the minimum required 10 percent match will provide points for this rating factor. Each source of contributions, cash or in-kind, both for the required minimum and additional amounts, shall be made in a letter of commitment from the contributing entity, whether a public or private source, and shall describe the contributed resources that will be used in the program. The absence of letters providing specific details and amount of the actual contributions will result in that contribution not being counted. (4 points)

(e) Actions Affirmatively Furthering Fair Housing in Department Programs (10 Points)

Extent to which proposal affirmatively furthers fair housing and environmental justice for all persons regardless of race, color, national origin, religion, sex, disability (including children with EBL), or familial status (size of family and number of children). Special consideration will be given to particularly innovative strategies and those designed to remedy the effects of identified past discrimination. Applicants with existing grants should discuss outstanding current activity on the factors specified below. Proposals which receive the full ten points will have addressed, in depth, the following issues:

(1) Outreach strategies and methodologies to provide lead hazard-free housing to all segments of the population: homeowners, owners of rental properties, and tenants; especially for occupants least likely to receive its benefits. Once the population to which outreach will be ''targeted'' is identified, (e.g.; homeowners who are racial minorities living in minority-concentrated areas or owners of properties with under-served tenants such as minority renters with large families containing young children), outreach strategies directed specifically to them should be multifaceted. This criterion goes beyond testing and hazard control; it concerns what happens to the units after the lead hazard control and tries to ensure that all families will have adequate, lead hazard-safe housing.

(2) Demonstrate how the funding would be used in conjunction with the State or local government's Fair Housing Planning strategy to overcome any identified impediment to fair housing choice, which pertains to lead-based paint, and how experience with this program will be used to update these documents. Specific impediments, plans for correcting the identified impediments, and planned updates to the analysis of impediments should be described.

Section 7.4 Checklist of Application Submission Requirements

7.4.1 Applicant Data

See Category A, Section 5.1 (a)–(k).

7.4.2 Proposed Activities

See Category A, Section 5.2 (a)–(d).

7.4.3 Certifications and Assurances

See Category A, Section 5.3 (a)–(k).

Section 8. Corrections to Deficient Applications

Shortly after the expiration of the NOFA submission deadline date, HUD will notify applicants in writing of any minor deficiencies in the applications that are not of a substantive nature and do not affect the score, such as an omitted certification or illegible signature. The applicant shall submit corrections, which must be received at the Office of Lead Hazard Control within 21 calendar days from the date of HUD's letter notifying the applicant of any minor deficiencies. Electronic or FAX transmittal is not an acceptable transmittal mode. Corrections to minor deficiencies will be accepted within the 21-day time limit. Applicants that do not make timely response to requests for deficiency corrections shall be removed from further consideration for an award.

Applicants shall only be permitted to correct those deficiencies determined by HUD to be minor. Deficiencies

determined by HUD to be substantive and which may affect the score may not be corrected.

Section 9. Administrative Provisions

9.1 Obligation of Funds

(a) Provision of Funds

Funding shall be provided on a cost-reimbursable basis not to exceed the amount of the grant, except as otherwise provided in Sections 9.2 and 9.3 of this NOFA.

(b) Availability of Funds

All payments will be made on a cost-reimbursable basis, except that a one (1) percent final payment shall be made upon completion of all tasks and delivery of an acceptable final report.

HUD will release funds for the inspection of units and for conducting the lead hazard control phase (interim controls, hazard abatement, or complete abatement) of the program after the grantee has submitted and secured HUD approval of HUD Form 7015.15 (Request for Release of Funds) which certifies that the grantee has fulfilled the environmental review requirements of the grant.

9.2 Increases of Awards

After executing the grant agreement and initial obligation of funds, HUD will not increase the grant sum or the total amount to be obligated based upon the original scope of work. Amounts awarded may only be increased as provided in Section 9.3, Deobligation, of this NOFA.

9.3 Deobligation

(a) Reasons for Deobligation

HUD may deobligate amounts for the grant if proposed activities are not initiated or completed within the required time after the award effective date. The grant agreement will set forth in detail other circumstances under which funds may be deobligated and other sanctions imposed.

(b) Treatment of Deobligated Funds

HUD may undertake either or both of the following actions:

(1) Readvertise the availability of funds that have been deobligated under this section in a new NOFA; or

(2) Choose additional applications which were submitted in response to this NOFA in accordance with the selection process described in Section 4.1 and Section 7.3 of this NOFA.

9.4 Reports

The grantee shall submit the following types of reports:

(a) Progress Reports

The grantee shall submit quarterly progress reports in accordance with HUD requirements. These progress reports shall include expenditure reports and a narrative describing important events, milestones, work plan progress, and problems encountered during the period covered.

(b) Final Report

The grantee shall submit a final report in accordance with the procedures of HUD's Management Reporting System. The report shall summarize the applicant's plans, execution of the plans, achievements noted, and lessons learned. The report need not be lengthy, but should be of a quality and detail to provide a free-standing description to any outside reader of all of the applicant's work and achievements under the grant.

Section 10. Findings and Certifications

Environmental Review

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50, which implements 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 during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, S.W., Room 10276, Washington, D.C. 20410.

Federalism Executive Order

The General Counsel, as the Designated Official under section 8(a) of Executive Order 12612, Federalism, has determined that the policies and procedures contained in this NOFA will not have substantial direct effects on States or their political subdivisions, or the relationship between the federal government and the States, or the distribution of power and responsibilities among the various levels of government. Under this NOFA, grants will be made for the control of lead-based paint and lead-dust hazards in low-income owner-occupied units and privately owned low-income rental units. Although the Department encourages States and local governments to initiate or expand lead-based paint certification, testing, abatement, and financing programs, any action by a State or local government in these areas is voluntary. Because action is not mandatory, the NOFA does not impinge upon the relationships between the Federal government and State and local governments, and the notice is not subject to review under the Order.

Family Executive Order

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this document will likely have a beneficial impact on family formation, maintenance and general well-being. This NOFA, insofar as it funds repairs to privately owned housing, will assist in preserving decent housing stock for low-income resident families. Accordingly, since the impact on the family is beneficial, no further review is considered necessary.

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 (57 FR 1942), HUD published 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:

a. Documentation and Public Access

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.

b. 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.

Prohibition Against Lobbying Activities

Applicants for funding under this NOFA are subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991 (31 U.S.C. 1352) (the Byrd Amendment), which prohibits applicants from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. Applicants are required to certify, using the certification found at Appendix A to 24 CFR part 87, that they will not, and have not, used appropriated funds for any prohibited lobbying activities. In addition, applicants must disclose, using Standard Form LLL, ''Disclosure of Lobbying Activities,'' any funds, other than Federally appropriated funds, that will be or have been used to influence Federal employees, members of Congress, and Congressional staff regarding specific grants or contracts.

Procurement Standards

All grantees are governed by and should consult 24 CFR sections 85.36 and 85.37, which implement OMB Circular A–102 and detail the procedures for subcontracts and sub-grants by States and local governments. Under § 85.36, which pertains to subcontracts, small purchase procedures can be used for contracts up to $100,000, and require price or rate quotations from several sources (three is acceptable); above that threshold, more formal procedures are required (note that § 85.36 treats States differently than local governments). Section 85.37 procedures apply to sub-grants, and are not as restrictive. If States have more restrictive standards for contracts and grants, the State standards can be applied. All grantees should consult and become familiar with §§ 85.36 and 85.37 before issuing subcontracts or sub-grants.

Davis-Bacon Act

The Davis-Bacon Act does not apply to this program. However, if grant funds are used in conjunction with other Federal programs in which Davis-Bacon prevailing wage rates apply, then Davis-Bacon provisions would apply to the extent required under the other Federal programs.

Prohibition Against Advance Information on Funding Decisions—Section 103 of the Reform Act

HUD's regulation implementing section 103 of the HUD Reform Act, 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 all successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are restrained 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 who have ethics related questions should contact HUD's Ethics Law Division (202) 708–3815 (This is not a toll-free number).

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number for this program is 14.900.

Dated: May 22, 1997.

David E. Jacobs,

Director, Office of Lead Hazard Control.

Appendix A—Relevant Federal Regulations and Guidelines

To secure any of the documents listed, call the listed telephone number (generally not toll-free).

REGULATIONS

1. Worker Protection: OSHA publication—Telephone: 202–219–4667.

OSHA Regulations (available for a charge)—Government Printing Office—Telephone: 202–512–1800.

—General Industry Lead Standard, 29 CFR 1910.1025; (Document Number 869022001124).

—Lead Exposure in Construction, 29 CFR 1926.62, and appendices A, B, C, and D; published 58 FR 26590 (May 4, 1993). (Document Number 869022001141).

2. Waste Disposal: 40 CFR parts 260–268 (EPA regulations)—Telephone 1–800–424–9346.

3. Lead; Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; Final Rule: 40 CFR part 745 (EPA) (State Certification and Accreditation Program for those engaged in lead-based paint activities)—Telephone: 202–554–1404 (Toxic Substances Control Act Hotline).

GUIDELINES

1. Lead-Based Paint: Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing; HUD, June 1995 (available for a charge)—Telephone: 800–245–2691:

Post-Lead Hazard Control Clearance, No More Than:

100 Micrograms/Sq.Ft. (Bare and Carpeted Floors)
500 Micrograms/Sq.Ft. (Window Sills)
800 Micrograms/Sq.Ft. (Window Troughs (Wells), exterior concrete and other rough surfaces)

2. HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition; Telephone: 202–708–0336.

3. Preventing Lead Poisoning In Young Children; Centers for Disease Control, October 1991: Telephone: 770–488–7330.

REPORTS

1. Putting the Pieces Together: Controlling Lead Hazards in the Nation's Housing, HUD, (Summary and Full Report), July 1995, (available for a charge)—Telephone 800–245–2691:

2. Comprehensive and Workable Plan for the Abatement of Lead-Based Paint in Privately Owned Housing: Report to Congress (HUD, December 7, 1990) (available for a charge)—Telephone 800–245–2691.

CDC CLASSES OF BLOOD LEAD LEVELS IN CHILDREN

Class	Concentration (µq/dL)	Comment
I	<9	Child is not considered to be lead-poisoned.
IIA	10–14	Large number or proportion of children with blood lead levels in this range should trigger community-wide childhood lead poisoning prevention activities. Children in this range may need to be rescreened more frequently.
IIB	15–19	Child should receive nutritional and educational interventions and more frequent screening. If the blood lead level persists, environmental investigation and intervention should be done.
III	20–44	Child should receive environmental evaluation and remediation and a medical evaluation; may need pharmacologic treatment of lead poisoning.

CDC CLASSES OF BLOOD LEAD LEVELS IN CHILDREN—Continued

Class	Concentration (µq/dL)	Comment
IV	45–69	Child will need both medical and environmental interventions, including chelation therapy.
V	>70	Child is a medical emergency. Medical and environmental management must begin immediately.

Appendix B

''Administrative Costs''

I. Purpose

The intent of this HUD grant program is to allow the Grantee to be reimbursed for the reasonable direct and indirect costs, subject to a top limit, for overall management of the grant. In most circumstances the Grantee, whether a state or a local government, is expected to serve principally as a conduit to pass funding to sub-grantees, which are to be responsible for performance of the lead-hazard reduction work. Congress set a top limit of ten (10) percent of the total grant sum for the Grantee to perform the function of overall management of the grant program, including passing on funding to sub-grantees. The cost of that function, for the purpose of this grant, is defined as the ''administrative cost'' of the grant, and is limited to ten (10) percent of the total grant amount. The balance of ninety (90) percent or more of the total grant sum is reserved for the sub-grantee/direct-performers of the lead-hazard reduction work.

II. Administrative Costs: What They Are Not

For the purposes of this HUD grant program for States and local governments to provide support for the evaluation and reduction of lead-hazards in low and moderate-income, private target housing: the term ''administrative costs'' should not be confused with the terms ''general and administrative cost'', ''indirect costs'', ''overhead'', and ''burden rate''. These are accounting terms, usually represented by a government-accepted standard percentage rate. The percentage rate allocates a fair share of an organization's costs that cannot be attributed to a particular project or department (such as the chief executive's salary or the costs of the organization's headquarters building) to all projects and operating departments (such as the Fire Department; the Police Department; the Community Development Department, the Health Department or this program). Such allocated costs are added to those projects' or departments' direct costs to determine their total costs to the organization.

III. Administrative Costs: What They Are

For the purposes of this HUD grant program, ''Administrative Costs'' are the Grantee's allowable direct costs for the overall management of the grant program plus the allocable indirect costs. The allowable limit of such costs that can be reimbursed under this program is ten (10) percent of the total grant sum. Should the Grantee's actual costs for overall management of the grant program exceed ten (10) percent of the total grant sum, those excess costs shall be paid for by the Grantee. However, excess costs paid for by the Grantee and may be shown as part of the requirement for cost-sharing funds to support the grant.

IV. Administrative Costs: Definition

A. General

Administrative costs, are the allowable, reasonable, and allocable direct and indirect costs related to the overall management of the HUD grant for lead-hazard reduction activities. Those costs shall be segregated in a separate cost center within the Grantee's accounting system, and they are eligible costs for reimbursement as part of the grant, subject to the ten (10) percent limit. Such administrative costs do not include any of the staff and overhead costs directly arising from specific sub-grantee program activities eligible under Section 3.4(c) of this NOFA, because those costs are eligible for reimbursement under a separate cost center as a direct part of project activities.

The Grantee may elect to serve solely as a conduit to sub-grantees, who will in turn perform the direct program activities eligible under NOFA Section II.E.(5) (a) and (b) (ii) through (vi), or the grantee may elect to perform all or a part of the direct program activities in other parts of its own organization, which shall have their own segregated, cost centers for those direct program activities. In either case, not more than 10 percent of the total HUD grant sum may be devoted to administrative costs, and not less than 90% of the total grant sum shall be devoted to direct program activities. Grantee shall take care not to mix or attribute administrative costs to the direct project cost centers.

B. Specific

Reasonable costs for the Grantee's overall grant management, coordination, monitoring, and evaluation are eligible administrative costs. Subject to the (10) percent limit, such costs include, but are not limited to, necessary expenditures for the following, goods, activities and services:

(1) Salaries, wages, and related costs of the Grantee's staff, the staff of affiliated public agencies, or other staff engaged in Grantee's overall grant management activities. In charging costs to this category the recipient may either include the entire salary, wages, and related costs allocable to the program for each person *whose primary responsibilities* (more than 65% of their time) with regard to the grant program involve direct overall grant management assignments, or the pro rata share of the salary, wages, and related costs of each person whose job includes *any overall grant management assignments.* The Grantee may use only one of these two methods during this program. Overall grant management includes the following types of activities:

(a) Preparing grantee program budgets and schedules, and amendments thereto;

(b) Developing systems for the selection and award of funding to sub-grantees and other sub-recipients;

(c) Developing suitable agreements for use with sub-grantees and other sub-recipients to carry out grant activities;

(d) Developing systems for assuring compliance with program requirements;

(e) Monitoring sub-grantee and sub-recipient activities for progress and compliance with program requirements;

(f) Preparing presentations, reports, and other documents related to the program for submission to HUD;

(g) Evaluating program results against stated objectives; and

(h) Providing local officials and citizens with information about the overall grant program. (However, a more general education program, helping the public understand the nature of lead hazards, lead hazard reduction, blood-lead screening, and the health consequences of lead poisoning is a direct project support activity, under NOFA Section II.E.(5)(b), and should not be attributed to administrative costs, but to its own cost center.)

(i) Coordinating the resolution of overall grant audit and monitoring findings;

(j) Managing or supervising persons whose responsibilities with regard to the program include such assignments as those described in paragraphs (a) through (i).

(2) Travel costs incurred for official business in carrying out the overall grant management;

(3) Administrative services performed under third party contracts or agreements, for services directly allocable to overall grant management such as overall-grant legal services, overall-grant accounting services, and overall-grant audit services;

(4) Other costs for goods and services required for and directly related to the overall management of the grant program, including such goods and services as telephone, postage, rental of equipment, renter's insurance for the program management space, utilities, office supplies, and rental and maintenance (but not purchase) of office space for the program.

(5) The fair and allocable share of Grantee's general costs that are not directly attributable to specific projects or operating departments such as: The Mayor's and City Council's salaries and related costs; the costs of the City's General Council's office, not charged off to particular projects or operating departments; and the costs of the City's

Accounting Department not charged back to specific projects or operating departments. (If Grantee has an established burden rate it should be used; if not Grantee shall be assigned a negotiated provisional burden rate, subject to final audit.)

To repeat, all of the above activities goods and services: 1.a–j., 2., 3., 4., and 5. are subject to the ten (10) percent limit.

Appendix C

Section 217 of Public Law 104–134 (the Omnibus Consolidated Rescissions and Appropriations Act of 1996, 110 Stat. 1321, approved April 26, 1996) amended Section 1011(a) of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X) to read as follows:

Sec. 1011 Grants for Lead-Based Paint Hazard Reduction in Target Housing

(a) GENERAL AUTHORITY. The Secretary is authorized to provide grants to eligible applicants to evaluate and reduce lead-based paint hazards in housing that is not federally assisted housing, federally owned housing, or public housing, in accordance with the provisions of this section. Grants shall only be made under this section to provide assistance for housing which meets the following criteria—

(1) for grants made to assist rental housing, at least 50 percent of the units must be occupied by or made available to families with incomes at or below 50 percent of the area median income level and the remaining units shall be occupied or made available to families with incomes at or below 80 percent of the area median income level, and in all cases the landlord shall give priority in renting units assisted under this section, for not less than 3 years following the completion of lead abatement activities, to families with a child under the age of six years, except that buildings with five or more units may have 20 percent of the units occupied by families with incomes above 80 percent of area median income level;

(2) for grants made to assist housing owned by owner-occupants, all units assisted with grants under this section shall be the principal residence of families with income at or below 80 percent of the area median income level, and not less than 90 percent of the units assisted with grants under this section shall be occupied by a child under the age of six years or shall be units where a child under the age of six years spends a significant amount of time visiting; and

(3) notwithstanding paragraphs (1) and (2), Round II grantees who receive assistance under this section may use such assistance for priority housing.

* * * * *

BILLING CODE 4210–32–P

BILLING CODE 4210-32-C

NOFA IV

ELIGIBILITY OF HUD-ASSOCIATED "ELIGIBLE" HOUSING UNITS TO PARTICIPATE UNDER HUD'S LEAD-HAZARD-CONTROL GRANTS PROGRAM

APPENDIX D

Program	Eligibility		Program	Eligibility	
	Yes	No		Yes	No
Housing Components of Community Planning & Development Programs					
Community Development Block Grants (Entitlement)	X		Single Family Home Mortgage Coinsurance (Section 244)	X	
Community Development Block Grants (Non-Entitlement) for States and Small Cities	X		Graduated Payment Mortgages (Section 245)	X	
			Adjustable Rate Mortgages (ARMs)(Section 251)	X	
Community Development Block Grants (Section 108 Loan Guarantee)	X		Manufactured Homes (Title I	X	
Special Purpose Grants	X				
The **Home** Program: **HOME** Investment Partnerships	X		**Housing**		
HOPE for Homeownership of Single Family Homes	X		**Multifamily Programs**		
Shelter Plus Care (by component)			Rent Supplements (Section 101)		X
Sponsor-based Rental Assistance		X	Multifamily Rental Housing (Section 207)	X	
Tenant-based Rental assistance	X		Cooperative Housing (Section 213)	X	
Project-based Rental Assistance		X	Mortgage and Major Home Improvement Loan		
SRO Rental Assistance		X	Insurance for Urban Renewal Areas (Section 220)	X	
			Multifamily Rental Housing for Moderate-Income Families		
Single Family Property Disposition Homeless Initiative		X	Section 221(d)(3)		X
Emergency Shelter Grants	X		Section 221(d)(4)	X	
Housing Opportunities for Persons With Aids (HOPWA)	X		Existing Multifamily Rental Housing (Section 223(f))	X	
Surplus Properties (Title V)		X	Supplemental Loans for Multifamily Projects (Section 241)	X	
Supportive Housing Demonstration Program Transitional			Supportive Housing for Persons with Disabilities		
Housing Component	X		(Section 811)		X
Supportive Housing Demonstration Program Permanent			**HOPE 2**: Homeownership of Multifamily Units (Title IV)		X
Housing Component	X		Low-Income Housing Preservation and Resident		
Supplemental Assistance for Facilities to Assist the			Homeownership (Title VI)		X
Homeless (SAFAH)	X		Emergency Low-Income Housing Preservation (Title II)		X
Supportive Housing Program	X		Flexible Subsidy (Section 201)		X
Section 8 SRO Mod Rehab for Homeless Individuals		X			
Innovative Demonstration Program	X				
			Public and Indian Housing		
			Section 8 Project-Based Certificate Program		X
Housing			Section 8 Tenant Based Certificate and Voucher Program	X	
Single Family Programs			Section 8 Moderate Rehabilitation Program		X
One- to Four-Family Home Mortgage Insurance (Section 203(b) and (i))	X		Public Housing Development		X
			Public Housing Operating Subsidy		X
Rehabilitation Mortgage Insurance (Section 203(k))	X		Public Housing Modernization (Comprehensive Grant		X
Homeownership Assistance for Low- and Moderate-Income		X	Program)		
Families (Section 221(d)(2))			Public Housing Modernization (Comprehensive		X
Homes for Service Member (Section 222)	X		Improvement Assistance Program)		
Housing in Declining Neighborhoods (Section 223(e))	X				X
Condominium Housing (Section 234)	X				
Housing in Military Impacted Areas (Section 238)	X				
	X				

Appendix E—Elements of a State Certification Program

Congress has assigned Federal responsibility to the Environmental Protection Agency (EPA) for the definition, implementation, and oversight of State Certification Programs for workers, contractors, and inspectors engaged in the detection and reduction of lead-based paint hazards. The Department of Housing and Urban Development (HUD) has a strong interest in the strength and rigor of the EPA program, because HUD must rely on the effectiveness of the EPA program to assure the safe detection and reduction of those lead-based paint hazards.

In October 1992, Congress passed the Residential Lead-Based Paint Hazard Reduction Act (Title X of the Housing and Community Development Act of 1992). This legislation required EPA to promulgate regulations governing the accreditation of training programs, the certification of contractors and the training of workers engaged in lead-based paint activities. In addition, EPA was directed to issue work practice standards. Under the statute, lead-based paint activities are defined as:

(a) In the case of target housing: risk assessment, inspection, and abatement; and

(b) In the case of any public building constructed before 1978, commercial building, bridge, or other structure or superstructure: identification of lead-based paint and materials containing lead-based paint, deleading, removal of lead from bridges, and demolition.

On August 29, 1996 EPA promulgated a final regulation that established requirements for lead-based paint activities in Target Housing and Child Occupied Facilities. At 40 CFR part 745 Subpart L, the Agency established requirements for the certification of individuals and the accreditation of training programs as well as work practice standards. At 40 CFR part 745 Subpart Q, the Agency established procedures and requirements for the approval of State programs that would be administered and enforced in lieu of the Federal Program in that State. At 40 CFR 745.325 and 745.327, the Agency established the minimum programmatic and enforcement elements that a program must have in order to be authorized. States will have until August 30, 1998 to receive authorization from the Agency. After that date, EPA will administer the Federal program in that State. Any State that is applying for a HUD Lead-Based Paint Hazard Control Grant must have legislation that provides the State with the authority to develop a program that reflects substantial progress towards fulfilling the requirements of 40 CFR 745.325 and 327. Thus, while HUD does not require that 40 CFR part 745 be fully implemented at this time, a State must have enacted legislation which will support the eventual implementation of all requirements set forth in EPA's final rule. States should be aware that effective August 30, 1998, HUD will not award grants for lead-based paint hazard evaluation or reduction to a State unless such State has an authorized program under section 404 of the Toxic Substances Control Act.

[FR Doc. 97–14383 Filed 6–2–97; 8:45 am]

BILLING CODE 4210–32–P

federal register

Tuesday
June 3, 1997

Part III

Department of Housing and Urban Development

Notice of Funding Availability for HOPE VI Public Housing Demolition—Fiscal Year 1997; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4228–N–01]

Notice of Funding Availability for HOPE VI Public Housing Demolition—Fiscal Year 1997

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of funding availability (NOFA).

SUMMARY: This notice informs Public Housing Agencies (PHAs) of the availability of up to $30 million in HOPE VI funding for the demolition of obsolete Public Housing units without revitalization, where the demolition would otherwise not occur due to lack of available resources. Indian Housing Authorities are not eligible to apply.

DATES: An original application must be received at HUD Headquarters, Attention: Director, Office of Public Housing Investments, 451 Seventh Street, SW, Room 4138, Washington, DC 20410, on or before 4 p.m. eastern time on August 4, 1997. The application deadline for the original application delivered to HUD Headquarters is firm as to date and hour. 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 Headquarters and fully paid for, no later than 12:00 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 12:00 noon local time on the day before it was due at HUD.

In addition, two copies of the completed application must be received at the Field Office. The deadlines for submission discussed above only apply to the original, official copy, not to the copies of the application going to the Field Office.

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/nofas.html. HUD also will post frequently-asked questions and answers on the Home Page throughout the application preparation period.

SUPPLEMENTARY INFORMATION:

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.

NOFAs related to housing revitalization that HUD has published are the NOFA for Revitalization of Severely Distressed Public Housing (HOPE VI), which was published on April 14, 1997, and the NOFA for the Comprehensive Improvement Assistance (CIAP) Program, which was published on May 1, 1997. Other NOFAs related to housing revitalization the Lead-based Paint Hazard Reduction NOFA, which is published elsewhere in today's **Federal Register**, and the NOFA for the Section 8 Rental Certificate and Voucher Programs, which HUD expects to publish within the next few weeks.

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.

I. Purpose and 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. Fund Availability

This NOFA announces the availability of up to $30 million in HOPE VI funding for the demolition of obsolete Public Housing units without revitalization, where the demolition would otherwise not occur due to lack of available resources. Indian Housing Authorities are not eligible to apply.

C. Application Limitations

There is no minimum or maximum limitation on the size of the PHA that may apply *or* on the number of dwelling units for which demolition funding is requested. The Department will limit the eligible demolition funding per unit to $5,000 for vacant units and $6,500 for occupied units that require resident relocation. In addition, there will be a $3,000,000 limit on each grant. A PHA may apply for funding for only one public housing development. Contiguous developments will be considered one development for purposes of this NOFA.

D. Previously Submitted Demolition Applications

PHAs with previously submitted and/or approved demolition applications that include dwelling units may apply for funding under this NOFA where the PHA has not signed a contract to demolish the structure(s) and the actual

demolition costs have not yet been incurred. This NOFA is not intended to reimburse PHAs for demolition costs already incurred.

E. Eligible Costs

Eligible costs include: (1) The cost of demolition, including any required asbestos and/or lead-based paint abatement, of dwelling units and nondwelling facilities, where the demolition is approved by HUD under 24 CFR part 970 but where the PHA has not yet signed a contract for demolition and the building(s) has not been demolished, (2) minimal site restoration after demolition and subsequent site improvements to benefit the remaining portion of the project or to make the site more saleable, (3) demolition of nondwelling facilities are eligible costs only where related to the demolition of the dwelling units, (4) necessary administrative costs, and relocation and other assistance costs related to the permanent relocation.

II. NOFA Application Requirements

The PHA shall submit the original NOFA Application to the address specified by the date specified in the **DATE** section above. An application must contain all of the items in A–E of this section to be considered complete for the purposes of this section. The NOFA Application is comprised of the following documents:

A. Demolition Application

In order for a demolition application to be complete the PHA must address each of the requirements identified below in II. A. 1. (a–i). Where the Processing Center or Headquarters determines that more information is needed to clarify the submission with respect to one or more part 970 requirements, the PHA will be required to submit supplementary documentation. The PHA may be requested to provide this supplementary information at any time in the review process. However, where the PHA has failed to address a requirement under part 970 the application will be determined to be incomplete and will not be processed further in connection with this NOFA.

1. If a demolition application has not been previously submitted, the PHA shall submit a demolition application in accordance with 24 CFR part 970. In order for a demolition application to be complete it shall include the following:

a. A description of the property involved (§ 970.8(a));

b. A description of, as well as a timetable for, the specific action proposed (§ 970.8(b));

c. A statement justifying the proposed demolition based on 24 CFR 970.6:

(a) ''In the case of demolition of all or a portion of a project, the project, or portion of the project, is obsolete as to physical condition, location, or other factors, making it unusable for housing purposes and no reasonable program of modifications, is feasible to return the project or portion of the project to useful life.'' (§ 970.6(a))

(b) ''In the case of demolition of only a portion of a project, the demolition will help to assure the useful life of the remaining portion of the project (e.g., to reduce project density to permit better access by emergency, fire, or rescue services).'' (§ 970.6(b))

d. If applicable, a plan for the relocation of residents who would be displaced by the proposed demolition (§ 970.5). The relocation plan must at least indicate:

(1) The number of residents to be displaced;

(2) What counseling and advisory services the PHA plans to provide;

(3) What housing resources are expected to be available to provide housing for those displaced residents;

(4) An estimate of the cost of advisory services and resident moving expenses and the expected source for payment of these costs; and

(5) The minimum official notice that the PHA will give residents before they are required to move (§ 970.8(d)).

e. The application must be developed in consultation with residents and any resident organizations at the development, as well as any PHA-wide organizations. Copies of resident comments and the PHA's evaluation of those comments must be submitted. (§§ 970.4(a) and 970.8(e))

f. Evidence of compliance with the requirement for offering of the property to any resident organizations at the development for purchase, as required in § 970.13, or documentation that the application fits one of the exceptions.[1] Evidence must be submitted as to the residents' response to the offer or that the time for response has expired. (§ 970.13)

g. A relocation certification regarding relocation of residents, in accordance with § 970.5(h)(1); (See § 970.8(h).)

h. Estimated balance of development debt, under the Annual Contributions Contract (ACC), for development and modernization debt;[2] (§ 970.8(k)) and

i. A signed and dated resolution by the Board of Commissioners approving the demolition application. (970.8(n))

2. If a demolition application has been submitted to HUD previously but not yet been approved, the PHA shall submit a copy of its letter transmitting the application to HUD.

3. If a demolition/disposition application has been submitted and approved by HUD, the PHA shall submit a copy of HUD's signed and dated approval letter.

B. Narrative Statements, in an original and two copies, addressing each of the program threshold criteria and the rating factors in Sections III and IV of this NOFA.

C. An Implementation Schedule, showing the start and completion dates of the proposed demolition by phases if any.

D. Budget Form HUD–52825–A, HOPE VI Budget, Parts I and II, in an original and two copies.

E. Required HUD Certifications

Copies of the required certifications are contained in the Fiscal Year (FY) 1997 HOPE VI Application Kit which will be mailed to each PHA.

1. *SF–424, Application for Federal Assistance.* This form must be signed by the Executive Director of the PHA.

2. *A letter from the Chief Executive.* A letter from the Chief Executive of the applicable jurisdiction in support of the application.

3. *Compliance with the Consolidated Plan.* 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.

4. *Form HUD–52820–A, PHA Board Resolution* for Submission of HOPE VI Application.

5. *Form HUD–50070, Certification for a Drug-Free Workplace,* in an original only.

6. *Form HUD–50071, Certification for Contracts, Grants, Loans and Cooperative Agreements,* in an original only, required of PHAs applying for grants exceeding $100,000.

7. *Form SF–LLL, Disclosure of Lobbying Activities,* in an original only, required where any funds, other than

[1] At a minimum the PHA's demolition application submitted to HUD must include a signed and dated copy of the letter of offer to the resident organization at the affected development or where no resident organization exists, a copy of the notification of a meeting with residents for the purpose of assisting the residents to organize and a certification that the notification has been issued. As required by the regulation, the PHA must complete this requirement for the demolition application to be approved.

[2] Where the HA does not have information on the debt, the Processing Center will contact the Office of Finance and Accounting to determine the debt.

federally appropriated funds, will be or have been used to influence Federal workers, Members of Congress and their staff regarding specific grants or contracts. The PHA determines if the submission of the SF–LLL is applicable.

8. *Form HUD 2880, Recipient Disclosure/Update Report,* in an original only.

III. Program Threshold Criteria

This section identifies criteria which must be satisfied by each application in order for it to be rated and ranked. HUD will determine whether each criterion has been satisfied, based on the information submitted in accordance with the specific requirements of Sections II, III and IV of this NOFA and available program reports (e.g., LOCCS Quarterly Reports, FHEO Records). Only complete applications will be rated under this NOFA.

There are four program threshold criteria as follows:

A. Completeness of the Application

For an application to be complete, the PHA must address each requirement identified in Section II. With reference to the demolition portion of the application, the demolition application must be complete in terms of addressing each of the regulatory requirements found in Section II A.1. a–i of this NOFA. The demolition application does not have to be approved prior to rating or funding decisions.

B. Progress in Obligation of Modernization Funds

Based on the 12/30/1996 Quarterly Letter of Credit Control System (LOCCS) Report, at least 90 percent of modernization (i.e., Comprehensive Improvement Assistance Program or Comprehensive Grant Program) funds approved for Fiscal Year 1994 and prior years have been obligated.

C. Need for Demolition Funding

The PHA must demonstrate through written documentation that without HUD funds the demolition of this development or portion of the development could not take place. A Comprehensive Grant Program (CGP) participant must provide a copy of its 1997 Annual Statement. Using the Annual Statement, the PHA must demonstrate that either (a) 50 percent or more of its CGP funds for one year will be used to fund emergency needs, or (b) 50 percent or more of its CGP funds are needed for a combination of emergency needs, *and* critical needs [3]. The CGP PHA must provide an itemized list of emergency and/or critical needs, the individual and total cost of these work items accompanied by either a municipal order or a narrative demonstrating the gravity of the critical needs in order to address the threshold requirement.

A non-CGP PHA must demonstrate that it does not have adequate reserves to perform the demolition and maintain a reasonable operating reserve. The PHA must enumerate its capital reserves and then describe the amount of its capital reserves that it anticipates will be used for emergency and/or critical needs in FY 1997. Such a PHA must provide the specific dollar amount of the capital reserves, an itemized list of the emergency and/or critical needs work items, and the individual and total cost of these work items accompanied by a narrative demonstrating the gravity of the critical needs that it is going to use its funds to correct.

D. Civil Rights Compliance

The Department will use the following standards to assess compliance with civil rights laws at the threshold review. In making this assessment, the Department 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, compliance agreements, etc. 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 sponsor instituted by the Department of Justice.

(2) There is an outstanding finding of noncompliance with civil rights statutes, 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 the Department.

(3) There is an unresolved Secretarial charge of discrimination issued under Section 810(g) of the Fair Housing Act, as implemented by 24 CFR 103.400.

(4) There has been an adjudication of a civil rights violation in a civil action brought against it 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.

IV. Rating Factors. Maximum [100 Points]

A. Extent of PHA Need for Funding for the Demolition [50 points]

The PHA will be rated on the extent to which funds are needed to demolish the targeted development. Using the threshold data for need described in III.C. and materials presented to address this factor, HUD will rate the extent of need for funding for the proposed demolition.

There are two 25 point elements that comprise this factor, as follows:

Element 1

CGP PHAs and non-CGP PHAs will be rated depending on the amount of CGP funds or capital reserves remaining after taking into consideration grant funds used for emergency and/or critical needs. A CGP PHA must provide a comparison of the total cost of demolition of the targeted development with the amount remaining in the FY 1997 annual comprehensive grant award after funding emergency and/or critical needs for FY 1997. Notwithstanding the PHA's annual statement, the Department expects a PHA to expend any dollars remaining in the CGP grant after it funds any emergency and/or critical needs to partially or fully fund the proposed demolition.

A CIAP PHA is to use the amount of funds in its capital reserves at the time of the HOPE VI application as the basis of the computation for this element. That is, a CIAP PHA is to compare the total cost of demolition of the targeted development with the amount remaining in the capital reserves after funding emergency and/or critical needs for FY 1997.

PHAs that cannot fund the demolition with the remaining CGP funds or capital reserves or those who could only fund a small percent (i.e., 0 percent to 25 percent) of the demolition with the remaining CGP award or capital reserves will receive between 16–25 points.

Percent of proposed demolition cost able to be funded with CGP or capital reserves	Points awarded
76–100	0–5
51–75	6—10
26–50	11–15
25–0	16–25

Element 2

CGP PHAs will be rated on the number of years it will take to fund the

[3] Critical needs are defined as modernization needs at the PHA that are a threat to health and safety of residents but that do not qualify technically as an emergency since there is no immediate threat to tenant health or safety. Examples of critical needs include the repair of roofs and plumbing in cases where failure to repair the problem would result in a significant increase in the expenditure of funds in the future.

total physical needs of the PHA. PHAs that participate in the CIAP will automatically receive the maximum score of 25 points for this element. Comprehensive Grant PHAs will be rated on the number of years that it will take to fully fund the total physical needs, as identified in the Physical Needs Assessment (PNA) approved by HUD. The CGP PHA must provide the total cost of the PNA (minus any grant awards funded since the date of the PNA) divided by the dollar amount of the FY 1997 CGP grant. The resulting figure is the number of years to fully fund the PHA's physical needs. For example, if the physical needs of the PHA will take 15-years to fund given the PHA's FY 1997 grant, then the PHA is eligible to receive 25 points.

Number of years to complete the physical needs assessment	Points awarded
0	0
1–4	6
5–9	12
10–14	18
15 or more	25

PHAs that participate in the CIAP will automatically receive the maximum score of 25 points for this element.

The total points for this factor can be determined by combining the score from element 1 with the score from element 2.

B. Extent of Impact of Demolition of Building on PHA and Surrounding Neighborhood [20 points]

1. The PHA must have described the extent to which the demolition of the development or portion of the development will have a significant impact on the remainder of the development and/or the PHA as it relates to such factors as the financial situation of the PHA, the elimination of long term vacancies, fire safety, resident and neighborhood security, as well as any other health and safety factors the change will bring about.

2. The degree to which the demolition of the development or portion of the development will eliminate serious conditions or problems in the surrounding neighborhood, e.g., buildings that are a health hazard, an imminent threat to health and safety, a notorious security or safety problem, or an extremely negative impact on the surrounding area.

Each PHA must have submitted a narrative description to address this factor. The assignment of points is described in the following chart. The PHA must have developed a strong narrative to describe the problems caused by the development and provide any available documentation of problems such as a copy of a condemnation order, fire department citations of violations, other code enforcement violations, etc.

Points awarded	Degree of significance and quantity of problems resolved by demolition as described by the PHA in its narrative
9 to 10	The demolition will resolve a significant number of serious problems, including health and safety problems that have a significant impact on the surrounding neighborhood.
6 to 8	The demolition will resolve a moderate number of important health and safety problems and have significant impact on surrounding neighborhood.
0 to 5	The demolition will resolve a few problems of lesser importance and have little impact on the surrounding neighborhood.

C. Extent of PHA's Actions to Affirmatively Further Fair Housing [10 points]

In addressing the affirmatively furthering fair housing rating factor, actions that the PHA has taken, or plans to take, to accomplish this objective may include, but are not limited to the following:

1. Actions that contribute to the provision of fair housing choice to residents displaced as a result of demolition or disposition. These actions may also include programs or activities that provide information on housing opportunities outside of minority concentrated areas within the PHA's jurisdictional boundaries, or efforts that encourage landlords/owners to make available to displacees housing opportunities outside of minority concentrated areas. For example, the PHA may refer applicants to other available housing as part of an established housing counseling service or assist applicants in getting on other waiting lists.

2. Actions that overcome the consequence of prior discriminatory practices or usage which may have tended to exclude persons of a particular race, color, religion, sex, family status and national origin; or that overcome the effects of past discrimination against persons with disabilities. Such actions may include those actions taken without any kind of legally binding order, but which have changed previous discriminatory management, resident selection and assignment or maintenance practices.

The PHA must have submitted a narrative description in response to C. 1. and 2.

D. Extent of PHA's Capability and Readiness to Perform the Demolition [10 points]

Based on the latest HUD records (including the PHA's PHMAP modernization score) the PHA will be scored on the extent of the PHA's ability to begin immediately after approval and to effectively carry out the proposed demolition (e.g., the PHA has a request for proposal (RFP) prepared and ready to issue).

This criteria is divided into two factors—*capability* which has a maximum of 8 points and *readiness* to perform the demolition which has a maximum of 2 points.

HUD will consider the extent to which the PHA with any active capital funding under CIAP, CGP and development programs, is on schedule or, if behind schedule, has resolved all major issues and has been making good progress in the last six months. The PHA's capability will be judged by the immediate past performance in timely use of funding for capital programs including CIAP, CGP and development. For this criterion the capability of the PHA will be measured by the timeliness of fund obligation from the modernization PHMAP score, as follows:

Maximum points	Capability
8	Latest modernization PHMAP score of A.
6	Latest Modernization PHMAP score of B.
4	Latest Modernization PHMAP score of C.
2	Latest Modernization PHMAP score of D.

The readiness of the PHA will be determined by whether the PHA has a draft RFP that is in compliance with § 85.36 for the demolition contract prepared at the time of its response to this NOFA. The PHA must have included in its application a copy of the draft RFP to document its contention. A PHA with a draft RFP will receive the maximum score for this element, 2 points. A PHA without a draft RFP will receive 0 points. The PHA's score on readiness is to be combined with its score on modernization capability to give the total score on the rating factor.

E. Degree of Local Government Support [10 points]

The Secretary's Representative shall award up to 10 points for the degree of

local government support of the proposed demolition as demonstrated through either funding or in-kind-contributions of services to the PHA, over and above what is required under the Cooperation Agreement for municipal services, (e.g., building and staffing of a police or fire substation, refuse collection, locating job training, child care or health services near or within the PHA). In the event that a Representative does not score this factor for any application during the time allotted for the first stage of the review process, the program office will read and score the Degree of Local Government Support factor.

NOFA rating factors	Maximum points
Extent of need for demolition funding	50
Extent of effect of demolition of building or portion of building on PHA and community	20
Extent of PHA actions to affirmatively furthering fair housing	10
Extent of PHA's capability and readiness	10
Degree of local government support	10
Total maximum points	100

V. Application Processing

A. Corrections to Deficient Applications

To be eligible for processing, the original HOPE VI Demolition Application including the demolition application, where applicable, must be physically received by HUD Headquarters by the time and date specified in this NOFA. Where a demolition application is submitted with the HOPE VI Demolition application, it must be complete in accordance with Section II (a)(1) of this NOFA. HUD will immediately perform a review to determine whether an application is complete. A PHA's HOPE VI Demolition application will not be disqualified for rating simply because the demolition application is not approvable at the time it is submitted to the Headquarters address shown elsewhere in this NOFA.

1. If any of the items listed in Section II A, B, C, and D of this NOFA are missing, the PHA's HOPE VI NOFA Demolition Application will be considered substantially incomplete and, therefore, ineligible for further processing.

2. If any of the items listed in Section II E (1–8) are required but missing *or* there is a technical mistake on any document, such as an incorrect signatory, or a document is missing any other information that does not affect evaluation of the HOPE VI or demolition applications, HUD will immediately notify the PHA in writing 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 NOFA Application. If any of the items identified in HUD's written notification are not corrected and submitted within the required time period, the NOFA Application will be ineligible for further consideration.

B. Rating and Ranking

Awards under this NOFA will be made through a selection process that will award grants to the highest ranked applications based upon points as provided in Section IV. The Field Office Public Housing Director and staff, Field Office FHEO Director and staff and the Secretary's Representative together with Headquarters staff will participate in the rating and ranking.

HUD will preliminarily review, rate and rank each eligible application on the basis of the factors set forth in Sections III and IV. 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. HUD intends to set the base score so that applications requesting a total of approximately $60 million are advanced to the final review stage.

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 in rank order up to $30 million, the amount of available funding.

The Field Office of Public Housing shall forward a list of all PHAs to be rated to the Secretary's Representative for scoring the rating factor related to local government support. Within an established time frame, the Field Office of Public Housing shall provide the Secretary's Representative with the portion of each HA's narrative statement, included in the HOPE VI application, related to the technical review factor on local government support.

In addition, the Field Office of Public Housing shall forward a list of all applications to the Field Office of FHEO to review for the program threshold criteria. Once the assessment of each applicant on the threshold criteria has been completed, the list of all applications to be rated will then be forwarded to the Field Office of FHEO for scoring the rating factor related to affirmatively furthering fair housing. Within an established time frame the Field Office of Public Housing shall provide the Office of FHEO with the portion of each PHA's narrative statement, included in the HOPE VI application, related to the threshold factor and rating factor on affirmatively furthering fair housing.

C. Program Threshold Factors

A demolition application must be found approvable in accordance with CFR part 970 before HUD will obligate funds to an applicant selected for funding.

D. Litigation

In accordance with the provisions of the Departments of Veterans Affairs and Housing and Urban Development-Independent Agencies Appropriations Act, 1997, Public Law 104–204, 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. The Department 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.

E. Reduction in Requested Grant Amount

HUD may select an application for funding in an amount lower than the amount requested by the PHA, or adjust line items in the proposed grant budget within the amount requested (or both). The Department will adjust for any costs which are determined to be unreasonable or inadequately justified.

F. Environmental Review

The Field Office will review the environmental impact of the demolition activities proposed by the PHA in accordance with 24 CFR part 50. The PHA shall provide any documentation to the Field Office that is needed to carry out its review under the National Environmental Policy Act (NEPA) and related environmental laws, orders and regulations.

G. Notification of Funding Decisions

HUD will not notify PHAs 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 PHAs that were selected

for funding and to those that were not selected.

H. Annual Contributions Contract (ACC) Amendment

After HUD selects a PHA for funding under this NOFA, HUD and the PHA shall enter into an ACC Amendment, setting forth the amount of the grant and applicable rules, terms, and conditions, including sanctions for violation of the amendment. Among other things, the amendment will require the PHA to agree to the following:

1. To carry out the program in accordance with the provisions of this NOFA, applicable law, the approved NOFA Application and Demolition Application, and all other applicable requirements;

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;

3. That HUD may withhold, withdraw, or recapture any portion of a grant, terminate the ACC Amendment, or take other appropriate action authorized by the 1997 Appropriations Act or under the ACC Amendment if HUD determines that the PHA is failing to carry out the approved demolition in accordance with the application as approved and this NOFA.

I. Failure To Proceed Expeditiously

An applicant may be selected for funding for HOPE VI demolition in advance of the approval of its demolition application. However, the demolition application must be approved within three (3) months of the fund reservation or the funds will be withdrawn, unless HUD grants an extension to this deadline. 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. In selecting PHAs for the redistribution of funds to one or more other eligible PHAs, HUD will select a PHA from the most recently conducted selection process for demolition funding.

VI. Applicability of Other Federal Requirements

A. Fair Housing Requirements

PHAs shall 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.

B. Nondiscrimination on the Basis of Age or Handicap

PHAs shall 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, handicapped individuals 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.

C. Employment Opportunities

PHAs shall comply with 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.

D. Minority and Women's Business Enterprises

The requirements of Executive Orders 11246, 11625, 12432, and 12138 apply to this funding. Consistent with HUD's responsibilities under these orders, PHAs shall make efforts to encourage the use of minority and women's business enterprises in connection with funded activities.

E. 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), apply to the award, acceptance, and use of assistance under this NOFA 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. PHAs also are 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.

F. 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.

G. Conflict of Interest

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 this grant, or who is in a position to participate in a decision making 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.

H. Wage Rates

Davis-Bacon wage rates apply to demolition followed by construction on the site. HUD-determined wage rates apply to demolition followed only by filling in the site and establishing a lawn.

I. Lead-Based Paint Testing and Abatement

PHAs shall comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821, *et seq.*) and 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. Unless otherwise provided, PHAs shall be responsible for testing and abatement activities before demolition as appropriate to meet state and Federal requirements.

J. Relocation

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 funding under this NOFA.

VII. Other Matters

A. Paperwork Reduction Act

The information collection requirements of this NOFA related to the HOPE VI program (including Forms HUD–52825–A and HUD–52820–A required by Sections K.1.a and M.3 of the NOFA) have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**. The information collection requirements of this NOFA related to the demolition approval have been approved by OMB and assigned approval number 2577–0075, which expires on March 31, 1998. 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.

B. Environmental Impact

This NOFA provides funding under, and does not alter the environmental provisions of, regulations in 24 CFR part 970, which have been published previously in the **Federal Register**. Accordingly, under 24 CFR 50.19(c)(5), this NOFA is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321). The environmental review provisions of 24 CFR part 970 are found in § 970.4.

C. 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 or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the NOFA is not subject to review under the Order.

D. Accountability in the Provision of HUD Assistance

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the final rule codified at 24 CFR part 4, subpart A, contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992, 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:

1. Documentation and Public Access

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.

2. Disclosures

HUD will make available to the public for five years all applicant disclosure reports (Form HUD–2880) submitted in connection with this NOFA. Update reports (also Form HUD–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.

E. Prohibition Against Advance Information on Funding Decisions

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 Counsel or Headquarters Counsel for the program to which the question pertains.

F. 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.

If the amount applied for is greater than $100,000, the certification is required at the time of application for funds is made that federally appropriated funds are not being or have not been used in violation of the Byrd Amendment. If the amount applied for is greater than $100,000 and the PHA has made or has agreed to make any payment using nonappropriated funds for lobbying activity, as described in 24 CFR part 87 (Byrd Amendment), the submission also must include the SF–LLL, Disclosure of Lobbying Activities. The PHA determines if the submission of the SF–LLL is applicable.

G. Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance program number is 14.864.

Dated: May 22, 1997.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

[FR Doc. 97–14384 Filed 6–2–97; 8:45 am]

BILLING CODE 4210–33–P

Federal Register

Tuesday
June 3, 1997

Part IV

Department of Education

34 CFR Part 685
William D. Ford Federal Direct Loan Program; Rule

DEPARTMENT OF EDUCATION

34 CFR Part 685

RIN 1840–AC42

William D. Ford Federal Direct Loan Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary of Education amends § 685.212(c) of the William D. Ford Federal Direct Loan (Direct Loan) Program final regulations to correct a technical error. These regulations apply to loans under the Federal Direct Stafford/Ford Loan (Direct Subsidized Loan) Program, the Federal Direct Unsubsidized Stafford/Ford Loan (Direct Unsubsidized Loan) Program, the Federal Direct PLUS Loan (Direct PLUS Loan) Program, and the Federal Direct Consolidation Loan (Direct Consolidation Loan) Program, collectively referred to as the Direct Loan Program. The Secretary is amending these regulations to require that an endorser of a Direct PLUS Loan or a Direct PLUS Consolidation Loan is obligated to repay that Direct Loan when the borrower's obligation to repay is discharged in bankruptcy.

EFFECTIVE DATE: These regulations take effect June 3, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Utz, Program Specialist, U.S. Department of Education, 600 Independence Avenue, S.W. (ROB–3, Room 3045), Washington, DC 20202–5400. Telephone: (202) 708–8242. 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:

Background

The Direct Loan Program regulations at 34 CFR 685.212(c) provide that the Secretary does not require a borrower or any endorser to make any further payments on a loan if the borrower's obligation to repay that loan is discharged in bankruptcy. The Secretary has determined that the regulation is inconsistent with applicable statutory requirements. Section 455(a)(1) of the Higher Education Act of 1965, as amended (HEA), generally requires that loans made to student and parent borrowers under the Direct Loan and Federal Family Education Loan (FFEL) Programs have the same terms, conditions, and benefits, unless otherwise specified. Regulations governing the FFEL Program conform to the general rule that a bankruptcy discharge relieves the debtor of his or her personal liability to repay the debt but does not discharge the obligation of a cosigner or endorser to repay the discharged debt. The HEA does not suggest that a Direct Loan endorser should be treated differently than an endorser of a FFEL loan when the borrower declares bankruptcy, and it was not the Secretary's intent to establish different treatment. Accordingly, the Secretary is amending § 685.212(c) to ensure that endorsers in the Direct Loan Program are subject to the same rules that apply to endorsers in the FFEL Program.

Since this amendment merely makes a technical correction needed to conform the regulations with statutory requirements, it is not subject to a delayed effective date.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the regulatory changes in this document are necessary in order to amend a regulation that, as a result of a technical error, is inconsistent with a statutory requirement that Direct Loans have the same terms, conditions, and benefits as loans made to borrowers under the FFEL Program, unless otherwise specified by the statute. The Secretary did not intend or have discretion to exempt endorsers in the Direct Loan Program from a requirement that applies to endorsers in the FFEL Program. Since this regulatory amendment corrects an error in implementing a statutory requirement, the Secretary has determined that the publication of a proposed rule is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B). For the same reasons, the Secretary waives the 30-day delayed effective date under 5 U.S.C. 553(d).

Paperwork Reduction Act of 1995

These regulations have been examined under the Paperwork Reduction Act of 1995 and have been found to contain no information collection requirements.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on any small entities under the Regulatory Flexibility Act. These regulations amend current regulations that are inconsistent with a statutory requirement. The regulations will affect endorsers of loans that are discharged in bankruptcy. Endorsers are not considered to be small entities under the Regulatory Flexibility Act.

Assessment of Educational Impact

The Secretary has determined that the regulations in this document would not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 685

Administrative practice and procedure, Colleges and universities, Education, Loan programs-education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Dated: May 22, 1997.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

(Catalog of Federal Domestic Assistance Number: 84.268, William D. Ford, Federal Direct Loan Program.)

The Secretary amends part 685 of title 34 of the Code of Federal Regulations as follows:

PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

1. The authority citation for part 685 continues to read as follows:

Authority: 20 U.S.C. 1087a et seq., unless otherwise noted.

2. Section 685.212, paragraph (c), is amended by removing the words ''or any endorser''.

[FR Doc. 97–14357 Filed 6–2–97; 8:45 am]

BILLING CODE 4000–01–P

Federal Register

Tuesday
June 3, 1997

Part V

The President

Proclamation 7007—To Modify Duty-Free Treatment Under the Generalized System of Preferences

Federal Register
Vol. 62, No. 106
Tuesday, June 3, 1997

Presidential Documents

Title 3—

The President

Proclamation 7007 of May 30, 1997

To Modify Duty-Free Treatment Under the Generalized System of Preferences

By the President of the United States of America

A Proclamation

1. Pursuant to sections 501, 503(a)(1)(A), and 503(c)(1) of title V of the Trade Act of 1974 (''the 1974 Act''), 19 U.S.C. 2461-2466, as amended, the President may designate or withdraw designation of specified articles provided for in the Harmonized Tariff Schedule of the United States (HTS) as eligible for preferential tariff treatment under the Generalized System of Preferences (GSP) when imported from designated beneficiary developing countries.

2. Pursuant to sections 501 and 502 of the 1974 Act, the President is authorized to designate countries as beneficiary developing countries for purposes of the GSP.

3. Pursuant to section 503(c)(2)(A) of the 1974 Act, some beneficiary developing countries are subject to the competitive need limitation on the preferential treatment afforded under the GSP to eligible products.

4. Pursuant to section 503(c)(2)(C) of the 1974 Act, a country that is no longer treated as a beneficiary developing country with respect to an eligible article may be redesignated as a beneficiary developing country with respect to such article if imports of such article from such country did not exceed the competitive need limitation in section 503(c)(2)(A) during the preceding calendar year.

5. Pursuant to section 503(c)(2)(F) of the 1974 Act, the President may disregard the competitive need limitation provided in section 503(c)(2)(A)(i)(II) with respect to any eligible article if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed the applicable amount set forth in section 503(c)(2)(F)(ii).

6. Further, pursuant to subsection 503(d) of the 1974 Act, the President may waive the application of the competitive need limitation in section 503(c)(2)(A) with respect to any eligible article of any beneficiary developing country.

7. Pursuant to section 503(a)(1)(B) of the 1974 Act, the President may designate articles as eligible articles only for countries designated as least-developed beneficiary developing countries under section 502(a)(2), if the President determines that such articles are not import-sensitive in the context of imports from such least-developed beneficiary developing countries.

8. Pursuant to sections 501, 503(a)(1)(A), and 503(c)(1) of the 1974 Act, I have determined, after taking into account information and advice received from the United States International Trade Commission under section 503(a)(1)(A), to designate additional articles as eligible articles for purposes of the GSP. In order to do so, it is necessary to subdivide and amend the nomenclature of existing provisions of the HTS.

9. Pursuant to sections 501 and 502 of the 1974 Act, and having due regard for the eligibility criteria set forth therein, I have determined that it is appropriate to designate Cambodia as a beneficiary developing country

and a least-developed beneficiary developing country for purposes of the GSP.

10. Pursuant to sections 503(c)(2)(A) of the 1974 Act, I have determined that certain beneficiary countries should no longer receive preferential tariff treatment under the GSP with respect to certain eligible articles imported in quantities that exceed the applicable competitive need limitation.

11. Pursuant to section 503(c)(2)(C) of the 1974 Act, I have determined that certain countries should be redesignated as beneficiary developing countries with respect to certain eligible articles that had been imported previously in quantities that exceeded the competitive need limitation of section 503(c)(2)(A).

12. Pursuant to section 503(c)(2)(F) of the 1974 Act, I have determined that the competitive need limitation provided in section 503(c)(2)(A)(i)(II) should be waived with respect to certain eligible articles.

13. Pursuant to section 503(d) of the 1974 Act, I have determined that the competitive need limitation of section 503(c)(2)(A) should be waived with respect to certain eligible articles from certain beneficiary developing countries. I have received the advice of the United States International Trade Commission on whether any industries in the United States are likely to be adversely affected by such waivers and I have determined, based on that advice and on the considerations described in sections 501 and 502(c), that such waivers are in the national economic interest of the United States. In order to grant one of those waivers, it is necessary to subdivide and amend the nomenclature of existing provisions of the HTS.

14. Pursuant to section 503(a)(1)(B) of the 1974 Act, I have determined to designate certain articles as eligible articles under the GSP only for least-developed beneficiary developing countries.

15. Section 604 of the 1974 Act, 19 U.S.C. 2483, as amended, authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, and of other acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to title V and section 604 of the 1974 Act, do proclaim that:

(1) In order to provide that Cambodia is designated as a beneficiary developing country and a least-developed beneficiary developing country for purposes of the GSP, that one or more countries that have not been treated as beneficiary developing countries with respect to one or more eligible articles should be redesignated as beneficiary developing countries with respect to such article or articles for purposes of the GSP, and that one or more countries should no longer be treated as beneficiary developing countries with respect to an eligible article for purposes of the GSP, general note 4 to the HTS is modified as provided in section A of Annex I to this proclamation.

(2) In order to designate certain articles as eligible articles for purposes of the GSP when imported from beneficiary developing countries, the HTS is modified as provided in section B of Annex I to this proclamation.

(3) (a) In order to designate an article as an eligible article for purposes of the GSP when imported from any beneficiary developing country other than India, the Rates of Duty 1-Special subcolumn for the HTS subheading enumerated in section C(1)(a) of Annex I to this proclamation is modified as provided in such Annex section.

(b) In order to designate an article as an eligible article for purposes of the GSP when imported from any beneficiary developing country, the Rates of Duty 1-Special subcolumn for the HTS subheading enumerated

in section C(1)(b) of Annex I to this proclamation is modified as provided in such Annex section.

(c) In order to restore preferential tariff treatment under the GSP to a country that has been excluded from the benefits of the GSP for an eligible article, the Rates of Duty 1-Special subcolumn for each of the HTS subheadings enumerated in section C(1)(c) of Annex I to this proclamation is modified as provided in such Annex section.

(d) In order to provide that one or more countries should no longer be treated as a beneficiary developing country with respect to an eligible article for purposes of the GSP, the Rates of Duty 1-Special subcolumn for each of the HTS provisions enumerated in section C(2) of Annex I to this proclamation is modified as provided in such Annex section.

(4) In order to designate certain articles as eligible articles for purposes of the GSP only when imported from designated least-developed beneficiary developing countries, the HTS is modified as provided in Annex II to this proclamation.

(5) A waiver of the application of section 503(c)(2)(A) of the 1974 Act shall apply to the eligible articles in the HTS subheadings and to the beneficiary developing countries set forth in Annex III to this proclamation.

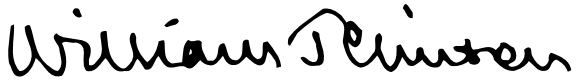
(6) In order to provide for the continuation of previously proclaimed staged reductions in the Rates of Duty 1-General subcolumn, for goods that fall in the HTS subheadings modified by section B(1) of Annex I to this proclamation and that are entered, or withdrawn from warehouse for consumption, on or after the dates specified in Annex IV to this proclamation, the rate of duty in the HTS set forth in such subcolumn for each of the HTS subheadings enumerated in Annex IV to this proclamation is deleted and the rate of duty provided in such Annex is inserted in lieu thereof.

(7) Any provisions of previous proclamations and Executive orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

(8) (a) The modifications made by Annexes I, II, and IV to this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the dates set forth in such Annexes.

(b) The action taken in Annex III to this proclamation shall be effective on May 31, 1997.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of May, 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.



Billing code 3195–01–P

Annex I

Modifications to the Harmonized Tariff Schedule of the United States ("HTS")

Section A. General note 4 to the Harmonized Tariff Schedule of the United States ("HTS") is modified as provided in this section.

(1). Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 31, 1997,

(a). general note 4(a) to the HTS is modified by inserting in the list of independent countries, in alphabetical order, "Cambodia"; and

(b). general note 4(b) to the HTS is modified by inserting in the list of least-developed beneficiary developing countries, in alphabetical order, "Cambodia".

(2). Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after May 31, 1997, general note 4(d) to the HTS is modified by:

(a). deleting the following subheading and the country set out opposite such subheading:

1604.15.00 Chile
2208.60.50 Russia
2909.19.10 India
6905.10.00 Venezuela
7413.00.10 Peru
7604.10.50 Russia
7614.90.20 Venezuela
8401.10.00 Russia
8469.12.00 Indonesia
8471.49.26 Thailand
8471.60.35 Thailand
8517.19.40 Thailand
8517.19.80 Thailand
8527.21.10 Brazil
8527.90.90 Philippines

(b). by deleting the country set out opposite the following subheading:

1604.16.10 Morocco
2933.29.45 Slovenia
2933.39.25 Brazil
2933.71.00 Russia
4107.90.60 South Africa
4203.21.20 Indonesia
7605.11.00 Russia

(c). by adding, in numerical sequence, the following provisions and countries set out opposite them:

2901.29.50 India
2909.19.14 India
2909.19.18 India

(3). Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 1997, general note 4(d) to the HTS is modified by:

(a). by adding, in numerical sequence, the following provisions and countries set out opposite them:

0708.10.20 Guatemala
0708.90.15 India
0710.80.93 Guatemala
0711.40.00 India
0714.10.10 Costa Rica
0714.10.20 Costa Rica
0714.20.20 Dominican Republic
0811.90.10 Costa Rica
0811.90.50 Costa Rica
1007.00.00 Argentina
1106.30.20 Ecuador
1301.90.40 Indonesia
1403.90.40 India
1605.90.55 Indonesia
1702.60.22 Argentina
1702.90.35 Belize
1702.90.40 Dominican Republic
1703.10.30 Dominican Republic
1806.32.55 Colombia
2004.10.40 Colombia
2008.30.10 Dominican Republic
2008.99.13 Costa Rica
2008.99.23 Dominican Republic
2106.90.12 Dominican Republic
2202.90.36 Dominican Republic
2516.22.00 India
2608.00.00 Peru
3920.59.80 Dominican Republic
4015.11.00 Thailand
4104.31.40 Argentina
4412.92.50 Indonesia
4412.99.55 Colombia
4602.10.20 Indonesia
4823.90.20 Philippines
5702.49.15 India
5904.91.00 India
7109.00.00 Peru
7113.11.50 Thailand
7113.19.21 Peru
7113.20.21 India
7614.90.50 Venezuela
7905.00.00 Peru
8108.90.60 Russia
8112.30.60 Russia
8211.92.60 Pakistan
8412.10.00 Russia
8413.30.10 Brazil
8414.30.80 Brazil
8471.60.35 Indonesia
8471.70.50 Philippines
8516.50.00 Thailand
8517.80.10 Indonesia
8528.12.04 Indonesia
8531.20.00 Thailand
8708.39.50 Brazil
9006.62.00 Thailand
9401.69.40 Indonesia

Annex I (continued)

Section A. (con.)

(3). (con.):

(b). by adding, in alphabetical order, the country or countries set out opposite the following provisions:

0713.90.10 Peru	2921.42.23 Guatemala
1701.11.05 India	3824.60.00 Indonesia
1701.11.10 Dominican Republic	4104.39.50 India
2603.00.00 Chile	4412.22.40 Colombia
2904.90.15 Brazil	7113.19.50 Dominican Republic
2909.50.40 Indonesia	7403.11.00 Peru
2912.13.00 Colombia	7403.12.00 Peru
2916.31.15 Estonia	9403.60.80 Indonesia

Section B. The Harmonized Tariff Schedule of the United States ("HTS") is modified, as provided in this section, effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after May 31, 1997.

The following provisions supersedes matter now in the HTS. Bracketed matter is included to assist in the understanding of proclaimed modifications. The subheadings and superior text are set forth in columnar format, and material in such columns is inserted in the columns of the HTS designated "Heading/Subheading", "Article Description", "Rates of Duty 1 General", "Rates of Duty 1 Special", and "Rates of Duty 2", respectively.

(1). Subheading 0802.90.90 is superseded by:

	[Other nuts, fresh or dried,...:] [Other:] [Other:] "Shelled:			
0802.90.94	Kola nuts.....	8¢/kg	Free (A,CA,E,IL, J,MX)	11¢/kg
0802.90.98	Other.....	8¢/kg	Free (CA,E,IL,J, MX)	11¢/kg"

(2). Subheading 2909.19.10 is superseded by:

	[Ethers, ether-alcohols, ether-phenols,...:] [Acyclic ethers and their halogenated,...:] [Other:] "Ethers of monohydric alcohols:			
2909.19.14	Methyl tertiary-butyl ether (MTBE).....	5.5%	Free (A*,CA,E,IL, J,MX)	37%
2909.19.18	Other.....	5.5%	Free (A*,CA,E,IL, J,K,MX)	37%"

(3). The article description of heading 9901.00.52 is modified by deleting "2909.19.10" and inserting "2909.19.18" in lieu thereof.

Section C. Modifications to the Harmonized Tariff Schedule of the United States ("HTS") of an article's preferential tariff treatment under the Generalized System of Preferences ("GSP").

(1). Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after May 31, 1997,

(a). For subheading 2901.29.50, the Rates of Duty 1-Special subcolumn is modified by inserting in the parentheses following the "Free" rate the symbol "A*," in alphabetical order;

(b). For subheading 8607.19.03, the Rates of Duty 1-Special subcolumn is modified by inserting in the parentheses following the "Free" rate the symbol "A," in alphabetical order; and

(c). For the following subheadings, the Rates of Duty 1-Special subcolumn is modified by deleting the symbol "A*" and inserting an "A" in lieu thereof.

1604.15.00	7413.00.10	8401.10.00	8471.60.35	8527.21.10
2208.60.50	7604.10.50	8469.12.00	8517.19.40	8527.90.90
6905.10.00	7614.90.20	8471.49.26	8517.19.80	

Annex I (continued)

Section C. (con.)

(2). Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 1997, for the following HTS provisions, the Rates of Duty 1-Special subcolumn is modified by deleting the symbol "A" and inserting an "A*" in lieu thereof:

0708.10.20	1403.90.40	2202.90.36	7109.00.00	8471.60.35
0708.90.15	1605.90.55	2516.22.00	7113.11.50	8471.70.50
0710.80.93	1702.60.22	2608.00.00	7113.19.21	8516.50.00
0711.40.00	1702.90.35	3920.59.80	7113.20.21	8517.80.10
0714.10.10	1702.90.40	4015.11.00	7614.90.50	8528.12.04
0714.10.20	1703.10.30	4104.31.40	7905.00.00	8531.20.00
0714.20.20	1806.32.55	4412.92.50	8108.90.60	8708.39.50
0811.90.10	2004.10.40	4412.99.55	8112.30.60	9006.62.00
0811.90.50	2008.30.10	4602.10.23	8211.92.60	9401.69.40
1007.00.00	2008.99.13	4823.90.20	8412.10.00	
1106.30.20	2008.99.23	5702.49.15	8413.30.10	
1301.90.40	2106.90.12	5904.91.00	8414.30.80	

Annex II

Modifications to the Generalized System of Preferences ("GSP") in the Harmonized Tariff Schedule of the United States ("HTS") for Designated Least-Developed Beneficiary Developing Countries

Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after May 31, 1997.

(a). General note 3(c) to the Harmonized Tariff Schedule of the United States ("HTS") is modified by deleting "A or A*" and inserting "A, A* or A+" in lieu thereof.

(b). Subdivision (b) of general note 4 to the HTS is redesignated as subdivision (b)(i) and the following new subdivision (ii) is inserted in numerical sequence:

"(ii) Articles provided for in a provision for which a rate of duty "Free" appears in the "Special" subcolumn followed by the symbol "A+" in parentheses are those designated by the President to be eligible articles for purposes of the GSP pursuant to section 503(a)(1)(B) of the Trade Act of 1974, as amended. The symbol "A+" indicates that all least-developed beneficiary developing countries are eligible for preferential treatment with respect to all articles provided for in the designated provisions. Whenever an eligible article which is the growth, product, or manufacture of a designated least-developed beneficiary developing country listed in subdivision (b)(i) of this note is imported into the customs territory of the United States directly from such country, such article shall be eligible for duty-free treatment as set forth in the "Special" subcolumn; provided that, in accordance with regulations promulgated by the Secretary of the Treasury the sum of (1) the cost or value of the materials produced in the least-developed beneficiary developing country or 2 or more countries which are members of the same association of countries which is treated as one country under section 502(a)(3) of the Trade Act of 1974, plus (2) the direct costs of processing operations performed in such least-developed beneficiary developing country or such member countries, is not less than 35 percent of the appraised value of such article at the time of its entry into the customs territory of the United States. No article or material of a least-developed beneficiary developing country shall be eligible for such treatment by virtue of having merely undergone simple combining or packing operations, or mere dilution with water or mere dilution with another substance that does not materially alter the characteristics of the article."

(c). For the following subheadings, the Rates of Duty 1-Special subcolumn is modified by inserting, in alphabetical order, the symbol "A+" in the parentheses following the "Free" rate of duty in such subcolumn.

0101.20.20	0201.30.50	0204.42.40	0305.41.00	0402.91.30
0101.20.40	0202.10.05	0204.43.20	0305.49.20	0402.99.03
0102.90.40	0202.10.10	0204.43.40	0305.61.20	0402.99.06
0104.20.00	0202.20.02	0207.11.00	0305.69.20	0402.99.10
0105.11.00	0202.20.04	0207.12.00	0305.69.40	0402.99.30
0105.12.00	0202.20.06	0207.13.00	0401.10.00	0402.99.68
0105.19.00	0202.20.10	0207.14.00	0401.20.20	0402.99.70
0105.92.00	0202.20.30	0207.24.00	0401.30.02	0403.10.05
0105.93.00	0202.20.50	0207.25.20	0401.30.05	0403.10.10
0105.99.00	0202.30.04	0207.25.40	0401.30.42	0403.10.90
0106.00.30	0202.30.06	0207.26.00	0401.30.50	0403.90.02
0201.10.05	0202.30.30	0207.27.00	0402.10.05	0403.90.04
0201.10.10	0202.30.50	0207.32.00	0402.10.10	0403.90.20
0201.20.02	0203.12.10	0207.34.00	0402.21.02	0403.90.37
0201.20.04	0203.19.20	0207.35.00	0402.21.05	0403.90.41
0201.20.06	0204.10.00	0207.36.00	0402.21.27	0403.90.47
0201.20.10	0204.21.00	0208.10.00	0402.21.30	0403.90.51
0201.20.30	0204.22.20	0208.90.40	0402.21.73	0403.90.57
0201.20.50	0204.22.40	0210.11.00	0402.21.75	0403.90.61
0201.30.02	0204.23.20	0210.19.00	0402.29.05	0403.90.72
0201.30.04	0204.23.40	0304.10.10	0402.29.10	0403.90.74
0201.30.06	0204.30.00	0304.20.30	0402.91.03	0403.90.85
0201.30.10	0204.41.00	0305.30.20	0402.91.06	0403.90.87
0201.30.30	0204.42.20	0305.30.40	0402.91.10	0403.90.90

Annex II (continued)

(c). (con.)

0404.10.08	0406.90.14	0804.10.20	1212.30.00	1901.10.45
0404.10.11	0406.90.16	0804.10.40	1212.91.00	1901.10.55
0404.10.20	0406.90.20	0804.10.60	1214.10.00	1901.10.60
0404.10.48	0406.90.25	0804.10.80	1302.13.00	1901.10.80
0404.10.50	0406.90.28	0804.20.40	1302.39.00	1901.10.95
0404.90.28	0406.90.31	0804.20.80	1401.90.20	1901.90.10
0404.90.30	0406.90.33	0804.30.20	1402.90.10	1901.90.20
0404.90.70	0406.90.34	0804.30.40	1403.10.00	1901.90.32
0405.10.05	0406.90.36	0804.30.60	1501.00.00	1901.90.33
0405.10.10	0406.90.38	0804.40.00	1502.00.00	1901.90.34
0405.20.10	0406.90.39	0805.30.20	1503.00.00	1901.90.38
0405.20.20	0406.90.41	0806.10.20	1504.10.40	1901.90.42
0405.20.40	0406.90.43	0806.10.60	1507.10.00	1901.90.44
0405.20.50	0406.90.44	0806.20.10	1507.90.40	1901.90.46
0405.20.60	0406.90.46	0806.20.20	1508.10.00	1901.90.48
0405.90.05	0406.90.49	0806.20.90	1508.90.00	1901.90.56
0405.90.10	0406.90.51	0807.11.40	1512.11.00	1901.90.70
0406.10.12	0406.90.52	0807.19.10	1512.19.00	1903.00.40
0406.10.14	0406.90.59	0807.19.80	1512.21.00	1904.20.10
0406.10.24	0406.90.61	0808.20.40	1512.29.00	1904.20.90
0406.10.34	0406.90.63	0809.10.00	1514.10.90	2001.90.20
0406.10.44	0406.90.66	0809.30.20	1514.90.50	2001.90.35
0406.10.54	0406.90.72	0809.40.40	1514.90.90	2001.90.60
0406.10.64	0406.90.76	0810.20.10	1515.11.00	2002.10.00
0406.10.74	0406.90.82	0811.90.22	1515.19.00	2002.90.00
0406.10.84	0406.90.86	0811.90.40	1515.21.00	2003.10.00
0406.10.95	0406.90.90	0811.90.80	1515.29.00	2004.10.80
0406.20.10	0406.90.93	0812.10.00	1516.20.10	2004.90.90
0406.20.22	0406.90.95	0812.20.00	1516.20.90	2005.51.20
0406.20.24	0406.90.99	0812.90.10	1517.10.00	2005.60.00
0406.20.29	0408.11.00	0812.90.20	1517.90.45	2005.70.50
0406.20.31	0408.19.00	0812.90.30	1517.90.50	2005.70.60
0406.20.34	0408.91.00	0812.90.40	1517.90.90	2005.70.70
0406.20.36	0408.99.00	0812.90.90	1518.00.20	2005.70.91
0406.20.43	0409.00.00	0813.20.10	1522.00.00	2005.70.97
0406.20.44	0509.00.00	0813.20.20	1602.10.00	2005.90.30
0406.20.49	0601.10.30	0813.40.15	1602.20.20	2005.90.50
0406.20.51	0601.10.85	0813.40.30	1602.41.90	2005.90.80
0406.20.54	0601.20.10	0813.40.40	1602.42.40	2006.00.20
0406.20.55	0602.90.50	0813.40.90	1602.50.60	2006.00.40
0406.20.56	0701.10.00	0813.50.00	1603.00.10	2006.00.50
0406.20.57	0701.90.50	0814.00.80	1604.11.20	2006.00.60
0406.20.61	0703.10.40	0901.90.20	1604.11.40	2007.10.00
0406.20.65	0703.90.00	0904.20.40	1604.12.20	2007.91.10
0406.20.69	0704.90.40	0910.40.40	1604.12.40	2007.99.15
0406.20.73	0706.10.05	1001.10.00	1604.13.10	2007.99.35
0406.20.77	0706.10.20	1001.90.10	1604.13.20	2007.99.55
0406.20.81	0706.90.40	1001.90.20	1604.13.30	2007.99.60
0406.20.85	0708.20.90	1003.00.20	1604.14.10	2007.99.65
0406.20.89	0708.90.40	1003.00.40	1604.14.20	2007.99.70
0406.20.95	0709.20.90	1006.10.00	1604.14.30	2008.11.02
0406.30.12	0709.51.00	1006.20.20	1604.14.40	2008.11.05
0406.30.14	0709.70.00	1006.20.40	1604.14.70	2008.11.22
0406.30.22	0709.90.30	1006.30.90	1604.14.80	2008.11.25
0406.30.24	0709.90.35	1006.40.00	1604.19.10	2008.11.42
0406.30.32	0709.90.90	1008.20.00	1604.19.40	2008.11.45
0406.30.34	0710.10.00	1008.90.00	1604.19.50	2008.19.20
0406.30.42	0710.22.37	1101.00.00	1604.20.15	2008.19.40
0406.30.44	0710.22.40	1102.10.00	1604.20.25	2008.19.50
0406.30.49	0710.29.40	1103.11.00	1604.20.30	2008.19.85
0406.30.51	0710.30.00	1103.19.00	1604.20.40	2008.20.00
0406.30.55	0710.40.00	1104.11.00	1604.20.50	2008.30.20
0406.30.56	0710.80.20	1104.19.00	1604.20.60	2008.30.30
0406.30.57	0710.80.45	1104.21.00	1604.30.30	2008.30.35
0406.30.61	0710.80.60	1105.20.00	1605.90.06	2008.30.40
0406.30.65	0710.80.85	1107.10.00	1605.90.50	2008.30.46
0406.30.69	0710.80.97	1107.20.00	1702.11.00	2008.30.65
0406.30.73	0710.90.90	1108.13.00	1702.19.00	2008.30.70
0406.30.77	0711.20.38	1202.10.05	1702.50.00	2008.30.80
0406.30.81	0711.20.40	1202.10.40	1704.90.10	2008.30.85
0406.30.85	0711.90.40	1202.20.05	1704.90.52	2008.40.00
0406.30.89	0712.30.20	1202.20.40	1704.90.54	2008.50.40
0406.30.95	0712.90.20	1204.00.00	1704.90.74	2008.60.00
0406.40.20	0712.90.75	1205.00.00	1704.90.90	2008.70.00
0406.40.40	0714.90.40	1207.20.00	1806.20.79	2008.80.00
0406.40.51	0802.11.00	1208.10.00	1806.20.81	2008.92.10
0406.40.52	0802.12.00	1208.90.00	1806.20.85	2008.92.90
0406.40.54	0802.21.00	1209.22.20	1806.20.95	2008.99.05
0406.40.58	0802.22.00	1209.24.00	1806.20.99	2008.99.10
0406.90.05	0802.32.00	1209.25.00	1901.10.05	2008.99.18
0406.90.06	0802.90.10	1209.91.10	1901.10.15	2008.99.25
0406.90.08	0802.90.90	1209.91.50	1901.10.35	2008.99.29

Annex II (continued)

(c). (con.)

2008.99.42	2402.10.60	2904.90.20	2917.39.70	2922.50.25
2008.99.60	2402.20.80	2904.90.30	2918.17.50	2922.50.35
2009.40.20	2402.90.00	2904.90.40	2918.19.10	2922.50.40
2009.40.40	2403.10.20	2904.90.47	2918.19.20	2924.10.80
2009.60.00	2403.10.30	2905.17.00	2918.19.30	2924.21.20
2009.80.40	2403.10.60	2906.12.00	2918.19.90	2924.21.45
2009.90.40	2403.91.43	2906.21.00	2918.23.30	2924.22.00
2101.30.00	2403.91.45	2906.29.60	2918.23.50	2924.29.05
2103.20.40	2403.99.20	2907.13.00	2918.29.04	2924.29.20
2105.00.05	2403.99.30	2907.15.60	2918.29.20	2924.29.31
2105.00.10	2403.99.60	2907.19.10	2918.29.65	2924.29.70
2105.00.25	2507.00.00	2907.19.20	2918.29.75	2924.29.75
2105.00.30	2508.10.00	2907.19.80	2918.30.10	2925.19.10
2105.00.50	2508.20.00	2907.21.00	2918.30.25	2925.19.40
2106.90.22	2508.30.00	2907.22.50	2918.30.30	2925.20.10
2106.90.24	2508.40.00	2907.29.90	2918.90.05	2925.20.20
2106.90.28	2509.00.20	2907.30.00	2918.90.43	2925.20.60
2106.90.32	2511.20.00	2908.10.10	2918.90.47	2926.90.05
2106.90.34	2519.90.20	2908.10.25	2919.00.30	2926.90.12
2106.90.38	2525.20.00	2908.10.35	2920.90.20	2926.90.44
2106.90.48	2613.10.00	2908.10.60	2921.22.10	2926.90.47
2106.90.62	2613.90.00	2908.20.04	2921.30.10	2927.00.06
2106.90.64	2616.10.00	2908.20.20	2921.30.30	2927.00.40
2106.90.78	2616.90.00	2908.20.60	2921.41.10	2927.00.50
2106.90.83	2620.11.00	2908.90.08	2921.41.20	2928.00.25
2106.90.85	2709.00.10	2908.90.28	2921.42.10	2929.10.10
2106.90.95	2709.00.20	2908.90.40	2921.42.18	2929.10.20
2202.90.10	2710.00.05	2908.90.50	2921.42.22	2929.10.35
2202.90.22	2710.00.10	2909.30.05	2921.42.65	2929.10.55
2202.90.24	2710.00.15	2909.30.07	2921.42.90	2929.10.80
2202.90.30	2710.00.18	2909.30.09	2921.43.08	2929.90.15
2202.90.35	2710.00.20	2909.30.40	2921.43.15	2929.90.20
2204.21.20	2710.00.25	2909.30.60	2921.43.40	2930.20.20
2204.21.50	2710.00.30	2909.49.10	2921.43.80	2930.90.29
2204.29.20	2710.00.45	2909.49.15	2921.44.10	2930.90.45
2204.29.40	2710.00.60	2909.50.10	2921.44.20	2931.00.10
2204.29.60	2801.30.20	2909.50.45	2921.44.70	2931.00.15
2204.29.80	2804.61.00	2909.50.50	2921.45.10	2931.00.22
2204.30.00	2804.69.50	2909.60.10	2921.45.20	2931.00.27
2205.90.40	2805.11.00	2909.60.20	2921.45.60	2931.00.30
2206.00.30	2805.19.00	2910.90.20	2921.45.90	2931.00.60
2206.00.60	2805.21.00	2912.21.00	2921.49.10	2932.19.10
2207.10.60	2805.30.00	2912.30.10	2921.49.37	2932.29.20
2207.20.00	2825.90.30	2913.00.40	2921.49.43	2932.29.30
2208.20.20	2827.39.40	2914.11.10	2921.49.45	2932.29.45
2208.20.30	2841.80.00	2914.40.40	2921.49.50	2932.91.00
2208.20.40	2842.10.00	2914.50.30	2921.51.10	2932.92.00
2208.20.50	2843.10.00	2914.69.20	2921.51.30	2932.93.00
2208.20.60	2844.10.50	2914.69.90	2921.51.50	2932.99.35
2208.30.30	2849.90.30	2914.70.40	2921.59.08	2932.99.39
2208.30.60	2850.00.10	2915.39.30	2921.59.30	2932.99.60
2208.40.00	2901.10.40	2915.39.35	2921.59.40	2932.99.70
2208.90.01	2901.10.50	2915.40.20	2921.59.80	2933.19.08
2208.90.20	2901.24.20	2915.40.30	2922.19.18	2933.19.37
2208.90.25	2901.24.50	2915.90.18	2922.19.20	2933.19.43
2208.90.30	2901.29.10	2916.11.00	2922.19.60	2933.29.10
2208.90.35	2901.29.50	2916.13.00	2922.19.70	2933.29.35
2208.90.40	2902.19.00	2916.15.10	2922.21.10	2933.29.43
2302.50.00	2902.90.30	2916.19.30	2922.21.40	2933.32.10
2303.10.00	2902.90.90	2916.31.30	2922.21.50	2933.32.50
2304.00.00	2903.30.05	2916.31.50	2922.22.10	2933.39.20
2306.10.00	2903.59.05	2916.32.10	2922.22.20	2933.39.30
2308.10.00	2903.59.15	2916.32.20	2922.22.50	2933.39.41
2308.90.80	2903.59.20	2916.34.10	2922.29.10	2933.39.61
2309.90.22	2903.61.20	2916.34.25	2922.29.15	2933.39.91
2309.90.24	2903.62.00	2916.34.55	2922.29.20	2933.40.15
2309.90.42	2903.69.10	2916.35.25	2922.29.27	2933.40.20
2309.90.44	2903.69.20	2916.35.55	2922.29.60	2933.40.26
2309.90.60	2903.69.23	2916.39.03	2922.29.80	2933.40.60
2309.90.95	2903.69.27	2916.39.45	2922.30.10	2933.40.70
2401.10.61	2903.69.70	2916.39.75	2922.30.25	2933.51.90
2401.10.63	2904.10.10	2917.12.10	2922.30.45	2933.59.21
2401.20.05	2904.10.15	2917.12.50	2922.42.10	2933.59.22
2401.20.31	2904.10.32	2917.19.20	2922.43.10	2933.59.36
2401.20.33	2904.10.37	2917.19.27	2922.43.50	2933.59.45
2401.20.83	2904.10.50	2917.19.40	2922.49.10	2933.59.53
2401.20.85	2904.20.10	2917.20.00	2922.49.27	2933.59.70
2401.30.25	2904.20.15	2917.36.00	2922.49.30	2933.59.80
2401.30.27	2904.20.35	2917.39.04	2922.49.37	2933.79.09
2401.30.35	2904.20.40	2917.39.15	2922.50.10	2933.79.15
2401.30.37	2904.20.45	2917.39.17	2922.50.14	2933.90.13
2402.10.30	2904.90.08	2917.39.30	2922.50.17	2933.90.26

Annex II (continued)

(c). (con.)

2933.90.46	3403.19.10	4012.20.60	7108.12.50	7212.30.30
2933.90.53	3403.91.50	4012.20.80	7108.13.70	7212.30.50
2933.90.61	3403.99.00	4015.19.50	7114.11.45	7212.40.10
2933.90.65	3404.90.10	4015.90.00	7201.50.60	7212.40.50
2933.90.70	3407.00.40	4104.10.60	7202.11.50	7212.50.00
2933.90.75	3502.11.00	4104.10.80	7202.21.75	7212.60.00
2933.90.79	3502.19.00	4105.12.00	7202.21.90	7213.10.00
2933.90.82	3503.00.20	4105.19.10	7202.49.10	7213.20.00
2934.10.10	3503.00.40	4105.19.20	7202.70.00	7213.91.30
2934.10.20	3506.10.10	4105.20.30	7202.91.00	7213.91.45
2934.20.20	3606.90.30	4107.10.20	7202.92.00	7213.91.60
2934.20.30	3804.00.50	4107.10.30	7202.93.00	7213.99.00
2934.20.40	3805.90.00	4107.90.30	7202.99.10	7214.10.00
2934.20.80	3806.90.00	4109.00.30	7202.99.50	7214.20.00
2934.30.12	3808.10.50	4109.00.40	7206.10.00	7214.30.00
2934.30.23	3808.20.50	4304.00.00	7207.11.00	7214.91.00
2934.30.27	3808.30.50	4405.00.00	7207.12.00	7214.99.00
2934.30.43	3808.90.95	4409.10.65	7207.19.00	7215.10.00
2934.30.50	3809.92.10	4409.20.65	7207.20.00	7215.50.00
2934.90.05	3809.92.50	4412.19.50	7208.10.15	7215.90.10
2934.90.06	3809.93.10	4420.90.65	7208.10.30	7215.90.30
2934.90.39	3809.93.50	4421.10.00	7208.10.60	7216.10.00
2934.90.44	3810.10.00	4421.90.20	7208.25.30	7216.21.00
2935.00.10	3810.90.10	4421.90.40	7208.25.60	7216.22.00
2935.00.15	3810.90.50	4421.90.80	7208.26.00	7216.31.00
2935.00.48	3811.19.00	4421.90.85	7208.27.00	7216.32.00
2935.00.60	3811.21.00	4601.99.00	7208.36.00	7216.33.00
2935.00.75	3811.29.00	6901.00.00	7208.37.00	7216.40.00
2935.00.95	3811.90.00	6911.10.10	7208.38.00	7216.50.00
2942.00.05	3812.10.50	6911.10.52	7208.39.00	7216.91.00
2942.00.10	3812.20.50	6911.10.58	7208.40.30	7216.99.00
2942.00.35	3812.30.90	6911.10.80	7208.40.60	7217.10.10
3202.10.50	3814.00.10	6912.00.20	7208.51.00	7217.10.20
3204.11.10	3814.00.50	6912.00.39	7208.52.00	7217.10.30
3204.11.15	3815.90.50	6912.00.45	7208.53.00	7217.10.40
3204.11.35	3817.10.10	7002.10.10	7208.54.00	7217.10.50
3204.11.50	3817.20.00	7004.90.05	7208.90.00	7217.10.60
3204.12.17	3819.00.00	7004.90.10	7209.15.00	7217.10.70
3204.12.20	3820.00.00	7004.90.15	7209.16.00	7217.10.80
3204.12.30	3821.00.00	7004.90.20	7209.17.00	7217.10.90
3204.12.45	3823.13.00	7005.21.10	7209.18.15	7217.20.15
3204.12.50	3823.19.40	7005.21.20	7209.18.25	7217.20.30
3204.13.10	3823.70.20	7005.29.08	7209.18.60	7217.20.45
3204.13.20	3823.70.40	7005.29.18	7209.25.00	7217.20.60
3204.13.25	3823.70.60	7013.10.50	7209.26.00	7217.20.75
3204.13.60	3824.10.00	7013.21.10	7209.27.00	7217.30.15
3204.13.80	3824.40.10	7013.21.20	7209.28.00	7217.30.30
3204.14.10	3824.40.50	7013.21.30	7209.90.00	7217.30.45
3204.14.20	3824.71.00	7013.29.05	7210.11.00	7217.30.60
3204.14.25	3824.79.00	7013.29.10	7210.12.00	7217.30.75
3204.14.30	3824.90.28	7013.29.20	7210.20.00	7217.90.10
3204.14.50	3824.90.35	7013.29.30	7210.30.00	7217.90.50
3204.15.10	3824.90.45	7013.29.40	7210.41.00	7218.10.00
3204.15.20	3824.90.47	7013.29.50	7210.49.00	7218.91.00
3204.15.30	3824.90.90	7013.29.60	7210.50.00	7218.99.00
3204.15.35	3912.20.00	7013.31.10	7210.61.00	7219.11.00
3204.15.40	3916.90.30	7013.31.20	7210.69.00	7219.12.00
3204.15.80	3918.10.32	7013.32.10	7210.70.30	7219.13.00
3204.16.10	3918.10.40	7013.32.20	7210.70.60	7219.14.00
3204.16.20	3918.90.20	7013.32.30	7210.90.10	7219.21.00
3204.16.30	3918.90.30	7013.32.40	7210.90.60	7219.22.00
3204.16.50	3921.13.19	7013.39.10	7210.90.90	7219.23.00
3204.17.04	3921.90.19	7013.39.20	7211.13.00	7219.24.00
3204.17.20	3921.90.21	7013.39.30	7211.14.00	7219.31.00
3204.17.60	3921.90.29	7013.39.40	7211.19.15	7219.32.00
3204.17.90	3926.20.40	7013.39.50	7211.19.20	7219.33.00
3204.19.11	3926.30.50	7013.39.60	7211.19.30	7219.34.00
3204.19.20	3926.90.55	7013.91.10	7211.19.45	7219.35.00
3204.19.25	3926.90.59	7013.91.20	7211.19.60	7219.90.00
3204.19.30	3926.90.65	7013.91.30	7211.19.75	7220.11.00
3204.19.40	3926.90.77	7013.99.10	7211.23.15	7220.12.10
3204.19.50	3926.90.85	7013.99.20	7211.23.20	7220.12.50
3205.00.40	4007.00.00	7013.99.40	7211.23.30	7220.20.10
3205.00.50	4008.21.00	7013.99.50	7211.23.45	7220.20.60
3206.49.20	4010.12.90	7013.99.60	7211.23.60	7220.20.70
3206.50.00	4010.19.80	7013.99.70	7211.29.20	7220.20.80
3207.40.50	4010.21.30	7013.99.80	7211.29.45	7220.20.90
3211.00.00	4010.22.30	7013.99.90	7211.29.60	7220.90.00
3214.90.50	4010.23.50	7018.20.00	7211.90.00	7221.00.00
3301.13.00	4010.24.50	7019.19.90	7212.10.00	7222.11.00
3302.10.90	4010.29.10	7019.90.10	7212.20.00	7222.19.00
3403.11.20	4010.29.50	7104.20.00	7212.30.10	7222.20.00

Annex II (continued)

(c). (con.)

7222.30.00
7222.40.30
7222.40.60
7223.00.10
7223.00.50
7223.00.90
7224.10.00
7224.90.00
7225.11.00
7225.19.00
7225.20.00
7225.30.10
7225.30.30
7225.30.50
7225.30.70
7225.40.10
7225.40.30
7225.40.50
7225.40.70
7225.50.10
7225.50.60
7225.50.70
7225.50.80
7226.11.10
7226.11.90
7226.19.10
7226.19.90
7226.20.00
7226.91.15
7226.91.25
7226.91.50
7226.91.70
7226.91.80
7226.92.10
7226.92.30
7226.92.50
7226.92.70
7226.92.80
7226.93.00
7226.94.00
7226.99.00
7227.10.00
7227.20.00
7227.90.10
7227.90.20
7227.90.60
7228.10.00
7228.20.10
7228.20.50
7228.30.20
7228.30.60
7228.30.80
7228.40.00
7228.50.10
7228.50.50
7228.60.10
7228.60.60
7228.60.80
7228.70.30
7228.70.60
7228.80.00
7229.10.00
7229.20.00
7229.90.10
7229.90.50
7229.90.90
7301.10.00
7301.20.10
7301.20.50
7302.10.10
7302.10.50
7302.20.00
7302.40.00
7304.10.10
7304.10.50
7304.21.30
7304.21.60
7304.29.10
7304.29.20
7304.29.30
7304.29.40
7304.29.50
7304.29.60
7304.31.30
7304.31.60
7304.39.00
7304.41.30
7304.41.60
7304.49.00
7304.51.10
7304.51.50
7304.59.10
7304.59.20
7304.59.60
7304.59.80
7304.90.10
7304.90.30
7304.90.50
7304.90.70
7305.11.10
7305.11.50
7305.12.10
7305.12.50
7305.19.10
7305.19.50
7305.20.20
7305.20.40
7305.20.60
7305.20.80
7305.31.40
7305.31.60
7305.39.10
7305.39.50
7305.90.10
7305.90.50
7306.10.10
7306.10.50
7306.20.10
7306.20.20
7306.20.30
7306.20.40
7306.20.60
7306.20.80
7306.30.10
7306.30.50
7306.40.10
7306.40.50
7306.50.10
7306.50.50
7306.60.10
7306.60.30
7306.60.50
7306.60.70
7306.90.10
7306.90.50
7307.19.90
7307.93.30
7308.90.30
7308.90.60
7312.10.30
7312.10.50
7312.10.60
7312.10.70
7312.10.90
7314.31.10
7314.41.00
7314.42.00
7317.00.55
7318.11.00
7318.14.10
7318.14.50
7320.10.60
7324.90.00
7601.10.30
7601.20.30
7601.20.60
7604.21.00
7614.10.10
7614.90.40
7901.12.10
8101.10.00
8101.91.50
8101.92.00
8101.93.00
8102.10.00
8102.91.10
8104.19.00
8104.30.00
8105.10.30
8108.10.50
8109.10.60
8111.00.45
8112.40.60
8112.91.40
8112.91.60
8203.20.40
8205.90.00
8206.00.00
8213.00.90
8214.90.30
8301.10.20
8301.10.40
8301.10.80
8302.30.60
8430.49.40
8431.43.40
8482.10.10
8482.10.50
8482.20.00
8482.91.00
8482.99.05
8482.99.15
8482.99.25
8482.99.35
8482.99.45
8482.99.65
8483.20.80
8483.30.80
8483.60.80
8483.90.30
8483.90.70
8483.90.80
8521.90.00
8525.10.20
8527.13.20
8527.13.40
8527.21.40
8527.29.80
8527.31.05
8527.31.50
8527.31.60
8527.90.40
8528.12.08
8528.12.20
8528.12.24
8528.12.32
8528.12.40
8528.12.48
8528.12.56
8528.12.68
8528.12.72
8528.12.84
8528.12.88
8528.13.00
8528.21.10
8528.21.24
8528.21.29
8528.21.39
8528.21.42
8528.21.49
8528.21.52
8528.21.65
8528.21.70
8528.21.85
8528.21.90
8528.22.00
8528.30.20
8528.30.40
8528.30.60
8528.30.66
8528.30.68
8528.30.78
8528.30.90
8529.10.20
8529.90.03
8529.90.06
8529.90.13
8529.90.33
8529.90.36
8529.90.39
8529.90.43
8529.90.46
8529.90.49
8529.90.53
8529.90.69
8529.90.83
8529.90.86
8529.90.89
8529.90.93
8532.10.00
8532.22.00
8532.23.00
8532.25.00
8532.30.00
8533.31.00
8533.39.00
8533.40.80
8533.90.40
8533.90.80
8540.11.10
8540.11.24
8540.11.28
8540.11.30
8540.11.44
8540.11.48
8540.11.50
8540.12.50
8540.12.70
8540.20.20
8540.20.40
8540.40.00
8540.50.00
8540.60.00
8540.71.40
8540.72.00
8540.79.00
8540.81.00
8540.89.00
8540.91.15
8540.91.20
8540.91.50
8540.99.40
8540.99.80
8607.19.03
8607.19.06
8701.20.00
8703.10.10
8703.21.00
8703.22.00
8703.23.00
8703.24.00
8703.31.00
8703.32.00
8703.33.00
8703.90.00
8704.10.10
8704.10.50
8704.21.00
8704.22.10
8704.22.50
8704.23.00
8704.31.00
8704.32.00
8704.90.00
8705.00.03
8706.00.05
8706.00.15
8706.00.25
8707.10.00
8707.90.50
8708.92.50
8712.00.15
8712.00.25
8712.00.35
8712.00.44
8712.00.48
8713.90.00
8714.91.30
8714.91.50
8714.91.90
8714.92.10
8714.93.28
8714.93.35
8714.94.90
8714.95.00
8714.96.10
8714.96.90
8714.99.10
8714.99.80
9029.20.20
9029.90.40
9103.10.20
9103.10.40
9103.10.80
9103.90.00
9104.00.05
9104.00.10
9104.00.20
9104.00.25
9104.00.30
9104.00.40
9104.00.45
9104.00.50
9104.00.60
9105.11.40
9105.11.80
9105.19.20
9105.19.30
9105.19.50
9105.21.40
9105.21.80
9105.29.10
9105.29.20
9105.29.30
9105.29.40
9105.29.50
9105.91.40
9105.91.80
9105.99.20
9105.99.30
9105.99.40
9105.99.50
9105.99.60
9106.10.00
9106.20.00
9106.90.75
9106.90.85
9107.00.80
9109.11.10
9109.11.20
9109.11.40
9109.11.60
9109.19.10
9109.19.20
9109.19.40
9109.19.60
9109.90.20
9109.90.40
9109.90.60
9110.90.20
9110.90.40
9110.90.60
9111.10.00
9111.20.20
9111.20.40
9111.80.00
9111.90.40
9111.90.50
9111.90.70
9112.10.00
9113.90.40
9114.10.40
9114.10.80
9114.30.40
9114.30.80
9114.40.20
9114.40.40
9114.40.60
9114.40.80
9114.90.15

Annex II (continued)

(c). (con.)

9114.90.30	9305.10.20	9507.30.40	9603.10.40	9608.50.00
9114.90.40	9404.29.10	9507.90.70	9603.10.50	9612.20.00
9114.90.50	9506.99.08	9603.10.05	9603.10.60	9616.20.00
9209.91.80	9507.10.00	9603.10.15	9608.31.00	
9302.00.00	9507.30.20	9603.10.35	9608.39.00	

Annex III

Harmonized Tariff Schedule of the United States ("HTS") Subheadings and Countries Granted Waivers of the Application of Section 503(c)(2)(A) of the 1974 Act

HTS Subheading	Country	HTS Subheading	Country
0802.90.94	Cote d'Ivoire	6905.10.00	Venezuela
1604.16.10	Morocco	8414.30.40	Brazil
1604.16.30	Morocco	8469.12.00	Indonesia
2905.11.20	Venezuela	8471.49.26	Thailand
2909.19.14	Venezuela	8471.60.35	Thailand
2917.37.00	Romania	8517.19.40	Thailand
2933.39.25	Brazil	8517.19.80	Thailand
2933.40.30	Brazil	8527.21.10	Brazil
4104.39.20	Thailand	8527.31.40	Indonesia
4107.90.60	South Africa	8527.90.90	Philippines
4203.21.20	Indonesia	9032.89.60	Philippines

Annex IV

Staged Rate Modifications to the Harmonized Tariff Schedule of the United States ("HTS")

For subheadings 0802.90.94 and 0802.90.98, the Rates of Duty 1-General subcolumn is modified on January 1 of each of the years indicated in the table below by deleting the existing rate of duty and inserting in lieu thereof the rate of duty specified for such year.

HTS Subheading	1998	1999	2000
0802.90.94	7¢/kg	6¢/kg	5¢/kg
0802.90.98	7¢/kg	6¢/kg	5¢/kg

[FR Doc. 97–14596
Filed 5–30–97; 2:21 pm]
Billing code 3190–01–C

Reader Aids

Federal Register

Vol. 62, No. 106

Tuesday June 3, 1997

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids **202–523–5227**

Laws

For additional information **523–5227**

Presidential Documents

Executive orders and proclamations **523–5227**

The United States Government Manual **523–5227**

Other Services

Electronic and on-line services (voice) **523–4534**

Privacy Act Compilation **523–3187**

TDD for the hearing impaired **523–5229**

ELECTRONIC BULLETIN BOARD

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

FAX-ON-DEMAND

You may access our Fax-On-Demand service. You only need a fax machine and there is no charge for the service except for long distance telephone charges the user may incur. The list of documents on public inspection and the daily Federal Register's table of contents are available using this service. The document numbers are 7050-Public Inspection list and 7051-Table of Contents list. The public inspection list will be updated immediately for documents filed on an emergency basis.

NOTE: YOU WILL ONLY GET A LISTING OF DOCUMENTS ON FILE AND NOT THE ACTUAL DOCUMENT. Documents on public inspection may be viewed and copied in our office located at 800 North Capitol Street, N.W., Suite 700. The Fax-On-Demand telephone number is: **301–713–6905**

FEDERAL REGISTER PAGES AND DATES, JUNE

29649–30228 2
30229–30426 3

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7007 30415

7 CFR

80 29649
272 29652
275 29652
330 29662
340 29662
351 29662
372 29662
723 30229
1464 30229

Proposed Rules:
1951 29678

14 CFR

33 29663
39 30230

Proposed Rules:
71 29679

16 CFR

Proposed Rules:
1014 29680

24 CFR

200 30222
202 30222
203 30222
206 30222

27 CFR

24 29663

Proposed Rules:
24 29681

28 CFR

58 30172

29 CFR

1910 29668

30 CFR

870 30232

Proposed Rules:
243 29682

34 CFR

685 30411

36 CFR

Ch. I 30232
1 30232
7 30232
8 30232
9 30232
11 30232
13 30232
17 30232
18 30232
20 30232
21 30232
28 30232
51 30232
65 30232
67 30232
73 30232
78 30232

38 CFR

4 30235
17 30241

39 CFR

3001 30242

40 CFR

52 ..... 29668, 30251, 30253
63 30258
80 30261
81 30271
82 30276
180 29669

Proposed Rules:
51 30289
52 ..... 29682, 30290
70 30289
81 30291
86 30291
271 ..... 29684, 29688

41 CFR

301 30260

42 CFR

Proposed Rules:
412 29902
413 29902
489 29902

44 CFR

65 ..... 30280, 30283
67 30285

Proposed Rules:
67 30296

48 CFR

Proposed Rules:
0 30186
4 30186
7 30186
8 30186
15 30186
16 30186
17 30186
22 30186
27 30186
28 30186
31 30186
32 30186
35 30186

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 JUNE 3, 1997

EDUCATION DEPARTMENT

Postsecondary education:

William D. Ford Federal direct student loan program; published 6-3-97

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:

Wood furniture manufacturing operations; correction; published 6-3-97

Air programs:

Stratospheric ozone protection—

Ozone depleting substances; substitutes list; published 6-3-97

INTERIOR DEPARTMENT

National Park Service

Organization, functions, and authority delegations:

Region and Regional Director; organizational title change; published 6-3-97

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

Abandoned mine reclamation fund; fee collection—

Suspension; published 6-3-97

POSTAL RATE COMMISSION

Practice and procedure:

Omnibus rate proceeding—

Cost attribution methods and rate design principles; published 6-3-97

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

CFM International; published 4-4-97

TRANSPORTATION DEPARTMENT

Surface Transportation Board

Tariffs and schedules:

Transportation of property by or with water carrier in noncontiguous domestic trade; publication, posting, and filing; published 6-3-97

VETERANS AFFAIRS DEPARTMENT

Veterans' Health Care Eligibility Reform Act of 1996; implementation:

Sensori-neural aids (i.e., eyeglasses, contact lenses, hearing aids); furnishing guidelines; published 6-3-97

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Almonds grown in California; comments due by 6-9-97; published 4-10-97

Milk marketing orders:

New Mexico-West Texas; comments due by 6-12-97; published 5-13-97

Texas; comments due by 6-12-97; published 5-13-97

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Exportation and importation of animals and animal products:

Sliced and pre-packaged dry-cured pork products; comments due by 6-13-97; published 4-14-97

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Crop insurance regulations:

Apples; comments due by 6-9-97; published 5-8-97

Tobacco; comments due by 6-12-97; published 5-13-97

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Meat and poultry inspection:

Ham with natural juices products; use of binders; comments due by 6-9-97; published 4-25-97

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Marine mammals:

Incidental taking—

North Atlantic right whale, etc.; take reduction plan; comments due by 6-13-97; published 5-23-97

COMMERCE DEPARTMENT

Patent and Trademark Office

Patent and trademark cases:

Fee revisions; comments due by 6-11-97; published 5-7-97

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Liquidated damages and commercial subcontracting plans; policy clarification; comments due by 6-10-97; published 4-11-97

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:

Hazardous air pollutants list; additions and deletions—

Research and development facilities; comments due by 6-11-97; published 5-12-97

Air pollution control; aircraft and aircraft engines:

Commercial aircraft gas turbine engines with rated thrust greater than 26.7 kilonewtons (kN); exhaust emission standards; comments due by 6-9-97; published 5-8-97

Air quality implementation plans; approval and promulgation; various States:

California; comments due by 6-13-97; published 5-14-97

Missouri; comments due by 6-13-97; published 5-14-97

Ohio; comments due by 6-13-97; published 5-14-97

Air quality planning purposes; designation of areas:

Minnesota; comments due by 6-12-97; published 5-13-97

Hazardous waste:

Identification and listing—

Petroleum refining process wastes; land disposal restrictions for newly hazardous wastes; comments due by 6-9-97; published 4-8-97

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Glyphosate; comments due by 6-10-97; published 4-11-97

Imazapyr; comments due by 6-9-97; published 4-9-97

Superfund program:

National oil and hazardous substances contingency plan—

National priorities list update; comments due by 6-13-97; published 5-14-97

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Employment discrimination complaint procedures for previously exempt State andlocal government employees; comments due by 6-9-97; published 4-10-97

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Satellite communications—

Digital audio radio service terrestrial repeaters or gap-fillers; deployment; comments due by 6-13-97; published 5-2-97

Radio stations; table of assignments:

Colorado; comments due by 6-9-97; published 4-28-97

Florida; comments due by 6-9-97; published 4-28-97

Michigan; comments due by 6-9-97; published 4-28-97

Missouri; comments due by 6-9-97; published 4-28-97

Montana; comments due by 6-9-97; published 4-28-97

FEDERAL DEPOSIT INSURANCE CORPORATION

General policy:

Minority and women outreach program, contracting; and individuals with disabilities outreach program; comments due by 6-13-97; published 4-14-97

FEDERAL HOUSING FINANCE BOARD

Federal home loan bank system:

Housing finance and community investment; mission achievement; comments due by 6-9-97; published 5-9-97

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Thrift savings plan:

Periodic participant statements; definitions and clarification; comments due by 6-9-97; published 5-9-97

Vesting; definitions and clarification; comments due by 6-9-97; published 5-9-97

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):