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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 742

Cottonseed Warehouses

CFR Correction

In Title 7 of the Code of Federal Regulations, parts 700 to 899, revised as of January 1, 1997, § 742.49 was inadvertently omitted and should be added on page 381, and to the table of contents on page 370.

§ 742.49 Removal from storage.

Except as may be permitted by law or the regulations in this part, a licensed warehouseman shall not remove any cottonseed for storage from the licensed warehouse or the part thereof designated in the receipt, if by such removal the insurance thereon will be impaired, without first obtaining the consent in writing of the holder of the receipt, and endorsing on such receipt the fact of such removal. Under no circumstances, unless it becomes absolutely necessary to protect the interests of holders of receipts, shall cottonseed be removed from the licensed warehouse, and immediately upon any such removal the warehouseman shall notify the Administrator of such removal and the necessity therefor.

[FR Doc. 97–55501 Filed 6–18–97; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL RESERVE SYSTEM

12 CFR Part 203

[Regulation C; Docket No. R–0951]

Home Mortgage Disclosure; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; correction.

SUMMARY: The Federal Reserve published in the **Federal Register** of May 27, 1997, final revisions to Regulation C (Home Mortgage Disclosure). Among other changes, this final rule revised the LOAN/APPLICATION REGISTER Transmittal Sheet found in Appendix A of Regulation C. This document corrects technical errors in that Transmittal Sheet.

DATES: Effective on July 1, 1997.

FOR FURTHER INFORMATION CONTACT: Manley Williams, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at 202–452–3667; for the hearing impaired *only*, Diane Jenkins, Telecommunications Device for the Deaf, at 202–452–3544.

SUPPLEMENTARY INFORMATION: The Federal Reserve published a document in the **Federal Register** on the May 27, 1997 (62 FR 28620, FR Doc. 97–13593), revising the LOAN/APPLICATION REGISTER Transmittal Sheet. The Transmittal Sheet, as published, contains errors in the alignment on some of the line titles. This correction notice contains the Transmittal Sheet, with the alignments corrected.

By order of the Board of Governors of the Federal Reserve System, June 16, 1997.

William W. Wiles,

Secretary of the Board.

PART 203—[CORRECTED]

In rule FR Doc. 97–13593, published on May 27, 1997, (62 FR 28620), make the following correction.

Appendix A to Part 203—[Corrected]

On page 28625 in Appendix A to Part 203, the LOAN/APPLICATION REGISTER Transmittal Sheet is corrected to read as follows:

BILLING CODE 6210–01–P

LOAN/APPLICATION REGISTER

Form FR HMDA-LAR.
OMB No. 7100-0247. Approval expires May 31, 2000.

TRANSMITTAL SHEET

You must complete this transmittal sheet (please type or print) and attach it to the Loan/Application Register, required by the Home Mortgage Disclosure Act, that you submit to your supervisory agency.

Reporter's Identification Number	Agency Code	Reporter's Tax Identification Number	Total line entries contained in attached Loan/Application Register
|_|_|_|_|_|_|_|_|_|_|_|_| -	|_|	|_|_| - |_|_|_|_|_|_|_|_|	_____

The Loan/Application Register that is attached covers activity during the year _____ and contains a total of ___ pages.

Enter the name and address of your institution. The disclosure statement that is produced by the Federal Financial Institutions Examination Council will be mailed to the address you supply below:

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If your institution is a subsidiary of another institution or corporation, enter the name of your parent:

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Name

_____
Address

_____
City, State, ZIP

An officer of your institution must complete the following section.

I certify to the accuracy of the data contained in this register.

_____ _____ _____
Name of Officer Signature Date

[FR Doc. 97–16122 Filed 6–18–97; 8:45 am]
BILLING CODE 6210–01–C

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 2

[Docket No. RM96–6–001; Order No. 592–A]

Inquiry Concerning the Commission's Merger Policy Under the Federal Power Act; Order on Reconsideration

Issued June 12, 1997.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order on reconsideration.

SUMMARY: The Commission denies reconsideration of its Policy Statement Establishing Factors the Commission Will Consider in Evaluating Whether a Proposed Merger is Consistent With the Public Interest. In that Policy Statement, the Commission said that it will generally allow 60 days for comments on a completed merger application. In response to commenters who argue that 60 days will not be enough time to prepare substantial comments on some merger applications, the Commission notes that the Policy Statement establishes only a general policy, not a binding rule, and states that it will lengthen the comment period in specific cases when there is reason to do so.

FOR FURTHER INFORMATION CONTACT: Jan Macpherson, Federal Energy Regulatory Commission, Office of the General Counsel, 888 First Street, NE., Washington, DC 20426, (202) 208–0921.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of the document during normal business hours in the Public Reference Room at 888 First Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing 202–208–1397 if dialing locally or 1–800–856–3920 if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400 or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. The full text of this order will be available on CIPS in ASCII and WordPerfect 6.1 format. CIPS user assistance is available at 202–208–2474.

CIPS is also available on the Internet through the Fed World system. Telnet software is required. To access CIPS via the Internet, point your browser to the URL address: http//www.fedworld.gov and select the ''Go to the FedWorld Telnet Site'' button. When your Telnet software connects you, log onto the FedWorld system, scroll down and select FedWorld by typing: 1 and at the command line then typing: /go FERC. FedWorld may also be accessed by Telnet at the address fedworld.gov.

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, La Dorn Systems Corporation. La Dorn Systems Corporation is also located in the Public Reference Room at 888 First Street, NE., Washington, DC 20426.

Before Commissioners: Elizabeth Anne Moler, Chair; Vicky A. Bailey, James J. Hoecker, William L. Massey, and Donald F. Santa, Jr.

Inquiry Concerning the Commission's Merger Policy Under the Federal Power Act; Order No. 592–A; Order on Reconsideration. Docket No. RM96–6–001.

Issued June 12, 1997.

Introduction

The Commission recently issued a Policy Statement updating and clarifying its procedures, criteria, and policies concerning public utility mergers.[1] Among other things, we set forth procedures that are designed to allow our review of proposed mergers to proceed as efficiently as possible and avoid unnecessary delays, while ensuring that mergers are consistent with the public interest. This order denies reconsideration[2] of our statement that we will generally allow 60 days for comments on a merger filing. We conclude that intervenors generally will be able to submit adequate filings within that period. We will lengthen (or shorten) the comment period on a case-by-case basis when there is reason to do so.

Background

In the Policy Statement, we adopted an analytic ''screen'' to aid in analyzing the effect of a proposed merger on competition. We explained what information an applicant should submit to allow us to apply the screen and thus to distinguish between those mergers that require a more detailed analysis, which may include a trial-type or a paper hearing, and those that clearly do not raise competitive concerns. Applicants are expected to make available to the public all data used in the screen analysis and other related data. If the screen analysis shows that the merger would not significantly increase market concentration and there are no interventions raising genuine issues of material fact that cannot be resolved based on the written record, we stated that we will not set the issue of the effect of a merger on competition for hearing.

In the Policy Statement, we found that the analytic screen would produce a ''reliable, conservative analysis of the competitive effects of proposed mergers. However, it is not infallible.''[3] Intervenors may, assuming their claims are substantial and specific, challenge the data used or the way the applicants conducted the analysis. They also may argue that the screen does not identify a particular market problem. Moreover, we noted that intervenors may wish to submit an alternative competitive analysis, accompanied by appropriate supporting data. Recognizing that ''the need for more rigor in interventions could require additional efforts by potential intervenors,''[4] we stated that we would routinely allow 60 days for comments on merger filings.[5]

Arguments on Reconsideration

The Transmission Access Policy Study Group and the American Public Power Association (TAPS/APPA) filed a request for reconsideration[6] in which they argue that 60 days may not be enough time to produce the kind of substantial interventions the Commission is expecting. They argue that if the Commission intends to rely on interventions as the ''primary substantive basis (other than the self-serving data provided by the applicants)'' for the Commission's decision, 60 days is not enough time. When applicants submit data to support their screen analysis, they naturally will

[1] Policy Statement Establishing Factors the Commission Will Consider in Evaluating Whether a Proposed Merger is Consistent With the Public Interest, Order No. 592, 61 FR 68595 (Dec. 30, 1996), FERC Stats. & Regs. ¶ 31,044 (1996) (Policy Statement).

[2] Policy statements are not subject to rehearing. *See, e.g.,* Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines, 75 FERC ¶ 61,026 (1996) (rehearing does not lie because policy statements are not directly reviewable; rather, review is available when policy is applied in specific case), *citing* American Gas Assoc. v. FERC, 888 F.2d 136, 151–2 (D.C. Cir. 1989) (policies are not ripe until applied in specific cases). However, we may, at our discretion, entertain reconsideration.

[3] 61 FR at 68600, mimeo at 25.

[4] 61 FR At 68600, mimeo at 26.

[5] 61 FR At 68600, mimeo at 26.

[6] Filed January 17, 1997. The filing is styled as a request for rehearing, clarification, or reconsideration.

select data that shows the merger in the best possible light, and will not reveal unfavorable data.

TAPS/APPA also criticize the data we suggested applicants submit to support their screen analyses.[7] They argue that applicants themselves would never assess a potential merger based only on these data. For example:

> [t]he complete heat rates of various units * * * which change by the point of the output of the unit on the load curve, are not data which are available on EIA Form 860, and the historical fuel costs shown in FERC Form 423 are not likely to be the projected fuel costs which would be used by any executive determining whether to commit his or her company to a merger.[8]

Unless the Commission decides in its planned rulemaking[9] to require submission of all the data the company actually considered when making the real-life decision on the merger, the screen analysis may be misleading, according to TAPS/APPA.

TAPS/APPA compare this Commission's decision-making under section 203 of the Federal Power Act to that of agencies acting under the Hart-Scott-Rodino Act.[10] They claim that the Commission will not be collecting a large part of the information that these agencies examine. For instance, the agencies require submission of all information the applicants considered when deciding whether to undertake the merger. Moreover, they can make a ''second request'' for even more information. TAPS/APPA argue that the Commission should require similar information. Specific information they say should be required includes, for example, transmission studies applicants have done that show various potential solutions to transmission constraints; different ways the applicants considered calculating available and total transmission capacity; information on vertical market power; and information on power alternatives that may not be truly available in the critical area because the power can be sold at a higher price elsewhere.

TAPS/APPA are particularly concerned that the 60-day period for interventions will not be adequate if intervenors will be expected to make a full-fledged case based on the limited information available. They point out that the applicant will have had much more time than 60 days to prepare the filing and argue that it is unfair to expect a complete, detailed response in 60 days. Finally, they suggest that the Commission allow the clock to be stopped while discovery goes forward and that intervenors be required to present their case 60 days after all necessary information is submitted.[11]

Discussion

At this time, we continue to believe that 60 days will generally be enough time for adequate interventions. Intervenors are free to argue that more time is needed in a particular case, and if we think more time is needed, we will extend the comment/intervention period.[12] Moreover, the Policy Statement sets forth suggested data only; we are free to request additional data in a particular case, and have done so since the Policy Statement was issued.[13] In our upcoming rulemaking proceeding, we will consider arguments as to what information should be required for mergers, as well as arguments as to filing deadlines and other procedural matters, since it is in that proceeding that we will propose a binding rule.[14]

TAPS/APPA also ask that in light of the dynamic nature of today's industry, the Commission make it clear that we will not ignore factual changes that occur while an application is pending. We do not intend to ignore significant factual changes.

The Commission orders: The motion for reconsideration or clarification is hereby denied in part and granted in part as set forth in the body of this order.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16042 Filed 6–18–97; 8:45 am]

BILLING CODE 6717–01–P

[7] Policy Statement, mimeo at Appendix B.

[8] TAPS/APPA reconsideration at 8 (footnote omitted).

[9] We noted in the Policy Statement that we will be issuing a Notice of Proposed Rulemaking to set forth more specific filing requirements and additional procedures. 61 FR at 68596, n.3.

[10] Hart-Scott-Rodino Antitrust Improvement Act of 1976, 15 U.S.C. 18a (1994).

[11] TAPS/APPA argue that the Commission should make it mandatory for merger applicants who want expedited treatment to serve potential intervenors with copies of the application by overnight delivery and electronic versions as well. Potential intervenors could be identified by having the applicants file a notice of intent to file even before they file the application itself; this would allow potential intervenors to identify themselves.

[12] We have stated our intention to shorten the comment period in certain types of cases that raise minimal concerns, Enova Corporation and Pacific Enterprises, 79 FERC ¶ 61,107 (1997), and will be willing to lengthen the comment period as well when a longer period is needed. *See* Pricing Policy for New and Existing Facilities Constructed by Interstate Natural Gas Pipelines, Order Denying Rehearing, 75 FERC ¶ 61,105 at 61,344 (1996) (issues raised in requests for ''rehearing'' of Policy Statement are case-specific in nature and should be addressed in individual cases).

[13] Letter order of April 3, 1997 from Debbie Clark, Chief Accountant, Federal Energy Regulatory Commission to Ohio Edison Company, *et al.* in Docket No. EC97–5–000.

[14] TAPS/APPA may raise in the rulemaking proceeding their arguments that it should be mandatory for applicants who want expedited treatment to make special service to potential intervenors.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM94–14–001; Order No. 580–A]

Nuclear Plant Decommissioning Trust Fund Guidelines; Order on Rehearing

Issued June 12, 1997.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order on rehearing.

SUMMARY: On rehearing, the Commission is amending its rules governing the formation, organization and operation of nuclear plant decommissioning trust funds (Fund) and Fund investments: To remove the requirement that a Fund investment manager must have a net worth of at least $100 million (although it is retaining the $100 million net worth requirement for the Trustee); and to allow public utilities with nuclear units to maintain nuclear decommissioning trust funds that include both Commission-jurisdictional and non-Commission-jurisdictional trust fund collections. The Commission is also making certain corrections and providing certain clarifications, and confirming its conclusion that a public utility may not itself make individual investment decisions.

DATES: Effective: July 21, 1997. The incorporation by reference was approved on July 31, 1995.

FOR FURTHER INFORMATION CONTACT:

Joseph C. Lynch (Legal Information), Federal Energy Regulatory Commission, Office of the General Counsel, 888 First Street, NE., Washington, DC 20426, Telephone: (202) 208–2128

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SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interest persons an opportunity to inspect or copy the contents of the document during normal business hours

in the Public Reference Room at 888 First Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing 202–208–1397 if dialing locally or 1–800–856–3920 if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400 or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. The full text of this order will be available on CIPS in ASCII and WordPerfect 6.1 format. CIPS user assistance is available at 202–208–2474.

CIPS is also available on the Internet through the Fed World system. Telnet software is required. To access CIPS via the Internet, point your browser to the URL address: http//www.fedworld.gov and select the ''Go to the FedWorld Telnet Site'' button. When your Telnet software connects you, log onto the FedWorld system, scroll down and select FedWorld by typing: 1 at the command line then typing: /go FERC. FedWorld may also be accessed by Telnet at the address fedworld.gov.

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, La Dorn Systems Corporation. La Dorn Systems Corporation is also located in the Public Reference Room at 888 First Street, NE., Washington, DC 20426.

Before Commissioners: Elizabeth Anne Moler, Chair; Vicky A. Bailey, James J. Hoecker, William L. Massey, and Donald F. Santa, Jr.

[Docket No. RM94–14–001]

Nuclear Plant Decommissioning Trust Fund Guidelines; Order No. 580–A; Order on Rehearing

Issued June 12, 1997.

In this order the Commission is: (a) Deleting from its regulations the requirement that a nuclear decommissioning trust fund investment manager must have a net worth of at least $100 million (although it is retaining the $100 million net worth requirement for the Trustee); and (b) allowing public utilities with nuclear units to maintain nuclear decommissioning trust funds that include both Commission-jurisdictional and non-Commission-jurisdictional decommissioning collections. It is also making certain corrections and providing certain clarifications,[1] and confirming its conclusion that a public utility may not itself make individual investment decisions.

Background

On June 16, 1995, the Commission issued a Final Rule in Nuclear Plant Decommissioning Trust Fund Guidelines,[2] setting forth requirements for the formation, organization and operation of nuclear decommissioning trust funds (Fund) and for Fund investments. The Final Rule provided, among other things, that:

A. The Trustee and any other Fiduciary shall have a net worth of at least $100 million;[3] and

B. The Fund must be an external trust fund in the United States, established pursuant to a written trust agreement that is independent of the utility, its affiliates or associates.[4]

The Commission received motions for stay and/or requests for rehearing and for clarification of the Final Rule from: Commonwealth Edison Company (Commonwealth Edison); Edison Electric Institute (EEI); a group of investment/trust companies and a group of public utilities (together: Investment/Trust/Utility Companies);[5] Indiana Michigan Power Company (I&M); Maine Yankee Atomic Power Company (Maine Yankee); New England Public Power Nuclear Customers; and Strong Capital Management Inc. (Strong). The requests for rehearing of Commonwealth Edison, EEI, Investment/Trust/Utility Companies and Strong ask the Commission to eliminate the requirement that a Fund investment manager must have a net worth of at least $100 million. Most of those requesting rehearing also oppose the Commission's requirement of a separate Fund for Commission-jurisdictional decommissioning collections.

Effective July 31, 1995, the Commission, pending further action on rehearing, stayed the requirement in 18 CFR 35.32(a)(4) that a Fund investment manager have a net worth of at least $100 million. In that same order, the Commission also stayed the requirement in 18 CFR 35.32(a)(1) and (f) that public utilities establish a separate nuclear decommissioning trust fund for Commission-jurisdictional Fund collections.[6] Following issuance of the stay, a number of entities filed comments.[7]

Discussion

A. One Hundred Million Dollar Net Worth Requirement for Investment Managers

1. Background

The Commission first imposed a $100 million net worth requirement in *System Energy Resources, Inc.*,[8] where the Commission directed that ''[t]he trustee [of a Fund] shall have a net worth of at least $100 million.''[9] Following passage of section 1917 of the Energy Policy Act of 1992,[10] the Commission reaffirmed its then-existing guidelines for Fund organization and investment, including the requirement that a trustee have a net worth of $100 million.[11] In the Final Rule, the Commission extended the $100 million net worth requirement to Fund investment managers.[12]

The $100 million net worth requirement originally arose from the

[1] Among the changes and clarifications are the following: (a) the Commission is correcting the address references in 18 CFR 35.33(a)(3) to reflect that the Commission's library is in Room 95–01, 888 First Street, NE; (b) the Commission is deleting the ''Effective Date Note'' found at the end of 18 CFR 35.32 (this order on rehearing moots the stay referred to in that note); and (c) the Commission is clarifying the number of copies of the financial report required to be filed with the Commission.

[2] Nuclear Plant Decommissioning Trust Fund Guidelines, Order No. 580, 60 FR 34109 (June 30, 1995), FERC Stats. & Regs. Regulations Preambles 1991–96 ¶ 31,023 (1995).

[3] 18 CFR 35.32(a)(4); *see* FERC Stats. & Regs. Regulations Preambles 1991–96 at 31,360. In the Final Rule, the Commission used the term ''Fiduciary'' to refer to the ''person(s) or institutions(s) that perform the trustee and investment management functions * * * .'' 60 FR at 34116, FERC Stats. & Regs. Regulations Preambles 1991–96 at 31,359. Because a Fund investment manager performs an ''investment management function[],'' the Final Rule effectively required it to have a net worth of $100 million.

[4] 18 CFR 35.32(a)(1) and (f); *see* FERC Stats. & Regs. Regulations Preambles 1991–96 at 31,360.

[5] These two groups essentially filed identical pleadings. Citations to their pleadings will track the page numbers of the investment/trust companies' filing.

[6] Nuclear Plant Decommissioning Trust Fund Guidelines, 60 FR 39251–52 (August 2, 1995); FERC Stats. & Regs. Regulations Preambles 1991–96 ¶ 31,024 (1995).

[7] These entities are: Association for Investment Management and Research (AIMR); Sanford C. Bernstein & Co. (Bernstein); Capital Guardian Trust Company (Capital Guardian); Carolina Power & Light Company (CP&L); Florida Power & Light Company (FP&L); Loomis, Sayles & Company, L.P.; NISA Investment Advisors, L.L.C. (NISA); Nuveen • Duff & Phelps Investment Advisors (Nuveen); RCM Capital Management (RCM Capital); W.H. Reaves & Company; Southern Companies; Union Electric Company.

This decision takes into consideration all pleadings filed, both before and after the Commission issued the stay.

[8] 37 FERC ¶ 61,261 (1986) (*SERI I*), *clarified*, 65 FERC ¶ 61,083 (1993), *order on reh'g*, 67 FERC ¶ 61,228 (1994).

[9] *SERI I*, 37 FERC at 61,727.

[10] Pub. L. No. 102–486, 106 Stat. 2776, 3024–25 (1992); *see* 26 U.S.C. 468(A)(e).

[11] System Energy Resources, Inc., 65 FERC ¶ 61,083 (1993) (*SERI II*), *order on reh'g*, 67 FERC ¶ 61,228 (1994).

[12] *See supra* n.2 and accompanying text.

Commission's ''overriding concern about the security of a decommissioning fund,'' [13] and its intention ''to ensure that ratepayer-contributed funds will, in fact, be available when decommissioning occurs.'' [14] The intent of the $100 million net worth requirement adopted in the Final Rule was to ''ensure[] that the fiduciary [in this case, the Fund investment manager] will have the necessary assets to adequately self-insure its performance.'' [15] The ''performance'' to which the Commission referred was not market performance, but rather adherence to the prudent investor standard (set forth in Restatement (Third) of Trusts) that the Commission in the Final Rule laid down as the guiding fiduciary standard for Fund investment managers. [16] By imposing a $100 million net worth requirement, we sought to ensure that a utility would have assets to turn to should an investment manager's performance fall below the prudent investor standard. As represented by the comments and requests for rehearing (discussed below), the public utility and investment communities seem willing to do without this safeguard, which they find unduly costly and burdensome.

2. Comments and Requests for Rehearing

(a) *The $100 million net worth requirement.* Almost all commenters oppose the imposition of the $100 million net worth requirement for Fund investment managers; none support it. They observe that most investment managers do not have a net worth of $100 million. They submit that the $100 million net worth requirement will not only disqualify many investment advisors currently managing Fund assets, but also will pose a serious obstacle to firms that would otherwise seek to participate in Fund investment management. They argue that, if the Commission insists upon the $100 million net worth requirement, utility companies will lose a substantial body of experience *and* expertise. They further maintain that the requirement will force utilities to choose new investment managers from a small universe: those that have *both* $100 million in net worth *and* expertise in managing Fund assets. They contend that investment management fees will likely rise, since less robust competition and concentration of market power ordinarily leads to higher prices.[17]

The commenters fear that with management of Commission-jurisdictional decommissioning collections concentrated in the hands of a relatively few institutions, there will be a diminution of investment flexibility for Fund assets.[18] They further raise the possibilities of: (a) ''large investment losses'' [19] resulting from entry into the market of investment managers who have the requisite net worth but who are not experienced with the unique features of Fund investment management; [20] and (b) a ''forced liquidation effect'' if replacement investment managers change the composition of the Funds' investment portfolios. [21] Commonwealth Edison argues that, although ''the $100 million net worth requirement, as it relates to nuclear decommissioning trustees, is appropriate[,] * * * this requirement is unnecessary with respect to investment managers who direct the investment of the assets, but who do not exercise control over these assets as the trustees do.'' [22]

(b) *Alternative proposals.* Several commenters suggest that, in lieu of the $100 million net worth requirement, the Commission might insist that utilities select to manage their Fund investments only investment managers that conform to certain criteria. Among the criteria that these commenters suggest are: (a) A certain minimum amount of assets (for example, $1 billion) under management; (b) a minimum number of years (for example, ten) in the investment-management field; (c) a fidelity bond and errors and omissions insurance (for example, $1 million of insurance for every $5 million of Commission-jurisdictional funds under management); [23] registration with the Securities and Exchange Commission (SEC) under the Investment Advisors Act of 1940; (d) membership in a recognized investment industry organization; and (e) conformance with that organization's rules.[24] The commenters' believe that insistence upon these criteria may provide sufficient assurance that utilities will select responsible Fund investment managers.

3. Commission Response

(a) *$100 million net worth requirement.* While we do not agree with everything that they have said, the Commenters have raised an important issue. Were we to insist on the $100 million net worth requirement for Fund investment managers, public utilities with nuclear units would have to replace those investment managers currently in place who do not have the requisite net worth. Obviously, there would be a cost associated with searching for a new investment manager. This cost would affect a Fund's future compound earnings. And it is true, as earlier observed, that a change in investment managers could well result in a redirection in portfolio investment strategy (which, in turn, could have tax ramifications [25]).

Also, there is much force to the argument that utilities should not be forced to forego Fund investment managers who otherwise are capable, experienced and well-regarded, whom they have carefully selected, with whom they have worked for many years and who understand the regulatory environment in which Funds exist, simply because those investment managers do not have a particular stated net worth. The argument that the $100 million net worth requirement would result in a lack of flexibility in Fund

[13] *SERI II,* 65 FERC at 61,513.

[14] *Id.*

[15] 60 FR at 34117; FERC Stats. & Regs. Regulations Preambles 1991–96 at 31,360.

[16] 60 FR at 34122; FERC Stats. & Regs. Regulations Preambles 1991–96 at 31,369–70.

[17] *E.g.,* AIMR Comments at 2; Bernstein Comments at 2; Capital Guardian Comments at 2; Investment/Trust/Utility Companies Request for Rehearing at 9; Maine Yankee Request for Reconsideration at 3; NISA Comments at 4; Southern Company Comments at 8–9; Strong Comments at 3; Strong Request for Rehearing at 10–11.

[18] Investment/Trust/Utility Companies Request for Rehearing at 9; Strong Request for Rehearing at 10.

[19] *Id.*

[20] The commenters state that Fund investment management is very different from managing tax-sheltered assets for pensions funds, or even taxable assets for individuals. It involves a complicated investment problem: assuring the funding of an unusual liability while contending with complex tax, regulatory and legal constraints. For example, a Fund manager must not only comply with the requirements of the Securities and Exchange Commission, but also with the requirements of this Commission, the Nuclear Regulatory Commission, and state public service commissions. The Fund manager must also correctly interpret and comply with section 468A of the Internal Revenue Code. *See* NISA Comments on Rehearing at 4; Nuveen Comments on Rehearing at 2–3.

[21] *E.g.,* Investment/Trust/Utility Companies Request for Rehearing at 9; Strong Request for Rehearing at 10.

[22] Commonwealth Edison Request for Rehearing at 4. *See also* Maine Yankee Request for Rehearing at 2; Union Electric Comments at 2–3.

[23] Several parties, most notably RCM Capital, mentioned such insurance. A fidelity bond protects against theft of assets; errors and omissions insurance protects against a breach of fiduciary duty.

[24] *See e.g.,* AIMR Comments at 3; Bernstein Comments at 1–2; Loomis Sayles Comments at 1; Maine Yankee Comments at 2–3; NISA Comments at 5; RCM Capital Comments at 6, 11–14; Southern Companies Comments at 3; Strong Comments at 4–5. The criteria discussed above are a composite from the comments; not every commenter suggested each criterion.

[25] One would expect an investment manager to take such tax consequences into account when making decisions to sell Fund investments such as stock.

market investments also carries some weight. Having a greater number of investment fund managers available would allow a utility to employ several investment managers to manage various asset classes and to blend investment strategies for optimum Fund performance.[26]

We also recognize, as Commenters observe, that the $100 million net worth requirement reduces the number of available investment managers based on a net worth calculation that is not necessarily related to a manager's skill and performance.[27] Reducing the number of investment managers and concentrating Fund investments in the hands of a comparatively few institutions would reduce competition for the opportunity to manage Funds. Also, it could force several nuclear utilities to use the same investment manager, with the result that poor performance by one investment manager could affect a number of utilities with nuclear units.[28]

Nor is there an obvious correlation between the $100 million figure and sufficient assurance that a utility will be able to fund the decommissioning of its nuclear unit. In certain instances, a lesser net worth might well be adequate.[29] On balance, then, the commenters have persuaded us that the disadvantages attendant upon a $100 million net worth requirement for Fund investment managers outweigh its benefit as a recourse in the event of an investment manager's failure to adhere to the prudent investor standard. We will, therefore, delete this requirement. However, we will continue to impose this requirement for the Trustee. As we stated in the Final Rule, the Trustee's primary duty is custodial.[30] We continue to believe it appropriate that the individual who holds the funds have a net worth requirement of $100 million.

(b) *Other proposed requirements.* While we agree with commenters that the alternative criteria they propose may be useful and we encourage public utilities to consider them (and others that they believe are appropriate) in their selection of Fund managers, we decline to incorporate them into the Final Rule, because each criterion may not be appropriate in every instance. We prefer instead to rely on public utilities to choose their investment managers with the care and caution that the situation demands and to allow them flexibility in choosing the appropriate investment manager(s) in each individual case.

Although we are granting public utilities greater freedom in selecting their Fund investment managers than we initially adopted in the Final Rule, we, nevertheless, will hold public utilities to their duty to protect the ratepayers who are contributing the underlying principal that makes Fund investments possible. We will continue to insist that public utilities with nuclear units ensure that all of their fiduciaries, including their Fund investment managers, adhere to the prudent investor standard that we established in the Final Rule.

B. Requirement of Separate Fund for Commission-Jurisdictional Collections

1. The Final Rule

To ensure that Fund assets would not be available to creditors in the event of the bankruptcy of a utility, the Final Rule provided that:

> [T]he Trust assets must be segregated from those of the utility and outside the utility's administrative control. There must be a written trust agreement and the fiduciary or fiduciaries, in fulfilling the various duties, must be completely separate and apart from the utility. The utility may provide general investment policies, but it may do so only in writing and it may not engage in the day-to-day management of the Fund * * *.[31]

The Commission noted that these criteria accord with the regulations and guidelines that the Nuclear Regulatory Commission uses to ensure the availability of funds for decommissioning nuclear reactors.

2. Comments and Requests for Rehearing

Several commenters explain that, in most cases, public utilities that have nuclear generating units have already established for each generating unit both a qualified Fund (to which the public utility can make currently-deductible contributions under section 468A of the Internal Revenue Code (Tax Code)), and a non-qualified Fund. They further state that most of these public utilities have deposited in each Fund monies that they have collected from both interstate, wholesale (Commission-jurisdictional) sales and intrastate, retail (State-jurisdictional) sales and that in most (but not all) cases they have established separate accounts within each Fund to identify the different jurisdictional components (Commission- or state-jurisdictional) of the contributions to the Fund.[32]

These commenters argue that, if, as they believe we intended, we were to force public utilities to transfer assets from an existing, qualified Fund, containing both wholesale (Commission-jurisdictional) and retail (State-jurisdictional) collections, to a new Fund containing only Commission-jurisdictional collections, they may suffer adverse tax consequences.[33]

Various commenters also note that, in general, a public utility can maintain only one qualified Fund with respect to a nuclear unit.[34] There is an exception for nuclear units that are:

> Subject to the ratemaking jurisdiction of two or more public utility commissions * * * [when] any such * * * commission requires a separate fund to be maintained for the benefit of ratepayers whose rates are established or approved by the public utility commission * * *.[35]

Under this exception, ''the separate funds maintained for such a plant (whether or not established and maintained pursuant to a single trust agreement) * * * [are] considered a single [qualified Fund] for purposes'' of Tax Code section 468A and the underlying Treasury regulations.[36]

Several commenters contend that the exception does allow public utilities to establish a new, separate Fund to hold Commission-jurisdictional decommissioning collections, but only from the effective date of the Commission's Final Rule (July 31, 1995) and to treat the resulting two Funds (the existing Fund and the new, Commission-jurisdictional-only Fund) as a single qualified Fund for Federal income tax purposes only from that date forward. For example, Investment/Trust/Utility Companies submit that the exception allows public utilities to establish a separate Fund for Commission-jurisdictional collections only on a ''going-forward'' basis.[37]

Since the exception does not explicitly permit the transfer of assets from an existing qualified Fund to a

[26] *See* Capital Guardian Comments at 3; FP&L Comments at 4.

[27] *See* Carolina Power & Light Comments at 5; FP&L Comments at 2; Southern Companies Comments at 3 (''there is no established link between performance and net worth.'').

[28] *See* FP&L Comments at 3.

[29] *See* Commonwealth Edison Comments at 4 (its annual Commission-jurisdictional decommissioning collections are currently $340,000).

[30] 60 FR at 34116; FERC Stats. & Regs. Regulations Preambles 1991–1996 at 31,359.

[31] 60 FR at 34117; FERC Stats. & Regs. Regulations Preambles 1991–96 at 31,360 (footnote omitted).

[32] *E.g.,* Investment/Trust/Utility Companies Request for Rehearing at 3; Strong Request for Rehearing at 3.

[33] *E.g.,* Investment/Trust/Utility Companies Request for Rehearing at 2–4; Strong Request for Rehearing at 4.

[34] *See* 26 CFR 1.468–A–5(a)(iii).

[35] *Id.*

[36] *Id.*

[37] Investment/Trust/Utility Companies Request for Rehearing at 5. *See also* Strong Request for Rehearing at 5.

newly-established, separate Fund, commenters are concerned that the Internal Revenue Service (IRS) might treat the transfer of assets as a withdrawal, and as a taxable event. They point out that, should the IRS treat the transfer of assets as a withdrawal, and as a taxable event, the IRS would recognize gains or losses on the transferred assets, include the value of the transferred assets in the public utility's income in the current year for Federal income tax purposes and deny a current deduction for the contribution of the transferred assets to the newly-established, separate Fund.[38]

3. Commission response

Having considered the commenters' concerns, we agree that a separate Fund for Commission-jurisdictional collections is not necessary to our properly monitoring Commission-jurisdictional collections for decommissioning, so long as public utilities establish clearly identifiable separate accounts within a single Fund to identify Commission-jurisdictional and state-jurisdictional components of the Fund. This accounting would allow decommissioning collections to remain consolidated in a single trust, while separately identifying Commission- and state-jurisdictional assets. It would also avoid the additional expenses associated with establishing and maintaining separate trusts.[39]

The Final Rule provides that the Trustee or Investment Manager shall keep accurate and detailed accounts of all investments, receipts, disbursements and transactions of the Fund.[40] This requirement incorporates the necessity of distinguishing between Commission- and state-jurisdictional collections, and we shall carefully monitor Funds' compliance with this requirement. Consistent with this discussion, we also are modifying 18 CFR 35.32(a)(1) to expressly provide that if a Fund includes monies collected in both Commission-jurisdictional and non-Commission-jurisdictional rates, then a separate account of the Commission-jurisdictional monies shall be maintained.

C. Other matters

1. Fund Balances

a. *Request for rehearing.* I&M asks that we modify the Final Rule to allow a public utility to: (a) completely decommission *all* of its nuclear plants before making any refunds to ratepayers of excess balances and (b) to use a surplus from one Fund to make up for a shortfall in another Fund. I&M argues that forcing each Fund to stand entirely on its own may result in excessive Fund balances to ensure that each Fund is adequate to support the decommissioning of the nuclear unit to which it relates.[41]

b. *Commission response.* We decline to make this change in the Final Rule. I&M is correct when it observes that, ''a rule that requires refunds from individual Funds * * * is a requirement that each Fund must stand entirely on its own.''[42] As we noted in the Final Rule, Funds are not generic. Each Fund does stand on its own. Public utilities with multiple nuclear units must collect unit-by-unit amounts to decommission *each* unit and must meet deficiencies on a unit-by-unit basis.[43] To do otherwise would allow utilities to speculate with the solvency of individual Funds through a form of risk management, ''offsetting favorable and unfavorable assumptions regarding each plant or unit * * * [and so obtaining] the advantage of diversification of risk through aggregation * * * .''[44] Such risk balancing could put individual funds at risk.

What I&M also overlooks is that Fund investment managers are fiduciaries. Each Fund is unit-specific because the fiduciary duty of each Fund investment manager is to the ratepayers who have contributed to the cost of decommissioning the specific unit for which it manages the Fund. While a particular fiduciary may administer more than one Fund, it has a separate fiduciary responsibility to the ratepayers contributing to each Fund. A fiduciary should not be allowed to violate its duty to the ratepayers who contributed to the Fund it manages in order to make available monies for the decommissioning of other units.

We will not allow public utilities with multiple nuclear units to use excesses in one Fund to offset deficiencies in another Fund and so force one set of ratepayers to subsidize another. I&M, however, speculates that the same customer group may be associated with both Funds.[45] Even were this the case, and I&M has not demonstrated that it is, still, the customer group is contributing to the decommissioning of two units and has the right to be secure that the separate collections for *each* unit will be used to decommission *that* unit. As we stated in the Final Rule:

> The remedy for a Fund deficiency is not to take a surplus from another Fund, but to adjust the collections for the Fund that is deficient.[46]

2. Audits and Inspections of Accounts

a. *Request for rehearing.* I&M challenges our authority to direct a public utility with nuclear units to conduct an audit or inspection of the accounts, books and/or records of a Fund and to participate in such an audit or inspection.[47] It asks that we delete the following language from the Final Rule:

> The utility or its designee must notify the Commission prior to performing * * * [an] inspection or audit. The Commission may direct the utility to conduct an audit or inspection.[48]

b. *Commission response.* Our authority to order public utilities to audit or inspect the accounts, books and records and to forward the results of that examination to us, (and our authority to participate in those audits should we choose to do so) derives from our authority to ensure that public utilities' accounts are correct and conform to the Commission's Uniform System of Accounts.[49] It also derives from our authority to determine, under sections 205 and 206 of the Federal Power Act (FPA),[50] whether, how, and to what extent a public utility may recover decommissioning funds through wholesale rates, just as we have the authority to regulate the recovery of all other costs of service through wholesale rates.

As we noted in the Final Rule, the inclusion in rates of amounts to cover future decommissioning expenditures would not be just and reasonable if we did not concomitantly provide the necessary safeguards to ensure that

[38] Investment/Trust/Utility Companies Request for Rehearing at 5–6; Strong Request for Rehearing at 5–7. Tax Code section 468A(b) limits the amount that a public utility may contribute to a qualified Fund and currently deduct in a given year to the amount of decommissioning costs that the public utility includes in its cost of service for ratemaking purposes for that year. Were the IRS to consider a transfer from a previously-established Fund to a new Fund a withdrawal, and a taxable event, the IRS would deny a current deduction to the extent that the transferred assets exceed the amount of allowable contribution to the new Fund in the current year.

[39] *See* Union Electric Company Comments at 2.

[40] 18 CFR 35.32(a)(5).

[41] I&M Request for Rehearing at 2–5.

[42] Id. at 3.

[43] 60 FR at 34,117; FERC Stats. & Regs. Regulations Preambles 1991–96 at 31,361.

[44] I&M Request for Rehearing at 3–4.

[45] *Id.* at 3.

[46] 60 FR at 34117; FERC Stats. & Regs. Regulations Preambles 1991–96 at 31,361.

[47] I&M Request for Rehearing at 5.

[48] 18 CFR 35.32(a)(5).

[49] The Commission's authority to prescribe a uniform system of accounts and to require jurisdictional utilities to keep accounts is well settled. *See* Kansas City Gas and Electric Company, 43 FERC ¶61,248 at 61,675 (1988) and cases there cited.

[50] 16 U.S.C. 824d, 824e.

public utilities will use the collections for their intended purpose.[51] One of these necessary safeguards is our ability to order public utilities to audit or inspect Fund accounts, books and records and to forward the results to us for our inspection (and for us to participate in those audits if we choose). In the Final Rule we stated that:

> By allowing public utilities with nuclear units to collect decommissioning funds in advance of decommissioning expenditures, the Commission has allowed the utilities to become fiduciaries for their ratepayers. The Commission did not have to allow this fiduciary relationship to form. But, having allowed the relationship to develop, the Commission undoubtedly has the authority to impose appropriate conditions upon the fiduciaries' use of ratepayers' funds to ensure that Fund monies will be available for their intended purpose, *i.e.* to cover the cost of decommissioning.[52]

Accordingly, we will not delete the challenged language from the regulations.

3. Reports

a. *Request for clarification.* New England Public Power Nuclear Customers ask the Commission to specify whether Fund annual reports will be public documents. They also ask the Commission to direct that public utilities serve Fund annual reports on all wholesale customers. They reason that directing public utilities to serve Fund annual reports on all wholesale customers would be consistent with the Commission's requirements at 18 CFR 35.2(d), 35.3(a) and 35.8(a), that public utilities serve changes in rate schedules on all wholesale customers, and

> would enable wholesale customers to keep themselves and their customers informed, to bring problems to the Commission's attention when necessary, and to negotiate more effectively with public utilities over decommissioning rates and related matters.[53]

b. *Commission response.* A Fund annual report is not a rate schedule. Nevertheless, we agree that ratepayers and other interested entities should have access to Funds' annual reports. These reports are public documents and will, of course, be available in the Commission's Public Reference Room at 888 First Street, NE., Washington, DC 20426. In addition, we will require Funds to mail a copy of their annual report to anyone who requests it. This will make the information available to anyone who requests it, while at the same time avoiding the needless expense of mailing copies of the annual report to those who have no wish to see them.[54]

4. Investments

a. *Request for clarification.* Maine Yankee inquires whether the provision in the Final Rule prohibiting a utility from ''engag[ing] in day-to-day management of the Fund or mandat[ing] individual investment decisions'' [55] would prohibit Maine Yankee from itself investing a portion of its Fund in an equity index mutual fund that replicates the Standard & Poor 500 index. Maine Yankee submits that the decision to select a mutual fund is akin to a decision regarding general investment objectives and the selection of an investment manager. Maine Yankee maintains that:

> In selecting a mutual fund, the utility is adopting an investment policy of paralleling market performance and is achieving this performance at a low cost. The utility engages in no individual fund management and no investment decision. The mutual fund manager serves in the role of investment manager.[56]

b. *Commission response.*

In the Final Rule we stated that:

> The utility may provide general investment policies, but * * * may not engage in the day-to-day management of the Fund or * * * itself make individual investment decisions.[57]

We disagree with Maine Yankee that the decision to invest a portion of Maine Yankee's Fund in a specific mutual fund is akin to the selection of a Fund investment manager. The mutual fund manager manages the mutual fund on behalf of all of the customers of the mutual fund; it does not make investment decisions solely on Maine Yankee's behalf. We also disagree with Maine Yankee that in selecting a mutual fund ''[t]he utility engages in * * * no investment decision.'' [58] The decision to invest a portion of Maine Yankee's Fund in a mutual fund would be an individual investment decision, and a ''utility may not * * * itself make individual investment decisions.'' [59]

Individual investment decisions are solely the province of the Fund investment manager, who ''directs and implements the Fund's investment program * * *.'' [60] Maine Yankee has the responsibility to select ''trained, experienced, professional investment managers who are skilled in the art of offsetting risk,'' [61] but the Fund manager makes individual Fund investment decisions. Maine Yankee may not itself invest a portion of its Fund portfolio in a mutual fund.

Regulatory Flexibility Act Certification

The Regulatory Flexibility Act [62] requires rulemakings to either contain a description and analysis of the effect that the proposed rule will have on small entities or to contain a certification that the rule will not have a substantial economic impact on a substantial number of small entities. Most public utilities to which the proposed rule would apply do not fall within the definition of small entity.[63] Consequently, the Commission certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

Effective Date and Congressional Notification

This rule is effective July 21, 1997. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, that this order on rehearing is not a major rule within the meaning of section 351 of the Small Business Regulatory Enforcement Act of 1996.[64] The Commission is submitting the order on rehearing to both Houses of Congress and to the Comptroller General.

List of Subjects in 18 CFR Part 35

Electric power rates, Electric utilities, Incorporation by reference, Reporting and recordkeeping requirements.

By the Commission.

Lois D. Cashell,

Secretary.

In consideration of the foregoing, the Commission amends Part 35, Chapter I, Title 18, *Code of Federal Regulations,* as set forth below.

PART 35—FILING OF RATE SCHEDULES

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

[51] 60 FR 34112–13; FERC Stats. & Regs. Regulations Preambles 1991–96 at 31,352–353.

[52] 60 FR 34113; FERC Stats. & Regs. Regulations Preambles 1991–96 at 31,353.

[53] New England Public Power Customers at 4.

[54] We will also revise 18 CFR 35.33(d) to provide that the utility submit to the Commission each year an original and 3 conformed copies of the financial report furnished to the utility by the Fund's Trustee.

[55] 18 CFR 35.32(a)(2).

[56] Maine Yankee Request for Clarification at 4.

[57] 60 FR at 34117; FERC Stats. & Regs. Regulations Preambles 1991–96 at 31,360.

[58] Maine Yankee Request for Clarification at 4.

[59] 60 FR at 34117; FERC Stats. & Regs. Regulations Preambles 1991–96 at 31,360.

[60] 60 FR at 34116; FERC Stats. & Regs. Regulations Preambles 1991–96 at 31,359.

[61] 60 FR at 34122; FERC Stats. & Regs. Regulations Preambles 1991–96 at 31,369.

[62] 5 U.S.C. 601–612.

[63] *See* 5 U.S.C. 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 632, which defines ''small business concern'' as a business that is independently owned and operated and that is not dominant in its field of operation.

[64] 5 U.S.C. 804(2).

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

2. Sections 35.32 and 35.33 are revised to read as follows:

§ 35.32 General provisions.

(a) If a public utility has elected to provide for the decommissioning of a nuclear power plant through a nuclear plant decommissioning trust fund (Fund), the Fund must meet the following criteria:

(1) The Fund must be an external trust fund in the United States, established pursuant to a written trust agreement, that is independent of the utility, its subsidiaries, affiliates or associates. If the trust fund includes monies collected both in Commission-jurisdictional rates and in non-Commission-jurisdictional rates, then a separate account of the Commission-jurisdictional monies shall be maintained.

(2) The utility may provide overall investment policy to the Trustee or Investment Manager, but it may do so only in writing, and neither the utility nor its subsidiaries, affiliates or associates may serve as Investment Manager or otherwise engage in day-to-day management of the Fund or mandate individual investment decisions.

(3) The Fund's Investment Manager must exercise the standard of care, whether in investing or otherwise, that a prudent investor would use in the same circumstances. The term ''prudent investor'' means a prudent investor as described in Restatement of the Law (Third), Trusts § 227, including general comments and reporter's notes, pages 8–101. St. Paul, MN: American Law Institute Publishers, (1992). ISBN 0–314–84246–2. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the American Law Institute, 4025 Chestnut Street, Philadelphia, PA 19104, and are also available in local law libraries. Copies may be inspected at the Federal Energy Regulatory Commission's Library, Room 95–01, 888 First Street, NE. Washington, DC or at the Office of the Federal Register, 800 North Capitol St., NW., Room 700, Washington, DC.

(4) The Trustee shall have a net worth of at least $100 million. In calculating the $100 million net worth requirement, the net worth of the Trustee's parent corporation and/or affiliates may be taken into account only if such entities guarantee the Trustee's responsibilities to the Fund.

(5) The Trustee or Investment Manager shall keep accurate and detailed accounts of all investments, receipts, disbursements and transactions of the Fund. All accounts, books and records relating to the Fund shall be open to inspection and audit at reasonable times by the utility or its designee or by the Commission or its designee. The utility or its designee must notify the Commission prior to performing any such inspection or audit. The Commission may direct the utility to conduct an audit or inspection.

(6) Absent the express authorization of the Commission, no part of the assets of the Fund may be used for, or diverted to, any purpose other than to fund the costs of decommissioning the nuclear power plant to which the Fund relates, and to pay administrative costs and other incidental expenses, including taxes, of the Fund.

(7) If the Fund balances exceed the amount actually expended for decommissioning after decommissioning has been completed, the utility shall return the excess jurisdictional amount to ratepayers, in a manner the Commission determines.

(8) Except for investments tied to market indexes or other mutual funds, the Investment Manager shall not invest in any securities of the utility for which it manages the funds or in that utility's subsidiaries, affiliates, or associates or their successors or assigns.

(9) The utility and the Fiduciary shall seek to obtain the best possible tax treatment of amounts collected for nuclear plant decommissioning. In this regard, the utility and the Fiduciary shall take maximum advantage of tax deductions and credits, when it is consistent with sound business practices to do so.

(10) Each utility shall deposit in the Fund at least quarterly all amounts included in Commission-jurisdictional rates to fund nuclear power plant decommissioning.

(b) The establishment, organization, and maintenance of the Fund shall not relieve the utility or its subsidiaries, affiliates or associates of any obligations it may have as to the decommissioning of the nuclear power plant. It is not the responsibility of the Fiduciary to ensure that the amount of monies that a Fund contains are adequate to pay for a nuclear unit's decommissioning.

(c) A utility may establish both qualified and non-qualified Funds with respect to a utility's interest in a specific nuclear plant. This section applies to both ''qualified'' (under the Internal Revenue Code, 26 U.S.C. 468A, or any successor section) and non-qualified Funds.

(d) A utility must regularly supply to the Fund's Investment Manager, and regularly update, essential information about the nuclear unit covered by the Trust Fund Agreement, including its description, location, expected remaining useful life, the decommissioning plan the utility proposes to follow, the utility's liquidity needs once decommissioning begins, and any other information that the Fund's Investment Manager would need to construct and maintain, over time, a sound investment plan.

(e) A utility should monitor the performance of all Fiduciaries of the Fund and, if necessary, replace them if they are not properly performing assigned responsibilities.

§ 35.33 Specific provisions.

(a) In addition to the general provisions of § 35.32, the Trustee must observe the provisions of this section.

(b) The Trustee may use Fund assets only to:

(1) Satisfy the liability of a utility for decommissioning costs of the nuclear power plant to which the Fund relates as provided by § 35.32; and

(2) Pay administrative costs and other incidental expenses, including taxes, of the Fund as provided by § 35.32.

(c) To the extent that the Trustee does not currently require the assets of the Fund for the purposes described in paragraphs (b)(1) and (b)(2) of this section, the Investment Manager, when investing Fund assets, must exercise the same standard of care that a reasonable person would exercise in the same circumstances. In this context, a ''reasonable person'' means a prudent investor as described in Restatement of the Law (Third), Trusts § 227, including general comments and reporter's notes, pages 8–101. St. Paul, MN: American Law Institute Publishers, 1992. ISBN 0–314–84246–2. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the American Law Institute, 4025 Chestnut Street, Philadelphia, PA 19104, and are also available in local law libraries. Copies may be inspected at the Federal Energy Regulatory Commission's Library, Room 95–01, 888 First Street, NE. Washington, DC or at the Office of the Federal Register, 800 North Capitol St., NW., Room 700, Washington, DC.

(d) The utility must submit to the Commission by March 31 of each year, one original and three conformed copies of the financial report furnished to the utility by the Fund's Trustee that shows for the previous calendar year:

(1) Fund assets and liabilities at the beginning of the period;

(2) Activity of the Fund during the period, including amounts received

from the utility, purchases and sales of investments, gains and losses from investment activity, disbursements from the Fund for decommissioning activity and payment of Fund expenses, including taxes; and

(3) Fund assets and liabilities at the end of the period. The report should not include the liability for decommissioning.

(e) The utility must also mail a copy of the financial report provided to the Commission pursuant to paragraph (d) of this section to anyone who requests it.

(f) If an independent public accountant has expressed an opinion on the report or on any portion of the report, then that opinion must accompany the report.

[FR Doc. 97–16043 Filed 6–18–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Office of the Commissioner

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority by adding a new authority from the Assistant Secretary for Health (ASH), Office of Public Health and Science (OPHS), Office of the Secretary (OS), to the Commissioner of Food and Drugs (the Commissioner), delegating all the authorities vested in the Secretary under section 601 of Effective Medication Guides of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 1997, as amended hereafter. The delegation excludes the authority to issue reports to Congress.

EFFECTIVE DATE: June 19, 1997.

FOR FURTHER INFORMATION CONTACT: Loretta W. Davis, Division of Management Systems and Policy (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4809.

SUPPLEMENTARY INFORMATION: On October 7, 1996, the Secretary of Health and Human Services delegated to the ASH, OPHS, with authority to redelegate as appropriate, the authorities vested in the Secretary under section 601 of Effective Medication Guides of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 1997 (Pub. L. 104–180), as amended hereafter. In a memorandum dated January 27, 1997, the ASH delegated to the Commissioner all of the authorities delegated to the ASH under section 601 of Effective Medication Guides of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 1997 (Pub. L. 104–180), as amended hereafter.

Further redelegation of the authority delegated may only be authorized with the Commissioner's approval. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 138a, 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 21 U.S.C. 41–50, 61–63, 141–149, 467f, 679(b), 801–886, 1031–1309; secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–394); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 361, 362, 1701–1706, 2101 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 264, 265, 300u–300u–5, 300aa–1); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11490, 11921, and 12591.

2. Section 5.10 is amended by adding a new paragraph (a)(39) to read as follows:

(a) * * *

(39) Functions vested in the Secretary under section 601 of Effective Medication Guides of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 1997 (Pub. L. 104–180), as amended hereafter. The delegation excludes the authority to issue reports to Congress.

* * * * *

Dated: June 12, 1997.

Michael A. Friedman,

Lead Deputy Commissioner for the Food and Drug Administration.

[FR Doc. 97–16065 Filed 6–18–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 880

[Docket No. 85N–0285]

Medical Devices; Reclassification of the Infant Radiant Warmer

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule to reclassify the infant radiant warmer from class III (premarket approval) into class II (special controls). The infant radiant warmer is a device intended to maintain the infant's body temperature by means of radiant heat. The special controls are the Association for the Advancement of Medical Instrumentation (AAMI) Voluntary Standard for the Infant Radiant Warmer, a prescription statement, and labeling. This reclassification is based on new information regarding the device contained in a reclassification petition submitted by the Health Industries Manufacturers Association (HIMA). This action is taken under the Medical Device Amendments of 1976 as amended by the Safe Medical Devices Act of 1990.

EFFECTIVE DATE: July 21, 1997.

FOR FURTHER INFORMATION CONTACT: Patricia M. Cricenti, Center for Devices and Radiological Health (HFZ–480), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8913.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 24, 1979 (44 FR 49873), FDA published a proposed rule to classify the infant radiant warmer into class III. The preamble included the classification recommendation of the General Hospital and Personal Use Devices Panel (the Panel). The Panel's recommendation included a summary of the reasons why the device should be subject to premarket approval and identified certain risks to health presented by the device, including electric shock, possible eye damage due to long-term exposure to infrared radiation, patient

injury, hospital staff burns, insensible water loss, and hyperthermia or hypothermia. The Panel also recommended a high priority for initiating a proceeding to require premarket approval applications (PMA's) under section 515(b) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(b)).

In the **Federal Register** of October 21, 1980 (45 FR 69694), FDA published a final rule classifying the infant radiant warmer into class III (§ 880.5130 (21 CFR 880.5130)). The sole reason for classifying the device into class III was FDA's concern for possible long-term effects of infrared radiation on the skin and eyes of infants. FDA believed the other risks to health identified in the proposed rule could be addressed by labeling or by a standard.

In the **Federal Register** of September 6, 1983 (48 FR 40272), FDA published a notice of intent to initiate proceedings to require premarket approval of 13 preamendments class III devices, including the infant radiant warmer which was assigned a high priority by FDA for the application of premarket approval requirements.

In the **Federal Register** of January 15, 1986 (51 FR 1910), FDA published a proposed rule to require filing of a PMA or notice of completion of a product development protocol for the infant radiant warmer. In accordance with section 515(b) of the act and 21 CFR 860.132, FDA announced an opportunity for interested persons to request a change in classification of the device based on new information. FDA also identified the potential risks to health associated with the use of the device.

On January 30, 1986, HIMA submitted a petition to reclassify the infant radiant warmer from class III into class II. The petition was referred to the Panel for its recommendation on the requested change. After two Panel meetings (May 21, 1986, and May 11, 1994), the Panel unanimously recommended that the infant radiant warmer be reclassified from class III into class II, identifying the AAMI voluntary standard for infant radiant warmers as the special control. They further recommended labeling restricting the device to use only upon the order of a physician, only in health care facilities, and only by persons with specific training and experience in the use of the device. Accordingly, in the **Federal Register** on August 27, 1996 (61 FR 44013), FDA issued a proposed rule to reclassify the infant radiant warmer from class III to class II based on information in the form of publicly available, valid scientific evidence respecting the device. Interested persons were given until November 25, 1996, to comment on the proposed rule. During the comment period, FDA received one comment from a manufacturer who supported the proposed reclassification and stated that the previous risks to health associated with the use of the device have been addressed through improvements in technology, education, and medical practice.

I. FDA's Conclusion

FDA agrees with the recommendation of the Panel that the generic infant radiant warmer intended for maintaining an infant's body temperature by means of radiant heat should be classified into class II. The agency also concludes that sufficient ''new information'' in the form of publicly available, valid scientific evidence exists for establishing special controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use. The agency further identifies the AAMI voluntary standard for infant radiant warmers and labeling identified above as the special controls. Moreover, the agency believes that because existing devices within this generic type have established a reasonable record of safe and effective use, the regulatory controls of class II will provide the necessary regulation to reasonably assure that current and future infant warmers are safe and effective. The agency's decision is based on the Panel's recommendation and a review of the data and information contained in the administrative records referenced in the August 27, 1996, proposed rule.

Therefore, under section 513(e) of the act (21 U.S.C. 360c(e)), FDA is issuing a final rule that revises § 880.5130(b), thereby reclassifying the generic type device, the infant radiant warmer, from class III into class II.

II. Environmental Impact

The agency has determined under 21 CFR 25.24(e)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

III. Analysis of Impacts

FDA has examined the impacts of the final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the final rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because the regulatory burden for all manufacturers of infant radiant warmers covered by this rule would be reduced, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

IV. Paperwork Reduction Act of 1995

FDA concludes that the labeling requirements in this final rule are not subject to review by the Office of Management and Budget because they do not constitute a ''collection of information'' under the Paperwork Reduction Act of 1995 (Pub. L. 104–13). Rather, the labeling statements are ''public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure to the public'' (5 CFR 1320.3(c)(2)).

List of Subjects in 21 CFR Part 880

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Devices and Radiological Health, 21 CFR part 880 is amended as follows:

PART 880—GENERAL HOSPITAL AND PERSONAL USE DEVICES

1. The authority citation for 21 CFR part 880 continues to read as follows:

Authority: Secs. 501, 510, 513, 515, 520, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 360, 360c, 360e, 360j, 371).

2. Section 880.5130 is revised to read as follows:

§ 880.5130 Infant radiant warmer.

(a) *Identification*. The infant radiant warmer is a device consisting of an infrared heating element intended to be placed over an infant to maintain the infant's body temperature by means of

radiant heat. The device may also contain a temperature monitoring sensor, a heat output control mechanism, and an alarm system (infant temperature, manual mode if present, and failure alarms) to alert operators of a temperature condition over or under the set temperature, manual mode time limits, and device component failure, respectively. The device may be placed over a pediatric hospital bed or it may be built into the bed as a complete unit.

(b) *Classification*. Class II (Special Controls):

(1) The Association for the Advancement of Medical Instrumentation (AAMI) Voluntary Standard for the Infant Radiant Warmer;

(2) A prescription statement in accordance with § 801.109 of this chapter (restricted to use by or upon the order of qualified practitioners as determined by the States); and

(3) Labeling for use only in health care facilities and only by persons with specific training and experience in the use of the device.

Dated: June 10, 1997.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 97–16123 Filed 6–18–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 470

[Docket No. FHWA 97–2394]

RIN 2125–AD74

Federal-Aid Highway Systems

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Interim final rule; request for comments.

SUMMARY: The FHWA is amending its regulation on Federal-aid highway systems to incorporate changes made by the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) and the National Highway System Designation Act of 1995. The ISTEA, among other things, added provisions defining the Federal-aid highway systems as the Interstate System and the National Highway System (NHS) which replaced the provisions defining the Federal-aid highway systems as the Interstate, Primary, Secondary, and Urban Systems. The purpose of this document is to reflect the statutory changes in defining the Federal-aid highway systems, reduce regulatory requirements and simplify recordkeeping requirements imposed on States, and consolidate (in appendices to the regulation) all nonregulatory guidance material issued previously by the FHWA on this subject.

DATES: This interim final rule is effective July 21, 1997. Comments must be received by August 18, 1997.

ADDRESSES: Submit written, signed comments to the docket number that appears in the heading of this document to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Thomas R. Weeks, Intermodal and Statewide Programs Division (202) 366–5002, or Grace Reidy, Office of the Chief Counsel, HCC–32, (202) 366–6226, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: The FHWA is amending its regulation at 23 CFR Part 470, subpart A, on Federal-aid highway systems to: (1) Reflect recent statutory changes made by sections 1006, 1024, 1025, and 1105 of the ISTEA, Pub. L. 102–240, 105 Stat. 1914, and sections 101 and 332 of the NHS Act, Pub. L. 104–59, 109 Stat. 568; (2) reduce regulatory requirements and simplify recordkeeping requirements imposed on States; and (3) consolidate, in appendices to the regulation, all relevant nonregulatory guidance previously issued in the FHWA's policy memoranda and the ''Federal-Aid Policy Guide.'' The amended regulation, including its appendices, now combines all policies and guidance on the Federal-aid highway systems in a single document for easy reference.

For a number of years prior to the ISTEA, the Federal-aid highway systems consisted of four components—the Primary System (which also included the Interstate System), the Urban System, and the Secondary System. These four highway systems established basic eligibility of qualifying roads and streets for construction or improvement with certain categories of Federal-aid highway funds, i.e., the Interstate, Primary, Secondary, and Urban System apportionments. The ISTEA restructured the Federal-aid highway systems by rescinding the Federal-aid Primary, Secondary, and Urban Systems and requiring the establishment of a new NHS. Certain components of the NHS were specified by statute, including the Interstate System and 21 high priority corridors. The ISTEA also required a functional reclassification of all public roads and streets to determine eligibility for inclusion on the NHS and eligibility for funding under the Surface Transportation Program. Pending enactment of legislation approving the NHS, the ISTEA established an interim NHS that was eligible for funding under the NHS program and consisted of all rural and urban routes which were functionally classified as principal arterials.

During December 1993, a proposed NHS was submitted by the Department of Transportation (DOT) to Congress for approval, and the NHS was subsequently designated by the NHS Act. The NHS Act, within 180 days of enactment, required the Secretary of Transportation (Secretary) to submit to Congress for approval proposed additions to the NHS, consisting of connections to major intermodal terminal facilities. The NHS Act also authorized the Secretary to approve modifications to the NHS, including, once the initial designations were enacted by law, the connections to intermodal terminals. Finally, the NHS Act designated eight additional high priority corridors on the NHS and designated all, or part of, four high priority corridors as future Interstate routes.

The proposed NHS connections to major intermodal terminals were submitted to Congress in May 1996. To date, Congress has not enacted legislation regarding these additional routes.

The FHWA issued interim guidance in February 1996 establishing procedures for use by the States in proposing modifications to the NHS. Guidance for use by the States in proposing modifications to the Interstate System under 23 U.S.C. 139 was issued in 1986. Guidance for use by the States in proposing additions to the Interstate System under Section 332 of the NHS Act was issued in February 1996. Guidance for signing and numbering routes identified as future parts of the Interstate System was issued in August 1996 and later modified in December 1996. All guidance material contained in the documents noted above is incorporated in the regulation at 23 CFR part 470 as nonregulatory appendices. The documents were initially issued as FHWA Headquarters memoranda that

were transmitted by the field offices to their respective States.

Section-by-Section Analysis

All Sections and Appendices

All references to the former Federal-aid Primary, Secondary, and Urban Systems are removed. A number of provisions that apply to the former Federal-aid Primary System are carried over to the new NHS. References to statewide and metropolitan transportation planning are expanded to include new statutory statewide transportation planning requirements and have been coordinated with terms used in the planning regulations at 23 CFR part 450. The responsible State body for proposing changes to the Federal-aid highway systems is now identified as the State transportation agency.

Because of the substantial number of deletions and additions, the existing rule is essentially reorganized and rewritten in its entirety. Therefore, section numbers, appendices and titles used herein are those of the interim final rule, unless labeled as a former section or appendix. Wording carried forward, or revised, may be from a different numbered and titled former section. *Additional* substantive changes made in specific sections and appendices are described below.

Section 470.101 Purpose

The regulations are applied to designation of routes on the statutory Federal-aid highway systems.

Section 470.103 Definitions

The revised statutory name of the Interstate System, the ''Dwight D. Eisenhower National System of Interstate and Defense Highways,'' is taken from section 1005(e) of the ISTEA. Terms used in the regulation are retained for ''governor'' and ''metropolitan planning organization.'' The term for ''responsible local officials'' is a new heading used in the regulation. Definitions are added for ''consultation,'' ''cooperation,'' ''coordination,'' ''Federal-aid highway systems,'' ''Federal-aid highways,'' and ''State.'' Definitions needed only for nonregulatory guidance are removed.

Section 470.105 Urban Area Boundaries and Highway Functional Classification

The minimum boundaries for Federal-aid urban areas are established by reference to census urban places and census urbanized areas. Modification (enlargement) of the boundaries is permitted by 23 U.S.C. 101. Guidance for the modification of urban area boundaries is now contained in FHWA's ''Federal-Aid Policy Guide,'' which is available for inspection and copying, as prescribed in 49 CFR part 7, appendix D, and is available for purchase from the FHWA, Office of Management Systems, HMS–12, 400 Seventh St. SW., Washington, DC 20590. The limits of urban areas can be of importance in the planning and programing of improvements to the Federal-aid and other highway systems.

Functional classification is a prerequisite for determining the newly defined Federal-aid highways and National Highway System. Procedures for functional classification of existing roads and streets according to functional usage are contained in the FHWA publication, ''Highway Functional Classification—Concepts, Criteria and Procedures'' (March 1989) which is available from the FHWA's Office of Environment and Planning, HEP–10, 400 Seventh St. SW., Washington, DC 20590. The mapping and the FHWA approval requirements are retained.

Section 470.107 Federal-Aid Highway Systems

The new National Highway System includes the Interstate System and other principal arterials serving major travel destinations and transportation needs, connectors to major transportation terminals, the Strategic Highway Network and connectors, and high priority corridors identified by law.

Statutory limits on the lengths of the Federal-aid highway systems are being given in terms of kilometers using the factor of 0.62 kilometers per mile. The portion of Interstate System mileage that may be based on 23 U.S.C. 103(e)(1), (e)(2), and (e)(3) is limited to 43,000 miles (41,000, 500, and 1,500 miles, respectively). The limit on NHS mileage is based on 115 percent of 155,000 miles.

Section 470.109 Proposed System Designations—General

Provisions applicable to any Federal-aid highway system are grouped in this section; those applicable to the Interstate or NHS are included separately in the following sections. The details of route location, mapping, and numbering are no longer covered by regulation.

Former Section 470.111 Reclassifications, Deletions, and Reinstatements

This section regarding the applicability of State agreements to maintain Federal-aid projects is deleted as it is a duplication of other directives and inappropriate to regulations on highway systems.

Section 470.111 Proposed Interstate System Designations

Additions to the Interstate System may no longer be approved under the authority of 23 U.S.C. 103(e), which created eligibility for Interstate construction funds. Furthermore, there are no new authorizations of Interstate construction funds. Basic procedural requirements are retained, however, for possible Interstate modifications under 23 U.S.C. 103(f). The interim final rule now incorporates several special provisions that existed for Interstate additions. Also, included in the interim final rule are the general requirements for designation of routes as parts, or future parts, of the Interstate System under 23 U.S.C. 139 (a) or (b). These designations are made by the FHWA Administrator for routes that would be logical additions to the Interstate System and are, or will be, constructed to Interstate standards.

The FHWA also includes special provisions for Interstate routes in Alaska and Puerto Rico under 23 U.S.C. 139(c) and provisions regarding four corridors designated as future Interstate routes in section 332(a)(2) of the NHS Act.

The interim final rule recognizes the important and long standing role of the American Association of State Highway and Transportation Officials (AASHTO) in the review of proposed route numbers for Interstate highways.

Although the law is clear that highways designated as future parts of the Interstate System under 23 U.S.C. 139(b) may not be signed as a part of the Interstate System, it is silent on whether or not they may be signed as a future part. Because of increased interest in such signing, the FHWA is including reference to a policy (see appendix C of the rule) recently established for the signing of future Interstate corridors that have been established either under 23 U.S.C. 139(b), or under section 332(a)(2) of the NHS Act. The conference report on the latter section stated that the ''* * * provision is intended to permit States to erect signs along such designated routes as 'future' Interstates upon enactment.''

Section 470.113 Proposed National Highway System Designations

There are no additional substantive changes.

Former Section 470.111 Reclassifications, Deletions, and Reinstatements

Provisions relating to State obligations with respect to Federal-aid projects are removed.

Section 470.115 Approval authority

There are no additional substantive changes.

Former Part 470, Subpart A, Appendix A—Florida (National System of Interstate and Defense Highways); Appendix B—Primary Federal-Aid System; Appendix C—Urbanized Federal-Aid Urban System

Former Appendix A, with a detailed format for listing Interstate highway descriptions, is removed as unnecessary. Former Appendices B and C, which refer to former Federal-aid systems, are removed as obsolete.

Part 470, Subpart A, Appendix A—Guidance Criteria for Evaluating Requests for Interstate System Designations under 23 U.S.C. 139 (a) and (b)

The criteria for designations of highways as parts, or future parts, of the Interstate System under 23 U.S.C. 139 (a) and (b), respectively, have been virtually unchanged since 1986. The appendix includes both statutory and administrative criteria.

Appendix B—Designation of Segments of Section 332(a)(2) Corridors as Parts of the Interstate System

These procedures for addition of highways designated as future parts of the Interstate System under section 332(a)(2) of the NHS Act were issued as interim guidance in February 1996.

Appendix C—Policy for the Signing and Numbering of Future Interstate Corridors Designated by Section 332 of the NHS Designation Act of 1995 or Designated under 23 U.S.C. 139(b)

The policy for signing and numbering of future Interstate routes was issued as an interim policy in August 1996 and revised in December 1996. Criteria are included to establish eligibility for consideration of signing of future routes and are supplementary to normal signing location, design, construction, and wording requirements.

Appendix D—Guidance Criteria for Evaluating Requests for Modifications to the National Highway System

The criteria for modifications of the National Highway System were issued as interim guidance in February 1996. While essentially the same as the interim guidance, several sections are being expanded for clarification.

For ease of reference, the following table is provided to assist the user in locating section and paragraph changes made in this rulemaking:

Old Section	New Section
470.101	470.101 revised.
470.103(a)	470.103 introductory paragraph.
70.103(b):	470.103 terms revised:
Urban area	Removed.
Rural area	Removed.
Public road	Removed.
Rural arterial routes	Removed.
Rural major collector routes.	Removed.
Urban arterial routes	Removed.
Appropriate local officials.	Responsible local officials.
Governor	Governor.
Metropolitan planning organization.	Metropolitan planning organization.
Control area	Removed.
None	Consultation.
None	Cooperation.
None	Coordination.
None	Federal-aid highway systems.
None	Federal-aid highways.
None	State.
470.105(a)	470.107(a) revised.
470.105 (b)–(d)	Removed.
470.107 (a)–(b)	470.105(a)-(b) revised.
470.107(c)	470.109(a)-(e) revised.
470.107(d)	470.107(a)-(b) revised.
470.107 (e)–(h)	Removed.
470.109	470.111 and 470.113.
470.111	Removed.
470.113	470.109.
470.115	470.115.
470.117	Removed.
Appendices A, B, and C.	Removed.
None	Appendices A, B, C, and D.

Rulemaking Analyses and Notices

Because the amendments to this regulation are statutorily mandated, incorporate existing policy, or essentially document well-established procedures, requirements or practices, the FHWA finds that prior notice and opportunity for comment are unnecessary under 5 U.S.C. 553(b)(3)(B). The States have operated under the basic policies covered by this regulation for many years. The amendments being made to this regulation were specifically designed to simplify administrative procedures, minimize regulatory burdens, and provide flexibility for accomplishing required system actions. Therefore, the FHWA is not exercising its discretion in a way that could be substantially affected by public comment.

Since passage of the NHS Act, the FHWA developed and implemented policies for modifying the NHS. The policies included in the interim final rule for modifying the NHS are essentially the same. The criteria for modifying the Interstate System under 23 U.S.C. 139 have been virtually identical since 1986. The nonregulatory guidance for numbering and signing future Interstate routes, although recently issued, was developed through a consultative process. Only a few States have expressed an interest in such signing.

For these reasons, the FHWA has also determined that prior notice and opportunity for comment are not required under the Department of Transportation's regulatory policies and procedures, as it is not anticipated that such action would result in the receipt of essential information. Issuance of the amended regulation as an interim final rule will provide interested parties an opportunity to comment on any aspect of the amended regulation and the nonregulatory appendices. Depending on the nature and extent of the comments, the FHWA will consider subsequent revisions to either the regulation or the nonregulatory appendices. The FHWA will also publish a notice in the **Federal Register** to summarize any comments received and any actions the agency has taken, or plans to take, with regard to the comments. Therefore, the FHWA is proceeding directly to an interim final rule, which is effective 30 days from its date of publication.

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

The FHWA has determined that this action is neither a significant action within the meaning of Executive Order 12866 nor significant under the Department of Transportation's regulatory policies and procedures. This rule establishes procedures for State highway agencies to request modifications of established Federal-aid highway systems.

This interim final rule provides States with criteria for proposed system modifications, route numbering, and signing. This rule will not result in a major increase in costs or prices for State or local governments. The rule will not have an adverse effect on competition, employment, investment, productivity, innovation, or on the ability to compete with foreign enterprises. It is anticipated that the economic impact of this rulemaking will

be minimal, as the rule is not altering the amount of Federal-aid funds made available, nor is it substantially changing the administrative processing requirements for State transportation agencies. Therefore, a full regulatory evaluation is not required. Nevertheless, the FHWA is providing an opportunity for interested parties to comment upon the possible economic consequences of the rule.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub.L. 96–354, 5 U.S.C. 601–612), the FHWA has preliminarily determined that this rulemaking will have virtually no economic impact on small entities. The rulemaking is directed toward State governments. Although the regulation being amended continues to require the States to cooperate with responsible local officials in conjunction with certain highway classification and system actions, the States will bear the responsibility for initiating and completing this cooperation. The States will coordinate with responsible local officials through existing organizational mechanisms as a part of the ongoing statewide and metropolitan transportation planning processes required by 23 CFR part 450. Therefore, no unique or special arrangements are required, nor expected, to accomplish the necessary cooperation.

The regulation clarifies, streamlines, and simplifies Federal-aid highway systems policies for modification and management of the systems. The primary impact of this rulemaking action, therefore, will be a reduction in the administrative burden on the States associated with Federal-aid system actions. Based on this evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

This rulemaking has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this action does not have sufficient federalism implications to warrant the preparation of a federalism assessment. The purpose of this rule is to eliminate many administrative procedures and recordkeeping requirements related to the Federal-aid highway system actions that have been in place for many years, and to limit State actions to those specifically required by Federal statute. The rule will reduce costs and burdens on the States. It will not affect the ability of the States to discharge traditional State governmental functions. The rule relies on existing mechanisms—those established through the statewide and metropolitan planning processes for the involvement of local and metropolitan agencies in the management of the Federal-aid highway systems. An overriding objective of the FHWA in developing this rule is to minimize the regulatory requirements and rely heavily on nonregulatory guidance in the management of proposed changes to Federal-aid highway systems.

Executive Order 12372 (Intergovernmental Review)

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

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) concerns the responsibility of Federal agencies in developing proposed collections of information. The PRA is designed ''to reduce, minimize, and control burdens and maximize the practical utility and public benefit of the information created, collected, disclosed, maintained, used, shared, and disseminated by or for the Federal Government.'' 23 CFR 1320.1. Thus, the FHWA has a responsibility to determine if the PRA applies to this rulemaking proceeding.

For many years, States and State transportation agencies have operated pursuant to current regulations at 23 CFR part 470 that contain criteria to request modifications of established Federal-aid highway systems. Before enactment of the ISTEA, the Federal-aid highway systems consisted of the Interstate, Primary, Secondary, and Urban Systems. The ISTEA, however, restructured the Federal-aid highway systems by rescinding the Federal-aid Primary, Secondary, and Urban Systems and requiring the establishment of the NHS. The ISTEA also required a functional reclassification of all public roads and streets to determine eligibility for inclusion on the NHS and eligibility for funding under the Surface Transportation Program. Another piece of legislation, the NHS Act, designated the NHS and authorized the Secretary to approve any modifications to the NHS. To assist States with their system modifications, the FHWA previously issued interim guidance establishing procedures for use by the States in proposing modifications to the Interstate System and the NHS, and for signing and numbering routes identified as future parts of the Interstate System. Thus, the purpose of this interim final rule is to incorporate the legislative changes mandated by the ISTEA and the NHS Act, as well as the nonregulatory guidance material that the FHWA issued previously to assist States in their efforts to modify the Federal-aid highway systems. Only a few States have indicated that they are interested in such signing.

The interim final rule specifies that States and State transportation agencies can submit proposals for modifying the Federal-aid highway systems by submitting certain information to the FHWA and, in the case of Interstate route numbering proposals, to the American Association of State Highway and Transportation Officials route numbering committee. As indicated above, the FHWA intends to include, as appendices to the regulation at part 470, nonregulatory guidance material issued previously by the agency to assist States in their system modification efforts. Under 5 CFR 1320.3(c)(2), the public disclosure of information originally supplied by the Federal Government to the recipient for the purpose of disclosure is not a collection of information. Thus, the FHWA's consolidation of this nonregulatory guidance material in the interim final rule does not violate the PRA.

It is also important to note that, under the PRA, a State agency is not required to obtain approval of the Office of Management and Budget (OMB) to undertake on its own initiative to collect information. However, in instances where the State agency's collection of information is being ''conducted or sponsored'' by a Federal agency, then the Federal agency would need to obtain OMB approval for any collection of information. Thus, another inquiry to be made in this rulemaking would be whether a State's proposal to modify the Federal-aid highway system is a collection of information ''conducted or sponsored'' by the FHWA. The FHWA believes that it is not.

First, under 49 CFR 1320.3(d), a collection of information undertaken by a recipient (here the State) of a Federal grant is considered to be ''conducted or sponsored'' by an agency only if: (1) The recipient of a grant is conducting the collection of information at the specific request of the agency; or (2) the terms and conditions of the grant require specific approval by the agency of the collection of information or collection procedures. In this interim final rule,

the FHWA is not requesting the States to collect information to modify the Federal-aid highway systems. Nor is the State's submittal of a proposed modification a prerequisite for a Federal grant. Presumably, the FHWA must first approve a State's proposal to modify the Federal-aid highway systems before a route can be added to the Interstate System or the NHS, but the FHWA is not requesting this collection of information. States that seek to modify the Interstate System and the NHS can follow the criteria set forth at part 470 to accomplish requested system modifications. This interim final rule merely provides the States with revised regulations to assist them in their efforts.

Second, the FHWA does not believe that this action constitutes a collection of information under the PRA because the interim final rule does not impose requirements on ''ten or more persons.'' 49 CFR 1320.(3)(c). The phrase ''ten or more persons'' refers to the persons to whom a collection of information is addressed by the agency within any 12-month period, and to any independent entities to which the initial addressee may reasonably be expected to transmit the collection of information during that period, including independent State, territorial, tribal or local entities and separately incorporated subsidiaries or affiliates. 49 CFR 1320.3(c)(4). Because the FHWA does not expect to address more than 10 requests by States to modify route designations during any 12-month period, it does not constitute a ''collection of information'' covered by the PRA.

Accordingly, the FHWA is amending its regulation on Federal-aid highway systems to incorporate statutory changes made by the ISTEA and the NHS Act, and to include in this amended regulation all relevant appendices of nonregulatory guidance previously issued in FHWA policy memoranda and the ''Federal-aid Policy Guide'' to assist States in proposing modifications to the Interstate System and the NHS. The interim final rule will provide States and State transportation agencies with criteria for proposed system modifications, route numbering, and signing. This action will also reduce regulatory requirements, simplify administrative procedures and recordkeeping requirements, and provide flexibility to accomplish State-requested system actions.

National Environmental Policy Act

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

Regulation Identification Number

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

List of Subjects in 23 CFR Part 470

Grant programs—transportation, Highway planning, Highways and roads.

In consideration of the foregoing, the FHWA is amending title 23, CFR, chapter I, by revising subpart A of part 470 as set forth below.

Issued on: June 11, 1997.

Jane F. Garvey,

Acting Administrator for the Federal Highway Administration.

PART 470—HIGHWAY SYSTEMS

1. The authority citation for part 470 is revised to read as follows:

Authority: 23 U.S.C. 103(b)(2), 103 (e)(1), (e)(2), and (e)(3), 103(f), 134, 135, and 315; and 49 CFR 1.48(b)(2).

Subpart A—[Revised]

2. Subpart A of part 470 is revised to read as follows:

Subpart A—Federal-aid Highway Systems

Sec.
470.101 Purpose.
470.103 Definitions.
470.105 Urban area boundaries and highway functional classification.
470.107 Federal-aid highway systems.
470.109 System procedures—General.
470.111 Interstate System procedures.
470.113 National Highway System procedures.
470.115 Approval authority.
Appendix A—Guidance Criteria for Evaluating Requests for Interstate System Designations under 23 U.S.C. 139 (a) and (b).
Appendix B—Designation of Segments of Section 332(a)(2) Corridors as Parts of the Interstate System.
Appendix C—Policy for the Signing and Numbering of Future Interstate Corridors Designated by Section 332 of the NHS Designation Act of 1995 or Designated under 23 U.S.C. 139(b).
Appendix D—Guidance Criteria for Evaluating Requests for Modifications to the National Highway System.

Subpart A—Federal-aid Highway Systems

§ 470.101 Purpose.

This part sets forth policies and procedures relating to the identification of Federal-aid highways, the functional classification of roads and streets, the designation of urban area boundaries, and the designation of routes on the Federal-aid highway systems.

§ 470.103 Definitions.

Except as otherwise provided in this part, terms defined in 23 U.S.C. 101(a) are used in this part as so defined.

Consultation means that one party confers with another identified party and, prior to taking action(s), considers that party's views.

Cooperation means that the parties involved in carrying out the planning, programming and management systems processes work together to achieve a common goal or objective.

Coordination means the comparison of the transportation plans, programs, and schedules of one agency with related plans, programs, and schedules of other agencies or entities with legal standing, and adjustment of plans, programs, and schedules to achieve general consistency.

Federal-aid highway systems means the National Highway System and the Dwight D. Eisenhower National System of Interstate and Defense Highways (the ''Interstate System'').

Federal-aid highways means highways on the Federal-aid highway systems and all other public roads not classified as local roads or rural minor collectors.

Governor means the chief executive of the State and includes the Mayor of the District of Columbia.

Metropolitan planning organization (*MPO*) means the forum for cooperative transportation decisionmaking for the metropolitan planning area in which the metropolitan transportation planning process required by 23 U.S.C. 134 and 49 U.S.C. 5303–5305 must be carried out.

Responsible local officials means—

(1) In urbanized areas, principal elected officials of general purpose local governments acting through the Metropolitan Planning Organization designated by the Governor, or

(2) In rural areas and urban areas not within any urbanized area, principal elected officials of general purpose local governments.

State means any one of the fifty States, the District of Columbia, Puerto Rico, or, for purposes of functional classification of highways, the Virgin Islands, American Samoa, Guam, or the

Commonwealth of the Northern Marianas.

§ 470.105 Urban area boundaries and highway functional classification.

(a) *Urban area boundaries.* Routes on the Federal-aid highway systems may be designated in both rural and urban areas. Guidance for determining the boundaries of urbanized and nonurbanized urban areas is provided in the ''Federal-Aid Policy Guide,'' Chapter 4 [G 4063.0], dated December 9, 1991.[1]

(b) *Highway Functional Classification.* (1) The State transportation agency shall have the primary responsibility for developing and updating a statewide highway functional classification in rural and urban areas to determine functional usage of the existing roads and streets. Guidance criteria and procedures are provided in the FHWA publication ''Highway Functional Classification—Concepts, Criteria and Procedures.''[2] The State shall cooperate with responsible local officials, or appropriate Federal agency in the case of areas under Federal jurisdiction, in developing and updating the functional classification.

(2) The results of the functional classification shall be mapped and submitted to the Federal Highway Administration (FHWA) for approval and when approved shall serve as the official record for Federal-aid highways and the basis for designation of the National Highway System.

§ 470.107 Federal-aid highway systems.

(a) *Interstate System.* (1) The Dwight D. Eisenhower National System of Interstate and Defense Highways (Interstate System) shall consist of routes of highest importance to the Nation, built to the uniform geometric and construction standards of 23 U.S.C. 109(h), which connect, as directly as practicable, the principal metropolitan areas, cities, and industrial centers, including important routes into, through, and around urban areas, serve the national defense and, to the greatest extent possible, connect at suitable border points with routes of continental importance in Canada and Mexico.

(2) The portion of the Interstate System designated under 23 U.S.C. 103 (e)(1), (e)(2), and (e)(3) shall not exceed 69,230 kilometers (43,000 miles). Additional Interstate System segments are permitted under the provisions of 23 U.S.C. 139 (a) and (c) and section 1105(e)(5)(A) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102–240, 105 Stat. 1914, as amended.

(b) *National Highway System.* (1) The National Highway System shall consist of interconnected urban and rural principal arterials and highways (including toll facilities) which serve major population centers, international border crossings, ports, airports, public transportation facilities, other intermodal transportation facilities and other major travel destinations; meet national defense requirements; and serve interstate and interregional travel. All routes on the Interstate System are a part of the National Highway System.

(2) The National Highway System shall not exceed 286,983 kilometers (178,250 miles).

(3) The National Highway System shall include the Strategic Highway Corridor Network (STRAHNET) and its highway connectors to major military installations, as designated by the Administrator in consultation with appropriate Federal agencies and the States. The STRAHNET includes highways which are important to the United States strategic defense policy and which provide defense access, continuity, and emergency capabilities for the movement of personnel, materials, and equipment in both peace time and war time.

(4) The National Highway System shall include all high priority corridors identified in section 1105(c) of the ISTEA.

§ 470.109 System procedures—General.

(a) The State transportation agency, in consultation with responsible local officials, shall have the responsibility for proposing to the Federal Highway Administration all official actions regarding the designation, or revision, of the Federal-aid highway systems.

(b) The routes of the Federal-aid highway systems shall be proposed by coordinated action of the State transportation agencies where the routes involve State-line connections.

(c) The designation of routes on the Federal-aid highway systems shall be in accordance with the planning process required, pursuant to the provisions at 23 U.S.C. 135, and, in urbanized areas, the provisions at 23 U.S.C. 134(a). The State shall cooperate with local and regional officials. In urbanized areas, the local officials shall act through the metropolitan planning organizations designated for such areas under 23 U.S.C. 134.

(d) In areas under Federal jurisdiction, the designation of routes on the Federal-aid highway systems shall be coordinated with the appropriate Federal agency.

§ 470.111 Interstate System procedures.

(a) Proposals for system actions on the Interstate System shall include a route description and a statement of justification. Proposals shall also include statements regarding coordination with adjoining States on State-line connections, with responsible local officials, and with officials of areas under Federal jurisdiction.

(b) Proposals for Interstate or future Interstate designation under 23 U.S.C. 139(a) or (b), as logical additions or connections, shall consider the criteria contained in appendix A of this subpart. For designation as a part of the Interstate system, 23 U.S.C. 139(a) requires that a highway meet all the standards of a highway on the Interstate System, be a logical addition or connection to the Interstate System, and have the affirmative recommendation of the State or States involved. For designation as a future part of the Interstate System, 23 U.S.C. 139(b) requires that a highway be a logical addition or connection to the Interstate System, have the affirmative recommendation of the State or States involved, and have the written agreement of the State or States involved that such highway will be constructed to meet all the standards of a highway on the Interstate System within twelve years of the date of the agreement between the FHWA Administrator and the State or States involved. Such highways must also be on the National Highway System.

(c) Proposals for Interstate designation under 23 U.S.C. 139(c) shall pertain only to Alaska or Puerto Rico. For designation as parts of the Interstate System, 23 U.S.C. 139(c) requires that highway segments be in States which have no Interstate System; be logical components to a system serving the State's principal cities, national defense needs and military installations, and traffic generated by rail, water, and air transportation modes; and have been constructed to the geometric and construction standards adequate for current and probable future traffic demands and the needs of the locality of the segment. Such highways must also be on the National Highway System.

(d) Routes proposed for Interstate designation under section 332(a)(2) of the NHS Designation Act of 1995 (NHS Act) shall be constructed to Interstate standards and connect to the Interstate

[1] The ''Federal-aid Policy Guide'' is available for inspection and copying as prescribed in 49 CFR part 7, Appendix D.

[2] This publication, revised in March 1989, is available on request to the FHWA, Office of Environment and Planning, HEP–10, 400 Seventh Street, SW., Washington, DC 20590.

System. Proposals shall consider the criteria contained in appendix B of this subpart.

(e) Proposals for Interstate route numbering shall be submitted by the State transportation agency to the Route Numbering Committee of the American Association of State Highway and Transportation Officials.

(f) Signing of corridors federally designated as future Interstate routes can follow the criteria contained in appendix C of this subpart. No law, rule, regulation, map, document, or other record of the United States, or of any State or political subdivision thereof, shall refer to any highway under 23 U.S.C. 139, nor shall any such highway be signed or marked, as a highway on the Interstate System until such time as such highway is constructed to the geometric and construction standards for the Interstate System and has been designated as a part of the Interstate System.

§ 470.113 National Highway System procedures.

(a) Proposals for system actions on the National Highway System shall include a route description, a statement of justification, and statements of coordination with adjoining States on State-line connections, with responsible local officials, and with officials of areas under Federal jurisdiction.

(b) Proposed modifications to the National Highway System shall enhance the national transportation characteristics of the National Highway System and shall follow the criteria listed in § 470.107. Proposals shall also consider the criteria contained in appendix D of this subpart.

§ 470.115 Approval authority.

(a) The Federal Highway Administrator will approve Federal-aid highway system actions involving the designation, or revision, of routes on the Interstate System, including route numbers, future Interstate routes, and routes on the National Highway System.

(b) The Federal Highway Administrator will approve functional classification actions.

Appendix A to Part 470, Subpart A—Guidance Criteria for Evaluating Requests for Interstate System Designations Under 23 U.S.C. 139 (a) and (b)

Section 139 (a) and (b), of title 23, U.S.C., permits States to request the designation of National Highway System routes as parts or future parts of the Interstate System. The FHWA Administrator may approve such a request if the route is a logical addition or connection to the Interstate System and has been, or will be, constructed to meet Interstate standards. The following are the general criteria to be used to evaluate 23 U.S.C. 139 requests for Interstate System designations.

1. The proposed route should be of sufficient length to serve long-distance Interstate travel, such as connecting routes between principal metropolitan cities or industrial centers important to national defense and economic development.

2. The proposed route should not duplicate other Interstate routes. It should serve Interstate traffic movement not provided by another Interstate route.

3. The proposed route should directly serve major highway traffic generators. The term ''major highway traffic generator'' means either an urbanized area with a population over 100,000 or a similar major concentrated land use activity that produces and attracts long-distance Interstate and statewide travel of persons and goods. Typical examples of similar major concentrated land use activities would include a principal industrial complex, government center, military installation, or transportation terminal.

4. The proposed route should connect to the Interstate System at each end, with the exception of Interstate routes that connect with continental routes at an international border, or terminate in a ''major highway traffic generator'' that is not served by another Interstate route. In the latter case, the terminus of the Interstate route should connect to routes of the National Highway System that will adequately handle the traffic. The proposed route also must be functionally classified as a principal arterial and be a part of the National Highway System system.

5. The proposed route must meet all the current geometric and safety standards criteria as set forth in 23 CFR part 625 for highways on the Interstate System, or a formal agreement to construct the route to such standards within 12 years must be executed between the State(s) and the Federal Highway Administration. Any proposed exceptions to the standards shall be approved at the time of designation.

6. A route being proposed for designation under 23 U.S.C. 139(b) must have an approved final environmental document (including, if required, a 49 U.S.C. 303(c) [Section 4(f)] approval) covering the route and project action must be ready to proceed with design at the time of designation. Routes constructed to Interstate standards are not necessarily logical additions to the Interstate System unless they clearly meet all of the above criteria.

Appendix B to Part 470, Subpart A—Designation of Segments of Section 332(a)(2) Corridors as Parts of the Interstate System

The following guidance is comparable to current procedures for Interstate System designation requests under 23 U.S.C. 139(a). All Interstate System additions must be approved by the Federal Highway Administrator. The provisions of section 332(a)(2) of the NHS Act have also been incorporated into the ISTEA as section 1105(e)(5)(A).

1. The request must be submitted through the appropriate FHWA Division and Regional Offices to the Associate Administrator for Program Development (HEP–10). Comments and recommendations by the division and regional offices are requested.

2. The State DOT secretary (or equivalent) must request that the route segment be added to the Interstate System. The exact location and termini must be specified. If the route segment involves more than one State, each affected State must submit a separate request.

3. The request must provide information to support findings that the segment (a) is built to Interstate design standards and (b) connects to the existing Interstate System. The segment should be of sufficient length to provide substantial service to the travelling public.

4. The request must also identify and justify any design exceptions for which approval is requested.

5. Proposed Interstate route numbering for the segment must be submitted to FHWA and the American Association of State Highway and Transportation Officials Route Numbering Committee.

Appendix C to Part 470, Subpart A—Policy for the Signing and Numbering of Future Interstate Corridors Designated by Section 332 of the NHS Designation Act of 1995 or Designated Under 23 U.S.C. 139(b)

Policy

State transportation agencies are permitted to erect informational Interstate signs along a federally designated future Interstate corridor only after the specific route location has been established for the route to be constructed to Interstate design standards.

Conditions

1. The corridor must have been designated a future part of the Interstate System under section 332(a)(2) of the NHS Designation Act of 1995 or 23 U.S.C. 139(b).

2. The specific route location to appropriate termini must have received Federal Highway (FHWA) environmental clearance. Where FHWA environmental clearance is not required or Interstate standards have been met, the route location must have been publicly announced by the State.

3. Numbering of future Interstate route segments must be coordinated with affected States and be approved by the American Association of State Highway and Transportation Officials and the FHWA at Headquarters. Short portions of a multistate corridor may require use of an interim 3-digit number.

4. The State shall coordinate the location and content of signing near the State line with the adjacent State.

5. Signing and other identification of a future Interstate route segment must not indicate, nor imply, that the route is on the Interstate System.

6. The FHWA Regional Office must confirm in advance that the above conditions have been met and approve the general locations of signs.

Sign Details

1. Signs may not be used to give directions and should be away from directional signs, particularly at interchanges.
2. An Interstate shield may be located on a green informational sign of a few words. For example: Future Interstate Corridor or Future I–00 Corridor.
3. The Interstate shield may not include the word ''Interstate.''
4. The FHWA Division Office must approve the signs as to design, wording, and detailed location.

Appendix D to Part 470, Subpart A—Guidance Criteria for Evaluating Requests for Modifications to the National Highway System

Section 103(b), of title 23, U.S.C., allows the States to propose modifications to the National Highway System (NHS) and authorizes the Secretary to approve such modifications provided that they meet the criteria established for the NHS and enhance the characteristics of the NHS. In proposing modifications under 23 U.S.C. 103(b), the States must cooperate with local and regional officials. In urbanized areas, the local officials must act through the metropolitan planning organization (MPO) designated for such areas under 23 U.S.C. 134. The following guidance criteria should be used by the States to develop proposed modifications to the NHS.

1. Proposed additions to the NHS should be included in either an adopted State or metropolitan transportation plan or program.
2. Proposed additions should connect at each end with other routes on the NHS or serve a major traffic generator.
3. Proposals should be developed in consultation with local and regional officials.
4. Proposals to add routes to the NHS should include information on the type of traffic served (i.e., percent of trucks, average trip length, local, commuter, interregional, interstate) by the route, the population centers or major traffic generators served by the route, and how this service compares with existing NHS routes.
5. Proposals should include information on existing and anticipated needs and any planned improvements to the route.
6. Proposals should include information concerning the possible effects of adding or deleting a route to or from the NHS might have on other existing NHS routes that are in close proximity.
7. Proposals to add routes to the NHS should include an assessment of whether modifications (adjustments or deletions) to existing NHS routes, which provide similar service, may be appropriate.
8. Proposed modifications that might affect adjoining States should be developed in cooperation with those States.
9. Proposed modifications consisting of connections to major intermodal facilities should be developed using the criteria set forth below. These criteria were used for identifying initial NHS connections to major intermodal terminals. The primary criteria are based on annual passenger volumes, annual freight volumes, or daily vehicular traffic on one or more principal routes that serve the intermodal facility. The secondary criteria include factors which underscore the importance of an intermodal facility within a specific State.

Primary Criteria

Commercial Aviation Airports

1. Passengers—scheduled commercial service with more than 250,000 annual enplanements.
2. Cargo—100 trucks per day in each direction on the principal connecting route, or 100,000 tons per year arriving or departing by highway mode.

Ports

1. Terminals that handle more than 50,000 TEUs (a volumetric measure of containerized cargo which stands for twenty-foot equivalent units) per year, or other units measured that would convert to more than 100 trucks per day in each direction. (Trucks are defined as large single-unit trucks or combination vehicles handling freight.)
2. Bulk commodity terminals that handle more than 500,000 tons per year by highway or 100 trucks per day in each direction on the principal connecting route. (If no individual terminal handles this amount of freight, but a cluster of terminals in close proximity to each other does, then the cluster of terminals could be considered in meeting the criteria. In such cases, the connecting route might terminate at a point where the traffic to several terminals begins to separate.)
3. Passengers—terminals that handle more than 250,000 passengers per year or 1,000 passengers per day for at least 90 days during the year.

Truck/Rail

1. 50,000 TEUs per year, or 100 trucks per day, in each direction on the principal connecting route, or other units measured that would convert to more than 100 trucks per day in each direction. (Trucks are defined as large single-unit trucks or combination vehicles carrying freight.)

Pipelines

1. 100 trucks per day in each direction on the principal connecting route.

Amtrak

1. 100,000 passengers per year (entrainments and detrainments). Joint Amtrak, intercity bus and public transit terminals should be considered based on the combined passenger volumes. Likewise, two or more separate facilities in close proximity should be considered based on combined passenger volumes.

Intercity Bus

1. 100,000 passengers per year (boardings and deboardings).

Public Transit

1. Stations with park and ride lots with more than 500 vehicle parking spaces, or 5,000 daily bus or rail passengers, with significant highway access (i.e., a high percentage of the passengers arrive by cars and buses using a route that connects to another NHS route), or a major hub terminal that provides for the transfer of passengers among several bus routes. (These hubs should have a significant number of buses using a principal route connecting with the NHS.)

Ferries

1. Interstate/international—1,000 passengers per day for at least 90 days during the year. (A ferry which connects two terminals within the same metropolitan area should be considered as local, not interstate.)
2. Local—see public transit criteria above.

Secondary Criteria

Any of the following criteria could be used to justify an NHS connection to an intermodal terminal where there is a significant highway interface:

1. Intermodal terminals that handle more than 20 percent of passenger or freight volumes by mode within a State;
2. Intermodal terminals identified either in the Intermodal Management System or the State and metropolitan transportation plans as a major facility;
3. Significant investment in, or expansion of, an intermodal terminal; or
4. Connecting routes targeted by the State, MPO, or others for investment to address an existing, or anticipated, deficiency as a result of increased traffic.

Proximate Connections

Intermodal terminals, identified under the secondary criteria noted above, may not have sufficient highway traffic volumes to justify an NHS connection to the terminal. States and MPOs should fully consider whether a direct connection should be identified for such terminals, or whether being in the proximity (2 to 3 miles) of an NHS route is sufficient.

[FR Doc. 97–16081 Filed 6–18–97; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972 Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy has determined that USS JUNEAU (LPD 10) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special functions as a naval vessel. The intended effect of

this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Captain R.R. Pixa, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, Virginia, 22332–2400, Telephone Number: (703) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS JUNEAU (LPD 10) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS: Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special functions as a naval vessel. The Deputy Assistant Judge Advocate General (Admiralty) of the Navy has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR Part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

2. Table Five of § 706.2 is amended by revising the entry for the USS JUNEAU to read as follows:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. annex I, sec. 3(a)	Percentage horizontal separation attained
* * * *		*	*		*
USS JUNEAU	LPD 10	N/A	N/A	X	49
* * * *		*	*		*

Dated: May 27, 1997.

Approved:

R.R. Pixa,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty).

[FR Doc. 97–16057 Filed 6–18–97; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 1, 2, 3, 8, 25, 26, 51, 54, 67, 70, 72, 80, 89, 114, 116, 127, 141, 147, 148, 151, 153, 154, 155, 156, 157, 158, 160, 161, 163, 164, 165, 167, 174, 175, and 187.

[CGD 97–023]

Technical Amendments; Organizational Changes; Miscellaneous Editorial Changes and Conforming Amendments

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends Title 33, Code of Federal Regulations, to reflect recent agency organizational changes. It also makes editorial changes throughout the title to correct addresses, update cross-references, make conforming amendments, and make other technical corrections. This rule will have no substantive effect on the regulated public.

DATES: This rule is effective on June 30, 1997.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the Office of the Executive Secretary, Marine Safety Council (G–LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593–0001 between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

FOR FURTHER INFORMATION CONTACT: Janet Walton, Project Manager, Standards Evaluation and Development Division (G–MSR–2), (202) 267–0257.

SUPPLEMENTARY INFORMATION:

Background and Purpose

Each year Title 33 of the Code of Federal Regulations (CFR) is recodified on July 1. This rule makes miscellaneous editorial changes, conforming amendments, and revisions relating to recent Coast Guard organizational changes, to be included in the 1997 recodification of Title 33.

Discussion of Changes

As part of its Headquarters reorganization, the Coast Guard changed senior management position titles from ''Chief'' to ''Assistant Commandant'' for the Acquisition, Civil Rights, Marine Safety and Environmental Protection, Operations, and Systems and Human Resources programs. This rule revises these titles to conform to the current organization.

This rule also makes editorial changes throughout the title, corrects addresses, updates cross-references, makes conforming amendments to geographical descriptions resulting from organizational changes, and makes other

technical and editorial corrections. This rule does not change any substantive requirements of existing regulations.

Section 2.05–35

This rule corrects a codification error that dropped a sentence from § 2.05–35, Exclusive Economic Zone.

Section 3.70–15

In § 3.70–15, the Coast Guard is revising the description of the Guam Captain of the Port and Marine Inspection zone to conform to the provisions of the Compact of Free Association with the Republic of Palau.

Part 148, Subpart G

On August 4, 1995, DOT published a final rule (60 FR 39849) adding to 33 CFR part 137 a new subpart G—Limits of Liability. Subpart G set the limits of liability for U.S. deepwater ports in accordance with section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704). On March 7, 1996, the Coast Guard issued its final rule on Financial Responsibility for Water Pollution (Vessels) (61 FR 9264). In that rule, the Coast Guard removed 33 CFR part 137 because it no longer governed vessel financial responsibility. This action erroneously removed subpart G of part 137 which should have been moved to 33 CFR part 148, Subchapter NN—Deepwater Ports. In order to correct the erroneous removal of subpart G, today's final rule adds to 33 CFR part 148 a new subpart G—Limits of Liability, consisting of § 148.701 and § 148.703 which contain the same regulatory text published by DOT in 1995.

Parts 161, 164, and 165

In parts 161, 164, and 165 the Coast Guard is changing the terms ''Automated Dependent Surveillance'' and ''Automated Dependent Surveillance Shipborne Equipment (ADS and ADSSE)'' to ''Automatic Identification System'' and ''Automatic Identification System Shipborne Equipment (AIS and AISSE)'' wherever it appears in these parts. This nomenclature change is necessary because of the recent international acceptance of AIS terminology in the development of equipment performance standards.

Section 167.154

In § 167.154, paragraph (a) is being revised because one of the coordinates for the south-eastern approach of the New York Traffic Separation Scheme was incorrect. This paragraph is revised to reflect the correct coordinates as adopted by the International Maritime Organization.

Since this amendment relates to departmental management, organization, procedure, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than 30 days after publication in the **Federal Register**. Therefore, this final rule is effective on June 30, 1997.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. As this rule involves internal agency practices and procedures, it will not impose any costs on the public.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under paragraph 2.B.2.e.(34) of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation. This exclusion is in accordance with paragraphs 2.B.2.e.(34)(a) and (b), concerning regulations that are editorial or procedural and concerning internal agency functions or organization. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects

33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Penalties.

33 CFR Part 2

Administrative practice and procedure, Law enforcement.

33 CFR Part 3

Organization and functions (Government agencies).

33 CFR Part 8

Armed forces reserves.

33 CFR Part 25

Authority delegations (Government agencies) Claims.

33 CFR Part 26

Communications equipment, Marine safety, Radio, Telephone, Vessels.

33 CFR Part 51

Administrative practice and procedure, Military personnel.

33 CFR Part 54

Alimony, Child support, Military personnel, Wages.

33 CFR Part 67

Continental shelf, Navigation (water), Reporting and recordkeeping requirements.

33 CFR Part 70

Navigation (water), Penalties.

33 CFR Part 72

Government publications, Navigation (water).

33 CFR Part 80

Navigation (water), Treaties, Waterways.

33 CFR Part 89

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

33 CFR Part 114

Bridges.

33 CFR Part 116

Bridges.

33 CFR Part 127

Fire prevention, Harbors, Natural gas, Reporting and recordkeeping requirements, Security measures.

33 CFR Part 141

Citizenship and naturalization, Continental shelf, Employment, Reporting and recordkeeping requirements.

33 CFR Part 147

Continental shelf, Marine safety, Navigation (water).

33 CFR Part 148

Administrative practice and procedure, Environmental protection, Harbors, Petroleum.

33 CFR Part 151

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

33 CFR Part 153

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 154

Fire prevention, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 155

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 156

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 157

Cargo vessels, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 158

Administrative practice and procedure, Harbors, Oil pollution, Penalties, Reporting and recordkeeping requirements, Water pollution control.

33 CFR Part 160

Administrative practice and procedure, Harbors, Hazardous materials transportation, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

33 CFR Part 161

Harbors, Navigation (water), Reporting and recordkeeping requirements, Vessels, Waterways.

33 CFR Part 163

Cargo Vessels, Harbors, Navigation (water), Waterways.

33 CFR Part 164

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

33 CFR Part 165

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

33 CFR Part 167

Harbors, Marine safety, Navigation (water), Waterways.

33 CFR Part 174

Intergovernmental relations, Marine safety, Reporting and recordkeeping requirements.

33 CFR Part 175

Marine safety.

33 CFR Part 187

Marine safety, Reporting and recordkeeping requirements, Administrative practice and procedure.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 1, 2, 3, 8, 25, 26, 51, 54, 67, 70, 72, 80, 89, 114, 116, 127, 141, 147, 148, 151, 153, 154, 155, 156, 157, 158, 160, 161, 163, 164, 165, 167, 174, 175, and 187 as follows:

PART 1—GENERAL PROVISIONS

Subpart 1.01—Delegation of Authority

1. The authority citation for subpart 1.01 continues to read as follows:

Authority: 14 U.S.C. 633; 33 U.S.C. 401, 491, 525, 1321, 2716, and 2716a; 46 U.S.C. 9615; 49 U.S.C. 322; 49 CFR 1.45(b), 1.46; section 1.01–70 also issued under the authority of E.O. 12580, 3 CFR, 1987 Comp., p. 193; and sections 1.01–80 and 1.01–85 also issued under the authority of E.O. 12777, 3 CFR, 1991 Comp., p. 351.

§ 1.01–40 [Amended]

2. In § 1.01–40 remove the words ''order or revocation'' and add, in their place, the words ''order of revocation''.

§ 1.01–60 [Amended]

3. In § 1.01–60(a), remove the word ''Chief,'' and add, in its place, the words ''Assistant Commandant for''.

§ 1.01–70 [Amended]

4. In § 1.01–70(b), remove the word ''Chief,'' and add, in its place, the words ''Assistant Commandant for''.

§ 1.01–80 [Amended]

5. In § 1.01–80(b), remove the word ''Chief,'' and add, in its place, the words ''Assistant Commandant for''.

Subpart 1.05—Rulemaking

6. The authority citation for subpart 1.05 continues to read as follows:

Authority: 5 U.S.C. 552, 553, App. 2; 14 U.S.C. 2, 631, 632, and 633; 33 U.S.C. 471, 499; 49 U.S.C. 101, 322; 49 CFR 1.4(b), 1.45(b), and 1.46.

§ 1.05–1 [Amended]

7. In § 1.05–1(g), remove the word ''Chief,'' and add, in its place, the words ''Assistant Commandant for'' wherever it appears in the paragraph.

PART 2—JURISDICTION

8. The authority citation for part 2 continues to read as follows:

Authority: 14 U.S.C. 633, 80 Stat. 931 (49 U.S.C. 1655(b)); 49 CFR 1.4(b), 1.46(b).

§ 2.05–1 [Amended]

9. In § 2.05–1(c), remove the words ''part 80 of this chapter'' and add, in their place, the words ''46 CFR 7''.

10. Revise § 2.05–35 to read as follows:

§ 2.05–35 Exclusive Economic Zone.

The Exclusive Economic Zone (EEZ) of the United States is a zone contiguous to the territorial sea, including zones contiguous to the territorial sea of the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands (to the extent consistent with the Covenant and the United Nations Trusteeship Agreement), and the United States overseas territories and possessions. The EEZ extends to a distance 200 nautical miles from the baseline from which the breadth of the territorial sea is measured. In cases where the maritime boundary with a neighboring State remains to be determined, the boundary of the EEZ will be determined by the United States and the other State concerned in accordance with equitable principles.

PART 3—COAST GUARD AREAS, DISTRICTS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT ZONES

11. The authority citation for part 3 continues to read as follows:

Authority: 14 U.S.C. 633; 49 CFR 1.45, 1.46.

§ 3.70–15 [Amended]

12. In § 3.70–15, remove paragraph (b)(3).

PART 8—UNITED STATES COAST GUARD RESERVE

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

Authority: 14 U.S.C. 633.

14. In § 8.1, paragraph (b)(1) is revised to read as follows:

§ 8.1 Functions of the Coast Guard Reserve.

* * * * *

(b) * * *

1. Partial or full mobilization under 10 U.S.C. 12301;

* * * * *

§ 8.5 [Amended]

15. In § 8.5, in paragraph (b)(3), remove the words ''Administration and Training'' and add, in their place, the word ''Policy''.

PART 25—CLAIMS

16. The authority citation for part 25 continues to read as follows:

Authority: 14 U.S.C. 633; 49 CFR 1.45(a); 49 CFR 1.45(b); 49 CFR 1.46(b), unless otherwise noted.

§ 25.103 [Amended]

17. In § 25.103, remove the words ''Governor's Island, New York, New York, 10004'' and add, in their place, the words ''300 East Main Street, Suite 965, Norfolk, VA 23510–9113''.

§ 25.111 [Amended]

18. In § 25.111(b) introductory text, remove the words ''Governor's Island, New York, New York, 10004'' and add, in their place, the words ''300 East Main Street, Suite 965, Norfolk, VA 23510–9113''.

PART 26—VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE REGULATIONS

19. The authority citation for part 26 continues to read as follows:

Authority: 14 U.S.C. 2; 33 U.S.C. 1201–1208; 49 CFR 1.45(b), 1.46; Rule 1, International Regulations for the Prevention of Collisions at Sea.

§ 26.08 [Amended]

20. In § 26.08(a), remove the word ''Chief,'' and add, in its place, the words ''Assistant Commandant for''.

PART 51—COAST GUARD DISCHARGE REVIEW BOARD

21. The authority citation for part 51 continues to read as follows:

Authority: 10 U.S.C. 1553.

§ 51.2 [Amended]

22. In § 51.2(a), remove the word ''Secretry'' and add, in its place, the word ''Secretary''.

PART 54—ALLOTMENTS FROM ACTIVE DUTY PAY FOR CERTAIN SUPPORT OBLIGATIONS

23. The authority citation for part 54 continues to read as follows:

Authority: 42 U.S.C. 665(c).

§ 54.07 [Amended]

24. In § 54.07, remove the words ''(LGL), U.S. Coast Guard Pay and Personnel Center'' and add, in their place, the words '', Coast Guard Human Resources Service and Information Center''.

PART 67—AIDS TO NAVIGATION ON ARTIFICIAL ISLANDS AND FIXED STRUCTURES

25. The authority citation for part 67 continues to read as follows:

Authority: 14 U.S.C. 85, 633; 43 U.S.C. 1333; 49 CFR 1.46.

§ 67.50–10 [Removed]

26. Remove § 67.50–10.

PART 70—INTERFERENCE WITH OR DAMAGE TO AIDS TO NAVIGATION

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

Authority: Secs. 14, 16, 30 Stat. 1152, 1153; secs. 84, 86, 92, 633, 642, 63 Stat. 500, 501, 503, 545, 547 (33 U.S.C. 408, 411, 412; 14 U.S.C. 84, 86, 92, 633, 642).

§ 70.05–20 [Amended]

28. In § 70.05–20, remove the words ''46 CFR 136.05'' and add, in their place, the words ''46 CFR 4''.

PART 72—MARINE INFORMATION

29. The authority citation for part 72 continues to read as follows:

Authority: 14 U.S.C. 93, 49 CFR 1.46.

30. Revise § 72.01–10 to read as follows:

§ 72.01–10 Notice to Mariners.

(a) ''Notice to Mariners'' is intended to advise mariners of new hydrographic discoveries, changes in channels and navigational aids, and information concerning the safety of navigation. ''Notice to Mariners'' also contains information—

(1) Useful in updating the latest editions of charts and publications of the National Imagery and Mapping Agency, National Ocean Service, U.S. Army Corps of Engineers, and Coast Guard;

(2) Selected from the ''Local Notice to Mariners'' issued and published by the 1st, 5th, 7th, 8th, 9th, 11th, 13th, 14th, and 17th Coast Guard districts; and

(3) Compiled from foreign notices to mariners, ship reports, and similar cooperating observer reports.

(b) ''Notice to Mariners'' is published weekly by the National Imagery and Mapping Agency. The ''Notice to Mariners'' is prepared by the:

(1) Coast Guard;

(2) National Ocean Service; and

(3) National Imagery and Mapping Agency.

(c) This notice may be obtained free of charge, upon request to the National Ocean Service (NOS): phone: (301) 436–6990/(800) 638–8972; FAX: (301) 436–6829; or mail: National Ocean Service/NOAA, Distribution Division N/ACC3, Riverdale, MD 20737–1199. Request should be based on affirmative need for the information.

31. Revise § 72.01–25 to read as follows:

§ 72.01–25 Marine broadcast notice to mariners.

(a) The Coast Guard broadcasts notices to mariners on its own or U.S. Navy radio stations to report navigational warnings containing information of importance to the safety of navigation of vessels, such as the position of ice and derelicts, defects, and changes to aids to navigation, and drifting mines. Radio stations broadcasting marine information are listed in ''Radio Navigational Aids'' (National Imagery and Mapping Agency publications 117A and 117B) and United States Coast Pilots.

(b) Any person may purchase ''Radio Navigational Aids'' from:

(1) Any authorized agent for the sale of National Imagery and Mapping Agency charts and publications.

(2) The National Imagery and Mapping Agency Depots or Offices.

(3) The National Ocean Service (NOS): phone: (301) 436–6990/(800) 638–8972; FAX: (301) 436–6829; or mail: National Ocean Service/NOAA, Distribution Division N/ACC3, Riverdale, MD 20737–1199.

(c) Any person may purchase United States Coast Pilots from any authorized agent for the sale of National Ocean Service charts and publications whose names and addresses are contained in the National Ocean Service Chart Catalogs.

32. Revise § 72.01–40 to read as follows:

§ 72.01–40 Single copies.

Single copies of the ''Notice to Mariners'' described in § 72.01–10 may be obtained or consulted at:

(a) Coast Guard District Commanders' Offices;

(b) National Ocean Service Field Offices;

(c) The National Imagery and Mapping Agency; and

(d) Custom Houses.

PART 80—COLREGS DEMARCATION LINES

33. The authority citation for part 80 continues to read as follows:

Authority: 14 U.S.C. 2; 14 U.S.C. 633; 33 U.S.C. 151(a); 49 CFR 1.46.

34. Remove the undesignated heading ''THIRD DISTRICT'', immediately following § 80.150 and immediately preceding § 80.155; and add the undesignated heading, ''Fifth District'',

immediately following § 80.170 and immediately preceding § 80.501.

PART 89—INLAND NAVIGATION RULES: IMPLEMENTING RULES

35. The authority citation for part 89 continues to read as follows:

Authority: 33 U.S.C. 2071; 49 CFR 1.46(n)(14).

§ 89.18 [Amended]

36. In § 89.18(a), remove the word ''Chief,'' and add, in its place, the words ''offices of Assistant Commandant for''.

PART 114—GENERAL

37. The authority citation for part 114 continues to read as follows:

Authority: 33 U.S.C. 401, 491, 499, 521, 525, and 535; 14 U.S.C. 633; 49 U.S.C. 1655(g); 49 CFR 1.46(c).

38. Revise § 114.05(l) to read as follows:

§ 114.05 Definitions.

* * * * *

(l) *Assistant Commandant for Operations.* The term ''Assistant Commandant for Operations'' means the officer of the Coast Guard designated by the Commandant as the staff officer in charge of the Office of Navigation Safety and Waterway Services, U.S. Coast Guard Headquarters.

§ 114.50 [Amended]

39. In § 114.50, remove the words ''U.S. Coast Guard'' immediately preceding the word ''Chief''.

PART 116—ALTERATION OF UNREASONABLY OBSTRUCTIVE BRIDGES

40. The authority citation for part 116 continues to read as follows:

Authority: 33 U.S.C. 401, 521; 49 U.S.C. 1655(g); 49 CFR 1.4, 1.46(c).

§ 116.55 [Amended]

41. In § 116.55, in paragraph (a), remove the words ''Chief, Operations'' and add, in its place, the words ''Assistant Commandant for Operations''; and paragraph (b) is revised to read as follows:

§ 116.55 Appeals.

* * * * *

(b) The appeal must be submitted in writing to the Assistant Commandant for Operations, U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593–0001, within 60 days after the District Commander's or the Chief's, Office of Bridge Administration decision. The Assistant Commandant for Operations will make a decision on the appeal within 90 days after receipt of the appeal. The Assistant Commandant for Operations' decision of this appeal shall constitute final agency action.

* * * * *

PART 127—WATERFRONT FACILITIES HANDLING LIQUEFIED NATURAL GAS AND LIQUEFIED HAZARDOUS GAS

42. The authority citation for part 127 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46.

Table 1 to Part 127 [Redesignated as Table 127.005]

43. In 33 CFR part 127, Table 1 is redesignated as Table 127.005.

§ 127.005 [Amended]

44. In § 127.005 remove the words ''Table 1 to this part'' and add, in their place, the words ''Table 127.005'' wherever they appear in this section.

§ 127.015 [Amended]

45. In § 127.015, in paragraphs (c)(1) and (d), remove the word ''Chief,'' and add, in its place, the words ''Assistant Commandant for''.

§ 127.1605 [Amended]

46. In § 127.1605, introductory text, remove the word ''are'' and add, in its place, the word ''area''.

PART 141—PERSONNEL

47. The authority citation for part 141 continues to read as follows:

Authority: 43 U.S.C. 1356; 49 CFR 1.46(z).

§ 141.5 [Amended]

48. In § 141.5, in paragraph (b)(1), remove the words ''46 U.S.C. 672a'' and add, in their place, the words ''46 U.S.C. 8103''; and in paragraph (b)(2) remove the words ''46 U.S.C. 1132'' and add, in their place, the words ''46 U.S.C. 7102 and 8103''.

PART 147—SAFETY ZONES

49. The authority citation for part 147 is revised to read as follows:

Authority: 14 U.S.C. 85; 43 U.S.C. 1333; 49 CFR 1.46.

PART 148—GENERAL

50. The authority citation for part 148 continues to read as follows:

Authority: Secs. 5(a), 5(b), Pub. L. 93–627, 88 Stat. 2131 (33 U.S.C. 1504(a), (b)); 49 CFR 1.46(s).

§ 148.211 and 148.217 [Amended]

51. In 33 CFR part 148, remove the word ''Chief,'' and add, in its place, the words ''Assistant Commandant for'' in the following sections:

(a) Section 148.211 introductory text; and

(b) Section 148.217(a).

52. A new subpart G consisting of §§ 148.701 and 148.703, is added to read as follows:

Subpart G—Limits of Liability

Sec.
148.701 Purpose.
148.703 Limits of liability.

Subpart G—Limits of Liability

§ 148.701 Purpose.

This subpart sets forth the limits of liability for U.S. deepwater ports in accordance with section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704).

§ 148.703 Limits of liability.

(a) The limits of liability for U.S. deepwater ports will be established by the Secretary of Transportation on a port-by-port basis, after review of the maximum credible spill and associated costs for which the port would be liable. The limit for a deepwater port will not be less than $50 million or more than $350 million.

(1) The limit of liability for the LOOP deepwater port licensed and operated by Louisiana Offshore Oil Port, Inc., is $62,000,000.

(2) [Reserved]

(b) [Reserved]

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

Subpart B—Transportation of Municipal and Commercial Waste

53. The authority citation for subpart B continues to read as follows:

Authority: 33 U.S.C. 2602; 49 CFR 1.46.

§ 151.1021 [Amended]

54. In § 151.1021, in paragraphs (b)(1) and (c), remove the word ''Chief,'' and add, in its place, the words ''Assistant Commandant for''.

PART 153—CONTROL OF POLLUTION BY OIL AND HAZARDOUS SUBSTANCES, DISCHARGE REMOVAL

55. The authority citation for part 153 is continues to read as follows:

Authority: 14 U.S.C. 633; 33 U.S.C. 1321; 42 U.S.C. 9615; E.O. 12580, 3 CFR, 1987 Comp., p. 193; E.O. 12777, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.45 and 1.46.

§ 153.103 [Amended]

56. In § 153.103(d), remove the word ''*Chief,*'' and add, in its place, the words ''*Assistant Commandant for*''.

57. Revise § 153.205 to read as follows:

§ 153.205 Fines.

Section 311(b)(5) of the Act prescribes that any person who fails to notify the appropriate agency of the United States Government immediately of a discharge is, upon conviction, fined in accordance with Title 18, U.S. Code, or imprisoned for not more than 5 years, or both.

Table 1 to Part 153 [Amended]

58. In Table 1 to part 153, under the heading ''Coast Guard District Offices'' remove the entry for the 2nd District; and in the entry for the 5th District remove the word ''804'' and add, in its place, the word ''757''.

59. In Table 2 to part 153, remove the word ''2nd'' and add, in its place, the word ''8th'' wherever it appears in the Table; and under the heading ''Region IV'' revise the entries for Alabama and Mississippi to read as follows:

TABLE 2.—STANDARD ADMINISTRATIVE REGIONS OF STATES AND CORESPONDING COAST GUARD DISTRICTS AND EPA REGIONS

States and EPA region	Coast Guard district
* * * * *	
Region IV:	
* * * * *	
Alabama	8th
Mississippi	8th
* * * * *	

PART 154—FACILITIES TRANSFERRING OIL OR HAZARDOUS MATERIAL IN BULK

60. The authority citation for part 154 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5), (j)(6) and (m)(2); sec. 2, E.O. 12777, 56 FR 54757; 49 CFR 1.46. Subpart F is also issued under 33 U.S.C. 2735.

§ 154.108 [Amended]

61. In § 154.108, in paragraphs (a) and (d), remove the word ''Chief,'' and add, in its place, the words ''Assistant Commandant for''.

PART 155—OIL OR HAZARDOUS MATERIAL POLLUTION PREVENTION REGULATIONS FOR VESSELS

62. The authority citation for part 155 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j); 46 U.S.C. 3715; Sec. 2, E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; 49 CFR 1.46. Sections 155.100 through 155.130, 155.350 through 155.400, 155.430, 155.440, 155.470, 155.1030 (j) and (k), and 155.1065(g) also issued under 33 U.S.C. 1903(b); and §§ 155.1110 and 155.1150 also issued under 33 U.S.C. 2735.

§ 155.350 [Amended]

63. In § 155.350, in paragraph (a)(2), remove the word ''155.10'' and add, in its place, the word ''151.10''.

§ 155.1065 [Amended]

64. In § 155.1065(h), remove the words ''Chief, Office of Marine Safety, Security and Environmental Protection'' and add, in their place, the words ''Assistant Commandant for Marine Safety and Environmental Protection''.

§ 155.1070 [Amended]

65. In § 155.1070(f) introductory text, remove the word ''Chief,'' and add, in its place, the words ''Assistant Commandant for''.

PART 156—OIL AND HAZARDOUS MATERIAL TRANSFER OPERATIONS

66. The authority citation for part 156 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j)(1)(C) and (D); 46 U.S.C. 3703a. Subparts B and C are also issued under 46 U.S.C. 3715.

§ 156.110 [Amended]

67. In § 156.110, in paragraphs (a) and (d), remove the word ''Chief,'' and add, in its place, the words ''Assistant Commandant for''.

PART 157—RULES FOR THE PROTECTION OF THE MARINE ENVIRONMENT RELATING TO TANK VESSELS CARRYING OIL IN BULK

68. The authority citation for part 157 continues to read as follows:

Authority: 33 U.S.C. 1903; 46 U.S.C. 3703, 3703a (note); 49 CFR 1.46. Subparts G, H, and I are also issued under sec. 4115(b), Pub. L. 101–380, 104 Stat. 520; Pub. L. 104–55, 109 Stat. 546.

§ 157.06 [Amended]

69. In § 157.06 in paragraphs (c) and (d), remove the word ''Chief,'' and add, in its place, the words ''Assistant Commandant for''.

§ 157.07 [Amended]

70. In § 157.07, remove the word ''fullfill'' and add, in its place, the word ''fulfill''.

71. In § 157.08, in paragraph (n)(2), remove the word ''or'; and add new paragraphs (n) (4), (5), and (6) to read as follows:

§ 157.08 Applicability of Subpart B.

* * * * *

(n) * * *

(4) A vessel documented under 46 U.S.C., Chapter 121, that was equipped with a double hull before August 12, 1992;

(5) A barge of less than 1,500 gross tons as measured under 46 U.S.C., Chapter 145, carrying refined petroleum in bulk as cargo in or adjacent to waters of the Bering Sea, Chukchi Sea, and Arctic Ocean and waters tributary thereto and in the waters of the Aleutian Islands and the Alaskan Peninsula west of 155 degrees west longitude; or

(6) A vessel in the National Defense Reserve Fleet pursuant to 50 App. U.S.C. 1744.

§ 157.306 [Amended]

72. In § 157.306(a), remove the word ''Chief,'' and add, in its place, the words ''Assistant Commandant for''.

PART 158—RECEPTION FACILITIES FOR OIL, NOXIOUS LIQUID SUBSTANCES, AND GARBAGE

73. The authority citation for part 158 continues to read as follows:

Authority: 33 U.S.C. 1903(b); 49 CFR 1.46.

§ 158.190 [Amended]

74. In § 158.190, in paragraphs (c)(1) and (d), remove the word ''Chief,'' and add, in its place, the words ''Assistant Commandant for''.

PART 160—PORTS AND WATERWAYS SAFETY—GENERAL

75. The authority citation for part 160 continues to read as follows:

Authority: 33 U.S.C. 1223, 1231; 49 CFR 1.46.

§ 160.7 [Amended]

76. In § 160.7(c), remove the word ''Chief,'' and add, in its place, the words ''Assistant Commandant for'' wherever it appears in the paragraph.

PART 161—VESSEL TRAFFIC MANAGEMENT

77. The authority citation for part 161 continues to read as follows:

Authority: 33 U.S.C. 1231; 33 U.S.C. 1223; 49 CFR 1.46.

§ 161.2 [Amended]

78. In § 161.2, in paragraph (1) in the definition for *Hazardous Vessel Operating Condition*, remove the words ''automated dependent surveillance equipment'' and add, in their place, the words ''Automatic Identification System equipment''.

§ 161.23 [Amended]

79. In § 161.23(c), remove the words ''Automated Dependent Surveillance''

and add, in their place, the words ''Automatic Identification System'; and remove the word ''ADSSE'' and add, in its place, the word ''AISSE'' wherever it appears in the section and in the note immediately following the section.

PART 163—TOWING OF BARGES

80. The authority citation for part 163 is revised to read as follows:

Authority: 33 U.S.C. 152, 2071; 49 CFR 1.46.

PART 164—NAVIGATION SAFETY REGULATIONS

81. The authority citation for part 164 continues to read as follows:

Authority: 33 U.S.C. 1223, 1231; 46 U.S.C. 2103, 3703; 49 CFR 1.46. Sec. 164.13 also issued under 46 U.S.C. 8502. Sec. 164.61 also issued under 46 U.S.C. 6101.

§ 164.41 [Amended]

82. In § 164.41, in paragraph (a)(3), remove the word ''Chief,'' and add, in its place, the words ''Assistant Commandant for''.

§ 164.43 [Amended]

83. In § 164.43, in the heading and paragraph (a), remove the words ''Automated Dependent Surveillance'' and add, in their place, the words ''Automatic Identification System'; and remove the word ''ADSSE'' and add, in its place, the word ''AISSE'' wherever it appears in the section.

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

84. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

PART 165—[Amended]

85. Remove the undesignated heading, ''Second Coast Guard District'', immediately following § 165.178 and immediately preceding § 165.205.

§ 165.205 [Redesignated as § 165.821]

86. Section 165.205 is redesignated as § 165.821.

§ 165.1704 [Amended]

87. In § 165.1704, in paragraph (c)(6) and in the note immediately following the section, remove the words ''Automated Dependent Surveillance'' and add, in their place, the words ''Automatic Identification System'; and remove the word ''ADSSE'' and add, in its place, the word ''AISSE'' wherever it appears in the section and in the note immediately following the section.

PART 167—OFFSHORE TRAFFIC SEPARATION SCHEMES

88. The authority citation for part 167 continues to read as follows:

Authority: 33 U.S.C. 1223; 49 CFR 1.46.

89. Revise § 167.154(a) to read as follows:

§ 167.154 South-eastern approach.

(a) A separation zone is established bounded by a line connecting the following geographical positions:

Latitude	*Longitude*
40°03.10′ N	73°17.93′ W
40°06.50′ N	73°22.73′ W
40°22.45′ N	73°43.55′ W
40°23.20′ N	73°42.70′ W
40°08.72′ N	73°20.10′ W
40°05.32′ N	73°15.28′ W

PART 174—STATE NUMBERING AND CASUALTY REPORTING SYSTEMS

90. The authority citation for part 174 continues to read as follows:

Authority: 46 U.S.C. 6101, 12302; 49 CFR 1.46.

§ 174.3 [Amended]

91. In § 174.3 remove the definition for the term *Act*.

92. Revise § 174.5 to read as follows:

§ 174.5 Requirements for approval.

The Commandant approves a State numbering system if he finds, after examination of the information submitted by a State, that the State numbering system and vessel casualty reporting system meet the requirements in this part, 46 U.S.C. 6102, and in Chapter 123 of Title 46 U.S. Code relating to numbering and casualty reporting.

PART 175—EQUIPMENT REQUIREMENTS

93. The authority citation for part 175 continues to read as follows:

Authority: 46 U.S.C. 4302; 49 CFR 1.46.

§ 175.17 [Amended]

94. In § 175.17 remove paragraph (g).

PART 187—VESSEL IDENTIFICATION SYSTEM

95. The authority citation for part 187 continues to read as follows:

Authority: 46 U.S.C. 2103; 49 CFR 1.46.

§ 187.201 [Amended]

96. In § 187.201(c), remove the words ''issuing Coast Guard Vessel Documentation Office'' and add, in their place, the words ''Coast Guard National Vessel Documentation Center'.

Dated: June 10, 1997.

R.C. North,

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

[FR Doc. 97–15928 Filed 6–18–97; 8:45 am]

BILLING CODE 4910–14–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 200

Organization, Functions, and Procedures

AGENCY: Forest Service, USDA.

ACTION: Final rule; technical amendment.

SUMMARY: This final rule amends 36 CFR part 200 to: Update field unit names and addresses and make minor corrections to language and format. The intended effect of this action is to ensure that agency organization and function is current.

EFFECTIVE DATE: June 19, 1997.

FOR FURTHER INFORMATION CONTACT: Elizabeth M. Anderson, Regulatory Analyst, (703) 235–2994.

SUPPLEMENTARY INFORMATION: This final rule amends 36 CFR part 200, making minor changes in text and format to update the names and addresses of Forest Service field units and making other minor editorial revisions. Section 200.1(a) is revised to update the address of the national office of the Forest Service. Section 200.1(c)(2) is revised to update the numbers of administrative units within the National Forest System. Section 200.2 is revised to reflect changes in the scope of the field research organization, to indicate the establishment of the International Institute of Tropical Forestry as a unit reporting to the Chief, and to correct unit names and addresses.

In addition, § 200.4 has been updated to clarify the description of the Forest Service Directive System with respect to the issuance of directives, correspondence, and memoranda. Section 200.10 has been revised to make a full cross-reference to Department of Agriculture rules governing requests for records at 7 CFR 1.6 and to update the list of agency officials who have the authority to grant or deny requests for records to include the Director of Law Enforcement and Investigations and the Regional Special Agent in Charge. Finally §§ 200.1, 200.2, and 200.11 are amended to remove gender-specific references.

Environmental Impact

This rulemaking consists of technical and administrative changes to the organization and procedures of the agency. Section 31.1b of Forest Service Handbook 1901.15 (57 FR 43180; September 18, 1992) excludes from documentation in an environmental assessment or impact statement ''rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions.'' Also, 7 CFR 1b.3(a)(1) excludes from documentation ''policy development, planning, and implementation which relate to routine activities, such as personnel, organizational changes, or similar administrative functions.'' Based on the nature and scope of this rulemaking, the Forest Service has determined that this rule falls within both of these categories of actions and that no extraordinary circumstances exist that would have a significant effect on the human environment and; therefore, preparation of an environmental assessment or environmental impact statement is not required.

Controlling Paperwork Burdens on the Public

This technical rule does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR part 1320 and, therefore, imposes no paperwork burden on the public. Accordingly, the review provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) and implementing regulations at 5 CFR 1320 do not apply.

Regulatory Impact

This technical rule relates to internal agency management and organization; therefore, pursuant to the Administrative Procedures Act (5 U.S.C. 553), notice and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. Furthermore, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12866 on Regulatory Planning and Review. Finally, this action is not a rule as defined in the Regulatory Flexibility Act (5 U.S.C. 601, *et seq*), and, thus, is exempt from the provisions of that Act.

No Takings Implications

This technical rule has been reviewed in accordance with the principles and criteria contained in Executive Order 12630 and it has been determined that the rule does not pose the risk as a taking of constitutionally protected private property.

Civil Justice Reform Act

This technical rule has been reviewed under Executive Order 12778, Civil Justice Reform. Under this rule: (1) All state and local laws and regulations that are in conflict with this rule or which could impede its full implementation will be preempted; (2) No retroactive effect will be given to this rule; and (3) No administrative procedures are required before parties may file suit in court challenging its provisions.

Unfunded Mandates Reform

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the Department has assessed the effects of this rule on State, local, and tribal government and the private sector. This technical rule does not compel the expenditure of $100 million or more by any State, local, and tribal governments or anyone in the private sector. Therefore, a statement under section 202 of the Act is not required.

List of Subjects in 36 CFR Part 200

Administrative practice and procedure, Freedom of information, Organization and functions (Government agencies).

Therefore, for reasons set forth in the preamble, Part 200 of Title 36 of the Code of Federal Regulations is hereby amended as follows;

PART 200—ORGANIZATION, FUNCTIONS, AND PROCEDURES

1. Revised the authority citation for 36 CFR part 200 to read as follows:

Authority: 5 U.S.C. 552; 7 U.S.C. 6706; 16 U.S.C. 472, 521, 1603, *and* 2101 *et seq.*

2. Amend § 200.1 as follows:

a. by removing the National Forest System table in paragraph (c)(2) and adding in its place the following:

§ 200.1 Central organization.

* * * * *

(c) * * *

(2) * * *

155 Proclaimed or designated National Forests
20 National Grasslands
51 Purchase Units
8 Land Utilization Projects
20 Research and Experimental Areas
33 Other Areas

* * * * *

b. And, by revising the first and last sentences of paragraph (a) to read as follows:

§ 200.1 Central organization.

(a) *Central office.* The national office of the Forest Service, U.S. Department of Agriculture, is located in the Auditors Building, 14th and Independence Avenue, SW. Washington, DC. * * * All communications should be addressed to the Forest Service, Department of Agriculture, P.O. Box 96090, Washington, DC 20090–6090.

* * * * *

§ 200.2 [Amended]

3. Amend § 200.2 as follows:

a. by removing the word ''his'' in the second sentence of paragraph (a) and adding in its place the word ''that,'' and

b. By redesignating paragraph (d) as (e) and by revising paragraphs (b) and (c) and adding a new paragraph (d) to read as follows:

§ 200.2 Field organization.

* * * * *

(b) *Forest and rangeland research coordination.* The field research program is coordinated by six research stations, the national Forest Products Laboratory, and the International Institute of Tropical Forestry. Each has a headquarters office and a Director who is responsible to the Chief for all research activities within a geographical area of the United States or its territories. Scientists are based at Research Work Units with laboratories located in 36 lower States, Hawaii, Alaska, and Puerto Rico. Scientists primarily conduct their work within a given geographical area, but due to the integrated and cooperative nature of the research program, they make work nationwide and internationally.

(c) *State and private forestry cooperation.* Field level cooperation between the Forest Service, States, and the private sector on forestry activities is accomplished by the Northeastern Area State and Private Forestry for the Northeastern States; and by the National Forest Regional Offices in the Southeastern and Western States. The Northeastern Area is supervised by an Area Director who is responsible to the Chief for State and private forestry activities within the Area. Regional Foresters in Regions 1 through 8 and Region 10 are responsible for State and private forestry activities within those regions.

(d) *International Institute of Tropical Forestry.* The Institute is managed by a Director who is the senior Forest Service official in Puerto Rico. The Director is responsible to the Chief for planning and directing research, science and technology exchange, technical assistance to the Commonwealth of Puerto Rico, and international

cooperation on natural resources concerning tropical forestry.

* * * * *

c. By amending the table entitled ''National Forests by Region'' in redesignated paragraph (e) as follows:

Region 1: Insert the words ''P.O. Box 7669,'' after the words ''Federal Bldg.,'' and before the word ''Missoula'' in the left hand column thereof. Remove the number ''59801'' in the left hand column thereof and add in its place the number ''59807.''

Region 2: Remove the words ''11177 West 8th St.'' and add the words ''740 Simms Street, P.O. Box 25127,'' after the words ''Regional Forester,'' and before the words ''Lakewood, CO 80225'' in the left hand column thereof. Remove the line beginning with the words ''Rio Grande'' in the middle column and ending with ''Monte Vista'' in the right hand column. Remove the lines beginning with the word ''Routt'' in the middle column and ending with the words ''Steamboat Springs'' in the right hand column. Insert the words ''-Rio Grande'' after the words ''San Juan'' in the middle column thereof. Remove the word ''Durango'' in the right hand column thereof and add in its place the words ''Monte Vista.'' Insert the word ''-Routt'' after the words ''Medicine Bow'' in the middle column thereof.

Region 4: Remove the word ''Reno'' in the right hand column thereof and add in its place the word ''Sparks.''

Region 5: Remove the word ''Pasadena'' in the right hand column thereof and add in its place the word ''Arcadia.''

Region 6: Remove the words ''319 Southwest Pine St.'' after the words ''Regional Forester'' and before the words ''P.O. Box 3623'' in the left hand column thereof and add in their place the words ''333 S.W. 1st Avenue.'' Remove the words ''Portland'' and ''Seattle'' in the right hand column thereof and add in their place the words ''Gresham'' and ''Mountain Terrace,'' respectively.

Region 8: Remove the number ''30309'' after the words ''Atlanta, GA'' in the left hand column thereof and add in its place the number ''30367.'' Insert the word ''-Jefferson'' after the words ''George Washington'' in the middle column thereof. Remove the word ''Harrisonburg'' in the right hand column and add in its place the word ''Roanoke.'' Remove the line beginning with the word ''Jefferson'' in the middle column and ending with the word ''Roanoke'' in the right hand column.

Region 9: Remove the number ''633'' after the words ''Regional Forester'' and before the words ''West Wisconsin Ave.'' in the left hand column thereof and add in its place the number ''310.''

Region 10: Remove the words ''P.O. Box 1628, Juneau, AK 99802'' following the words ''Federal Office Bldg.'' in the left hand column thereof and add in their place the words ''P.O. Box 21628, Juneau, AK 99802–1628).''

d. By revising the table entitled ''Forest and Range Experiment Stations'' in redesignated paragraph (e) to read as follows:

Forest and Range Experiment Stations, Laboratories, and Institutes Name of Unit and Headquarters of Director

North Central Research Station—1995 Folwell Avenue, St. Paul, MN 55108.

Northeastern Research Station—100 Matsonford Road, 5 Radnor Corporate Center, Suite 200, P.O. Box 6775, Radnor, PA 19087–4585.

Pacific Northwest Research Station—333 S.W. 1st Avenue, P.O. Box 3890, Portland, OR 97208–3890.

Pacific Southwest Research Station—800 Buchanan Street, West Building, Albany, CA 94710–0011.

Rocky Mountain Research Station—240 West Prospect Street, Fort Collins, CO 80526–2098.

Southern Research Station—200 Weaver Boulevard, P.O. Box 2680, Asheville, NC 28802.

Laboratory

Forest Products Laboratory—One Gifford Pinchot Drive, Madison, WI 53705–2398.

Institute

International Institute of Tropical Forestry—Call Box 25000, UPR Experimental Station Grounds, Rio Piedras, Puerto Rico 00928–2500.

e. And, by revising the listing entitled ''State and Private Forestry Areas'' in redesignated paragraph (e) to read as follows:

State and Private Forestry Area Office

Director, Northeastern Area—100 Matsonford Road, P.O. Box 6775, Radnor, PA 19087–4585.

Note: In Regions 1 through 8 and 10, State and Private Forestry activities are directed from Regional headquarters.

4. Revise § 200.4 to read as follows:

§ 200.4 Administrative issuances.

(a) The regulations of the Secretary of Agriculture governing the protection and administration of National Forest System lands and other programs of the Forest Service are set forth in Chapter 2 of Title 36 of the Code of Federal Regulations.

(b) Administrative policy, procedure, and guidance to Forest Service employees for the conduct of Forest Service activities are issued as directives, or through correspondence, by the office of the Chief of the Forest Service and by the field officers listed in § 200.2.

(1) Directives are issued through the Forest Service Directive System, which is comprised of the Forest Service Manual and related Forest Service Handbooks. The Directive System codifies the agency's policy, practice, and procedure affecting more than one unit and the delegations of continuing authority and assignment of continuing responsibilities; serves as the primary administrative basis for the internal management and control of all programs; and is the primary source of administrative direction to Forest Service employees.

(2) In contrast to direction issued through the Directive System, guidance issued to one or more organizational units through letters and memoranda relate to decisions or interpretations on specific activities, cases, or incidents or to other matters of agency business, especially those matters of short-term duration or immediate interest.

(c) Forest Service Directive System issuances are published under delegated authority as follows:

(1) The Forest Service Manual and Forest Service Handbook issuances to all Forest Service units are published by the Office of the Chief.

(2) Forest Service Manual and Forest Service Handbook issuances may be supplemented as needed for field office use by a Regional Forester, a Regional Special Agent in Charge of Law Enforcement and Investigations, a Research Station Director, the International Institute for Tropical Forestry Director, the Area Director, or a Forest Supervisor.

(d) Guidance issued through letters and memoranda must be issued in accordance with signing authorities delegated through issuances to the Forest Service Directive System.

(e) An alphabetical index of the contents of the Forest Service Manual and related Forest Service Handbooks is published in Forest Service Handbook 1109.11, Directive System User Guide. The index contains a listing of all Series, Titles, and Chapters in the Forest Service Manual and a listing of all Forest Service Handbooks in the Directive System.

(f) Forest Service Handbook 6209.11, Records Management Handbook, outlines and indexes the filing system for all correspondence and other records.

(g) Forms and reports used by the agency are listed in, and instructions for their use are issued throughout, the Forest Service Directive System and are collated in Forest Service Handbook

1309.14, Information Requirements Handbook.

6. Revise §§ 200.7 and 200.8 to read as follows:

§ 200.7 Request for records.

Requests for records and the processing of those records are governed by the rules at 7 CFR 1.6. Agency officials are authorized to receive and act on requests for records as follows:

(a) The Regional Forester, Regional Special Agent in Charge, Research Station Director, and Area Director at the field locations and addresses listed in § 200.2; the Director of Law Enforcement and Investigations; and the Deputy Chief for the program area involved, located in Washington, DC, are authorized to receive requests for such records, to make determinations regarding whether records exist, and to grant or deny requests for records exempt from disclosure under the provisions of 5 U.S.C. 552(b).

(b) Each of the officials listed in paragraph (a) of this section also is authorized to take the following actions:

(1) Extend the 10-day administrative deadline for reply pursuant to 7 CFR 1.14;

(2) Make discretionary releases pursuant to 7 CFR 1.17(b) of records exempt from mandatory disclosure;

(3) Deny records pursuant to 5 U.S.C. 552(b); and

(4) Make determinations regarding the charges of fees pursuant to 7 CFR 1.8(a).

§ 200.8 Appeals.

(a) Appeals from denials of requests submitted under § 200.7 shall be submitted in accordance with 7 CFR 1.6(e) of the Chief, Forest Service, U.S. Department of Agriculture, Auditors Building, 14th and Independence Avenue, SW., P.O. Box 96090, Washington, DC 20090–6090.

(b) The Chief, or other official to whom such authority is delegated, shall determine whether to grant or deny the appeal and make all necessary determinations relating to an extension of the 20-day administrative deadline for reply pursuant to 7 CFR 1.14, discretionary release pursuant to 7 CFR 1.17(b) of records exempt from mandatory disclosure under 5 U.S.C. 552(b), and charging the appropriate fees.

Dated: June 11, 1997.

Ronald E. Stewart,

Acting Chief.

[FR Doc. 97–16011 Filed 6–18–97; 8:45 am]

BILLING CODE 3410–11–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket No. 95–19; DA 97–1212]

Authorization Procedures for Digital Devices

AGENCY: Federal Communications Commission.

ACTION: Final rule; delay of effective date.

SUMMARY: This action delays the effective date of the transition provision of § 15.37(g) by 90 days from June 19, 1997, to September 17, 1997. The Commission received three Petitions for Reconsideration filed by the Information Technology Industry Council, Hewlett-Packard Company, and Intel Corporation. The extension will permit the Commission to act on the petitions and should allow manufacturers sufficient time to implement any changes to the rules.

EFFECTIVE DATE: The effective date for the amendment to § 15.37 published June 19, 1996, 61 FR 31049, is delayed until September 17, 1997.

FOR FURTHER INFORMATION CONTACT: Anthony Serafini at (202) 418–2456 or Neal McNeil (202) 418–2408.

SUPPLEMENTARY INFORMATION: In ET Docket 95–19, DA 97–1212, the Commission adopted and released an Order on June 10, 1997, extending the transition provision of § 15.37(g) of the rules. By Report and Order , 61 FR 31044, June 19, 1996, the Commission set an effective date of June 19, 1997, as the transition provision of § 15.37(g) of the rules. This action extends the effective date of the transition provision of § 15.37(g) by 90 days from June 19, 1997 to September 17, 1997. Section 15.37(g) requires that the manufacture and importation of Central Processing Unit (CPU) boards and power supplies designed to be used with personal computers, cease on or before June 19, 1997, unless these products have been authorized under a Declaration of Conformity or a grant of certification. The Commission received three Petitions for Reconsideration filed by the Information Technology Industry Council, Hewlett-Packard Company, and Intel Corporation in the above captioned matter. The Commission expects to act on these petitions in the near future. We recognize that manufacturers are concerned about finalizing their designs until the issues raised in the petitions are resolved. An extension of 90 days will permit the Commission to act on the petitions and should allow manufacturers sufficient time to implement any changes to the rules. Accordingly, It is Ordered, that the effective date of § 15.37(g) is extended to September 17, 1997.

This action is taken pursuant to authority found in sections 4 (i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154 (i) and 303; and pursuant to 0.31 and 0.241 of the Commission's Rules, 47 CFR 0.31 and 0.241. For further information contact the Office of Engineering and Technology, Anthony Serafini at (202) 418–2456 or Neal McNeil (202) 418–2408.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–16052 Filed 6–18–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC98

Endangered and Threatened Wildlife and Plants; Endangered Status for the Plant Lessingia Germanorum (San Francisco Lessingia) From California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines endangered status pursuant to the Endangered Species Act of 1973, as amended (Act) for *Lessingia germanorum* (San Francisco lessingia), a plant from the San Francisco peninsula of California. *L. germanorum* occurs in central dune scrub habitats. It is known from five sites on the Presidio in San Francisco County, and one site on San Bruno Mountain in San Mateo County, California. This taxon has been affected by and is endangered by competition from invasive alien plants, shading by alien and native plants, urban development, bulldozing, sand quarrying, fertilizer-contaminated run-off, habitat damage and trampling by pedestrians, bicycles, and off-road vehicles, and other human activities. Because of its small population size and extremely restricted distribution, *L. germanorum* is also subject to an increased risk of extinction from natural events. This rule implements Federal protection and provisions provided by the Act. A notice of withdrawal of the proposal to list *Arctostaphylos*

imbricata (San Bruno Mountain manzanita), which was proposed for listing along with *L. germanorum*, is published concurrently with this notice.

EFFECTIVE DATE: July 21, 1997.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the Sacramento Field Office, U.S. Fish and Wildlife Service, 3310 El Camino Avenue, Sacramento, California 95821–6340.

FOR FURTHER INFORMATION CONTACT: Kirsten Tarp, Sacramento Field Office at the above address or by telephone at 916–979–2120.

SUPPLEMENTARY INFORMATION:

Background

Lessingia germanorum (San Francisco lessingia) is endemic to the northern San Francisco peninsula in California where it is found within central dune scrub habitats. Natural habitats of the northern San Francisco peninsula have undergone extensive change as a result of human activities. The northern part of the San Francisco peninsula is highly urbanized. By 1984, over 90 percent of the northern peninsula's natural habitats had been disturbed or eliminated (Orsak and Schooley 1984). Urbanization has eliminated *L. germanorum* from part of its range, and intensive commercial and residential development are ongoing. Urban development has also fragmented the remaining habitats for this plant. Habitat fragmentation increases the risk of extinction due to a natural event such as a pest or disease outbreak or reproductive failure (populations of annual species especially are affected by reproductive failure). Human activities such as bulldozing, sand quarrying, fertilizer use, and pedestrian, bicycle, and off-road vehicle traffic also threaten the few remaining occurrences of this plant.

Lessingia germanorum was described by Adelbert von Chamisso in 1829, who first collected it in 1816 on the sand hills of San Francisco, California (Howell 1929). Chamisso named it in honor of the Lessings, a German family of scientists and authors. Howell (1929) recognized 11 varieties of *L. germanorum*. Under the rules for botanical nomenclature, when a new subspecies is described for a species not previously divided into infraspecific taxa, an autonym (an automatically created name) is created (i.e., *L. germanorum* var. *germanorum*). Howell distinguished *L. germanorum* var. *germanorum* from the other varieties by the presence of few glands and by the absence of either odorous or bitter glandular secretions. Other treatments (Ferris 1959, Munz and Keck 1968) also recognized varieties of *L. germanorum*. Currently, *L. germanorum* is recognized as a distinct species (Lane 1993).

Lessingia germanorum is a slender annual of the aster family (Asteraceae) with diffusely branched stems 10 to 30 centimeters (4 to 12 inches) high. The leaves and stems are glandless and covered with grayish, loosely interwoven hairs. Tubular, lemon-yellow, disc flowers with a brownish or purplish band are clustered into heads that are solitary at the end of branchlets. The seeds, which are attached to a crown of hairlike bristles, are light and easily carried by the wind. *L. germanorum* typically flowers between August and November.

Historically, *Lessingia germanorum* occurred within central dune scrub habitats throughout the San Francisco peninsula. *L. germanorum* is currently restricted to the Presidio area of the San Francisco peninsula (five occurrences), and near the base of San Bruno Mountain (one occurrence). *L. germanorum* grows on remnant sand dunes and sand terraces in open areas with blowing sand (Susan Smith, Yerba Buena Chapter, California Native Plant Society, pers. comm. 1992), at an elevation range between 24 to 91 meters (80 to 300 feet). It is associated with *Chorizanthe cuspidata* (San Francisco spine flower), *Lotus scoparius* (California broom), and *Lupinus arboreus* (yellow bush lupine) or *Lupinus chamissonis* (Chamisso's bush lupine). Of the five small populations at the Presidio, one was established after approximately 7.6 cubic meters (10 cubic yards) of sand was removed from the site of another population for use on the Presidio golf course. The San Bruno Mountain population was discovered in 1989. The total area of all known populations is less than 0.8 hectares (2 acres) (Terri Thomas, Golden Gate National Recreation Area, pers. comm. 1993; Paul Reeberg, National Park Service, pers. comm. 1993). The number of individuals of *L. germanorum* varies from year to year, but from 1980 to 1989 the annual total on the Presidio was less than 1,500 (California Department of Fish and Game (CDFG) 1989). The population on San Bruno Mountain is estimated at 1,600 to 1,800 individuals (Paul Reeberg, pers. comm. 1993). Populations within the Presidio are managed by the National Park Service. The population on San Bruno Mountain is jointly owned by Daly City and a private landowner (Annemarie Quevedo, Assistant Planner for Daly City, *in litt.* 1992).

The Presidio populations are threatened by competition from invasive alien plants, shading by alien and native shrubs and trees, bulldozing, sand quarrying, trampling by pedestrians, and other human activities (CDFG 1989; California Natural Diversity Database (CNDDB) 1994; Susan Smith, pers. comm. 1992; Paul Reeberg, pers. comm. 1993; Terri Thomas, pers. comm. 1993). The population on San Bruno Mountain is threatened by urbanization, trampling, competition from invasive alien plants, bulldozing, and fertilizer-contaminated run-off (Thomas Reid Associates, *in litt.* 1991; Susan Smith, pers. comm. 1992; Paul Reeberg, pers. comm. 1993).

Previous Federal Action

On December 15, 1980, the Service published in the **Federal Register** an updated Notice of Review for plants (45 FR 82480) which included *Lessingia germanorum* (as *L. germanorum* var. *germanorum*) as a category 1 candidate for Federal listing. Category 1 taxa were formerly defined as those taxa for which the Service had on file sufficient information on status and threats to support issuance of a listing proposal. On November 28, 1983, the Service published in the **Federal Register** a supplement to the Notice of Review (48 FR 53640) which changed *L. germanorum* var. *germanorum* from a category 1 to a category 2 candidate. Category 2 taxa were formerly defined as those taxa for which data in the Service's possession indicated listing was possibly appropriate, but for which sufficient data on status and threats was not currently known or on file to support proposed rules. The plant notice was revised again on September 27, 1985 (50 FR 39526), February 21, 1990 (55 FR 6184), and September 30, 1993 (58 FR 51144). In these three notices *L. germanorum* var. *germanorum* was included as a category 1 candidate.

Mr. Brian O'Neill, General Superintendent of the Golden Gate National Recreation Area, petitioned the Service to emergency list *Lessingia germanorum* as an endangered species on May 28, 1991. Although the Service did not emergency list *L. germanorum*, it did publish a 90-day finding in the **Federal Register** on August 19, 1992 (57 FR 37513) that substantial information had been presented indicating that listing may be warranted. Section 4(b)(3)(B) of the Act requires the Secretary to make findings on petitions found to present substantial information indicating that the petitioned action may be warranted within 12 months of their receipt. The Service conducted a

status review and determined that the petitioned action was warranted. A proposal to list *L. germanorum* as endangered and *Arctostaphylos imbricata* as threatened was published on October 4, 1994 (59 FR 50550). Publication of the proposed rule constituted the final finding for the petitioned action.

Based upon new information received since publishing the proposed rule, the proposed listing of *Arctostaphylos imbricata* has been withdrawn by the Service as announced in a separate **Federal Register** notice published concurrently with this notice.

The processing of this final listing rule conforms with the Service's final listing priority guidance published on December 5, 1996 (61 FR 64475). The guidance clarifies the order in which the Service will process rulemakings following two related events, the lifting, on April 26, 1996, of the moratorium on final listings imposed on April 10, 1995 (Pub. L. 104–6) and the restoration of significant funding for listing through passage of the omnibus budget reconciliation law on April 26, 1996, following severe funding constraints imposed by a number of continuing resolutions between November 1995 and April 1996. The guidance calls for giving highest priority to handling emergency situations (Tier 1) and second highest priority (Tier 2) to resolving the listing status of the outstanding proposed listings. This rule falls under Tier 2.

Summary of Comments and Recommendations

In the October 4, 1994, proposed rule and associated notifications, the Service requested all interested parties to submit factual reports or information that would contribute to the development of a final decision document. The Service contacted appropriate Federal and State agencies, county and city governments, scientific organizations, and other interested parties and requested their comments. In accordance with policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), the Service solicited comments from three appropriate and independent specialists regarding pertinent scientific or commercial data and assumptions relating to the proposed rule. A newspaper notice of the proposed rule was published in the *San Francisco Chronicle* on October 19, 1994, which invited general public comment. A 60-day comment period closed on December 4, 1994.

The Service received eight letters of comment. No requests for a public hearing were received. Although the proposed rule solicited comments on proposals to list both *Arctostaphylos imbricata* and *Lessingia germanorum*, only comments pertaining to *L. germanorum* are addressed here. Comments pertaining to *A. imbricata* are addressed in a separate **Federal Register** notice published concurrently with this notice.

All commenters supported the listing of *Lessingia germanorum*. One commenter indicated that designation of critical habitat would aid in protection of rare plants. The Service has determined that designation of critical habitat would not provide additional benefit for *L. germanorum*. The reasons for this determination are discussed in the ''Critical Habitat'' section of this notice.

Two of the three independent and appropriate specialists responded to the solicitation for independent review. One reviewer found no errors of fact in the proposed rule, and further commented that *Lessingia germanorum* is dependent on a very fragile habitat and is easily disturbed or driven to extirpation by human activities that compact or erode the soil. This reviewer considered *L. germanorum* to be particularly worthy of Federal listing. The second reviewer concurred with all of the comments made in the proposed rule concerning the status, threats or potential threats and supported the listing of the species.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that Lessingia germanorum should be classified as an endangered species. Procedures found at section 4 of the Act and regulations implementing the listing provisions of the Act (50 CFR Part 424) were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *L. germanorum* Cham. (San Francisco lessingia) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Threats facing the habitat of *Lessingia germanorum* include one or more of the following—urbanization, invasion of alien plants, sand quarrying, bulldozing, and damage by pedestrians, bicycles, and off-road vehicles.

Most natural habitats of the San Francisco peninsula have been eliminated by urbanization. Suitable *Lessingia germanorum* habitat has decreased by 90 percent since European settlement (CDFG 1990). Urban development extirpated populations of *L. germanorum* at Lone Mountain and Lake Merced (both in San Francisco) (CNDDB 1994). Historical populations of *L. germanorum* at Mountain View Lake and Ocean View Downs also have been extirpated, presumably due to urban development and competition from invasive alien plants (CDFG 1989). Most of the central dune scrub habitat on San Bruno Mountain has been eliminated by construction of houses and cemeteries, the Colma dump, and a flower farm (McClintock *et al.* 1990). About 4 hectares (10 acres) of potential habitat remain on San Bruno Mountain for *L. germanorum* (Paul Reeberg, pers. comm. 1993). Although the discovery of additional significant populations on San Bruno Mountain is unlikely, this area may be important as a site for reintroduction.

Urban development potentially threatens the population of *Lessingia germanorum* on San Bruno Mountain (Paul Reeberg, pers. comm. 1993; R. Gankin, San Mateo County Planning Department, *in litt.* 1994). The construction of seven additional dwellings within a few hundred yards of the San Bruno population has been approved (Annemarie Quevedo, pers. comm. 1993). Impacts associated with this development, such as habitat degradation and trampling of plants by pedestrians, bicycles, and off-road vehicles, would threaten this population.

Fragmentation of the coastal scrub dune habitat caused by past urban development also threatens this species. Habitat fragmentation has two primary effects. First, habitat fragmentation may alter the physical environment, changing the amount of incoming solar radiation, water, wind, or nutrients where the remnant vegetation occurs (Saunders *et al.* 1991). Second, by reducing the size and distribution of the population, habitat fragmentation increases the risk of extinction due to natural events (see Factor E).

Non-native plants alter the habitat of and compete with *Lessingia germanorum*. For example, *Carpobrotus* sp. (ice plant) covers extensive dune areas on the Presidio, and stabilizes the dune system where it occurs. Stabilization of the dune system adversely affects *L. germanorum* because the species requires exposed sand which results from dune movement (CDFG 1989). *Carpobrotus* competes with *L. germanorum* at all five occurrences on the Presidio. In addition, pedestrians, bicycles, and off-road vehicles compact the soil and promote the establishment of invasive alien plants (CDFG 1989; Susan Smith, pers.

comm. 1992). In addition to ice plant, other alien plants competing with *L. germanorum* include *Bromus diandrus* (ripgut grass), *Avena barbata* (slender oat), *Rumex* sp. (dock), *Raphanus* sp. (radish), and *Sonchus* sp. (sow thistle) (Susan Smith, pers. comm. 1992). On San Bruno Mountain *Cortaderia* sp. (pampas grass) encroachment is a serious threat. The CDFG (1992) reported that ''Without special protection and management, San Francisco lessingia will continue its declining trend.'' Populations of *L. germanorum* are currently being weeded by volunteers from the California Native Plant Society. Without their assistance, *L. germanorum* would be outcompeted by alien plants.

The habitat of *Lessingia germanorum* has been modified at one site by tree planting. Native and introduced shrubs and trees, including *Pinus radiata* (Monterey pine), were planted at the Presidio in the late 1800's. These trees adversely alter the habitat of *L. germanorum* by increasing the amount of shade (CDFG 1989; CNDDB 1994; Susan Smith, pers. comm. 1992).

Bulldozing and sand quarrying have adversely affected *Lessingia germanorum*. Bulldozing to stabilize a slope on San Bruno Mountain destroyed about one-eighth of the *L. germanorum* population (Paul Reeberg, pers. comm. 1993; Thomas Reid Associates, *in litt.* 1991). In January 1989, most of the habitat for one population of *L. germanorum* on the Presidio was destroyed when sand was removed to repair a tee on the base golf course (CDFG 1990). Sand quarrying is an on-going threat at this site; any sand quarrying that may occur in the future would negatively impact this species.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Overutilization is not known to be a current threat to *Lessingia germanorum*. However, overcollection by researchers, rare plant collectors, or curiosity seekers could potentially result from the increased publicity following publication of the final rule to list this species.

C. *Disease or predation.* There are no known disease or predation threats to *Lessingia germanorum*.

D. *The inadequacy of existing regulatory mechanisms.* Five of the six remaining colonies of *Lessingia germanorum* are located on the Presidio which is managed as a National Recreation Area by the National Park Service. However, National Park Service ownership and management have not removed all of the threats to the species. In addition, a Memorandum of Understanding, established in 1987 between the Service, the National Park Service, Department of Defense, and CDFG for the purpose of mutual cooperation for management of sensitive native plant communities on the Presidio, does not address *L. germanorum* specifically (CDFG 1989). Moreover, the fact that the National Park Service petitioned the Service to emergency list *L. germanorum* as endangered is evidence of the inadequacy of existing Federal regulations to protect the species from extinction within the foreseeable future.

The State of California Fish and Game Commission has listed *Lessingia germanorum* as an endangered species under the California Endangered Species Act (chapter 1.5 section 2050 *et seq.* of the California Fish and Game Code) and the California Native Plant Protection Act (Chapter 10 section 1900 *et seq.* of the California Fish and Game Code). Though both statutes prohibit the ''take'' of State-listed plants (California Native Plant Protection Act, Chapter 10 section 1908 and California Endangered Species Act, Chapter 1.5 section 2080), State law exempts the taking of such plants via habitat modification or land use changes by the owner. After CDFG notifies a landowner that a State-listed plant grows on his or her property, State law only requires that the land owner notify the agency ''at least 10 days in advance of changing the land use to allow salvage of such a plant'' (California Native Plant Protection Act, Chapter 10 section 1913).

The California Environmental Quality Act (CEQA) requires a full disclosure of the potential environmental impacts of proposed projects. The public agency with primary authority or jurisdiction over the project is designated as the lead agency, and is responsible for conducting a review of the project and consulting with the other agencies concerned with the resources affected by the project. Section 15065 of the CEQA Guidelines requires a finding of significance if a project has the potential to ''reduce the number or restrict the range of a rare or endangered plant or animal.'' Species that are eligible for listing as rare, threatened, or endangered but are not so listed are given the same protection as those species that are officially listed with the State or Federal governments. Once significant effects are identified, the lead agency has the option to require mitigation for effects through changes in the project or to decide that overriding considerations make mitigation infeasible. In the latter case, projects that cause significant environmental damage, such as destruction of endangered species, may be approved. Protection of listed species through CEQA is, therefore, dependent upon the discretion of the lead agency.

The CEQA pertains to projects that occur on lands other than Federal land. The National Environmental Policy Act (NEPA) requires disclosure of the environmental effects of projects on Federal lands. Certain actions can be categorically excluded from the NEPA process when (a) The action or group of actions would have no significant effect on the quality of the human environment, and (b) the actions or group of actions would not involve unresolved conflicts concerning alternative uses of available resources. Exceptions to the categorical exclusions exist. One of these exceptions is when the action would affect a species listed or proposed to be listed on the List of Endangered or Threatened Species. Until a species is federally listed or proposed for listing, this exception to the categorical exclusion would not be applied regardless of the State listing status.

The San Bruno Mountain Habitat Conservation Plan (HCP), developed under section 10(a)(1)(B) of the Act, preserves most of San Bruno Mountain and provides for management and monitoring of a variety of rare plants and animals. However, because the San Bruno Mountain population of *Lessingia germanorum* is located outside the San Bruno Mountain HCP boundary, it receives no protection through the HCP.

E. *Other natural or manmade factors affecting its continued existence.* As discussed in Factor A, pedestrians, bicycles, and off-road vehicles degrade the habitat of *Lessingia germanorum*. These activities also directly destroy individual plants. A bike path runs through the middle of one *L. germanorum* population (CNDDB 1994). Hiking trails exist adjacent to three populations (Terri Thomas, pers. comm. 1993). Plants are damaged or destroyed when trail users wander off the established trails and into populations of *L. germanorum*.

The habitats of all Presidio populations of *Lessingia germanorum* are subject to occasional disturbance by unauthorized vehicle use. This disturbance directly destroys the plants and encourages establishment of invasive alien plants. Weedy species tend to colonize the tracks left by the vehicles (Susan Smith, pers. comm. 1992). An environmental education camp exists near the location of one population of *L. germanorum*. This population is inadequately fenced, leaving the habitat vulnerable to degradation and the plants vulnerable to trampling.

When the ownership of the Presidio transferred from the Department of the Army to the National Park Service, a marked increase in visitation by the public occurred (Terri Thomas, pers. comm. 1994). Increased pedestrian traffic and other recreational activities are likely to negatively impact *Lessingia germanorum* because the populations are close to trails (Terri Thomas, pers. comm. 1992, 1993). In addition, the park is patrolled by police on horseback. Horses can trample the plants directly and compact the soil. A high potential exists for adverse impacts to populations of *L. germanorum* on the Presidio from these activities.

Garbage dumping has degraded the habitat at one site on the Presidio where *Lessingia germanorum* occurs (CNDDB 1994). Digging by pets also adversely affects *L. germanorum* at all sites on the Presidio by destroying individual plants (Laura Nelson, Golden Gate National Recreation Area, pers. comm. 1993; Peter Lacivita, San Francisco Corps of Engineers, pers comm. 1993).

On San Bruno Mountain, fertilizer-contaminated run-off from a housing development above the slope supporting the largest population of *Lessingia germanorum* threatens this site (Paul Reeberg, pers. comm. 1993). The nitrogen in these fertilizers promotes invasion by weedy species that compete with *L. germanorum*.

As discussed in Factor A, habitat fragmentation may adversely alter the physical environment for the species. In addition, by reducing the size and distribution of a population, habitat fragmentation increases the risk that a natural event such as a pest or disease outbreak or reproductive failure could cause extinction of the species (populations of annual species especially are affected by reproductive failure). A natural event, such as a flood, pest or disease outbreak, extended drought, landslide, or combination of several such events, could destroy part of a single population or entire populations. If habitat fragmentation splits a population into small, isolated units or if a natural event significantly reduces the size of a population, the risk of extirpation due to genetic problems associated with small populations could increase.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to issue this rule. *Lessingia germanorum* has been reduced to five small populations on the Presidio in San Francisco County and one population on San Bruno Mountain in San Mateo County; collectively, the populations inhabit less than 0.8 hectares (2 acres). This taxon has been adversely affected and is endangered by competition from invasive alien plants, shading by alien and native plants, bulldozing, sand quarrying, fertilizer-contaminated run-off, urban development, trampling by pedestrians, bicycles, and off-road vehicles, other human activities, and natural events. *Lessingia germanorum* is in danger of extinction throughout all or a significant part of its range, and the preferred action is, therefore, to list it as endangered.

Alternatives to this action were considered but not preferred. As defined by the Act, threatened species are those species which are likely to become endangered (in danger of extinction) within the foreseeable future. Because *Lessingia germanorum* is currently in danger of extinction, listing the species as threatened would not be appropriate. Similarly, not listing *L. lessingia* would be inappropriate.

Critical Habitat

Critical habitat is defined by section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) Essential to the conservation of the species and (II) that may require special management considerations or protection and; (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon determination that such areas are essential for the conservation of the species. Designations of critical habitat must be based on the best scientific data available and must take into consideration the economic and other relevant impacts of specifying any particular area as critical habitat at the time the species is listed as endangered or threatened.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary determine critical habitat concurrently with determining a species to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Lessingia germanorum* at this time. Service regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist—(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) designation of critical habitat would not be beneficial to the species.

The six populations of *Lessingia germanorum* inhabit less than 0.8 hectares (2 acres). Any activity that would adversely modify critical habitat would likely jeopardize the continued existence of the species as well. The designation of critical habitat therefore would not provide additional benefit for *L. germanorum* beyond the protection afforded by listing. As discussed under Factor B, this taxon is potentially threatened by overcollection due to its low population size. The publication of precise maps and descriptions of critical habitat in the **Federal Register** and local newspapers as required when designating critical habitat would increase the degree of threat to this plant from take or vandalism and, therefore, could contribute to its decline. The listing of this taxon as endangered publicizes the rarity of the plant and can make it attractive to researchers, curiosity seekers, or rare plant collectors.

Protection of the habitat of this *Lessingia germanorum* species will be addressed through the recovery process and the section 7 consultation process. The Service believes that Federal activities in the areas where these plants occur can be identified without the designation of critical habitat. The Service finds designation of critical habitat not prudent for *L. germanorum*. Such a designation would increase the degree of threat from vandalism, collecting, or other human activities and is unlikely to benefit the conservation of this taxon.

Available Conservation Measures

Conservation measures provided to species listed as endangered under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in public awareness and conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the State and requires that recovery actions be developed for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency

cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Five of the six populations of *Lessingia germanorum* occur on Federal land managed by the National Park Service. Listing this plant would provide for the development of a recovery plan. Such a plan would bring together both State and Federal efforts for conservation of the plant. The recovery plan would establish a framework for agencies to coordinate activities and cooperate with each other in conservation efforts. The plan would describe site-specific management actions necessary to achieve conservation and survival of the plant species. Additionally, pursuant to section 6 of the Act, the Service would be more likely to grant funds to affected States for management actions promoting the protection and recovery of this plant.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered or threatened plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 for endangered plants, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce the species to possession from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction of any such species on areas under Federal jurisdiction and the removal, cutting, digging, or destroying of such plant species in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions to the prohibitions apply to agents of the Service and State conservation agencies.

It is the policy of the Service, published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of the listing on proposed and ongoing activities within a species' range. Collection, damage, or destruction of this species on Federal lands is prohibited, although in appropriate cases a Federal endangered species permit may be issued to allow collection for scientific or recovery purposes. Such activities on non-Federal lands would constitute a violation of section 9 if conducted in knowing violation of California State law, as discussed under Factor D, State regulations, or State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies.

Activities that are unlikely to violate section 9 include accidental trampling. Activities that occur on Federal land, or on private land that receive Federal authorization or funding, for which a Federal endangered species permit is issued to allow collection for scientific or recovery purposes or for which a consultation is conducted in accordance with section 7 of the Act, also would not result in a violation of section 9. Questions regarding whether specific activities will constitute a violation of section 9 should be directed to the Field Supervisor of the Sacramento Field Office (see **ADDRESSES** section).

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plant species under certain circumstances. The Service anticipates few trade permits would ever be sought or issued for this species because the plant is not common in cultivation nor in the wild. Requests for copies of the regulations regarding listed plants and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Endangered Species Permits, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181 (phone 503–231–2063, facsimile 503–231–6243).

National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

The Service has examined this regulation under the Paperwork Reduction Act of 1995 and found it to contain no information collection requirements. This rulemaking was not subject to review by the Office of Management and Budget under Executive Order 12866.

References Cited

A complete list of all references cited is available upon request from the Field Supervisor, Sacramento Field Office (see **ADDRESSES** section).

Author: The primary author of this document is Kirsten Tarp, Sacramento Field Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Section 17.12(h) is amended by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	
Lessingia germanorum (=*Lessingia germanorum* var. *germanorum*).	San Francisco lessingia.	U.S.A. (CA)	Asteraceae—Aster ..	E	620	NA	NA
*	*	*	*	*	*	*	

Dated: April 8, 1997.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

[FR Doc. 97–15925 Filed 6–18–97; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 970326068–7132–02; I.D. 031197A]

RIN 0648–AJ86

Marine Mammals; Subsistence Taking of Northern Fur Seals; Harvest Estimates.

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

ACTION: Final rule.

SUMMARY: Pursuant to regulations governing northern fur seal subsistence taking on the Pribilof Islands, and following a 30-day public comment period on the proposed subsistence need estimates of the Pribilof Aleuts, NMFS is publishing this final rule establishing annual northern fur seal harvest range levels for 1997–1999.

DATES: Effective June 19, 1997 and applies to the harvest beginning June 23, 1997.

ADDRESSES: Hilda Diaz-Soltero, Acting Director, Office of Protected Resources (F/PR), 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Steve Zimmerman, (907) 586–7235, or Margot Bohan, (301) 713–2322.

SUPPLEMENTARY INFORMATION:

Background

The northern fur seal (*Callorhinus ursinus*) population is considered depleted under the Marine Mammal Protection Act (MMPA) (50 CFR 216.15(c)). The subsistence harvest of northern fur seals on the Pribilof Islands, Alaska, is governed by regulations found in 50 CFR part 216 subpart F—Taking for Subsistence Purposes. These regulations were published under the authority of the Fur Seal Act, 15 U.S.C. 1151 *et seq.*, and the MMPA, 16 U.S.C. 1361 *et seq.* (see 51 FR 24828, July 9, 1986). The purpose of these regulations is to limit the take of fur seals to a level providing for the subsistence needs of the Pribilof Aleuts, while using humane harvesting methods and restricting taking by sex, age, and season for herd management purposes.

Subsistence Harvest Estimates for 1997 through 1999

NMFS published a notice and request for public comment (62 FR 17774, April 11, 1997) proposing a range of subsistence need estimates on the Pribilof Islands for 1997–99, based on the results of the 1994–96 harvests and responses from the tribal governments on St. Paul and St. George Islands. NMFS proposed that the harvest estimate for northern fur seals on St. Paul Island for each year, 1997–99, remain the same as that in 1994 through 1996 (1,645 to 2,000).

For St. George Island, NMFS proposed that the lower bound of the estimate of subsistence need for each year, 1997–99, increase from 281 to 300 seals and that the upper bound remain at 500 seals. NMFS based this change in the estimate on the continuing decline of the island's economy, which has resulted in an increased rate of unemployment and, thus, a greater reliance on subsistence harvesting of food resources to meet the natives' needs.

As no comments were received in response to the notice proposing the upcoming years' estimates of subsistence need, NMFS is publishing this final rule that establishes the annual harvest ranges for the years 1997–1999, as follows: St. Paul Island: 1,645–2,000; St. George Island: 300–500.

If the Aleut residents of St. Paul or St. George Island reach the lower limit of their range during the harvest, and still have unmet subsistence needs, they may request an additional number of seals, up to the upper bound of their respective ranges. Conversely, the harvest can be terminated before the lower limit of the range is reached if it is determined that the subsistence needs of the Pribilof Aleuts have been met or the harvest has been conducted in a wasteful manner. The Aleut residents of St. Paul and St. George Islands may harvest up to the lower bound of the applicable range between June 23 and August 8 of each year, 1997–99. If, at any time during the harvest, the lower estimate of subsistence need for an island is reached, the harvest must be suspended for no longer than 48 hours, pursuant to 50 CFR 215.32(e)(1)(iii), pending a review of the harvest data to determine if the subsistence needs of the island residents have been met. At such time, the Pribilof Aleuts may submit information to NMFS indicating that subsistence needs (for either island) have not been met. If the Pribilof Aleuts substantiate an additional need for seals, and there has been no indication of waste, NMFS will provide a revised estimate of the number of seals required for subsistence purposes. If additional information is not submitted by the Pribilof Aleuts, NMFS will consider only the information in the record at the time of the suspension.

Classification

NMFS has determined that the approval and implementation of this document will not significantly affect the human environment and that preparation of an Environmental Impact Statement is not required by section 102(2) of the National Environmental Policy Act. This rule makes no changes to the regulations governing the taking of fur seals for subsistence purposes. Because this rule does not alter the conclusions of previous environmental impact analyses and environmental assessments (EA), it is categorically excluded by NOAA Administrative

Order 216–6 from the requirement to prepare an EA.

This final rule has been determined to be not significant for purposes of E.O. 12866.

The General Counsel, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The reasons were published with the proposed rule and harvest estimates (see 62 FR 17774, April 11, 1997). As no comments were received on the certification, the basis for it has not changed. Therefore, a regulatory flexibility analysis was not prepared.

Dated: June 12, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 97–16008 Filed 6–18–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961107312–7021–02; I.D. 061697A]

Fisheries of the Exclusive Economic Zone Off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in the 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 yellowfin sole by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the third seasonal apportionment of the 1997 Pacific halibut bycatch allowance specified for the trawl yellowfin sole fishery category.

EFFECTIVE DATE: 1200 hrs, Alaska local time (A.l.t.), June 16, 1997, until 1200 hrs, A.l.t., August 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 third seasonal apportionment of the 1997 Pacific halibut bycatch allowance specified for the trawl yellowfin sole fishery in the BSAI, which is defined at § 679.21(e)(3)(iv)(B)(*1*), was established by the Final 1997 Harvest Specifications of Groundfish for the BSAI (62 FR 7168, February 18, 1997) as 100 metric tons.

In accordance with § 679.21(e)(7)(iv), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the third seasonal apportionment of the 1997 Pacific halibut bycatch allowance specified for the trawl yellowfin sole fishery in the BSAI has been caught. Consequently, NMFS is prohibiting directed fishing for yellowfin sole by vessels using trawl gear in the BSAI.

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

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent overharvesting the third seasonal apportionment of the 1997 Pacific halibut bycatch allowance specified for the trawl yellowfin sole fishery category. A delay in the effective date is impracticable and contrary to the public interest. The fleet has already taken the third seasonal apportionment of the 1997 Pacific halibut bycatch allowance. Further delay would only result in overharvest, which would disrupt the FMP's objective of apportioning Pacific halibut bycatch allowances throughout the year. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

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: June 16, 1997.

Gary C. Matlock,

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

[FR Doc. 97–16102 Filed 6–16–97; 3:06 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 118
Thursday, June 19, 1997

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

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

7 CFR Part 500

National Arboretum

AGENCY: Agricultural Research Service; USDA.

ACTION: Proposed rule.

SUMMARY: The Department of Agriculture (USDA) seeks comments on a proposed rule that would establish a schedule of fees to be charged for certain uses of the facilities, grounds, and services at the United States National Arboretum (USNA). This proposed rule reformats and adds a new subpart to 7 CFR part 500. The title of part 500 is changed to ''National Arboretum.'' The current text regarding conduct on USNA property is designated as subpart A. New text added as subpart B contains the fee structures for use of USNA facilities and services. The USNA will charge fees for riding its new tram service, use of the grounds and facilities, as well as for commercial photography and cinematography. Fees generated will be used to defray USNA expenses or to promote the mission of the USNA. The public will not be charged an admission fee for visiting the USNA.

DATES: Comments must be submitted on or before July 21, 1997.

ADDRESSES: Address all comments to Thomas S. Elias, Director, U.S. National Arboretum, Beltsville Area, Agricultural Research Service, 3501 New York Avenue, NE., Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Director, National Arboretum, Beltsville Area, ARS, 3501 New York Avenue, NE., Washington, DC 20002; (202) 245–4539.

SUPPLEMENTARY INFORMATION:

Classification

This proposed rule has been reviewed under Executive Order 12866, and it has been determined that it is not a ''significant regulatory action'' rule because it will not have an annual effect on the economy of $100 million or more or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities. This proposed rule will not create any serious inconsistencies or otherwise interfere with actions taken or planned by another agency. It will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof, and does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order 12866.

Regulatory Flexibility Act

The Department of Agriculture certifies that this rule will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. No. 96–354, as amended (5 U.S.C. 601, *et seq.*).

Paperwork Reduction Act

In accordance with the Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the information collection and recordkeeping requirements that will be imposed in implementation of this proposed rule have been submitted to OMB for approval. Those requirements would not become effective prior to OMB approval.

Title: Collection of information regarding the use of facilities or the performance of photography/cinematography at the U.S. National Arboretum.

Summary: The purpose of this collection of information is to collect, either orally or by use of a form, basic information from persons who request to use space at the USNA for which a user fee shall be charged. Use of space includes not only the use of physical space for events, but also the use of the grounds of the USNA for commercial photography and cinematography purposes. Information to be collected will include the name, address, and telephone numbers of the party requesting use of the USNA space, the date and time that the party is requesting to use the space, the purpose for which the space will be used, the number of people expected at the event for which the space is to be used, any requirements for setup of the space that the USNA will be expected to provide, and the signature of the individual responsible for requesting space on behalf of a party.

Need for the Information: The information is needed for USNA to administer the scheduling of space usage and to keep records of parties accountable for use of USNA property.

Respondents: Respondents to the collection of information will be those persons or organizations that request use of the USNA facility or grounds. Each respondent will have to furnish the information for each space usage request. The USNA expects to receive approximately 220 requests for use of space per year.

Estimate of burden: The estimated burden on respondents for space usage request is .25 hours. The total annual reporting and record keeping burden on respondents will be minimal.

Comments: Comments on this proposed collection of information may be submitted to Dr. Thomas S. Elias at the address listed under the **ADDRESSES** section by August 18, 1997, or to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for USDA. Reference should be made to the volume, page, and date of this **Federal Register** publication.

Background

Section 890(b) of the Federal Agriculture Improvement and Reform Act of 1996, Pub. L. 104–127 (1996 Act), expands the authorities of the Secretary of Agriculture to charge reasonable fees for the use of USNA facilities and grounds. These new authorities include the ability to charge fees for temporary use by individuals or groups of USNA facilities and grounds in furtherance of the mission of the USNA. Also, authority is provided to charge fees for the use of the USNA for commercial photography and cinematography. All rules and regulations noted in 7 CFR 500, subpart A, Conduct on the U.S. National Arboretum Property, will apply to individuals or groups granted approval to use the facilities and grounds.

Fee Schedule for Tram

The USNA has purchased a 48-passenger tram (which accommodates 2 wheelchairs) to provide mobile tours throughout the USNA grounds. The proposed rule includes a fee to be charged to all riders except children under 4 sharing a seat with an adult. Fee amounts were determined after a survey of similar services provided by other Arboreta and Botanical Gardens. Fees generated will be used to offset costs or for the purposes of promoting the mission of the USNA.

Fee Schedule for Use of Facilities and Grounds

The USNA proposes to charge a fee for temporary use by individuals or groups of USNA facilities and grounds. The proposed fees have been established based on actual costs (i.e., electricity, heating, water, maintenance, security, scheduling, etc.). Facilities and grounds are available by reservation at the discretion of the USNA and may be available to individuals or groups in furtherance of the mission of the USNA. Agency initiatives may be granted first priority. Reservation requests should be made as far in advance of the need as possible to ensure consideration.

Fee Schedule for Use of Facilities and Grounds for Purposes of Photography or Cinematography

The USNA proposes to charge a fee for the use of the facility or grounds for purposes of commercial photography or cinematography. The proposed fees have been established based on comparable opportunities provided by other Aboreta and Botanical Gardens across the nation. Facilities and Grounds are available for use for commercial photography or cinematography at the discretion of the USNA Director. Requests for use should be made a minimum of two weeks in advance of required date. The USNA does not intend to charge fees to the press for photography or cinematography related to stories concerning the USNA and its mission or for other noncommercial, First Amendment activity.

Payment Submission Requirements

Payment for use of the tram will be made by cash or money order (in U.S. funds) and is due at the time of ticket purchase. Fee payments for use of facilities or grounds or for photography and cinematography must be made in advance of services being rendered. These payments are to be made in the form of a check or money order. Checks and money orders are be made payable, in U.S. funds, to the U.S. National Arboretum. The USNA will provide receipts to requests for their records or billing purposes.

List of Subjects in 7 CFR Part 500

Agricultural research, Cinematography, Federal buildings and facilities, Government property, National Arboretum, Photography, User fees.

For the reasons set out in the preamble, 7 CFR part 500 is proposed to be amended as set forth below:

PART 500—NATIONAL ARBORETUM

1. The heading for part 500 is revised as set forth above.

2. Sections 500.1 through 500.15 are designated as subpart A and a subpart heading is added, and the authority citation for part 500 is redesignated as the authority citation for new subpart A and continues to read as set forth below:

Subpart A—Conduct on U.S. National Arboretum Property

Authority: Secs. 2, 4, 62 Stat. 281; sec. 103, 63 Stat. 389; sec. 205(d), 63 Stat. 389; 40 U.S.C. 318a, 318c, 486(d), 753, 34 FR 6406; 34 FR 7389.

* * * * *

3. A new subpart B is added to read as follows:

Subpart B—Fee Schedule for Certain Uses of National Arboretum Facilities and Grounds

Sec.
500.20 Scope.
500.21 Fee schedule for tram.
500.22 Fee schedule for use of facilities and grounds.
500.23 Fee schedule for photography and cinematography on grounds.
500.24 Payment of fees.

Authority: 20 U.S.C. 196.

§ 500.20 Scope.

The subpart sets forth schedules of fees for temporary use by individuals or groups of United States National Arboretum (USNA) facilities and grounds for any purpose that is consistent with the mission of the USNA. This part also sets forth schedules of fees for the use of the USNA for commercial photography and cinematography. Fees generated will be used to offset costs of services or for the purposes of promoting the mission of the USNA. All rules and regulations noted in 7 CFR part 500, subpart A—Conduct on the U.S. National Arboretum Property, will apply to individuals or groups granted approval to use the facilities for the purposes specified in this subpart.

§ 500.21 Fee schedule for tram.

The USNA provides tours of the USNA grounds in a 48-passenger tram (accommodating 2 wheelchairs) for a fee as follows: $3.00 per adult; $2.00 per senior citizen or Friend of the National Arboretum; $1.00 per child ages 4 through 16. Children under 4 sharing a seat with an adult will not be charged.

§ 500.22 Fee schedule for use of facilities and grounds.

The USNA will charge a fee for temporary use by individuals or groups of USNA facilities and grounds. Facilities and grounds are available by reservation at the discretion of the USNA and may be available to individuals or groups whose purpose is consistent with the mission of the USNA. Agency initiatives may be granted first priority. Non-profit organizations that substantially support the mission and purpose of the USNA may be exempted from the requirements of this part by the Director. Reservation requests should be made as far in advance of the need as possible to ensure consideration. The fees for use of USNA buildings listed in the following fee schedule are for times when the building is open. ''Half-Day'' usage is defined as 4 hours or less; ''Whole Day'' is defined as more than 4 hours in a day. For after hours usage of such buildings, an additional $25/hour will be added for supervision/security.

Area	Includes	Per day charge	
		Half day	Whole day
Auditorium	Basic audience-style set-up for 125 people or classroom set-up for 40–50 people. Includes microphone/lectern, screen, projection stand, (2) flip charts (no paper) and (2) trash cans. Also includes the use of the Kitchen space, Upstairs Conference Room, and Coat Room. Extra tables are $10 each	N/A	$250
Upstairs Conference Room	(Only if Auditorium is not in use)	$50	100

Area	Includes	Per day charge	
		Half day	Whole day
	Includes use of telephone for local calls. Also includes the use of the Kitchen space and Coat Room		
Lobby	As is (with furniture in place)	N/A	100
	Furniture removed		150
Classroom	Standard set-up with 40 chairs. Includes microphone/lectern, screen, projection stand, (2) flip charts (no paper) and trash can.	50	125
Classroom—Multiple	3 hour limit; 5 sessions		225
	3 hour limit; 10 sessions		450
Yoshimura Center	For use from 10:00 a.m. to 3:30 p.m. weekends only	50	125
Grounds)—1–300 people	No Public Invited. Patio, Meadow, Triangle, NY Avenue, etc. Cost includes scheduling time, extra mowing, and site preparation. Guest organization responsible for everything related to their event, including portable toilets.	N/A	500
301–600 people	Same as above	N/A	750
Grounds	Public Invited (i.e., show or sale). Cost includes scheduling time, extra mowing, and site preparation. Guest organization responsible for everything related to their event, including portable toilets.	N/A	750
Damages	Damages to plants, grounds, facilities or equipment will be assessed on a value based on replacement cost (Including labor) plus 10% (administrative fee)		

§ 500.23 Fee schedule for photography and cinematography on grounds.

The USNA will charge a fee for the use of the facility or grounds for purposes of commercial photography or cinematography. Facilities and grounds are available for use for commercial photography or cinematography at the discretion of the USNA Director. Requests for use should be made a minimum of two weeks in advance of the required date. In addition to the fees listed below, supervision costs of $25.00 per hour will be charged. The USNA Director may waive fees for photography or cinematography conducted for the purpose of disseminating information to the public regarding the USNA and its mission or for the purpose of other noncommercial, First Amendment activity.

Category	Type	Notes	Per day charge	
			Half day	Whole day
Still Photography	Individual	For personal use only. Includes hand-held cameras, recorders, small non-commercial tripods.	No Charge	No Charge.
	Commercial	Includes all photography which uses professional photographer and/or involves receiving a fee for the use or production of the photography. Note: This includes 5 people or less with carry on (video) equipment.	$250 plus Supervisor.	$500 plus Supervisor.
Cinematography	Set Preparation	Set up sets; no filming performed	N/A	250 plus Supervision.
	Filming	Sliding scale based on number of people in cast and crew and number of pieces of equipment. 45 people and 6 pieces of equipment = $1,500 200 people = $3,900 Note: 5 people with carry on equipment = same as still photography.		1,200 to 3,900.
	Strike Set	Take down sets, remove equipment; no filming	N/A	250 plus Supervision.
	Music Videos	No sound involved; smaller operation	N/A	1,000 plus Supervision.
Slide Production		Providing USNA photos/slides for use in promotions/advertisements. Fee is for one-time rights.		100 per image to reproduce.
Damages	All	Damages to plants, grounds, facilities or equipment will be assessed on a value based on replacement cost (Including labor) plus 10% (administrative fee) Half Day = 4 hours or less Full Day = More than 4 hours		

§ 500.24 Payment of fees.

Payment for use of tram will be made by cash or money order (in U.S. funds) and is due at the time of ticket purchase. Fee payments for use of facilities or grounds or for photography and cinematography must be made in advance of services being rendered. These payments are to be made in the

form of a check or money order. Checks and money orders are to be made payable, in U.S. funds, to the ''U.S. National Arboretum.'' The National Arboretum will provide receipts to requestors for their records or billing purposes.

Done at Washington, DC, this 12th day of June 1997.

Robert J. Reginato,

Associate Administrator, Agricultural Research Service.

[FR Doc. 97–15977 Filed 6–18–97; 8:45 am]

BILLING CODE 3410–03–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 32

Public Meetings

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of public meetings.

TIME AND DATES: 1:00–4:00 p.m., Thursday, July 10, 1997 (Bloomington, Illinois) and 9:00 a.m.–12:00 noon, Wednesday, July 16, 1997 (Memphis, Tennessee).

PLACE: July 10, 1997—Illinois State University, Bone Student Center, (Corner of College & University), Old Main Room, Bloomington-Normal, Illinois 61761, (309) 438–2222, and July 16, 1997—University of Memphis, Fogelman Executive Center, Room 123, 330 Deloach St., Memphis, Tennessee 38152, (901) 678–3635.

STATUS: Open.

SUMMARY: Notice is hereby given that the Commodity Futures Trading Commission (''Commission'') will convene public meetings at which interested members of the public may appear to present oral and written statements relating to the Commission's consideration of whether it should propose rules to lift the prohibition on trade options on enumerated agricultural products subject to conditions and, if so, what conditions would be appropriate.

ADDRESSES: Requests to appear and statements of interest should be mailed to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, attention: Office of the Secretariat; transmitted by facsimile at (202) 418–5521; or transmitted electronically to [secretary@cftc.gov]. Reference should be made to ''Agricultural Trade Options Meeting—Bloomington'' or ''Agricultural Trade Options Meeting—Memphis.''.

FOR FURTHER INFORMATION CONTACT: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, (202) 418–5260, or electronically, [PArchitzel@cftc.gov].

SUPPLEMENTARY INFORMATION: Generally, the offer or sale of commodity options is prohibited except on designated contract markets. 17 CFR 32.11. One of several specified exceptions to the general prohibition on off-exchange options is for ''trade options.'' Trade options are defined as off-exchange options ''offered by a person having a reasonable basis to believe that the option is offered to'' categories of commercial users specified in the rule, where such commercial user ''is offered or enters into the transaction solely for purposes related to its business as such.'' 17 CFR 32.4(a). Trade options, however, are not permitted on the agricultural commodities which are enumerated in the Commodity Exchange Act, 7 U.S.C. 1 *et seq.* (Act). 17 CFR 32.2.

The Commodity Futures Trading Commission (Commission) recently published in the **Federal Register** an Advance Notice of Proposed Rulemaking (62 FR 31375 (June 9, 1997)) (Advance Notice), seeking comment on whether it should propose rules to lift the prohibition on trade options on the enumerated agricultural options subject to conditions and, if so, what conditions would be appropriate. The comment period will remain open until July 24, 1997. *Id.*

As the Commission noted in its Advance Notice, it directed its Division of Economic Analysis (Division) to study the prohibition on the offer or sale of off-exchange trade options on the agricultural commodities enumerated in the Act and to report on the Division's findings. On May 14, 1997, the Division forwarded to the Commission its study entitled, ''Policy Alternatives Relating to Agricultural Trade Options and Other Agricultural Risk-Shifting Contracts.'' The complete text of that study is available through the Commission's Internet site and can be accessed at http://www.cftc.gov/ag8.htm.

The Advance Notice poses a number of questions for comment relating to the issues identified in the Division's study. These issues include, among others, the nature of possible conditions on lifting the prohibition on agricultural trade options. Such conditions relate to the nature of the parties, restrictions on the instruments or their use, the regulation of their marketing and other possible limitations relating to financial capacity, cover, and internal controls.

The Commission is of the view that, in addition to the receipt of written comments, an opportunity for interested members of the public to appear before it will assist it in its consideration of these issues and is in the public interest. Accordingly, the Commission will convene public meetings on July 10th in Bloomington, Illinois, and on July 16th, in Memphis, Tennessee, for that purpose.

All individuals or organizations wishing to appear before the Commission should submit to the Commission at the above address by July 1, 1997, a concise statement of interest and qualifications and a brief summary or abstract of the content of his or her statement. The Commission will invite a representative number of individuals or organizations to appear from those submitting such statements. Persons appearing before the Commission are invited specifically to address the questions posed by the Commission in its Advance Notice. A transcription of the meetings will be made and entered into the Commission's public comment files, which as noted above, will remain open for the receipt of written comment until July 24, 1997.

Issued in Washington, DC, this 16th day of June 1997 by the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–16073 Filed 6–18–97; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 201, 330, and 358

[Docket Nos. 96N–0420, 92N–454A, 90P–0201, and 95N–0259]

RIN 0910–AA79

Over-the-Counter Human Drugs; Proposed Labeling Requirements; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to October 6, 1997, the period for comments for the notice of proposed rulemaking on over-the-counter (OTC) labeling requirements that was

published in the **Federal Register** of February 27, 1997 (62 FR 9024). The document proposed to establish a standardized format for the labeling of OTC drug products. The document supersedes the agency's proposed rule regarding the use of interchangeable terms, published in the **Federal Register** of March 4, 1996 (61 FR 8460), and responds to the comments that were submitted to FDA as a result of that proposal (Docket No. 92N–454A). The document also proposes to preempt State and local rules that establish different or additional format or content requirements than those in the proposed rule. FDA is extending the comment period of the proposed rule in response to two manufacturers' associations requests to extend the period for comments to allow interested persons adequate time to assess and respond to the proposal. Elsewhere in this issue of the **Federal Register** the agency is also announcing that the Nonprescription Drugs Advisory Committee will meet to discuss proposed labeling requirements for OTC drug product labeling.

DATES: Written comments by October 6, 1997.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Cazemiro R. Martin, Center for Drug Evaluation and Research (HFD–560), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2222.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 27, 1997 (62 FR 9024), FDA published a notice of proposed rulemaking to establish a standardized format for the labeling of OTC drug products. Interested persons were given until June 27, 1997, to submit comments on the proposal.

In the proposal, the agency indicated that because the design and format of labeling information varies considerably among OTC drug products, consumers often have difficulty reading and understanding the information presented on OTC drug product labeling. The proposal is intended to enable consumers to better read and understand OTC drug product labeling and to apply this information to the safe and effective use of OTC drug products. The agency had also tentatively determined that to ensure that OTC drug product labeling conveys all material information to the consumer, and that the labeling conveys this information in a manner that is likely to be read and understood by the consumer, State and local rules that would establish different or additional format or content requirements than those in the proposed rule should be preempted.

FDA has received requests from two manufacturers' associations to extend the comment period to permit industry and other interested parties additional time to respond to the proposed labeling requirements. One association requested a 90-day extension of the comment period until September 25, 1997, for the following reasons: (1) To comment on the economic and possible environmental impact of the proposed rule; (2) to obtain, analyze, collate, and summarize data from a survey of OTC drug manufacturers to determine the actual cost and the time involved in major label revisions; (3) to prepare model or prototype labels to illustrate the effect of the proposed rule and to develop solutions to problems that may be encountered; and (4) to provide the agency with quality comments in response to the recently published proposal. The comment added that the proposal is the most far-reaching for, and will have the most universal effect on, OTC drug products of any rule published in the last 20 years.

The other association requested a 120-day extension to the comment period until October 25, 1997, because the proposal would require extensive relabeling of its member companies' products. The comment indicated that additional time is essential to form industry consensus to support useful comments to the agency and to ascertain the long range implication of the labeling proposal for the entire industry and for cosmetic-drug products in particular. The comment also mentioned that the first opportunity for its board of directors to make a recommendation on the labeling proposal would not occur until September 30, 1997. Therefore, the extension request of 120 days is dictated by the scheduling of the meeting of its board and the time needed subsequent to the board meeting to complete comments on the proposed rule.

Recognizing the scope of the proposed labeling requirements on OTC drug products, the agency provided in the February 27, 1997, proposal a comment period of 120 days until June 27, 1997, rather than the 90-day comment period generally provided, to address many of the labeling issues proposed. The agency continues to work closely with a number of companies, associations, and other interested parties, in an effort to improve OTC drug labeling readability and understandability. Based on the far-reaching effect the proposal will have on OTC drug labeling and the reasons provided by the two manufacturers' associations, the agency believes that an extension of the comment period is appropriate. Therefore, the agency is providing an extension of the period for comment until October 6, 1997.

Interested persons may, on or before October 6, 1997, submit to the Dockets Management Branch (address above) written comments on the proposed OTC labeling requirements. Three copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket numbers found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 13, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–16066 Filed 6–18–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 251

RIN 1010–AC10

Geological and Geophysical (G&G) Explorations of the Outer Continental Shelf

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rule;

SUMMARY: This notice announces that MMS will hold a meeting to discuss comments received on the proposed rule entitled Geological and Geophysical Explorations of the Outer Continental Shelf, published on February 11, 1997 (62 FR 6149).

DATES: MMS will hold the meeting on July 10, 1997, from 9:00 a.m. to 5 p.m. at the location listed in the **ADDRESSES** section.

ADDRESSES: We will hold the meeting at the MMS Gulf of Mexico Region Office, 1201 Elmwood Park Boulevard, Room 111, New Orleans, Louisiana. For directions please call (504) 736–0557.

FOR FURTHER INFORMATION CONTACT: Kumkum Ray, Rules Processing Team at (703) 787–1600.

Dated: June 12, 1997.

E.P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 97–16093 Filed 6–18–97; 8:45 am]

BILLING CODE 4310–MR–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Parts 1190 and 1191

Accessibility Guidelines for Play Facilities; Notice of Meeting of Regulatory Negotiation Committee

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of committee meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has established a regulatory negotiation committee to develop a proposed rule on accessibility guidelines for newly constructed and altered play facilities covered by the Americans with Disabilities Act and the Architectural Barriers Act. This document announces the dates, times, and location of the next meeting of the committee, which is open to the public.

DATES: The committee will meet on:

Tuesday, July 8, 1997, 8:30 a.m. to 5:00 p.m.

Wednesday, July 9, 1997, 9:00 a.m. to 12:00 noon

ADDRESSES: The committee will meet at the Westin Hotel, 1400 M Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Peggy Greenwell, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC, 20004–1111. Telephone number (202) 272–5434 extension 34 (Voice); (202) 272–5449 (TTY). This document is available in alternate formats (cassette tape, braille, large print, or computer disc) upon request.

SUPPLEMENTARY INFORMATION: In February 1996, the Access Board established a regulatory negotiation committee to develop a proposed rule on accessibility guidelines for newly constructed and altered play facilities covered by the Americans with Disabilities Act and the Architectural Barriers Act. (61 FR 5723, February 14, 1996). The committee will hold its final meeting on the dates and at the location announced above. The meeting is open to the public. The meeting site is accessible to individuals with disabilities. Individuals with hearing impairments who require sign language interpreters should contact Peggy Greenwell by July 1, 1997, by calling (202) 272–5434 extension 34 (voice) or (202) 272–5449 (TTY).

Lawrence W. Roffee,

Executive Director.

[FR Doc. 97–16086 Filed 6–18–97; 8:45 am]

BILLING CODE 8150–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5843–2]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Hranica landfill site from the National Priorities List and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region III announces its intent to delete the Hranica Landfill Site (Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300 which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the Pennsylvania Department of Environmental Protection (PADEP) have determined that all appropriate CERCLA response actions have been implemented and that no further cleanup is appropriate. Moreover, EPA and the State have determined that remedial activities conducted at the Site to date have been protective of public health, welfare, and the environment.

DATES: Comments concerning the proposed deletion of this Site from the NPL may be submitted on or before July 21, 1997.

ADDRESSES: Comments may be submitted to Garth Connor, (3HW22), Project Manager, U.S. Environmental Protection Agency, 841 Chestnut Building, Philadelphia, PA, 19107, (215) 566–3209.

Comprehensive information on this Site is available through the public docket which is available for viewing at the Site Information Repositories at the following locations:

U.S. EPA Region III, Hazardous Waste Technical Information Center, 841 Chestnut Building, Philadelphia, PA 19107, (215) 566–5363

Buffalo Township Municipal Building, 109 Bear Creek Road, Sarver, PA 19055, 412) 259–2648.

FOR FURTHER INFORMATION CONTACT: Mr. Garth Connor (3HW22), U.S. EPA Region III, 841 Chestnut Building, Philadelphia, PA, 19107, (215) 566–3209.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

I. Introduction

The Environmental Protection Agency (EPA) Region III announces its intent to delete the Hranica Landfill Site, Buffalo Township, Butler County, Pennsylvania, from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and requests comments on this deletion. The EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund Response Trust Fund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if conditions at the site warrant such action.

EPA will accept comments on the proposal to delete this Site from the NPL on or before July 21, 1997.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses how the Site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA, in consultation with the State, will consider whether any of the following criteria have been met:

(i) Responsible or other parties have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented and no further cleanup is appropriate; or

(iii) As set forth in the investigative findings for the Site, the release poses no significant threat to public health or

the environment and, therefore, taking of remedial measures is not appropriate.

(iv) In addition to the above, for all remedial actions which result in hazardous substances, pollutants, or contaminants remaining at the site above levels that allow for unlimited use and unrestricted exposure, CERCLA 121(c), 42 U.S.C. 9621(c), the NCP at 40 CFR 300.430(f)(4)(ii) and EPA's policy, OSWER Directive 9320.2–09, dated August 1995, provide that a subsequent review of the site will be conducted at least every five years after the initiation of the first remedial action at the Site to ensure that the site remains protective of public health and the environment. In the case of this Site, EPA conducted a ''five year review'' in April, 1997. Based on this review, EPA determined that conditions at the Site remain protective of public health and the environment. As explained below, the Site meets the NCP's deletion criteria listed above. Five-year reviews will continue to be conducted at the site until no hazardous substances, pollutants, or contaminants remain above levels that allow for unlimited use and unrestricted exposure. A site shall not be deleted from the NPL until the state in which the site is located has concurred on the proposed deletion. 40 CFR 300.425(e)(2).

All sites deleted from the NPL are eligible for further Fund-financed remedial actions should future conditions warrant such action. Whenever there is a significant release from a site deleted from the NPL, the site can be restored to the NPL without application of the Hazard Ranking System. 40 CFR 300.425(e)(3).

III. Deletion Procedures

Section 300.425(e)(4) of the NCP sets forth requirements for site deletions to assure public involvement in the decision. During the proposal to delete a site from the NPL, EPA is required to conduct the following activities:

(i) Publish a notice of intent to delete in the **Federal Register** and solicit comment through a public comment period of a minimum of 30 calendar days;

(ii) Publish a notice of availability of the notice of intent to delete in a major local newspaper of general circulation at or near the site that is proposed for deletion;

(iii) Place copies of information supporting the proposed deletion in the information repository at or near the site proposed; and,

(iv) Respond to each significant comment and any significant new data submitted during the comment period in a Responsiveness Summary.

If appropriate, after consideration of comments received during the public comment period, EPA then publishes a notice of deletion in the **Federal Register** and places the final deletion package, including the Responsiveness Summary, in the Site repositories. Deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management. As stated in Section II of this document, § 300.425(e)(3) of the NCP provides that the deletion of a site from the NPL does not preclude eligibility for future response.

IV. Basis for Intended Site Deletion

The following site summary provide's EPA's rationale for the proposal to delete the Hranica Landfill from the NPL. The Hranica Landfill comprises 15 acres, and is located in a rural area approximately 21 miles north of Pittsburgh in Buffalo Township, Butler County, Pennsylvania. Approximately thirty years ago, the Site was used as a landfill, drum disposal area, and incineration facility. The Site is surrounded by orchards, corn fields, and wooded areas. Buffalo Township covers 23.9 square miles and has a population of approximately 6,600 people.

Between 1966 and 1974, William Hranica owned and operated the facility, which accepted both municipal and industrial wastes. Initially, the wastes were treated by a combination of open incineration and surface impoundment storage. Subsequently, liquid wastes were disposed of by direct discharge into surface impoundments with resultant ground surface and soil cover infiltration. Site-related compounds, including benzene, xylene and toluene, contaminated an adjacent property owner's spring. The Site never had any buildings or heavy equipment and the hazardous waste drums were stacked haphazardly across the Site property.

The Site was listed on the EPA's National Priorities List (NPL) on September 8, 1983. It was listed as ι123 out of 418 sites on the NPL at that time, with a Hazard Ranking Score of 51.94 on a scale from 0 to 100. Soon after the Site's inclusion on the NPL, the Aluminum Company of America (ALCOA) and PPG Industries, Inc. (PPG), which were the two main generators of waste at the Site, signed a Consent Agreement with the Pennsylvania Department of Environmental Resources (PADER), now the Pennsylvania Department of Environmental Protection (PADEP), to perform extensive removal activities at the Site. These activities were performed from October, 1983 until July, 1984, and involved the removal and ultimate disposal of more than 19,000 drums of hazardous waste and over 4,000 cubic yards of visibly-contaminated soil. Three large vats of waste were also removed from the Site as part of this removal action. These activities essentially removed the entire source of contamination from the Site. However, there were still soils remaining onsite which were contaminated with site-related compounds.

In March 1987, EPA and PPG entered into a Consent Order requiring PPG to perform a Remedial Investigation and Feasibility Study (RI/FS) at the Site. After performing the necessary field work to determine the nature and extent of contamination at the Site, PPG submitted the Draft RI/FS to EPA and PADER in September 1989. A Record of Decision (ROD) for Operable Unit #1 (OU1), which addressed the remaining contaminated soils onsite, was signed on June 29, 1990. The selected remedy included a five-acre soil cover on lead-contaminated areas of the Site. All soils with lead at or above 300 parts per million (ppm) were covered with a two-foot thick soil cover. The remedy also called for deed restrictions on the property, an eight-foot fence around the perimeter of the Site, and long-term ground and surface water monitoring.

In April 1992, PPG began additional sampling and analysis of the ground water portion of the Site for four consecutive quarters. After examining the results of this additional sampling, EPA concluded that no further action was necessary to protect the ground water. A No Further Action ROD for the ground water portion of the Site, Operable Unit #2, was signed on May 26, 1994.

ALCOA and PPG conducted the site remediation under EPA and PADEP oversight. IT Corporation was hired by ALCOA and PPG to do the Remedial Design for OU1 at this Site. The final remedial design for OU1 was approved by EPA on March 17, 1993. ERM-Enviroclean was hired to do the Remedial Action. The Remedial Action began in June 1993, and was completed in October 1993. About 3,000 truckloads of clean soil were placed onsite and compacted during the Remedial Action. A five-acre soil cover was placed on the former drum disposal area and the adjoining hillside. This soil cover was also graded and seeded. A recent site inspection in October, 1996 by the EPA Remedial Project Manager revealed that

the entire soil cover is now completely vegetated, and there are no barren areas remaining onsite. The Site is now completely fenced and has a locked entrance gate. A Consent Decree with the property owner to record the deed restrictions has been signed, and the deed restrictions are attached to the property deed in the Butler County Courthouse in Butler, Pennsylvania.

Chester Engineers (Chester) was hired by PPG in 1994 to perform the site maintenance and the long-term ground water monitoring at the Site. This semi-annual sampling has been an important part of the operation and maintenance at the Site. Chester samples a number of locations, both on-and offsite, in the Spring and Fall of each year. PPG submits quarterly progress reports to the EPA and PADEP describing the Site's condition and detailing any upcoming sampling at the Site. A separate report is submitted by Chester describing the actual sampling results.

A statutory Five-Year Review of the selected remedy was completed on April 16, 1997 to ensure that the remedy is still protective of the public health and the environment. The next five-year review must be completed by April 30, 2002. Subsequent five-year reviews will be conducted pursuant to OSWER Directive 9355.7–02. ''Structure and Components of Five-Year Reviews,'' or other applicable guidance where it exists.

The remedy selected for this Site has been implemented in accordance with the Record of Decision, as modified and expanded in the EPA-approved Remedial Design for Operable Unit #1. This remedy has resulted in the significant reduction of the long-term potential for release of contaminated soils to the surrounding surface soils, the ambient air and the aquatic environment. Human health threats and potential environmental impacts have been minimized. EPA and the State of Pennsylvania find that the remedies implemented continue to provide adequate protection of human health and the environment.

EPA, with the concurrence of the State of Pennsylvania, believes that the criteria for deletion of this Site have been met. Therefore, EPA is proposing deletion of this Site from the NPL.

Dated: June 5, 1997.

Stanley Laskowski,

Acting Regional Administrator, USEPA Region III.

[FR Doc. 97–15854 Filed 6–18–97; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE23

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Two Larkspurs From Coastal Northern California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes endangered status pursuant to the Endangered Species Act (Act) of 1973, as amended for two plants—*Delphinium bakeri* (Baker's larkspur) *and Delphinium luteum* (yellow larkspur). These species grow in a variety of habitats including coastal prairie, coastal scrub, or chaparral in Sonoma and Marin counties in northern California. Habitat loss and degradation, sheep grazing, road maintenance activities, and overcollection imperil the continued existence of these plants. Random events increase the risk of extinction to the extremely small plant populations. This proposal, if made final, would implement the Federal protection and recovery provisions afforded by the Act for these plants.

DATES: Comments from all interested parties must be received by August 18, 1997. Public hearing requests must be received by August 4, 1997.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Sacramento Field Office, U.S. Fish and Wildlife Service, 3310 El Camino Avenue, Suite 130, Sacramento, California 95821–6340. Comments and materials received, as well as the supporting documentation used in preparing the rule, will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Kirsten Tarp, Sacramento Field Office (see **ADDRESSES** section) (telephone 916/979–2120; facsimile 916/979–2128).

SUPPLEMENTARY INFORMATION:

Background

Delphinium bakeri (Baker's larkspur) and *D. luteum* (yellow larkspur) were found historically in coastal prairie, coastal scrub, or chaparral habitats. Urban development, agricultural land conversion, or livestock grazing have destroyed much of the habitat and extirpated numerous populations of these two plants in coastal Marin and Sonoma Counties in northern California. The historical range of *Delphinium bakeri* and *D. luteum* did not extend beyond coastal Marin and Sonoma counties.

Ewan (1942) described *Delphinium bakeri* based on type material collected by Milo Baker in 1939 from ''Coleman Valley, Sonoma Co., California.'' In the most recent treatment, Warnock (1993) retained the taxon as a full species. Historically, *D. bakeri* was known from Coleman Valley in Sonoma County and from a site near Tomales in Marin County. *Delphinium bakeri* occurs on decomposed shale within the coastal scrub plant community from 400 to 500 feet (ft) (120 to 150 meters (m) in elevation (California Natural Diversity Database (CNDDB) 1994).

Delphinium bakeri is a perennial herb in the buttercup family (Ranunculaceae) that grows from a thickened, tuber-like, fleshy cluster of roots. The stems are hollow, erect, and grow to 65 centimeters(cm) (26 inches (in.)) tall. The shallowly 5-parted leaves occur primarily along the upper third of the stem and are green at the time the plant flowers. The flowers are irregularly shaped. The five sepals are conspicuous, bright dark blue or purplish, with the rear sepal elongated into a spur. The inconspicuous petals occur in two pairs. The lower pair is oblong and blue-purple; the upper pair is oblique and white. Seeds are produced in several dry, many-seeded fruits which split open at maturity on only one side (i.e., several follicles). *Delphinium bakeri* flowers from April through May (Warnock 1993).

Habitat conversion to agricultural land, grazing, and/or roadside maintenance activities have extirpated occurrences in Marin and Sonoma counties (California Department of Fish and Game (CDFG) 1994). The only known remaining population, with a total of about 35 individuals, is found on a steep road bank in Marin County that is subject to road work, overcollection, and sheep grazing. Because of its extreme range restriction and small population size, the plant also is vulnerable to extinction from random events, such as fire or insect outbreaks (CNDDB 1994). California Department of Fish and Game (CDFG) (1994) reported the trend of the species is one of decline.

Heller (1903) described *Delphinium luteum* based on type material collected from ''grassy slopes about rocks, near Bodega Bay, along the road leading to the village of Bodega'' in Sonoma County. Although Jepson (1970) reduced *D. luteum* to a variety of *D. nudicaule*, it is currently recognized as

a full species (Warnock 1993). *Delphinium luteum* occurs on rocky areas within coastal scrub plant community, including areas with active rock slides, from sea level to 300 feet (100 m) in elevation (Guerrant 1976).

Delphinium luteum is a perennial herb in the buttercup family (Ranunculaceae) that grows from fibrous roots to 55 cm (22 in.) tall. The leaves are mostly basal, fleshy, and green at the time of flowering. The flowers are cornucopia-shaped. The five conspicuous sepals are bright yellow, with the posterior sepal elongated into a spur. The inconspicuous petals occur in two pairs. The upper petals are narrow and unlobed; the lower petals are oblong to ovate. The fruit is a follicle. *Delphinium luteum* flowers from March to May.

Never widely distributed, historical populations of *Delphinium luteum* have been partially or entirely extirpated by rock quarrying activities, over-collecting, residential development, and sheep grazing, resulting in the species now being even more narrowly distributed (Guerrant 1976; CNDDB 1994; Betty Guggolz, Milo Baker Chapter, California Native Plant Society (CNPS) pers. comm. 1995). The two remaining populations near Bodega, both on private land, total fewer than 50 plants. Development, overcollection, and sheep grazing in addition to their small isolated nature makes them susceptible to random events (CNDDB 1994; Betty Guggolz, pers. comm. 1995). CDFG (1994) reported the species is declining.

Previous Federal Action

Federal government actions on the two plants began as a result of section 12 of the original Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975, and included *Delphinium bakeri* and *D. luteum* as endangered species. The Service published a notice on July 1, 1975 (40 FR 27823), of its acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) (petition provisions are now found in section 4(b)(3) of the Act) and its intention thereby to review the status of the plant taxa named therein. The above two taxa were included in the July 1, 1975, notice. On June 16, 1976, the Service published a proposal (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. *Delphinium bakeri* and *D. luteum* were included in the June 16, 1976, **Federal Register** document.

General comments received in relation to the 1976 proposal were summarized in an April 26, 1978, notice (43 FR 17909). The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to those proposals already more than 2 years old. In the December 10, 1979, notice (44 FR 70796), the Service published a notice of withdrawal of the June 6, 1976, proposal, along with four other proposals that had expired.

The Service published an updated notice of review for plants on December 15, 1980 (45 FR 82480). This notice included *Delphinium bakeri* and *D. luteum* as category 1 candidates for Federal listing. Category 1 taxa were those species for which the Service had on file substantial information on biological vulnerability and threats to support preparation of listing proposals. On November 28, 1983, the Service published a supplement to the Notice of Review (48 FR 53640). This supplement changed *Delphinium bakeri* and *D. luteum*. from category 1 to category 2 candidates. Category 2 taxa were those species for which data in the Service's possession indicate listing is possibly appropriate, but for which substantial data on biological vulnerability and threats were not currently known or on file to support proposed rules.

The plant notice was revised again on September 27, 1985 (50 FR 39526). *Delphinium bakeri* and *D. luteum*. were again included as category 2 candidates. Another revision of the plant notice was published on February 21, 1990 (55 FR 6184). In this revision *Delphinium bakeri* and *D. luteum* were included as category 1 candidates. The Service made no changes to the status of the two species in the plant notice published on September 30, 1993 (58 FR 51144). On February 28, 1996, the Service published a Notice of Review in the **Federal Register** (61 FR 7596) that discontinued the designation of category 2 species as candidates. Both species were listed as candidates in the February 28, 1996, Notice of Review.

Section 4(b)(3)(B) of the Act requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Delphinium bakeri* and *D. luteum*., because the 1975 Smithsonian report had been accepted as a petition. On October 13, 1982, the Service found that the petitioned listing of these species was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notification of this finding was published on January 20, 1984 (49 FR 2485). Such a finding requires the petition to be recycled, pursuant to section 4(b)(3)(C)(I) of the Act. The finding was reviewed annually in October of 1983 through 1994. Publication of this proposal constitutes the final finding for the petitioned action. Processing of this rule is a Tier 3 activity under the current listing priority guidance (61 FR 64480).

Summary of Factors Affecting the Species

Section 4 of the Act (U.S.C. 1533) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Delphinium bakeri* Ewan (Baker's larkspur) and *Delphinium luteum* Heller (yellow larkspur) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Historically, the habitat of *Delphinium bakeri* was eliminated by agricultural conversion to grainfields (Ewan 1942). Threats to the lone remaining site of *D. bakeri* are discussed under Factors B through E. Of the two remaining populations of *Delphinium luteum*, the one located at an old rock quarry site near Bodega has been partially destroyed and fragmented by historical quarry activities. The number of plants remaining at this site continues to decline. Population numbers were between 100 to 200 plants in 1978 (Ed Guerrant, Berry Botanic Garden, pers. comm. 1995), but recent counts indicate that only 30 to 40 individuals remain (B. Guggolz, pers. comm. 1995). The other extant site has fewer than 10 remaining individuals. A historical site near the town of Graton had been converted to residential uses by 1987 (CNDDB 1994). Urban development, and its associated recreational activities, continue to threaten both remaining populations (B. Guggolz, pers. comm. 1995).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Overutilization is a threat for both species. In 1992, all the follicles were collected from the plants at the only known site of *Delphinium bakeri* (CDFG 1993). Due to its distinctive yellow flowers, which is uncommon for larkspurs, *D. luteum* is of horticultural interest. Collecting is thought to have extirpated at least one occurrence of *Delphinium luteum* located southwest of Tomales (CNDDB 1994). Additionally, some of the historical decline to *D. luteum* can be attributed to collecting. *Delphinium luteum* was offered in horticultural trade journals (as a plant to order) during the 1940's and 1950's (Michael Warnock, Sam Houston University, pers. comm. 1994). Plants can still be procured from a local nursery (their seed source is not from the wild). Both populations of *D. luteum* are close to residential areas and are subject to collecting. Unrestricted collecting for scientific or horticultural purposes or excessive visits by individuals interested in seeing rare plants could result from increased publicity as a result of this proposal.

C. *Disease or predation.* The single population of *Delphinium bakeri* which, unlike most other species in the genus does not appear to be poisonous to livestock (Ewan 1942), may be threatened by sheep grazing (CNDDB 1994). The few remaining individuals (approximately 35) are extremely vulnerable to impacts that otherwise might not be significant. Although *D. luteum* has persisted at two sties with sheep grazing for many decades, because of the very low number of individuals in the population, any loss of flowers and/or seeds could significantly reduce chances for the long term survival of this species (see Factor E).

D. *The inadequacy of existing regulatory mechanisms.* The State of California Fish and Game Commission has listed *Delphinium bakeri* and *Delphinium luteum* as rare species under the California Endangered Species Act (Chapter 1.5 sec. 2050 *et seq.* of the California Fish and Game Code and Title 14 California Code of Regulations section 670.2). Listing by the State of California requires individuals to obtain a management agreement with the CDFG to possess or ''take'' a listed species. Although the ''take'' of State-listed plants is prohibited (California Native Plant Protection Act, Chapter 10 section 1908 and California Endangered Species Act, Chapter 1.5 section 2080), State law exempts the taking of such plants via habitat modification or land use changes by the owner. After CDFG notifies a landowner that a State-listed plant grows on his or her property, State law requires that the land owner notify the agency ''at least 10 days in advance of changing the land use to allow salvage of such a plant'' (Native Plant Protection Act, Chapter 10 section 1913).

The California Environmental Quality Act (CEQA) (chapter 2 section 21050 *et seq.* of the California Public Resources Code) requires a full disclosure of the potential environmental impacts of proposed projects. The public agency with primary authority or jurisdiction over the project is designated as the lead agency, and is responsible for conducting a review of the project and consulting with the other agencies concerned with the resources affected by the project. Section 15065 of the CEQA Guidelines requires a finding of significance if a project has the potential to ''reduce the number or restrict the range of a rare or endangered plant or animal.'' Species that are eligible for listing as rare, threatened, or endangered are not given the same protection as those species that are officially listed with the State or Federal governments. Once significant effects are identified, the lead agency has the option to require mitigation for effects through changes in the project or to decide that overriding considerations make mitigation infeasible. In the latter case, projects may be approved that cause significant environmental damage, such as destruction of endangered species. Protection of listed species through CEQA is therefore dependent upon the discretion of the agency involved. In addition, revisions to CEQA guidelines have been proposed which, if implemented, may weaken protections for threatened, endangered, and other sensitive species.

E. *Other natural or manmade factors affecting its continued existence.* The remaining population of *Delphinium luteum* at the rock quarry may be threatened by users of a trail associated with the extension of an existing golf course into the current scenic easement that exists on this site (B. Guggolz, pers. comm. 1995). At this site, the Bodega Harbor landowners association is proposing to build an equipment storage shed and a public trail that would be close to the remaining plants. Although the proposed storage equipment shed would be located on degraded habitat and would have no direct impact on the population, the public trail would run near the population. The proximity of the trail to the plants would increase the threat from collection (see Factor B).

The remaining population of *Delphinium bakeri* occurs on a steep road bank that is along side of a county road in Marin County. Some potential exists for spraying and road maintenance activities that could be detrimental to this species due to the extremely low number of individuals left. The degree to which these activities place the population at risk is uncertain.

Because few populations and/or individuals remain, both plant species proposed herein likely are threatened by genetic drift. *Delphinium bakeri* has one population consisting of 35 plants. *Delphinium luteum* has two populations, totaling fewer than 50 plants. Small populations often are subject to increased genetic drift and inbreeding as consequences of their small populations (Ellstrand and Elam 1993). A loss of genetic variability, and consequent reduction in genetic fitness affords less chance of any species to successfully adapt to environmental change (Ellstrand and Elam 1993).

The combination of few, small populations, narrow range and restricted habitat, make these two plant species susceptible to destruction of all or a significant part of any population from random events, such as fire, drought, disease, or other occurrences (Shaffer 1981, Primack 1993). Random events causing population fluctuations or even population extirpations are not usually a concern until the number of individuals or geographic distribution becomes very limited, which is the case for both these species (Primack 1993). Once a plant population becomes so reduced due to habitat destruction and fragmentation, the remnant population has a higher probability of extinction from random events.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these two species in determining to propose this rule. Habitat loss and degradation, sheep grazing, inadequate regulatory mechanisms, naturally occurring events, small plant populations, road maintenance activities, and overcollection imperil the continued existence of these plants. *Delphinium bakeri* has one population with a total of 35 plants. *Delphinium luteum* has two small populations with a total of fewer than 50 plants. Both plant species are in danger of extinction throughout all of their range, and the preferred action is therefore to list *Delphinium bakeri* and *Delphinium luteum* as endangered. Other alternatives to this action were considered but not preferred because not listing them or listing them as threatened would not provide adequate

protection and would not be consistent with the Act.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) Essential to the conservation of the species and (II) that may require special management consideration or protection and; (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Delphinium bakeri* and *Delphinium luteum* at this time. Service regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist—(1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

As discussed under Factors B in ''Summary of Factors Affecting the Species'' overutilization has been documented and threatens both plant species. The publication of precise maps and descriptions of critical habitat in the **Federal Register** would make these plants more vulnerable to incidents of collection and, therefore, could contribute to the decline of these species and increase enforcement problems. The listing of these species as endangered also publicizes the rarity of these plants and, thus, can make these plants attractive to researchers or collectors of rare plants.

Furthermore, critical habitat designation for *Delphinium bakeri* and *Delphinium luteum* is not prudent due to lack of benefit. Because the two plant species are limited to a few locations entirely on private land, any action that would adversely modify critical habitat also would jeopardize the species. The designation of critical habitat therefore would not provide additional benefit for these species beyond the protection afforded by listing.

Protection of the habitat of these species will be addressed through the recovery process and through section 7. The Service believes that Federal involvement in the areas where these plants occur can be identified without the designation of critical habitat. For the reasons discussed above, the Service finds that the designation of critical habitat for these plants is not prudent at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing results in public awareness and conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the State and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Listing these two plants would provide for development of a recovery plan (or plans) for them. Such plan(s) would bring together both State and Federal efforts for conservation of the plants. The plan(s) would establish a framework for agencies to coordinate activities and cooperate with each other in conservation efforts. The plan(s) would set recovery priorities and estimate costs of various tasks necessary to accomplish them. It also would describe site-specific management actions necessary to achieve conservation and survival of the two plants. Additionally, pursuant to section 6 of the Act, the Service would be able to grant funds to affected states for management actions promoting the protection and recovery of these species.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 for endangered plants, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce to possession from areas under Federal jurisdiction. In addition, for plants listed as endangered, the act prohibits malicious damage or destruction on areas under Federal jurisdiction, and the removal, cutting, digging up, or damaging or destroying of such plants in knowing violation of any State law or regulation, including state criminal trespass law. Certain exceptions to the prohibitions apply to agents of the Service and State conservation agencies.

It is the policy of the Service (59 FR 34272) to identify to the maximum extent practicable at the time a species is listed those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of the listing on proposed and ongoing activities within a species' range. None of the occurrences of the two species occur on public (Federal) lands. Collection, damage or destruction of these species on Federal lands is prohibited, although in appropriate cases a Federal endangered species permit may be issued to allow collection for scientific or recovery purposes. Such activities on non-Federal lands would constitute a violation of section 9 if conducted in knowing violation of California State law or regulations or in violation of State criminal trespass law.

Activities that are unlikely to violate section 9 include livestock grazing, clearing a defensible space for fire protection around one's personal residence, and landscaping (including irrigation), around one's personal

residence. Questions regarding whether specific activities will constitute a violation of section 9 should be directed to the Field Supervisor of the Sacramento Field Office (see **ADDRESSES** section).

The Act and 50 CFR 17.62 and 17.63 for endangered plants, and also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered or threatened plants under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival or the species. For threatened plants, permits also are available for botanical or horticultural exhibition, educational purposes, or special purposes consistent with the purposes of the Act. It is anticipated few trade permits would ever be sought or issued for the three species because the species are not common in cultivation or in the wild. Requests for copies of the regulations regarding listed species and inquiries regarding prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Endangered Species Permits, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181 (phone 503/231–2063, facsimile 503/231–6243).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. The Service will follow its current peer review policy (59 FR 34270) in the processing of this rule. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Delphinium bakeri* and *D. luteum;*

(2) The location of any additional populations of these species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of these species; and

(4) Current or planned activities in the subject area and their possible impacts on these species.

Any final decision on this proposal will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, U. S. Fish and Wildlife Service, Sacramento Office, 2800 Cottage Way, Room E–1803, Sacramento, CA 95825–1846.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

The Service has examined this regulation under the Paperwork Reduction Act of 1995 and found it to contain no information collection requirements.

References Cited

A complete list of all references cited herein is available upon request from the Field Supervisor, Sacramento Field Office (see **ADDRESSES** section).

Author: The primary author of this proposed rule is Kirsten Tarp, U.S. Fish and Wildlife Service, Sacramento Field Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Section 17.12(h) is amended by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	
Delphinium bakeri	Baker's larkspur	U.S.A. (CA)	Ranunculaceae	E		NA	NA
Delphinium luteum	yellow larkspur	U.S.A. (CA)	Ranunculaceae	E		NA	NA
*	*	*	*	*	*	*	

Dated: April 28, 1997.

John G. Rogers,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 97–15927 Filed 6–18–97; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN: 1018–AC98

Endangered and Threatened Wildlife and Plants; Withdrawal of Proposed Rule to List Arctostaphylos Imbricata (San Bruno Mountain Manzanita) as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; withdrawal.

SUMMARY: The U. S. Fish and Wildlife Service (Service) withdraws the proposal to list *Arctostaphylos imbricata* (San Bruno Mountain manzanita) as a threatened species under the Endangered Species Act of 1973, as amended (Act). This determination is based on evaluation of comments and additional information received subsequent to publication of the proposed rule. Provisions of the San Bruno Mountain Habitat Conservation Plan (HCP) pertaining to management for the conservation of *A. imbricata* have been clarified. Other threats identified in the proposed rule pertaining to fire frequency and overutilization for horticultural purposes are no longer considered to pose a significant risk to the survival of the species. Thus, protection under the Act is unnecessary at this time.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the Sacramento Field Office, U.S. Fish and Wildlife Service, 3310 El Camino Ave., Sacramento, California 95821–6340.

FOR FURTHER INFORMATION CONTACT: Diane Windham, at the above address or by telephone at (916) 979–2725.

SUPPLEMENTARY INFORMATION:

Background

Alice Eastwood (1931) originally described *Arctostaphylos imbricata* in 1931, based on material collected from the San Bruno Hills in 1915. Until 1967, various authors either synonymized *A. imbricata* with *A. andersonii* (Jepson 1939), or considered it to be a variety of *A. andersonii* (Adams in McMinn 1935). Roof (1967) followed Eastwood's treatment and acknowledged A. imbricata as a distinct species. Wells (1988) recognized *A. montariensis* as a subspecies of *A. imbricata* which, under the rules of botanical nomenclature, automatically created the name (autonym) *A. imbricata* ssp. *imbricata*. He has since revised his treatment of California *Arctostaphylos* to recognize *A. imbricata* as a distinct species (Wells 1993).

Arctostaphylos imbricata is a low, spreading, evergreen shrub of the heath family (Ericaceae) that lacks a basal burl. Attaining a height of 20 centimeters (8 inches), this highly branched shrub forms mats up to about 6 meters (m) (6 yards) in diameter. The bright green, oblong to ovate leaves are hairless, except on the midrib, and densely overlapping. Small, white, urn-shaped flowers appearing from February to May are densely clustered at the end of branchlets. After fire, *A. imbricata* regenerates from seed instead of resprouting from a basal burl. *Arctostaphylos imbricata* can be distinguished from other members of the genus by its prostrate form, its shorter, densely arranged leaves, and its compact flower clusters (Roof 1967).

Arctostaphylos imbricata is restricted to San Bruno Mountain in northern San Mateo County. On San Bruno Mountain, six small colonies comprise one population which covers approximately 2.3 hectares (5.6 acres) (V. Harris, Thomas Reid Associates, *in litt.* 1993; R. Gankin, San Mateo County Planning Department, *in litt.* 1994). The most abundant colony has 400 to 500 plants; other colonies have as few as 3 plants (R. Gankin, pers. comm. 1993; R. Gankin, in litt. 1994). The plant grows on rocky, exposed areas such as open ridges within coastal scrub or manzanita scrub vegetation at an elevation range of 275 to 365 m (900 to 1,200 feet). Where it occurs, it is the dominant plant species, and may be associated with *Baccharis pilularis* (coyote brush), *Vaccinium ovatum* (huckleberry), *Rhamnus californica* (coffeeberry), and *Arctostaphylos uva-ursi* var. *suborbiculata* (bearberry) (California Department of Fish and Game 1988). *Arctostaphylos imbricata* has never been known from more than the single population of six colonies that occurs today. Five of the six colonies occur on land owned by the San Mateo County Department of Parks and Recreation; the sixth colony is privately owned (Thomas Reid Associates 1991). All colonies are located within the San Bruno Mountain HCP boundaries.

Finding and Withdrawal

The proposed rule to list *Arctostaphylos imbricata* as threatened (October 4, 1994; 59 FR 50550), stated that the San Bruno Mountain HCP, a planning effort under management and implementation by San Mateo County and their consultant, Thomas Reid and Associates, identifies *A. imbricata* as a ''species of concern'' but that the HCP does not identify any species-specific management actions for this species. Since publication of the proposed rule, provisions of the HCP pertaining to management for the conservation of *A. imbricata* have been clarified. The HCP preserves most of the mountain and provides monitoring and management for a number of rare plant and animal species, including *A. imbricata*. In addition, threats identified in the proposed rule pertaining to fire frequency and overutilization for horticultural purposes are no longer considered to pose a significant risk to the survival of the species. For these reasons, the Service now believes the plant is adequately conserved.

Previous Federal Action

On December 15, 1980, the Service published in the **Federal Register** an updated Notice of Review for plants (45 FR 82480) which included *Arctostaphylos imbricata* as a category 1 candidate for Federal listing. Category 1 taxa were formerly defined as taxa for which the Service had on file sufficient information on status and threats to support issuance of a listing proposal. *Arctostaphylos imbricata* retained category 1 status in revised plant notices published on September 27, 1985 (50 FR 39526), February 21, 1990 (55 FR 6184), and September 30, 1993 (58 FR 51144).

A proposal to list *Arctostaphylos imbricata* as threatened and *Lessingia germanorum* as endangered was published in the **Federal Register** on October 4, 1994 (59 FR 50550). This notice of withdrawal of the proposal to list *A. imbricata* is published concurrently in the **Federal Register** with the final rule listing *L. germanorum* as endangered in order to resolve the listing status of both species. Processing the final listing decisions on these two species follows the Service's listing priority guidance published in the **Federal Register** on December 5, 1996 (61 FR 64475).

Summary of Comments and Recommendations

In the October 4, 1994, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information

that would contribute to the development of a final decision document. Appropriate Federal and State agencies, county and city governments, scientific organizations, and other interested parties were contacted and requested to comment. In accordance with Service policy published on July 1, 1994 (59 FR 34270), the Service solicited comments from three appropriate and independent specialists regarding pertinent scientific or commercial data and assumptions relating to the proposed rule. A newspaper notice of the proposed rule was published in the *San Francisco Chronicle* on October 19, 1994, which invited general public comment. A 60-day comment period closed on December 4, 1994.

The Service received eight letters of comment. No requests for public hearings were received. Because the proposed rule included both *Arctostaphylos imbricata* and *Lessingia germanorum*, only comments pertaining to *A. imbricata* are discussed here. Comments and issues pertaining to *L. germanorum* are discussed in a separate **Federal Register** notice published concurrently with this notice.

Of the eight people who submitted comments, three were neutral and four supported the listing of *Arctostaphylos imbricata*. The eighth respondent opposed the listing of *A. imbricata* on the grounds that listing was premature at the time and recommended that it be retained as a candidate species. As previously indicated, the listing proposal for *A. imbricata* is being withdrawn in this notice. A candidate is a species for which the Service has on file sufficient information on the status and threats to the species to support issuance of a listing proposal. Therefore, upon the withdrawal of the proposal to list, *A. imbricata* cannot be maintained as a candidate.

One commenter indicated that designation of critical habitat would aid in protection of rare plants. Because the proposed rule for *Arctostaphylos imbricata* is being withdrawn, this issue is moot with respect to this species. Another commenter suggested that the effects of microwave facilities on San Bruno Mountain might pose a threat to the species. The Service is not aware of any data to support this contention and no evidence was provided by the commenter.

The combined threats of senescence (growing old, dying) of plants and lack of reproduction due to the prolonged absence of fire described in the proposed rule were considered by another commenter to be unsubstantial. After reviewing the available information, the Service concurs. More detail on this issue is provided in the discussion of Factor E in the ''Summary of Factors Affecting the Species'' section below.

Only one of the three independent and appropriate specialists provided comments on the proposal to list *Arctostaphylos imbricata*. This reviewer concurred with all of the comments made in the proposed rule concerning the status, threats, and potential threats to the species and supported listing as proposed. The reasons for the Service's decision to withdraw its proposal to list *A. imbricata*, in opposition to this specialist's recommendation, are explained in the following section.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Act requires the Service to consider five factors when determining whether to list a species as threatened or endangered. These factors, and their application to the Service's decision to withdraw the proposal to list *Arctostaphylos imbricata* Eastw. (San Bruno Mountain manzanita), are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* No threats to *Arctostaphylos imbricata* were identified under this factor in the proposed rule, nor were any such threats identified by commenters on the rule. None of the colonies are threatened by development permitted under the San Bruno Mountain HCP. The Service believes that no threats exist to the species' habitat or range.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The proposed rule cited overutilization for horticultural purposes as a potential threat to *Arctostaphylos imbricata*. In 1991, cuttings were taken from plants located at Kamchatka Point on San Bruno Mountain. The remnant surviving portions of the plants showed evidence that the clippings were performed with horticultural expertise (Doug Heisinger, Park Ranger, San Mateo County Park, pers. comm. 1993). Some *A. imbricata* individuals being sold at local plant sales may have originated from clippings from the natural population (Paul Reeberg, pers. comm. 1993). The Service now concludes that, although such actions are inappropriate and illegal (under both the California Endangered Species Act and the California Native Plant Protection Act), infrequent pruning does not currently constitute a significant threat to the survival of the species.

C. *Disease or predation.* No known threats from disease or predation were identified in the proposed rule. The Service has no new information on threats from these factors.

D. *The inadequacy of existing regulatory mechanisms.* The proposed rule stated that *Arctostaphylos imbricata* derived limited protection from the San Bruno Mountain HCP, but that no species-specific management actions for *A. imbricata* are identified in the HCP and none have been implemented. After publication of the proposed rule, the HCP Trustees informed the Service that the San Bruno Mountain HCP provides for monitoring and management of populations of all rare plants occurring on the mountain including *A. imbricata*. Moreover, the HCP Trustees have agreed and committed to an annual budget for rare plant monitoring and management. Any specific management activities recommended, such as controlled burning (see Factor E below), will be carried out under the HCP. Present management for *A. imbricata* includes alien plant control. The Trustees have also expressed a willingness to meet and work with Service biologists to identify and implement any specific management actions necessary for the conservation of the species (V. Harris, *in litt.* 1996).

Arctostaphylos imbricata is listed as endangered under the California Endangered Species Act (Chapter 1.5 section 2050 *et seq.* of the California Fish and Game Code and Title 14 California Code of Regulations 670.2). The proposed rule stated that, although both the California Endangered Species Act and the California Native Plant Protection Act prohibit the ''take'' of State-listed plants (California Endangered Species Act, Chapter 1.5 section 2080 and California Native Plant Protection Act, Chapter 10 section 1908), State law exempts the taking of such plants via habitat modification or land use changes by the owner provided notification requirements are satisfied. The Service concluded that this exemption renders State law inadequate to protect *A. imbricata* from extinction. The Service believes that the inadequacy of State law in protecting *A. imbricata* is no longer an issue because protection of the species is provided by the San Bruno Mountain HCP.

E. *Other natural or manmade factors affecting its continued existence.* The Service indicated in the proposed rule that *Arctostaphylos imbricata* is a fire-adapted plant that, following a fire, regenerates entirely from seed and does not resprout from a basal burl. Keeley (1977) labeled plants employing this

type of post-fire reproductive strategy ''obligate-seeders.'' The Service also implied in the proposed rule that fire, which can remove competing vegetation and counter mechanisms that prevent seed germination (e.g., hormones, impervious seed coat), is necessary for the maintenance of *A. imbricata* because sexual reproduction by seed is important to the maintenance of genetic diversity. Although germination of its seed bank (seeds accumulated in the soil and canopy of mature shrubs) is triggered mainly by fire, occasional germination and establishment of *A. imbricata* does occur without the aid of fire (R. Gankin, *in litt.*, 1994). Moreover, *A. imbricata* can spread vegetatively and reportedly is spreading on San Bruno Mountain (R. Gankin, *in litt.*, 1994). Thus, fire is not necessary for maintenance of the species.

The Service asserted in the proposed rule that if the amount of time between fires were too long, *Arctostaphylos imbricata* would have little opportunity to reproduce sexually and individuals could become senescent. However, Keeley (1977) argued that the reproductive strategy of obligate-seeders such as the non-sprouting manzanita species is an adaptation to a long-interval fire cycle. Obligate-seeders tend to occur in less fire-prone areas, like San Bruno Mountain which is often shrouded in fog during the summer (D. Schooley, Bay Area Land Watch, *in litt.*, 1994), that generally burn more intensely when fires do occur (Keeley 1977). Consequently, *A. imbricata* and other obligate-seeders ''are resilient to very long intervals [between fires] and successful seedling recruitment is observed after fires in stands which may exceed 100 years of age'' (Keeley *et al.* 1988). In addition, fires burned colonies of *A. imbricata* on San Bruno Mountain in 1964 and in the late 1980's. Even though all of the individuals in the colony which burned in the 1980's were killed, significant regeneration did take place (R. Gankin, *in litt.*, 1994). Also, both regeneration from seed and spreading by layering has occurred in the colony which burned in 1964 (D. Schooley, *in litt.*, 1994). For these reasons, the Service concludes that the prolonged absence of fire does not threaten *A. imbricata* now and will not in the foreseeable future.

The Service also stated in the proposed rule that a reduction in fire frequency could pose a threat to the species because periodic fires reduce competition and shading by other plant species. On San Bruno Mountain, *Arctostaphylos imbricata* grows on rocky exposed areas such as open ridges. On such sites, the lack of soil development precludes significant establishment of other plant species; the species most likely to pose a threat through overtopping and consequent shading, *Ceanothus thrysiflorus*, is a short-lived species that does not do well on such undeveloped soils (R. Gankin, *in litt.*, 1994). The Service now concludes, on the basis of the foregoing evidence, that the prolonged absence of fire is not likely to result in significant establishment of other plant species and that therefore competition from (including shading by) other plant species does not pose a significant threat to the survival of *A. imbricata*.

Frequent fire, that is fire recurring within a short period of time (fewer than 15 years), can result in local extinctions (Zedler *et al.* 1983 in Keeley and Keeley 1988). As discussed above and in the proposed rule, on San Bruno Mountain *Arctostaphylos imbricata* grows on rocky exposed areas such as open ridges. Because such open sites lack sufficient fine fuels (i.e., dried grass and herbs) to sustain fire or carry fire from adjoining, more densely vegetated habitat, the Service concludes that fire is unlikely to occur frequently in *A. imbricata* habitat and that, therefore, frequent fire is not a significant threat to the species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by *Arctostaphylos imbricata* in determining to withdraw the proposed rule to list the species as threatened. The Service has determined that implementation of the San Bruno Mountain HCP, which includes monitoring and management of *A. imbricata*, sufficiently removes the threats to the species and provides for its conservation. Furthermore, the Service has determined that the threats identified in the proposed rule pertaining to fire frequency and overutilization for horticultural purposes are not likely to pose a significant risk to the survival of *A. imbricata*.

Author: The primary author of this document is Diane Windham, Sacramento Field Office (see **ADDRESSES** section).

Authority: The authority for this action is section 4(b)(6)(B)(ii) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq*).

Dated: April 8, 1997.

John G. Rogers,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 97–15926 Filed 6–18–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants: Notice of Availability of a Draft Recovery Plan for the Lee County Cave Isopod for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a draft Recovery Plan for the Lee County Cave Isopod (*Lirceus usdagalun*). The Lee County cave isopod, a subterranean freshwater crustacean, is endemic to southwestern Virginia, where it has been documented from two cave systems and two resurgence springs in Lee County. The Lee County cave isopod was listed as endangered in 1992. The draft recovery plan sets recovery objectives and recommends recovery activities that, if implemented on schedule, may lead to delisting of this species by the year 2005. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received August 4, 1997.

ADDRESSES: Persons wishing to review the draft recovery plan can obtain a copy from the U.S. Fish and Wildlife Service, Southwestern Virginia Field Office, P.O. Box 2345, Abingdon, Virginia (telephone 540/623–1233; fax 540/623–1185) or U.S. Fish and Wildlife Service, Region Five, 300 Westgate Center Drive, Hadley, Massachusetts 01035, (telephone 413/253–8628; fax 413–253–8482). Comments should be sent to the U.S. Fish and Wildlife Service, Southwestern Field Office at the above mailing address, to the attention of Leroy Koch.

FOR FURTHER INFORMATION CONTACT: Leroy Koch at 540/623–1233 (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of

the species, establish criteria for the recovery levels for reclassifying or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing recovery plans.

The document submitted for review is the draft Lee County Cave Isopod (*Lirceus usdagalun*) Recovery Plan. The Lee County cave isopod is a cave-dwelling freshwater crustacean listed as an endangered species. It is endemic to southwestern Virginia, where it has been documented from only cave systems and two resurgence springs (presumably associated with undiscovered cave systems) in Lee County. The aquatic habitat of this isopode occurs in the central Lee County Karst, a gently rolling region characterized by exposed limestone ridges with karren development, numerous sinkholes, blind valleys, sinking streams, subterranean drainage, and caves. The historic distribution of the species within the four cave systems comprises six known site occurrences, one which is considered extirpated due to massive organic pollution of the cave stream ecosystem. The primary threat to the remaining sites is potential degration of groundwater quality resulting from surrounding land uses. All known Lee County cave isopod sites are on private land, and many landowners in the region are unaware of the critical link between surface water and groundwater quality, as is evident by the use of sinkholes as disposal areas for household, industrial, and agricultural waste products. Logging and sawmill operations are prominent uses of the lands surrounding the cave systems in Lee County; such operations represent a potentially significant threat to karst ecosystems because leachate from organic decomposition of the sawdust material can travel from surface to groundwater. Other potential threats to the species' habitat include non-point-source pollution, inadequate or failing septic systems, toxic spills along roadways, and accelerating development along U.S. Route 58.

To facilitate protection and recovery of this rare species, the following objectives and conditions for meeting objectives are recommended. To reclassify the Lee County cave isopod from endangered to threatened status: (1) Completely delineate the likely range, current and historical, of the species' distribution; (2) gain a sufficient understanding of the surface and subterranean drainage patterns with the species' known range to enable monitoring and management; (3) show that populations of the isopod in at least four cave systems are improving or stable over a two-year monitoring period; and (4) establish a groundwater monitoring program in systems known to contain the isopod, with results over a two-year period showing the groundwater quality and quantity are being maintained at levels needed to ensure the survival of this species. To delist the Lee County cave isopod in addition to the preceding conditions: (1) Show that populations of the isopod in at least four cave systems are stable over an additional three-year monitoring period; (2) demonstrate that groundwater quality and quantity are being maintained over an additional three-year monitoring period at levels needed to ensure the survival of this species; (3) achieve permanent protection from significant groundwater contamination for all sites known to support the Lee County cave isopod.

The Lee County cave isopod draft recovery plan also recommends a number of activities needed to achieve these recovery objectives. Ongoing and proposed recovery activities include: surveys to determine the location and extent of all area supporting this isopod; monitoring of Lee County cave isopod populations; life history and other research to determine what constitutes a viable and/or stable population of Lee County cave isopod; further studies and mapping of the surface and subterranean drainage systems in which the isopod occurs; monitoring of water quality and quantity and isopod habitat at selected sites; identification of those factors that adversely affect the species and actions to eliminate or minimize such impacts; implementation of habitat protection measures for known populations of Lee County cave isopod; educational and awareness programs for landowners, governmental agencies, and nongovernmental organizations; if and as needed, restoration of populations of the Lee County cave isopod to former habitat; and monitoring of recovery progress.

The draft recovery plan revision is being submitted for agency review. After consideration of comments received during the review period, the plan will be submitted for final approval.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority

The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: June 10, 1997.

Adam O'Hara,

Acting Regional Director, Region 5.

[FR Doc. 97–16010 Filed 6–18–97; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 62, No. 118
Thursday, June 19, 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

Commodity Credit Corporation

Notice of Request for Reinstatement and Extension of a Currently Approved Information Collection

AGENCY: Farm Service Agency and the Commodity Credit Corporation, USDA

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Farm Service Agency (FSA) and the Commodity Credit Corporation (CCC) to request an extension for an information collection currently approved in support of the FSA and CCC Debt Settlement Policies and Procedures regulations. Provisions in the Federal Agriculture Improvement and Reform Act of 1996 and in the Debt Collection Improvement Act of 1996 have resulted in a decrease in burden hours for information collection under the FSA and CCC Debt Settlement Polices and Procedures program.

DATES: Comments on this notice must be received on or before August 18, 1997 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Thomas F. Harris II, Financial Analyst, Financial Management Division, Farm Service Agency, USDA , STOP 0581, 1400 Independence Avenue, SW., Washington, DC 20013–0581, telephone (703) 305–1439.

SUPPLEMENTARY INFORMATION:

Title: Debt Settlement Policies and Procedures, 7 CFR Part 792.

OMB Control Number: 0560–0146

Type of Request: Reinstatement and extension of an approved information collection.

Abstract: The information collected under the Office of Management and Budget (OMB) Number 0560–0146, as indicated above, is needed to enable FSA and CCC to effectively administer the Debt Settlement Policies and Procedures program. Collection of outstanding debts owed to FSA or to the CCC can be effected by installment payments if a debtor furnishes satisfactory evidence of inability to pay a claim in full, and if the debtor specifically requests for an installment agreement. Part of the requirements is that the debtor furnish this request in writing and with a financial statement or other information that would disclose a debtor's assets and liabilities. This information is required in order to evaluate any proposed plan. Such documentation requests furnished by the debtor are also used in other collection tools employed by both FSA and CCC in managing debt settlement policies and procedures. The Debt Collection Improvement Act of 1996 requires the head of an agency to take all appropriate steps to collect delinquent debts before discharging such debts. These steps require the employment of these information collection forms and formats which have been successfully used for the past several years and which have become familiar tools for both Agency employees and for the producer. Thus forms and formats already exist and are in use. Having to develop and introduce new forms and formats into the market place would add additional burdens and costs to both the producer and to the Agency in the handling of the claim settlement and collection processes and would create additional burdens not called for under the Debt Collection Improvement Act of 1996.

Estimate of Burden: Public reporting burden for this collection of information is estimated at 30 minutes per response. Each response consists of a letter request, a financial statement, and, if approved, a Promissory Note (CCC–279).

Respondents: Producers participating in FSA and CCC programs.

Estimated Number of Respondents: 250.

Estimated Number of Responses per Respondents: 1.

Estimated Total Annual Burden on Respondents: 125 hours.

Topics for comment include but are not limited to the following: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; or (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments regarding this information collection requirement may be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for USDA, Washington, DC 20503, and to Thomas F. Harris II. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

OMB is required to make a decision concerning the collection(s) of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Signed at Washington, DC, on June 11, 1997.

Bruce R. Weber,

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

[FR Doc. 97–16014 Filed 6–18–97; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

City of Albany, KY, Cagle Water Expansion Project; Final Environmental Impact Statement

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of availability of final environmental impact statement

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS), pursuant to its responsibility as Lead Agency, and in conjunction with its cooperating agencies, the U.S. Department of Housing and Urban

Development and the U.S. Department of Commerce, Economic Development Administration is issuing a Final Environmental Impact Statement (FEIS) related to the proposed water treatment plant expansion in the City of Albany, Kentucky. The FEIS was prepared pursuant to the National Environmental Policy Act of 1969 (NEPA) (U.S.C. 4231 *et seq.*) in accordance with the Council on Environmental Quality (CEQ) regulations for implementing the procedural provisions of NEPA (40 CFR 1500–1508) and Agency regulations (7 CFR 1940–G). RUS invites comments on the FEIS.

The purpose of the EIS is to evaluate the environmental impacts of the proposal to expand Albany's water treatment plant to increase its treatment capacity from 2.0 million gallons daily (MGD) to 5.0 MGD. As a result of the action, Cagle's, Inc., plans to build a poultry processing plant in Clinton County, Kentucky. Cagle support operations such as a feed mill, hatchery, poultry farms, and associated utility lines would be built in the region. The Clinton County Industrial Park would also be built as a result of the water plant expansion.

DATES: Written comments on the FEIS will be accepted on or before July 21, 1997.

ADDRESSES: To send comments or for more information, contact: Mark S. Plank, USDA, Rural Utilities Service, Engineering and Environmental Staff, 1400 Independence Avenue, SW., Mail Stop 1571, Washington, DC 20250, telephone (202) 720–1649, fax (202) 720–0820, or e-mail: mplank@rus.usda.gov.

A copy of the FEIS can be obtained over the Internet at http://www.usda.gov/rus/water/ees/ees.htm. The file is in a portable document format (pdf); in order to review the document, users need to obtain a copy of Acrobat Reader. Free copies of Acrobat Reader can be obtained from http://www.adobe.com/prodindex/acrobat/readstep.html

Copies of the FEIS will be available for public review during normal business hours at the following locations:

Clinton County Public Library, 205 Burkeville Road, Albany, KY 40601, (606) 387–5989.

Goodnight Memorial Library, 203 South Main, Franklin, KY 42134, (502) 586–8397.

Simpson County Extension Service, 300 N. Main Street, Franklin, KY 42134, (502) 586–4484.

Warren County Extension Service, 1117 Cabell Drive, Bowling Green, KY 42102–1018, (502) 842–1681.

Bowling Green Public Library, 1225 State Street, Bowling Green, KY 42102, (502) 843–1438.

Helm-Cravers Library, 1 Big Red Way, Western Kentucky University, Bowling Green, KY 42101, (502) 745–3951.

Individuals who received copies of the Draft EIS will be mailed copies of the FEIS.

SUPPLEMENTARY INFORMATION: The City of Albany, KY, located in south-central Kentucky, has applied for federal financial assistance to expand its water treatment plant. This action is a part of the Federal Government Empowerment Zone program that seeks to empower economically depressed communities to pursue economic development through a government and private business partnership. The U. S. Department of Agriculture, Rural Utilities Service (RUS), has prepared this Environmental Impact Statement (EIS) concerning this action. This document is developed and written in accordance with the National Environmental Policy Act, the President's Council on Environmental Quality regulations, and Rural Utilities Service regulations. The U. S. Department of Housing and Urban Development, the City of Albany, KY, the responsible entity of HUD's, Community Development Block Grant, and the U. S. Department of Commerce, Economic Development Administration are cooperating agencies for this action.

RUS, announced its' intent to prepare a EIS on November 29, 1996. Two scoping meetings were held in Clinton County to solicit comments from the public. These comments were considered in developing the scope of the EIS. The availability of the draft EIS was announced in the **Federal Register** by RUS on April 16, 1997, and the U.S. Environmental Protection Agency on April 25, 1997.

Four public meetings to solicit comments from the public were held in the area affected by this proposal. These comments and all comments received in writing were considered and incorporated, as appropriate, in the FEIS. Specific responses to the public comments can be found in Appendix E of the FEIS.

This EIS is the evaluation of the potential impacts on the environment from the water treatment plant expansion. In addition, the EIS considers the potential environmental impacts from the construction and operation of industries that would locate in the Albany, Kentucky, area as a result of the expansion. Cagle's Inc. plans to build a poultry processing facility in the area. This would require construction of support operations such as a feed mill, hatchery, poultry farms, and associated utility lines and ancillary systems. The Clinton County Industrial Park is also proposed as a result of the expansion, even though no specific plans have been made for the industrial park.

In preparing this EIS, the study team considered several alternative ways to meet the community's need, but most were considered impracticable, or unreasonable. Therefore, this EIS evaluates in depth only two alternatives: the action to expand the water treatment plant and the No Action alternative. Alternatives within the proposed action are also discussed.

The affected environment of the facilities considered in this EIS consists of rural settings that are dominated by agricultural operations. The expansion would require building a new water treatment plant next to the existing plant. This would increase the overall raw water treatment capacity from 2 million gallons per day to 5 million gallons per day. The raw water would be drawn from Lake Cumberland, a major recreational lake in the area.

The poultry processing facility would be located about 3 miles from Lake Cumberland. It would use an on-site, no discharge wastewater treatment system that would use drip and spray irrigation of treated wastewater on a hay farm. There will be no point discharge of treated wastewater to Indian Creek or any other surface waterway on the property. Indian Creek drains into Lake Cumberland. A feed mill and hatchery would be located about 70 miles due west of the poultry processing facility in Franklin, Kentucky, with poultry farms likely to be established throughout fifteen counties in Kentucky and Tennessee. The Clinton County Industrial Park would be located about four miles south of the raw water treatment plant.

The EIS evaluates the potential environmental impacts from the construction and operation of the various facilities and associated utility lines. Construction and operation of the facilities and utility lines would have no significant impact on biological resources, noise, aesthetics, cultural resources, and the air quality of the region.

Construction of the facilities and utility lines would use best management practices to control erosion, runoff, and sedimentation, as required by Kentucky Best Management Practices for Construction Activities. Therefore, minimal impacts on soils and surface water would occur. The geology of the area consists largely of limestone, containing sinkholes, crevices, and caves. To minimize the risk of problems

associated with sinkholes, subsurface investigations would have to be used by Cagles to help determine the exact siting of buildings, lagoons, and the other facilities.

Operation of the water treatment plant would have negligible impact on Lake Cumberland's water capacity. The irrigation of treated wastewater from the poultry processing facility would have no significant impact on soils or surface and groundwater. However, a monitoring program for soils, surface, and groundwater would be set up to assess any potential long-term effects of the irrigation. The feed mill and hatchery would have minimal impact on the water and associated environment since its wastewater would be discharged to a local municipal sewer.

Disposal of poultry wastes from the poultry processing facility and poultry farms would use best management practices as required by the Kentucky Agriculture Water Quality Plan, which is in the process of being implemented. Each new agriculture operation would need to comply with the plan. The plan also includes long-term monitoring of the state's water quality to evaluate the effectiveness of the best management practices. Therefore, no significant impacts on water quality are expected.

For all of the facility areas, no significant cultural resources have been found.

Most of the socioeconomic effects would result from the construction and operation of the poultry processing facility and its support operations. The poultry farming operations would be consistent with U.S. Department of Agriculture's family farming policy. The projected industrial growth in the area would result in increased employment and income. This would in turn stimulate economic growth of this low-income area. No significant impact on the transportation system in the region is expected.

The Clinton County Industrial Park would be able to accommodate businesses interested in locating to the area in the future. This would further stimulate economic growth in the area.

The construction and operation of the facilities and utility lines would meet all federal, state, and local regulations and permitting requirements. Best management practices for construction activities and poultry farming operations would prevent any significantly adverse impacts on the environment. Funding of the water treatment plant is the preferred alternative at this time.

The No Action alternative is not to award Federal financial assistance to the City of Albany. If the No Action alternative is chosen, the potential environmental effects of the various facilities, discussed above, would not occur. However, potential economic development in the area would not be realized, and the goals of the federal assistance program would not be met. The area would continue to suffer from high unemployment, poverty, and dependence on Federal and State entitlements.

By not funding the project, the No Action alternative, economic conditions within the EZ would continue to worsen. The trend of factories closing or down sizing shifts, and stores and businesses closing would continue. The current economy could not support the existing businesses. The No Action alternative would be detrimental to the EZ and result in an adverse impact to the community.

Dated: June 16, 1997.

John P. Romano,

Deputy Administrator, Water and Environmental Program.

[FR Doc. 97–16121 Filed 6–18–97; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews and request for revocation in part.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with May anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department also received a request to revoke one antidumping duty order in part.

EFFECTIVE DATE: June 19, 1997.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 353.22(a) and 355.22(a) (1994), for administrative reviews of various antidumping and countervailing duty orders and findings with May anniversary dates. The Department also received a timely request to revoke in part the antidumping duty order on frozen concentrated orange juice from Brazil.

Initiation of Reviews

In accordance with sections 19 CFR 353.22(c) and 355.22(c), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. The Department is not initiating an administrative review of any exporters and/or producers who were not named in a review request because such exporters and/or producers were not specified as required under section 353.22(a)(19 CFR 353.22(a)). We intend to issue the final results of these reviews not later than May 31, 1998.

Antidumping duty proceedings	Period to be reviewed
Brazil: Frozen Concentrated Orange Juice A–351–605	5/1/96–4/30/97
Branco Peres	
India: Circular Welded Non-Alloy Steel Pipes and Tubes A–533–502	5/1/96–4/30/97
Lloyds Metals & Engineers, Ltd.	
Rajinder Pipes Ltd.	
South Korea: DRAMs A–580–812	5/1/96–4/30/97
Hyundai Electronics Industries, Co., Ltd.	
LG Semicon Company, Ltd.	
Techgrow Limited (Hong Kong)	
Singapore Resources (Pte.) Ltd. (Singapore)	
NIE Electronics (M) Sdn. Bhd. (Malaysia)	
Vitel Electronics Ottawa Office (Canada)	
Taiwan: Malleable Cast Iron Pipe Fittings A–583–507	5/1/96–4/30/97
De Ho Metal Industrial Co., Ltd.	
Taiwan: Polyvinyl Alcohol A–583–824	10/10/95–4/30/97

Antidumping duty proceedings	Period to be reviewed
Chang Chun Petrochemical Corp., Ltd.	
Perry Chemical Corporation	
Countervailing Duty Proceedings:	
Sweden: Viscose Rayon Staple Fiber	
C–401–056 ..... Svenska Rayon AB	1/1/96–12/31/96

If requested within 30 days of the date of publication of this notice, the Department will determine whether antidumping duties have been absorbed by an exporter or producer subject to any of these reviews if the subject merchandise is sold in the United States through an importer which is affiliated with such exporter or producer.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b) and 355.34(b).

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 353.22(c)(1) and 355.22(c)(1).

Dated: June 12, 1997.

Jeffrey P. Bialos,

Principal Deputy Assistant Secretary for Import Administration.

[FR Doc. 97–16048 Filed 6–18–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–421–701]

Brass Sheet and Strip From the Netherlands; Amendment of Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Amendment of Final Results of Antidumping Duty Administrative Review.

SUMMARY: The Department of Commerce (the Department) is amending its final results of administrative review, published on January 19, 1996, of the antidumping duty order on brass sheet and strip from the Netherlands, to reflect the correction of ministerial errors in those final results.

EFFECTIVE DATE: June 19, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas Killiam or John Kugelman, AD/CVD Enforcement Group III, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2704 or (202) 482–0649, respectively.

Applicable Statute and Regulations

Unless otherwise stated, all citations to the statute and the regulations are references to the provisions as they existed on December 31, 1994.

SUPPLEMENTARY INFORMATION:

Background

The Department published the final results of antidumping administrative review on January 19, 1996 (61 FR 1324). The respondent is Outokumpu Copper Rolled Products B.V. (OBV). The petitioners are Hussey Copper, Ltd., The Miller Company, Olin Corporation, Revere Copper Products, Inc., International Association of Machinists and Aerospace Workers, International Union, Allied Industrial Workers of America (AFL–CIO), Mechanics Educational Society of America (Local 56), and United Steelworkers of America (AFL–CIO/CLC).

On February 12, 1996, we received timely allegations from OBV and the petitioners that the Department had made certain ministerial errors in the final results. The Department agreed that certain of the allegations constituted ministerial errors but the Department was unable to issue a determination correcting these errors before the petitioners filed a complaint with the Court of International Trade (CIT), challenging the final results of review. Therefore, the Department requested leave from the CIT to correct these errors. On August 1, 1996, the CIT granted the Department leave to correct the errors.

Scope of the Review

Imports covered by this review are shipments of brass sheet and strip, other than leaded and tinned brass sheet and strip, from the Netherlands. The chemical composition of the products under review is currently defined in the Copper Development Association (C.D.A.) 200 Series or the Unified Numbering System (U.N.S.) C20000 series. This review does not cover products the chemical compositions of which are defined by other C.D.A. or U.N.S. series. The merchandise is currently classified under Harmonized Tariff Schedule (HTS) item numbers 7409.21.00 and 7409.29.20. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Amended Final Results of Review

The respondent alleged that the Department inadvertently used shipment date as the date of sale, in calculating foreign market value (FMV) and in making foreign exchange rate conversions. The respondent also alleged that the Department improperly failed to convert the constructed value corresponding to a particular U.S. sale from guilders per kilogram to dollars per pound.

The petitioners alleged that for U.S. sales with further manufacturing in the United States, the Department failed to subtract the full amount of allocated direct and indirect selling expenses from U.S. price. The petitioners also alleged that, although the final results analysis memorandum states that the Department treated certain U.S. payments for specific sales as indirect selling expenses rather than as commissions, and there were no other claims for U.S. commission expenses for the sales in question, in the computer program the Department deducted home market indirect selling expenses from FMV as an offset to U.S. ''commissions'' for these same U.S. sales. Finally, the petitioners alleged that the Department incorrectly included several below-cost home market sales when calculating FMV.

As noted above, we have reviewed each of these alleged errors, and we agree that they constitute ministerial errors. Therefore, we have amended our final results accordingly.

Amended Final Results of Review

After correcting the final results for the above ministerial errors, the Department has determined that the following margin exists:

Manufacturer/exporter	Period	Percent margin
Outokumpu Copper	8/1/90–7/31/91	5.85

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between the U.S. price and FMV may vary from the above percentage. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these amended final

results, as provided for by section 751(a)(1) of the Act.

(1) The cash deposit rate for OBV will be 5.85%;

(2) For previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period;

(3) If the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and

(4) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 16.99 percent, the ''all others'' rate established in the LTFV investigation.

This notice serves as a reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This amendment of the final results of review and this notice are in accordance with section 751(f) of the Act (19 U.S.C. 1675(f)) and 19 CFR 353.28(c)(1995).

Dated: June 10, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–16047 Filed 6–18–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–805]

Cut-to-Length Carbon Steel Plate From Belgium: Extension of Time Limits for Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Extension of time limits for antidumping duty administrative review of cut-to-length carbon steel plate from Belgium.

SUMMARY: The Department of Commerce (''the Department'') is extending the time limit for the preliminary results of the third antidumping duty administrative review of the antidumping order on Cut-to-Length Carbon Steel Plate from Belgium. This review covers one manufacturer and exporter of the subject merchandise: Fabrique de Fer de Charleroi. The period of review is August 1, 1995 through July 31, 1996.

EFFECTIVE DATE: June 19, 1997.

FOR FURTHER INFORMATION CONTACT: Maureen McPhillips or Linda Ludwig, AD/CVD Enforcement Group III—Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone (202) 482–3019 or 482–3833, respectively.

SUPPLEMENTARY INFORMATION: The Department initiated this administrative review on September 16, 1996 (61 FR 48882). Because it is not practicable to complete this review within the time limits mandated by section 751(a)(3)(A) of the Tariff Act of 1930 (''the Act''), as amended by the Uruguay Round Agreements Act of 1994, the Department is extending the time limit for the preliminary results of the aforementioned reviews to September 2, 1997, in accordance with Section 751(a)(3)(A) of the Trade and Tariff Act of 1930, as amended by the Uruguay Round Agreements Act of 1994 (19 U.S.C. 1675(a)(3)(A)). See Memorandum from Joseph Spetrini to Robert LaRussa, dated June 4, 1997. The deadline for the final results of this review will continue to be 120 days after publication of the preliminary results.

Dated: June 4, 1997.

Joseph A. Spetrini,

Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 97–16049 Filed 6–18–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 060697A]

Marine Mammals; Pinniped Removal Authority

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

ACTION: Proposed extension of Letter of Authorization and request for public comments.

SUMMARY: NMFS solicits public comments on a request from the State of Washington and a proposal by NMFS to extend a Letter of Authorization for the lethal removal of individually identifiable California sea lions that are having significant negative impact on the status and recovery of winter steelhead that migrate through the Ballard Locks in Seattle, WA. This action is authorized under Section 120 of the Marine Mammal Protection Act.

DATES: Comments must be received on or before July 21, 1997.

ADDRESSES: Comments should be addressed to William Stelle, Jr., Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115, or to Michael Payne, Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Joe Scordino (206) 526–6143, or Tom Eagle (301) 713–2322.

SUPPLEMENTARY INFORMATION: Pursuant to Section 120(b) of the Marine Mammal Protection Act, NMFS issued a 3-year Letter of Authorization (LOA) that is valid through June 30, 1997, to the Washington Department of Fish and Wildlife (WDFW) for the lethal removal of California sea lions that are having significant negative impact on the status and recovery of winter steelhead that migrate through the Ballard Locks in Seattle, WA. Information on Washington's application for lethal removal, the process for considering the application which included formation of a Pinniped-Fishery Task Force, and the terms and conditions of the LOA issued to WDFW was published in the **Federal Register** on August 2, 1994 (59 FR 39325), September 27, 1994 (59 FR 49234), January 19, 1995 (60 FR 3841), August 15, 1995 (60 FR 42146), March 26, 1996 (61 FR 13153), and August 26, 1996 (61 FR 43737). Background information on the sea lion-steelhead conflict at the Ballard Locks and findings on the environmental consequences of issuance of the LOA are provided in two Environmental Assessments prepared by NMFS in 1995 and 1996 (see **ADDRESSES**).

No lethal removals were conducted during the 3-year authorization. In 1995, one sea lion (#17) was captured on January 25 and held in temporary captivity until June 7. Two other sea lions (#87 and #225) were captured late in the season and translocated out to the Strait of San Juan de Fuca and released. In 1996, three sea lions (#17, #45, and #225) were captured and placed in permanent captivity for public display. No sea lions were removed, either temporarily or permanently, from the Ballard Locks area in 1997.

The State of Washington has requested that NMFS extend the LOA for an additional 8 years (with a new expiration date of June 30, 2005) citing a need to manage the problem of sea lion predation on winter steelhead beyond the current expiration date of June 30, 1997. WDFW requested an 8-year extension so that it encompasses approximately two complete steelhead life cycles which WDFW believes is the minimum time necessary to determine whether their efforts to recover the steelhead population have succeeded. WDFW is not requesting any modifications to the terms and conditions of the LOA other than the extension to June 30, 2005. WDFW made its request after considering the deliberations of the Pinniped-Fishery Interaction Task Force (Task Force). The Task Force met in September 1996 and submitted a report to NMFS that recommends that the LOA be extended because insufficient time had passed to evaluate the success of management actions at Ballard Locks. The Task Force opinions on the extension ranged from no extension to a period of 8 years (two steelhead cycles) with the majority of the Task Force favoring an extension of 4 years (one steelhead cycle) to June 30, 2001. Copies of the Task Force report and the letter from WDFW requesting the extension are available (see **ADDRESSES**).

NMFS is proposing to extend the LOA and seeks public comments on extending the LOA for a period of 4 to 8 years. Pending a final decision on the State's request, NMFS has provided an interim extension to the current LOA through September 30, 1997. This interim extension will not result in lethal removal of sea lions because the terms and conditions of the current LOA would allow lethal removal only between January 1 and May 30 of any year. After consideration of public comments, NMFS will decide whether to extend the LOA beyond September 30, 1997, and for what period of time. Notice of the final decision will be published in the **Federal Register**.

Dated: June 13, 1997.

Hilda Diaz-Soltero,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–16101 Filed 6–18–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[ID: 052797C]

Fisheries of the Exclusive Economic Zone Off Alaska; Experimental Fishing Permit

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

ACTION: Issuance of an Experimental Fishing Permit.

SUMMARY: NMFS announces the issuance of an experimental fishing permit 97–01 (EFP) to the Groundfish Forum. The EFP authorizes the Groundfish Forum to conduct an experiment that would systematically test the effects of an open-top intermediate escape panel on species and size composition of catch in trawls targeting flatfish. Results of the experiment will be used to develop methods for trawl vessels targeting flatfish to avoid bycatch of pollock and Pacific cod. This EFP will provide information not otherwise available through research or commercial fishing operations. The intended effect of this action is to promote the purposes and policies of the Magnuson-Stevens Fishery Conservation and Management Act.

ADDRESSES: Copies of the EFP and the Environmental Assessment (EA) prepared for the EFP are available from Lori J. Gravel, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Kent A. Lind, 907–586–7228

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) authorizes the issuance of EFPs for fishing that would otherwise be prohibited under existing regulations. The procedures for issuing EFPs are set out at 50 CFR 679.6.

On April 15, 1997, NMFS announced in the **Federal Register** the receipt of an application for an EFP from the Groundfish Forum (62 FR 18316). The application requested authorization for Groundfish Forum to test the effects of an open-top intermediate escape panel on species and size composition of catch in trawls targeting flatfish. The purpose of this research is to assist industry in developing gear modifications that will reduce the bycatch of groundfish (primarily pollock and Pacific cod) in flatfish fisheries off Alaska. This EFP will provide information not otherwise available through research or commercial fishing operations because it is not economically feasible for vessels to participate in an experiment of this extent and rigor during the short commercial fisheries.

A statistical analysis completed by the Groundfish Forum and reviewed by NMFS has determined that 6 vessels fishing for a total of 300 tows will produce a 70 percent certainty of detecting a 10 percent decline in groundfish catch and a 98 percent certainty of detecting a 20 percent decline in groundfish catch. To fully complete the experiment, the Groundfish Forum estimates that 4,590 mt to 4,680 mt of groundfish may be taken by vessels participating in the experiment.

The Groundfish Forum will set up a ''request for proposals'' (RFP) process whereby companies submit applications to test an open panel placed in the intermediate portion of the trawl that conforms to the general description of the device described by Rose (1995). Under the rules of the experiment, the performance of the experimental gear will be tested against a standard control gear. The control gear will be a net configured for yellowfin sole fishing as per current industry practices.

The RFP will set out a general description of the type of trawl design that will be systematically tested against a control trawl gear. The type of gear design that will be tested against the control will be an ''open'' panel placed in the intermediary or intermediate (both terms are commonly used) portion of the trawl. The panel is effectively open because no net meshes are in the top portion of the net; only the net straps are present in the top panel portion of the net. The device to be tested was first developed by NMFS gear researchers (Rose 1995). The open panel to be tested in this experiment must be at least 16 ft in length (stretched mesh length) and occupy at least 40 percent of the intermediate portion of the test trawl net (stretched mesh basis).

Placement and shape of the panel will be determined by the company making application to participate in the experiment. Other aspects of the net design for the test gear, as well as the control gear, will have to conform to standards so that the effects of the open panel can be discerned by the experiment. Towing speed, duration of tows, and other aspects of the tows made with experimental and control nets will be restricted for purposes of isolating the effects of the open panel.

Guidelines for applications to participate in the experiment will be provided by the Groundfish Forum. Guidelines will include a description of the test and control gear as well as a statement of the rules that must be followed for the experiment. This information will be conveyed to potential applicants through a short publication written and distributed by the Groundfish Forum and reviewed by NMFS personnel associated with the experiment.

The Regional Administrator has approved the EFP application and has issued EFP 97–01 to the Groundfish Forum. The EFP authorizes the Groundfish Forum to solicit vessel participants through the RFP process and authorizes the harvest of 4,700 mt of groundfish during the course of the experiment from July 25, 1997, through August 30, 1997, of which no more than 50 percent, or 2,350 mt, may be species other than yellowfin sole. Groundfish and PSC catch associated with this experiment will not be deducted from total allowable catch and PSC amounts specified for the 1997 groundfish fisheries.

The Regional Administrator may terminate the experiment if prohibited species catch (PSC) exceeds the high-end estimates of the Groundfish Forum; 43.9 mt of Pacific halibut, 30,900 *Chionoecetes bairdi* crab, and 160,700 *C. opilio* crab. Failure of the permittee to comply with the terms and conditions of the EFP may be grounds for revocation, suspension, or modification of the EFP under 15 CFR 600.745(b)(8) with respect to any or all persons and vessels conducting activities under the EFP. Failure to comply with applicable laws may also result in sanctions imposed under those laws.

Classification

NMFS prepared an EA for this EFP. The Assistant Administrator for Fisheries, NOAA, concluded that there will be no significant impact on the human environment as a result of fishing under this EFP. A copy of the EA is available from NMFS (see **ADDRESSES**). The Regional Administrator determined that fishing activities conducted pursuant to this EFP will not affect endangered and threatened species or critical habitat under the Endangered Species Act.

References

Rose, C.S. 1995. ''Behavior of North Pacific groundfish encountering trawls: applications to reduce bycatch.'' in Solving Bycatch: Considerations for Today and Tomorrow. Univ. of Alaska Sea Grant Report 96–03, pp. 235–242.

This action is exempt from review under E.O. 12866.

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

Dated: June 13, 1997.

Gary Matlock,

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

[FR Doc. 97–16009 Filed 6–18–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Department of the Navy, DoD

Notice of Closed Meeting of the Board of Visitors to the United States Naval Academy

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Board of Visitors to the United States Naval Academy will meet on June 23, 1997, at the United States Naval Academy, Alumni Hall, at 8:30 a.m. This meeting will be closed to the public.

The purpose of the meeting is to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy. During this meeting inquiries will relate to the internal personnel rules and practices of the Academy, may involve on-going criminal investigations, and include discussions of personal information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, the Under Secretary of the Navy has determined in writing that the meeting shall be closed to the public because the meeting will be concerned with matters as outlined in section 552(b) (2), (5), (6), (7) and (9) of Title 5, United States Code. Due to a delay in Administrative Processing the normal 15 days notice requirement could not be met.

FOR FURTHER INFORMATION CONCERNING THIS MEETING CONTACT: Lieutenant Commander Adam S. Levitt, U.S. Navy, Secretary to the Board of Visitors, Office of the Superintendent, United States Naval Academy, Annapolis, MD 21402–5000, telephone number (410) 293–1503.

Dated: June 11, 1997.

Michael D. Sutton,

LT, JAGC, USN, Alternate Federal Register Liaison Officer.

[FR Doc. 97–16056 Filed 6–18–97; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Chicago Operations Office; Office of Industrial Technologies (OIT); Notice of Solicitation for the Glass Industry Initiative: Correction

AGENCY: (DOE).

ACTION: Notice of solicitation availability: Correction

SUMMARY: The Department of Energy (DOE) Office of Industrial Technologies published a document in the **Federal Register**, June 6, 1997, concerning receiving applications for innovative research and development (R&D) in support of the ''Glass Industry Initiative''. The document contained an incorrect internet address.

FOR FURTHER INFORMATION CONTACT: Barbara Lewandowski at (630) 252–2069.

CORRECTION: In the **Federal Register** of June 6, 1997, in FR Doc: 97–14814, on page number 31088, in the first column, correct the dates and addresses caption to read:

DATES AND ADDRESSES: The Internet address for the DOE Chicago Operations Office's Acquisition and Assistance Group should be changed to: http://www.ch.doe/business/acq.htm. The link to the Glass Industry Initiative is located near the bottom of the Acquisition and Assistance page.

Issued in Chicago, Illinois on June 12, 1997.

J.D. Greenwood,

Acquisition and Assistance Group Manager.

[FR Doc. 97–16082 Filed 6–18–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–1686–000]

Cataula Generating Company, L.P.; Notice of Issuance of Order

June 13, 1997.

Cataula Generating Company, L.P. (Cataula) filed an application for authorization to sell power at market-based rates, and for certain waivers and authorizations. In particular, Cataula requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Cataula. On May 29, 1997, the Commission issued an Order Accepting For Filing Proposed Market-Based Rates (Order), in the above-docketed proceeding.

The Commission's May 29, 1997 Order granted the request for blanket

approval under Part 34, subject to the conditions found in Ordering Paragraphs (C), (D), and (F):

(C) Within 30 days of the date of issuance of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Cataula should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(D) Absent a request to be heard within the period set forth in Ordering Paragraph (C) above, Cataula is hereby authorized to issue securities and assume obligations and liabilities as guarantor, endorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Cataula, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(F) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Cataula's issuances of securities or assumptions of liabilities.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 30, 1997.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16087 Filed 6–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2970–000]

Consolidated Edison Company of New York, Inc.; Notice of Filing

June 13, 1997.

Take notice that on May 15, 1997, Consolidated Edison Company of New York, Inc. tendered for filing a service agreement with Valero Power Services Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 in accordance with 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 June 25, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16038 Filed 6–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2265–000]

Dayton Power & Light Company; Notice of Filing

June 13, 1997.

Take notice that on May 21, 1997, Dayton Power & Light Company tendered for an amendment in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with 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 June 25, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16039 Filed 6–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–363–008]

El Paso Natural Gas Company; Notice of Change in Rates

June 13, 1997.

Take notice that on June 10, 1997, El Paso Natural Gas Company (El Paso) tendered for filing and acceptance, pursuant to Part 154 of the Commission's Regulations Under the Natural Gas Act and the Commission's order issued April 16, 1997 at Docket No. RP95–363–000, et al., the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1–A and Third Revised Volume No. 2.

Second Revised Volume No. 1–A

Ninth Revised Sheet No. 20
Fifth Revised Sheet No. 22
Tenth Revised Sheet No. 23
Thirteenth Revised Sheet No. 24
Tenth Revised Sheet No. 26
Ninth Revised Sheet No. 27 and 28
Original Revised Sheet No. 33 through 38
Sheets Nos. 39 through 99
Third Revised Sheet No. 102
Fifth Revised Sheet No. 111
Fourth Revised Sheet No. 112
Fifth Revised Sheet No. 113
Original Revised Sheet No. 113A
Second Revised Sheet No. 114
Second Revised Sheet No. 117 and 118
Third Revised Sheet No. 127
First Revised Sheet No. 202B
Third Revised Sheet No. 215
Second Revised Sheet No. 215A
First Revised Sheet No. 215B
Second Revised Sheet No. 218
First Revised Sheet No. 219
Second Revised Sheet No. 309
Original Sheet Nos. 310 through 316
Sheet Nos. 317 through 319
Original Revised Sheet Nos. 320 through 323
Sheet Nos. 324 through 329
Second Revised Sheet No. 349
Third Revised Sheet No. 350
Second Revised Sheet No. 350A

Third Revised Volume No. 2

Fortieth Revised Sheet No. 1–D.2
33rd Revised Sheet No. 1–D.3

El Paso states that the tariff sheets are being tendered to implement its Offer of Settlement and Request for Approval of Stipulation and Agreement filed with the Commission on March 15, 1996 at Docket Nos. RP95–363–000, et al. The tendered tariff sheets are proposed to become effective on July 1, 1997.

Additionally, pursuant to the commitment made in its comments filed in the above proceeding on November 15, 1996, El Paso is filing conforming revisions to the Stipulation and Agreement (S & A) contained in the Settlement.

El Paso states that copies of the filing were served upon all parties of record at Docket Nos. RP95–363–000, et al., all shippers on El Paso's system, and interested state regulatory commissions.

Any person desiring to protect said filing should file a protest with the Federal Regulatory Commission, 888 First Street, N.E., Washington, DC 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.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16035 Filed 6–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP96–366–000 and FA94–15–002]

Florida Gas Transmission Company; Notice Rescheduling Informal Settlement Conference

June 13, 1997.

Take notice that the informal settlement conference that was previously scheduled in this proceeding on June 16 and June 17, 1997, has been rescheduled for Monday, June 23, 1997 at 1:00 p.m., and if necessary, will continue on June 24, 1997, at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Sandra J. Delude at (202) 208–0583 or Kathleen M. Dias at (202) 208–0524.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16036 Filed 6–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG97–14–000]

National Fuel Gas Supply Corporation; Notice of Filing

June 13, 1997.

Take notice that on June 9, 1997, National Fuel Gas Supply Corporation (National) filed a request for limited waiver or clarification of the Commission's regulations regarding marketing affiliates, 18 CFR part 161 and 18 CFR 250.16.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 or 385.214. All such motions to intervene or protest should be filed on or before June 30, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16034 Filed 6–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–392–000]

National Fuel Gas Supply Corporation; Notice of Proposed Changes in FERC Gas Tariff

June 13, 1997.

Take notice that on June 9, 1997 National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the revised tariff sheets listed on Appendix A to the filing, to be effective July 11, 1997.

National Fuel states that the purpose of the filing is to add provisions to the General Terms and Conditions and to the ESS, FSS and ISS Rate Schedules to allow Shippers under those Rate Schedules to transfer Storage Balance to each other, under the conditions described therein, including payment by the Receiving Shipper of an administrative charge equal to a posted rate between a maximum of one cent per dth and a minimum rate of zero.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR section 385.211 and 385.214). All such motions to intervene 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 the 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. 97–16037 Filed 6–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER96–1663–000]

Pacific Gas and Electric Company; Notice of Filing

June 13, 1997.

Take notice that on June 6, 1997, Pacific Gas and Electric Company (PG&E), tendered an errata to its market power filing it made in this proceeding on March 31, 1997, which corrects two computational errors made in the earlier filing. PG&E states that the corrections do not change the conclusions presented by PG&E in its earlier filing. PG&E further states that it is bringing these errors to the attention of the Commission and the other parties on the established June 6, 1997, date for protests and interventions so that any party may respond in its reply comments.

Any person desiring to be heard or to protest said filings should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before June 23, 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. 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. 97–16041 Filed 6–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2679–000]

TerraWatt, Inc.; Notice of Issuance of Order

June 13, 1997.

TerraWatt, Inc. (TerraWatt) submitted for filing a rate schedule under which TerraWatt will engage in wholesale electric power and energy transactions as a marketer. TerraWatt also requested waiver of various Commission regulations. In particular, TerraWatt requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Terrawatt.

On May 30, 1997, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by TerraWatt should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, TerraWatt is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of TerraWatt's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is June 30, 1997. Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16088 Filed 6–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2900–000]

United Regional Energy; Notice of Filing

June 13, 1997.

Take notice that on June 2, 1997, United Regional Energy tendered for filing an amendment in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 in accordance with 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 June 25, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16040 Filed 6–18–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 1218–000, et al.]

Hydroelectric Applications [Georgia Power Company, et al.]; Notice of Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1 a. *Type of filing:* Notice of Intent to File Application for a New License.

b. *Project No.:* 1218.

c. *Date filed:* September 30, 1996.

d. *Submitted By:* Georgia Power Company, current licensee.

e. *Name of Project:* Flint River Hydroelectric Project.

f. *Location:* On the Flint River, in Dougherty and Lee Counties, Georgia.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act, 18 CFR 16.6 of the Commission's regulations.

h. *Effective date of current license:* December 1, 1979.

i. *Expiration date of current license:* September 30, 2001.

j. The project consists of the following:

Structures on Flint River consist of: (1) a 464-foot-long dam and buttress spillway; (2) a 8-mile-long reservoir; (3) a powerhouse containing three 1,800 kW generating units with a combined installed capacity of 5,400-kW; (4) three 46-kV transmission lines; and (5) appurtenant facilities.

Structures on Muckafoonee Creek consist of: (1) a 89-foot-long diversion dam and a 133-foot-long gated spillway; (2) an old powerhouse substructure; (3) a 383-foot-long earth dike; and (4) a reservoir extending 2.6-miles and 1.5-miles up Kinchafoonee Creek and Muckabee Creek, respectively.

Connecting structures (Flint River to Muckafoonee Creek) consist of: (1) a 2,600-foot-long dike connecting the two dams above; and (2) a 2,800-foot-long excavated channel connecting the two reservoirs above.

k. Pursuant to 18 CFR 16.7, information on the project is available at: Robert L. Boyer, Vice President, Georgia Power Company, 333 Piedmont Avenue, Altanta, GA 30308, (404) 526–7892.

l. FERC contact: Thomas A. Dean (202) 219–2778.

m. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by September 30, 1999.

2 a. *Type of filing:* Notice of Intent to File Application for a New License.

b. *Project No.:* 1960.

c. *Date filed:* August 31, 1995.

d. *Submitted By:* Dairyland Power Cooperative, current licensee.

e. *Name of Project:* Flambeau Hydroelectric Project.

f. *Location:* On the Flambeau River, in Rusk County, Wisconsin.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act, 18 CFR 16.6 of the Commission's regulations.

h. Effective date of current license: March 1, 1951.

i. *Expiration date of current license:* February 28, 2001.

j. *The project consists of:* (1) A 4,980-foot-long embankment dam; (2) a 1,952-acre reservoir; (3) a 138-foot-long spillway with three 40-foot-wide Taintor gates; (4) a powerhouse containing three 5,000 kW generating units with a combined installed capacity of 15,000-kW; (5) a 66-kV transmission line; and (6) appurtenant facilities.

k. Pursuant to 18 CFR 16.7, information on the project is available at: William L. Berg, General Manager, Dairyland Power Cooperative, 3200 East Avenue South, P.O. Box 817, La Crosse, WI 54602, (608) 788–4000.

l. *FERC contact:* Thomas A. Dean (202) 219–2778.

m. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by February 28, 1999.

3 a. *Type of filing:* Notice of Intent to File Application for a New License.

b. *Project No.:* 2721.

c. *Date filed:* September 11, 1995.

d. *Submitted By:* Bangor Hydro-Electric Company, current licensee.

e. *Name of Project:* Howland Hydroelectric Project.

f. *Location:* On the Piscataquis River, in Penobscot County, Maine.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act, 18 CFR 16.6 of the Commission's regulations.

h. *Effective date of current license:* April 1, 1962.

i. *Expiration date of current license:* September 30, 2000.

j. *The project consists of:* (1) A 660-foot-long gravity dam; (2) a 270-acre reservoir; (3) four 9 by 9-foot gates; (4) a 570-foot-long spillway; (5) an abandoned fishway; (6) an operating fishway and log sluice section; (7) a 90-foot-long cutoff wall; (8) a powerhouse with an installed capacity of 1,875-kW; and (9) appurtenant facilities.

k. Pursuant to 18 CFR 16.7, information on the project is available at: Kathleen C. Billings, Director, Environmental Services and Compliance, Bangor Hydro-Electric Company, P.O. Box 932, 33 State Street, Bangor, ME 04402, (207) 941–6636.

l. *FERC contact:* Thomas A. Dean (202) 219–2778.

m. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by September 30, 1998.

4 a. *Type of filing:* Notice of Intent to File Application for a Subsequent License.

b. *Project No.:* 2724.

c. *Date filed:* September 30, 1996.

d. *Submitted By:* The City of Hamilton, Ohio, current licensee.

e. *Name of Project;* City of Hamilton Hydroelectric Project.

f. *Location:* On the Miami River in the City of Hamilton, Butler County, Ohio.

g. *Filed Pursuant to:* 18 CFR 16.6 of the Commission's regulations.

h. *Effective date of current license:* April 1, 1962.

i. *Expiration date of current license:* September 30, 2001.

j. *The project consists of:* (1) A 1,000-foot-long timber crib overflow dam; (2) a 190-foot-long dam; (3) a 3-mile-long power canal; (4) a powerhouse containing two 750-kW generating units with an installed capacity of 1,500-kW; (5) a 1,600-foot-long tailrace; (6) a 13.2-kV transmission line; and (7) appurtenant facilities.

k. Pursuant to 18 CFR 16.7, information on the project is available at: Richard Fleming, City of Hamilton, Department of Public Utilities, 20 High Street, Hamilton, OH 45011, (513) 868–5907.

l. *FERC contact:* Thomas A. Dean (202) 219–2778.

m. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by September 30, 1999.

5 a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11605–000.

c. *Date filed:* May 5, 1997.

d. *Applicant:* Stoughton Water Power Company, Inc.

e. *Name of Project:* Stoughton Hydro Project.

f. *Location:* On the Yahara River near Stoughton, Dane County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Thomas J. Reiss, Stoughton Water Power Company, Inc., P.O. Box 553, 319 Hart Street, Watertown, WI 53094, (414) 261–7975.

i. *FERC Contact:* Ed Lee at (202) 219–2809.

j. *Comment Date:* July 24, 1997.

k. *Description of Project:* The proposed project would consist of: (1) an existing 14-foot-high, 320-foot-long concrete gravity and earthen embankment dam; (2) an existing 80 acre-foot reservoir with a surface area of 11 acres; (3) an existing concrete and brick powerhouse containing one proposed 192-kilowatt (kW) generating unit; (4) a new 350-foot-long transmission line; and (5) appurtenant facilities. The applicant estimates that the average annual generation would be 450,000 kWh. No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $25,000. All project structures are owned by the City of Stoughton, 211 Water Street, P.O. Box 383, Stoughton, Wisconsin 53589.

l. *Purpose of Project:* Project power would be sold to a local ultility.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

6 a. *Application Type:* Dredging on project lands to install new boat ramp.

b. *Project No:* 459–090.

c. *Date Filed:* May 7, 1997.

d. *Applicant:* Union Electric Company.

e. *Name of Project:* Osage Hydroelectric Project.

f. *Location:* Lake of the Ozarks, Benton County, Missouri.

g. *Filed Pursuant to:* 18 CFR 4.200.

h. *Applicant Contact:* Ms. Sandra Repert-Shropshire, Union Electric Company, 1901 Chouteau Avenue, St. Louis, MO 63166, (314) 554–3458.

i. *FERC Contact:* Steve Hocking, (202) 219–2656.

j. *Comment Date:* July 17, 1997.

k. *Description of Application:* Union Electric Company (licensee) requests Commission approval to grant a permit to Mr. Keith Ackerson (permittee) to excavate about 600 cubic yards of sediment from the Lake of the Ozarks. The excavation would be near lake mile 78.7 in Section 12, Township 40 North, Range 21 West, Benton County, Missouri. The permittee proposes to install a new boat ramp at this location.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

7 a. *Type of Application:* New License for Major Project.

b. *Project No.:* 11243–002.

c. *Date filed:* January 6, 1997.

d. *Applicant:* Whitewater Engineering Corporation.

e. *Name of Project:* Power Creek Hydroelectric Project.

f. *Location:* On Power Creek, near the town of Cordova, in Alaska.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)–825(r).

h. *Applicant Contact:* Thom Fischer, Whitewater Engineering Corporation, 1050 Larrabee Avenue, Suite 104–107, Bellingham, WA 98225, (360) 738–9999.

i. *FERC Contact:* Michael Henry, (503) 326–5858 ext. 224.

j. *Deadline for comments:* See attached paragraphs A4 and D10.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see attached paragraph D10.

l. *Description of Project:* The proposed run-of-river project would consist of: (1) a 20-foot-high concrete and earthfill diversion structure on Power Creek; (2) a 5,900-foot-long tunnel and pipeline system; (3) a powerhouse containing three generating units with a total installed capacity of 6 MW; (4) a tailrace returning water to Power Creek; (5) a 7.2-mile-long underground transmission line; (6) 2.5 miles of access roads; and (7) appurtenant facilities.

m. This notice also consists of the following standard paragraph: D10.

n. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, NE., Washington, DC 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the offices of Whitewater Engineering Corporation (see address above).

8 a. *Type of Application:* Transfer of License.

b. *Project No.:* 8657–050.

c. *Date Filed:* April 30, 1997.

d. *Applicants:* Greenwood Ironworks and Virginia Hydrogeneration & Historical Society, L.C.

e. *Name of Project:* Harvell Dam.

f. *Location:* On the Appomattox River in Dinwiddie and Chesterfield Counties, Virginia.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)–825(r).

h. *Applicant Contact:* C.D.L. Perkins, General Manager, Virginia Hydrogeneration & Historical Society, L.C., 5516 Falmouth Street, Richmond, VA 23230, (804) 673–9667.

i. *FERC Contact:* Regina Saizan, (202) 219–2673.

j. *Comment Date:* July 28, 1997.

k. *Description of the Request:* Greenwood Ironworks, licensee, and the Virginia Hydrogeneration & Historical Society, L.C. (VHHS) jointly request that the license for the Harvell Dam Project be transferred from Greenwood Ironworks to VHHS.

l. This notice also consists of the following standard paragraphs: B, C2, and D2.

Standard Paragraphs

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative

of the Applicant specified in the particular application.

C2. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS,'' ''RECOMMENDATIONS FOR TERMS AND CONDITIONS,'' ''NOTICE OF INTENT TO FILE COMPETING APPLICATION,'' ''COMPETING APPLICATION,'' ''PROTEST,'' or ''MOTION TO INTERVENE,'' as applicable, and the Project Number of the particular application to which the filing refers. Any of these documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of a notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Dated: June 13, 1997.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16032 Filed 6–18–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of License

June 9, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of License.

b. *Project No.:* 6641–027.

c. *Date filed:* May 21, 1997.

d. *Applicant:* City of Marion, Kentucky, and Smithland Hydroelectric Partners.

e. *Name of Project:* Smithland Lock and Dam Project.

f. *Location:* On the Ohio River in Livingston County, Kentucky.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. James Price, AJS Hydro, Inc. 120 Calumet Court, Aiken, SC 29803, (803) 642–2749.

i. *FERC Contact:* Paul Shannon, (202) 219–2866.

j. *Comment Date:* July 25, 1997.

k. *Description of Filings:* The City of Marion, Kentucky, and Smithland Hydroelectric Partners filed an application to modify the configuration of the Smithland Lock and Dam Project. The licensees propose to install 216 small turbines and 108 generators instead of the authorized three generating units. The licensees also propose to include the existing Smithland Dam within the project boundary and delete license articles 302 (cofferdam design), 403 (minimum flow), and 405 (plan to discharge minimum flow). The licensees indicate the project's total generating capacity will remain 80 MW.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'' ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also

be sent to the Applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16033 Filed 6–18–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5844–4]

Prevention of Significant Deterioration of Air Quality (PSD) Final Determinations

AGENCY: Environmental Protection Agency.

ACTION: Notice of final actions.

SUMMARY: The purpose of this notice is to announce that between October 1, 1995 and April 8, 1997, the U.S. Environmental Protection Agency (EPA) Region 2 Office, issued 8 final determinations, the New Jersey Department of Environmental Protection issued 8 final determinations and the New York State Department of Environmental Conservation (NYSDEC) issued 18 final determinations pursuant to the Prevention of Significant Deterioration of Air Quality (PSD) regulations codified at 40 CFR 52.21.

DATES: The effective dates for the above determinations are delineated in the following chart (See **SUPPLEMENTARY INFORMATION**).

FOR FURTHER INFORMATION CONTACT: Mr. Frank Jon of the Permitting Section, Air Programs Branch, Division of Environmental Planning and Protection, U.S. Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866, at (212) 637–4085.

SUPPLEMENTARY INFORMATION: Pursuant to the PSD regulations, the EPA Region 2 Office, the NJDEP, and the NYSDEC have made final PSD determinations relative to the sources listed below:

Name	Location	Project	Agency	Final action	Date
Pedricktown Cogeneration Limited Partnership.	Pedricktown, New Jersey.	Permit revision to allow an increase in the annual usage of the auxiliary boiler and to allow combustion of 1–K kerosene in the combustion turbine even though there is no gas curtailment to test availability of 1–K kerosene fuel handling system. Permit will also allow simultaneous operation of auxiliary boiler and combustion turbine.	NJDEP	PSD Permit Modification.	Nov. 1, 1995.
Puerto Rico Electric Power Authority (PREPA)—Cambalache Combustion Turbine Project.	Cambalache, Puerto Rico.	Final permit issued on July 31, 1995 for a new 248 MW electric generating station, consisting of three 83 MW simple-cycle combustion turbines firing No. 2 fuel oil. The permit was subsequently appealed with the EPA's Environmental Appeals Board (EAB). The EAB denied the petition on December 11, 1995. The final PSD permit became effective on that day.	EPA	Final PSD Permit.	Dec. 11, 1995.
Hess Oil Virgin Islands Corporation (HOVIC).	St. Croix, U.S. Virgin Islands.	Administrative permit amendment to allow HOVIC greater operational flexibility in its ability to use stripped sour water in its fluid catalytic cracking unit (FCCU) scrubber stack. This modification does not increase mass emissions or ambient impacts from the FCCU over permitted levels.	EPA	PSD Permit Modification.	Dec. 18, 1995.
Kamine/Besicorp Syracuse. LP	Syracuse, New York.	Modification to increase the annual hours of operation of their auxiliary boilers (Emission Points 00002, 00003, and 00004) and increase the stack height of each emission point. This increase in hours of operation will provide steam and heating for the adjacent NYS Fairgrounds.	NYSDEC	PSD Non-Applicability.	Jan. 3, 1996.
Trigen-Trenton District Energy Corporation.	Trenton, New Jersey.	Modification to restrict all liquid fuel firing to a single diesel engine. Testing on all liquid fuel firing showed that particulates (TSP) exceeded the PSD permit limit and an upward revision was not possible because of predicted exceedances of the PSD 24-hr increment for particulates. Restriction of duct burner fuel to natural gas and other operational changes.	NJDEP	PSD Permit Modification.	Feb. 1, 1996.
St. Croix Alumina, L.L.C.	St. Croix, U.S. Virgin Islands.	Administrative amendment to transfer the PSD permit from Virgin Islands Alumina, Inc. to St. Croix Alumina, L.L.C.	EPA	PSD Permit Modification.	Feb. 9, 1996.
PVS Chemical Inc	Buffalo, New York.	Addition of a Sodium Bisulfite production process. Design limitations have been included in the permit to limit the increase in particulate matter emissions below the PSD de minimis level.	NYSDEC	PSD Non-Applicability.	Feb. 14, 1996.

Name	Location	Project	Agency	Final action	Date
Camden County Resource Recovery Facility.	Camden, New Jersey.	Modification of PSD permit to include start-up, shutdown, and malfunction conditions. Other revisions include a change in the minimum oxygen requirement and to clarify the use of block averages in the determination of emission limits for different contaminants.	NJDEP	PSD Permit Modification.	Feb. 23, 1996.
The Upjohn Manufacturing Company.	Barceloneta, Puerto Rico.	Changing individual fuel use limitations for three existing oil-fired boilers (Boilers Nos. 1, 2, and 3A) to one plantwide limitation.	EPA	PSD Non-Applicability.	Mar. 11, 1996.
Gloucester County Resource Recovery Facility.	Westville, New Jersey.	Modification of PSD permit to include start-up, shutdown, and malfunction conditions. Other revisions include a change in the minimum oxygen requirement and to clarify the use of block averages in the determination of emission limits for different contaminants.	NJDEP	PSD Permit Modification.	Mar. 15, 1996.
Newton Creek Water Pollution Control Plant.	Brooklyn, New York.	Rehabilitation of seven existing dual fuel engine generators. The rehabilitation shall consist of the introduction of natural gas to the engines, replacement of control systems with modern computerized systems, and the reconstruction of the following auxiliary equipment: lubrication, cooling, starting, heat recovery, and fuel systems.	NYSDEC	PSD Non-Applicability.	Mar. 20, 1996.
Kamine/Besicorp-Beaver Falls, LP.	Beaver Falls, New York.	Modification to add a 95 MMBTU/hr auxiliary boiler.	NYSDEC	PSD Non-Applicability.	Apr. 24, 1996.
Buffalo Crushed Stone, Inc	Buffalo, New York.	Proposal to reconstruct an existing stone crushing process. The applicant has accepted permit conditions to limit the facility's particulate emissions below 250 TPY. This limit shall be met through the use of a wet scrubber.	NYSDEC	PSD Non-Applicability.	May 1, 1996.
New York Power Authority, Flynn Combined Cycle Plant.	Stony Brook, New York.	Proposal to increase the permit limitations for NO_X firing both natural gas and distillate oil. The original NO_X limits were incorrectly based upon the lower heating value of the fuel, although the permit stated that the limits shall be based upon the higher heating value. This modification corrects the inadvertent use of the lower heating value.	NYSDEC	PSD Non-Applicability.	May 1, 1996.
American Ref-Fuel Company of Essex County.	Newark, New Jersey.	Modification of PSD permit to include start-up, shutdown, and malfunction conditions. Other revisions include a change in the minimum oxygen requirement and to clarify the use of block averages in the determination of emission limits for different contaminants.	NJDEP	PSD Permit Modification.	June 21, 1996.
Roth Brothers Smelting Corp ...	East Syracuse, New York.	Construction of an aluminum de-coating operation to refine scrap aluminum. It has permit limitations to cap its emissions below the PSD applicability threshold.	NYSDEC	PSD Non-Applicability.	Aug. 14, 1996.
Eastman Kodak Company	Rochester, New York.	Installation of a regenerative thermal oxidizer (RTO) onto a surface coating, chemical/emulsion preparation, and cleaning operation process at building 329 of the facility. This qualifies for a pollution control project exemption under PSD.	NYSDEC	PSD Non-Applicability.	Aug. 28, 1996.
Ayerst Laboratories, Inc	Rouses Point, New York.	Capping four existing boiler emission points (00001, 00002, 00011, and 00100) under the PSD applicability threshold limit.	NYSDEC	PSD Non-Applicability.	Sept. 4, 1996.
Gelinmac Storage Corp	Buffalo, New York.	Construction of a bakery waste dehydration process. Emissions capped below the PSD applicability threshold limit.	NYSDEC	PSD Non-Applicability.	Sept. 18, 1996.
US Military Academy	West Point, New York.	Replacement of the Unit C boiler with a new boiler. Potential increase in NO_X emissions capped below the PSD applicability threshold limit.	NYSDEC	PSD Non-Applicability.	Sept. 25, 1996.
Caribbean Petroleum Corporation.	San Juan, Puerto Rico.	Permit amendment to redesignate the fluid catalytic cracking preheater FH–1 to FH–2. No increase in emissions.	EPA	PSD Permit Modification.	Sept. 30, 1996.

Name	Location	Project	Agency	Final action	Date
Frontier Stone Inc	Lockport, New York.	Construction of a 500 tons/hour drum mix asphalt plant emission point 00005. The facility will limit annual production to 575,000 tons of asphalt per year as a federally enforceable cap.	NYSDEC	PSD Non-Applicability.	Nov. 27, 1996.
Union County Resource Recovery Facility.	Rahway, New Jersey.	Modification of PSD permit to include start-up, shutdown, and malfunction conditions. Other revisions include a change in the minimum oxygen requirement and to clarify the use of block averages in the determination of emission limits for different contaminants.	NJDEP	PSD Permit Modification.	Dec. 4, 1996.
Puerto Rico Electric Power Authority (PREPA)—Cambalache Combustion Turbine Project.	Cambalache, Puerto Rico.	This is a 248 MW electric generating station. Revision of the PSD permit issued on July 31, 1995 to modify certain monitoring requirements in the permit.	EPA	PSD Permit Modification.	Dec. 5, 1996.
Kraft General Foods Corp	Canton, New York.	Restricting SO2 emissions from emission point 00005 by reducing the sulfur content of the fuel to 0.5% sulfur by weight.	NYSDEC	PSD Non-Applicability.	Dec. 25, 1996.
Nissequogue Cogen Partners	Stony Brook, New York.	This permit modification corrects the original full load heat input values of the gas turbine while firing both gas and oil. The original analysis listed the heat input values of the facility as 420 and 440 MMBTU/hr firing gas and oil, respectively. The turbine's actual heat input ratings are 440 and 460 MMBTU/hr firing gas and oil, respectively. The facility has accepted permit conditions to cap its emissions below the PSD applicability thresholds.	NYSDEC	PSD Non-Applicability.	Feb. 14, 1997.
BeneTech LLC	Rome, New York.	Construction of a 288 tons/day pulp and paper mill sludge drying facility. The dried sludge shall be marketed as animal bedding, paper mill feed stock, and mulch. The facility accepted permit to conditions to cap its emissions below the PSD applicability thresholds.	NYSDEC	PSD Non-Applicability.	Feb. 14, 1997.
Cogen Technologies, L.P	Linden, New Jersey.	Modification includes the operation of any three gas turbines with duct-fired heat recovery steam boilers (out of five turbines) at full speed with no load (FSNL) on generator. This allows the facility to provide steam to hosts and to specify maximum hourly emission rates during FSNL operation.	NJDEP	PSD Permit Modification.	Feb. 15, 1997.
Logan Generating Company (formerly Keystone).	Logan Township, New Jersey.	Permit modified for existing material handling sources and to include several new minor material handling sources due to new configuration. It also included a name change from Keystone Cogeneration to Logan Generating Plant. No net increase in emissions.	NJDEP	PSD Permit Modification.	Feb. 18, 1997.
Fulton County Landfill	Fulton County, New York.	The facility has received a 134,000 tons per year cap of the amount of solid waste it may accept. This cap shall limit the amount of VOC emissions below the PSD applicability thresholds.	NYSDEC	PSD Non-Applicability.	Feb. 24, 1997.
Puerto Rican Cement Company, Inc.	Ponce, Puerto Rico.	PSD permit issued for the expansion of clinker production of Kiln 6 from 3,100 tons per day to 4,100 tons per day. The facility is subject to PSD for VOC and CO only.	EPA	Final PSD Permit.	Feb. 25, 1997.
Oswego County Energy Recovery.	Oswego, New York.	The facility is installing new boilers, ancillary, and control equipment. This retrofit will replace older equipment with new state-of-the-art technology. The facility agreed to cap its emissions to below the PSD applicability threshold limits.	NYSDEC	PSD Non-Applicability.	Mar. 1, 1997.

Name	Location	Project	Agency	Final action	Date
Allcan Rolled Products Company.	Oswego, New York.	Replacing 3 existing aluminum scrap metal furnaces with 2 new furnaces. The existing control equipment would also be upgraded to handle the increased air flow. The facility has agreed to emission restrictions to cap SO2 and PM10 below the PSD applicability thresholds.	NYSDEC	PSD Non-Applicability.	Mar. 31, 1997.
EcoElectrica, L.P	Penuelas, Puerto Rico.	This is a 461 MW combined cycle cogeneration plant. This PSD permit was issued on October 1, 1996. However, this permit was appealed with the EPA's Environmental Appeals Board (EAB). On April 8, 1997 the EAB denied several petitions from the public for administrative review of this permit. The final PSD permit became effective on April 8, 1997.	EPA	Final PSD Permit.	Apr. 8, 1997.

This notice lists only the sources that have received final PSD determinations. Anyone who wishes to review these determinations and related materials should contact the following offices:

EPA Actions

U.S. Environmental Protection Agency, Region 2 Office, Air Programs Branch—25th Floor, 290 Broadway, New York, New York 10007–1866

NJDEP Actions

New Jersey Department of Environmental Protection and Energy, Division of Environmental Quality, Bureau of Engineering and Technology, 401 East State Street, Trenton, New Jersey 08625

NYSDEC Actions

New York State Department of Environmental Conservation, Division of Air Resources, Source Review and Regional Support Section, 50 Wolf Road, Albany, New York 12233–0001

If available pursuant to the Consolidated Permit Regulations (40 CFR Part 124), judicial review of these determinations under section 307(b) (1) of the Clean Air Act (the Act) may be sought *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days from the date on which these determinations are published in the **Federal Register**. Under section 307(b) (2) of the Act, these determinations shall not be subject to later judicial review in civil or criminal proceedings for enforcement.

William J. Muszynski,

Acting Regional Administrator.

[FR Doc. 97–16113 Filed 6–18–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5844–5]

Science Advisory Board; Notification of Public Teleconference Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Environmental Goals Subcommittee, an ad hoc Subcommittee of the Science Advisory Board's (SAB) Executive Committee (EC), will conduct a public meeting by teleconference on Thursday, July 3, 1997, from 12:00 noon to 2:00 p.m. (Eastern Daylight Time). The teleconference meeting is open to the public, however, the number of available phone lines is limited. Please contact Dr. Jack Fowle at (202) 260–8325, if you are interested in participating in the call and to obtain the dial-in number. The teleconference will be held at the U.S. Environmental Protection Agency (EPA) Headquarters Building in Conference Room 2103 of the Mall, at 401 M Street, SW, Washington, DC 20460. For easy access, members of the public should use the EPA entrance next to the Safeway. Copies of the document being reviewed will be available for the public at the time of the meeting in the Conference Room. During the teleconference, the Environmental Goals Subcommittee will discuss their draft report on the Agency's Environmental Goals Report. This public teleconference is a follow-up to an earlier Environmental Goals Subcommittee teleconference held on Thursday, April 17, 1997 (See 62 FR 15890, April 3, 1997, for further information.

For Further Information—Members of the public desiring additional information concerning the teleconference or who wish to submit oral or written comments should contact Dr. Jack Fowle, Designated Federal Official for the Environmental Goals Subcommittee, Science Advisory Board (1400), U.S. EPA, 401 M Street, SW, Washington, DC 20460, telephone (202) 260–8325; fax (202) 260–7118; or via Email at: fowle.jack@epamail.epa.gov. Requests for oral comments must be in writing to Dr. Fowle and be received no later than noon Eastern Time on Wednesday, June 25, 1997. The request should be brief, identify the name of the individual who will make the presentation, and an outline of the issues to be addressed. Copies of the draft meeting agenda can be obtained from Ms. Priscilla Tillery-Gadson at (202) 260–8414 or at the above fax number or by E-mail to tillery.priscilla@epamail.epa.gov.

Dated: June 11, 1997.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 97–16115 Filed 6–18–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5844–8]

Proposed CERCLA Section 122(h)(1) Administrative Cost Recovery Settlement for the City Bumper Site

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

ACTION: Proposal of CERCLA section 122(h)(1) administrative cost recovery settlement for the City Bumper Site.

SUMMARY: U.S. EPA proposes to address the potential liability of Ida Plummer under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA''), 42 U.S.C. 9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act of 1986 (''SARA''), Pub. L. 99–499, for

past costs incurred in connection with a federal fund lead removal action conducted at the City Bumper Site (''the Site'') located in Cincinnati, Ohio. The U.S. EPA proposes to address the potential liability of Ida Plummer by execution of a CERCLA section 122(h)(1) Administrative Cost Recovery Settlement (''AOC'') prepared pursuant to 42 U.S.C. 9622(h)(1). The key terms and conditions of the AOC may be briefly summarized as follows: (1) Ida Plummer agrees to convey her ownership interest in the Site to a prospective purchaser with $65,000 of the sale proceeds paid directly to U.S. EPA under a separate CERCLA Prospective Purchaser Agreement in satisfaction of claims for past response costs incurred at the Site by U.S. EPA in connection with the removal and disposal hazardous substances; (2) Ida Plummer agrees not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to past response costs or the AOC; and (3) U.S. EPA affords Ida Plummer a covenant not to sue for past costs incurred during the removal action and contribution protection as provided by CERCLA sections 113(f)(2) and 122(h)(4) upon satisfactory completion of obligations under the AOC. The Site is not on the NPL, and no further response activities at the Site are anticipated at this time. The AOC has been submitted to the Attorney General for approval.

DATES: Comments on the proposed AOC must be received by U.S. EPA within thirty (30) days of the publication date of this document.

ADDRESSES: A copy of the proposed AOC is available for review at U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please contact Mike Anastasio at (312) 886–7951, prior to visiting the Region 5 office.

Comments on the proposed AOC should be addressed to Mike Anastasio, Office of Regional Counsel, U.S. EPA, Region 5, 77 West Jackson Boulevard (Mail Code CS–29A), Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mike Anastasio at (312) 886–7951, of the U.S. EPA Region 5 Office of Regional Counsel.

A 30-day period, commencing on the date of publication of this document, is open pursuant to section 122(i) of CERCLA, 42 U.S.C. 9622(i), for comments on the proposed AOC. Comments should be sent to the addressee identified in this document.

William E. Muno,

Director, Superfund Division, U.S. Environmental Protection Agency, Region 5.

[FR Doc. 97–16110 Filed 6–18–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5844–6]

Proposed CERCLA Section 122(h)(1) Administrative Cost Recovery Settlement for the City Bumper Site

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

ACTION: Proposal of CERCLA section 122(h)(1) administrative cost recovery settlement for the City Bumper Site.

SUMMARY: U.S. EPA proposes to address the potential liability of Roland Hedge, George Hedge, Elaine Davis, Barbara Jackson, Janet Sickmeier and Donna Ernst (hereinafter referred to as ''the Settling Parties'') under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA''), 42 U.S.C. 9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act of 1986 (''SARA''), Pub. L. 99–499, for past costs incurred in connection with a federal fund lead removal action conducted at the City Bumper Site (''the Site'') located in Cincinnati, Ohio. The U.S. EPA proposes to address the potential liability of the Settling Parties by execution of a CERCLA section 122(h)(1) Administrative Cost Recovery Settlement (''AOC'') prepared pursuant to 42 U.S.C. 9622(h)(1). The key terms and conditions of the AOC may be briefly summarized as follows: (1) the Settling Parties agree to convey their ownership interest in the Site to a prospective purchaser with $65,000 of the sale proceeds paid directly to U.S. EPA under a separate CERCLA Prospective Purchaser Agreement in satisfaction of claims for past response costs incurred at the Site by U.S. EPA in connection with the removal and disposal of hazardous substances; (2) the Settling Parties agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to past response costs or the AOC; and (3) U.S. EPA affords the Settling Parties a covenant not to sue for past response costs incurred during the removal action and contribution protection as provided by CERCLA sections 113(f)(2) and 122(h)(4) upon satisfactory completion of obligations under the AOC. The Site is not on the NPL, and no further response activities at the Site are anticipated at this time. The AOC has been submitted to the Attorney General for approval.

DATES: Comments on the proposed AOC must be received by U.S. EPA within thirty (30) days of the publication date of this document.

ADDRESSES: A copy of the proposed AOC is available for review at U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please contact Mike Anastasio at (312) 886–7951, prior to visiting the Region 5 office.

Comments on the proposed AOC should be addressed to Mike Anastasio, Office of Regional Counsel, U.S. EPA, Region 5, 77 West Jackson Boulevard (Mail Code CS–29A), Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mike Anastasio at (312) 886–7951, of the U.S. EPA Region 5 Office of Regional Counsel.

A 30-day period, commencing on the date of publication of this document, is open pursuant to section 122(i) of CERCLA, 42 U.S.C. 9622(i), for comments on the proposed AOC. Comments should be sent to the addressee identified in this document.

William E. Muno,

Director, Superfund Division, U.S. Environmental Protection Agency, Region 5.

[FR Doc. 97–16111 Filed 6–18–97; 8:45 am

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5844–7]

Proposed CERCLA Prospective Purchaser Agreement for the City Bumper Site

AGENCY: Environmental Protection Agency.

ACTION: Proposal of CERCLA prospective purchaser agreement for the City Bumper Site.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA''), 42 U.S.C. 9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act of 1986 (''SARA''), Pub. L. 99–499, notice is hereby given that a proposed prospective purchaser agreement (''PPA'') for the City Bumper Removal Action Site (''the Site'') located in Cincinnati, Ohio, has been executed by Metal Treating, Inc. and Burns Street Realty Co. LTD. The proposed PPA has

been submitted to the Attorney General for approval. The proposed PPA would resolve certain potential claims of the United States under sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, against Metal Treating and Burns Street Realty. The proposed PPA would require Metal Treating and Burns Street Realty to pay the United States $65,000 to be applied toward outstanding response costs incurred by the United States in conducting federally funded removal activities at the Site. The Site is not on the NPL, and no further response activities at the Site are anticipated at this time.

DATES: Comments on the proposed PPA must be received by U.S. EPA by July 21, 1997.

ADDRESSES: A copy of the proposed PPA is available for review at U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please contact Mike Anastasio at (312) 886–7951, prior to visiting the Region 5 office.

Comments on the proposed PPA should be addressed to Mike Anastasio, Office of Regional Counsel, U.S. EPA, Region 5, 77 West Jackson Boulevard (Mail Code CS–29A), Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mike Anastasio at (312) 886–7951, of the U.S. EPA Region 5 Office of Regional Counsel.

A 30-day period, commencing on the date of publication of this document, is open for comments on the proposed PPA. Comments should be sent to the addressee identified in this document.

William E. Muno,

Director, Superfund Division, U.S. Environmental Protection Agency, Region 5.

[FR Doc. 97–16112 Filed 6–18–97; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission For OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

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. 3501 et seq.), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the information collection system described below.

Type of Review: Revision of currently approved collection.

Title: Fair Housing Lending Monitoring System.

Form Number: None.

OMB Number: 3064–0046.

Annual Burden:

Estimated annual number of respondents: 1,593.

Estimated annual number of loan applications: 1,000,000.

Time required to record and report each application: 5 minutes.

1,000,000 × 5 minutes = 5,000,000 minutes or 83,333 annual burden hours.

Expiration Date Of OMB Clearance: July 31, 1997.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Office of Information and Regulatory Affairs, 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 21, 1997 to both the OMB reviewer and the FCIC contact listed above.

ADDRESSES: Information about this submission, including copies of the proposed collection of information, may be obtained by calling or writing the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The Board of Governors of the Federal Reserve System promulgated Regulation C, 12 CFR part 203, to implement the Home Mortgage Disclosure Act (HMDA), 12 U.S.C. 2801–2810. Regulation C requires depository institutions that meet its asset size jurisdictional thresholds to maintain data about home loan applications (the type of loan requested, the purpose of the loan, whether the loan was approved, and the type of purchaser if the loan was later sold), to update the information quarterly, and to report the information to their primary federal regulator annually. Regulation C applies to insured State nonmember banks supervised by the FDIC if those banks have assets exceeding a dollar threshold which is determined annually pursuant to a method required by 12 U.S.C. 2808(b) (for 1997 that number is $28 million). Banks may use a document known as the Loan Application Register (LAR) to comply with the information requirement. The FDIC uses the information to assist its examiners in determining that the banks it supervises comply with applicable provisions of HMDA. The data permit regulators and the public to detect possible instances of unlawful discrimination in connection with certain housing-related credit.

Dated: June 13, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 97–16044 Filed 6–18–97; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Performance Review Board

AGENCY: Federal Maritime Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Harriette H. Charbonneau, Director of Personnel, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573.

SUPPLEMENTARY INFORMATION: Sec. 4314(c) (1) through (5) of title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

Harold J. Creel, Jr.,

Chairman.

The Members of the Performance Review Board Are

1. Ming Chen Hsu, Commissioner
2. Delmond J.H. Won, Commissioner
3. Joe Scroggins, Jr., Commissioner
4. Norman D. Kline, Chief Administrative Law Judge
5. Frederick M. Dolan, Jr., Administrative Law Judge
6. Charles E. Morgan, Administrative Law Judge
7. Thomas Panebianco, General Counsel
8. Joseph C. Polking, Secretary
9. Edward P. Walsh, Managing Director
10. Bruce A. Dombrowski, Depty Managing Director
11. Vern W. Hill, Director, Bureau of Enforcement
12. Sandra L. Kusumoto, Director, Bureau of Administration
13. Austin L. Schmitt, Director, Bureau of Economics and Agreement Analysis
14. Bryand L. VanBrakle, Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 97–16054 Filed 6–18–97; 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 July 3, 1997.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Bankers Trust New York Corporation, New York, New York (''BTNY''); to acquire 100 percent of the voting shares of Alex Brown Inc., Baltimore, Maryland, and thereby engage in underwriting and dealing in, to a limited extent, all types of debt and equity securities other than interests in open end investment companies, *See J. P. Morgan & Co., Inc., The Chase Manhattan Corp., Bankers Trust New York Corp., Citicorp and Security Pacific Corp.*, 75 Fed. Res. Bull. 192 (1989); in making, acquiring, brokering and servicing loans or other extensions of credit for their own account and the account of others, pursuant to § 225.28(b)(1) of the Board's Regulation Y; in performing functions or activities that may be performed by a trust company (including activities of a fiduciary, agency or custodial nature), pursuant to § 225.28(b)(5) of the Board's Regulation Y; in acting as investment or financial advisor, pursuant to § 225.28(b)(6) of the Board's Regulation Y; in providing securities brokerage services (including securities clearing and securities execution services on an exchange), alone and in combination with investment advisory services, and incidental activities (including related securities credit activities and custodial services), pursuant to § 225.28(b)(7) of the Board's Regulation Y; in buying and selling in the secondary market all types of securities on the order of customers as a riskless principal to the extent of engaging in a transaction in which the company, after receiving an order to buy (or sell) a security from a customer, purchases (or sells) the security for its own account to offset a contemporaneous sale to (or purchase from) the customer, pursuant to § 225.28(b)(7) of the Board's Regulation Y; in acting as agent for the private placement of securities in accordance with the requirements of the Securities Act of 1933 and the rules of the Securities and Exchange Commission, pursuant to § 225.28(b)(7) of the Board's Regulation Y; in underwriting and dealing in obligations of the United States, general obligations of states and their political subdivisions, and other obligations that state member banks of the Federal Reserve System may be authorized to underwrite and deal in under 12 U.S.C. 24 and 335, pursuant to § 225.28(b)(8) of the Board's Regulation Y; and in providing administrative and other services to investment companies, including open-end investment companies (''mutual funds''). *See Barclays PLC*, 82 Fed. Res. Bull. 158 (1996); *Bank of Ireland*, 82 Fed. Res. Bull. 1129 (1996). BTNY would engage in these activities in accordance with the limitations and conditions previously established by the Board by regulation or order, with certain exceptions relating to the proposed provision of advisory and administrative services to mutual funds that are discussed in the notice. BTNY also intends to acquire certain offshore subsidiaries, companies engaged in providing services to other Alex Brown affiliates, and proprietary investments currently owned by Alex Brown.

In order to approve the proposal, the Board must determine that the proposed activities to be conducted by BTNY ''Can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' 12 U.S.C. 1843(c)(8). BTNY believes that the proposal would produce public benefits that outweigh any potential adverse effects. In particular, BTNY maintains that the proposal would not materially reduce competition in the relevant markets and would enable BTNY to offer its customer a broader range of products. BTNY also maintains that its proposal would not result in any adverse effects.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely to seek the views of interested persons on the issues presented by the notice and does not represent a determination by the Board that the proposal meets, or is likely to meet, the standards of the BHC Act. Any request for a hearing on this notice must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by the approval of the proposal.

Board of Governors of the Federal Reserve System, June 17, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–16206 Filed 6–17–97; 12:38 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Planning and Evaluation; Supporting State Efforts to Link Administrative Data Systems for the Purpose of Studying the Effects of Welfare Reform on Other State and Federal Public Assistance Programs

AGENCY: Office of the Assistant Secretary for Planning and Evaluation, HHS.

ACTION: Request for grant applications from states to link their administrative program data for the purposes of studying the effects of the newly implemented Temporary Assistance for Needy Families (TANF) program on recipients and on other state and federal governmental assistance programs.

SUMMARY: The Office of the Assistant Secretary for Planning and Evaluation (ASPE) announces the availability of funds and invites applications for data linking projects that will allow for improved program management,

monitoring, and research and evaluation activities. The primary purpose of this grant is to provide states with funding that will enable them to link administrative program data from TANF and related State welfare programs with administrative data from at least one other source. The resulting data set can then be used to support research into the effects of TANF on recipients and other government programs. While efforts may be targeted in any area where there is potential interaction between TANF and other government programs, ASPE has identified six specific areas of policy interest. These areas are outlined in section II, Topics of Priority Interest.

CLOSING DATE: The closing date for submitting applications under this announcement is August 18, 1997.

FOR APPLICATION KITS OR FURTHER INFORMATION CONTACT: Administrative Officer, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, 200 Independence Avenue, SW, Room 405F, Hubert H. Humphrey Building, Washington, DC 20201, Phone (202) 401–6639.

Part I. Background and Purpose

A. Background

On August 22, 1996, President Clinton signed into law the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996. This law terminated the 61 year-old Aid to Families with Dependent Children program and several related, smaller programs. In its place, the PRWORA established a federal block grant, which gives states great flexibility to develop their own programs and strategies for providing assistance to the poor. Over time, state programs targeted toward the poor are likely to diverge in the new block grant environment. Over the coming years, it will become increasingly important to understand the effects of these changes on recipients, caseloads, and state and federal budgets, in order to assess the need for and scope of future state and federal welfare policy. It will also be important to understand the ways in which the varying TANF programs affect other state and federal programs targeted toward the poor. For example, do a state's changes to its welfare programs improve the access and utilization of medical care among poor children? Does a state's TANF program result in more children being abused, neglected, and placed in the homes of relatives, thereby increasing the burden on the child welfare system? Are new state programs more effective at targeting victims of domestic violence, and offering services and supports for victims who are so identified?

State administrative program data offer a potentially rich source of information on the welfare population. They can therefore be used to answer many of the questions surrounding the effects of the new welfare law. Several states have been linking their administrative program data from a variety of anti-poverty programs for many years, while other states have begun more recently. These databases have provided valuable insight into the characteristics of people served by assistance programs, how program participation varies across different groups of individuals, and how individuals access and utilize multiple services over time. ASPE believes that these databases will prove valuable in analyzing the collateral effects that TANF may have on recipients and on other state and federal programs.

B. Purpose

Given that linked administrative program data have a tremendous potential for assessing the impact of TANF on recipients and other programs, the primary purpose of this grant is to provide states with the necessary funding to link administrative program data from the TANF program with administrative data from at least one other source in order to address at least one policy relevant topic. The resulting data set can then be used by the state to examine the interactions between TANF and other governmental programs. For states that do not currently have a database which contains linked program data, this grant will provide the seed money and impetus for its creation. For states which do have such a database, this funding can enable the state to add administrative data from programs that are not currently represented in the database. While the grant only requires TANF data to be linked with data from one other program, preference will be given to projects which would link data from multiple programs, as such projects would likely provide a greater understanding of how TANF interacts with multiple programs.

Applicants should also consider the time-frame of the information to be included in the database. All projects must include case-level information collected under the new law, which was signed in August of 1996 (states are required to convert to their TANF plans by July 1, 1997). However, preference will be given to those projects which include historical data, so that comparisons can be drawn between prior state AFDC programs—and their relationship to other assistance programs—and new TANF programs.

Note that while a completed research product is not required under this grant, eligible proposals must include a detailed research agenda applicable to the resulting data. This must include the names of qualified researchers who have expressed interest in analyzing the data set. Letters of support from interested researchers and their respective institutions are also strongly encouraged.

C. Eligible Applicants and Funding

We are specifically seeking proposals from state agencies which operate either a TANF program or another state or federal assistance program targeted toward the poor. Counties with a total population of at least 500,000 which operate a county-based welfare system may also apply. Applicants must also have and present proof of a state-wide (or where appropriate, county-wide) database that links micro-level administrative program data from at least two programs serving low-income children and families. If an applicant does not currently have such a database, then the applicant must present proof that such a database will be operational and maintained subsequent to the completion of this project.

Approximately $400,000 is available with funds appropriated for fiscal year 1997. It is expected that approximately 4 awards at an average of $100,000 for 12 months will be awarded. More projects may be funded if additional funding becomes available in fiscal year 1998.

Part II. Topics of Priority Interest

These grants are designed to support state efforts to improve their data infrastructure so that they can better assess the impacts of welfare reform on other state and federal programs, as well as on recipients. There are, therefore, no specific limitations as to the topical areas that applicants may apply to explore with linked administrative data. The following section contains six areas of particular interest that ASPE has identified as relevant in the context of the new welfare law. While each of the topical areas present a range of issues, the possible research questions are in no way meant to be exhaustive. If prospective applicants have additional questions which they feel are relevant within the context of welfare reform and its effect on other assistance programs—for example, the use of administrative data to assess program use for children who have lost SSI benefits—they are

encouraged to raise them in their proposal.

ASPE also understands that there is a great degree of variation in the amount and scope of administrative program data that states collect. It is therefore highly unlikely that every state would have administrative data related to all of the issues and questions raised in the following section. These issues are only meant as a guide to assist prospective applicants in framing the scope of data to be linked under this grant. Additionally, projects are not limited solely to administrative data. Where appropriate and feasible, applicants may choose to link their administrative data with either survey data or other available data.

I. Supporting Services in the Transition From Welfare to Work

The new legislation establishes a five year time limit for the receipt of federal TANF assistance, and a requirement that all able-bodied caretaker recipients enroll in a work or work-training program after two cumulative years of aid. This increased emphasis on work raises questions as to whether states can provide sufficient services to support the transition from welfare to work. Of specific concern are assistance programs other than TANF, such as Medicaid and Food Stamps, which recipients can use while transitioning between welfare and work. The accessibility and affordability of quality child care are also important determinants of the ability to leave welfare permanently.

Medicaid and Food Stamps

For TANF recipients who leave welfare, either for work or as the result of a sanction or time limit, Medicaid and Food Stamps are likely to assume even greater importance as transitional support mechanisms. Both programs offer forms of assistance after eligibility for TANF has expired. By linking individual level case data from both Medicaid and Food Stamps, it may be possible to examine how TANF recipients combine assistance from multiple programs, and how the combination of benefits from these programs affects exits from welfare and/or sustained financial independence.

Analysis of linked administrative data may also contribute to our understanding of how welfare reform affects participation in both the Medicaid and Food Stamps programs. If states make changes in Medicaid eligibility, for example, how do these changes affect program enrollment, participation patterns, and service utilization? Additionally, many states are considering welfare diversion programs, which would provide up-front cash assistance, in the hopes that a one-time cash payment may eliminate the need for on-going TANF assistance. Administrative data may also support analysis of the relationship between diversion programs and participation in Medicaid and Food Stamps.

Child Care

The provision of child care is also a critical support service of any state TANF program. Just as with work programs, the new legislation gives states considerably more latitude in how they provide and fund child care. There are several groups of families that may be affected by child care: current welfare recipients enrolled in work programs, former recipients who are transitioning from welfare to work, and families who are at-risk of entering welfare. There are several important questions and concerns about the provision of child care for all of these groups.

- *Basic types of care arrangements:* To what extent is child care available for people required to work and what are the most common arrangements? What is the quality of each of these arrangements? How do the patterns of usage vary among recipients enrolled in work programs and former recipients no longer receiving welfare services? What are the subsidy rates available for each group? To what extent are eligible recipients taking advantage of services?
- *Welfare exits and child care:* What is the effect of welfare exits on child care? How do child care arrangements change once people leave welfare, either via work or because they have been removed from welfare due to sanctions or time limits? If child care funding is limited for families transitioning off of welfare, where do the children receive services, and what are the budgetary implications of providing these services?

Child Support

While cooperation with child support was a requirement under AFDC, changes under TANF both decrease and increase child support's importance to low income families. In states that choose to eliminate the $50 disregard, payment of child support becomes irrelevant to the income of families receiving cash TANF payments. This change could decrease the willingness of both resident and non-resident parents to cooperate with the child support system, even though the requirements for cooperation with the program for TANF and Food Stamp program recipients have increased However, for families reaching the TANF time-limits or trying to minimize the receipt of TANF cash payments, child support can be an important supplement to low-wage or part-time employment and in some cases may make it possible for families to bridge short periods of unemployment without resorting to TANF cash payments. It is important to understand how these changes in child support policy affect the behavior of both resident and non-resident parents in cooperating with child support, in viewing the fairness of work activity which may require recipients to work off TANF benefits already recouped through child support payments, in using child support as an income supplement to low wages, and in the non-resident parent's provision of financial and non-financial support for his family.

II. Relationships Between TANF and the Child Welfare System

It is possible that welfare reform will create additional financial and social stress for many families, particularly those of long term welfare recipients. Among the possible manifestations of such stress, including the curtailing of welfare as an income source for some household heads, are child neglect and abuse and the short-or long-term dissolution of some particularly fragile families. Transfer of custody of some children to grandparents or other relatives may also become a more attractive option for parents whose benefits are sanctioned or who become ineligible for assistance because of time limits or other restrictions.

Are changes in child living arrangements correlated with the imposition of time limits, sanctions, and work requirements? For instance, are increasing numbers/proportions of children cared for by relatives other than parents (either as assistance units headed by relatives or as child-only assistance units)? Or are increasing numbers/proportions of children neglected or abused, or entering foster care, following the elimination of financial assistance to a family? Linkages between welfare program administrative data and child welfare data systems may assist in the investigation of such questions.

III. Impact of Teen Pregnancy and the Provision of Services to Teen Parents

The PRWORA requires that any minor teen parent who is receiving federally funded TANF services must live at home or in an adult supervised setting unless there is a good cause exemption. It will be important to determine how this affects both the population of teens who are currently receiving welfare

services, and also those teens who will become pregnant and may require TANF services subsequent to a state's implementation of TANF. For example, what are the positive and negative consequences of this provision? Are more teens living in supervised settings and completing high school? Are teens losing welfare benefits or failing to qualify for them because of non-compliance with this provision? If so, then how many of these teens, and how many of their children, will instead require services through other social service programs, such as the child welfare system?

Additionally, since potential harm to the teen or her child would qualify as a good cause exemption, there may be an increase in the reporting of child abuse and neglect. Linking TANF data with information from both child abuse and neglect reporting systems and from child welfare systems will help clarify the effects of TANF on teen parents receiving TANF services.

The new law also permits states to use TANF funds for family planning and abstinence education. Through linking TANF data with information from the providers of these services, a state could begin to examine how these funds are being used and how adequately they are being targeted toward TANF families. Additionally, if TANF data are linked with Medicaid or Vital Statistics data, then a state could assess how effective these services are with respect to decreasing teen pregnancies among welfare recipients.

IV. Impact of TANF on Out-Of-Wedlock Births and Fertility Patterns

One of the four principal goals of the TANF program is to ''prevent and reduce the incidence of out-of-wedlock pregnancies.'' This emphasis is coupled with the law's illegitimacy bonus, which awards funds to up to five states that are most successful in reducing out-of-wedlock births among women of all ages. States are designing and implementing an array of programs aimed at reducing the number of births to unmarried mothers. It will be important to assess the impacts of these programs, both on the overall population, and more specifically on those individuals receiving TANF assistance. Some specific questions are as follows:

- Do programs aimed at reducing out-of-wedlock birth rates among the welfare population, such as family cap policies, actually affect subsequent births on welfare mothers? If so, what is the direction and magnitude of the change? Or do these policies encourage welfare recipients to place children in different living situations (relatives, for example) where they are eligible for assistance either through the foster care system or as a separate AFDC/TANF unit? Additionally, do these policies have any effect on a state's abortion rate? If so, what are the direction and magnitude of the effect?
- Does a stronger focus on work requirements and personal responsibility have an impact on fertility? Specifically, what are the fertility patterns of welfare recipients required to work and how do they change over time? How do the changes in fertility patterns affect caseloads and costs in other programs, such as Medicaid and the child welfare system?
- Given time limits and the increased emphasis on work, it is likely that exits from welfare will increase significantly in the coming years. It will be important to study how the fertility patterns of people who lose benefits due to sanctions, time limits, and/or other prohibitions differ from those remaining on assistance, and to determine whether children born to those individuals removed from assistance receive services in other government programs.

V. Domestic Violence

Many welfare recipients are victims of violence at the hands of intimate partners. Evidence from Massachusetts suggests that about 20 percent of the women who received AFDC benefits in 1996 had been subjected to violence within the past year. Many more had been victimized in the past (Allard et al., 1997). In studies of welfare to work programs, domestic violence has been identified as a significant barrier to job training and employment.

The new welfare statute allows states to exempt battered women from various welfare program requirements. In keeping with these provisions, a number of states are planning to identify and provide services to battered recipients and consider exemptions when necessary. These states will need to include some type of data on this problem in their information systems. Data may also be available on women who have been involved with the judicial and law enforcement systems. For research purposes, it may be possible to link data across these systems to study differences in welfare participation between recipients who are battered and those who are not so identified. It may also be possible to identify supports provided to battered recipients.

Issues around domestic violence also play a role in determining whether applicants and recipients of TANF benefits must cooperate with the child support enforcement system or be given a good cause exemption. Despite the high rates of domestic violence, good cause is requested in less than .2 percent of TANF cases, and granted in about .1 percent of cases. There have been no studies linking reported incidents of domestic violence and the request for or granting of good cause.

VI. Substance Abuse and Mental Health

Clients with substance abuse and mental health disorders present particular challenges to welfare reform. Substance abuse is a significant barrier to self sufficiency for some welfare recipients. Estimates of the prevalence of substance abuse vary widely, but most estimates conclude 10–20 percent of adults receiving AFDC have substance abuse problems. The prevalence of substance abuse among particular subgroups of the welfare population, such as long term recipients, may be higher, although little data is currently available on this topic (National Association of State Alcohol and Drug Abuse Directors, 1996). Among female substance abuse treatment clients with children in their households, 64 percent were found to rely on welfare income in the year prior to treatment admission (Gerstein et al., 1997). One recent study found that approximately 38 percent of both homeless and low income housed women had a current mental health disorder, and nearly 70 percent had one during their lifetimes (Bassuk et al., 1996). Many of the women with current disorders report receiving some type of mental health services.

It is assumed that persons with substance abuse and mental health disorders are likely to be over-represented in welfare receiving populations and particularly among those reaching time limits, failing to comply with program requirements, or subject to sanctions. To date, however, no information has been available to test these assumptions. It may be possible using administrative data from substance abuse and mental health treatment systems and/or the Medicaid program, to establish whether clients known to have substance abuse and mental health disorders (whether or not such disorders are known to welfare caseworkers) differ from other clients in their welfare utilization patterns.

Part III. Application Preparation and Evaluation Criteria

This part contains information on the preparation of an application for submission under this announcement, the forms necessary for submission and the evaluation criteria under which the

applications will be reviewed. Potential applicants should read this part carefully in conjunction with the information provided in Part II.

Application Forms

See section entitled ''Components of a Complete Application.'' All of these documents must accompany the application package.

Length of Application

Applications should be as brief and concise as possible, but assure communication of the applicant's proposal to the reviewers. In no case shall the project narrative exceed 30 double spaced pages exclusive of appropriate attachments. Only relevant attachments should be included, for example, resumes of key personnel. Videotapes, brochures, and other promotional materials will be discarded and not reviewed. Project narratives should be formatted with 1 inch margins, no less than 10 point font, double spaced lines, with consecutively numbered pages.

Applications should be assembled as follows:

1. *Abstract:* Provide a one-page summary of the proposed project. The abstract should clearly identify the following: the data sources to be linked, the research agenda for the resulting data, and, where applicable, the priority topic listed in Part II above.

2. *Goals, Objectives, and Usefulness of Project:* Include an overview which describes the need for the proposed project; outlines the reasons why these particular data sources are appropriate; proposes a research agenda that utilizes the potential of the resulting data set; and describes in general how the proposed project will advance scientific knowledge and policy development. This section should also summarize the applicant's overall strategy that pertains to the use of administrative data in the evaluation of welfare reform strategies, and how ASPE's funding fits into the overall scheme of the project.

3. *Methodology and Design:* Provide a description and justification of how the proposed data-linking project will be completed, including methodologies, approach to be taken, data sources to be used and linked, and proposed research and analytic plans. This section should clearly identify which data sources will be used, the time-period that the data capture, the population covered by the data, and the method(s) which will be used to link the data. Additionally, a discussion of how the administrative data will be cleaned and checked for accuracy must be included. The proposals should also provide proof that the grantee has obtained the necessary authorization to access and link all data sources proposed within the scope of the project. The preferred form of proof is a signed interagency agreement with each of the relevant agencies/departments. Though not preferable, letters of support from the appropriate agencies are acceptable, provided that the letter clearly states that the proposing agency has the authorization to access and link all necessary data. This section should also include a concise and specific discussion of how the case or individual level data will be kept confidential. Applicants must assure that the collected data will only be used for management and research purposes, and that all information will be kept completely confidential, and should present the methods that will be used to ensure confidentiality of records and information once data are made available for research purposes.

4. *Experience of Personnel/Organizational Capacity:* Briefly describe the applicant's organizational capabilities and experience in conducting relevant projects using linked administrative program data. Identify the key staff who are expected to carry out the data organization and linking, as well as those who plan to conduct research with the resulting data. Provide a curriculum vitae for each person. Be sure to include a brief discussion of how each key staff member will contribute to the success of the project.

5. *Ability to Sustain Data Linkages After Completion of Funding:* A successful proposal must present evidence that the data linkages established in this project will become institutionalized into an on-going database. The proposal should describe how the linking of data will become institutionalized, which agency will have responsibility for and jurisdiction over the resulting data, what mechanisms will be instituted to determine who will have access to the data for program management, monitoring, and research purposes, and the sources of financial and staff support for maintaining the database. Proposals should also relate the extent to which the data will be used for future policy planning, research and evaluation.

6. *Work plan:* A Work plan should be included which describes the start and end dates of the project, the responsibilities of each of the key staff, and a time line which shows the sequence of tasks necessary for the completion of the project. Identify the other time commitments of key staff members, for example, their teaching or managerial responsibilities as well as other projects in which they are involved. The Work plan should include a discussion of any plans for dissemination of the results, such as papers, articles, or conference presentations, as well as any types of documentation for the data set that is to be produced through this grant. Finally, the work plan must include how the data linked under this grant will eventually be made available for research and evaluation purposes. If one or more public use tapes are anticipated, then this should be specified. If public use tapes are not planned, then the work plan must specify how interested and qualified researchers will be allowed access to the data.

7. *Budget:* Submit a request for Federal funds using Standard Form 424A and provide a proposed budget using the categories listed on this form. A narrative explanation of the budget should be included which explains in more detail what the funds will be used for. If other sources of funds are being received to support aspects of this research, the source, amount, and other relevant details must be included. The proposal should also clearly specify whether state support will be included, and if so, the type and amount of such support.

All applicants must budget for two trips to the Washington, DC area, for at least two people on each trip. As part of this grant, ASPE would like to schedule two meetings for all funded projects. The first meeting will be for planning purposes, where applicants will have the opportunity to meet, discuss their projects, and receive feedback from both the other grantees and from ASPE staff. This meeting will occur not more than two months after the proposals are funded. The second meeting will be approximately 6 to 8 months into the grant period, and will provide grantees the ability to meet and discuss their progress to date, and assess and receive assistance with any problems that have arisen.

Review Process and Funding information

Applications will be initially screened for compliance with the timeliness and completeness requirements. Five (5) copies of each application are required. One of these copies must be in an unbound format, suitable for copying. If judged in compliance, the application then will be reviewed by government personnel, augmented by outside experts where appropriate.

The panel will review the applications using the evaluation criteria listed below to score each

application. These review results will be the primary element used by the ASPE in making funding decisions.

HHS reserves the option to discuss applications with other Federal agencies, Central or Regional Office staff, specialists, experts, States and the general public. Comments from these sources, along with those of the reviewers, may be considered in making an award decision.

As a result of this competition, between 3 and 4 grants are expected to be made from funds appropriated for fiscal year 1997. Additional awards may be made depending on the extensiveness of the data involved and the available funding, including funds that may become available in FY98. The Department reserves the right to make fewer awards, if enough suitable proposals are not received. The average grant is expected to be between $100,000 and $125,000.

Deadline for Submission of Applications

The closing date for submission of applications under this announcement is August 18, 1997. An application will be considered as meeting the deadline if it is either: (1) received at, or hand-delivered to, the mailing address on or before August 18, 1997 or (2) postmarked before midnight five days prior to August 18, 1997 and received in time to be considered during the competitive review process (within two weeks of the deadline date). Applications may not be faxed.

When mailing application packages, applicants are strongly advised to obtain a legibly dated receipt from a commercial carrier (such as UPS, Federal Express, etc.), or from the U.S. Postal Service as proof of mailing by the deadline date. If there is a question as to when an application was mailed, applicants will be asked to provide proof of mailing by the deadline date. When proof is not provided, an application will not be considered for funding. Private metered postmarks are not acceptable as proof of timely mailing.

Hand-delivered applications will be accepted Monday through Friday prior to and on August 18, 1997 during the hours of 9:00 a.m. to 4:30 p.m. in the lobby of the Hubert H. Humphrey building located at 200 Independence Avenue SW., in Washington, DC. When hand delivering an application, call 202–690–8794 from the lobby for pickup. A staff person will be available to receive applications. Applications which do not meet the August 18, 1997 deadline will not be considered or reviewed. HHS will send a letter to this effect to each late applicant.

HHS reserves the right to extend the deadline for all applications if there is widespread disruption of the mail because of extreme weather conditions or natural disasters or if HHS determines an extension to be in the best interest of the Government. However, HHS will not waive or extend the deadline for any applicant unless the deadline is waived or extended for all applicants.

Selection Process and Evaluation Criteria

Selection of the successful applicants will be based on the technical criteria laid out in this announcement. Reviewers will determine the strengths and weaknesses of each application in terms of the evaluation criteria listed below, provide comments and assign numerical scores. The review panel will prepare a summary of all applicant scores, strengths, weaknesses and recommendations.

The point value following each criterion heading indicates the maximum numerical weight that each section will be given in the review process. An unacceptable rating on any individual criterion may render the application unacceptable. Consequently, applicants should take care to ensure that all criteria are fully addressed in the applications. Applications will be reviewed as follows:

Evaluation Criteria

1. *Goals, Objectives, and Potential Usefulness of the Analyses* (20 points). Scoring will be based on the need for the project, the potential usefulness of the objectives, and how the anticipated results of the proposed project will advance policy development and program management. The research agenda will be scrutinized to determine whether the issues are relevant in the context of TANF, and whether the research questions can actually be addressed with administrative data. Scoring will also be based on the extent to which this specific project is representative of the applicant's overall plan for using administrative data to study the implementation and effectiveness of the TANF program, and how TANF interacts with other assistance programs. Preference will be given to those projects which link TANF data with administrative data from two or more other State or Federal social service assistance programs.

2. *Methodology and Design* (30 points). Scoring will be based on whether the data sources included are appropriate for carrying out the proposed research agenda, including the time frame of the data linked and the population covered by the data. Concerning the time-frame of the data, preference will also be given to those projects which link historical data (pre-TANF implementation), as well as data collected subsequent to the date which the state TANF program became operational. A critical scoring element will be the proposal's discussion of the methods used to clean, standardize and link the case level data from the different sources. Applicants should discuss thoroughly how they intend to match case records from different data sources, and what internal validity checks will ensure the accuracy of the matches. The architecture for the resulting data set should also be discussed thoroughly. Other design considerations include whether the agency applying has already obtained authorization to obtain and use data from the different state or local agencies whose data would be linked, and how confidentiality of the records and information will be ensured. It applicants are unable to ensure the security of information included in the project, then it is highly unlikely that they will receive funding.

3. *Qualifications of Personnel and Organizational Capability* (20 points). The principle scoring criteria are the qualifications of the project personnel involved as evidenced by their professional training and experience. Proposals should clearly articulate the experience of applicable staff in similar projects that deal with linking administrative data and assembling large databases. The capacity of the organization to provide the infrastructure and support necessary for the project is also an important concern.

4. *Work Plan and Budget* (15 points). Is the plan reasonable? Are the activities sufficiently detailed to ensure successful, timely implementation? Do they demonstrate an adequate level of understanding by the applicant of the practical problems of conducting such a project? Is the proposed budget reasonable and sufficient to ensure completion of the project?

5. *Ability to Sustain Project After Funding (15 points).* How will the linking of data sources become an institutionalized function within the agency once the grant funding expires? Where will the newly created data set reside? What agency(ies) will have responsibility for and jurisdiction over the resulting data? What are the sources of financial and staff support for maintaining the database? How will the linked data be used for future policy planning, research and evaluation?

Disposition of Applications

1. Approval, Disapproval, or Deferral

On the basis of the review of an application, the ASPE will either (a) approve the application in whole, as revised, or in part for an amount of funds and subject to such conditions as are deemed necessary or desirable for the research project; or (b) disapprove the application; or defer action on the application for such reasons as a lack of funds or a need for further review.

2. Notification of Disposition

The ASPE will notify the applicants of the disposition of their application. A signed notification of the award will be issued to notify the applicant of the approved application.

3. The Assistant Secretary's Discretion

Nothing in this announcement should be construed as to obligate the Assistant Secretary for Planning and Evaluation to make any awards whatsoever. Awards and the distribution of awards among the priority areas are contingent on the needs of the Department at any point in time and the quality of the applications which are received.

Components of a Complete Application

A complete application consists of the following items in this order:

1. Application for Federal Assistance (Standard Form 424, Revised 4–88);
2. Budget Information—Non-construction Programs (Standard Form 424A, Revised 4–88);
3. Assurances—Non-construction Programs (Standard Form 424B, Revised 4–88);
4. A Table of Contents;
5. Budget Justification for Section B—Budget Categories;
6. Proof of nonprofit status, if appropriate;
7. A copy of the applicant's approved indirect cost rate agreement if necessary;
8. Project Narrative Statement, organized in five sections addressing the following topics:
(a) Abstract,
(b) Goals, Objectives and Usefulness of the Project,
(c) Methodology and design,
(d) Background of the Personnel and Organizational Capabilities and
(e) Work plan (timetable);
9. Any appendices/attachments;
10. Certification Regarding Drug-Free Work place;
11. Certification Regarding Debarment, Suspension and Other Responsibility Matters;
12. Certification and, if necessary, Disclosure Regarding Lobbying;

Reports

The grantee must submit quarterly progress reports and a final report. The specific format and content for these reports will be provided by the project officer.

State Single Point of Contact (E.O. No. 12372)

The Department of Health and Human Services has determined that this program is not subject to Executive Order No. 12372, Intergovernmental Review of Federal Programs, because it is a program that is national in scope and does not directly affect State and local governments. Applicants are not required to seek intergovernmental review of their applications within the constraints of E.O. No. 12372.

Dated: June 13, 1997.

David F. Garrison,

Principal Deputy Assistant Secretary for Planning and Evaluation.

[FR Doc. 97–16083 Filed 6–18–97; 8:45 am]

BILLING CODE 4151–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Availability of Report of NIH Panel To Define Principles of Therapy of HIV Infection and Guidelines for the Use of Antiretroviral Agents in HIV-Infected Adults

AGENCY: Office of Public Health and Science, HHS.

ACTION: Request for comments.

SUMMARY: The Department of Health and Human Services (DHHS), Office of Public Health and Science, is requesting comments from all interested parties on the following two documents: ''Report of the NIH Panel to Define Principles of Therapy of HIV Infection'' developed by the subject NIH Panel and ''Guidelines for the Use of Antiretroviral Agents in HIV-Infected Adults and Adolescents,'' developed by the Panel on Clinical Practices for Treatment of HIV Infection, convened by the Department of Health and Human Services and the Henry J. Kaiser Family Foundation. The principles of therapy document describes 11 scientific principles that define the fundamental HIV pathogenic-based rationale for guiding therapeutic decisions. The guidelines document contains recommendations for practitioners in conjunction with patients to use in providing appropriate treatment regimens in light of new combination therapies. The guidelines cover the following areas: methods for testing to establish HIV infection; considerations for when to initiate therapy; methods for and frequency of monitoring the effectiveness of therapy; therapy in patients with established and advanced stage disease; the treatment of acute HIV infection; interruption of therapy; considerations for changing therapy and available therapeutic options; and considerations for therapy in the HIV-infected pregnant woman.

DATES: Written comments should be written on or before July 21, 1997.

ADDRESSES: Written comments to this notice should be submitted to: The HIV/AIDS Treatment Information Service, P.O. Box 6363, Rockville, MD 20849–6303. Due to the significantly large response expected, only written comments will be accepted. After consideration of the comments, the final documents will be published in the Centers for Disease Control and Prevention (CDC) ''Morbidity and Mortality Weekly Report'' (MMWR). A notice of their availability will also be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Copies of the ''Report of the NIH Panel to Define Principles of Therapy'' and ''Guidelines for the Use of Antiretroviral Agents in HIV-Infected Adults and Adolescents'' are available from the National AIDS Clearinghouse (1–800–458–5231) and on the Clearinghouse website (hhtp://www.cdcnac.org) and from the HIV/AIDS Treatment Information Service (1–800–448–0400; FAX 301–529–6616; TTY: (1–800–243–7012) and on their website (http://www.hivatis.org).

SUPPLEMENTARY INFORMATION: The NIH Panel to Define Principles of Therapy of HIV Infection was convented to conduct a review of the current status of the clinical studies of HIV antiretroviral therapy with the goal of delineating scientific principles that would guide therapeutic decisions. The NIH Panel was chaired by Charles Carpenter, M.D., Professor of Medicine, Brown University School of Medicine. The Panel on Clinical Practice for Treatment of HIV Infection is a three-year public/private partnership convened in December 1996 by Eric P. Goosby, M.D., Director, Office of HIV/AIDS Policy, DHHS, and Mark Smith, M.D., former Vice President of the Henry J. Kaiser Family Foundation, at the request of DHHS Secretary Donna E. Shalala. The Panel's mission is to develop an initial set of comprehensive clinical practices providing current state-of-the-art recommendations, options and guidance to practitioners, patients, and payers regarding effective and appropriate treatment for HIV infection on a variety of areas. The Panel is cochaired by Anthony S. Fauci, M.D., Director,

National Institute of Allergy and Infectious Diseases, and John G. Bartlett, M.D. Professor of Medicine and Chief of Infectious Diseases at Johns Hopkins University School of Medicine. The 32-member panel includes Federal, private sector and academic experts in the clinical treatment and care HIV-infected people and representatives of AIDS interest groups, health policy groups and payer organizations.

Dated: June 16, 1997.

John M. Eisenberg,

Principal Deputy Assistant Secretary for Health, U.S. Department of Health and Human Services.

[FR Doc. 97–16228 Filed 6–17–97; 1:39 pm]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0221]

Benzodiazepines and Related Substances; Criteria for Scheduling Recommendations Under the Controlled Substance Act; Notice of Public Hearing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public hearing.

SUMMARY: The Food and Drug Administration (FDA) in conjunction with other Federal agencies will convene a part 15 public hearing on benzodiazepines and related substances. The purpose of the hearing is to gather evidence in order to assess the abuse potential of benzodiazepines and related compounds and to develop criteria that will distinguish the substances in order to address their appropriate scheduling under the Controlled Substance Act (the CSA).

DATES: The hearing will be held on Thursday and Friday, September 11 and 12, 1997, from 9 a.m. to 4 p.m. Written notice of participation should be filed by August 14, 1997. The closing date for comments will be October 17, 1997.

ADDRESSES: The public hearing will be held at the Renaissance Hotel, 999 Ninth St. NW., Washington, DC 20001–9000. Written notices of participation and any comments are to be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Transcripts of the public hearing may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the hearing, at a cost of 10 cents per page. The transcript of the public hearing, copies of data and information submitted during the hearing, and any written comments will be available for review at the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Nicholas P. Reuter, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, rm. 15–22, Rockville, MD 20857, 301–827–1696, FAX 301–443–0232, e-mail ''nreuter@bangate.fda.gov''.

SUPPLEMENTARY INFORMATION:

I. Background

Benzodiazepines and related drug substances have consistently ranked among the most widely prescribed drug products in the United States. These products are used extensively as anxiolytics, sedatives, and hypnotics. Concomitant with the widespread use of these products have been concerns associated with benzodiazepine abuse, misuse, and the level of domestic and international control applied to these substances.

Benzodiazepines act upon the central nervous system (CNS). In addition, benzodiazepine substances have the potential for abuse and the capacity to produce physical and psychological dependence. As such, benzodiazepine substances have been subject to domestic and international drug control reviews. For the most part, until recently, these international and domestic reviews have resulted in uniform domestic and international controls. Essentially, all benzodiazepines and related compounds are controlled domestically in schedule IV of the CSA. In the most recent benzodiazepine-type substance domestic scheduling review, Ambien® (Zolpidem), was added to Schedule IV of the CSA in 1993. Internationally, most benzodiazepines are controlled in Schedule IV of the Convention on Psychotropic Substances, 1971 (the Convention). However, in 1990, the World Health Organization (WHO) reviewed, but did not recommend control of, three benzodiazepine substances (brotizolam, etizolam, and quazepam).

In response to a request from the Drug Enforcement Administration (DEA), the Department of Health and Human Services (DHHS) is currently evaluating the abuse liability of quazepam, a benzodiazepine controlled in Schedule IV of the CSA. The DEA request followed a petition from the company that manufactures a drug product containing quazepam as the active ingredient (Doral®). In its petition, the manufacturer requests that quazepam be removed from Schedule IV of the CSA and decontrolled.

A. International Reviews

Benzodiazepines and related substances are psychotropics and are subject to the Convention. The domestic review and control of many benzodiazepine substances has been directly influenced by international scheduling actions. This is because the United States is expected to control substances domestically to fulfill international scheduling actions under the Convention. In addition, although the findings necessary for control under the Convention and the CSA are not identical, the schedule structure and issues surrounding the international and domestic control actions on benzodiazepines are similar and overlap. As discussed in section I.A.1., 2., and 3 of this document, the international scheduling review policy has evolved between the initial class reviews in the 1980's and the more recent substance oriented assessments.

1. The 1984 Review

The United Nations (UN) Commission on Narcotic Drugs added 33 benzodiazepine substances to Schedule IV of the Convention (NAR/CL.4/1984; DND 421/12(1-7)) in March, 1984. The UN action followed an extensive review by the WHO, which had recommended that all 33 substances be controlled in Schedule IV. The WHO considered the following information in evaluating the need for international control:

(1) Chemical structure, receptor binding characteristics, sedative-hypnotic, anticonvulsant, and anxiolytic profile of CNS effects;

(2) Animal data on psychological and physical dependence potential;

(3) Human experimental data on both dependence and abuse potential;

(4) Clinical data on dependence and public health problems;

(5) Epidemiological data on public health and social problems;

(6) Extent of abuse or likelihood of abuse and seriousness of public health and social problems resulting from such abuse; and

(7) Utilization and usefulness in therapy.

The WHO found that for many of the 33 benzodiazepine substances, no data were available other than for items (1) and (4) listed previously. In recommending international control, however, the WHO determined that if a

drug under review possessed characteristics fulfilling item (1) listed previously, the drug had the capacity to produce a state of dependence and the likelihood of abuse constituted a public health and social problem warranting international control (48 FR 53754, November 29, 1983; see also 48 FR 23913, May 27, 1983).

After reviewing written comments and convening a public meeting on the WHO recommendations, DHHS concluded that there was sufficient evidence, in the form of significant actual abuse or trafficking data or compelling preclinical and clinical abuse liability data on 18 of the 33 substances that the WHO was recommending for control. DHHS was not aware of similar data for the remaining 15 benzodiazepine substances that the WHO was recommending for international control. In essence, the United States disagreed with the WHO assessment that the chemical and pharmacological similarity of all 33 benzodiazepine substances were sufficient to warrant international scheduling.

2. The 1991 Review

The WHO reconsidered the international control of benzodiazepine substances again in 1989. In 1989, a WHO expert committee (the Expert Committee on Drug Dependence (ECDD)) reviewed four benzodiazepine substances, midazolam, brotizolam, etizolam, and quazepam. The ECDD recommended that only one of these substances, midazolam, be added to Schedule IV of the CSA. According to the 26th ECDD report, midazolam's control was based on the water solubility of midazolam's salts, and evidence of actual abuse associated with midazolam (Ref. 1). In 1990, the U.N. subsequently voted to add midazolam to Schedule IV of the Convention.

In 1990, the ECDD examined the issue of differential scheduling among the 34 benzodiazepine substances controlled in Schedule IV of the Convention (33 initial substances plus midazolam). The United States forwarded abuse liability, trafficking, and other pertinent data to the WHO as part of this review (see 54 FR 38441, September 18, 1989, and 54 FR 42844, October 18, 1989). The ECDD considered extensive prereview documents (Ref. 2) on each substance and again determined that three benzodiazepine substances that were not controlled (brotizolam, etizolam, and quazepam) should not be controlled because the ''degree of seriousness of the public health and social problems associated with the abuse of [these substances] was not great enough to warrant international control (Ref. 3).''

The ECDD also considered the information available on the 34 benzodiazepine substances that were already controlled internationally. The ECDD differentiated the 34 substances into the following 3 categories:

(1) Nineteen benzodiazepine substances were found to be appropriately controlled at their present level (Schedule IV of the Convention). The ECDD determined that they needed no further action. The nineteen substances are:

TABLE 1—NINETEEN BENZODIAZEPINE SUBSTANCES CONSIDERED APPROPRIATELY CONTROLLED BY THE ECDD

Substances		
Alprazolam	Halazopam	Nitrazepam
Bromazepam	Ketazolam	Oxazepam
Chlordiazepoxide	Lorazepam	Prazepam
Clobazam	Lometazepam	Temazepam
Clonazepam	Medazepam	Triazolam
Chlorazepate	Midazolam	
Flurazepam	Nimetazepam	

(2) The ECDD found that the 13 substances below have high to moderate therapeutic usefulness, with few or no reports of abuse or illicit activity. The ECDD recommended that the WHO monitor the substances to determine whether or not they should be considered for descheduling:

TABLE 2 —THIRTEEN BENZODIAZEPINE SUBSTANCES BEING CONSIDERED FOR RESCHEDULING BY THE ECDD

Substances		
Camazepam	Ethyl loflazepate	Nordiazepam
Clotazepam	Fludiazepam	Oxazolam
Cloxazolam	Haloxazolam	Pinazepam
Delorazepam	Loprazolam	Tetrazepam
Estazolam		

(3) Finally, the ECDD recommended that two substances, diazepam and flunitrazepam, should be monitored for appropriate scheduling. The ECDD found that:

* * *in comparison with all other benzodiazepines reviewed, diazepam and flunitrazepam showed a continuing higher incidence of abuse and association with illicit activities. The higher abuse potential of diazepam than that of several other benzodiazepine anxiolytics has also been demonstrated in human experimental studies and survey studies of drug abusers, supported by information received from health professionals engaged in the treatment of drug dependence.

The ECDD's differentiation of the controlled benzodiazepines and the recommendation for not controlling three substances were based on an evaluation of information in the following areas:

a. *Human pharmacokinetic studies*:

Onset of action, elimination time, and duration of effect after both single and repeated administrations may be important determinants of the dependence potential of individual substances. Active metabolites may contribute to the overall effects of a substance.

b. *Preclinical studies*:

(1) Drug discrimination.

(2) Physical dependence.

(3) Self-administration.

c. *Clinical studies*:

(1) Categorization of subjective effects in persons with histories of drug abuse.

(2) Determination of euphoriant, liking, and reinforcing effects in persons with histories of drug abuse.

(3) Assessment of physical dependence.

d. *Epidemiological data and information on illicit activities*:

(1) Utilization data.

(2) Reports of extent and nature of actual abuse.

(3)Survey data.

(4) Drug seizures.

(5) Reports of clandestine manufacture.

(6) Diversion from illicit sources.

e. *Clinical usefulness and breadth of therapeutic indications*:

In sum, the international review, culminating in 1991, strongly suggests that criteria can be developed and applied to differentiate the abuse liability of individual benzodiazepine substances. Importantly, the ECDD suggested that these criteria should be used collectively and that no one criterion could or should be used as a sole determinate for control.

3. The 1995 Review

In 1994 and 1995, the ECDD considered five benzodiazepine substances or benzodiazepine-related substances for possible changes in their control status under the Convention.

a. *Brotizolam*. The ECDD recommended that brotizolam should be added to Schedule IV of the Convention. This recommendation was based on studies that demonstrate that brotizolam is a short-acting hypnotic with a mean elimination half life of 4 to 5 hours. The ECDD also found that brotizolam produces mild-to-severe withdrawal symptoms that indicate that the substance has a moderate dependence potential similar to other benzodiazepine hypnotics. Brotizolam was found to have an appreciable abuse liability based on the actual abuse problems in two countries.

b. *Flunitrazepam*. The ECDD differentiated flunitrazepam from other benzodiazepines, including diazepam, and recommended that it be up-scheduled from Schedule IV to Schedule III of the Convention. The ECDD based its recommendation on flunitrazepam's effects on the central nervous system, on flunitrazepam's dependence potential, and on its actual abuse.

The ECDD found that flunitrazepam's pharmacology and central nervous system effects were different than other benzodiazepines:

Flunitrazepam has typical benzodiazepine effects, with a greater sedative-hypnotic potency than diazepam or chlordiazepoxide. Flunitrazepam binds with high affinity to central benzodiazepine receptors and is rapidly absorbed after oral administration. The elimination half-life of flunitrazepam following a single oral dose ranges between 9 and 25 hours in humans. Accumulation occurs with chronic administration (Ref. 4).

Further, the ECDD was able to distinguish flunitrazepam from other benzodiazepine substances on the basis of its dependence producing characteristics:

Drug preference studies in opioid users, however, have shown that flunitrazepam and diazepam stand out from other benzodiazepines by producing a strong positive reinforcing effect in these subjects. Flunitrazepam is estimated to have a moderate abuse potential which may be higher than that of other benzodiazepines. The rapid onset and longer duration of action, coupled with the stronger sedative-hypnotic effects, may contribute to its higher abuse potential (Ref. 5).

Finally, the ECDD found that flunitrazepam was reported to be the most [widely] abused benzodiazepine by opioid abusers in Europe, Asia, and Oceania. The health problems associated with the abuse of flunitrazepam ''include deaths directly or indirectly related to its use, drug dependence, withdrawal syndrome, paranoia, amnesia, and other psychiatric disorders.'' Although information available indicated that both diazepam and flunitrazepam were associated with a higher incidence of ''illicit activities'' when the ECDD factored in the amounts manufactured and potency, flunitrazepam could be distinguished with respect to both seizures of the drug and the number of cases.

c. *Zolpidem*. The ECDD noted that Zolpidem is a ligand that binds specifically to the ω_1 benzodiazepine receptor. The committee characterized Zolpidem as a short-acting hypnotic that does not alter significantly natural sleep characteristics. The ECDD characterized zolpidem's abuse liability as minimal, which may be attributable to its short marketing history. The ECDD did not recommend further review of this substance.

d. *Zopiclone*. The ECDD noted that zopiclone is a hypnotic pharmacologically similar to benzodiazepines, binding to central, but not peripheral benzodiazepine, receptors. The ECDD rated zopiclone's dependence potential as comparable to benzodiazepines; however, its abuse liability could not be considered significant because there were so few reports of abuse despite availability in 40 countries. The ECDD did not recommend further review for control.

e. *Triazolam*. The ECDD determined that no scheduling recommendation was required for triazolam, but they suggested continued monitoring of abuse-related adverse reactions.

B. Domestic Control Actions

There are 36 benzodiazepine substances controlled domestically in Schedule IV the CSA. For the most part, these substances have been added to Schedule IV in groups.

(1) Six benzodiazepine substances were controlled in 1975 (40 FR 23998, June 4, 1975). These substances are: Chlordiazepoxide, clonazepam, clorazepate, diazepam, flurazepam, and oxazepam.

(2) An additional six benzodiazepine substances were controlled in Schedule IV between 1976 and 1984. These substances are: Prazepam (41 FR 55176, December 17, 1976), lorazepam (42 FR 54546, October 7, 1977), temazepam (46 FR 20671, April 7, 1981), halazepam (46 FR 53407, October 29, 1981), alprazolam (46 FR 55688, November 12, 1981), and triazolam (47 FR 57694, December 28, 1982).

The twelve substances listed under section II.B.(1) and (2) of this document had been approved for marketing by FDA prior to their control under the CSA, and prior to the international review that led to the initial international control of 33 benzodiazepine substances in 1984. These substances were the subject of scientific and medical reviews and scheduling recommendations by DHHS, as required under 21 U.S.C. 811(a)) of the CSA.

For the most part, the reviews and findings were similar, and did not reflect the application of criteria that would differentiate the individual substances.

(3) Twenty-one benzodiazepine substances were controlled ''temporarily'' in Schedule IV of the CSA in 1984 (49 FR 39307, October 5, 1984). These substances were not reviewed under the scheduling provisions of 21 U.S.C. 811(a) of the CSA. Instead, the substances were controlled domestically in schedule IV under the temporary control provisions of section 201(d) (4) of the CSA. DEA noted that the temporary scheduling order for each substance shall remain in effect until the process of permanent scheduling is completed under 21 U.S.C. 811(a) and (b) of the CSA (Ref. 6) None of the substances are marketed in the United States at this time. The 21 substances are:

TABLE 3—TWENTY-ONE BENZODIAZIPINE SUBSTANCES CONTROLLED UNDER SECTION 201(D)(4) OF THE CSA

Substances		
Bromazepam	Ethyl loflazepate	Nimetazepam
Camazepam	Fludiazepam	Nitrazepam
Clobazam	Flunitrazepam	Ordiazepam
Clotazepam	Haloxazolam	Oxazolam
Cloxazolam	Ketazolam	Pinazepam
Delorazepam	Loprazolam	Tetrazepam
Estazolam	Lormetazepam	Medazepam

There was no attempt to examine the abuse liability of these substances individually. Indeed, in recommending the Schedule IV control to DEA, the Assistant Secretary for Health stated that ''[p]lacement of the following drug substances in Schedule IV would also control them similarly to other benzodiazepines already marketed in this country'' (Ref. 7).

(4) Two substances, midazolam and quazepam, were added to Schedule IV in 1986 (51 FR 10190, March 25, 1986). As discussed in section I.A.2 of this document, midazolam was controlled internationally in 1991.

(5) Zolpidem is the most recent benzodiazepine related substance to be controlled domestically. This substance was added to Schedule IV in 1993, following its review and approval by FDA and following a comprehensive medical and scientific evaluation by DHHS (58 FR 7186, February 5, 1993).

Zolpidem is a novel nonbenzodiazepine related hypnotic, that possesses an imidazopyridine structure. Although Zolpidem is chemically not a benzodiazepine and appears to have some distinct receptor binding activity at one identified benzodiazepine receptor, its pharmacology, psychological, and physical dependence liability do not appear overall to be any less than the other benzodiazepines that are currently listed in Schedule IV of the CSA.

In recommending Schedule IV control for zolpidem DHHS found that:

Zolpidem's potential for abuse is equal to or greater than triazolam's and the other benzodiazepines which are in Schedule IV. Zolpidem elicits many of the same pharmacological responses of the benzodiazepines. Its short duration of action and rapid onset enhance the likelihood that zolpidem would be a drug of abuse. In addition, zolpidem's water solubility, which is not a feature of most of the other marketed benzodiazepines, offers potentially an additional factor that could lead to greater abuse, by way of diversion and extraction of the drug substance for injection * * *. There are actual reports of abuse and dependence. The psychological and physical dependence capacity can be inferred from preclinical data and clinical pharmacology studies which describe tolerance development, drug discrimination properties, self-administration experiments, and adverse reaction reports from other countries.

(6) Flunitrazepam was added to Schedule IV of the CSA in 1984, along with 20 other benzodiazepine substances that had been reviewed and controlled as a class. In 1995, the U.N. moved flunitrazepam from Schedule IV to Schedule III of the Convention on Psychotropic Substances. The U. S. Government supported this action.

Flunitrazepam is the active ingredient in Rohypnol, that has been the subject of escalating abuse and trafficking in the United States in recent months. DEA initiated a review on flunitrazepam to determine if stricter controls are warranted to deter abuse and trafficking of this substance.

In response to a request from the Administrator of DEA, DHHS evaluated the abuse liability of flunitrazepam in accordance with the eight factors determinate of control under the CSA. In January 1997, DHHS concluded that the preclinical and clinical abuse liability research findings and the actual abuse of flunitrazepam do not significantly distinguish it from other benzodiazepines currently determined by DHHS to have a low abuse liability and controlled in Schedule IV. Furthermore, the same science suggests that the abuse liability of flunitrazepam is significantly less than that of the Schedule II barbiturates. Thus, DHHS advised DEA that the abuse potential of this drug, based on the factors applied by DHHS, is consistent with control under Schedule IV. In light of these findings, DHHS recommended that there be no change in the current scheduling of flunitrazepam under Schedule IV of the CSA.

(7) DHHS is currently evaluating the abuse liability of quazepam, a benzodiazepine controlled in Schedule IV of the CSA. Quazepam is the active ingredient in Doral®, which was approved for marketing in the United States in December 1985 and has been commercially available in the United States since March 1990. Quazepam was added to Schedule IV of the CSA in March 1986. In May 1992, the manufacturer of Doral® submitted a petition requesting that quazepam be removed from Schedule IV of the CSA and decontrolled.

The petitioner contends that quazepam should be decontrolled because the substance has no significant potential for abuse and does not lead to limited physical or psychological dependence. According to the petitioner, quazepam's abuse and dependence characteristics are influenced by its unique combination of pharmacologic and pharmacogenetic properties. Quazepam is relatively selective to the BZ_1 (ω-1) receptor (as is zolpidem, previously). And, quazepam is highly lipophilic with long acting metabolites that may further reduce rebound insomnia and the risk of dependence. The petitioner argues that some studies suggest that quazepam, in contrast to other benzodiazepines, only partially suppresses the intermediate to severe withdrawal signs produced after barbital administration (Ref. 8).

III. Discussion

Notwithstanding the exceptions noted in section I.A. 3 of this document, most currently controlled benzodiazepine substances were reviewed and controlled between 1983 and 1993 without differentiation. However, recent studies have suggested that benzodiazepine substances may be distinguishable by pharmacologic properties that influence their abuse liability characteristics.

A review of the clinical literature shows that benzodiazepines and other sedative/hypnotics may be differentiated with respect to their abuse liability and ''attractiveness'' to abusers. For example, a series of placebo-controlled, double-blind studies that compared the reinforcing/subjective effects of different benzodiazepines across a range of doses in sedative abusers found that there were meaningful differences among these compounds (Ref. 9). Specifically, lorazepam and diazepam appear to have high abuse liability, while oxazepam,

halazepam, and chlordiazepoxide have less potential for abuse than diazepam (Refs. 10 and 11). Diazepam has one of the most rapid onsets of action of all marketed benzodiazepines; in contrast, halazepam and oxazepam are among the slowest to produce effects. Thus, it has been suggested that the differentiation among benzodiazepines may be based on their pharmacokinetic profiles (fast versus slow onset of behavioral or subjective effects) (Refs. 9 and 12).

In addition, there is some evidence in the scientific literature that the results of self-administration studies in animals may differ for different benzodiazepines. These studies have often been used to compare the potential for psychological dependence on drug substances. Further, some benzodiazepine substances have been reported to produce marked, severe withdrawal syndromes in animals (including seizures). Other benzodiazepines have been reported to produce relatively mild withdrawal syndromes.

In sum, recent research suggests that benzodiazepines may be distinguishable on the basis of their specific potential for abuse. It is not clear, however, how valid these distinctions are and how reliably benzodiazepines can be differentiated on this basis. Further, there are also questions regarding how these characteristics should influence the type of restrictions and controls that may be applied to these substances. It is possible that, based on pharmacologic and abuse liability characteristics, some benzodiazepine substances warrant a higher level of control. For others, these characteristics could support a lesser level of control or perhaps decontrol. The purpose of this hearing will be to generate evidence with which to relate a substance's abuse characteristics with the legal criteria determinative for control.

A. Criteria for and Procedures for Scheduling Reviews

Under the CSA, the Secretary of DHHS is charged with evaluating medical and scientific factors and recommending to DEA whether the substance under review should be controlled or removed as a controlled substance and the appropriate level of control (if control is necessary). Under an interagency memorandum of understanding (Ref. 13), FDA and the National Institute on Drug Abuse (NIDA) participate in the medical review, evaluation, and recommendations that DHHS conducts as part of the domestic drug scheduling process.

The CSA establishes the factors and findings determinative for the control of substances in the United States. The factors set forth under 21 U.S.C. 811(a), (b), and (c) of the CSA are:

(1) Its actual or relative potential for abuse.

(2) Scientific evidence of its pharmacological effect, if known.

(3) The state of current scientific knowledge regarding the drug or other substance.

(4) Its history or current pattern of abuse.

(5) The scope, duration, and significance of abuse.

(6) What, if any, risk there is to the public health.

(7) Its psychic or physiological dependence liability.

(8) Whether the substance is an immediate precursor of a substance already controlled under this title.

To be controlled in any of the five schedules established by the CSA, the substance must meet certain findings relative to its potential for abuse as well as the physical and psychological dependence associated with such abuse (21 U.S.C. 811(c)). Currently, all benzodiazepine substances are controlled domestically in Schedule IV. The findings necessary for control in Schedule IV are:

(1) The drug or other substance has a low potential for abuse relative to other drugs or substances in Schedule III.

(2) The drug or other substance has a currently accepted medical use in treatment in the United States.

(3) The drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule III.

B. Need for Meaningful Criteria

There are currently 36 benzodiazepine and related substances controlled in Schedule IV of the CSA. Of these, 15 are approved and marketed for medical use in the United States. A cursory review of the substances on this list suggests that there may be differences in their pharmacology. There may also be differences in the onset and duration of action. In addition, substances may differ in their abuse liability characteristics, including the ability to develop tolerance and produce dependence. These differences may be reflected in epidemiological data relating to abuse, as well as the illicit use and trafficking of the substances.

It is important that a substance's abuse potential and dependence producing characteristics are reflected in the substance's control under the CSA. This permits drug abuse control resources to be focused appropriately.

The criteria will be useful in identifying the types of information and scientific evidence needed to assess or differentiate the abuse potential for benzodiazepine and related compounds. These criteria will provide guidance to the industry about the types of studies to pursue and submit to address the abuse potential section of a new drug application. Moreover, the guidance developed will aid in evaluating the type of control necessary for such substances. As such, FDA and NIDA anticipate that the criteria and guidance will stimulate the development of drug products with lower abuse potential.

FDA and NIDA are inviting the pharmaceutical industry, academia, regulatory entities, law enforcement entities, consumer, and other entities to participate in this hearing.

IV. Public Hearing Topics

In order to promote a more useful discussion at the public hearing, FDA and NIDA developed a list of questions and issues. This list is not intended to be exclusive, and presentations and comments on other issues related to the criteria for controlling benzodiazepines and related substances are encouraged. The list follows:

(1) Is it possible to distinguish benzodiazepine and related substances on the basis of their abuse potential and dependence producing effects? If so, would such distinctions be useful in determining what level of control is appropriate under the CSA for a given benzodiazepine or related substance?

(2) Different types of data and information are traditionally used in making decisions on scheduling of substances under the CSA that can be grouped into four broad classes:

(a) Preclinical studies of abuse-related phenomena;

(b) Clinical studies of abuse-related phenomena (physiological dependence, subjective effects, psychological dependence, acute toxicity, tolerance, etc.);

(c) Epidemiologic studies of use and abuse of drugs; and

(d) Information gathered from various law enforcement agencies.

Within each of these broad classes there exists an array of types of pharmacological procedures and tests that are used to collect information relevant to abuse liability assessments.

(i) Are there preclinical test paradigms that can be meaningful and useful in distinguishing the abuse liability of benzodiazepine and related substances?

(ii) Are there clinical abuse liability studies that can be useful for assessing and distinguishing the abuse potential of benzodiazepines?

(iii) Are there pharmacodynamic characteristics (intrinsic efficacy, binding of subtypes of benzodiazepine receptors) and pharmacokinetic properties (e.g., its onset and duration of action, its active metabolites, etc.) that reliably distinguish among benzodiazepine and related substances with regard to their abuse or potential for abuse? If so, how does a benzodiazepine or related substances pharmacodynamic and pharmacokinetic properties influence its abuse or potential for abuse?

(iv) Are there reliable methods for using epidemiological, actual abuse, and trafficking data to distinguish among benzodiazepines for scheduling purposes? How should intentional overdose and suicide data be considered in this analysis?

(v) Are there other sources of information that can be used in assessing and distinguishing the abuse potential of benzodiazepine substances?

(vi) Are there test methods and procedures that have better predictive validity than others in assessing and distinguishing the abuse potential of benzodiazepines?

(3) What information should be included in the drug abuse/dependence portion of the benzodiazepine product labeling? Are there instances where a label warning could obviate the need for scheduling? Should the product's labeled indication (e.g., chronic insomnia, depression, anxiety, epilepsy, adjunct to anesthesia, etc.) influence the abuse potential and dependence potential assessment?

V. Scope of Hearing

The purpose of this hearing is to generate evidence and information that will aid in developing criteria to evaluate the abuse liability characteristics of benzodiazepines. It is not the purpose of this hearing to evaluate and make recommendations on the control of specific substances, including substances that are the subject of current scheduling petitions.

VI. Notice of Hearing Under 21 CFR Part 15

As discussed in sections III., IV., and V of this document, FDA believes the format and procedures of a public hearing, at which interested persons can testify, will best elicit the information needed to develop meaningful criteria for determining the appropriate level of control under the CSA for benzodiazepine and related substances. Accordingly, the Commissioner of Food and Drugs, is announcing a public hearing under part 15 (21 CFR part 15).

The public hearing is scheduled to begin at 9 a.m. at the Renaissance Hotel (address above), on September 11 and 12, 1997. The presiding officer, Stuart L. Nightingale, Associate Commissioner for Health Affairs, Food and Drug Administration, will be accompanied by a panel from FDA, the National Institutes of Health, DEA, and other DHHS employees with relevant expertise. The procedures governing the hearing are found at part 15.

Persons who wish to participate are requested to file a notice of participation with the Dockets Management Branch (address above) on or before August 14, 1997. To ensure timely handling, the outer envelope should be clearly marked with Docket No. 97N–0221 and the phrase ''Benzodiazepine Scheduling Criteria Hearing.'' The notice of participation should contain the interested person's name, address, telephone number, any business or organizational affiliation of the person desiring to make a presentation, a brief summary of the presentation, and the approximate time requested for the presentation. FDA may ask that groups having similar interests consolidate their comments as part of a panel. FDA will allocate the time available for the hearing among the persons who properly file notices of participation. If time permits, FDA may allow interested persons attending the hearing who did not submit a notice of participation in advance to make an oral presentation at the conclusion of the hearing.

Persons who find that there is insufficient time to submit the required information in writing may give oral notice of participation by calling Nicholas Reuter (telephone number above) no later than August 29, 1997. Those persons who give oral notice of participation should also submit written notice containing the information described above to the Dockets Management Branch by the close of business September 7, 1997.

After reviewing the notices of participation and accompanying information, FDA will schedule each appearance and notify each participant by mail or telephone of the time allotted to the persons and the approximate time the person's oral presentation is scheduled to begin. The hearing schedule will be available at the hearing, and after the hearing it will be placed on file in the Dockets Management Branch.

To provide time for all interested persons to submit data, information, or views on this subject, the administrative record of the hearing will remain open until October 17, 1997. Persons who wish to provide additional materials for consideration are to file these materials with the Dockets Management Branch (address above). To ensure timely handling, the outer envelope should be clearly marked with Docket No. 97N–0221 and the phrase ''Benzodiazepine Scheduling Criteria Hearing.''

The hearing is informal, and the rules of evidence do not apply. No participant may interrupt the presentation of another participant. Only the presiding officers and panel members may question any person during or at the conclusion of a presentation.

Public hearings, including hearings under part 15, are subject to FDA's guideline (21 CFR part 10, subpart C) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

To the extent that the conditions for the hearing, as described in this notice, conflict with any provisions set out in part 15, this notice acts as a suspension, modification, or waiver of those provisions as specified in 21 CFR 15.30(h).

VII. References

The following information has been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. World Health Organization, Expert Committee for Drug Dependence, 26th Report.

2. World Health Organization, Pre-Review Data Sheets.

3. World Health Organization, Expert Committee for Drug Dependence, 27th Report.

4. World Health Organization, Expert Committee for Drug Dependence, 29th Report.

5. World Health Organization, Expert Committee for Drug Dependence, 29th Report.

6. Proposed Rule, **Federal Register** of August 1, 1984, 49 FR 30748.

7. Letter from Assistant Secretary for Health to Administrator, Drug Enforcement Administration, dated May 1, 1984.

8. Yanagita, T., ''Dependence Potential of the Benzodiazepines: Use of Animal Models for Assessment,'' *Clinical Neuropharmacology*, 8 (S1):S118–s–122, 1985.

9. Griffiths, R. R. and B. Wolf, ''Relative Abuse Liability of Difference

Benzodiazepines in Drug Abusers,'' *Journal of Clinical Psychopharmacology*, 10:237–243, 1990.

10. Griffiths, R. R. and J. D. Roache, ''Abuse Liability of Benzodiazepines: A Review of Human Studies Evaluation Subjective and/or Reinforcing Effects,'' In: *The Benzodiazepines: Current Standards for Medical Practice*, edited by D. E. Smith and D. R. Wesson, MTP Press Limited: Lancaster, England, pp. 1535-1541, 1985.

11. Funderburk, F. R. et al., ''Relative Abuse Liability of Lorazepam and Diazapam: An Evaluation in Recreational Drug Users,'' *Drug and Alcohol Dependence*, 22:215–222, 1988.

12. Juergens, S. M., ''Benzodiazepines and Addiction,'' *Recent Advances in Addictive Disorders*, 16:75–86, 1993.

13. Memorandum of Understanding With the National Institute on Drug Abuse, and the FDA, dated March 3, 1985 (50 FR 9518).

Dated: June 12, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–16064 Filed 6–16–97; 2:51 pm]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Assuring Radiation Protection; Availability of Cooperative Agreement; Request for Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), Center for Devices and Radiological Health (CDRH), Office of Health and Industry Programs (OHIP), is announcing the availability of up to $1,500,000 in total costs (including both direct and indirect costs) per year, for a period of 5 years, for the establishment of a cooperative agreement to support efforts to coordinate Federal and State actions to assure radiation protection of the American public. Federal funds are currently available for this program, but an award is subject to the condition that funds are transferred to FDA from other Federal agencies to support this program.

DATES: Applications must be received by close of business on July 25, 1997.

ADDRESSES: Application kits are available from, and completed applications should be submitted to: Robert L. Robins, Grants Management Officer, Division of Contracts and Procurement Management (HFA–520), Food and Drug Administration, Park Bldg., 5600 Fishers Lane, rm. 3–40, Rockville, MD 20857, 301–443–6170.

NOTE: Applications hand-carried or commercially delivered should be addressed to Park Bldg., 12420 Parklawn Dr., rm. 3–40, Rockville, MD 20857. Please do NOT send applications to the Division of Research Grants, National Institutes of Health (NIH).

FOR FURTHER INFORMATION CONTACT:

Regarding the administrative and financial management aspects of this notice: Robert L. Robins (address above).

Regarding the programmatic aspects of this notice: Richard E. Gross, Center for Devices and Radiological Health (HFZ–200), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–443–2845.

SUPPLEMENTARY INFORMATION: FDA will support the efforts covered by this notice under section 532 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360ii). FDA's research program is described in the Catalog of Federal Domestic Assistance, No. 93.103.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of ''Healthy People 2000,'' a PHS-led national activity for setting priority areas. This request for application (RFA), Assuring Radiation Protection, is related to the priority area of ''Healthy People 2000'' Cancer Objectives (chapter 16). Potential applicants may obtain a copy of ''Healthy People 2000'' (Full Report, Stock No. 017–001–00474–0) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, 202–512–1800.

PHS strongly encourages all grant recipients to provide a smoke-free workplace and to discourage the use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

I. Background

Since 1968, FDA, the Nuclear Regulatory Commission and its predecessor organizations, the Environmental Protection Agency and more recently, the Federal Emergency Management Agency and the Department of Energy have provided financial support for a forum for the exchange of ideas and information among the States and the Federal Government and to study existing and potential problems of radiation control. Other Federal agencies, notably the National Institute of Standards and Technology and the Centers for Disease Control and Prevention, have provided additional support for specific activities associated with the exchange of ideas and approaches for improving radiation control techniques. This forum has made it possible for State and Federal agencies to work together to study radiological health problems of mutual interest and to apply their increasingly limited resources with maximum effectiveness in seeking ways to control these public health problems.

Three major mechanisms have been used to achieve this coordination:

(1) When certain radiation control subjects warrant specific consideration, committees and other working groups composed of representatives of State radiation control programs and liaison members from the concerned Federal agencies have been formed to evaluate and offer solutions to the problems. The recommendations of the committees are evaluated by a central management board and final recommended actions are relayed to the appropriate Federal and State agencies.

(2) Annual meetings of Federal and State officials are convened to present and discuss the results of the studies conducted. The annual meetings also include workshops to more carefully define new problems and areas of mutual concern in radiation control, and clinics to demonstrate mutually beneficial radiological health techniques, procedures, and systems.

(3) Additional educational activities have been provided to members of State programs having radiation control responsibilities and to the general public to acquaint them with radiation exposure problems and the proposed solutions.

Methods used have included videotapes, publications, and training courses.

II. Goals and Objectives

The objective of this cooperative agreement will be to continue the Federal and State coordination activities with the goal of achieving effective solutions to present and future radiation control problems. The recipient of this cooperative agreement award will be expected to continue the annual meetings and to obtain the cooperation of the individual States in maintaining the system of committees and working groups established to deal with individual problems. Additionally, the recipient of this cooperative agreement award will be expected to continue to provide the leadership to refresh and update previously developed consensus

guidance documents and suggested regulations to provide States with up-to-date assistance in effective management of radiological hazards and occasionally implement special projects as determined by the participating State and Federal agencies. Areas for which groups may be needed include, but are not limited to, radioactive materials and radiation exposure problems in the environment, in the healing arts, in industry, and in or related to consumer products.

III. Reporting Requirements

A program progress report and an annual Financial Status Report (FSR) (SF–269) are required. An original and two copies of these reports shall be submitted to FDA's Grants Management Officer within 90 days of the budget expiration date of the cooperative agreement. Failure to file the FSR in a timely fashion will be grounds to withhold continued support of the cooperative agreement. A final program progress report and FSR must be submitted within 90 days after the expiration of the project period as noted on the Notice of Grant Award.

Program monitoring of the recipient will be conducted on an ongoing basis through telephone conversations between the project officer and/or the grants management staff and the other participating Federal agencies and the principal investigator. Periodic site visits with appropriate officials of the grantee organization may also be conducted. The results of these communications and visits will be recorded in the official cooperative agreement file and may be available to the recipient upon request consistent with FDA disclosure regulations.

IV. Mechanism of Support

A. Award Instrument

Support for this program will be in the form of a cooperative agreement award. This award will be subject to all policies and requirements that govern the research grant programs of PHS, including the provisions of 42 CFR part 52 and the appropriate provisions of 45 CFR parts 74 and 92. The regulations issued under Executive Order 12372 do not apply to this program.

B. Eligibility

This cooperative agreement is available to any public or private nonprofit organization (including State and local units of government) and to any for-profit organization. For-profit organizations must exclude fees or profit from their request for support. Organizations described in section 501(c)(4) of the Internal Revenue Code of 1968 that engage in lobbying are not eligible to receive grant/cooperative agreement awards.

C. Length of Support

This agreement is planned for 5 years. However, noncompetitive continuation of support beyond the first year will depend on: (1) Acceptable programmatic performance during the preceding year, and (2) the availability of Federal fiscal year appropriations.

D. Funding Plan

Federal funds are currently available for this program, but an award is subject to the condition that funds are transferred to FDA from other Federal agencies to support this program. FDA intends to fund an agreement up to $1,500,000 in total costs (including both direct and indirect costs) 1 year for a period of up to 5 years conditional upon the availability of Federal funds in subsequent fiscal years.

V. Delineation of Substantive Involvement

Inherent in the cooperative agreement award is substantive involvement by the awarding agency and the other agencies providing additional support. Accordingly, FDA and the other supporting agencies will have a substantive involvement in the programmatic activities of the project funded under this program.

Substantive involvement includes, but is not limited to, the following:

(1) FDA will appoint a project officer who will actively monitor the FDA-supported program under this award. Priorities on issues to be addressed will be jointly agreed to by the recipient and FDA. The FDA project officer is to be invited to all planning meetings of the central management board or committee of the recipient of the award. The project officer will participate in the making of the decisions with respect to the annual meeting (including the topics to be discussed), committee organization and mission, and other activities under this award.

(2) FDA liaisons will be appointed to all committees and other working groups dealing with problems related to the agency mission. The liaison members will participate in the discussions leading to any recommendations developed by the committees and working groups. They will be primarily responsible for assuring that such recommendations are in accordance with Federal policy and regulations. The liaison members will also act as investigators, collaborators, or resource personnel, as appropriate.

(3) FDA personnel will collaborate with the recipient on data analysis, interpretation of findings, and, where appropriate, co-author publications.

(4) Other Federal agencies providing financial support under this agreement will similarly provide representatives to attend the planning meetings of the central management board and liaisons to appropriate task forces, committees and other working groups. These representatives will participate in the decisionmaking and discussions in a way similar to the participation of FDA personnel.

VI. Review Procedure and Criteria

A. Review Procedure

All applications submitted in response to this RFA will first be reviewed by grants management and program staff for responsiveness. If applications are found to be nonresponsive, they will be returned to the applicants without further consideration.

Responsive applications will be reviewed and evaluated for scientific and technical merit by an ad hoc panel of experts in the subject field of the specific application. This review will be competitive. The final funding decision will be made by the Commissioner of Food and Drugs.

B. Review Criteria

Applications will be reviewed according to the following criteria. The points indicated with each criterion represent the maximum score achievable in that category.

(1) Request for financial support is adequately justified and fully documented (10 points);

(2) Experience the applicant's organization has acquired in successfully conducting national meetings between personnel representing Federal, State, and local regulatory agencies (15 points);

(3) Experience the applicant's organization has acquired in establishing priorities for organizing and maintaining a system of committees or working groups of representatives of State governments for the purpose of evaluating, recommending solutions to specific radiological health or radiation safety problems, and maintaining up-to-date guidance and suggested regulatory approaches (15 points);

(4) Extent to which the experience described in response to criteria 2 and 3 is directly related to national meetings and committees or working groups addressing the major areas of radiation control concern. Such areas include, but are not necessarily limited to,

radioactive materials licensure and inspection, the nuclear fuel cycle, emergency response, electronic product radiation, environmental radiation, the medical use of radiation, and radioactive waste disposal. The number of State radiation control programs that participate in the activities organized by the applicant's organization, the extent of the managerial responsibilities in radiation control of the personnel representing these programs, and the number of radiation control areas considered will also be taken into account in evaluating the applicant's experience (30 points);

(5) Extent to which the activities of the applicant's organization have influenced the practices and policies of the Federal and State radiation control programs (15 points); and

(6) Evidence that demonstrates the applicant's ability to obtain the support of the radiation control programs of the 50 States for the activities to be conducted under this award, including the participation, without compensation except for travel expenses, of State personnel in the work of the committees and working groups (15 points).

A total of 100 points is available.

VII. Submission Requirements

The original and five copies of the completed Grant Application Form PHS 398 (Rev. 5/95) or the original and two copies of Form PHS 5161 (Rev. 7/92) for State and local governments, with copies of the appendix for each of the copies, should be mailed or hand delivered to Robert L. Robins (address above). No supplemental material will be accepted after the closing date. The outside of the mailing package and item 2 of the application face page should be labeled ''Response to RFA–FDA–CDRH 97–1''.

All General Instructions and Specification Instructions in the application kit should be followed with the exception of the receipt date and the mailing label address. Do not mail the application to NIH's Division of Research Grants.

This information collection is approved under OMB No. 00925–0001. Data included in the application, if restricted with the legend specified in section VIII. B of this document, may be entitled to confidential treatment as trade secret or confidential commercial information within the meaning of the Freedom of Information Act (5 U.S.C. 552(b)(4)) and FDA's implementing regulations (21 CFR 20.61).

VIII. Method of Application

A. Submission Instructions

Applications will be accepted by close of business, Monday through Friday, on or before July 25, 1997.

Applications will be considered received on time if sent on or before the receipt date as evidenced by a legible U.S. Postal Service dated postmark or a legible dated receipt from a commercial carrier, unless they arrive too late for orderly processing. Private metered postmarks shall not be acceptable as proof of timely mailing. Applications not received on time will not be considered for review and will be returned to the applicant.

Applicants should note that the U.S. Postal Service does not uniformly provide dated postmarks. Before relying on this method, applicants should check with their local post office.

B. Legend

Unless disclosure is required by the Freedom of Information Act as amended (5 U.S.C. 552), as determined by the freedom of information officials of the Department of Health and Human Services or by a court, data contained in the portions of this application that have been specifically identified by page number, paragraph, etc., by the applicant as containing trade secret, confidential commercial, or other information that is exempt from public disclosure will not be used or disclosed except for evaluation purposes.

Dated: June 10, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–16124 Filed 6–18–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Obstetrics and Gynecology Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA regulatory issues.

Date and Time: The meeting will be held on July 14 and 15, 1997, 8:30 a.m. to 5 p.m.

Location: Corporate Bldg., conference room 020B, 9200 Corporate Blvd., Rockville, MD.

Contact Person: Elisa D. Harvey, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1180, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12524. Please call the Information Line for up-to-date information on this meeting.

Agenda: On July 14, 1997, the committee will consider a draft guidance document on the study and evaluation of intrapartum continuous monitors for fetal oxygen saturation (fetal pulse oximeters) and fetal tissue pH. This document was prepared based on presentations and committee discussion at a meeting of this committee held on July 22, 1996. For the remainder of July 14, 1997, and continuing through July 15, 1997, the committee will consider a draft guidance document on the study and evaluation of in vivo devices for the detection of cervical cancer. Single copies of these two guidance documents will be available to the public after June 14, 1997, by contacting the Division of Small Manufacturers Assistance, 1350 Piccard Dr., Rockville, MD 20851, 1–800–638–2041, or from the Internet: http://www.fda.gov.cdrh.draftgui.html.

Procedure: On July 14, 1997, from 9:30 a.m. to 5 p.m., and on July 15, 1997, from 8:30 a.m. to 5 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by June 30, 1997. Oral presentations from the public will be scheduled between approximately 8:30 a.m. and 9:30 a.m., on July 15, 1997. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before June 30, 1997, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed committee deliberations: On July 14, 1997, from 8:30 a.m. to 9:30 a.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential information (5 U.S.C. 552b(c)(4)). FDA staff will

present to the committee commercial information regarding various medical devices used in obstetrics and gynecology that are currently being evaluated by FDA.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C app. 2).

Dated: June 12, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–16125 Filed 6–18–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Nonprescription Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA regulatory issues.

Date and Time: The meeting will be held on July 14, 1997, 8:30 a.m. to 5 p.m.

Location: Holiday Inn, Versailles Ballrooms I and II, 8120 Wisconsin Ave., Bethesda, MD.

Contact Person: Andrea G. Neal or Angie Whitacre, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12541. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will hear presentations and discuss the proposed labeling requirements for over-the-counter (OTC) drug products that will enable consumers to better read and understand OTC drug product labeling and to apply this information to the safe and effective use of OTC drug products. Elsewhere in this issue of the **Federal Register**, FDA is also extending the comment period on a proposed rule regarding labeling requirements for OTC drug products that appeared in the **Federal Register** of February 27, 1997 (62 FR 9024).

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by July 3, 1997. Oral presentations from the public will be scheduled between approximately 1:15 p.m. to 2:15 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before July 3, 1997, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.I11Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 12, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–16067 Filed 6–18–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13), the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Grantee Reporting Requirements for the Rural Telemedicine Grant Program

New—The Rural Telemedicine Grant Program is authorized by Section 330A of the Public Health Service Act as amended by the Health Centers Consolidation Act of 1996 (Public Law 104–229). The goal of the program is to improve access to quality health services for rural residents and reduce the isolation of rural practitioners through the use of telemedicine technologies. The two objectives of the Rural Telemedicine Grant Program are: 1) to demonstrate how telemedicine can be used as a tool in developing integrated systems of health care, which would improve access to health services for rural individuals across the lifespan and reduce the isolation of rural health care practitioners; and 2) to evaluate the feasibility, costs, appropriateness and acceptability of rural telemedicine services and technologies. Such evaluation is needed to determine how best to organize and provide telemedicine services in a sustainable manner.

Grantees will be responsible for submitting the data collection instruments listed in the burden table below. Grantees will gather information from sources involved with their telemedicine program, including patients, providers, health administrators and site coordinators. Information gathered on the data collection instruments will be entered into a database which will communicate with a central server storing all of the data from the grantee sites. Standardized data collection across all grantee sites is essential to drawing meaningful conclusions about the progress and direction of telemedicine.

The estimated burden is as follows:

Name of instrument	Type of respondent	Est. number of respondents per year	Instruments completed per respondent	Time burden per instrument (minutes)	Total burden per instrument (hours)
Patient Demographics	Patient	4,780	1	3	239
Patient Post Session	Patient	4,780	1	7	558
Provider Demographics	All providers (filled out once)	2,390	1	2	80
Consult Initiator Information	Provider who requested TM consult	1,195	4	4	319
Consult Initiator Satisfaction	Provider who requested TM consult	1,195	4	4	319
Provider Post Session	Consulting provider	1,195	4	4	319
Consult Recipient Satisfaction	Consulting provider	1,195	4	5	398
Session Information (Consulting Site)	Site coordinator (consulting site)	20	240	6	480
Session Information (Primary Care Site)	Site coordinator (primary care site)	300	16	2	160
Emergency/Triage Encounter (Consulting Site).	Emergency room staff person	15	10	4	10
Emergency/Triage Encounter (Originating Site).	Emergency room staff person	15	10	4	10
Provider Satisfaction (Periodic)	All providers (filled out every 4 months)	2,390	3	3	359
System information	Program administrator/technical staff	320	2	25	267
Program Costs	Program administrator	320	1	25	133
Total		8,160			3651

Send comments to Patricia Royston, HRSA Reports Clearance Officer, Room 14–36, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: June 16, 1997.

James J. Corrigan,

Acting Associate Administrator for Management and Program Support.

[FR Doc. 97–16128 Filed 6–18–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Cancer Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: A RCT of Plant-Based Diet in Breast Cancer Recurrence.

Date: July 14, 1997.

Time: 2:00 p.m.

Place: Teleconference, National Cancer Institute, Division of Extramural Activities, Grants Review Branch, 6130 Executive Boulevard, EPN-Room 635, Bethesda, MD 20892.

Contact Person: Maureen Johnson, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 635F 6130 Executive Boulevard, MSC 7410, Bethesda, MD 20892–7410, Telephone: 301/496–7565.

Purpose/Agenda: To evaluate and review grant application.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Reserach; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: June 13, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–16016 Filed 6–18–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Cancer Institute Special Emphasis Panel (SEP) meetings:

Name of SEP: Career Development and Mentored Peer Review.

Date: July 25, 1997.

Time: 8:30 a.m. to 5:00 p.m.

Place: Executive Plaza North, Conference Room E, 6130 Executive Boulevard, Rockville, MD 20852.

Contact Person: Wilma Woods, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 622, 6130 Executive Boulevard, MSC 7410, Bethesda, MD 20892–7410, Telephone: 301/496–7903.

Purpose/Agenda To evaluate and review grant applications.

Name of SEP: Polyvalent Vaccine: Phase III Trial in Phase IV Melanoma.

Date: August 5, 1997.

Time: 10:30 a.m.–Adjournment.

Place: Holiday Inn-Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20817.

Contact Person: Harvey P. Stein, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 611B, 6130 Executive Boulevard, MSC 7410, Bethesda, MD 20892–7410, Telephone: 301/496–7481.

Purpose/Agenda To evaluate and review a grant application.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: June 13, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–16018 Filed 6–18–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Cancer Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: Support Services for Studies of Emergent Cancer.

Date: June 23, 1997.

Time: 1:00 p.m. to 4:00 p.m.

Place: Teleconference, Executive Plaza North Building, Conference Room D, 6130 Executive Boulevard, Rockville, MD 20852.

Contact Person: Courtney M. Kerwin, Ph.D., M.P.H., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 609, 6130 Executive Boulevard, MSC 7410, Bethesda, MD 20892–7410, Telephone: 301/496–7421.

Purpose/Agenda: To evaluate and review grant applications.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: June 13, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–16020 Filed 6–18–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings:

Purpose/Agenda: To review and evaluate grant applications.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Dates of Meeting: June 18, 1997.

Time: 8:00 a.m. to adjournment.

Place of Meeting: Holiday Inn, 480 King Street, Old Town, Alexandria, VA 22314.

Contact Person: Ronald Suddendorf, Ph.D., 6000 Executive Blvd., Suite 409, Bethesda, MD 20892–7003, 301–443–2926.

Purpose/Agenda: To review and evaluate grant applications.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Dates of Meeting: June 26, 1997 (Telephone conference).

Time: 12:00 p.m.

Place of Meeting: Willco Building, 6000 Executive Blvd., Rockville, MD 20892.

Contact Person: Ronald Suddendorf, PhD., 6000 Executive Blvd, Suite 409, Bethesda, MD 20892–7003, 301–443–2926.

This notice is being published less than 15 days prior to the meetings due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Purpose/Agenda: To review and evaluate grant applications.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Dates of Meeting: July 2, 1997.

Time: 8:00 a.m. to adjournment.

Place of Meeting: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Antonio Noronha, Ph.D., 6000 Executive Blvd., Suite 409, Bethesda, MD 20892–7003, 301–443–7722.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; National Institutes of Health)

Dated: June 12, 1997.

La Verne Y. Stringfield,

Committee Management Oficer, NIH.

[FR Doc. 97–16015 Filed 6–18–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Division of Extramural Activities; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel (Telephone Conference Call).

Date: July 1, 1997.

Time: 10:00 a.m. (EDT).

Place: Bethesda, Maryland, Mr. Phillip Wiethorn's Office.

Contact Person: Dr. Katherine Woodbury/ Mr. Phillip Wiethorn, Scientific Review Administrator, National Institute of Neurological Disorders and Stroke, 7550 Wisconsin Avenue, Room 9C10, Bethesda, MD 20892, (301) 496–9223.

Purpose/Agenda: To review and evaluate a SBIR Phase II Contract Proposal.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program No. 93.853, Clinical Research Related to Neurological Disorders; No. 93.854, Biological Basis Research in the Neurosciences)

Dated: June 13, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–16017 Filed 6–18–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel meetings:

Name of SEP: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel.

Date: June 18, 1997.

Time: 2:00 p.m.

Place: Room 6as–25S, Natcher Building, NIH (Telephone Conference Call).

Contact Person: Ned Feder, M.D., Scientific Review Administrator, Review Branch, NIDDK, Natcher Building, Room 6as–25S, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: (301) 594–8890.

Purpose/Agenda: To review and evaluate grant applications.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of SEP: Molecular Dynamics of Iron Regulation and Function.

Date: July 16–18, 1997.

Time: 7:30 p.m.

Place: Sheraton Inn-Harrisburg, Harrisburg, Pennsylvania 17111.

Contact Person: Lakshmanan Sankaran, Ph.D., Scientific Review Administrator, Review Branch, NIDDK, Natcher Building, Room 6as–25F, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: (301) 594–7799.

Purpose/Agenda: To review and evaluate grant applications.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: June 13, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–16021 Filed 6–18–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting President's Cancer Panel

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the President's Cancer Panel.

This meeting will be open to the public as indicated below, with attendance by the public limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below.

Linda Quick-Cameron, Committee Management Officer, National Cancer Institute, Executive Plaza North, Room 630E, 1630 Executive Blvd., MSC 7410, Bethesda, MD 20892–7410 (301/496–5708) will provide a summary of the meeting and the roster of committee members upon request. Other information pertaining to the meeting may be obtained from the contact person indicated below.

Committee Name: President's Cancer Panel.

Date: July 31, 1997.

Place: University of Michigan, Kellogg Auditorium, Turner Geriatrics Building, 1000 Wall Street, Ann Arbor, MI 48105.

Open: 8:30 a.m. to 5:30 p.m.

Agenda: Concerns of Special Populations in the National Cancer Program: Cancer and the Aging Population.

Contact Person: Maureen O. Wilson, Ph.D., Executive Secretary, National Cancer Institute, Building 31, Room 4A48, Bethesda, MD 20892–2473, Telephone: (301) 496–1148.

Dated: June 13, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–16022 Filed 6–18–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Division of Research Grants; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Biological and Physiological Sciences.

Date: July 29, 1997.

Time: 3:00 p.m.

Place: NIH, Rockledge 2, Room 4148, Telephone Conference.

Contact Person: Dr. Philip Perkins, Scientific Review Administrator, 6701 Rockledge Drive, Room 4148, Bethesda, Maryland 20892, (301) 435–1718.

Name of SEP: Biological and Physiological Sciences.

Date: July 30, 1997.

Time: 3:00 p.m.

Place: NIH, Rockledge 2, Room 4148, Telephone Conference.

Contact Person: Dr. Philip Perkins, Scientific Review Administrator, 6701 Rockledge Drive, Room 4148, Bethesda, Maryland 20892, (301) 435–1718.

Name of SEP: Biological and Physiological Sciences.

Date: July 31, 1997.

Time: 8:30 a.m.

Place: Holiday Inn, Chevy Chase, Maryland.

Contact Person: Ms. Carol Campbell, Scientific Review Administrator, 6701 Rockledge Drive, Room 5196, Bethesda, Maryland 20892, (301) 435–1257.

Name of SEP: Biological and Physiological Sciences.

Date: July 31, 1997.

Time: 3:00 p.m.

Place: NIH, Rockledge 2, Room 4148, Telephone Conference.

Contact Person: Dr. Philip Perkins, Scientific Review Administrator, 6701 Rockledge Drive, Room 4148, Bethesda, Maryland 20892, (301) 435–1718.

Name of SEP: Biological and Physiological Sciences.

Date: August 4, 1997.

Time: 1:30 p.m.

Place: NIH, Rockledge 2, Room 5196, Telephone Conference.

Contact Person: Ms. Carol Campbell, Scientific Review Administrator, 6701 Rockledge Drive, Room 5196, Bethesda, Maryland 20892, (301) 435–1257.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 13, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–16023 Filed 6–18–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Warren Grant Magnuson Clinical Center; Notice of Meeting of the Board of Governors of the Warren Grant Magnuson Clinical Center

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Governors of the Warren Grant Magnuson Clinical Center, July 10, 1997. The Board of Governors will meet on July 10 at the National Institutes of Health, Clinical Center (Building 10), Medical Board Room (2C116), 9000 Rockville Pike, Bethesda, Maryland,

from 9:00 a.m. until approximately 2:00 p.m.

The meeting will be entirely open to the public and will include review of the Executive Committee Report, Board responsibilities, the FY98 Operating Budget, and an update on the new Clinical Research Center.

Attendance by the public will be limited to space available.

For further information, contact Ms. Maggi Stakem, Office of the Director, Warren Grant Magnuson Clinical Center, Building 10, Room 2C146, Bethesda, Maryland 20892, (301) 496–4114.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Stakem in advance of the meeting.

Dated: June 13, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–16019 Filed 6–18–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the following meetings of the SAMHSA Special Emphasis Panel I in July.

A summary of the meetings and a roster of the members may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA Office of Extramural Activities Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: (301) 443–4783.

Substantive program information may be obtained from the individuals named as Contact for the meetings listed below.

The meetings will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, these meetings are concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App.2, section 10(d).

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: July 13–16, 1997.

Place: Park Hyatt Washington, Executive Park Boardroom, 1201 24th Street, NW, Washington, DC 20037.

Closed: July 13, 1997, 6:00 p.m.—8:00 p.m.; July 14–15, 1997, 8:30 a.m.—5:00 p.m.; July 16, 1997, 8:30 a.m.—adjournment.

Panel: Center for Substance Abuse Prevention Centers for the Application of Prevention Technologies.

Contact: Ray Lucero, Room 17–89, Parklawn Building, Telephone: 301–443–9917 and FAX: 301–443–3437.

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: July 13, 1997, 6:00 p.m.—8:00 p.m.; July 14–17, 1997, 8:30 a.m.—5:00 p.m.; July 18, 1997, 8:30 a.m.—adjournment.

Place: Park Hyatt Washington, Green Park Boardroom 1201 24th Street, NW, Washington, DC 20037.

Closed: July 13, 1997, 6:00 p.m.—8:00 p.m.; July 14–17, 1997, 8:30 a.m.—5:00 p.m.; July 18, 1997, 8:30 a.m.—adjournment.

Panel: Center for Substance Abuse Prevention State Incentive Programs.

Contact: Claude Reeder, Room 17–89, Parklawn, Building, Telephone: 301–443–2592 and FAX: 301–443–3437.

Dated: June 6, 1997.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health, Services Administration.

[FR Doc. 97–16069 Filed 6–18–97; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4200–N–74]

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 21, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: June 12, 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: Monthly Digest of Current Housing Situation.

Office: Housing.

OMB Approval number: 2502–0250.

Description of the Need for the Information and Its Proposed Use: The survey will provide a timely series of comprehensive information detailing interest rates and the availability of financing for FHA-insured and conventional first mortgage home loans as well as trends in the home construction market, as required by the 1983 Housing Act.

Form Number: HUD–2499.

Respondents: Business or Other For-Profit.

Frequency of Submission: Monthly.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–2499	260		12		.167		520

Total Estimated Burden Hours: 520.

Status: Reinstatement, without changes.

Contact: Michael Wells, HUD, (202) 755–7470 x121, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

[FR Doc. 97–16074 Filed 6–18–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4200–N–73]

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 21, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development; 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: June 12, 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: Lead-Based Paint Hazard Elimination Program and Annual Report.

Office: Public and Indian Housing.

OMB Approval Number: 2577–0090.

Description of the Need for the Information and its Proposed Use: Public and Indian Housing Agencies are required to maintain records on tenant notification, testing and abatement activities. These agencies are also required to provide tenants and purchasers a copy of all positive lead-based paint test results. Agencies are also required to report testing and abatement activities to HUD.

Form Number: HUD–52850.

Respondents: State, Local, or Tribal Government and the Federal Government.

Frequency of Submission: On Occasion and Annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–52850	3,100		1		1		3,100

Total Estimated Burden Hours: 3,100.

Status: Revision.

Contact: Satinder Munjal, HUD, (202) 708–1640, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

[FR Doc. 97–16075 Filed 6–18–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4200–N–72]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: August 18, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451—

7th Street, SW, Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: James Beavers, Telephone number (202) 708–2700 ext. 2205 (this is not a toll-free number) for copies of the proposed form and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Direct Endorsement Underwriter/HUD Reviewer—Analysis of Appraisal Report.

OMB Control Number: 2502–0477.

Description of the need for the information and the proposed use: The form is used to capture information on appraisal reports considered deficient by the underwriter and to document efforts to resolve any discrepancies. The basis respondents are lender underwriters and FHA staff.

Agency form numbers: HUD–54114.

Members of affected public: Business or other for-profit.

An estimation of the total number of hours needed to prepare the information collection is 18,750 number of respondents is 375,000, frequency response is on occasion and the hour of response is 0.05.

Status of the proposed information collection: Reinstatement, without change, of a previously approved collection for which approval has expired.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 13, 1997.

Stephanie A. Smith,

General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 97–16076 Filed 6–18–97; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4200–N–69]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: August 18, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451–7th Street, SW, Room 911, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Andrew Zirneklis, Telephone number (202) 708–1515 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Mortgage Review Board.

OMB Control Number: 2502–0450.

Description of the need for the information and the proposed use: Sec. 202(c) of the HUD Reform Act of 1989 established a Mortgagee Review Board to impose administrative sanctions and civil money penalties against HUD approved mortgagees that violate the Department's requirements. Mortgagees may respond to and/or appeal Board actions.

Agency form numbers: N/A.

Members of affected public: Business or other for-profit.

An estimation of the total numbers of hours needed to prepare the information collection is 6,472, number of respondents is 70, frequency response is one-time and the hour(s) of response is 1.

Status of the proposed information collection: Reinstatement of a previously approved collection for which approval has expired.

Dated: June 13, 1997.

Stephanie A. Smith,

General Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 97–16077 Filed 6–18–97; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–3927–N–04]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: August 18, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451—7th Street, SW, Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Diane L. Lobasso, Home Mortgage Insurance (202) 708–2700 ext. 2191; TDD (202) 708–4594 (this is not a toll-free number) for copies of the proposed forms and other available.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Revision of the Section 235(r) Refinancing Procedures (FR–3927).

OMB Control Number: 2502–0456.

Description of the need for the information and the proposed use:

The information is collected by the originating lender from the mortgage application and is used by the originating lender to process the applications for Section 235(r) mortgage insurance and assistance. The applications are underwritten and certified by the originating lender.

The information is needed for the evaluation of the applications, the Department's financial management and accounting system(s) and the Department's monitoring of the origination and servicing activities of the lender.

If the information is not collected the originating lender cannot make the proper underwriting decision and the Department's data base would be incomplete for its financial management and accounting system(s). Furthermore, the Department's efforts to monitor the origination and servicing activities of the lender would be debilitated.

Agency form numbers: HUD–93114.

Members of affected public: Approximately 23,000 (each potential mortgage refinance transaction is an equivalent respondent).

An estimation of the total number of hours needed to prepare the information including number of respondents, frequency of response, and hours of response is .34 hours (6,437 hours annually) per 1 respondent out of 23,000 respondents.

Status of the proposed information collection: Reinstatement, without change, of a previously approved collection for which approval has expired.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 13, 1997.

Stephanie A. Smith,

General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 97–16078 Filed 6–18–97; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4200–N–75]

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 21, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: June 12, 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 Voucher for Grant Payment—Request Voucher for Homeless/Shelter Plus Care Grant Payment—LOCCS Voice Response Access Authorization.

Office: Chief Financial Officer.

OMB Approval Number: 2535–0102.

Description of the Need for the Information and its Proposed Use: These forms will be used by recipients to request payments of grant funds or to designate the appropriate officials who can have access to the Department's voice activated payment system. The information on these forms will be used as an internal control mechanism to safeguard Federal funds and to improve the payment process for recipients.

Form Number: HUD–27053, 27053–A/B, and 27054.

Respondents: State, Local, or Tribal Government and Not-For-Profit Institutions.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
HUD–27053	1,200		180		.16		36,000
HUD–27053–A/B	800		24		.25		4,800
HUD–27054	2,000		1		.16		333

Total Estimated Burden Hours: 41,133.

Status: Reinstatement, without changes.

Contact: Sandra Jackson, HUD, (202) 708–0143, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

[FR Doc. 97–16079 Filed 6–18–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Aquatic Nuisance Species Task Force Meeting and Forum

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Meeting and Forum.

SUMMARY: This notice announces the organizing meeting and a related forum on nonindigenous species of the Aquatic Nuisance Species Task Force's Western Regional Panel. A number of topics will be addressed during the meeting, including: Panel operating guidelines; funding mechanisms; and development of a 1998 Work Plan. The Forum will include presentations on freshwater exotic plants and animals, exotic control and prevention strategies, 100th Meridian Initiative, exotics and islands, and exotics and the coast. The meeting and forum are open to the public. Interested persons may make oral statements at the meeting or submit written statements for consideration.

DATES: The Forum on Nonindigenous Species will be held from 8:00 a.m. to 5:00 p.m. on July 8, 1997, and the Panel meeting will be held from 8:00 a.m. to 5:00 p.m. on July 9, 1997.

ADDRESSES: Both meetings will be held at Harrison Hall, Portland State University, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Robert A. Peoples, Executive Secretary, ANS Task Force, by telephone at 703–358–2025 or E-mail at robert__peoples@mail.fws.gov. or Linda Drees, Western Regional Panel Organizing Team member at 9313–539–3474, Extension 20.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces the initial meeting of the Aquatic Nuisance Species Task Force's Western Regional Panel pursuant to the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4723(b)). Minutes of the meeting will be maintained by the Executive Secretary, ANS Task Force, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Suite 840, Arlington, Virginia 22203–1622, and Linda Drees, Western Regional Panel, U.S. Fish and Wildlife Service, 315 Houston Street, Suite E, Manhattan, Kansas, 66502 and will be available for inspection during regular business hours within 30 days following the meeting.

Dated: June 16, 1997.

Gary Edwards,

Assistant Director—Fisheries, Co-Chair, Aquatic Nuisance Species Task Force.

[FR Doc. 97–16108 Filed 6–18–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–060–1310–00]

Cave Gulch-Bullfrog-Waltman Natural Gas Development Project in Natrona County, Wyoming; Availability of the Final Environmental Impact Statement (FEIS)

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Cave Gulch-Bullfrog-Waltman Natural Gas Development Project Final Environmental Impact Statement (FEIS) which analyzes the environmental consequences of the operators' proposal to continue to drill wells on their leased acreage within the Cave Gulch-Bullfrog-Waltman Natural Gas project area. This development area is located in Natrona County and generally located within Townships 36 and 37 North; Ranges 86 and 87 West, 6th Principal Meridian. The area is accessed by U.S. Highway 20/26 west of Casper, Wyoming; and, north of Waltman, Wyoming via county road 104. Access to the interior of the Cave Gulch-Bullfrog-Waltman project area is provided by a road system developed to service prior and on-going drilling and production activities.

DATES: Comments on the FEIS will be accepted for 30 days following the date the Environmental Protection Agency publishes their Notice of Availability in the **Federal Register**. The EPA notice is expected on or about June 20, 1997.

ADDRESSES: Comments on the FEIS should be sent to Ms. Kate Padilla, Team Leader for the Cave Gulch-Bullfrog-Waltman Natural Gas Development Project EIS, Bureau of Land Management, Casper District Office, 1701 East ''E'' Street, Casper, Wyoming 82601, 307–261–7603.

SUPPLEMENTARY INFORMATION: The FEIS is abbreviated to reflect only changes to the Draft EIS based on public and internal comments and therefore is used in combination with the Draft EIS to analyze a proposed action, two (2) development alternatives, and the no action alternative. The proposal presented by the operators is to continue to drill additional wells on their leased acreage within this natural gas development area. The current oil and gas operators are Chevron U.S.A., Barrett Resources Corporation, Prima Oil & Gas Company, Goldmark Engineering, Inc., W.A. Moncrief, Jr., Marathon Oil Company, and John P. Lockridge, Inc. The surface land ownership of the Cave Gulch-Bullfrog-Waltman project area is 66 percent private, 29 percent Federal (BLM), and 5 percent State of Wyoming. The mineral ownership is as follows: 20 percent private, 77 percent Federal (BLM), and 3 percent State of Wyoming.

Over the next 10 years, the Operators propose to drill up to 160 additional wells where approximately 40 wells are currently active to obtain maximum recovery of natural gas from existing Federal, State, and private oil and gas leases. The area was divided into four segments by the operators to define the Proposed Action with regard to well spacing and density. The two development alternatives analyze wells based on areas defined in the BLM's June 1996 Cave Gulch-Bullfrog-Waltman EIS Final Geologic, Well Spacing, and Reserve Evaluation Report. The draft EIS describes the physical, biological, cultural, historic, and socio-economic resources in and surrounding the project area. The focus of the impact analysis was based upon resource issues and concerns identified during public scoping. Potential impacts of concern from development were primarily concerned with raptor breeding and nesting, sensitive soils, and economics.

The Agency Preferred Alternative identified in the FEIS is the proposed action. The Agency Preferred Alternative in the DEIS was Alternative B, which included a proposed Key Raptor Area (KRA) intended to provide for secure long term nesting habitat adjacent to the project area and serve as a core or refuge area where long term reproduction opportunity for raptors of multiple species would be ensured.

Based on new information and comments on the DEIS, consultation with the US Fish and Wildlife Service (USFWS), and further analysis of the range of alternatives and actions presented in the DEIS, the BLM concluded that (1) an adequate number of secure sites for the placement of Alternative Nesting Sites (ANSs) are likely to be available, and (2) that the use of ANSs to mitigate the expected displacement of four to seven raptor pairs from the project area would be adequate without the use of the proposed KRA. The USFWS's concurrence with the placement of ANSs outside of existing raptor territories and outside of, but proximal to, the designated Greater Raptor Area of analyses, and the offer to the BLM by Chevron and Barrett to provide long term secure ANSs sites on portions of their leaseholds within the Greater Cave Gulch Raptor Analysis Area, greatly expanded the area over which the BLM could select ANSs and substantially increased the likelihood that 14 suitable ANSs are available.

The FEIS also includes a detailed Cumulative Air Quality Impact Analysis-Technical Support Document and accompanying addendum that describes the cumulative impacts from the standpoint of assessing the potential impacts from all existing, reasonable foreseeable, and proposed sources of emissions.

Dated: June 6, 1997.

Alan R. Pierson,

State Director.

[FR Doc. 97–16055 Filed 6–18–97; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–930–1430–01; CACA 30534–01]

Public Land Order No. 7271; Extension of Withdrawal; Public Land Order No. 7069; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order extends Public Land Order No. 7069, which withdrew 1,000 acres of public land from agricultural entry and mining to allow the State of California time to study their proposal to site a low-level radioactive waste facility in Ward Valley, for an additional 2-year period. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: July 11, 1997.

FOR FURTHER INFORMATION CONTACT: Public Information Section, BLM California State Office, 2135 Butano Drive, Sacramento, California 95825, 916–979–2800.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Public Land Order No. 7069, which withdrew the following described public land from settlement or entry under the agricultural land laws and location under the United States mining laws (30 U.S.C. Ch. 2, (1994)), but not from leasing under the mineral leasing laws, to protect the land while the State California conducts a study of the area to determine the feasibility of locating the proposed Ward Valley Low-Level Radioactive Waste Facility at the site, and for other purposes, is hereby extended for an additional 2-year period.

San Bernardino Meridian

T. 9 N., R. 19 E.,
Sec. 26, SW¼SW¼;
Sec. 27, S½S½;
Sec. 34;
Sec. 35, W½W½.

The area described contains 1,000 acres in San Bernardino County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the land under land lease, license, or permit, or governing the disposal of their vegetative resources.

3. This withdrawal will expire 2 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended. If a patent is issued prior to the expiration date of this extension, this protective withdrawal will automatically terminate.

Dated: June 6, 1997.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 97–16092 Filed 6–18–97; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–933–1430–01; IDI–08932 03 and IDI–08932 04]

Public Land Order No. 7270; Partial Revocation of Public Land Order No. 2588; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes a public land order insofar as it affects 130 acres of public lands withdrawn for the Bureau of Reclamation's Snake River Reclamation Project. The lands are no longer needed for the purpose for which they were withdrawn. This revocation is needed to transfer 10 acres of the lands by exchange. The revocation is also needed to allow the Bureau of Land Managment to dispose of mineral materials from existing sites on the remaining 120 acres. All of the lands are located within the Snake River Birds of Prey National Conservation Area Withdrawal and will remain closed to all other forms of disposition, including mining and mineral leasing.

EFFECTIVE DATE: June 19, 1997.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, BLM Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709, 208–373–3864.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Public Land Order No. 2588, which withdrew public lands for the Snake River Reclamation Project, is hereby revoked insofar as it affects the following described land:

Boise Meridian

(a) T. 4 S., R. 2 E.,
Sec. 25, SE¼NW¼SW¼.

The area described contains 10 acres in Owyhee County.

(b) T. 5 S., R. 6 E.,
Sec. 19, E½NW¼ and SW¼NE¼.

The area described contains 120 acres in Elmore County.

The areas described in 1(a) and (b) aggregate 130 acres in Owyhee and Elmore Counties.

2. The land described in paragraph 1(a) are hereby made available for exchange.

3. The lands described in paragraphs 1(a) and (b) are within the Snake River Birds of Prey National Conservation Area Withdrawal and will remain closed to all other forms of disposition, including mining and mineral leasing.

Dated: June 6, 1997.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 97–16089 Filed 6–18–97; 8:45 am]

BILLING CODE 4310–GG–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 April 2, 1997, in 62 FR 15727, at which time a 60-day comment period was announced. This comment period ended on June 2, 1997. No comments were received in response to this Notice. This information collection submission has now been submitted 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 collection techniques and uses of other forms of technology.

The proposed form under review is summarized below.

DATES: Comments must be received within 30 calendar days of this Notice.

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 NW., Washington, DC 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 NW., Washington, DC 20503, 202/395–5871.

SUMMARY OF FORM UNDER REVIEW:

Type of Request: New form.

Title: Small Business Application for Political Risk Investment Insurance.

Form Number: OPIC 223.

Frequency of Use: Once per investor per project.

Type of Respondents: Small business or other institutions qualifying as small business under OPIC's definition (except farms); individuals qualifying as small business under OPIC's definition.

Standard Industrial Classification Codes: All.

Description of Affected Public: Small U.S. companies or citizens investing overseas.

Reporting Hours: 4 hours per project.

Number of Responses: 50 per year.

Federal Cost: $750 per year.

Authority for Information Collection: Sections 231 and 234(a), 239(d) and 240A of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses): The small business application is the principal document used by OPIC to determine the small business investor's and project's eligibility, assess the environmental impact and developmental effects of the project, measure the economic effects for the United States and the host country economy, and collect information for underwriting analysis.

Dated: June 10, 1997.

James R. Offutt,

Assistant General Counsel, Department of Legal Affairs.

[FR Doc. 97–16061 Filed 6–18–97; 8:45 am]

BILLING CODE 3210–01–M

INTERNATIONAL TRADE COMMISSION

Notice of Appointment of Individuals to Serve as Members of Performance Review Boards

AGENCY: International Trade Commission.

ACTION: Appointment of Individuals to serve as members of Performance Review Boards.

EFFECTIVE: June 16, 1997.

FOR FURTHER INFORMATION CONTACT: Micheal J. Hillier, Director of Personnel, U.S. International Trade Commission (202) 205–2651.

SUPPLEMENTARY INFORMATION: The Chairman of the U.S. International Trade Commission has appointed the following individuals to serve on the Commission's Performance Review Board (PRB):

Chairman of PRB—Commissioner Lynn M. Bragg
Member—Commissioner Don E. Newquist
Member—Commissioner Carol T. Crawford
Member—Lyn M. Schlitt
Member—Robert A. Rogowsky
Member—Lynn I. Levine
Member—Eugene A. Rosengarden
Member—Vern Simpson
Member—Lynn Featherstone
Member—Stephen A. McLaughlin

Notice of these appointments is being published in the **Federal Register** pursuant to the requirement of 5 U.S.C. 4314(c)(4).

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205-1810.

Issued: June 16, 1997.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–16063 Filed 6–18–97; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Diversified Contractors, Inc.* (D. Az.), was lodged with the United States District Court for the District of Arizona on May 29, 1997 (Civ 97–1162 THX RCB). The proposed Consent Decree resolves the United States' claims against Diversified Contractors pursuant to section 113(b) of the Clean Air Act for Diversified's failure to obtain a Prevention of Significant Deterioration permit before construction of its facility. The alleged violation occurred at a portable soil remediation/thermal treatment facility on the Ak-Chin Indian Reservation in Pinal County, Arizona. Under the Consent Decree, Diversified agrees to abide by limits on, among other things: the types of soils it can treat, the concentration of contaminants in those soils, hours of operation, emissions, and capacity. Diversified also agrees to pay a penalty of $44,800.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed settlement agreement. Comments should be addressed to the Assistant Attorney General for the Environment and

Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044; and refer to *United States* v. *Diversified Contractors, Inc.*, DOJ Ref. #90–5–2–1–2059A.

The proposed settlement agreement may be examined at the Office of the United States Attorney, District of Arizona, 4000 United States Courthouse, Phoenix, AZ 85025 and at the office of the Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $6.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–16094 Filed 6–18–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that a proposed Consent Decree in *United States* v. *MacGillis & Gibbs Co. et al.*, Civil Account No. 4:94–CV–848 (D. Minn.) entered into by the United States, the State of Minnesota (the ''State'') and the MacGillis & Gibbs Co. (''MacGillis & Gibbs''), was lodged on June 6, 1997, with the United States District Court for the District of Minnesota. The proposed Consent Decree resolves certain claims of the United States, as well as the State, under section 107 of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. 9607, with respect to the MacGillis & Gibbs Co./Bell Lumber & Pole Co. Superfund Site (''Site'') in New Brighton, Ramsey County, Minnesota.

Under the terms of the proposed Consent Decree, MacGillis & Gibbs agrees, *inter alia*, to pay the United States $6.1 million in past response costs, $362,450 for federal Natural Resource Damages, and agrees to pay 95% of the United States' and the State's future response costs to be incurred at the MacGillis & Gibbs portion of the Site. In addition, MacGillis & Gibbs agrees to pay the State $357,809.04 of its past response costs under CERCLA. The Consent Decree contains provisions relating to MacGillis & Gibbs' receipt of insurance proceeds for the Site.

The Department of Justice will receive comments relating to the proposed Consent Decree for 30 days following publication of this Notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044–7611, and should refer to *United States* v. *MacGillis & Gibbs Co. et al.*, D.J. Ref. No. 90–11–2–904. The proposed Consent Decree may be examined at the Office of the United States Attorney for the District of Minnesota, 234 United States Courthouse, 110 South Fourth Street, Minneapolis, Minnesota 55401; the Region 5 Office of the United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, telephone no. (202) 624–0892. A copy of the proposed Consent Decree with three appendices may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to DJ#90–11–2–904, and enclose a check in the amount of $55.75 (25 cents per page for reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–16095 Filed 6–18–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 136–97]

Privacy Act of 1974; Notice of Modified System of Records

Pursuant to the Cash Management Improvement Act Amendments of 1992 (102–589), the Department of Justice published the Debt Collection offset Payment System, Justice/JMD–009 on April 11, 1994 (54 17111). The primary purpose for establishing the system of records was to determine whether administrative offset of delinquent debts could be made by Federal agencies against compensation due delinquent debtors who are present or former employees of such agencies, or present or former members of the Armed Forces. Ancillary purposes were to refer delinquent debts to the Internal Revenue Service (IRS) for offset against any income tax refunds that may be due the debtors under the IRS Federal Income Tax Refund Offset Program; to record data on any offset made; and to maintain historical data on delinquent debtor payments through the Program.

The Department now proposes to modify the system to add a new routine use disclosure provision which will permit the Department to participate in a mandatory, government-wide offset payment system known as the Treasury Offset Program, and administered by Treasury pursuant to the Debt Collection Improvement Act of 1996, Pub. L. No. 104–134. The routine use, identified as (d) in the attached **Federal Register** notice, will permit the Department to transfer to Treasury for administrative offset those non-tax debts which are more than 180 days delinquent.

In addition, the Department is revising the ''Authority for Maintenance of the System'' to include the Debt Collection Act of 1982, and the Debt Collection Improvement Act of 1996 (Pub. L. No. 104–134).

Title 5 U.S.C. 552a(e) (4) and (11) provide that the public be given 30 days in which to comment on any proposed new routine uses. Any comments may be submitted in writing to Patricia E. Neely, Program Analyst, Information Management and Security Staff, Information Resources Management, Justice Management Division, Department of Justice, Washington, DC 50530 by July 21, 1997.

As required by 5 U.S.C. 552a(r) and Office of Management and Budget (OMB) implementing regulations, the Department of Justice has provided a report on the proposed changes to OMB and the Congress.

A modified system description is set forth below. The changes have been italicized for public convenience.

Dated: May 16, 1997.

Stephen R. Colgate,

Assistant Attorney General for Administration.

Justice/JMD–609

SYSTEM NAME:

Debt Collection Offset Payment System, Justice/JMD–009

SYSTEM LOCATION:

Department of Justice (DOJ), Justice Data Center, 1151D Seven Locks Road, Rockville, Md.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal debtors. Federal debtors include (but may not be limited to)

those who have received overpayments through direct financial assistance, those who owe debts of restitution based on civil or criminal judgments entered by Federal courts, and those who have obtained insured or guaranteed loans from Federal agencies, and (a) whose delinquent debts have been sent by client Federal agencies to the DOJ for enforced collection through litigation or (b) whose delinquent debts are owed directly to the DOJ.

CATEGORIES OF RECORDS IN THE SYSTEM:

Automated records include a data base on delinquent debts by debtor name, taxpayer address and Taxpayer Identification Number (TIN), type of government claim involved, and the Federal agency entitled to notice of funds collected. (Such debts are referred by United States Attorneys (USAs) from client Federal agencies), and by other DOJ components). The data base also includes (1) information identifying those delinquent debtors who are present or former Federal employees, or members of the Armed Forces and whose salaries or other Federal benefit payments may be eligible for administrative offset by their respective employers (and whose debts may be referred to such agencies for such offsets), (2) voluntary payments made to the DOJ Jockbox, and (3) debt amounts offset by the Internal Revenue Service (IRS) against income tax refunds. Manual records include computer-generated reports that list all delinquent debtors by name. TIN, tax year, and the USA or other DOJ component (and/or other Federal agency) that referred the delinquent debt for collection, the referring agency's claim number, the status of the account, and the balance owed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. No. 97–365, the Debt Collection Act of 1982; Section 3 of Pub. L. No. 102–589, the Cash Management Improvement Act Amendments of 1992; *and Pub. L. No. 104–134 the Debt Collection Improvement Act of 1996.*

PURPOSE OF THE SYSTEM:

This system of records is used first to determine whether administrative offset of the delinquent debts can be made by Federal agencies against compensation due delinquent debtors who are present or former employees of such agencies, or present or former members of the Armed Forces. Second, it is used to refer delinquent debts to the IRS for offset against any income tax refunds that may be due the debtors under the IRS Federal Income Tax Refund Offset Program, to record data on any offsets made, and to maintain historical data on delinquent debtor payments through the Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

DOJ may disclose relevant information from this system as follows:

(a) To the IRS to obtain the mailing address of a taxpayer for the purpose of locating such taxpayer to collect or to compromise a debt owed by the taxpayer to the United States.

(b) To the Department of Defense (DOD) and United States Postal Service (USPS) to conduct computer matching programs to identify and locate debtors who receive Federal salaries, and/or pension, annuity or other Federal benefit payments. Except where such debts are paid voluntarily, the debts of those individuals who have been so identified will be returned to the DOJ component, or to the USA for referral to the appropriate Federal agency, for collection by administrative salary, or other procedure to offset Federal payments.

(c) To the IRS to conduct computer matching programs to identify individuals entitled to refunds against which tax refund offsets would be appropriate and to enable the IRS to offset the taxpayer's tax refund. (A tax refund offset may be initiated where the debt cannot be offset against the payment of Federal benefits such as Federal salaries, annuities, pensions, etc.)

(d) *These records pertaining to delinquent debts, and any information in the records, may be disclosed to Treasury pursuant to the Debt Collection Improvement Act of 1966, Pub. L. No. 104–134, for the purpose of locating the debtor and/or effecting administrative offset against monies payable by the Government to the debtor, or held by the Government for the debtor, to recover such delinquent debts.*

(e) To notify client agencies as to the status of payments and to make inquiries and reports as necessary during the processing of debt collection payments, whether such payments are made voluntarily or whether they are collected through the tax refund offset procedure.

(f) To contractor employees operating the Nationwide Central Intake Facility to account for debtor payments that have been received. (See the ''Debt Collection Management System, Justice/JMD–006'' which describes debtor records maintained by the Nationwide Central Intake Facility.)

(g) In a proceeding before a court or adjudicative body before which DOJ or contract private counsel are authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by DOJ or contract private counsel to arguably relevant to the litigation: (1) DOJ, or any component thereof, or contract private counsel, or (2) any employee of DOJ or contract private counsel in his or her official capacity or (3) any employee of DOJ or contract private counsel in his or her individual capacity where DOJ has agreed to represent the employee, or (4) the United States, where DOJ or contract private counsel determines that the litigation is likely to affect DOJ or any of its components.

(h) To volunteer student workers and students working under a college work-study program as is necessary to enable them to perform their duties.

(i) To employees or to contract personnel to access the records for Privacy Act training purposes.

(j) To the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

(k) To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

(l) To the National Archives and Records Administration (NARA) and to the General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Periodic reports are stored in binders; automated data is stored on magnetic tape.

RETRIEVABILITY:

Records are retrieved by debtor's name or TIN.

SAFEGUARDS:

Access to the facility where the records are maintained requires identification clearance by a security officer or guard. Paper records are maintained in a locked room during non-duty hours. Access to automated data requires the use of the proper passwords and user identification codes by personnel with security clearances.

Finally, only those personnel who require access to perform their duties may access these records.

RETENTION AND DISPOSAL:

Paper records are shredded after five years; automated information will be erased ten years after the related case files reported in the Debt Collection Enforcement System, Justice/USA–015, have been closed. (Pending approval of the NARA).

SYSTEM MANAGER AND ADDRESS:

Deputy Assistant Attorney General, Debt Collection Management, Justice Management Division, Department of Justice, Washington, DC 20530.

NOTIFICATION PROCEDURES:

Address requests to the system manager identified above.

RECORDS ACCESS PROCEDURES:

Address requests for access to the system manager identified above. Clearly mark the envelope ''Privacy Access Request.'' Include in the request the debtor's name, TIN, address, and any other identifying information which may be assistance in locating the record, e.g., name of the case or Federal agency to whom the debtor is indebted. In addition, include the notarized signature of the debtor as well as the name and address of the individual to receive the information if other than the debtor.

CONTESTING RECORDS PROCEDURES:

Address requests to contest to the system manager identified above. State clearly and concisely the information being contested, the reasons for contesting it, and the proposed amendment to the information.

RECORD SOURCE CATEGORIES:

USAs on behalf of Federal agencies; DOJ components; DOD, USPS, IRS, and the debtor.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 97–16051 Filed 6–18–97; 8:45 am]

BILLING CODE 4410–AR–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—PNGV Gas Turbine Technical Team

Notice is hereby given that, on November 14, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''The Act''), General Motors Corporation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are: General Motors Corporation, Detroit, MI; Chrysler Corporation, Auburn Hills, MI; and Ford Motor Company, Dearborn, MI. The nature and objective of the venture is to conduct joint research necessary to develop technologically advanced powerplants that can help meet the goals of the Partnership for a New Generation of Vehicles (the joint effort of the federal government and the U.S. auto industry to develop affordable, fuel-efficient, low-emission automobiles that meet today's performance standards).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–16099 Filed 6–18–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Enterprise Computer Telephony Forum

Notice is hereby given that, on January 3, 1997, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Enterprise Computer Telephony Forum (''ECTF'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Brite Voice Systems, Inc., Wichita, KS; Precision Systems, Inc., St. Petersburg, FL; Samsung, Seoul, Korea; and Voice Technologies Group, Buffalo, NY, have become Principal Members. Netphone, Inc., Northborough, MA, has become an Auditing Member.

No other changes have been made in the membership, nature or objectives of ECTF. Membership remains open, and ECTF intends to file additional written notifications disclosing all changes in membership.

On February 20, 1996, ECTF filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on May 13, 1996 (61 FR 22074).

The last notification was filed with the Department on August 16, 1996. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on November 4, 1996 (61 FR 56708).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–16100 Filed 6–18–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Center for Manufacturing Sciences, Inc. (NCMS)

Notice is hereby given that, on May 2, 1997, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the National Center for Manufacturing Sciences, Inc. (''NCMS'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notification was filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following companies were recently accepted as Active Members of NCMS: Cognition Corporation, Bedford, MA; IBD Inc., Winnetka, IL; Lambda Technologies, Inc., Raleigh, NC; and SDL, Inc., San Jose. CA. The following companies have recently resigned from Active Membership in NCMS: American Propylaea Corporation, Birmingham, MI; The Antaeus Group, Inc., Rockville, MD; Automated Quality Technologies, Inc. (d/b/a Lion Precision), St. Paul, MN; CADKEY, Inc., Windsor, CT; CIMdata, Inc., Ann Arbor, MI; CogniSense, San Jose, CA; Fast Heat, Inc., Elmhurst, IL; IntelliSys, Inc., Syracuse, NY; Lapeer Industries, Inc., Lapeer, MI; Lead Time Services, Inc. (d/b/a RJ Associates), San Jose, CA; John W. Mercer & Associates Inc., Toronto, Ontario, Canada; MicroLithics Corporation, Golden, CO; Optelecom, Inc., Gaithersburg, MD; Parker-Majestic, Inc., Troy, MI; PolyCycle Corporation,

Towson, MD; Productivity Action Associates, Inc., Allen Park, MI; Productivity Technologies, Inc., Sunnyvale, CA; RJ Associates, San Jose, CA; Sybase, Inc., Emeryville, CA; Teledyne Inc., Los Angeles, CA; TubalCain Company, Inc., Loveland, OH and Winsert, Inc., Marinette, WI. The following organizations have recently resigned from Affiliate Membership in NCMS: Applied Research Laboratory, Penn State University, State College, PA and Community College Association for Technology Transfer, Godfrey, IL.

No other changes have been made in the membership or planned activity of the group. Membership in this group research project remains open and its nature and objectives remain unchanged. NCMS intends to file additional written notification disclosing all changes in membership.

On February 20, 1987, NCMS filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 17, 1987 (52 FR 8375).

The last notification was filed with the Department on March 3, 1997. This notice was published in the **Federal Register** on April 29, 1997 (62 FR 23268).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–16096 Filed 6–18–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—PNGF Vehicle Engineering Technical Team

Notice is hereby given that, on November, 14, 1996, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), General Motors Corporation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are: General Motors Corporation, Detroit, MI; Chrysler Corporation, Auburn Hills, MI; and Ford Motor Company, Dearborn, MI. The nature and objective of the venture is to develop voluntary packaging parameters and evaluate the vehicle systems integration implications for technologically advanced vehicles that can meet the goals of the Partnership for a New Generation of Vehicles (the joint effort of the federal government and the U.S. auto industry to develop affordable, fuel-efficient, low-emission automobiles that meet today's performance standards).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–16098 Filed 6–18–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—PNGV 4 SDI Technical Team

Notice is hereby given that, on November 14, 1996, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), General Motors Corporation has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are: General Motors Corporation, Detroit, MI; Chrysler Corporation, Auburn Hills, MI; and Ford Motor Company, Dearborn, MI. The nature and objective of the venture is to conduct research necessary to develop advanced compression-ignition and spark-ignition engines with fuel economy and emissions benefits in support of the Partnership for a New Generation of Vehicles (the joint effort of the federal government and the U.S. auto industry to develop affordable, fuel-efficient, low-emission automobiles that meet today's standards).

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 97–16097 Filed 6–18–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Federal Bureau of Identification

Criminal Justice Information Services; Agency Information Collection Activities: Proposed Collection: Comment Request

ACTION: Notice of information collection under review: Return A and supplement to return A

The proposed information collection was published in the Federal Register, April 14, 1997 in Volume 62 Number 71, utilizing emergency review in addition to allowing a 60-day comment period. No comments were received by the Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Service Division. The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 21, 1997. This process is conducted in accordance with 5 CFR 1320.10.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

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

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

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

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time should be direct to SSA Paul J. Gans (phone number and address listed below). If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact SSA Paul J. Gans, 304–625–4830, FBI,

CJIS, Statistical Unit, PO Box 4142, Clarksburg, WV 26302–9921.

Overview of this information collection:

(1) Type of information collection: Extension of Current Collection

(2) The title of the form/collection: Return A and Supplement to Return A

(3) The agency form number, if any, and applicable component of the Department sponsoring the collection. Form: I–720A and I–706. Federal Bureau of Identification, Department of Justice.

(4) Affected public who will be asked or required to respond, as well as brief abstract. Primary: State and Local Law Enforcement Agencies. This collection will gather information necessary to monitor the bias motivation of selected criminal offenses. The resulting statistics are published annually.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 4,900 agencies; 95,255 responses; and with an average completion time of 30 minutes or 6 hours, annually.

(6) An estimate of the total public burden (in hours) associated with the collection: 20,580 hours annually.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20503.

Dated: June 13, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–16060 Filed 6–18–97; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 1853–97; AG Order No. 2087–97]

RIN 1115–AE26

Termination of Designation of Rwanda Under Temporary Protected Status Program After Final 6-Month Extension

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: This notice terminates, effective on December 6, 1997, the Attorney General's designation of Rwanda under the Temporary Protected Status (''TPS'') program provided for in section 244 of the Immigration and Naturality Act, as amended (''the Act''). Accordingly, eligible aliens who are nationals of Rwanda (and eligible aliens who have no nationality and last habitually resided in Rwanda) may re-register for TPS and extension of employment authorization for a final 6-month period. This re-registration is limited to persons who registered for the initial period of TPS which ended on June 6, 1995.

EFFECTIVE DATES: This notice of termination of the Temporary Protected Status designation for Rwanda is effective on June 7, 1997. The TPS designation for Rwanda will remain in effect from June 7 to December 6, 1997. The main re-registration procedures become effective on June 19, 1997., and will remain in effect until July 18, 1997.

FOR FURTHER INFORMATION CONTACT: Ronald Chirlin, Adjudications Officer, Immigration and Naturalization Service, Room 3214, 425 I Street, NW., Washington, DC 20536, telephone (202) 514–5014.

SUPPLEMENTARY INFORMATION: Section 308(b)(7) of Public Law 104–208 (September 30, 1996) renumbered section 244A of the Act as 244 of the Act. Under this section, the Attorney General continues to be authorized to grant TPS to eligible aliens who are nationals of a foreign state designated by the Attorney General (or who have no nationality and last habitually resided in that state). The Attorney General may designate a state upon finding that the state is experiencing ongoing armed conflict, environmental disaster, or other extraordinary and temporary conditions that prevent nationals or residents of the country from returning to it in safety.

On June 7, 1994, the Attorney General designated Rwanda for Temporary Protected Status for a period of 12 months. 59 FR 29440. On May 25, 1995, the Attorney General extended the designation of Rwanda under the TPS program for an additional 12-month period until June 6, 1996. 60 FR 27790. Subsequently, the Attorney General extended the designation of Rwanda under the TPS program for additional 6-month periods until June 6, 1997. 61 FR 29428 and 61 FR 58425.

Section 244(b)(3)(A) of the Act requires the Attorney General to review, at least 60 days before the end of the initial period of designation or any extended period of designation, the conditions in a state designated under section 244(b)(1) of the Act. The section also requires the Attorney General to determine whether the requirements for such a designation continue to be met, and to terminate the state's designation when the Attorney General determines that those requirements are not met.

This notice terminates the designation of Rwanda under the TPS program. In accordance with section 244(b)(3) (B) and (C) of the Act, this termination will be effective on December 6, 1997, following the final 6-month extension granted by this notice. This notice also describes the procedures with which eligible aliens who are nationals of Rwanda (or who have no nationality and who last habitually resided in Rwanda) must comply in order to re-register for TPS during this final 6-month period.

In addition to timely re-registrations and late re-registrations authorized by this notice's extension of Rwanda's TPS designation, late initial registrations are possible for some Rwandans under 8 CFR 244.2(f)(2), formerly 8 CFR 240.2(f)(2). Such late initial registrants must have been ''continuously physically present'' in the United States since June 7, 1994, must have had a valid immigrant or non-immigrant status during the original registration period, and must register no later than 30 days from the expiration of such status.

The Immigration and Naturalization Service requires all TPS registrants to submit Form (I–765, Application for Employment Authorization, for data-gathering purposes. Therefore, a Form I–765 must always be submitted with the Application for Temporary Protected Status, Form I–821, as part of either a re-registration or late initial registration, even if employment authorization is not requested. The appropriate filing fee must accompany Form I–765 unless a properly documented fee waiver request is submitted to the Immigration and Naturalization Service or unless the applicant does not request employment authorization.

Notice of Termination of Designation of Rwanda Under the TPS Program

By the authority vested in me as Attorney General under section 244 of the Act (8 U.S.C. 1254), as amended, and pursuant to section 244(b)(3) of the Act, I have had consultations with the appropriate agencies of the U.S. Government concerning (a) the conditions in Rwanda; and (b) whether permitting nationals of Rwanda (and aliens having no nationality who last habitually resided in Rwanda) to remain temporarily in the United States is contrary to the national interest of the United States.

As a result of these consultations, I have determined that Rwanda no longer continues to meet the conditions for designation of TPS under section

244(b)(1) of the Act. The situation in Rwanda has greatly improved since the designation of TPS in 1994. The return of comparative stability throughout most of Rwanda has led the U.S. Government to strongly encourage the repatriation of Rwandan refugees from neighboring countries. During the last half of 1996 and the beginning of 1997, approximately 1.3 million refugees returned to Rwanda. The ability of so many to return in relative safety demonstrates the end of the extraordinary circumstances that existed in 1994.

While other avenues of immigration relief, including asylum, remain available to Rwandans in the United States who believe that their particular circumstances make return to Rwanda unsafe, we have determined that TPS is no longer appropriate for Rwandans in general. Accordingly, it is ordered as follows:

(1) The TPS designation of Rwanda under section 244(b)(3) of the Act is extended for a final 6-month period starting June 7, 1997, and terminating December 6, 1997.

(2) I estimate that there are approximately 200 nationals of Rwanda (and aliens having no nationality who last habitually resided in Rwanda) who have been granted Temporary Protected Status and are eligible for the final 6-month period of re-registration.

(3) In Order to maintain current registration for TPS, a national of Rwanda (or an alien having no nationality who last habitually resided in Rwanda) who received a grant of TPS during the initial period of designation from June 7, 1994, to June 6, 1995, must comply with the re-registration requirements contained in 8 CFR 244.17, formerly 8 CFR 240.17, which are described in pertinent part in paragraphs (4) and (5) of this notice.

(4) A national of Rwanda (or an alien having no nationality who last habitually resided in Rwanda) who has been granted TPS and wishes to maintain that status must re-register by filing a new Application for Temporary Protected Status, Form I–821, together with an Application for Employment Authorization, Form I–765, within the 30-day period beginning on [June 19, 1997], and ending on [July 18, 1997], in order to be eligible for TPS during the period from June 7 to December 6, 1997. Late re-registration applications will be allowed pursuant to 8 CFR 244.17(c), formerly 8 CFR 240.17(c).

(5) There is no fee for Form I–821 filed as part of the re-registration application. A Form I–765 must be filed at the same time. If the alien requests employment authorization for the 6-month extension period, the fee prescribed in 8 CFR 103.7(b)(1), currently seventy dollars ($70), must accompany the Form I–765. An alien who does not request employment authorization must nonetheless file Form I–765 together with Form I–821, but in such cases no fee will be charged.

(6) Information concerning the TPS program for nationals of Rwanda (and aliens having no nationality who last habitually resided in Rwanda) will be available at local Immigration and Naturalization Service offices upon publication of this notice.

Dated: June 12, 1997.

Janet Reno,

Attorney General.

[FR Doc. 97–16050 Filed 6–18–97; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 97–29 Exemption Application No. D–10345, et al.]

Grant of Individual Exemptions; Washington National Retirement Plan

AGENCY: Department of Labor, Pension and Welfare Benefits Administration.

ACTION: Notice of typographical corrections.

SUMMARY: This document contains a notice of typographical corrections of Prohibited Transaction Exemptions (PTE) 97–29 through PTE 97–32 (60 FR 31630—31632, June 10, 1997). As a result of typographical errors, the PTE numbers for four (4) individual exemptions were incorrectly published. This document contains the corrections for those PTE numbers. In addition, the original heading also contained a typographical error which is corrected below.

Correction

In 60 FR published at page 31630 on June 10, 1997, in the second column, the fourth line in the original heading is hereby corrected to read as follows:

[Prohibited Transaction Exemption 97–29].

Washington National Retirement Plan Located in Lincolnshire, IL

[Prohibited Transaction Exemption 97–29; Application No. D–10345]

Correction

In 60 FR published at page 31630 on June 10, 1997, in the third column, the third line in the heading is hereby corrected to read as follows:

[Prohibited Transaction Exemption 97–29].

For Further Information Contact: Mr. Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Joint Apprenticeship Committee Plumbers Local No. 27 Located in Pittsburgh, Pennsylvania

[Prohibited Transaction Exemption 97–30; Application No. L–10366]

Correction

In 60 FR published at page 31631 on June 10, 1997, in the second column, the third line in the heading is hereby corrected to read as follows:

[Prohibited Transaction Exemption 97–30].

For Further Information Contact: Mr. Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Howes Leather Company, Inc., Employee Stock Ownership Plan Located in Curwensville, Pennsylvania

[Prohibited Transaction Exemption 97–31; Application No. D–10385]

Correction

In 60 FR published at page 31631 June 10, 1997, in the first column, the third line in the heading is hereby corrected to read as follows:

[Prohibited Transaction Exemption 97–31].

For Further Information Contact: Mr. Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Thrift Savings Plan and Trust Located in New York, New York

[Prohibited Transaction Exemption 97–32 Application No. D–10391]

Correction

In 60 FR published at page 31632 on June 10, 1997, in the second column, the fourth line in the heading is hereby corrected to read as follows:

[Prohibited Transaction Exemption 97–32].

For Further Information Contact: Karin Weng of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

Signed at Washington, DC, this 13th day of June 1997.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 97–16012 Filed 6–18–97; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL GAMBLING IMPACT STUDY COMMISSION

Meeting

AGENCY: National Gambling Impact Study Commission.

ACTION: Notice of public meeting.

TIME AND DATE: Friday, June 20, 1997; 8:30 a.m. to 2:00 p.m.

PLACE: The meeting site will be in room 3208, East Promenade, 490 L'Enfant Plaza, SW, Washington, DC 20407.

STATUS: The meeting will be open to the public from 8:30 a.m. to 11 a.m. and from 11:45 a.m. to 2 p.m. The meeting will be closed to the public from 11 a.m. to 11:45 a.m. for the purpose of considering internal personnel rules and practices and to allow for discussion of information of a personal nature during the consideration of hiring staff. Accordingly, it has been determined that this portion of the meeting will concern matters within sections 552b(c)(2) and (6) of Title 5, United States Code, and will be duly closed to public participation.

MATTERS TO BE CONSIDERED: At its inaugural public meeting, the National Gambling Impact Study Commission established under Public Law 104–169, dated August 3, 1996, will consider general administrative matters and substantive agenda including a report on previous gambling studies, legislative intent and the Commission workplan.

AUTHORITY: This notice is published consistent with the provisions of the Federal Advisory Committee Act of 1972. It appears for a period of less than 15 days in advance of the meeting due to the unique scheduling requirements for the Commission's first meeting in accordance with its authorizing legislation.

CONTACT PERSONS: For further information, contact Kay C. James, Chair at (757) 579–4682 or write to 1000 Regent University Drive, Virginia Beach, VA.

Please note: The address and telephone number listed for the Commission are temporary. Information concerning the new address and telephone number will be available at the meeting.

Mark Bogdan,

Administrative Officer.

[FR Doc. 97–16170 Filed 6–18–97; 8:45 am]

BILLING CODE 6820–ET–P

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Geosciences: Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in the Geosciences(1756).

Date and Time: July 8–9, 1997, 9:00 a.m. to 5:00 pm.

Place: National Science Foundation, 4201 Wilson Blvd., Room 770, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Stephan P. Nelson, Program Director for the Mesoscale Dynamic Meteorology Program; Division of Atmospheric Sciences; Room 775; 4201 Wilson Blvd., Arlington, VA 22230; telephone number (703) 306–1526.

Purpose of Meeting: To provide advice and recommendation's concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate the U.S. Weather Research Program (USWRP) proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempted under 5 U.S. C. 552b(c), (4) and (6) of the Government Sunshine Act.

M. Rebecca Winkler,

Committee Management Office.

[FR Doc. 97–16118 Filed 6–18–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SKILL STANDARDS BOARD

[SGA 97–04]

Voluntary Partnership Planning and Phase I Implementation Grants

AGENCY: National Skill Standards Board.

ACTION: Notice of availability of funds and solicitation for grant applications.

SUMMARY: The National Skill Standards Board (NSSB), under the National Skill Standards Act of 1994 (the Act), announces the availability of funds for initiating Voluntary Partnership activity through combined Planning and Phase I Implementation grants. A grant will be made to the organization or coalition of organizations best positioned and capable of convening key stakeholder representatives from across a cluster as defined by the National Skill Standards Board. It is the Board's intent that one grant will be made in each of five clusters. It is anticipated that five awards will be made in the range of $80,000 to $160,000, depending on the statement of work proposed by the participant. The period of performance will vary, but will not exceed nine months. Awardees of this grant will be eligible to receive a non-competitive grant for long-term Voluntary Partnership activities.

DATES: The closing date for receipt of applications shall be August 20 at 4:45 p.m. (Eastern Time) at the address below.

ADDRESSES: Applications shall be made to the Division of Contract Administration and Grant Management, Attention: Lisa Harvey, U.S. Department of Labor, Procurement Services Office, 200 Constitution Avenue, NW., Room N–5416, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: To request a copy of the SGA or for questions/clarifications regarding information contained in this announcement, contact Lisa Harvey at (202) 219–9355. (This is not a toll free number). Telephonic or faxed requests for the SGA will not be honored. A copy of the SGA can also be obtained by downloading a copy from the National Skill Standards Board web page at www.nssb.org. Any clarifications and amendments to the SGA will be published in the **Federal Register** and posted on the NSSB web page. To have clarifications and amendments sent directly to your attention, please provide your name and address to Lisa Harvey at the address noted above.

SUPPLEMENTARY INFORMATION: The National Skill Standards Board is soliciting proposals on a competitive basis for the conduct of activities to convene key stakeholder representatives of the clusters as defined by the National Skill Standards Board. The purpose of the grant is to initiate the implementation of the Voluntary Partnerships activities through the nine month Voluntary Partnership Planning and Phase I Implementation Grants. Applicants successfully completing the Planning and Phase I Implementation will be qualified to apply for NSSB recognition as a Voluntary Partnership. As such, they will be eligible to receive a non-competitive grant for long-term Voluntary Partnership activities. The NSSB is an independent agency for which the U.S. Department of Labor serves as fiscal agent. The Office of the Assistant Secretary of Administration (OASAM) within the U.S. Department of Labor will administer the grant process on behalf of the National Skill Standards Board. All inquiries related to

the grants should be directed to OASAM.

Eligible Applicants

Awards under this Solicitation will be made to the organization or group of organizations best positioned and capable of convening key stakeholders representative of the five clusters enumerated below. It is the Board's intent that one grant will be made in each cluster.

Project Summary

The National Skill Standards Board intends to make grants ranging from $80,000 to $160,000 to the organization or group of organizations best positioned and capable of convening key stakeholders in each of five clusters. This convening body will build coalitions to seek NSSB recognition as Voluntary Partnerships for the purpose of developing voluntary skill standards systems that can be endorsed by the National Skill Standards Board. One grant will be made in each of the following five clusters:

- Communications
- Construction Operations
- Education and Training Services
- Financial Services
- Hospitality and Tourism Services

Further detail on the industries and occupations contained in these five clusters will be included in the SGA application packet. These very broad clusters of major industries and occupations are consonant with the dictates of the Act (Sec. 504 (a)) which denotes that such clusters of occupations shall involve ''one or more than one industry in the United States and that share characteristics that are appropriate for the development of common skill standards.''

Signed at Washington, D.C., this 10 day of June 1997.

Edythe West,

Executive Director, National Skill Standards Board.

[FR Doc. 97–16117 Filed 6–18–97; 8:45 am]

BILLING CODE 4510–23–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–286]

Power Authority of the State of New York; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–64 issued to the Power Authority of the State of New York for operation of the Indian Point Nuclear Generating Unit No. 3 (IP3) located in Westchester County, New York.

The proposed amendment would permit changing the indicated control rod misalignment from the current limit of 12 steps to an indicated misalignment of ±18 steps when the core power is less than or equal to 85% of rated thermal power (RTP) and ±12 steps when above 85% of RTP.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No. Based on the Westinghouse evaluation in WCAP–14668, the Authority has determined that all pertinent licensing basis acceptance criteria have been met, and the margin of safety as defined in the TS [Technical Specifications] Bases is not reduced in any of the IP3 licensing basis accident analysis. Increasing the magnitude of allowed control rod indicated misalignment is not a contributor to the mechanistic cause of an accident evaluated in the FSAR [final safety analysis report]. Neither the rod control system nor the rod position indicator function is being altered. Therefore, the probability of an accident previously evaluated has not significantly increased. Because design limitations continue to be met, and the integrity of the reactor coolant system pressure boundary is not challenged, the assumptions employed in the calculation of the offsite radiological doses remain valid. Therefore, the consequences of an accident previously evaluated will not be significantly increased.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No. Based on the Westinghouse evaluation in WCAP–14668, the Authority has determined that all pertinent licensing basis acceptance criteria have been met, and the margin of safety as defined in the TS is not reduced in any of the IP3 licensing basis accident analysis. Increasing the magnitude of allowed control rod indicated misalignment is not a contributor to the mechanistic cause of any accident. Neither the rod control system nor the rod position indicator function is being altered. Therefore, an accident which is new or different than any previously evaluated will not be created.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No. Based on the Westinghouse evaluation in WCAP–14668, the Authority has determined that all pertinent licensing basis acceptance criteria have been met, and the margin of safety as defined in the TS Bases is not reduced in any of the IP3 licensing basis accident analysis based on the changes to safety analyses input parameter values as discussed in WCAP–14668. Since the evaluations in Section 3.0 of WCAP–14668 demonstrate that all applicable acceptance criteria continue to be met, the proposed change will not involve a significant reduction in margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the

30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By July 21, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 27, 1997, as supplemented May 16, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Dated at Rockville, Maryland, this 16th day of June 1997.

For the Nuclear Regulatory Commission.

George F. Wunder,

Project Manager, Project Directorate 1–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–16071 Filed 6–18–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Revision of the NRC Enforcement Policy; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement: Modification; Correction.

SUMMARY: This document corrects a notice appearing in the **Federal Register** on May 28, 1997 (62 FR 28974), that adds examples for categorizing the significance of violations of 10 CFR part 34, Licenses for Radiography and Radiation Safety Requirements for Radiographic Operations. This action is necessary to correct paragraph numbering and remove unnecessary language.

FOR FURTHER INFORMATION CONTACT: David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, telephone (301) 415–7162.

SUPPLEMENTARY INFORMATION:

1. On page 28974, in the third column, in the last line of paragraph 11, remove the word ''or'.

2. On page 28947, in the third column, paragraph number ''12'' is renumbered to read ''19,'' and in the last line of the same paragraph remove the phrase ''have been made.''

Dated at Rockville, Maryland, this 12th day of June 1997.

For the Nuclear Regulatory Commission.

David L. Meyer,

Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 97–16070 Filed 6–18–97; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Salary Council; Meeting

AGENCY: Office of Personnel Management.

ACTION: Notice of Meeting.

SUMMARY: According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the fifty-first meeting of the Federal Salary Council will be held at the time and place shown below. At the meeting, the Council will continue discussing issues relating to locality-based comparability payments authorized by the Federal Employees Pay Comparability Act of 1990 (FEPCA). The meeting is open to the public.

DATES: July 8, 1997, at 10:00 a.m.

ADDRESSES: Office of Personnel Management, 1900 E Street NW., Room 7310 (formerly 7B09), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ruth O'Donnell, Chief, Salary Systems Division, Office Of Personnel Management, 1900 E Street NW., Room 7H31, Washington, DC 20415–0001. Telephone number: (202) 606–2838.

For the President's pay agent.

James B. King,

Director.

[FR Doc. 97–16107 Filed 6–18–97; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26731]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

June 13, 1997.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by July 7, 1997, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicants and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Columbia Gas System, Inc., et al. (70–8925)

The Columbia Gas System, Inc. (''Columbia''), a registered holding company, its service company subsidiary, Columbia Gas System Service Corporation, its liquified natural gas subsidiary, Columbia LNG Corporation, its trading subsidiary, Columbia Atlantic Trading Corporation, all located at 12355 Sunrise Valley Drive, Suite 300, Reston, Virginia 20191–3458; its distribution subsidiaries, Columbia Gas of Ohio, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of Kentucky, Inc., Columbia Gas of Maryland, Inc., Commonwealth Gas Services, Inc., all located at 200 Civic Center Drive, Columbus, Ohio 43215; its transmission subsidiaries, Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company, both located at 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314; its exploration and production subsidiary, Columbia Natural Resources, Inc., 900 Pennsylvania Avenue, Charleston, West Virginia 25302; its propane distribution subsidiaries, Commonwealth Propane, Inc. and Columbia Propane Corporation, both located at 9200 Arboretum Parkway, Suite 140, Richmond, Virginia 23236; its energy services and marketing subsidiaries, Columbia Energy Services Corporation, Columbia Service Partners, Inc. and Columbia Energy Marketing Corporation, all located at 121 Hill Pointe Drive, Suite 100, Canonsburg, Pennsylvania 15317; its network services subsidiary, Columbia Network Services Corporation (''CNS'') and CNS' recently formed subsidiary, CNS Microwave, Inc. (''CMI''), both located at 1600 Dublin Road, Columbia, Ohio 43215–1082; and its other subsidiaries, Tristar Ventures Corporation, Tristar Capital Corporation, Tristar Pedrick Limited Corporation, Tristar Pedrick General Corporation, Tristar Binghamton Limited Corporation, Tristar Binghamton General Corporation, Tristar Vineland Limited Corporation, Tristar Vineland General Corporation, Tristar Rumford Limited Corporation, Tristar Georgetown Limited Corporation, Tristar Georgetown General Corporation, Tristar Fuel Cells Corporation, TVC Nine Corporation, TVC Ten Corporation and Tristar System, Inc., all located at

205 Van Buren, Herndon, Virginia 22070 (together, ''System'' or ''Applicants'') have filed a joint application-declaration under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and rules 45 and 53.

By prior order dated December 23, 1996 (HCAR No. 26634) (''Order''), the Commission authorized the Columbia System to, among other things, continue the operation of the System money pool (''Money Pool'') through December 31, 2001. The Applicants requested that the Commission reserve jurisdiction over Money Pool participation by new direct or indirect subsidiaries engaged in new lines of business that were not included in the Order.

On October 15, 1996, Columbia formed CMI, as a subsidiary of CNS, which is an exempt telecommunications company (''ETC'') under section 34(a)(1) of the Act.[1] CMI intends to offer services to personal communications services (''PCS'') and other microwave radio service licensees relating to the installation and maintenance of their networks which could include the locating and constructing of antenna facilities, and the maintenance and management of PCS sites for licensees. CMI also intends to offer services by means of radio, leased line, and other transmission facilities to third parties and to CMI's affiliate and associate companies and their respective customers for purposes of enabling them to maintain the reliability of their systems and services. In addition, CMI may also provide to customers by means of radio, leased line, and other transmission facilities, access to electronic bulletin boards, energy trading systems and/or databases that would facilitate customer energy purchases, the nomination of transmission/distribution capacity, and/or the subscription to other services. CMI may also engage in any other activity CNS is permitted to engage in as a result of CNS' determination of ETC status.

When CMI generates cash in excess of its immediate cash requirements, such temporary cash may, at CMI's option, be invested in the Money Pool. CMI would become a Money Pool investor pursuant to an Intra System Money Pool Evidence of Deposit.

CMI may, from time-to-time, require short-term funds to meet normal working capital requirements. It is proposed that CMI would borrow such short-term funds from the Money Pool. The loans to CMI through the Money Pool will be made pursuant to a short term grid note. The short-term grid notes will be due upon demand by the Money Pool investor(s), but in any event will be repaid prior to May 1 of the following calendar year after borrowing.

The cost of money on all short-term advances and the investment rate for moneys invested in the Money Pool will be the interest rate per annum equal to the Money Pool's weighted average short-term investment rate and/or Columbia's short-term borrowing rate. Should there be no Money Pool investments or Columbia borrowings, the cost of money will be the prior month's average Federal Funds rate as published in the *Federal Reserve Statistical Release, Publication H.15 (519).* A default rate equal to 2% per annum above the pre-default rate on unpaid principal amounts will be assessed if any interest or principal payment becomes past due.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–16085 Filed 6–18–97; 8:45 am]

BILLING CODE 8010–01–M

[1] FCC Release No. DA 96–1307 (August 15, 1996).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [61 FR 32668, June 16, 1997]

STATUS: Closed/Open Meetings.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: June 16, 1997.

CHANGE IN THE MEETING: Deletion/Cancellation.

The following items were not considered at the closed meeting held on Monday, June 16, 1997:

Formal order of investigation.
Settlement of administrative proceedings of an enforcement nature.

The open meeting scheduled for Wednesday, June 18, 1997, at 10:00 a.m., has been canceled.

Commissioner Wallman, as duty officer, determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary (202) 942–7070.

Dated: June 17, 1997.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–16219 Filed 6–17–97; 2:14 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38740; File No. SR–PCX–97–18]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by Pacific Exchange, Inc. Relating to the PCX Application of the OptiMark System

June 13, 1997.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act''), 15 U.S.C. 78s(b)(1), and Rule 19b–4 thereunder, 17 CFR 240.19b–4, notice is hereby given that on June 11, 1997, Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, which Items have been prepared by the self-regulatory organization.[1] 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

Pursuant to Rule 19b–4 of the Act, the Exchange proposes to establish rules for a new exchange facility called the PCX Application of the OptiMark System (''PCX Application'' or ''Application''). The PCX Application is a computerized, screen-based trading service made available from an electronic communications and information system known as the ''OptiMark System''[2] for the benefit of the

[1] The Exchange originally submitted this filing to the SEC on May 20, 1997. On June 3, 1997, the Exchange submitted Amendment No. 1 to the filing. It was later determined that the rule filing was not complete as a result of the omitted submission of an exhibit containing the required ''Completed Notice of Proposed Rule Change for Publication in the Federal Register.'' The Exchange elected to resubmit the entire filing (received on June 11, 1997). The re-submitted filing incorporates the substance of the June 3,1997, Amendment No. 1.

[2] The OptiMark System has been developed by OptiMark Technologies, Inc. (''OTI''), a computer technology firm located in Durango, Colorado, based on certain patent-pending market restructuring technology referred to as ''OptiMark™.'' The PCX Application is expected to be one of several different trading services based on that technology that will be made available form the OptiMark System for other exchanges and markets in the future. OTI expects its wholly-owned subsidiary, OptiMark Services, Inc. (''OSI''), a

Exchange members and their customers. It will provide automatic order formulation, matching, and execution capabilities in the equity securities listed or traded on the Exchange (collectively, ''PCX Securities''). Similar to other proposals in the past to accommodate new forms of trading involving stock baskets and index derivatives, the Exchange believes that the proposed facility will meet institutional investors' growing demand for a new secure medium of trading that may be utilized in addition to (but not in lieu of) the traditional continuous auction facilities of the Exchange. Moreover, because the PCX Application will be an additional trading service available for the Exchange Specialists and floor brokers to utilize in satisfying their existing customer interest, retail investors also are expected to benefit from the PCX Application.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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

The purpose of the proposed rule change is to establish rules for the PCX Application, a new trading service that may be used, in addition to the traditional floor facilities, to buy and sell the PCX Securities.[3] The Application will allow the PCX members and their customers to submit anonymously from their own computer terminals, without ever revealing their trading strategies, visual depictions of trading interest to the OptiMark System. At specified times during the trading day, the OpitMark System will conduct certain trade optimization calculations against such expressions of interest to identify specific orders capable of execution. All such orders as formulated by the OptiMark System will be automatically executed on the Exchange, except to the extent that they may be executed on other market centers through the Intermarket Trading System (''ITS'').

The Exchange proposes to offer this new trading service as an additional exchange facility available for use by its members and their customers. The Exchange believes that the OptiMark System represents a significant step forward in the development of computer technology to receive and process complex sets of information from investors. By utilizing a trading service based on such technological innovation, investors will be able to express fully their trading strategies without fear of provoking an unfavorable price reaction. In the Exchange's view, the PCX Application thus will result in increased total liquidity in the market as more and more investors begin to express the true extent of their trading interest. Further, by enabling retail order flow to interact with such newly expressed interest while preserving the integrity of the Exchange's auction-pricing mechanism, the PCX Application is expected to enhance the capacity, efficiency and fairness of the overall marketplace to the advantage of both small and large orders.

2. Description of How the PCX Application Operates

The PCX Application is being developed jointly by the Exchange and OTI. It represents one specific trading service made available from the OptiMark System to be utilized by the Exchange members and their customers in the manner described below:

Proposed Method of Operation

At the outset, it should be noted that the PCX Application is modular in nature. Two distinct operations will be involved in running the Application: (i) the central information processing system and related administrative and communications terminal network of the OptiMark System, which includes such physical infrastructure as computers performing the functions of collecting data, processing it, logging activities and switching messages from and to other systems and carriers, as well as the communication network linking such computers with customer terminals; and (ii) the computer hardware and software needed (collectively, the ''PCX Interfaces'') for the OptiMark System to communicate with the PCX's computerized order system (including any terminals in use by the PCX Specialists or floor brokers). The Exchange will continue to operate its electronic linkages with the ITS, Consolidated Quote System (''CQS''), and the Consolidated Tape System (''CTS''), as they currently exist.

The Exchange will have direct ownership of and control over the PCX Interfaces. The OptiMark System will provide such electronic communications and information services needed for the PCX Application as described herein. From time to time, various functionalities of the computer services provided by the OptiMark System will be modified to allow such system improvement and enhancement as may be deemed appropriate or necessary. The Exchange will assure that, at all relevant times, the material terms and conditions of the trading service offered hereby as a facility of the Exchange, will comply fully with the applicable rules of the Exchange.

Access to the PCX Application

The PCX Application will be available to all members of the PCX and, only through them, to non-members such as institutional investors and other non-member broker-dealers. Each interested member and non-member customer will be eligible to enter into a subscription agreement (''User Agreement'') with OTI to establish an appropriate basis on which to communicate with the OptiMark System and also to execute an addendum to the User Agreement with OSI authorizing the delivery of the trading service made available from the OptiMark System.

The OptiMark System subscribers (''User'') will log in from their own computer terminals and communicate with the OptiMark System over any customary commercial information services and network of their choice (such as Dow Jones Markets). Those Users that serve as Specialists and floor brokers on the Exchange also will be able to communicate with the OptiMark System from certain floor-located computer terminals as discussed in more detail below. As specified in the User Agreement, appropriate security codes and protocols will be required to log in to the OptiMark System. Once logged in, Users with authorized access to the PCX Application will be able to utilize the specific trading service offered by the Exchange as a new facility, by submitting certain expressions of their trading interest in a PCX Security to the OptiMark System. Users will be responsible for any and all

registered broker-dealer, to be responsible for operating portions of the PCX Application for the Exchange and delivering the trading service to the Exchange's members and their customers. OTI is licensing the OptiMark System to OSI for purposes of the PCX Application.

[3] This rule filing addresses trading in the PCX Securities only. If and when the Application extends in the future to options or other types of securities listed or traded on the Exchange, an appropriate rule change will be filed with the Securities and Exchange Commission.

of such expressions and any other messages submitted to the OptiMark System under their passwords and security codes.

Each member of the Exchange will be granted access to the PCX Application directly as a User. Any and all orders formulated and matched by the OptiMark System based on the expressions of trading interest received from a member User will be automatically routed, executed and reported in that User's name. Each such member User will be responsible for all transactions resulting from the PCX Application for its own or customer accounts in the same way as it currently is for more traditional transactions on the floor.

Non-member Users, on the other hand, will be required to designate in advance member firms (''Designated Broker'') that will authorize their access to the PCX Application. Under a non-member's agreement with a Designated Broker (''Give-Up Agreement''), the Designated Broker will accept responsibility for that non-member User's transactions and provide a written statement to the Exchange to that effect. Under the Designated Broker's agreement with OSI (''Transmission Consent Agreement''), the Designated Broker will authorize any and all orders formulated and matched by the OptiMark System based on the expressions of trading interest received from the non-member User to be automatically routed, executed and reported in the Designated Broker's name. Both agreements must be in force before any non-member User may be given access to the PCX Application. At a minimum, the provisions in these Agreements will include any credit limit that may be imposed by a Designated Broker (or its clearing broker if applicable) on a non-member User; [4] the Designated Broker's understanding that it is responsible for the non-member User's transactions; and such other terms and conditions that may be agreed to from time to time.

Entry of Profiles

One of the most innovative features offered by the OptiMark System to the financial community is the ability to depict complex trading strategies in a visually intuitive way. A User will submit an expression of its trading interest in the form of a satisfaction profile (''Profile'') that shows that the User's degree of satisfaction or willingness (expressed as a number between zero and one) to trade at each coordinate of the price/size grid. Instead of being limited to specifying a single price and size, a User thus may depict a varying degree of its trading preferences, encompassing a wide range of prices and sizes, in a Profile. To simplify and enhance the User's ability to define and enter Profiles, sophisticated graphical interfaces and software that operate under such operating systems as Microsoft Windows (3.1 through NT), OS/2, Sun Solaris, and AIX will be offered.

The price/size grid over which Profiles are defined will be appropriately unitized into individual coordinates. Specifically, the price axis will be divided into the minimum trading increments in the relevant security being traded.[5] The size axis, on the other hand, will be divided into 1,000 share increments. A User may create a three-dimensional Profile over each coordinate in the desired region of the price/size grid by indicating a degree of willingness (a ''satisfaction value'') to trade at that coordinate. Such willingness to trade or satisfaction value may range from the most satisfactory (i.e., ''1'' satisfaction value) to a cut-off point at which a transaction at that price and size becomes undesirable (i.e., ''0'' satisfaction value).

In this regard, the delineation of the size axis into 1,000 share increments for purposes of defining a Profile should be distinguished from the minimum units of trading in the PCX Application, which are in round lots. By way of example, consider a User seeking to submit a buy Profile for 4,100 shares that shows a 100% willingness to trade at the price of 20, decreasing to no willingness as the price reaches 22. Because of the 1,000 share increments on the size axis, the User's interest in excess of 4,000 shares would be reflected in the next available coordinate size—5,000. To draw this particular Profile on the grid, therefore, the User would assign the satisfaction value of 1 to all the coordinates with the associated size of 5,000 shares or less and price of 20 or below. As the associated price increases from 20 to 22, the satisfaction value of the relevant coordinates would decrease steadily down to 0. Of course, any such visual rendition involving the grid size of 5,000 shares does not mean that the User actually would receive a 5,000 share trade in excess of the desired amount, because the Profile would contain the appropriate User instruction to limit the transaction size to 4,100 shares.

Indeed, each User may specify, with respect to each Profile submitted, an associated maximum quantity of shares in any round lot multiples starting at 1,000 shares; provided, however, those Profiles submitted by the PCX Specialists as discussed below and certain system-generated CQS Profiles (as defined later) will each have such associated round lot size as reflected in the relevant limit order book or quotation, which may be less than 1,000 shares. In addition, Users may, at their option, set boundary conditions on a Profile to restrict the total number of shares that may be purchased or sold within any particular price or size range. Similarly, Users may, at their option, place restrictions on any potential purchase or sale of shares through the ITS.[6]

The OptiMark System will perform the necessary credit verification procedures on each Profile submitted by a non-member User. Such procedures will ensure that the maximum absolute dollar value of each Profile received by the OptiMark System when added to the non-member Users' current credit usage, is consistent with the applicable credit limits. All Profiles not meeting the credit validation requirement will be deactivated.

Users will submit Profiles by means of telecommunications access services of the OptiMark System. All Profiles thus received from a User will be treated confidentially and may be viewed only by that User. Unlike orders found in the Exchange's traditional floor facilities, Profiles will not be widely disseminated to elicit any trading interest when they are received. Instead, they will be simply logged and maintained by the OptiMark System until they are centrally processed. Accordingly, Profiles will not be executable outside of the specified times at which the OptiMark System conducts certain trade optimization calculations. As a specialized form of trading interest contingent upon such periodic occurrences, Profiles as received by and kept within the OptiMark System will have no standing against orders on the floor and no bearing on the Exchange's traditional auction-pricing mechanism.

[4] A non-member User's credit limits, as they may be established from time to time by a Designated Broker (or its clearing broker if applicable), will be programmed into the OptiMark System. In addition, the Designated Broker will be notified as its potential exposure to its customers, individually or in the aggregate, approaches the established credit limits.

[5] PCX notes that the current increment is ⅛ of a dollar for most securities, but may be subject to change based upon recent filings that move to 1/16 of a dollar, and depending on any possible change to decimalization.

[6] The Commission notes that the current proposal does not address how orders entered into the OptiMark System would comply with the short sale rule under the Exchange Act, 17 CFR 240.10a–1.

In accordance with customary audit trail requirements, all Profiles submitted by Users will be appropriately marked as proprietary or agency. In addition, each will be time-stamped with a unique serial number when received by the OptiMark System. Users may revise or cancel their own Profiles at any time prior to commencement of the next scheduled central processing. Because it will be important for Users to be able to adjust their outstanding Profiles in a timely manner in response to sudden market developments, such adjustments will be processed as rapidly as computationally feasible so as to take effect against any central processing scheduled to take place more than one second after receipt. In general, submitting a revised Profile will result in a new time stamp, unless the only change made is a reduction in the maximum quantity of shares previously specified that may be bought or sold.

All Users will be held responsible for the terms and conditions contained in each Profile received from them. Each will assume any and all responsibility for canceling or revising its Profile. Users may specify in advance whether to cancel their outstanding Profiles or to keep such Profiles active in the event of an unexpected interruption experienced in their own telecommunications linkage to the OptiMark System. If Users decide to keep their Profiles active, they will be accountable, at all relevant times, for any and all transactions resulting from the PCX Application based on such Profiles, notwithstanding any communication interruptions.

Because the OptiMark System assures anonymity and confidentiality, it is expected to appeal to institutional investors that often do not reveal their full trading strategies (not even when they remain anonymous) for fear of provoking unfavorable market reaction. The vast majority of Profiles submitted to the OptiMark System will thus reflect new expressions of previously withheld interest covering a wide range of trading possibilities in the price, size and satisfaction continuum. As a result of increased total liquidity, all investors, small or large, simple or sophisticated, are expected to benefit from the availability of the PCX Application.

Interaction With Existing Market Interest

The PCX Application is designed to provide Users with certain automated access to and interaction with quotations emanating from other participating market centers of the ITS. At the specified times during the trading day when central processing by the OptiMark System is scheduled, the prevailing bid and offer quotations in CQS from each such market that may be reached by ITS, including the Intermarket Trading System/Computer Assisted Execution System interface (''ITS/CAES''), will be transformed into a pair of buy and sell Profiles (''CQS Profiles''). Each CQS Profile will have, for the relevant limit price and size, a satisfaction of 1 for all the corresponding coordinates in the price/size grid. As discussed in more detail below, creation of these CQS Profiles and their interaction with the Profiles submitted by Users will assure consistency of the PCX Application with the intermarket price protection requirement under the ITS Plan.

The PCX Application is also designed to serve as an additional trading service available for the Exchange Specialists and floor brokers to utilize in handling existing market interest found on the floor today. In their capacity as Users, the Specialists and floor brokers may submit Profiles based on customer limit orders at hand. To this end, the PCX Specialists will be provided with a uniquely designed electronic interface at their posts that will provide simple retrieval instructions to facilitate designation of customer orders on their limit order books for inclusion in the OptiMark System as Profiles. Such an interface also will permit the PCX Specialists to revise and/or cancel the relevant Profile if any of the limit orders thus reflected subsequently becomes executable against some other market interest. The resulting Profiles created from the PCX Specialist's book will be treated the same as any other Profiles submitted by other Users.[7] Similarly, the Exchange will ensure that floor brokers have the ability to use existing terminals for submission of Profiles, or a number of OptiMark System terminals will be installed on the Exchange's trading floor to allow floor broker Users to submit Profiles at their convenience if they wish to utilize the PCX Application to fill existing customer interest.

Central Processing

All Profiles received by the OptiMark System (including CQS Profiles) for each relevant security will be centrally processed by computer at one or more specified times during the trading day in order to generate one or more orders of identified prices and sizes at which execution may occur immediately (''Orders''). As explained further below, such processing will involve a series of high-speed calculations performed at a rapid pace (''Cycle''). Cycles will be based on an innovative computer algorithm that is designed to measure and rank all relevant mutual satisfaction outcomes by matching individual coordinates from intersecting Buy Profiles and Sell Profiles. The matching algorithm of the OptiMark System is intended to compute optimal trade results for Users based on their different willingness to trade across a wide range of price and size. A buy coordinate and a sell coordinate, each with a full satisfaction value of 1, will be matched, based on price, standing, time of entry, and size. If one or both of coordinates have a partial satisfaction value of less than 1 (but greater than 0), they will be matched, generally based on the joint, mutual satisfaction value—that is, the product of the specific satisfaction values associated with the buy coordinate and sell coordinate. Throughout the Cycle, there will be derived combinations of Orders suitable for immediate execution that achieve the sequentially optimal mutual satisfaction between potential buyers and sellers.

Profiles will be processed, based on the following matching eligibility restrictions and priority principles:

1. *Eligibility Restrictions.* At commencement of a Cycle, each individual coordinate with a non-zero satisfaction value from all buy Profiles and all sell Profiles received by the OptiMark System (including CQS Profiles) in a given PCX Security will be grouped into the Buy Profile Data Base or the Sell Profile Data Base, respectively. Each individual coordinate, no matter how small or large in the corresponding size, from either Profile Data Base will be eligible to be matched with one or more coordinates from the other Profile Data Base and will result in one or more Orders, provided that:

1.1 No buy and sell coordinates may be matched in violation of any applicable User instructions for the respective Profiles, including (a) the maximum quantity associated with the Profile, (b) any boundary conditions restricting the aggregate number of shares that may be bought or sold at a particular price or size range, and (c) the restrictions on any potential sale or purchase of shares through ITS; and

1.2 No buy and sell coordinates may be matched from contra CQS Profiles.

[7] Of course, the PCX Specialists also may submit Profiles based on their own proprietary trading strategies, in addition to Profiles reflecting public limit orders on their books. To the extent that a PCX Specialist chooses to represent a proprietary trading interest in its designated security by submitting a Profile, that particular Profile will have lower time priority than that of the Profile submitted by any other User in the security as discussed further below.

1.3 No buy and sell coordinates may be matched at a price inferior to that of another coordinate with Standing (as defined below) that is eligible for matching. A buy (sell) coordinate has Standing if (a) it has 1 satisfaction value and (b) all coordinates having the same price and a smaller size, down to and including the minimum trading increment (100 shares), are included in the associated Profile at 1 satisfaction value; provided, however, that no coordinate from a Profile containing any boundary conditions restricting the aggregate number of shares that may be bought or sold at a particular size range has Standing. By way of example, each coordinate from a CQS Profile has Standing. By contrast, no coordinate from a Profile submitted by a User on an ''all-or-none'' basis has Standing.

2. *Priority Principles.* The methods for considering potential matches between buy and sell coordinates in the Profile Data Bases will vary, depending on whether both coordinates represent satisfaction values of 1 or less than 1, resulting in two separate stages of a Cycle:

2.1 *Aggregation Stage.* The OptiMark System initially will process eligible buy and sell coordinates in the Profile Data Bases, each with the full satisfaction value of 1 only. At this stage of calculation (''Aggregation Stage''), smaller-sized coordinates may be aggregated to build sufficient size to be matched with larger-sized coordinates to generate Orders in accordance with the following rules of priority, subject to the applicable eligibility restrictions:

(A) *Price aggressiveness.* A coordinate with a more aggressive price (i.e., a higher price for a buy coordinate and a lower price for a sell coordinate) has priority over coordinates with less aggressive prices.

(B) *Standing.* Among the coordinates with the same price, a coordinate with Standing has priority over all other coordinates without Standing.

(C) *Time of entry.* Among the coordinates with the same price and Standing, the time of the entry of the associated Profile determines relative priority, with earlier submissions having priority. All Profiles submitted by Users will be appropriately time-stamped with a unique serial number when received by the OptiMark System; provided, however, that the effective time of entry for any Profile submitted by a PCX Specialist representing proprietary trading interest in the Specialist's designated security will fall behind that of the Profile submitted by any other User in that security. Because each CQS Profile is generated from the relevant market's most current quotation prevailing at the time of commencement of a Cycle, its effective time of entry will be later than that of any other Profile submitted by a User.

(D) *Size.* Among the coordinates with the same price, Standing and time of entry, priority for matching is determined by size, with larger sizes having higher priority.

2.2 *Accumulation Stage.* Upon completion of calculation at the Aggregation Stage, the OptiMark System will consider potential matches between eligible buy coordinates and sell coordinates in the Profile Data Bases where one or both parties have less than 1 (but greater than 0) satisfaction values. At this stage of calculation (''Accumulation Stage''), only those buy and sell coordinates with the same associated price and size may be matched to generate Orders in accordance with the following rules of priority, subject to the applicable eligibility restrictions:

(A) *Mutual satisfaction.* A potential match with a higher mutual satisfaction value (the product of the two satisfaction values) takes precedence over other potential matches with lower mutual satisfaction values.

(B) *Time of entry (based on the earlier Profile).* Among the potential matches with the same mutual satisfaction, the match with the earlier time of entry, as determined initially by the effective time of entry assigned to the earlier of the buy and sell Profiles involved (the ''earlier Profile''), has priority over other potential matches.

(C) *Size.* Among the potential matches with the same mutual satisfaction and time of entry for the earlier Profile, priority is given to one with a larger size.

(D) *Time of entry (based on the later Profile)* . Among the potential matches with the same mutual satisfaction, time of entry (for the earlier Profile), and size, the match with the earlier time of entry, as determined this time by the effective time of entry assigned to the later of the buy and sell Profiles involved (the ''later Profile''), has priority over other potential matches.

(E) *Price assignment.* In regard to all remaining ties between potential matches, which will consist solely of the coordinates from a single pair of buy and sell Profiles from two Users that may be matched with the same mutual satisfaction, time of entry and size, but at different prices, priority is given to the match at a price more favorable to the User whose Profile has the earlier time of entry. By way of example, among the last potential matches remaining at the price of 10 and also at 10⅛, if the sell Profile is the earlier Profile, then the match will take place at the price of 10⅛.[8]

For purposes of the PCX Application, the specific times at which Profiles will be centrally processed will vary, depending on the security involved. No Cycle, however, will be scheduled until after the opening of the PCX market for any such security. Similarly, no Cycle will be scheduled at or after the closing of the PCX market for that security. The maximum frequency with which Cycles may take place throughout the trading day will be 90 seconds, while the minimum is once a day.

The exact frequency of Cycles as to any given PCX Security will be determined by OSI, taking into account the general characteristics of the security (e.g., trading volume, price and number of shareholders), the robustness of the associated Profile flow over a period, and the current level of interest expressed by Users. From time to time, OSI may alter the frequency of Cycles in response to subsequent developments in the above-stated market circumstances. Any change in the frequency of Cycles will be effective upon three days' notice to Users in advance. Such notice will be provided electronically, using the same telecommunications linkage and protocols that are used by Users to submit Profiles. At all relevant times, Users will be fully informed as to when the next Cycle in a particular PCX Security will take place.

The Exchange will assure that the frequency of Cycles remain commensurate with the financial community's need and demand for the new trading service, thereby securing the maximum usefulness of the PCX Application for the benefit of its members and their customers. In addition, the Exchange will assure that the PCX Interfaces and the OptiMark System have sufficient capacity in place to handle any material increase in the volume of data prior to implementing a change in the frequency of Cycles.

Order Execution and Reporting

The Exchange will make available the necessary PCX Interfaces to permit Orders in PCX Securities from the OptiMark System to be executed, either on the Exchange or on other market centers participating in ITS through the appropriate Exchange communications linkage. The Exchange will permit one or more pairs of Orders resulting from intersection of the Profiles submitted

[8] The Commission notes that two or more Profiles that are entered into the OptiMark System representing the same number of shares may result in executions at differing prices depending on the other information and conditions entered into the System.

directly by Users (including the PCX Specialists and floor brokers) to be routed and executed on the Exchange. Every trade resulting from executing each such pair of Orders on the Exchange will be appropriately reported, by way of the traditional Exchange linkage to the CTS processor for dissemination, in sequence in which Orders are generated from the Cycle. The Exchange envisions reporting these trades, similar to the way it currently reports other trades in the PCX Securities to the CTS. Accordingly, consistent with the existing reporting practices, in the case of a series of Orders generated from a single Cycle for the same seller with different buyers at an identical price, they will be printed on the Tape as one transaction. In general, the report for any transaction resulting from the PCX Application will not be distinguished on the Tape from the trade report of any other order executed on the floor.

As for one or more Orders representing matched coordinates from CQS Profiles, and other contra Profiles, the Exchange will submit an ITS Commitment reflecting each such Order and seeking execution on other market centers to which the OptiMark System is not directly linked. Every ITS commitment will be sent under the give-up of the relevant Member User or the Designated Broker, by way of the traditional Exchange linkage to the ITS, in sequence in which Orders are generated from the Cycle. Each ITS commitment will be designated for ''T–1'' (one minute) time period as specified in the ITS Plan. The Exchange envisions sending ITS commitments resulting from the PCX Application in the way other ITS commitments are sent currently from the PCX. Accordingly, ITS commitments resulting from the PCX Application will not be distinguishable from other ITS commitments.

The operation of the PCX Application will not amend the existing Exchange rules for handling traditional trading interest on the equity trading floor. Market orders routed from members will continue to be executed in the same manner. Similarly, ITS commitments received from other ITS participating market centers will be executed against the Exchange's prevailing quotations as specified under the ITS Plan. As for limit orders, the PCX Specialists and floor brokers will be afforded an additional (but not alternative) opportunity to fill such interest through the PCX Application. To the extent that the Exchange Specialists and floor brokers submit Profiles to the OptiMark System based on customer interest in their books, the handling of any such Profiles and any resulting trade executions through the PCX Application will be fully consistent with the parameters under which public limit orders are filled currently.

Morover, the PCX Specialists will continue to be responsible for their books to the same degree as they are now. Accordingly, if a Specialist elects not to reflect any customer limit order in the OptiMark System, it will remain accountable for execution at or any more favorable price through the PCX Application, just as it currently is held responsible under similar circumstances. In such a case, consistent with the Exchange's existing floor procedures an practices, the Specialist will be required to satisfy or cause to be satisfied the customer limit order so held, either at the limit price specified, or at any better price at which the Specialist's proprietary interest was satisfied utilizing the PCX Application.

Similarly, the operation of the PCX Application will be fully consistent with the Exchange's intermarket price protection obligations under the ITS Plan. As described above, the OptiMark System incorporates existing market interest emanating from each of the ITS participant markets to which it is not directly linked in the form of CQS Profiles. Because of the rules of priority for considering potential matches between buy coordinates and sell coordinates from any Profiles (including CQS Profiles), all Orders that are priced inferior to the quotations of another market center will be generated and executed on the PCX only upon submission of appropriate ITS commitments seeking to reach such better-priced interest. As a result, the execution of any such Orders on the PCX will not violate the trade-through rule under the ITS Plan.

All Users will be informed of executions that take place against the Profiles that they submitted for their own or customer accounts promptly after the trades occur. If an ITS commitment resulting from the PCX Application is canceled or only partially filled, the OptiMark System will notify the relevant User and restore to the Profile the volume of the security represented by the unfilled Order. All such reports will be sent electronically, using the same telecommunications linkage and protocols that were used to submit the Profiles initially. Unless specified otherwise by non-member Users in advance, executions will not be reported to relevant Designated Brokers until after the close of the trading day in order to limit market impact and other such adverse effects of non-member Users' trading.

Clearance and Settlement

Transactions in the PCX Securities resulting from the PCX Application, including any ITS commitment that has been sent to another market center and accepted, generally will clear and settle in the same way as other transactions occurring on the Exchange floor, all in accordance with established securities industry practices and through established securities industry systems. All Orders generated by the OptiMark System that are executed on the PCX or another market center through ITS will be each reported and entered into the comparison system on a locked-in basis. Orders generated by the OptiMark System on behalf of a member User and the resulting transactions will be cleared and settled, using that member User's mnemonic (or its clearing broker's mnemonic as may be applicable). Orders generated by the OptiMark system on behalf of a non-member User and the resulting transactions will be cleared and settled, using the appropriate Designated Broker's mnemonic (or its clearing broker's mnemonic as may be applicable).

In no event will the Exchange or any operator, administrator or licensor of the Optimark system be responsible for any User's failure to pay for the PCX Securities purchased or to deliver the PCX Securities sold. Neither OTI nor OSI will be deemed to be a party to or a participant in, as principal or as agent, any trade or transaction entered into or otherwise conducted by users while using the OptiMark System for the purposes of clearance and settlement.

Hours of Operation

The PCX Application will be initially available for execution of Orders and routings of ITS commitments during the regular PCX hours after the opening and prior to the closing.[9] In the event of a suspension in trading of a security listed or traded on the Exchange, the Exchange will suspend the related trading activities respecting that security through the PCX Application. In addition, the trading activities through the PCX Application respecting all of the PCX Securities will halt whenever the Chairman or, in the Chairman's absence, Chief Operating Officer, or other PCX Officer(s) as the Chairman may designate, determines that market conditions warrant such a market-wide halt pursuant to the Exchange's Policy Statement on Market Closings. The

[9] The Exchange's hours are currently 6:30 a.m. (P.T.) to 1:50 p.m. (P.T.).

Exchange may suspend the trading activities through the PCX Application relating to one or more PCX Securities at any time upon consultation with OptiMark Technologies, Inc. if deemed necessary and proper to preserve system capacity and integrity.

Audit Trail and Surveillance

The Exchange will maintain, or cause to be maintained, the detailed audit trail of each transaction resulting from the PCX Application, including time sequenced records of Profiles submitted to the OptiMark System, Orders resulting from a Cycle, and their execution and reporting through the PCX facilities. Such data will be stored and preserved for a period of not less than three years, the first two years in an easily accessible place, to assure that the Exchange has sufficient information for exercising its regulatory oversight. In this regard, the Exchange will apply appropriate equity trading surveillance procedures to monitor transactions resulting from the PCX Application.

System Capacity and Integrity

The Exchange believes that the PCX Interfaces and the Optimark System will provide sufficient capacity to handle the volume of data reasonably anticipated for the PCX Application. The Exchange will have in place security procedures designed to prevent unauthorized access to the PCX Application. The Exchange will assure that reasonsable security procedures are in place to safeguard the PCX Interfaces. The Exchange will obtain similar assurances from OTI and OSI that reasonable security procedures are in place to safeguard the OptiMark System and to protect against threats to the proper functioning of the OptiMark System including any networks used by the OptiMark System. The Exchange will also obtain appropriate assurances that proper system reliability and system capacity exists to ensure the integrity of the data handled and timely response of the OptiMark host computers in connection with the PCX Application.

Fees for the PCX Application

Transaction resulting from the PCX Application will be subject to the Exchange's customary assessment of transaction charges and the Commission's exchange transaction fee under section 31 of the Act. As a sponsor of the OptiMark System within the meaning of Rule 17a–23 under the Act, OSI will be compensated by way of usual and customary commissions, on a cents-per-share-filled basis, for delivering to Users the computerized, screen-based trading service made available from the OptiMark System and offered hereby as a PCX facility. OSI will be paid commissions on a regular basis with respect to the transactions effected by a member User for its own or customer accounts. With respect to the transactions effected by a non-member User, OSI will be paid commissions on a regular basis with respect to the transactions effected by a member User for its own or customer accounts. With respect to the transactions effected by a non-member User, OSI will be paid commissions on a similar basis from the relevant Designated Broker.

3. Applicability of New and Existing PCX Rules

The PCX Application is generally designed to ensure compliance with existing PCX Rules and with other rules and regulations to the extent that they are deemed appropriate. In addition, the Application would be subject to new rules that set forth the operation of the PCX Application as described above.

4. Justification

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6(b)(5) of the Act in that the PCX Application is a faciltity that is designed to promote just and equitable principles of trade and to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers. In addition, the PCX believes that the proposed rule change is consistent with provisions of Section 11A(a)(1)(B) of Act, which states that new data processing and communications techniques create the opportunity for more efficient and effective market operations.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PCX does not believe that the proposed rule change will result in or impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory oranziation consents, the Commission will:

(A) By order approve the 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 at 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 Exchange. All submissions should refer to File No. SR–PCX–97–18 and should be submitted by July 10, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–16084 Filed 6–18–97; 8:45 am]

BILLING CODE 8010–01–M

[10] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2949]

State of Minnesota; Amendment #4

In accordance with notices from the Federal Emergency Management Agency, dated May 24 and 30, 1997, the above-numbered Declaration is hereby amended as follows: (1) To establish the incident period for this disaster as beginning on March 21, 1997 and continuing through May 24, 1997, and (2) to extend the deadline for filing

applications for physical damages as a result of this disaster to July 7, 1997.

All other information remains the same, i.e., the deadline for filing applications for economic injury is January 7, 1998.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 4, 1997.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 97–16029 Filed 6–18–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2948]

State of North Dakota; Amendment #1

In accordance with notices received from the Federal Emergency Management Agency, the above-numbered Declaration is hereby amended as follows: (1) To establish the incident period for this disaster as beginning on February 28, 1997 and continuing through May 24, 1997, and (2) to extend the deadline for filing applications for physical damages as a result of this disaster to July 7, 1997.

All other information remains the same, i.e., the deadline for filing applications for economic injury is January 7, 1998.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 4, 1997.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 97–16026 Filed 6–18–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2947]

State of South Dakota; Amendment #1

In accordance with notices from the Federal Emergency Management Agency, dated May 24 and 29, 1997, the above-numbered Declaration is hereby amended to establish the incident period for this disaster as beginning on February 3, 1997 and continuing through May 24, 1997. This Declaration is further amended to extend the deadline for filing applications for physical damages as a result of this disaster to July 7, 1997.

All other information remains the same, i.e., the deadline for filing applications for economic injury is January 7, 1998.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 3, 1997.

Herbert Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 97–16027 Filed 6–18–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #2953]

State of Texas

Williamson County and the contiguous Counties of Bastrop, Bell, Burnet, Lee, Milam, and Travis in the State of Texas constitute a disaster area as a result of damages caused by severe storms and tornadoes which occurred on May 27, 1997. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on August 8, 1997 and for economic injury until the close of business on March 6, 1998 at the address listed below or other locally announced locations.

U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Fort Worth, TX 76155

The interest rates are:

	Percent
For Physical Damage:	
HOMEOWNERS WITH CREDIT AVAILABLE ELSEWHERE	8.000
HOMEOWNERS WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000
BUSINESSES WITH CREDIT AVAILABLE ELSEWHERE	8.000
BUSINESSES AND NON-PROFIT ORGANIZATIONS WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000
OTHERS (INCLUDING NON-PROFIT ORGANIZATIONS) WITH CREDIT AVAILABLE ELSEWHERE	7.250
For Economic Injury:	
BUSINESSES AND SMALL AGRICULTURAL COOPERATIVES WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000

The number assigned to this disaster for physical damage is 295312 and for economic injury the number is 951400.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 6, 1997.

Ginger Lew,

Acting Administrator.

[FR Doc. 97–16024 Filed 6–18–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 09/12–0079]

Jupiter Partners; Notice of Surrender of License

Notice is hereby given that Jupiter Partners (Jupiter), 600 Montgomery Street, 35th Floor, San Francisco, California 94111, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Jupiter was licensed by the Small Business Administration on October 26, 1962.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was acted on this date, and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.11, Small Business Investment Companies)

Dated: June 13, 1997.

Donald A. Christensen,

Associate Administrator for Investment.

[FR Doc. 97–16028 Filed 6–18–97; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 97–026]

Equivalency of Caribbean Cargo Ship Safety Code

AGENCY: Coast Guard, DOT.

ACTION: Notice of policy determination.

SUMMARY: The Coast Guard is announcing the Commandant's policy determination that the fittings, materials, appliances, apparatus, equipment, and provisions encompassed in the new vessel provisions of the Caribbean Cargo Ship Safety Code are at least as effective as those such items required by 46 CFR Subchapter I. Accordingly, the Commandant has determined that any freight vessel less than 500 gross tons flagged by a foreign country, and operating in the Caribbean region, that complies with the new vessel provisions of the Caribbean Cargo Ship Safety Code is deemed in compliance with the similar provisions of 46 CFR Subchapter I.

DATES: This policy determination is effective July 1, 1997.

ADDRESSES: The Executive Secretary maintains the public docket for this notice. Documents identified in this

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

FOR FURTHER INFORMATION CONTACT: LCDR Carter, c/o Commander(m) Seventh Coast Guard District, Miami FL (305) 536–6535.

SUPPLEMENTARY INFORMATION:

Background

The Senate report to the 1994 Department of Transportation and Related Agencies Appropriations Bill gave the Coast Guard firm direction on how to eliminate substandard ships from U.S. waters. The Seventh Coast Guard District's effort focused on foreign flag freight vessels less than 500 gross tons because these vessels met no recognized safety standards which resulted in a highly disproportionate need for Coast Guard services, including: Rescue, Law Enforcement, medical evacuations, pollution, and investigative assets expended in incidents related to this relatively small number of vessels.

In May 1994, the Seventh Coast Guard District began its ''Operation Safety Net'' program. Upon initiation of the program, 238 freight vessels of less than 500 gross tons flagged by a foreign countries were identified as calling within the Miami Marine Safety Office's area of operations, and 130 such vessels were identified as calling in the San Juan Marine Safety Office's area of operations.

Realizing that the summary application of 46 CFR Subchapter I, which applies to cargo vessels of less than 500 gross tons, might entirely exclude these vessels from U.S. trade with no advance warning, an interim inspection program was created using a checklist which focused on firefighting, lifesaving, and crew requirements. The Coast Guard began to inspect all vessels in this class during June 1994. Vessels that did not meet these minimum requirements were detained by the Coast Guard Captain of the Port until deficiencies were corrected, or they were allowed to leave the U.S. without loading or discharging cargo. In June 1994, vessel owners were also informed that as of July 1, 1997, they would no longer be permitted entry into U.S. waters unless they met minimum construction and safety standards.

Coincident with this program was the development of the Caribbean Memorandum of Understanding on Port State Control (Caribbean MOU), which was drafted under the sponsorship of the International Maritime Organization. A working group of countries signatory to the Caribbean MOU drafted the Caribbean Cargo Ship Safety Code (Code). Countries party to and/or signatory to the Caribbean MOU and consequently signatories to the Code include:

Anguilla
Antigua & Barbuda
Aruba
Bahamas
Barbados
British Virgin Islands
Cayman Islands
Dominica
Grenada
Guyana
Jamaica
Montserrat
The Netherlands Antilles
Suriname
Trinidad & Tobago
Turks & Caicos

Determination

The Coast Guard reviewed the Code and determined that, with a few additions and modifications, it could be used as the basis for the inspection of these non-SOLAS vessels. These additions and modifications were proposed and accepted in a January 1997 meeting with the group drafting the Code.

The acceptance of these changes and the use of this Code by the Coast Guard in inspecting foreign freight vessels less than 500 gross tons operating in the Caribbean region represents a significant step toward harmonizing vessel inspection standards in the Caribbean region and in raising the standards of these vessels which trade in U.S. waters. Consequently, in accordance with the provisions of 46 U.S.C. 3303(a) and 46 CFR 90.15–1(a), the Commandant has determined that, for the limited purpose of inspecting freight vessels less than 500 gross tons flagged by a foreign country, that operate in the waters of the Seventh Coast Guard District, compliance with the new vessels provisions of the Code is equivalent to compliance with similar provisions of 46 CFR Subchapter I.

Implementation

Following this determination, and in an effort to enforce stricter safety requirements within U.S. ports while at the same time limiting adverse effects on commercial shipping, the Coast Guard anticipates implementation of a two-phase enforcement program.

During phase one which commences on July 1, 1997, freight vessels of less than 500 gross tons flagged by a foreign country, desiring to enter Seventh Coast Guard District ports, will have the option of meeting U.S. regulations for freight vessels or the equivalent standard under the Code. As the Code is implemented, the Coast Guard will continue working with those vessels that have made good faith efforts toward compliance. Those vessels that have *not* worked toward compliance or have no reasonable expectation of being able to meet either standard, will be excluded from trading in Seventh Coast Guard District ports on July 1, 1997. Determination in this regard will be made on a case-by-case basis by the appropriate Coast Guard Captain of the Port. Vessels that do not possess an International Loadline Certificate (i.e. new vessels under 79 feet or existing vessels under 150 gross tons) will find it very difficult to meet the international standards under the Code for construction, safety, and stability. This is, in part, a recognition that these vessels were never envisioned to engage in international high seas trade.

During phase two which commences on January 1, 1998, vessels trading to U.S. ports within the Seventh Coast Guard District must have a flag state certificate attesting to compliance with the new vessel standards of the Code. Alternatively, a foreign flagged freight vessel less than 500 gross tons operating in the Caribbean region may submit to an inspection by the Coast Guard, leading to the issuance of a Certificate of Inspection, that will authorize limited service in U.S. waters. The basis for the inspection will be the standards contained in the Code, unless inspection under U.S. regulations is requested.

The acceptance of these Certificates and the inspection of freight vessels less than 500 gross tons flagged by a foreign country under this Code represents a significant step in the reducing the number of substandard ships trading in U.S. waters and is an important recognition of a developing international standard for vessels less than 500 gross tons operating in the Caribbean and U.S. waters.

Dated: June 12, 1997.

Robert E. Kramek,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 97–16127 Filed 6–18–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular 140–8; Guide for Developing and Evaluating a Special Federal Aviation Regulation (SFAR) 36 Engineering Procedures Manual

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of final Advisory Circular (AC) 140–8, Guide For Developing And Evaluating AN SFAR 36 Engineering Procedures Manual. The final AC 140–8 provides information and guidance to the aviation community for developing and evaluating an SFAR 36 engineering procedures manual.

ADDRESSES: Copies of the final AC 140–8 can be obtained from the following: Federal Aviation Administration, Certification Procedures Branch, AIR–110, Aircraft Engineering Division, Aircraft Certification Service, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: David Hempe, Federal Aviation Administration, Aircraft Engineering Division, Aircraft Certification Service, 800 Independence Avenue, SW., Washington DC 20591, (202) 267–8807.

Issued in Washington, on May 27, 1997.

John K. McGrath,

Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 97–16001 Filed 6–18–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33409]

Southern Pacific Transportation Company—Trackage Rights Exemption—Union Pacific Railroad Company

Union Pacific Railroad Company has agreed to grant overhead trackage rights to Southern Pacific Transportation Company over trackage from milepost 377.98, at Houston (near Gulf Coast Junction), to milepost 456.7, at Beaumont (near Langham Road), a distance of 78.72 miles, in the State of Texas.

The transaction is scheduled to be consummated on June 16, 1997.

The purpose of the trackage rights is to facilitate efficient train operations in a one-way directional move of rail traffic between Houston and Beaumont, TX.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33409, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Joseph D. Anthofer, Esq., 1416 Dodge Street, #830, Omaha, NE 68179.

Decided: June 12, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–16119 Filed 6–18–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33410]

Union Pacific Railroad Company—Trackage Rights Exemption—Southern Pacific Transportation Company

Southern Pacific Transportation Company has agreed to grant overhead trackage rights to Union Pacific Railroad Company over trackage from milepost 360.42, at Houston (near the Carr Street connection), to milepost 280.1, at Beaumont, a distance of 80.32 miles, in the State of Texas.

The transaction is scheduled to be consummated on June 16, 1997.

The purpose of the trackage rights is to facilitate efficient train operations in a one-way directional move of rail traffic between Houston and Beaumont, TX.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33410, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Joseph D. Anthofer, Esq., 1416 Dodge Street, #830, Omaha, NE 68179.

Decided: June 12, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–16120 Filed 6–18–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 97–52]

Revocation of Gauger Approval and Revocation of Laboratory Accreditations of Laboratory Service Inc.'s Facilities Located in Norco, Louisiana and Bayonne, New Jersey

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of revocation of approval and accreditations of a customs commercial gauger and laboratory.

SUMMARY: Laboratory Service Inc., of Carteret, New Jersey, a Customs approved gauger and accredited laboratory under Section 151.13 of the Customs Regulations (19 CFR 151.13), has sold the assets for its Norco, Louisiana and Bayonne, New Jersey facilities. Accordingly, pursuant to 151.13(f) of the Customs Regulations, we hereby give notice that the Customs commercial gauger approval and laboratory accreditations for these Laboratory Service Inc. facilities, have been revoked without prejudice. The following Laboratory Services Inc. facilities remain Customs approved/accredited sites: Carteret, New Jersey, Philadelphia, Pennsylvania and Perth Amboy, New Jersey.

EFFECTIVE DATE: June 3, 1997.

FOR FURTHER INFORMATION CONTACT: Ira S. Reese, Senior Science Officer, Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution

Ave., NW, Washington, DC 20229 at (202) 927–1060.

Dated: June 12, 1997.

George D. Heavey,

Director, Laboratories and Scientific Services.

[FR Doc. 97–16058 Filed 6–18–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 97–51]

Customs Approval of Socotec International Inspection USA Corporation as a Commercial Gauger

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of approval of Socotec International Inspection USA Corporation as a commercial gauger.

SUMMARY: Socotec International Inspection USA Corporation, of Metairie, Louisiana, has applied to U.S. Customs for approval to gauge vegetable and animal oils under Part 151.13 of the Customs Regulations (19 CFR 151.13) at their Metairie, Louisiana facility. Customs has determined that this office meets all of the requirements for approval as a commercial gauger. Therefore, in accordance with Part 151.13(f) of the Customs Regulations, Socotec International Inspection USA Corporation, Metairie, Louisiana, is approved to gauge the products named above in all Customs ports.

LOCATION: Socotec International Inspection USA Corporation's approved site is located at: 2325 Severn Avenue, Suite #3, Metairie, Louisiana 70001.

EFFECTIVE DATE: April 29, 1997.

FOR FURTHER INFORMATION CONTACT: Ira S. Reese, Senior Science Officer, Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Avenue NW, Washington, DC 20229 at (202) 927–1060.

Dated: June 12, 1997.

George D. Heavey,

Director, Laboratories and Scientific Services.

[FR Doc. 97–16059 Filed 6–18–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Office of Thrift Supervision, Department of Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Currently, the Office of Thrift Supervision within the Department of the Treasury is soliciting comments concerning the Activities of Savings and Loan Holding Companies.

DATES: Written comments should be received on or before August 18, 1997 to be assured of consideration.

ADDRESSES: Send comments to Manager, Dissemination Branch, Records Management and Information Policy, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention 1550–0063. These submissions may be hand delivered to 1700 G Street, NW. from 9:00 a.m. to 5:00 p.m. on business days; they may be sent by facsimile transmission to FAX Number (202) 906–7755; or they may be sent by e-mail: public.info@ots.treas.gov. Those commenting by e-mail should include their name and telephone number. Comments over 25 pages in length should be sent to FAX Number (202) 906–6956. Comments will be available for inspection at 1700 G Street, NW., from 9:00 a.m. until 4:00 p.m. on business days.

Copies of the Form with instructions are available for inspection at 1700 G Street, NW., from 9:00 a.m. until 4:00 p.m. on business days or from PubliFax, OTS'' Fax-on-Demand system, at (202) 906–5660.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Pamela Schaar, Corporate Activities Division, Supervision, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, (202) 906–7205.

SUPPLEMENTARY INFORMATION:

Title: Activities of Savings and Loan Holding Companies.

OMB Number: 1550–0063.

Form Number: OTS From 1564.

Abstract: 12 CFR Section 584.2–1 requires savings and loan holding companies notify OTS if their intent to engage in prescribed activities. OTS uses this information to monitor the safety and soundness of the savings and loan holding company.

Current Actions: OTS is proposing to renew this information collection without revision.

Type of Review: Extension of an already approved collection.

Affected Public: Business or For Profit.

Estimated Number of Respondents: 1.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 2 hours.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality; (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology, and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 13, 1997.

Catherine C. M. Teti,

Director, Records Management and Information Policy.

[FR Doc. 97–16045 Filed 6–18–97; 8:45 am]

BILLING CODE 6720–01–P

Corrections

Federal Register

Vol. 62, No. 118

Thursday, June 19, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[MB-103-NC]

RIN 0938-AH90

Medicaid Program; Allocation of Enhanced Federal Matching Funds for Increased Administrative Costs Resulting From Welfare Reform

Correction

In notice document 97–12429 beginning on page 26545 in the issue of Wednesday, May 14, 1997, make the following correction:

On page 26547, in the first column, lines nine through fourteen under the *Allowable Activities* section, should read:

'' • Training related to the section 1931 provisions--*

- Eligibility workers.
- Providers.
- Outstationed eligibility workers and others.
- Community.''

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38710; File No. SR-Amex-97-21]

Self Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change and Amendment Nos. 1 and 2 to the Proposed Change by the American Stock Exchange, Inc., Relating to the Adoption of Certain Margin Provisions

Correction

In notice document 97–15026 beginning on page 31638 in the issue of Tuesday, June 10, 1997, make the following correction:

On page 31643, in the third column, the authorizing signature should read:

Margaret H. McFarland,

Deputy Secretary.

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38716; File No. SR-NYSE-97-14]

Self Regulatory Organizations; New York Stock Exchange, Inc; Notice of Filing of Proposed Rule Change Relating to Amendments to the Shareholder Approval Policy

Correction

In notice document 97–15402 beginning on page 32135 in the issue of Thursday, June 12, 1997, make the following correction:

On page 32135, in the second column, in the first document, the Release No. should be as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular 20-128A, Design Considerations for Minimizing Hazards Caused by Uncontained Turbine Engine and Auxiliary Power Unit Rotor Failure

Correction

In notice document 97–15310 appearing on page 31860 in the issue of Wednesday, June 11, 1997, make the following correction:

On page 31860, in the first column, in the **HOW TO OBTAIN COPIES** section, in the seventh line, the fax number ''301-5394'' should read ''301-386-5394''.

BILLING CODE 1505-01-D

federal register

Thursday
June 19, 1997

Part II

Department of Agriculture

Rural Utilities Service
Rural Housing Service
Rural Business-Cooperation Service
Farm Service Agency

7 CFR Parts 1775, 1777, 1778, et al.
Streamlining the Rural Utilities Service Water and Waste Program Regulations; Final Rule

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Parts 1775, 1777, 1778, 1780, and 1781

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

7 CFR Parts 1901, 1940, 1942, 1951, and 1956

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Part 4284

RIN 0572–AB20

Streamlining the Rural Utilities Service Water and Waste Program Regulations

AGENCIES: Rural Housing Service, Rural Business-Cooperative Service, Rural Utilities Service, and Farm Service Agency; USDA.

ACTION: Final rule.

SUMMARY: The Rural Utilities Service (RUS) hereby amends the regulations utilized to administer the water and waste loan and grant programs. The final rule will combine the water and waste loan and grant regulations into one regulation. Unnecessary and burdensome requirements for entities seeking water and waste loan and grant financial assistance under the program are eliminated. The streamlining of the water and waste loan and grant regulation will allow RUS to provide better service to rural entities needing assistance in correcting and alleviating health and sanitary problems in their communities, and in general improve the quality of life in rural areas. This rule incorporates changes in the water and waste loan and grant program, the emergency community water assistance grant program, and the resource conversation and watershed loan programs mandated by the 1996 Farm Bill.

This rule also amends the regulations originally published by the former Farmers Home Administration (FmHA) and the former Rural Development Administration (RDA). These amendments implement legislation directing the Secretary of Agriculture to establish the Rural Utilities Service (RUS) with responsibility for the water and waste programs formerly administered by FmHA and RDA. The amendments published in this document consist solely of nomenclature changes required by law and of amendments necessary to conform to these nomenclature changes. The substance of the regulations is not affected by these amendments.

This rule could impact the amount of water and waste loan and grant funds an applicant could receive. Therefore, RUS will honor all written commitments of water and waste loan and grant amounts issued prior to the effective date of this rule.

EFFECTIVE DATE: June 19, 1997.

FOR FURTHER INFORMATION CONTACT: Jerry W. Cooper, Loan Specialist, Water and Waste Division, Rural Utilities Service, USDA, South Agriculture Building, Room 2229, STOP 1570, Washington, DC 20250, telephone: (202) 720–9589.

SUPPLEMENTARY INFORMATION:

Classification

We are issuing this final rule in conformance with Executive Order 12866 and the Office of Management and Budget has determined that it is a ''significant regulatory action''.

Intergovernmental Review

These programs are listed in the Catalog of Federal Domestic Assistance under numbers 10.760, Water and Waste Disposal Systems For Rural Communities; 10.763, Emergency Community Water Assistance Grants; 10.764, Resource Conversation and Development Loans; 10.765, Watershed Protection and Flood Preventation Loans; and 10.770, Water and Waste Disposal Loans and Grants (Section 306C) and are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Environmental Impact Statement

This action has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' It has been determined that the action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Compliance With Executive Order 12778

The regulation has been reviewed in light of Executive Order 12778 and meets the applicable standards provided in sections 2(a) and (2)(b)(2) of that Order. Provisions within this part which are inconsistent with State law are controlling. All administrative remedies pursuant to 7 CFR part 11 must be exhausted prior to filing suit.

Information Collection and Paperwork Requirements

The recordkeeping and reporting burden in this rule, under OMB control number 0575–0015, is not fully effective until approved by OMB.

For further information contact Jerry W. Cooper, Loan Specialist, Water and Waste Division, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., STOP 1570, Washington, DC 20250–1548, telephone: (202) 720–9589.

National Performance Review

This regulatory action is being taken as part of the National Performance Review program to eliminate unnecessary regulations and improve those that remain in force.

Unfunded Mandate Reform Act

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

Cross References of Regulations

The Rural Utilities Service is an Agency resulting from a reorganization of programs administered by the former Farmers Home Administration, the former Rural Development Administration, and the former Rural Electrification Administration. Dual-references or cross-references to former Farmers Home Administration regulations and forms are provided for by the Department of Agriculture Reorganization Act of 1994.

Regulatory Flexibility Act Certification

The Administrator of RUS has determined that the Regulatory Flexibility Act (5. U.S.C. 601 *et seq.*) does not apply to this rule.

Background

The water and waste loan and grant programs are authorized by various sections of the Consolidated Farm and Rural Development Act, (7 U.S.C. 1921 *et seq.*), as amended. The regulations for these programs, particularly the loan program, have not been completely reviewed for many years. The recent streamlining and reorganization of the Department of Agriculture provided an opportunity to review and rewrite the

water and waste loan and grant regulations. A task force was formed to review and rewrite the regulations. The aim of the task force was to make the regulations easier to understand, eliminate unnecessary requirements, and continue to protect the interest of the U.S. taxpayer.

The program provides loan and grant funds for water and waste disposal projects serving the most financially needy rural communities. Financial assistance should result in reasonable user costs for rural residents, rural businesses, and other rural users. The program is limited to rural areas and small towns with a population of 10,000 or less.

The final rule will divide the regulation into four subparts: A, B, C, and D. Subpart A contains the general policies and requirements of the loan and grant program. Subpart B contains the loan and grant application processing requirements. Subpart C contains all the requirements for planning, designing, bidding, contracting, constructing, and inspections. Subpart D has information required in the preparation of notes or bonds and bond transcript documents for public body applicants.

Major changes are:

1. Redirects additional grant funds to communities that truly need the assistance in order to construct a project. Communities with incomes over 100 percent of the State nonmetropolitan median household income will not qualify for any grant funds as in the current regulations.

2. Stretches the grant dollars appropriated by Congress to help more communities by changing the maximum percentage of grant funds that a higher income community can receive from 55 percent to 45 percent of RUS's share of the project costs. This change could have an indirect effect of having an incentive for development of regional projects.

3. The process used to select projects for funding has been revised to direct funds to low income, small communities that need to correct health problems. Also, the priority points awarded for regional systems have been increased.

4. The application process has been streamlined to reduce unnecessary paperwork and improve service to the rural communities. There will be less regulations and the number of pages will be greatly reduced.

5. The application process has been shortened by eliminating the preapplication process. However, an applicant will have the option of requesting an Agency eligibility review before submitting a complete application.

6. A preliminary engineering report (PER) must be submitted earlier in the application process. The requirement of submitting a PER earlier in the process will assist the staff in making better decisions. Also, applicants have to have this type of document to help them determine what, where, and how they are going to build needed facilities. This change will force applicants to have a clear picture of what they want to construct prior to applying for assistance. A majority of applicants have a PER at the preapplication stage now, therefore the change will tend to put all applicants on a level field.

7. The functions of former Farmers Home Administration (FmHA) and the Rural Development Administration (RDA) relating to the water and waste loan and grant programs authorized by various sections of the Consolidated Farm and Rural Development Act, (7 U.S.C. 1926(a)), as amended have been transferred to RUS. Therefore in order to enhance the delivery of customer services and better assist the public, RUS is amending regulations originally published by FmHA and RDA. These amendments will replace references to FmHA and RDA and its officials with references to RUS and to appropriate officials. This action will also separate the regulation now utilized by RUS and Rural Housing Service (RHS) to administering the water and waste loan and community facilities loan programs, respectively. All parts pertaining to the water and waste loan program will be moved into 7 CFR part 1780. This action will have no effect on RHS's community facilities loan program as this action makes no changes in the regulation. The following programs are affected by these amendments: (1) Water and Waste Loans and Grants, (2) Technical Assistance and Planning Grants, (3) Emergency Community Water Assistance Grants, (4) Section 306C WWD Loans and Grants, and (5) Resource Conservation and Development Loans and Watershed Loans and Advances.

8. The criteria utilized to allocate water and waste program funds has been moved from 7 CFR part 1940, subpart L to 7 CFR part 1780.

The major 1996 Farm Bill changes are:

1. Funds made available for these programs may be made available for a water system that is making significant progress toward meeting the Safe Drinking Water Act standards.

2. Funds made available for water treatment discharge or waste disposal system must meet applicable Federal and State water pollution control standards.

3. Within 60 days of filing an application for loan or grant assistance, a notice of intent shall be published in a general circulation newspaper.

4. When applicants hire outside engineers, the applicant shall publicly announce all requirements for engineering and architectural services, and negotiate contracts for such services on the basis of demonstrated competence and qualifications for the type professional service required and at a fair and reasonable price. When project design services are procured separately, the selection of the engineer or architect shall be done by a request for proposal.

5. Assistance under any rural development program administered by the Secretary or any agency of the Department of Agriculture shall not be conditioned on any requirement that the recipient of the assistance accept or receive electric service from any particular utility, supplier, or cooperative. This is being implemented for the water and waste loan and grant programs.

6. Section 306B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926b) was repealed. References to section 306B were deleted from the regulations and the amendments to section 306A are included.

7. The interest rate formula for Resource Conversation and Development Loans, and Watershed Protection and Flood Preventation Loans was amended to establish the interest rate on these loans based on current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity for the loan, adjusted to the nearest 1/8 of 1 percent.

Comments on the Proposed Rule

RUS published a proposed rule in the **Federal Register** on September 12, 1996, (61 FR 48075) and asked for written comments on or before October 15, 1996. The Agency received seventy-nine comments from the public review process. All comments were considered when preparing the final rule; however, all comments have not been addressed separately since many could be addressed collectively. Responses to comments received are grouped according to corresponding sections of the rule and are as follows:

Subpart A—General Policies and Requirements

Sec.

1780.1 General.

1. § 1780.1(k)—Include the Brooks Architect-Engineer Act, Title 40 of the U.S. Code subchapter VI, Sections 541, 542, 543, and 544 as the federal statute applicants should be aware of and comply with relative to the procurement of engineering services.

Agency response: The Agency has not implemented this suggested change. The Brooks Architect-Engineer Act only applies to Federal procurement and would not be applicable to non-profit organizations and units of local and State government who are the recipients of the financial assistance.

1780.3 Definitions and grammatical rules of construction.

1. Add a definition of Agency Identified Target Areas referred to in § 1780.17.

Agency response: The Agency agrees and has added a definition.

2. § 1780.3(a)—Similar System Cost—Recommend establishment of similar system cost based on a comparison of rate structure for the same amount of water usage.

Agency response: The Agency does not agree with this recommendation. While this might be possible for a water system, the Agency funds other types of projects where this type information would not be available. The proposed language would be broad enough to cover all types of projects funded by the Agency, including similar usage levels.

3. § 1780.3(a)—Equivalent Dwelling Unit—Add after ''typical rural residential dwelling'' add the following, ''or users whose total water needs could be met by a single residential sized water meter.'' A property with a permanent residence and a stop gap housing structure should only be considered as one connection.

Agency response: The Agency made no change in the definition. Number of individual meters or residential dwellings are not what determines an equivalent dwelling unit (EDU). An EDU is based on the average consumption of a typical rural residential household.

4. § 1780.3(a)—Rural and rural areas—Should be written as broadly as possible to avoid defining a rural area as a local government unit.

Agency response: The Agency made no change in the definition of rural and rural areas. The Agency does not define a rural area outside a city or town by the type of local governmental unit.

1780.7 Eligibility.

1. § 1780.7(c)(2)—Delete last sentence. The capacity for fire protection is repeated in § 1780.57(d) and should not be in this section.

Agency response: The Agency agrees and made the change.

2. § 1780.7(d)—Place a period after the word ''terms'' and delete ''or other funding sources.''

Agency response: The Agency agreed and made the change.

3. § 1780.7(e)—What is meant by ''reasonable rates and terms?''

Agency response: The words ''and terms'' should have not been included in that sentence. The applicant would be responsible for providing continued availability and use of the proposed facility at reasonable rates. The Agency has made the change.

1780.9 Eligible loan and grant purposes.

1. § 1780.9(e)(1)(iv)—Change to specify that only ''hired'' applicant labor be reimbursable and not for people already on payroll.

Agency response: The Agency agrees and limited the use of funds to ''additional'' applicant labor necessary to install and extend service.

2. § 1780.9(f)(1)—After the word ''obligations for'' add ''engineering and other services used to prepare the application or.''

Agency response: The Agency agrees and changed the word ''construction'' to ''eligible project costs.'' This would cover all project costs incurred before loan or grant approval.

3. § 1780.9(e)(1)(v)—2 commenters—Should provide clearer guidance on what circumstances may warrant using funds for connecting users to the system.

Agency response: The Agency made no change. The wording ''unusual cases'' means that using loan and grant funds to connect users to the main service line would be the exception rather than the rule. This should only be considered in situations where the users cannot pay the cost or from an engineering standpoint that it is the logical thing to do.

4. § 1780.9(e)(1)(i)—Revise to include training as an eligible cost. Would assure that equipment and processes will function as intended. The lack of technical expertise to properly operate and maintain new equipment or treatment processes can be a major problem with small systems.

Agency response: The Agency made no change. The proposed language is broad enough to allow the use of funds to provide necessary training to operators to assure proper operation and maintenance of equipment.

1780.10 Limitations.

1. § 1780.10(c)(2)—13 commenters—Do not change the formula from 55 percent grant to 45 percent grant.

Agency response: The Agency made no change. The Agency has a limited amount of grant funds available for rural communities. The Agency is directing these funds to the communities that have the greatest need for these funds. The reduction from 55 percent to 45 percent will make additional grant funds available to low income communities that have the greatest need for the limited grant funds.

2. § 1780.10(c)—2 commenters—Revise the requirement that restricts the amount of grant to RUS's share of project costs. Change the wording ''RUS funded project development costs'' to ''RUS eligible project development costs.''

Agency response: The Agency agrees and has made the change.

3. § 1780.10(c)(2)—Allow grants up to 75 percent to all existing borrowers where funding is considered servicing action.

Agency response: The Agency does not agree with this recommendation. The amount of grant funds an applicant can receive should be based on eligibility and not if they are an existing RUS borrower.

4. § 1780.10(a)(6)—Recommend that the limitation on allowing rental of applicant owned equipment be deleted. Should allow for community owned equipment to be rented for the project if it is the most cost effective option.

Agency response: This recommendation was not adopted. Program funds should not be used to rent equipment an applicant owns. Program funds should be used to cover services and equipment not available to the applicant.

5. § 1780.10(c)(1)—2 commenters—Recommend removing the requirement regarding health or sanitary problem. If not removed, need to clarify that if there is no health or sanitary problem, the amount of grant that could be obtained is based on income only.

Agency response: The Agency made no change. The eligibility for the maximum 75 percent grant should be based on need as well as income. The addition of health or sanitary problems makes eligibility for the 75 percent grant consistent with the eligibility for the poverty interest rate.

6. § 1780.10(c)(2)—Recommend changing 45 percent grant to 50 percent grant.

Agency response: The Agency made no change. The 45 percent grant amount will make more grant funds available to communities with a median household income of less than 80 percent of the nonmetropolitan median household income of the State. This will allow the Agency to target grant funds to more low income communities.

7. § 1780.10(c)(1)—Recommend increasing maximum grant percentage to 85 percent.

Agency response: Agency made no change. The maximum grant is limited by law to 75 percent.

8. § 1780.10(b)(3)—As written, this section is confusing. Should rephrase to read: ''Pay project costs when other loan funding for the project is available at reasonable rates and terms.''

Agency response: The Agency made no change. This is a limitation on when grant funds can be used. The proposed language would prohibit a grant being made when the interest rate or length of repayment are not in line with those received by other communities with similar economic conditions.

1780.11 Service area requirements.

1. § 1780.11(a)(2)—Recommend that this paragraph be deleted. System officials should make decisions regarding areas to serve based on financial, environmental, and design factors.

Agency response: The Agency made no change. The Agency agrees that in installing a facility the decisions regarding areas to be served should be based on financial, environmental, and design factors. This paragraph allows the decisions regarding areas to be served to be based on these factors.

1780.13 Rates and terms.

1. § 1780.13(d)—There are currently four weekly Bond Buyer indices used to measure interest rates. This section needs to specifically identify which index is used.

Agency response: The Agency agrees and has made the change.

2. § 1780.13(e) Add a new paragraph (4) to read as follows: ''Principal and interest may be deferred in whole or in part for a period not to exceed 36 months prior to the date of the first installment due. This would be only in those cases where the development of the water source and treatment facility or sanitary treatment facilities are needed prior to the water or sewer being available to the rural users.''

Agency response: The Agency has not made this change. The regulations allow for deferment of principal and loan funds can be used to pay interest. By putting these together the same purpose can be accomplished as the suggested change.

1780.14 Security.

1. § 1780.14(c)—Recommend that the parity security requirement be deleted.

Agency response: The Agency did not make this change. Eliminating the parity security requirement would not adequately protect the security interest of the Government. The Agency should be in a ''parity'' security position with other lenders when jointly financing a project. If the project is financially sound, there is no problem with the parity requirement. The government should not guarantee other lenders loans by taking junior lien positions when jointly funded projects are developed.

1780.17 Selection priorities and process.

1. § 1780.17(a)(1)—Reduce population from 1,000 to 500 and add 5 points.

Agency response: The Agency agrees to make part of the suggested change. The Agency agrees to change the population points for communities with a population not in excess of 1,000 to 25 points. The Agency did not reduce the population to 500. Leaving the breaking point at 1,000 or less will give balance between financial feasibility and population priority.

2. § 1780.17(b)—The points for ''health'' should equal those for ''income.'' Recommend increasing points in § 1780.17(b) (1) and (2) to 30 points and increasing points in § 1780.17(b)(3) to 20.

Agency response: The Agency did not make this change. The Agency agrees that the protection of public health is a high priority. However, low income communities can least afford to construct the infrastructure that is needed to improve their health. By giving more priority to income and equal priority to small populations and health, funds can be directed to communities with the greatest need.

3. § 1780.17(b)—Recommends that there be a gradation within the 25 points allowed for health priorities for severity of health hazard. This would give more points to the greatest health hazards and less points to ''lesser'' health issues.

Agency response: The Agency did not make this change. The health priority pertaining to a water system are required by the Federal statute that authorizes the program. This would make it difficult to develop an equitable graduation scale within the health priority points for each category.

4. § 1780.17(b)—Should there be health priority points for storm drainage?

Agency response: The Agency did not make a change. There could be measurable health problems associated with a storm drainage project, the majority are safety related. Storm drainage would receive priority points under other categories, but would not rank as high as a drinking water or sewer project that directly corrects a health problem.

5. § 1780.17(c)—Change heading to ''Median Household Income.'' Also, word ''household'' should be in (c)(1).

Agency response: Agency made the change.

6. § 1780.17(f)—Delete the phase ''exceeding 20% of the development cost at time of loan or grant approval or.'' Placing an arbitrary limit would further compound the problem at hand and would hinder the resolution of the funding problem.

Agency response: The Agency made no change. Project cost overruns that exceed 20 percent should not be given priority for receiving additional funding from the Agency. The Agency is trying to reduce funds that go into project cost overruns and by reducing the funding priority is one way this can be accomplished.

1780.18 Public information.

1. § 1780.18(a)—The publishing of a notice of intent to file an application is nothing but extra cost to the applicant.

Agency response: The Agency made no change. This is a requirement of the 1996 Farm Bill.

2. § 1780.18(a)—Should increase the notice of intent from 60 days to 180 days.

Agency response: The Agency made no change. This 60 day requirement was part of the 1996 Farm Bill.

3. § 1780.18(a)—Recommend allowing alternative means of notifying public such as fliers or mailers in small communities.

Agency response: The Agency has not made the changed. The 1996 Farm Bill requires that the notice of intent to file a application be published in a general circulation newspaper.

4. § 1780.18(b)—Recommend giving applicant's the option to hold the public meeting prior to the application submittal. Delete ''after the application is filed and'' add ''The public meeting must be held not later than loan or grant approval.''

Agency response: The Agency agrees to this change.

5. § 1780.18(b)—2 commenters—Eliminate the requirement for a public meeting.

Agency response: The Agency made no change. It is extremely important that applicants keep the general public

informed about the development of a proposed project. Support from the general public for a water or waste project is one of the most important ingredients for success.

Subpart B—Loan and Grant Application Processing

1780.31 General.

1. § 1780.31(d)—Change ''State Environmental Coordinator'' to State Environmental Coordinator or designee.''

Agency response: The Agency made no change. The State Environmental Coordinator should be involved in the application process to assure that important environmental issues are properly addressed.

1780.32 Timeframes for application processing.

1. § 1780.32(a)—2 commenters—Revise to 15 working days or delete the 15 day requirement for notifying applicants that application is incomplete.

Agency response: The Agency agrees and has made this change.

1780.33 Application requirements.

1. Should continue with preapplication process—14 commenters—The preapplication allows determination if a project is workable in RUS's view before spending time and money on formal application. This makes the overall funding process more workable and gives time needed to explore options before an application is formally filed.

Agency response: The Agency has considered this recommendation and has given communities another option. If a community wishes to know if they are eligible for financial assistance they can make a written request to the Agency.

2. Eliminate requiring a PER and 1940–20 at initial stage of application process.

Agency response: The Agency did not make this change. The Preliminary Engineering Report contains information on the proposed project that the Agency must have at this stage of the application process. Form RD 1940–20 provides the information necessary for the Agency to start the environmental review process and is needed at this stage of the application process.

3. § 1780.33(c)—2 commenters—Should delete last sentence as the completion of a PER is covered in § 1780.55 or insert ''PER guidelines for water, sanitary sewer, solid waste, and storm drainage are available from the agency.''

Agency response: The Agency agrees and has deleted the sentence.

4. § 1780.33(c)—Recommend that RUS provide up front funds in form of a loan to cover cost of preliminary engineering report for poorest communities.

Agency response: The Agency made no change. The Agency has a limited amount of loan funds available and uses these funds toward the total project costs rather than partial up front costs. The Agency believes that it is important to utilize its limited funds to build projects, rather than funding a preliminary engineering report for a project that may never be built.

5. § 1780.33(f)—Delete reference to Form RD 1940–20, insert ''The applicant will consult with the processing office to determine the appropriate environmental information that should be provided.''

Agency response: The Agency revised to allow applicant to provide comparable information without using Form RD 1940–20.

6. § 1780.33(h)—2 commenters—Combine all certifications into one form called ''General Borrower Certification.'' or include a statement and check off on the application indicating that these requirements will apply and allowing the applicant to complete such certificates if and when the loan actually closes.

Agency response: The Agency made no change. However, this is a issue that will be reviewed in the future to determine what can be done in this area.

1780.35 Processing office review.

1. § 1780.35(b)(2)—Recommends that a actual monthly rate ceilings for the poverty and intermediate categories be established.

Agency response: The Agency made no change. While an actual monthly rate ceiling might work for a small geographic area it would be impossible to establish one for the entire United States that would be fair to all areas. When the debt service portion of the annual user costs exceeds the appropriate percentage of median household income, the Agency can determine the grant amount based on similar system cost.

2. § 1780.35(b)(2)—Recommend that the relationship to total debt service and the project O&M cost be considered in determining grant eligibility.

Agency response: The Agency made no change. The relationship between median household income and debt service is used because grant funds can only be used to reduce the debt. However, the similar system cost method used in (b)(3) does take into consideration other user costs in determining the grant amount.

1780.39 Application processing.

1. § 1780.39(a)—In first sentence remove ''and after the applicant selects its professional and technical representative.''

Agency response: The Agency agrees and made the change.

2. § 1780.39(b)(1)—27 commenters—Request for proposals should be deleted. Could cause potential conflicts and drive cost up. Applicants should be allowed to choose the engineer based on knowledge and experience.

Agency response: The Agency has not deleted this requirement. This is a requirement of the 1996 Farm Bill and must be complied with. However, the Agency has revised to make it clear that the selection of the engineer to develop the preliminary engineering report is not subject to this requirement. Also, clarified is that the selection of engineering services should be on the basis of all relevant factors.

3. § 1780.39(b)(1)—4 commenters—When applicants hire outside engineers, the selection of an engineer for a project design shall be conducted pursuant to state procurement laws or in the absence thereof, pursuant to the Federal Brooks Act, Public Law 92–582.

Agency response: The Agency revised the paragraph to reflect state statutes or local requirements. The Brooks Act only applies to Federal procurement and construction. This act would not apply because the Federal government is not selecting the engineer. Revised rule to reflect that the owner may procure engineering services in accordance with applicable state laws providing the procurement meets the intent of this section.

4. § 1780.39(b)(1)—4 commenters—Request for proposals should be required for all engineering services not only project design. Delete phase ''for project design.''

Agency response: The Agency revised to make this optional, but not a requirement. It should be left up to the applicant to make this decision and not made mandatory by the Agency.

5. § 1780.39(b)(1)—Change all references to request for proposal to ''Request For Qualifications and/or Request for Proposal or add a definition for Request For Proposal that includes qualification and request for engineering services.

Agency response: The Agency has revised the selection of engineering services to reflect all relevant factors.

6. § 1780.39(b)(1)—Consider moving to § 1780.54 and clarify how engineers are to be selected in (1).

Agency response: The Agency did not make this change. The section was revised to clarify how engineers are to be selected. This section pertains to all professional services and contracts related to the facility and the Agency believes that this is the best place to address engineering services.

7. § 1780.39(b)(1)—Suggest that the regulation make provision to allow an ''ongoing'' contract or relationship with a community to continue without a new selection procedure.

Agency response: The Agency made no change. The 1996 Farm Bill requires that when project design is procured separately, the selection of the engineer shall be done by a request for proposal.

8. § 1780.39(b)(1)—The rule is silent on the procurement of engineering services for the planning phase of a project.

Agency response: The Agency has revised the rule to require applicants to publicly announce all requirements for engineering services.

9. § 1780.39(b)(1)—2 commenters—Should be made clear that if engineer has already been selected through an RFP then the process does not have to be repeated for design phase.

Agency response: The Agency agrees that only one public announcement covering requirements for engineering services is necessary for a project. The revision will allow for this situation.

10. § 1780.39(b)(1)—If a project is funded in phases, would an RFP have to be done for each phase? When can noncompetitive negotiations be utilized for engineering services?

Agency response: If a project has been divided into phases and the procurement of engineering services covering all phases has been done in accordance with Agency requirements, the process would not have to be repeated as each phase is constructed. Noncompetitive negotiations could be utilized for the planning and preliminary engineering work done on a project after the applicant publicly announces all requirements for engineering services.

11. § 1780.39(b)(1)—Honor agreements for engineering services entered into prior to submitting an application.

Agency response: The Agency made no change. If engineering services were selected in accordance with Agency requirements, then the process would not have to be repeated.

12. § 1780.39(c)(2)—What is ''meaningful user cash contributions?''

Agency response: To clarify the intent of this paragraph, the Agency has changed the word ''meaningful'' to ''new.'' This should make it clear that only users not presently receiving service will be required to make an up front cash payment to indicate interest in receiving service when it becomes available.

13. § 1780.39(e)(2)—Divide into two paragraphs by adding a (e)(3) to read as follows and deleting reference to maintenance, extensions, etc. in (e)(2): Facility Maintenance Reserve. Additional reserves will need to be established for emergency maintenance, improvements to facilities, replacement of short-lived assets and other restricted reserves as deemed necessary by the governing body and lender.

Agency response: The Agency made no change. The rule would allow for the establishment of debt service reserve and a facility maintenance reserve. The amount of funds that would be placed in the reserve accounts would be determined by the applicant and the Agency. The one-tenth of an average annual loan installment is the minimum requirement and the requirement could be larger.

14. § 1780.39(e)(2)—2 commenters—Recommend that the reserve be fully funded over the first 10 years of the loan and not over the life of the loan.

Agency response: Agency made no change. It is important that borrowers maintain adequate reserves to cover unexpected short-falls of revenue and to adequately maintain their systems.

15. § 1780.39(f)—Delete last sentence in (f), and all of (1) and (2).

Agency response: The Agency has made a revision to clarify, but did not delete the sentence.

16. § 1780.39(g)(3)—Should require fidelity bond coverage be specifically for RUS funded project.

Agency response: It is not necessary that a fidelity or employee dishonesty bond cover only the RUS funded project. However, the amount of fidelity or employee dishonesty bond coverage must be enough to cover not only RUS requirements, but other claims that could be made on the bond.

17. § 1780.39(i)—Should be allowed to issue a Letter of Conditions when funds are not available or at least some percentage.

Agency response: The Agency made no change. Letter of Conditions are taken by the general public to mean a commitment has been made by the Agency to fund a project. By not issuing a Letter of Conditions until funds are available for a project, problems associated with an applicant thinking that funds are available when in fact they are not can be avoided.

1780.44 Actions prior to loan or grant closing or start of construction, whichever occurs first.

1. § 1780.44(e)—Allow deobligation of funds in the same percentage as funds were obligated.

Agency response: The Agency did not make this change. The amount of deobligated funds is based on an reassessment of the need for grant funds to achieve a reasonable user rate. Deobligation of funds based on percentage of funds obligated could result in an applicant receiving more grant funds than needed to have reasonable user rates. With the limited amount of grant funds that the Agency has available, the funds must be stretched as far as possible in order to serve the maximum number of communities who need funds to construct projects.

2. § 1780.44(e)—Provide an incentive for communities to save money by applying savings against the loan first rather than grant.

Agency response: The Agency made no change. The Agency believes that the best approach is to work with communities early in the process to reduce the project costs. Once the Agency has committed funds to a community to construct a project, both parties have agreed on an amount of loan that can be repaid. Any reduction in the loan amount at this point could result in the community receiving more grant funds than needed in order to have reasonable user rates.

3. § 1780.44(e)—Recommend waiting until completion of construction before deobligating any unused funds.

Agency response: The Agency made no change. All construction projects have contingency funds set aside to cover unanticipated expenses during construction. Therefore, funds that are not needed for project costs should be deobligated and made available to another community.

1780.45 Loan and grant closing and delivery of funds.

1. § 1780.45(f)(1)—Revise to allow remaining funds to be used by a community to improve its existing system.

Agency response: The Agency made a change. The language was broadened to allow use of Agency funds not needed for the project to be used for the facility being financed. Any improvements must not result in major changes to the applicant's facility. For example, if RUS funds were used to construct a water project, then RUS funds that remain after completion could be used for any RUS eligible purpose on the applicant's whole water system.

2. § 1780.45(f)(3)—Delete the requirement to notify the attorney and engineer when funds are deobligated.

Agency response: The Agency did not make this change. Many of the engineer's or attorney's are helping the applicant with completion of a project. It is important that all interested parties be notified before funds are canceled.

1780.49 Rural or Native Alaskan villages.

1. § 1780.49(c)(4)—Revise to allow use of federal and non-federal sources of funds.

Agency response: The Agency made no change. The law that authorizes the funds for rural or native Alaskan villages requires that the matching funds be non-federal funds.

2. § 1780.49(f)(1)—Revise to authorize projects of Alaska Area Native Health Service.

Agency response: The Agency made no change. In order to assure that the projects are properly constructed the Agency will continue to restrict the waiver of construction requirements contained in this subpart to projects that are jointly funded with the State of Alaska.

3. Should contain a specific reference that solid waste disposal projects are eligible grant purposes.

Agency Response: The Agency made no change. The Agency considers solid waste disposal to be included in waste disposal services authorized by this paragraph.

Subpart C—Planning, Designing, Bidding, Contracting, Constructing and Inspections

1780.54 Technical services.

1. Consider including Architects in this section as they are sometimes involved in water and waste projects.

Agency response: The Agency agrees and made change.

2. Does ''in house'' mean one on the applicant's staff or one under previous contract with applicant or both?

Agency response: ''in house'' means one on the applicant's staff.

1780.57 Design policies.

1. § 1780.57(c)—Recommend encouraging the procurement of environmentally preferable products and services.

Agency response: The Agency revised to reflect both energy-efficient and environmentally-sound products and services.

2. § 1780.57(b)—Delete words ''or reside.'' Do not construct occupied dwellings.

Agency response: The Agency made the change.

3. § 1780.57(h)—Delete the wording ''Agency determines.''

Agency response: The Agency made no change. This language is required by the 1996 Farm Bill.

1780.67 Performing construction.

1. Recommend design build and construction management that is in existing regulations be added as an option.

Agency response: Agency has made no change. The proposed language would not exclude design build and construction management.

2. Strengthen language by inserting ''using their own personnel or designated, qualified, and supervised volunteers.''

Agency response: The Agency did not make this change. This section does not prohibit use of volunteers in addition to an applicant's own personnel.

1780.70 Owner's procurement regulations.

1. § 1780.70(b)—Recommend deleting the word ''comprehensive'' or the entire last two sentences.

Agency response: The Agency made no change. The Agency cannot make this change as it is required by law.

1780.72 Procurement methods.

1. § 1780.72—2 commenters—Recommend that design/build be added to section as an option for procurement.

Agency response: The Agency made no change. The proposed language would allow design build as a construction option.

2. § 1780.72(a)—The requirements in 1780.75(b) and (d) should be included for any small purchase over $10,000.

Agency response: The Agency made no change. The provision for termination and equal employment opportunity would apply to any contract exceeding $10,000. The type of procurement would not influence this requirement.

3. § 1780.72(a)—What does the phrase ''costing in the aggregate not more than $100,000'' mean?

Agency response: The phrase ''costing in the aggregate not more than $100,000'' means the total dollar amount of an item or product that is being purchased for a project. For example, a water system could utilize the small purchase procedures to procure $90,000 for water meters and $20,000 for equipment. In this example, each item procured was under $100,000, but the total was over $100,000.

4. § 1780.72(a) and § 1780.72(d)(6)—Recommend deleting small purchase and using noncompetitive negotiation in its place.

Agency response: The Agency did not make this change. While these two procurement methods are similar each has its place in the construction of water and waste projects.

5. § 1780.72(c)—6 commenters—Delete the competitive negotiation for engineering services.

Agency response: The Agency has not deleted this requirement. This is a requirement of the 1996 Farm Bill and must be complied with. The requirement has been clarified to reflect that the selection of engineering services should be on the basis of all relative factors. The Agency moved the selection of engineering services to § 1780.39(b)(1).

6. § 1780.72(c)—2 commenters—Certain States have enacted legislation that specifically prohibits State and Local Agencies from seeking formal or informal submission of verbal or written estimates of costs or price proposals. The rule should be amended to delete any and all provisions that require or allow the use of cost or price as a consideration in the selection of a design professional.

Agency response: The Agency made a change by revising § 1780.39(b)(1) and deleting engineering procurement from this section.

7. § 1780.72(c)—2 commenters—Should revise to require only one competitive negotiation procedure which should be at the ''Step I'' phase and not wait until the design phase. Allow credit to those applicants that can properly document that their engineer selection in Step I of a project was in conformance with competitive negotiation and would not have to be repeated at the ''design phase.''

Agency response: The Agency agrees that only one public announcement covering requirements for engineering services is necessary for a project. The revision to § 1780.39(b)(1) will allow for this situation.

8. § 1780.72(c)—Revise by removing reference to obtaining proposals from other sources.

Agency response: Agency made no change. The procurement of engineering services was moved to § 1780.39(b)(1).

9. § 1780.72(c)—Delete reference to engineering services, implies competitive negotiations can only be used for engineering services.

Agency response: Agency made the change. The procurement of engineering services was moved to § 1780.39(b)(1).

10. § 1780.72(c)—Should clarify that the applicant could select an engineer through the noncompetitive process to perform the PER and assist in the production of the application.

Agency response: Agency revised the procurement of engineering services in § 1780.39(b)(1) to clarify this issue.

11. § 1780.72(c)(2)—3 commenters—Modify by deleting references to price or cost for obtaining engineering services. The significant evaluation factors to be based on a firm's professional qualifications, specialized experience, technical competence and so forth.

Agency response: The Agency made a change by removing reference to cost or price as a consideration in § 1780.39(b)(1).

12. § 1780.72(c)(5)—Delete the word ''other'' before ''professional services.'' This will clarify that competitive negotiations is an acceptable method of procurement for any professional service.

Agency response: Agency removed all references to procurement of professional service from § 1780.72(c) and moved to § 1780.39(b)(1). § 1780.39(b)(1) contains all procurement requirements for engineering and architectural services.

13. § 1780.72(d)(5)—Delete word ''design'' so that it covers all engineering services.

Agency response: Agency removed all references to procurement of professional service from § 1780.72(c) and moved to § 1780.39(b)(1).

§ 1780.39(b)(1) contains all procurement requirements for engineering and architectural services.

1780.75 Contract provisions.

1. § 1780.75(a)—Should be made clear that liquidated damages only applies to construction contracts.

Agency response: The Agency made the change.

2. § 1780.75(c)—Change ''be legally doing business in the State where the facility is located'' to ''the surety must be listed in the Treasury Circular 570 as amended as having a license to do business in the State where the facility is located.''

Agency response: The Agency made the change.

3. § 1780.75 (b) and (f)—Recommend raising the $10,000 to $100,000.

Agency response: The Agency did not make this change. It is important to have a termination clause in contracts. The $10,000 cut off point for this requirement is as high as it should be to adequately protect the owner. The equal employment provision is required by other Federal regulations.

4. § 1780.75(c)—Recommend retaining U.S. Government as co-obligee on payment and performance bonds.

Agency response: The Agency made no change. The Agency is not a party to the contract and should not be included on any payment or performance bond.

5. § 1780.75(j)—Recommend adding the ability to modify the retainage amount to match other funding source requirements on jointly funded projects.

Agency response: The Agency made no change. Five percent retainage is the minimum amount that should be withheld to assure that construction is completed in a satisfactorily and timely manner. The regulations would allow for more than 5 percent, if required by other funding sources.

6. § 1780.75(j)—Five percent retainage on approved partial pay estimates is too low. Leave at 10 percent.

Agency response: The Agency made no change. The 5 percent retainage is in line with the industry standard. Also, the funds retained will be held until the project is substantially completed and accepted by the owner.

1780.76 Contract administration.

1. § 1780.76(c)—Should be clearly stated that the Agency, not the project engineer, have sole authority to grant or refuse the owner's request for a particular independent resident inspector.

Agency response: The Agency agrees and has revised.

2. § 1780.76(d)—Add at end of last sentence ''or similar form approved by the Agency.''

Agency response: The Agency made the change.

List of Subjects

7 CFR Parts 1775, 1777, 1778, 1780 and 1781

Business and industry, Community development, Community facilities, Grant programs—housing and community development, Reporting and recordkeeping requirements, Rural areas, Waste treatment and disposal, Water supply, Watersheds.

7 CFR Part 1901

Civil rights, Fair housing, Rural areas.

7 CFR Part 1940

Agriculture, Grant programs—housing and community development, Loan programs—agriculture, Rural areas.

7 CFR Parts 1942 and 4284

Business and industry, Community development, Community facilities, Grant programs—housing and community development, Loan programs—housing and community development, Reporting and recordkeeping requirements, Rural areas, Soil conservation, Waste treatment and disposal, Water supply.

7 CFR Part 1951

Accounting, Grant programs—housing and community development, Reporting and recordkeeping requirements, Rural areas.

7 CFR Part 1956

Accounting, Loan programs—agriculture, Rural areas.

Therefore, RUS amends chapters XVII, XVIII and XLII, title 7, Code of Federal Regulations as follows:

Part 1942, Subpart J—[Redesignated as Part 1775 and Revised]

1. Subpart J of 7 CFR part 1942 is redesignated as 7 CFR part 1775 and is revised to read as follows:

PART 1775—TECHNICAL ASSISTANCE AND TRAINING GRANTS

Sec.

1775.1 General.
1775.2 [Reserved]
1775.3 Objectives.
1775.4 Definitions.
1775.5 Source of funds.
1775.6 Allocation of funds.
1775.7 Eligibility.
1775.8 Purpose.
1775.9 [Reserved]
1775.10 Limitations.
1775.11 Equal opportunity requirements.
1775.12 Environmental requirements.
1775.13 Preapplications.
1775.14 Priority.
1775.15 [Reserved]
1775.16 Application processing.
1775.17 [Reserved]
1775.18 Grant approval and obligation of funds.
1775.19 Fidelity bond.
1775.20–11775.21 [Reserved]
1775.22 Fund disbursement.
1775.23 Grant cancellation or major changes.
1775.24 Reporting.
1775.25 Audit.
1775.26 Grant Agreement.
1775.27 Grant servicing.
1775.28 Delegation of authority.
1775.29–1775.99 [Reserved]
1775.100 OMB control number.

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

§ 1775.1 General.

This part sets forth the policies and procedures for making Technical Assistance grants. Grants for technical assistance and training for water and waste disposal facilities are authorized under section 306(a)(16)(A) of the Consolidated Farm and Rural Development Act, (CONACT), (7 U.S.C. 1926(a)), as amended. Grants for solid waste management are authorized under Section 310B of the CONACT, (7 U.S.C. 1932), as amended. Any processing or servicing activity conducted pursuant to this part involving authorized assistance to Agency employees, members of their

families, known close relatives, or business or close personal associates, is subject to the provisions of subpart D of part 1900 of this title. Applicants for this assistance are required to identify any known relationship or association with an Agency employee.

§ 1775.2 [Reserved]

§ 1775.3 Objectives.

(a) The objectives of the Technical Assistance and Training Grant Program are to:

(1) Identify and evaluate solutions to water and waste disposal problems in rural areas.

(2) Assist applicants in preparing applications for water and waste grants made in accordance with part 1780 of this chapter.

(3) Improve operation and maintenance of existing water and waste disposal facilities in rural areas.

(b) The objectives of the Solid Waste Management Grant Program are to:

(1) Reduce or eliminate pollution of water resources.

(2) Improve planning and management of solid waste sites.

§ 1775.4 Definitions.

Association. An entity, including a small city or town, that is eligible for Rural Utilities Service (RUS) water and waste financial assistance in accordance with § 1780.7 of this chapter.

Grantee. An entity with whom The Agency has entered into a grant agreement under this program to provide technical assistance and/or training to associations as defined in this section.

Low income. Median household income below the poverty line for a family of four as defined in Section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), or below 80 percent of the Statewide nonmetropolitan median household income.

Regional. For purposes of the Solid Waste Management grant program, as implemented through this part, regional is defined as any multi-jurisdictional area including multi-State or any multi-jurisdictional area within a State.

Rural area. For water and waste disposal facilities the terms ''rural'' or ''rural area'' will not include any area in a city or town with population in excess of 10,000 inhabitants according to the latest decennial census of the United States.

State. Any of the fifty States, the Commonwealth of Puerto Rico, the Western Pacific Territories, Marshall Islands, Federated States of Micronesia, Republic of Palau, and the U.S. Virgin Islands.

§ 1775.5 Source of funds.

Technical Assistance and Training grants awarded will be made from not less than one (1) percent or, at the discretion of the Agency Administrator, not more than three (3) percent of any appropriations for grants under Section 306(a)(2) of the CONACT, (7 U.S.C. 1926(a)). Technical Assistance and Training grant funds not obligated by September 1 of each fiscal year will be used for water and waste grants made in accordance with part 1780 of this chapter. This section does not apply to Solid Waste Management grants.

§ 1775.6 Allocation of funds.

Control of Technical Assistance and Training grant and Solid Waste Management grant funds will be retained in the National office and allocated on a project case basis. These funds are not available for obligation by States.

§ 1775.7 Eligibility.

(a) Entities eligible for Technical Assistance and Training (TAT) grants are private nonprofit organizations that have been granted tax exempt status by the Internal Revenue Service (IRS) of the United States.

(b) Entities eligible for Solid Waste Management (SWM) grants are nonprofit organizations, including:

(1) Private nonprofit organizations that have been granted tax exempt status by the IRS; and

(2) Public bodies including local governmental-based multi-jurisdictional organizations.

(c) Applicants for either TAT or SWM grants must also have the proven ability, background, experience, legal authority, and actual capacity to provide technical assistance and/or training on a regional basis to associations as provided in § 1775.3.

§ 1775.8 Purpose.

(a) Technical Assistance and/or Training Grants may be used to:

(1) Identify and evaluate solutions to water problems of associations in rural areas relating to:

(i) Source.

(ii) Storage.

(iii) Treatment.

(iv) Distribution.

(2) Identify and evaluate solutions to waste problems of associations in rural areas relating to:

(i) Collection.

(ii) Treatment.

(iii) Disposal.

(3) Assist associations that have filed a preapplication with the Agency in the preparation of water and/or waste loan and/or grant applications.

(4) Provide training to association personnel that will improve the management, operation and maintenance of water and waste disposal facilities.

(5) To pay the expenses associated with providing the technical assistance and/or training authorized in paragraphs (a) (1) through (4) of this section.

(b) Solid Waste Management grants may be used to:

(1) Evaluate current landfill conditions to determine threats to water resources.

(2) Provide technical assistance and/or training to enhance operator skills in the maintenance and operation of active landfills.

(3) Provide technical assistance and/or training to help communities reduce the solid waste stream.

(4) Provide technical assistance and/or training for operators of landfills which are closed or will be closed in the near future with the development/implementation of closure plans, future land use plans, safety and maintenance planning, and closure scheduling within permit requirements.

§ 1775.9 [Reserved]

§ 1775.10 Limitations.

Grant funds may not be used to:

(a) Recruit applications for the Agency's water and waste loan and/or any loan and/or grant program.

(b) Duplicate current services, replacement or substitution of support previously provided such as those performed by an association's consultant in developing a project.

(c) Fund political activities.

(d) Pay for capital assets, the purchase of real estate or vehicles, improve and renovate office space, or repair and maintain privately-owned property.

(e) Pay for construction or operation and maintenance costs.

(f) Pay costs incurred prior to the effective date of grants made under this part.

(g) Pay for technical assistance as defined in this part which duplicates assistance provided to implement an action plan funded by Forest Service (FS) under the National Forest-Dependent Rural Communities Economic Diversification Act (7 U.S.C. 6601 note) for 5 continuous years from the date of grant approval by the FS. To avoid duplicate assistance, the grantee shall coordinate with the FS and RUS to ascertain if a grant has been made in a substantially similar geographical or defined local area in a State for technical assistance under the above program. The grantee will provide

documentation to FS and RUS regarding the contact with each agency. Under its program, the FS assists rural communities dependent upon national forest resources by establishing rural forestry and economic diversification action teams which prepare action plans. Action plans are intended to provide opportunities to promote economic diversification and enhance local economies dependent upon national forest resources.

§ 1775.11 Equal opportunity requirements.

The policies and regulations contained in subpart E of part 1901 of this title apply to grants made under this part.

§ 1775.12 Environmental requirements.

The policies and regulations contained in subpart G of part 1940 of this title apply to grants made for the purposes in § 1775.8.

§ 1775.13 Preapplications.

(a) Applicants will file an original and one copy of SF–424.1, ''Application for Federal Assistance (For Non-construction),'' with the appropriate Agency office between October 1 and December 31 each fiscal year. This form is available in all Agency offices. Applicants proposing to provide technical assistance and/or training in only one State will apply through the appropriate State Office. The State Office will review and forward preapplications, with their recommendations, within seven working days to the National Office, Attention: Water and Waste Disposal. Applicants providing technical assistance and/or training in more than one State will forward the preapplication to the Assistant Administrator, Water and Waste, Rural Utilities Service, Washington, DC 20250. Preapplications for Solid Waste Management grants that cannot be funded in the fiscal year received will not be retained for consideration for funding in the following fiscal year and will be handled as outlined in paragraph (g) of this section.

(b) All preapplications shall be accompanied by:

(1) Evidence of applicant's legal existence and authority in the form of certified copies of organizational documents and a certified list of directors and officers with their respective terms.

(2) Evidence tax exempt status from the Internal Revenue Service.

(3) Brief written narrative which includes items such as:

(i) The proposed service(s) to be provided, including the benefits of the technical assistance and/or training.

(ii) Area to be served.

(iii) Name of association(s) or type of association(s) that will be served.

(iv) Median household income of the population to be served by each association(s).

(v) Grantee's experience, including experience of key staff members and person(s) providing the technical assistance and/or training.

(vi) The number of months duration of the project or service and the estimated time it will take from grant approval to beginning of service.

(vii) Method used to select the association(s) that will receive the service.

(viii) Brief description of how the service will be provided, such as, through currently employed personnel or some other method.

(ix) Method to be used for delivery of the service, including personnel to be utilized and tasks to be contracted, if any.

(4) Latest financial information to show the organization's financial capacity to carry out the proposed work. As a minimum, the information should include a balance sheet and an income statement. A current audit report is preferred.

(5) Estimated breakdown of costs including those to be funded by grantee as well as other sources.

(6) Budget and accounting system in place or proposed.

(7) Evaluation method to determine if objective(s) of the proposed activity is being accomplished.

(c) Upon receipt of a preapplication, the National Office will:

(1) Review and evaluate the preapplication and accompanying documents;

(2) Request from the Office of General Counsel (OGC), a legal determination of applicant's legal existence and authority to provide technical assistance and/or training. The legal opinion will be obtained from the Regional Attorney servicing the area where the applicant's headquarters is located; and

(3) Normally, respond to the applicant within 45 days after December 31 of each year using Form AD–622, ''Notice of Preapplication Review Action,'' indicating the action taken on the preapplication.

(d) Applicants whose preapplications are found to be ineligible will be given notice by use of Form AD–622 and advised of their appeal rights under subpart B of part 1900 of this title.

(e) Applicants who are eligible, but do not have the priority necessary for further consideration will be notified with Form AD–622, which includes the following statements:

''Your proposal cannot be funded within the available funds.''

''You are advised against incurring obligations which cannot be fulfilled without Agency funds.''

(f) Applicants that are eligible for funding within the available funds will be provided forms and instructions for filing a complete application. Applicants should be advised against incurring obligations which cannot be fulfilled without Agency funds.

(g) Applicants who have filed preapplications for solid waste management grant funds that cannot be funded within the available funds will be notified, using Form AD–622, that their preapplication will not be retained. They will also be notified that they may file a new preapplication when funds again become available using the following statement:

''If the Agency receives funding for the program in FY __, you may file a new preapplication on or after October 1, 19__.''

§ 1775.14 Priority.

(a) The preapplication and supporting information will be used to determine the applicant's priority for available funds for the Technical Assistance and Training Grant program. The following specific criteria will be considered in the competitive selection of Technical Assistance and Training Grant recipients:

(1) Applicant's demonstrated capability and past performance in providing technical assistance and/or training to rural associations.

(2) The extent to which the population of the associations served have low income.

(3) Applicant's financial and if applicable, in-kind resource that will maximize use of technical assistance and/or training funds for direct staffing of activities that are delivered to the associations.

(4) The extent to which the project will be cost effective, including but not limited to the ratio of proposed personnel to the cost of the project, the cost per associations served by the project, and the expected benefits from the project.

(5) How well the proposal coincides with the objectives of the Agency's Water and Waste Disposal program authorized in part 1780 of this chapter.

(6) Applicants proposing to serve multi-state, regional, or nationwide areas.

(7) Applicants whose timeframe for completion of the technical assistance and/or training grant project is 12 months or less.

(b) Preapplications received from local governmental-based, multi-

jurisdictional organizations for the SWM grant program will be given priority within the available funds.

§ 1775.15 [Reserved]

§ 1775.16 Application processing.

(a) Upon notification on Form AD–622 that the applicant is eligible for funding, the following will be submitted to the National Office by the applicant:

(1) SF–424.1.

(2) Proposed scope of work detailing the training and/or technical assistance to be accomplished and timeframes for completion of each task.

(3) Proposed budget.

(4) Other requested information needed by the Agency to make a grant award determination.

(b) The following forms and documents will be part of the grant docket:

(1) Form RD 400–1, ''Equal Opportunity Agreement.''

(2) Form RD 400–4, ''Assurance Agreement.''

(3) Grant Agreement signed by the applicant.

(4) Scope of work prepared by the applicant.

(5) Form RD 1940–1, ''Request for Obligation of Funds.''

(c) If the applicant fails to submit the application and related material by the date shown on Form AD–622 (normally 30 days from the date of Form AD–622), the Agency may discontinue consideration of the application.

§ 1775.17 [Reserved]

§ 1775.18 Grant approval and obligation of funds.

(a) The National Office will review the application and other documents to determine whether the proposal complies with this part.

(b) All grants made under this part will be approved and obligated by the Agency Administrator or designee.

(c) The obligation of funds will be handled in accordance with part 1780 of this chapter.

(d) An executed copy of the Grant Agreement and scope of work will be sent to the applicant on the obligation date, along with a copy of Form RD 1940–1. The Agency will retain the executed original of the Grant Agreement. The grant will be considered closed on the obligation date.

(e) If the grant is not approved, the applicant will be notified in writing of the reason(s) for rejection. The notification to the applicant will state that a review of this decision by the Agency may be requested by the applicant under subpart B of part 1900 of this title.

§ 1775.19 Fidelity bond.

Prior to the advancing of funds, the grantee will provide fidelity bond coverage for the positions of persons entrusted with the receipt and disbursement of its funds and the custody of valuable property. The amount of the bond will be at least equal to the maximum amount of monies that the grantee will have on hand at any one time for technical assistance and/or training provided in accordance with the Grant Agreement. Unless prohibited by State Law, the United States, acting through the Agency, will be named as co-obligee in the bond. The bond must be obtained from a company listed in Department of Treasury Circular 570, as amended. Form RD 440–24, ''Position Fidelity Schedule Bond Declarations,'' may be used. A certified power-of-attorney with effective date will be attached to the bond.

§§ 1775.20–1775.21 [Reserved]

§ 1775.22 Fund disbursement.

Grantees will be reimbursed as follows:

(a) Standard Form (SF) 270, ''Request for Advance or Reimbursement,'' will be completed by the applicant and submitted to the National Office not more frequently than monthly.

(b) Upon receipt of a properly completed SF 270, the funds will be requested through the field office terminal system. Ordinarily, payment will be made within 30 days after receipt of a proper request for reimbursement.

(c) Grantees are encouraged to use minority banks (a bank which is owned by at least 50 percent minority group members) for the deposit and disbursement of funds. A list of minority owned banks can be obtained from the Office of Minority Business Enterprise, Department of Commerce, Washington, DC 20230.

§ 1775.23 Grant cancellation or major changes.

If it is determined that a project will not be funded or if major changes in the scope of the project are made after release of the approval announcement, the Administrator will notify the Director of Legislative Affairs and Public Information Staff (LAPIS) giving the reasons for such action. In the case of a grant cancellation, Form RD 1940–10, ''Cancellation of U.S. Treasury Check and/or Obligation,'' will not be submitted to the Finance Office until 5 working days after notifying the Director of LAPIS, and grant obligation cancellations will not be submitted to the National Office until 5 working days after notifying the Director of LAPIS.

§ 1775.24 Reporting.

Standard Form (SF) 269, ''Financial Status Report,'' SF 272, ''Federal Cash Transactions Report,'' and a project performance activity report will be required of all grantees on a quarterly basis. A final project performance report will be required with the last SF 269. The final report may serve as the last quarterly report. Grantees shall constantly monitor performance to ensure that time schedules are being met, projected work by time periods is being accomplished, and other performance objectives are being achieved. All multi-state, regional, and nationwide grantees are to submit an original of each report to the National Office. Grantees serving only one State are to submit an original of each report to the State Program Official. The State Program Official will review and forward to the National Office the report with comments. The project performance reports shall include, but not be limited to, the following:

(a) A comparison of actual accomplishments to the objectives established for that period;

(b) Reasons why established objectives were not met;

(c) Problems, delays, or adverse conditions which will affect attainment of overall project objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular project work elements during established time periods. This disclosure shall be accompanied by a statement of the action taken or planned to resolve the situation; and

(d) Objectives and timetable established for the next reporting period.

§ 1775.25 Audit.

The grantee will provide an audit report prepared in accordance with § 1780.47 of this chapter within 90 days after project completion.

§ 1775.26 Grant Agreement.

RUS Bulletin 1775–1 is a Grant Agreement which sets forth the procedures for making and servicing grants made under this part. Bulletins, instructions and forms referenced are for use in administering grants made under this part and are available from any USDA/Rural Development office or the Rural Utilities Service, United States Department of Agriculture, Washington, D.C. 20250–1500.

§ 1775.27 Grant servicing.

Grants will be serviced in accordance with the grant agreement and subpart E

of part 1951 of this title. Subpart B of part 1900 of this title will be followed when grants are terminated for cause.

§ 1775.28 Delegation of authority.

The authority under this part is redelegated to the Assistant Administrator, Water and Waste, except for the discretionary authority contained in § 1775.5. The Assistant Administrator, Water and Waste may redelegate the authority in this section.

§§ 1775.29–1775.99 [Reserved]

§ 1775.100 OMB control number.

The collection of information requirements contained in this part have been approved by the Office of Management and Budget and have been assigned OMB control number 0575–0123. Public reporting for this collection of information is estimated to vary from 15 minutes to 4 hours per response, with an average of 1 hour per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB 0575–0123), Washington, DC 20503.

Part 4284, Subpart E [Redesignated as Part 1777 and Revised]

2. Subpart E of 7 CFR part 4284 is redesignated as 7 CFR part 1777 and is revised to read as follows:

PART 1777—SECTION 306C WWD LOANS AND GRANTS

Sec.
1777.1 General.
1777.2 [Reserved]
1777.3 Objective.
1777.4 Definitions.
1777.5–1777.10 [Reserved]
1777.11 Making, processing, and servicing loans and grants.
1777.12 Eligibility.
1777.13 Project priority.
1777.14–1777.20 [Reserved]
1777.21 Use of funds.
1777.22–1777.30 [Reserved]
1777.31 Rates.
1777.32–1777.40 [Reserved]
1777.41 Individual loans and grants.
1777.42 Delegation of authority.
1777.43 Bulletins.
1777.44–1777.99 [Reserved]
1777.100 OMB control number.

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

§ 1777.1 General.

(a) This part outlines Rural Utilities Service (RUS) policies and procedures for making Water and Waste Disposal (WWD) loans and grants authorized under section 306C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(c)), as amended.

(b) Agency officials will maintain liaison with officials of other Federal, State, regional, and local development agencies to coordinate related programs to achieve rural development objectives.

(c) Agency officials shall cooperate with appropriate State agencies in making loans and/or grants that support State strategies for rural area development.

(d) Funds allocated in accordance with this part will be considered for use by Indian tribes within the State regardless of whether State development strategies include Indian reservations within the State's boundaries. Indians residing on such reservations must have an equal opportunity to participate in this program.

(e) Federal statutes provide for extending the Agency's financial programs without regard to race, color, religion, sex, national origin, marital status, age, or physical/mental handicap (provided the participant possesses the capacity to enter into legal contracts).

§ 1777.2 [Reserved]

§ 1777.3 Objective.

The objective of the Section 306C WWD Loans and Grants program is to provide water and waste disposal facilities and services to low-income rural communities whose residents face significant health risks.

§ 1777.4 Definitions.

Applicant. Entity that receives the Agency loan or grant under this part. The entities can be public bodies such as municipalities, counties, districts, authorities, or other political subdivisions of a State, and organizations operated on a not-for-profit basis such as associations, cooperatives, private corporations, or Indian tribes on Federal and State reservations, and other Federally recognized Indian tribes.

Colonia. Any identifiable community designated in writing by the State or county in which it is located; determined to be a colonia on the basis of objective criteria including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing, inadequate roads and drainage; and existed and was generally recognized as a colonia before October 1, 1989.

Cooperative. A cooperative formed specifically for the purpose of the installation, expansion, improvement, or operation of water supply or waste disposal facilities or systems.

Individual. Recipient of a loan or grant through the applicant to facilitate use of the applicant's water and/or waste disposal system.

Rural areas. Includes unincorporated areas and any city or town with a population not in excess of 10,000 inhabitants according to the most recent decennial census of the United States. They can be located in any of the 50 States, the Commonwealth of Puerto Rico, the Western Pacific Territories, Marshall Islands, Federated States of Micronesia, Republic of Palau, and the U.S. Virgin Islands.

§§ 1777.5–1777.10 [Reserved]

§ 1777.11 Making, processing, and servicing loans and grants.

Unless specifically modified by this part, loans and/or grants will be made, processed, and serviced in accordance with part 1780 of this chapter.

§ 1777.12 Eligibility.

(a) The provisions of paragraphs (a)(1) and (2) of this section do not apply to a rural area recognized as a colonia. Otherwise, the facility financed under this part must provide water and/or waste disposal services to rural areas of a county where, on the date preapplication is received by the Agency, the:

(1) Per capita income of the residents is not more than 70 percent of the most recent national average per capita income, as determined by the Department of Commerce; and

(2) Unemployment rate of the residents is not less than 125 percent of the most recent national average unemployment rate, as determined by the Bureau of Labor Statistics.

(b) Residents of the rural area to be served must face significant health risks due to the fact that a significant proportion of the community's residents do not have access to, or are not served by, adequate, affordable, water and/or waste disposal systems. The file should contain documentation to support this determination.

§ 1777.13 Project priority.

Paragraphs (a) through (d) of this section indicate items and conditions which must be considered in selecting preapplications for further development. When ranking eligible preapplications for consideration for limited funds, Agency officials must consider the priority items met by each

preapplication and the degree to which those priorities are met.

(a) *Preapplications.* The preapplication and supporting information submitted with it will be used to determine applicant eligibility and the proposed project's priority for available funds. Applicants determined ineligible will be advised of their appeal rights in accordance with 7 CFR part 11.

(b) *State Office review.* All preapplications will be reviewed and scored for funding priority at each State Office using RUS Bulletin 1777–2. Funds will be requested from the National Office, Attention: Water and Waste Processing, using RUS Bulletin 1777–3. Eligible applicants that cannot be funded should be advised that funds are not available and advised of their appeal rights as set forth in 7 CFR part 11.

(c) *National Office.* The National Office will allocate funds on a project-by-project basis as requests are received. If the amount of funds requested exceeds the amount of funds available, the total project score will be used to select projects for funding. The RUS Administrator may assign up to 35 additional points that will be considered in the total points for items such as geographic distribution of funds, severity of health risks, etc.

(d) *Selection priorities.* The priorities described below will be used to rate preapplications and in selecting projects for funding. Points will be distributed as indicated in paragraphs (d)(1) through (d)(5) of this section and will be used in selecting projects for funding. A copy of RUS Bulletin 1777–2, used to rate applications, should be placed in the case file for future reference.

(1) *Population.* The proposed project will serve an area with a rural population:

(i) Not in excess of 1,500—30 points.

(ii) More than 1,500 and not in excess of 3,000—20 points.

(iii) More than 3,000 and not in excess of 5,500—10 points.

(2) *Income.* The median household income of population to be served by the proposed project is:

(i) Not in excess of 50 percent of the statewide nonmetropolitan median household income—40 points.

(ii) More than 50 percent and not in excess of 60 percent of the statewide nonmetropolitan median household income—20 points.

(iii) More than 60 percent and not in excess of 70 percent of the statewide nonmetropolitan median household income—10 points.

(3) *Joint financing.* The amount of joint financing committed to the proposed project is:

(i) Twenty percent or more private, local, or State funds except Federal funds channeled through a State agency—10 points.

(ii) Five to 19 percent private, local, or State funds except Federal funds channeled through a State agency—5 points.

(4) *Colonia.* (See definition in § 1777.4). The proposed project will provide water and/or waste disposal services to the residents of a colonia—50 points.

(5) *Discretionary.* In certain cases, the State Program Official may assign up to 15 points for items such as natural disaster, to improve compatibility/coordination between the Agency's and other agencies' selection systems, to assist those projects that are the most cost effective, high unemployment rate, severity of health risks, etc. A written justification must be prepared and attached to RUS Bulletin 1777–2 each time these points are assigned.

§§ 1777.14–1777.20 [Reserved]

§ 1777.21 Use of funds.

(a) *Applicant.* Funds may be used to:

(1) Construct, enlarge, extend, or otherwise improve community water and/or waste disposal systems. Otherwise improve would include extending service lines to and/or connecting residence's plumbing to the system.

(2) Make loans and grants to individuals for extending service lines to and/or connecting residences to the applicant's system. The approval official must determine that this is a practical and economical method of connecting individuals to the community water and/or waste disposal system. Loan funds can only be used for loans, and grant funds can only be used for grants.

(3) Make improvements to individual's residence when needed to allow use of the water and/or waste disposal system.

(4) Grants can be made up to 100 percent of eligible project costs.

(b) *Individuals.* Funds may be used to:

(1) Extend service lines to residence.

(2) Connect service lines to residence's plumbing.

(3) Pay reasonable charges or fees for connecting to a community water and/or waste disposal system.

(4) Pay for necessary installation of plumbing and related fixtures within dwellings lacking such facilities. This is limited to one bathtub, sink, commode, kitchen sink, water heater, and outside spigot.

(5) Construction and/or partitioning off a portion of dwelling for a bathroom, not to exceed 4.6 square meters (48 square feet) in size.

(6) Pay reasonable costs for closing abandoned septic tanks and water wells when necessary to protect the health and safety of recipients of a grant in paragraphs (b)(1) or (b)(2) of this section and is required by local or State law.

§§ 1777.22–1777.30 [Reserved]

§ 1777.31 Rates.

(a) Applicant loans will bear interest at the rate of 5 percent per annum.

(b) Individual loans will bear interest at the rate of:

(1) Five percent per annum; or

(2) The Federal Financing Bank rate for loans of a similar term at the time of Agency loan approval, whichever is less.

§§ 1777.32–1777.40 [Reserved]

§ 1777.41 Individual loans and grants.

(a) The amount of loan and grant funds approved by the Agency will be based on the need shown in the application and an implementation plan submitted by the applicant. The implementation plan will include such things as: purpose, how funds will be used, proposed application process, construction requirements, control and disbursement of funds, etc. The implementation plan will be attached to RUS Bulletin 1777–1.

(b) RUS Bulletin 1777–1 is a Memorandum of Agreement which sets forth the procedures and regulations for making and servicing loans and grants made by applicants to individuals. The State Program Official is authorized to enter into a Memorandum of Agreement with any applicant providing loans and/or grants to individuals. The Memorandum of Agreement can be amended to comply with State law and recommendations by the Office of General Counsel. It may also be amended to eliminate references to loans and/or grants if no loan and/or grant is involved. The State Program Official is responsible for:

(1) Ensuring that all provisions of the Agreement are understood.

(2) Determining that the applicant has the ability to make and service loans and/or grants in the manner outlined in the Agreement.

(c) Agency funds remaining after providing individual loans and/or grants will be returned to the Agency. The funds should be disbursed to individuals within 1 year from the date water and/or waste disposal service is available to the individuals. The State Program Official can make an exception to this 1 year requirement if written justification is provided by the applicant.

§ 1777.42 Delegation of authority.

The State Program Official is responsible for the overall implementation of the authorities contained in this part and may redelegate any such authority to appropriate Agency employees.

§ 1777.43 Bulletins.

RUS Bulletin 1780–12 referenced in part 1780 of this chapter and RUS Bulletin 1777–1, 1777–2 and 1777–3 are for use in administering loans and/or grants made under this part. Bulletins, instructions and forms are available from any USDA/Rural Development office or the Rural Utilities Service, United States Department of Agriculture, Washington, DC 20250–1500.

§§ 1777.44–1777.99 [Reserved]

§ 1777.100 OMB control number.

The reporting and recordkeeping requirements contained in this part have been approved by the Office of Management and Budget and assigned OMB control number 0570–0001. Public reporting burden for this collection of information is estimated to vary from 5 to 30 hours per response with an average of 17.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to U.S. Department of Agriculture, Clearance Officer, OIRM, Room 404–W, Washington, DC 20250; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Part 1942, Subpart K [Redesignated as Part 1778 and Revised]

3. Subpart K of 7 CFR part 1942 is redesignated as 7 CFR part 1778 and is revised to read as follows:

PART 1778—EMERGENCY COMMUNITY WATER ASSISTANCE GRANTS

Sec.

1778.1 General.
1778.2 [Reserved]
1778.3 Objective.
1778.4 Definitions.
1778.5 [Reserved]
1778.6 Eligibility.
1778.7 Project priority.
1778.8 [Reserved]
1778.9 Uses.
1778.10 Restrictions.
1778.11 Maximum grants.
1778.12 [Reserved]
1778.13 Set-aside.
1778.14 Other considerations.
1778.15–1778.20 [Reserved]
1778.21 Application processing.
1778.22 Planning development and procurement.
1778.23 Grant closing and disbursement of funds.
1778.24–1778.30 [Reserved].
1778.31 Performing development.
1778.32 Grant cancellation.
1778.33 [Reserved]
1778.34 Grant servicing.
1778.35 Subsequent grants.
1778.36 [Reserved]
1778.37 Forms, Instructions and Bulletins.
1778.38–1778.99 [Reserved]
1778.100 OMB control number.

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

§ 1778.1 General.

(a) This part outlines policies and procedures for making Emergency Community Water Assistance Grants authorized under Section 306A of the Consolidated Farm and Rural Development Act, (7 U.S.C. 1926(a)), as amended. Any processing or servicing activity conducted pursuant to this part involving authorized assistance to Agency employees, members of their families, known close relatives, or business or close personal associates, is subject to the provisions of subpart D of part 1900 of this title. Applicants for this assistance are required to identify any known relationship or association with an Agency employee.

(b) Agency officials will maintain liaison with officials of other Federal, State, regional and local development agencies to coordinate related programs to achieve rural development objectives.

(c) Agency officials shall cooperate with appropriate State agencies in making grants that support State strategies for rural area development.

(d) Funds allocated for use in accordance with this part are also to be considered for use by Indian tribes within the State regardless of whether State development strategies include Indian reservations within the State's boundaries. Indians residing on such reservations must have an equal opportunity along with other rural residents to participate in the benefits of this program. This includes equal application of outreach activities of Field Offices.

(e) Federal statutes provide for extending the Agency financial programs without regard to race, color, religion, sex, national origin, marital status, age, or physical/mental handicap (provided the participant possesses the capacity to enter into legal contracts).

§ 1778.2 [Reserved]

§ 1778.3 Objective.

The objective of the Emergency Community Water Assistance Grant Program is to assist the residents of rural areas that have experienced a significant decline in quantity or quality of water to obtain adequate quantities of water that meet the standards set by the Safe Drinking Water Act (42 U.S.C. 300f et seq.) (SDWA).

§ 1778.4 Definitions.

Emergency. Occurrence of an incident such as, but not limited to, a drought, earthquake, flood, hurricane, disease outbreak, or chemical spill.

Rural areas. Includes any area in any city or town with a population not in excess of 10,000 inhabitants according to the most recent decennial census of the United States, located in any of the fifty States, the Commonwealth of Puerto Rico, the Western Pacific Territories, Marshall Islands, Federated States of Micronesia, Republic of Palau, and the U.S. Virgin Islands.

Significant decline in quality. A significant decline in quality of potable water is where the present community source or delivery system does not meet, as a result of an emergency, the current SDWA requirements. For a private source or delivery system a significant decline in quality is where the water is no longer potable as a result of an emergency.

Significant decline in quantity. A significant decline in the quantity is caused by a disruption of the potable water supply by an emergency. The disruption in quantity of water prevents the present source or delivery system from supplying potable water needs to rural residents. This would not include a decline in excess water capacity.

§ 1778.5 [Reserved]

§ 1778.6 Eligibility.

(a) Grants may be made to public bodies and private nonprofit corporations serving rural areas. Public bodies include counties, cities, townships, incorporated towns and villages, boroughs, authorities, districts, and other political subdivisions of a State. Public bodies also includes Indian tribes on Federal and State reservations and other Federally recognized Indian Tribal groups in rural areas.

(b) In the case of grants made to alleviate a significant decline in quantity or quality of water available from the water supplies of rural residents, the applicant must demonstrate that the decline occurred within two years of the date the application was filed with the Agency.

This would not apply to grants made for repairs, partial replacement, or significant maintenance on an established water system.

§ 1778.7 Project priority.

Paragraphs (a) through (d) of this section indicate items and conditions which must be considered in selecting applications for further development. When ranking eligible applications for consideration for limited funds, Agency officials must consider the priority items met by each application and the degree to which those priorities are met.

(a) *Applications*. The application and supporting information submitted with it will be used to determine the proposed project's priority for available funds.

(b) *State Office review*. All applications will be reviewed and scored for funding priority using RUS Bulletin 1778–1. The State Program Official will request funds from the National Office, Attention: Assistant Administrator, Water and Waste, using RUS Bulletins 1778–1 and 1778–2. If an application cannot be funded, the State Program Official will be notified. Eligible applicants that cannot be funded should be advised that funds are not available.

(c) *National Office review*. Each year all funding requests will be reviewed by the National Office starting November 1 and will continue as long as funds are available except for the first year in which funds are made available for this grant program. A review of funding requests the first year will start 30 days after funds are made available. Projects selected for funding will be considered based on the priority criteria and available funds. Projects must compete on a national basis for available funds, and the National Office will allocate funds to State offices on a project by project basis.

(d) *Selection priorities*. The priorities described below will be used by the State Program Official to rate applications and by the Assistant Administrator of Water and Waste to select projects for funding. Points will be distributed as indicated in paragraphs (d)(1) through (d)(5) of this section and will be considered in selecting projects for funding. A copy of RUS Bulletins 1778–1 and 1778–2 used to rate applications, should be placed in the case file for future reference.

(1) *Population*. The proposed project will serve an area with a rural population:

(i) Not in excess of 1,500—30 points.

(ii) More than 1,500 and not in excess of 3,000—20 points.

(iii) More than 3,000 and not in excess of 5,000—15 points.

(2) *Income*. The median household income of population to be served by the proposed project is:

(i) Not in excess of 70% of the statewide nonmetropolitan median household income—30 points.

(ii) More than 70% and not in excess of 80% of the statewide nonmetropolitan median household income—20 points.

(iii) More than 80% and not in excess of 90% of the statewide nonmetropolitan median household income—10 points.

(iv) Over 90% of the statewide nonmetropolitan median household income—0 points.

(3) *Significant decline*. Points will only be assigned for one of the following paragraphs when the primary purpose of the proposed project is to correct a significant decline in the:

(i) Quantity of water available from private individually owned wells or other individual sources of water—30 points; or

(ii) Quantity of water available from an established system's source of water—20 points; or

(iii) Quality of water available from private individually owned wells or other individual sources of water—30 points; or

(iv) Quality of water available from an established system's source of water—20 points.

(4) *Acute shortage*. Grants made in accordance with § 1778.11(b) to assist an established water system remedy an acute shortage of quality water or correct a significant decline in the quantity or quality of water that is available—10 points.

(5) *Discretionary*. In certain cases the Administrator may assign up to 30 points for items such as geographic distribution of funds, rural residents hauling water, severe contamination levels, etc.

§ 1778.8 [Reserved]

§ 1778.9 Uses.

Grant funds may be used for the following purposes:

(a) Waterline extensions from existing systems.

(b) Construction of new waterlines.

(c) Repairs to an existing system.

(d) Significant maintenance to an existing system.

(e) Construction of new wells, reservoirs, transmission lines, treatment plants, and other sources of water.

(f) Equipment replacement.

(g) Connection and/or tap fees.

(h) Pay costs that were incurred within six months of the date an application was filed with the Agency to correct an emergency situation that would have been eligible for funding under this part.

(i) Any other appropriate purpose such as legal fees, engineering fees, recording costs, environmental impact analyses, archaeological surveys, possible salvage or other mitigation measures, planning, establishing or acquiring rights associated with developing sources of, treating, storing, or distributing water.

(j) Assist rural water systems to comply with the requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*) (FWPCA) or the SDWA when such failure to comply is directly related to a recent decline in quality of potable water. This would not apply to changes in the requirements of FWPCA or SDWA.

§ 1778.10 Restrictions.

(a) Grant funds may not be used to:

(1) Assist any city or town with a population in excess of 10,000 inhabitants according to the most recent decennial census of the United States.

(2) Assist a rural area that has a median household income in excess of the statewide nonmetropolitan median household income according to the most recent decennial census of the United States.

(3) Finance facilities which are not modest in size, design, cost, and are not directly related to correcting the potable water quantity or quality problem.

(4) Pay loan or grant finder's fees.

(5) Pay any annual recurring costs that are considered to be operational expenses.

(6) Pay rental for the use of equipment or machinery owned by the rural community.

(7) Purchase existing systems.

(8) Refinance existing indebtedness, except for short-term debt incurred in accordance with § 1778.9(h).

(9) Make reimbursement for projects developed with other grant funds.

(10) Finance facilities that are not for public use.

(b) Nothing in paragraph (a)(1) of this section shall preclude rural areas from submitting joint proposals for assistance under this part. Each entity applying for financial assistance under this part to fund their share of a joint project will be considered individually.

§ 1778.11 Maximum grants.

(a) Grants made to alleviate a significant decline in quantity or quality of water available from the water supplies in rural areas that occurred within two years of filing an application with the Agency cannot exceed $500,000.

(b) Grants made for repairs, partial replacement, or significant maintenance on an established system to remedy an acute shortage or significant decline in the quality or quantity of potable water cannot exceed $75,000.

(c) Grants under this part, subject to paragraphs (a) and (b) of this section, shall be made for 100 percent of eligible project costs.

§ 1778.12 [Reserved]

§ 1778.13 Set-aside.

(a) At least 70 percent of all grants made under these grant programs shall be for projects funded in accordance with § 1778.11(a).

(b) At least 50 percent of the funds appropriated for this grant program shall be allocated to rural areas with populations not in excess of 3,000 inhabitants according to the most recent decennial census of the United States.

§ 1778.14 Other considerations.

(a) *Civil rights compliance requirements.* All grants made under this part are subject to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), as outlined in subpart E of part 1901 of this title.

(b) *Environmental requirements.* All projects must have appropriate environmental reviews in accordance with RUS requirements.

(c) *Uniform Relocation and Real Property Acquisition Policies Act (42 U.S.C. 4601 et seq.*). All projects must comply with the requirements set forth in 7 CFR part 21.

(d) *Flood and mudslide hazard area precautions.* If the project is located in a flood or mudslide area, then flood or mudslide insurance must be provided as required in subpart A of part 1806 of this title (RD Instruction 426.2).

(e) *Governmentwide debarment and suspension* (nonprocurement) and requirements for drug-free work place. All projects must comply with the requirements set forth in the U.S. Department of Agriculture regulations 7 CFR part 3017 and RD Instruction 1940–M.

(f) *Intergovernmental review.* All projects funded under this part are subject to Executive Order 12372 (3 CFR, 1983 Comp., p. 197), which requires intergovernmental consultation with State and local officials. These requirements are set forth in U.S. Department of Agriculture regulations 7 CFR part 3015, subpart V, and RD Instruction 1940–J.

§§ 1778.15–1778.20 [Reserved]

§ 1778.21 Application processing.

(a) To the extent possible, an application under this part will be approved or disapproved within 60 days of the date that a complete application and all related material is submitted to the Agency.

(b) The material submitted with the application should include the Preliminary Engineer Report, population and median household income of the area to be served, description of project, and nature of emergency that caused the problem(s) being addressed by the project. The documentation must clearly show that the applicant has had a significant decline in the quantity and/or quality of potable water or an acute shortage of potable water and the proposed project will eliminate the problem. For projects to be funded in accordance with § 1778.11(a), evidence must be furnished that a significant decline in quantity or quality occurred within two years of filing the application with the Agency.

(c) The processing office should assist the applicant in application assembly and processing.

(d) Appropriate application review and approval procedures outlined in subpart B of part 1780 of this chapter.

(e) Each application for assistance will be carefully reviewed in accordance with the priorities established in § 1778.7. A priority rating will be assigned to each application by the State Program Official.

(f) When the National Office has allocated funds to the State for a project, applicable provisions outlined in subpart B of part 1780 of this chapter will be followed in preparation of the grant docket. This would include development of an operating budget showing that the applicant can meet all its obligations and provide the intended services.

(g) When favorable action will not be taken on an application, the applicant will be notified in writing by the State Program Official of the reasons why the request was not favorably considered. Notification to the applicant will state that a review of this decision by the Agency may be requested by the applicant in accordance with 7 CFR part 11.

(h) State Program Officials are authorized to approve grants made in accordance with this part and RUS Staff Instruction 1780–1.

(i) Funds will be obligated and approval announcement made in accordance with the provisions of subpart B of part 1780 of this chapter.

§ 1778.22 Planning development and procurement.

Planning development and procurement for grants made under this part will be in accordance with subpart C of part 1780 of this chapter. A certification should be obtained from the State agency or the Environmental Protection Agency if the State does not have primacy, stating that the proposed improvements will be in compliance with requirements of the SDWA.

§ 1778.23 Grant closing and disbursement of funds.

(a) Grants will be closed in accordance with § 1780.45 of this chapter.

(b) RUS Bulletin 1780–12, ''Water or Waste Grant Agreement,'' will be executed by all applicants. State Program Officials are authorized to execute the agreement on behalf of the Agency.

(c) The grant will be considered closed on the date RUS Bulletin 1780–12 is signed by the Agency. The Finance Office will be notified of the grant closing date. The Agency will retain the original of the Grant Agreement.

(d) The Agency's policy is not to disburse grant funds from the Treasury until they are actually needed by the applicant. Grant funds will be disbursed by using multiple advances.

§§ 1778.24–1778.30 [Reserved]

§ 1778.31 Performing development.

(a) Applicable provisions of subpart C of part 1780 of this chapter will be followed in performing development for grants made under this part.

(b) After filing an application in accordance with § 1778.21 and when immediate action is necessary, the State Program Official may concur in an applicant's request to proceed with construction before funds are obligated provided the RUS environmental requirements are complied with. The applicant must be advised in writing that:

(1) Any authorization to proceed or any concurrence in bid awards, contract concurrence, or other project development activity, is not a commitment by the Agency to provide grant funds under this part.

(2) The Agency is not liable for any debt incurred by the applicant in the event that funds are not provided under this part.

§ 1778.32 Grant cancellation.

The State Program Official may prepare and execute Form RD 1940–10, ''Cancellation of U.S. Treasury Check and/or Obligation,'' in accordance with the Forms Manual Insert. If the docket has been forwarded to OGC, that office should receive a copy of Form RD 1940–10. The applicant's attorney and engineer may be provided a copy of

Form RD 1940–10. A copy should also be sent to the National Office, Attention: Water and Waste Processing.

§ 1778.33 [Reserved]

§ 1778.34 Grant servicing.

(a) Grants will be serviced in accordance with § 1951.215 of subpart E of part 1951 of this title and subpart O of part 1951 of this title.

(b) The grantee will provide an audit report in accordance with § 1780.47 of this chapter.

§ 1778.35 Subsequent grants.

Subsequent grants will be processed in accordance with the requirements set forth in this part. The initial and subsequent grants made to complete a previously approved project must comply with the maximum grant requirements set forth in § 1778.11.

§ 1778.36 [Reserved]

§ 1778.37 Forms, Instructions and Bulletins.

Bulletins, instructions and forms referenced are for use in administering grants made under this part and are available from any USDA/Rural Development office or the Rural Utilities Service, United States Department of Agriculture, Washington, DC 20250–1500.

§§ 1778.38–1778.99 [Reserved]

§ 1778.100 OMB control number.

The reporting and recordkeeping requirements contained in this part have been approved by the Office of Management and Budget and assigned OMB control number 0575–0074. Public reporting burden for this collection of information is estimated to average two hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404–W, Washington, DC 20250; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

4. Part 1780, is added to read as follows:

PART 1780—WATER AND WASTE LOANS AND GRANTS

Subpart A—General Policies and Requirements

Sec.
1780.1 General.
1780.2 Purpose.
1780.3 Definitions and grammatical rules of construction.
1780.4 Availability of forms and regulations.
1780.5 [Reserved]
1780.6 Application information.
1780.7 Eligibility.
1780.8 [Reserved]
1780.9 Eligible loan and grant purposes.
1780.10 Limitations.
1780.11 Service area requirements.
1780.12 [Reserved]
1780.13 Rates and terms.
1780.14 Security.
1780.15 Other Federal, State, and local requirements.
1780.16 [Reserved]
1780.17 Selection priorities and process.
1780.18 Allocation of program funds.
1780.19 Public information.
1780.20–1780.23 [Reserved]
1780.24 Approval authorities.
1780.25 Exception authority.
1780.26–1780.30 [Reserved]

Subpart B—Loan and Grant Application Processing

1780.31 General.
1780.32 Timeframes for application processing.
1780.33 Application requirements.
1780.34 [Reserved]
1780.35 Processing office review.
1780.36 Approving official review.
1780.37 Applications determined ineligible.
1780.38 [Reserved]
1780.39 Application processing.
1780.40 [Reserved]
1780.41 Loan or grant approval.
1780.42 Transfer of obligations.
1780.43 [Reserved]
1780.44 Actions prior to loan or grant closing or start of construction, whichever occurs first.
1780.45 Loan and grant closing and delivery of funds.
1780.46 [Reserved]
1780.47 Borrower accounting methods, management reporting and audits.
1780.48 Regional commission grants.
1780.49 Rural or Native Alaskan villages.
1780.50–1780.52 [Reserved]

Subpart C—Planning, Designing, Bidding, Contracting, Constructing and Inspections

1780.53 General.
1780.54 Technical services.
1780.55 Preliminary engineering reports.
1780.56 [Reserved]
1780.57 Design policies.
1780.58–1780.60 [Reserved]
1780.61 Construction contracts.
1780.62 Utility purchase contracts.
1780.63 Sewage treatment and bulk water sales contracts.
1780.64–1780.66 [Reserved]
1780.67 Performing construction.
1780.68 Owner's contractual responsibility.
1780.69 [Reserved]
1780.70 Owner's procurement regulations.
1780.71 [Reserved]
1780.72 Procurement methods.
1780.73 [Reserved]
1780.74 Contracts awarded prior to applications.
1780.75 Contract provisions.
1780.76 Contract administration.
1780.77–1780.79 [Reserved]

Subpart D—Information Pertaining to Preparation of Notes or Bonds and Bond Transcript Documents for Public Body Applicants

1780.80 General.
1780.81 Policies related to use of bond counsel.
1780.82 [Reserved]
1780.83 Bond transcript documents.
1780.84–1780.86 [Reserved]
1780.87 Permanent instruments for Agency loans.
1780.88 [Reserved]
1780.89 Multiple advances of Agency funds using permanent instruments.
1780.90 Multiple advances of Agency funds using temporary debt instruments.
1780.91–1780.93 [Reserved]
1780.94 Minimum bond specifications.
1780.95 Public bidding on bonds.
1780.96–1780.100 [Reserved]

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

Subpart A—General Policies and Requirements

§ 1780.1 General.

(a) This part outlines the policies and procedures for making and processing direct loans and grants for water and waste projects. The Rural Utilities Service (RUS) shall cooperate fully with State and local agencies in making loans and grants to assure maximum support to the State strategy for rural development. Agency officials and their staffs shall maintain coordination and liaison with State agency and substate planning districts.

(b) The income data used in this part to determine median household income must be that which most accurately reflects the income of the service area. The median household income of the service area and the nonmetropolitan median household income of the State will be determined from income data from the most recent decennial census of the United States. If there is reason to believe that the census data is not an accurate representation of the median household income within the area to be served, the reasons will be documented and the applicant may furnish, or the Agency may obtain, additional information regarding such median household income. Information will consist of reliable data from local, regional, State or Federal sources or from a survey conducted by a reliable

impartial source. The nonmetropolitan median household income of the State may only be updated on a national basis by the RUS National Office. This will be done only when median household income data for the same year for all Bureau of the Census areas is available from the Bureau of the Census or other reliable sources. Bureau of the Census areas would include areas such as: Counties, County Subdivisions, Cities, Towns, Townships, Boroughs, and other places.

(c) RUS debt instruments will require an agreement that if at any time it shall appear to the Government that the borrower is able to refinance the amount of the indebtedness to the Government then outstanding, in whole or in part, by obtaining a loan for such purposes from responsible cooperative or private credit sources, at reasonable rates and terms for loans for similar purposes and periods of time, the borrower will, upon request of the Government, apply for and accept such loan in sufficient amount to repay the Government and will take all such actions as may be required in connection with such loan.

(d) Funds allocated for use under this part are also for the use of Indian tribes within the State, regardless of whether State development strategies include Indian reservations within the State's boundaries. Native Americans residing on such reservations must have equal opportunity to participate in the benefits of these programs as compared with other residents of the State. Such tribes might not be subject to State and local laws or jurisdiction. However, any requirements of this part that affect applicant eligibility, the adequacy of RUS's security, or the adequacy of service to users of the facility and all other requirements of this part must be met.

(e) RUS financial programs must be extended without regard to race, color, religion, sex, national origin, marital status, age, or physical or mental handicap.

(f) Any processing or servicing activity conducted pursuant to this part involving authorized assistance to Agency employees, members of their families, known close relatives, or business or close personal associates, is subject to the provisions of subpart D of part 1900 of this title. Applicants for assistance are required to identify any known relationship or association with a RUS employee.

(g) Water and waste facilities will be designed, installed, and operated in accordance with applicable laws which include but are not limited to the Safe Drinking Water Act, Clean Water Act and the Resource Conservation and Recovery Act.

(h) RUS financed facilities will be consistent with any current development plans of State, multijurisdictional areas, counties, or municipalities in which the proposed project is located.

(i) Each RUS financed facility will be in compliance with appropriate State or Federal agency regulations which have control of the appropriation, diversion, storage and use of water and disposal of excess water.

(j) Water and waste applicants must demonstrate that they possess the financial, technical, and managerial capability necessary to consistently comply with pertinent Federal and State laws and requirements. In developing water and waste systems, applicants must consider alternatives of ownership, system design, and the sharing of services.

(k) Applicants should be aware of and comply with other Federal statute requirements including but not limited to:

(1) *Section 504 of the Rehabilitation Act of 1973.* Under section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794 *et seq.*), no handicapped individual in the United States shall, solely by reason of their handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving RUS financial assistance;

(2) *Civil Rights Act of 1964.* All borrowers are subject to, and facilities must be operated in accordance with, title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*) and subpart E of part 1901 of this title, particularly as it relates to conducting and reporting of compliance reviews. Instruments of conveyance for loans and/or grants subject to the Act must contain the covenant required by § 1901.202(e) of this title;

(3) *The Americans with Disabilities Act (ADA) of 1990.* This Act (42 U.S.C. 12101 *et seq.*) prohibits discrimination on the basis of disability in employment, State and local government services, public transportation, public accommodations, facilities, and telecommunications. Title II of the Act applies to facilities operated by State and local public entities which provides services, programs and activities. Title III of the Act applies to facilities owned, leased, or operated by private entities which accommodate the public; and

(4) *Age Discrimination Act of 1975.* This Act (42 U.S.C. 6101 *et seq.*) provides that no person in the United States shall on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

§ 1780.2 Purpose.

Provide loan and grant funds for water and waste projects serving the most financially needy communities. Financial assistance should result in reasonable user costs for rural residents, rural businesses, and other rural users.

§ 1780.3 Definitions and grammatical rules of construction.

(a) *Definitions.* For the purposes of this part:

Agency means the Rural Utilities Service and any United States Department of Agriculture (USDA) employee acting on behalf of the Rural Utilities Service in accordance with appropriate delegations of authority.

Agency identified target areas means an identified area in the State strategic plan or other plans developed by the Rural Development State Director.

Approval official means the USDA official at the State level who has been delegated the authority to approve loans or grants.

Equivalent Dwelling Unit (EDU) means the level of service provided to a typical rural residential dwelling.

Parity bonds means bonds which have equal standing with other bonds of the same Issuer.

Poverty line means the level of income for a family of four, as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

Processing office means the office designated by the State program official to accept and process applications for water and waste disposal assistance.

Project means all activity that an applicant is currently undertaking to be financed in whole or part with RUS assistance.

Protective advances are payments made by a lender for items such as insurance or taxes in order to preserve and protect the security or the lien or priority of the lien securing the loan.

Rural and rural areas means any area not in a city or town with a population in excess of 10,000 inhabitants, according to the latest decennial census of the United States.

Rural Development means the mission area of the Under Secretary for Rural Development. Rural Development State and local offices will administer this water and waste program on behalf of the Rural Utilities Service.

RUS means the Rural Utilities Service, an agency of the United States

Department of Agriculture established pursuant to section 232 of the Department of Agriculture Reorganization Act of 1994 (Pub. L. 103–354, 108 Stat. 3178), successor to the Farmer's Home Administration and the Rural Development Administration with respect to certain water and waste disposal loan and grant programs.

Service area means the area reasonably expected to be served by the project.

Servicing office means the office designated by the State program official to service water and waste disposal loans and grants.

Similar system cost means the average annual EDU user cost of a system within a community having similar economic conditions and being served by the same type of established system. Similar system cost shall include all charges, taxes, and assessments attributable to the system including debt service, reserves and operation and maintenance costs.

State program official means the USDA official at the State level who has been delegated the responsibility of administering the water and waste disposal programs under this regulation for a particular State or States.

Statewide nonmetropolitan median household income means the median household income of all rural areas of a state.

(b) *Rules of grammatical construction.* Unless the context otherwise indicates, ''includes'' and ''including'' are not limiting, and ''or'' is not exclusive. The terms defined in paragraph (a) of this section include the plural as well as the singular, and the singular as well as the plural.

§ 1780.4 Availability of forms and regulations.

Information about the availability of forms, instructions, regulations, bulletins, OMB Circulars, Treasury Circulars, standards, documents and publications cited in this part is available from any USDA/Rural Development office or the Rural Utilities Service, United States Department of Agriculture, Washington, DC 20250–1500.

§ 1780.5 [Reserved]

§ 1780.6 Application information.

(a) The Rural Development State Director in each State will determine the office and staff that will be responsible for delivery of the program (processing office) and designate an approving office. Applications will be accepted by the processing office.

(b) The applicant's governing body should designate one person to act as contact person with the Agency during loan and grant processing. Agency personnel should make every effort to involve the applicant's contact person when meeting with the applicant's professional consultants or agents.

§ 1780.7 Eligibility.

Facilities financed by water and waste disposal loans or grants must serve rural areas.

(a) *Eligible applicant.* An applicant must be:

(1) A public body, such as a municipality, county, district, authority, or other political subdivision of a state, territory or commonwealth;

(2) An organization operated on a not-for-profit basis, such as an association, cooperative, or private corporation. The organization must be an association controlled by a local public body or bodies, or have a broadly based ownership by or membership of people of the local community; or

(3) Indian tribes on Federal and State reservations and other Federally recognized Indian tribes.

(b) *Eligible facilities.* Facilities financed by RUS may be located in non-rural areas. However, loan and grant funds may be used to finance only that portion of the facility serving rural areas, regardless of facility location.

(c) *Eligible projects.* (1) Projects must serve a rural area which, if such project is completed, is not likely to decline in population below that for which the project was designed.

(2) Projects must be designed and constructed so that adequate capacity will or can be made available to serve the present population of the area to the extent feasible and to serve the reasonably foreseeable growth needs of the area to the extent practicable.

(3) Projects must be necessary for orderly community development and consistent with a current comprehensive community water, waste disposal, or other current development plan for the rural area.

(d) *Credit elsewhere.* Applicants must certify in writing and the Agency shall determine and document that the applicant is unable to finance the proposed project from their own resources or through commercial credit at reasonable rates and terms.

(e) *Legal authority and responsibility.* Each applicant must have or will obtain the legal authority necessary for owning, constructing, operating, and maintaining the proposed facility or service and for obtaining, giving security for, and repaying the proposed loan. The applicant shall be responsible for operating, maintaining, and managing the facility, and providing for its continued availability and use at reasonable user rates and charges. This responsibility shall be exercised by the applicant even though the facility may be operated, maintained, or managed by a third party under contract or management agreement. Guidance for preparing a management agreement is available from the Agency. Such contracts, management agreements, or leases must not contain options or other provisions for transfer of ownership.

(f) *Economic feasibility.* All projects financed under the provisions of this section must be based on taxes, assessments, income, fees, or other satisfactory sources of revenues in an amount sufficient to provide for facility operation and maintenance, reasonable reserves, and debt payment. If the primary use of the facility is by business and the success or failure of the facility is dependent on the business, then the economic viability of that business must be assessed.

(g) *Federal Debt Collection Act of 1990 (28 U.S.C. 3001 et seq.).* An outstanding judgment obtained by the United States in a Federal Court (other than in the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive a loan or grant until the judgment is paid in full or otherwise satisfied.

(h) *Expanded eligibility for timber-dependent communities in Pacific Northwest.* In the Pacific Northwest, defined as an area containing national forest covered by the Federal document entitled, ''Forest Plan for a Sustainable Economy and a Sustainable Environment,'' dated July 1, 1993, the population limits contained in § 1780.3(a) are expanded to include communities with not more than 25,000 inhabitants until September 30, 1998, if:

(1) Part or all of the community lies within 100 miles of the boundary of a national forest covered by the Federal document entitled, ''Forest Plan for a Sustainable Economy and a Sustainable Environment,'' dated July 1, 1993; and

(2) The community is located in a county in which at least 15 percent of the total primary and secondary labor and proprietor income is derived from forestry, wood products, or forest-related industries such as recreation and tourism.

§ 1780.8 [Reserved]

§ 1780.9 Eligible loan and grant purposes.

Loan and grant funds may be used only for the following purposes:

(a) To construct, enlarge, extend, or otherwise improve rural water, sanitary sewage, solid waste disposal, and storm wastewater disposal facilities.

(b) To construct or relocate public buildings, roads, bridges, fences, or utilities, and to make other public improvements necessary for the successful operation or protection of facilities authorized in paragraph (a) of this section.

(c) To relocate private buildings, roads, bridges, fences, or utilities, and other private improvements necessary for the successful operation or protection of facilities authorized in paragraph (a) of this section.

(d) For payment of other utility connection charges as provided in service contracts between utility systems.

(e) When a necessary part of the project relates to those facilities authorized in paragraphs (a), (b),(c) or (d) of this section the following may be considered:

(1) Loan or grant funds may be used for:

(i) Reasonable fees and costs such as: legal, engineering, administrative services, fiscal advisory, recording, environmental analyses and surveys, possible salvage or other mitigation measures, planning, establishing or acquiring rights;

(ii) Costs of acquiring interest in land; rights, such as water rights, leases, permits, rights-of-way; and other evidence of land or water control or protection necessary for development of the facility;

(iii) Purchasing or renting equipment necessary to install, operate, maintain, extend, or protect facilities;

(iv) Cost of additional applicant labor and other expenses necessary to install and extend service; and

(v) In unusual cases, the cost for connecting the user to the main service line.

(2) Only loan funds may be used for:

(i) Interest incurred during construction in conjunction with multiple advances or interest on interim financing;

(ii) Initial operating expenses, including interest, for a period ordinarily not exceeding one year when the applicant is unable to pay such expenses;

(iii) The purchase of existing facilities when it is necessary either to improve service or prevent the loss of service;

(iv) Refinancing debts incurred by, or on behalf of, an applicant when all of the following conditions exist:

(A) The debts being refinanced are a secondary part of the total loan;

(B) The debts were incurred for the facility or service being financed or any part thereof; and

(C) Arrangements cannot be made with the creditors to extend or modify the terms of the debts so that a sound basis will exist for making a loan; and

(v) Prepayment of costs for which RUS grant funds were obligated.

(3) Grant funds may be used to restore loan funds used to prepay grant obligated costs.

(f) Construction incurred before loan or grant approval.

(1) Funds may be used to pay obligations for eligible project costs incurred before loan or grant approval if such requests are made in writing by the applicant and the Agency determines that:

(i) Compelling reasons exist for incurring obligations before loan or grant approval;

(ii) The obligations will be incurred for authorized loan or grant purposes; and

(iii) The Agency's authorization to pay such obligations is on the condition that it is not committed to make the loan or grant; it assumes no responsibility for any obligations incurred by the applicant; and the applicant must subsequently meet all loan or grant approval requirements, including environmental and contracting requirements.

(2) If construction is started without Agency approval, post-approval in accordance with this section may be considered, provided the construction meets applicable requirements including those regarding approval and environmental matters.

(g) Water or sewer service may be provided through individual installations or small clusters of users within an applicant's service area. The approval official should consider items such as: quantity and quality of the individual installations that may be developed; cost effectiveness of the individual facility compared with the initial and long term user cost on a central system; health and pollution problems attributable to individual facilities; operational or management problems peculiar to individual installations; and permit and regulatory agency requirements.

(1) Applicants providing service through individual facilities must meet the eligibility requirements in § 1780.7.

(2) The Agency must approve the form of agreement between the applicant and individual users for the installation, operation, maintenance and payment for individual facilities.

(3) If taxes or assessments are not pledged as security, applicants providing service through individual facilities must obtain security necessary to assure collection of any sum the individual user is obligated to pay the applicant.

(4) Notes representing indebtedness owed the applicant by a user for an individual facility will be scheduled for payment over a period not to exceed the useful life of the individual facility or the RUS loan, whichever is shorter. The interest rate will not exceed the interest rate charged the applicant on the RUS indebtedness.

(5) Applicants providing service through individual or cluster facilities must obtain:

(i) Easements for the installation and ingress to and egress from the facility if determined necessary by RUS; and

(ii) An adequate method for denying service in the event of nonpayment of user fees.

§ 1780.10 Limitations.

(a) Loan and grant funds may not be used to finance:

(1) Facilities which are not modest in size, design, and cost;

(2) Loan or grant finder's fees;

(3) The construction of any new combined storm and sanitary sewer facilities;

(4) Any portion of the cost of a facility which does not serve a rural area;

(5) That portion of project costs normally provided by a business or industrial user, such as wastewater pretreatment, etc.;

(6) Rental for the use of equipment or machinery owned by the applicant;

(7) For other purposes not directly related to operating and maintenance of the facility being installed or improved; and

(8) A judgment which would disqualify an applicant for a loan or grant as provided for in § 1780.7(g).

(b) Grant funds may not be used to:

(1) Reduce EDU costs to a level less than similar system cost;

(2) Pay any costs of a project when the median household income of the service area is and more than 100 percent of the nonmetropolitan median household income of the State;

(3) Pay project costs when other loan funding for the project is not at reasonable rates and terms; and

(4) Pay project costs when other funding is a guaranteed loan obtained in accordance with subpart I of part 1980 of this title.

(c) Grants may not be made in excess of the following percentages of the RUS eligible project development costs. Facilities previously installed will not be considered in determining the development costs.

(1) 75 percent when the median household income of the service area is below the higher of the poverty line or 80% of the state nonmetropolitan median income and the project is

necessary to alleviate a health or sanitary problem.

(2) 45 percent when the median household income of the service area exceeds the 80 percent requirements described in paragraph (c)(1) of this section but is not more than 100 percent of the statewide nonmetropolitan median household income.

(3) Applicants are advised that the percentages contained in paragraphs (c)(1) and (c)(2) of this section are maximum amounts and may be further limited due to availability of funds or the grant determination procedures contained in § 1780.35 (b).

§ 1780.11 Service area requirements.

(a) All facilities financed under the provisions of this part shall be for public use. The facilities will be installed so as to serve any potential user within the service area who desires service and can be feasibly and legally served. This does not preclude:

(1) Financing or constructing projects in phases when it is not practical to finance or construct the entire project at one time; and

(2) Financing or constructing facilities where it is not economically feasible to serve the entire area, provided economic feasibility is determined on the basis of the entire system and not by considering the cost of separate extensions to or parts thereof; the applicant publicly announces a plan for extending service to areas not initially receiving service from the system; and potential users located in the areas not to be initially served receive written notice from the applicant that service will not be provided until such time as it is economically feasible to do so.

(b) Should the Agency determine that inequities exist within the applicants service area for the same type service proposed (i.e., water or waste disposal) such inequities will be remedied by the applicant prior to loan or grant approval or included as part of the project. Inequities are defined as unjustified variations in availability, adequacy or quality of service. User rate schedules for portions of existing systems that were developed under different financing, rates, terms or conditions do not necessarily constitute inequities.

(c) Developers are normally expected to provide utility-type facilities in new or developing areas in compliance with appropriate State statutes. RUS financing will be considered to an eligible applicant only in such cases when failure to complete development would result in an adverse economic condition for the rural area (not the community being developed); the proposal is necessary to the success of a current area development plan; and loan repayment can be assured by:

(1) The applicant already having sufficient assured revenues to repay the loan; or

(2) Developers providing a bond or escrowed security deposit as a guarantee sufficient to meet expenses attributable to the area in question until a sufficient number of the building sites are occupied and connected to the facility to provide enough revenues to meet operating, maintenance, debt service, and reserve requirements. Such guarantees from developers will meet the requirements in § 1780.39(c)(4)(ii); or

(3) Developers paying cash for the increased capital cost and any increased operating expenses until the developing area will support the increased costs; or

(4) The full faith and credit of a public body where the debt is evidenced by general obligation bonds; or

(5) The loan is to a public body evidenced by a pledge of tax revenue or assessments; or

(6) The user charges can become a lien upon the property being served and income from such lien can be collected in sufficient time to be used for its intended purposes.

§ 1780.12 [Reserved]

§ 1780.13 Rates and terms.

(a) *General.* (1) Each loan will bear interest at the rate prescribed in RD Instruction 440.1, exhibit B. The interest rates will be set by the Agency for each quarter of the fiscal year. All rates will be adjusted to the nearest one-eighth of one per centum. The rate will be the lower of the rate in effect at the time of loan approval or the rate in effect at the time of loan closing unless the applicant otherwise chooses.

(2) If the interest rate is to be that in effect at loan closing on a loan involving multiple advances of RUS funds using temporary debt instruments, the interest rate charged shall be that in effect on the date when the first temporary debt instrument is issued.

(b) *Poverty rate.* The poverty interest rate will not exceed 5 per centum per annum. All poverty rate loans must comply with the following conditions:

(1) The primary purpose of the loan is to upgrade existing facilities or construct new facilities required to meet applicable health or sanitary standards; and

(2) The median household income of the service area is below the higher of the poverty line, or 80 percent of the Statewide nonmetropolitan median household income.

(c) *Intermediate rate.* The intermediate interest rate will be set at the poverty rate plus one-half of the difference between the poverty rate and the market rate, not to exceed 7 percent per annum. It will apply to loans that do not meet the requirements for the poverty rate and for which the median household income of the service area is not more than 100 percent of the nonmetropolitan median household income of the State.

(d) *Market rate.* The market interest rate will be set using as guidance the average of the Bond Buyer (11–GO Bond) Index for the four weeks prior to the first Friday of the last month before the beginning of the quarter. The market rate will apply to all loans that do not qualify for a different rate under paragraph (b) or (c) of this section.

(e) *Repayment terms.* The loan repayment period shall not exceed the useful life of the facility, State statute or 40 years from the date of the note or bond, whichever is less. Where RUS grant funds are used in connection with an RUS loan, the loan will be for the maximum term permitted by this part, State statute, or the useful life of the facility, whichever is less, unless there is an exceptional case where circumstances justify making an RUS loan for less than the maximum term permitted. In such cases, the reasons must be fully documented.

(1) Principal payments may be deferred in whole or in part for a period not to exceed 36 months following the date the first interest installment is due. If for any reason it appears necessary to permit a longer period of deferment, the Agency may authorize such deferment. Deferments of principal will not be used to:

(i) Postpone the levying of taxes or assessments;

(ii) Delay collection of the full rates which the borrower has agreed to charge users for its services as soon as those services become available;

(iii) Create reserves for normal operation and maintenance;

(iv) Make any capital improvements except those approved by the Agency which are determined to be essential to the repayment of the loan or to maintain adequate security; and

(v) Make payment on other debt.

(2) Payment date. Loan payments will be scheduled to coincide with income availability and be in accordance with State law. If State law only permits principal plus interest (P&I) type bonds, annual or semiannual payments will be used. Insofar as practical monthly payments will be scheduled one full month following the date of loan closing; or semiannual or annual payments will be scheduled six or twelve full months, respectively,

following the date of loan closing or any deferment period. Due dates falling on the 29th, 30th or 31st day of the month will be avoided.

(3) In all cases, including those in which RUS is jointly financing with another lender, the RUS payments of principal and interest should approximate amortized installments.

§ 1780.14 Security.

Loans will be secured by the best security position practicable in a manner which will adequately protect the interest of RUS during the repayment period of the loan. Specific security requirements for each loan will be included in a letter of conditions.

(a) *Public bodies.* Loans to such borrowers, including Federally recognized Indian tribes as appropriate, will be evidenced by notes, bonds, warrants, or other contractual obligations as may be authorized by relevant laws and by borrower's documents, resolutions, and ordinances. Security, in the following order of preference, will consist of:

(1) The full faith and credit of the borrower when the debt is evidenced by general obligation bonds; and/or

(2) Pledges of taxes or assessments; and/or

(3) Pledges of facility revenue and, when it is the customary financial practice in the State, liens will be taken on the interest of the applicant in all land, easements, rights-of-way, water rights, water purchase contracts, water sales contracts, sewage treatment contracts, and similar property rights, including leasehold interests, used or to be used in connection with the facility whether owned at the time the loan is approved or acquired with loan funds.

(b) *Other-than-public bodies.* Loans to other-than-public body applicants and Federally recognized Indian tribes, as appropriate, will be secured in the following order of preference:

(1) Assignments of borrower income will be taken and perfected by filing, if legally permissible; and

(2) A lien will be taken on the interest of the applicant in all land, easements, rights-of-way, water rights, water purchase contracts, water sales contracts, sewage treatment contracts and similar property rights, including leasehold interest, used, or to be used in connection with the facility whether owned at the time the loan is approved or acquired with loan funds. In unusual circumstances where it is not legally permissible or feasible to obtain a lien on such land (such as land rights obtained from Federal or local government agencies, and from railroads) and the approval official determines that the interest of RUS is otherwise adequately secured, the lien requirement may be omitted as to such land rights. For existing borrowers where the Agency already has a security position on real property, the approval official may determine that the interest of the Government is adequately secured and not require additional liens on such land rights. When the subsequent loan is approved or the acquisition of real property is subject to an outstanding lien indebtedness, the next highest priority lien obtainable will be taken if the approval official determines that the loan is adequately secured.

(c) *Joint financing security.* For projects utilizing joint financing, when adequate security of more than one type is available, the other lender may take one type of security with RUS taking another type. For projects utilizing joint financing with the same security to be shared by RUS and another lender, RUS will obtain at least a parity position with the other lender. A parity position is to ensure that with joint security, in the event of default, each lender will be affected on a proportionate basis. A parity position will conform with the following unless an exception is granted by the approval official:

(1) It is not necessary for loans to have the same repayment terms. Loans made by other lenders involved in joint financing with RUS should be scheduled for repayment on terms similar to those customarily used in the State for financing such facilities.

(2) The use of a trustee or other similar paying agent by the other lender in a joint financing arrangement is acceptable to RUS. A trustee or other similar paying agent will not normally be used for the RUS portion of the funding unless required to comply with State law. The responsibilities and authorities of any trustee or other similar paying agent on projects that include RUS funds must be clearly specified by written agreement and approved by the State program official and the Office of the General Counsel (OGC). RUS must be able to deal directly with the borrower to enforce the provisions of loan and grant agreements and perform necessary servicing actions.

(3) In the event adequate funds are not available to meet regular installments on parity loans, the funds available will be apportioned to the lenders based on the respective current installments of principal and interest due.

(4) Funds obtained from the sale or liquidation of secured property or fixed assets will be apportioned to the lenders on the basis of the pro rata amount outstanding; provided, however, funds obtained from such sale or liquidation for a project that included RUS grant funds will be apportioned as required by the grant agreement.

(5) Protective advances must be charged to the borrower's account and be secured by a lien on the security property. To the extent consistent with State law and customary lending practices in the area, repayment of protective advances made by either lender, for the mutual protection of both lenders, should receive first priority in apportionment of funds between the lenders. To ensure agreement between lenders, efforts should be made to obtain the concurrence of both lenders before one lender makes a protective advance.

§ 1780.15 Other Federal, State, and local requirements.

Proposals for facilities financed in whole or in part with RUS funds will be coordinated with appropriate Federal, State and local agencies. If there are conflicts between this part and State or local laws or regulatory commission regulations, the provisions of this part will control. Applicants will be required to comply with Federal, State, and local laws and any regulatory commission rules and regulations pertaining to:

(a) Organization of the applicant and its authority to own, construct, operate, and maintain the proposed facilities;

(b) Borrowing money, giving security therefore, and raising revenues for the repayment thereof;

(c) Land use zoning; and

(d) Health and sanitation standards and design and installation standards unless an exception is granted by RUS.

§ 1780.16 [Reserved]

§ 1780.17 Selection priorities and process.

When ranking eligible applications for consideration for limited funds, Agency officials must consider the priority items met by each application and the degree to which those priorities are met. Points will be awarded as follows:

(a) Population priorities. (1) The proposed project will primarily serve a rural area having a population not in excess of 1,000—25 points;

(2) The proposed project primarily serves a rural area having a population between 1,001 and 2,500—15 points;

(3) The proposed project primarily serves a rural area having a population between 2,501 and 5,500—5 points.

(b) Health priorities. The proposed project is:

(1) Needed to alleviate an emergency situation, correct unanticipated diminution or deterioration of a water supply, or to meet Safe Drinking Water

Act requirements which pertain to a water system—25 points;

(2) Required to correct inadequacies of a wastewater disposal system, or to meet health standards which pertain to a wastewater disposal system—25 points;

(3) Required to meet administrative orders issued to correct local, State, or Federal solid waste violations—15 points.

(c) Median household income priorities. The median household income of the population to be served by the proposed project is:

(1) Less than the poverty line if the poverty line is less than 80% of the statewide nonmetropolitan median household income—30 points;

(2) Less than 80 percent of the statewide nonmetropolitan median household income—20 points;

(3) Equal to or more than the poverty line and between 80% and 100%, inclusive, of the State's nonmetropolitan median household income—15 points.

(d) Other priorities. (1) The proposed project will: merge ownership, management, and operation of smaller facilities providing for more efficient management and economical service—15 points;

(2) The proposed project will enlarge, extend, or otherwise modify existing facilities to provide service to additional rural areas—10 points;

(3) Applicant is a public body or Indian tribe—5 points;

(4) Amount of other than RUS funds committed to the project is:

(i) 50% or more—15 points;

(ii) 20% to 49%—10 points;

(iii) 5%—19%—5 points;

(5) Projects that will serve Agency identified target areas—10 points;

(6) Projects that primarily recycle solid waste products thereby limiting the need for solid waste disposal—5 points;

(7) The proposed project will serve an area that has an unreliable quality or supply of drinking water—10 points.

(e) In certain cases the State program official may assign up to 15 points to a project. The points may be awarded to projects in order to improve compatibility and coordination between RUS's and other agencies' selection systems, to ensure effective RUS fund utilization, and to assist those projects that are the most cost effective. A written justification must be prepared and placed in the project file each time these points are assigned.

(f) Cost overruns. An application may receive consideration for funding before others at the State or National Office level when it is a subsequent request for a previously approved project which has encountered construction cost overruns. The cost overruns must be due to high bids or unexpected construction problems that cannot be reduced by negotiations, redesign, use of bid alternatives, rebidding or other means. Cost overruns exceeding 20% of the development cost at time of loan or grant approval or where the scope of the original purpose has changed will not be considered under this paragraph.

(g) National office priorities. In selecting projects for funding at the National Office level State program official points may or may not be considered. The Administrator may assign up to 15 additional points to account for items such as geographic distribution of funds, the highest priority projects within a state, and emergency conditions caused by economic problems or natural disasters. The Administrator may delegate the authority to assign the 15 points to appropriate National Office staff.

§ 1780.18 Allocation of program funds.

(a) *General.* (1) The purpose of this part is to set forth the methodology and formulas by which the Administrator of the RUS allocates program funds to the States. (The term ''State'' means any of the States of the United States, the Commonwealth of Puerto Rico, any territory or possession of the United States, or the Western Pacific Areas.)

(2) The formulas in this part are used to allocate program loan and grant funds to Rural Development State offices so that the overall mission of the Agency can be carried out. Considerations used when developing the formulas include enabling legislation, congressional direction, and administration policies. Allocation formulas ensure that program resources are available on an equal basis to all eligible individuals and organizations.

(3) The actual amounts of funds, as computed by the methodology and formulas contained herein, allocated to a State for a funding period, are distributed to each State office. The allocated amounts are available for review in any Rural Development State office.

(b) *Definitions.*—(1) *Amount available for allocations.* Funds appropriated or otherwise made available to the Agency for use in authorized programs. On occasion, the allocation of funds to States may not be practical for a particular program due to funding or administrative constraints. In these cases, funds will be controlled by the National Office.

(2) *Basic formula criteria, data source and weight.* Basic formulas are used to calculate a basic State factor as a part of the methodology for allocating funds to the States. The formulas take a number of criteria that reflect the funding needs for a particular program and through a normalization and weighting process for each of the criteria calculate the basic State factor (SF). The data sources used for each criteria are believed to be the most current and reliable information that adequately quantifies the criterion. The weight, expressed as a percentage, gives a relative value to the importance of each of the criteria.

(3) *Basic formula allocation.* The result of multiplying the amount available for allocation less the total of any amounts held in reserve or distributed by base or administrative allocation times the basic State factor for each State. The basic formula allocation (BFA) for an individual State is equal to:

BFA=(Amount available for allocation − NO reserve − total base and administrative allocations) × SF.

(4) *Transition formula.* (i) A formula based on a proportional amount of previous year allocation used to maintain program continuity by preventing large fluctuations in individual State allocations. The transition formula limits allocation shifts to any particular State in the event of changes from year to year of the basic formula, the basic criteria, or the weights given the criteria. The transition formula first checks whether the current year's basic formula allocation is within the transition range (plus or minus 20 percentage points of the proportional amount of the previous year's BFA). The formula follows:

$$\text{Transition Range} = 1.0 + \frac{\text{maximum } 20\%}{100} \times \frac{(\text{Amount available for allocation this year} \times \text{State previous year BFA})}{(\text{Amount available for allocation previous year})}$$

(ii) If the current year's State BFA is not within the transition range in paragraph (b)(4)(i) of this section, the State formula allocation is changed to the amount of the transition range limit closest to the BFA amount. After having

performed this transition adjustment for each State, the sum of the funds allocated to all States will differ from the amount of funds available for BFA. This difference, whether a positive or negative amount, is distributed to all States receiving a formula allocation by multiplying the difference by the SF. The end result is the transition formula allocation. The transition range will not exceed 40% (plus or minus 20%), but when a smaller range is used it will be stated in the individual program section.

(5) *Base allocation*. An amount that may be allocated to each State dependent upon the particular program to provide the opportunity for funding at least one typical loan or grant in each Rural Development State office. The amount of the base allocation may be determined by criteria other than that used in the basic formula allocation such as Agency historic data.

(6) *Administrative allocations*. Allocations made by the Administrator in cases where basic formula criteria information is not available. This form of allocation may be used when the Administrator determines the program objectives cannot be adequately met with a formula allocation.

(7) *Reserve*. An amount retained under the National Office control for each loan and grant program to provide flexibility in meeting situations of unexpected or justifiable need occurring during the fiscal year. The Administrator may make distributions from this reserve to any State when it is determined necessary to meet a program need or Agency objective. The Administrator may retain additional amounts to fund authorized demonstration programs.

(8) *Pooling of funds*. A technique used to ensure that available funds are used in an effective, timely and efficient manner. At the time of pooling those funds within a State's allocation for the fiscal year or portion of the fiscal year, depending on the type of pooling, that have not been obligated by the State are placed in the National Office reserve. The Administrator will establish the pooling dates for each affected program.

(i) Mid-year: Mid-year pooling occurs near the midpoint of the fiscal year.

(ii) Year-end: Year-end pooling usually occurs near the first of August.

(iii) Emergency: The Administrator may pool funds at any time that it is determined the conditions upon the initial allocation was based have changed to such a degree that it is necessary to pool funds in order to efficiently carry out the Agency mission.

(9) *Availability of the allocation*. Program funds are made available to the Agency on a quarterly basis.

(10) *Suballocation by the Rural Development State Director*. The State Director may be directed or given the option of suballocating the State allocation to processing offices. When suballocating the State Director may retain a portion of the funds in a State office reserve to provide flexibility in situations of unexpected or justified need. When performing a suballocation the State Director will use the same formula, criteria and weights as used by the National Office.

(c) *Water and Waste Disposal loans and grants*.—(1) *Amount available for allocations*. See paragraph (b)(1) of this section.

(2) *Basic formula criteria, data source and weight*. See paragraph (b)(2) of this section.

(i) The criteria used in the basic formula are:

(A) State's percentage of national rural population will be 50 percent.

(B) State's percentage of national rural population with incomes below the poverty level will be 25 percent.

(C) State's percentage of national nonmetropolitan unemployment will be 25 percent.

(ii) Data source for each of these criterion is based on the latest census data available. Each criterion is assigned a specific weight according to its relevance in determining need. The percentage representing each criterion is multiplied by the weight factor and summed to arrive at a State factor (SF). The SF cannot exceed .05, as follows:

SF = (criterion in paragraph (b)(1)(i) of this section × 50 percent) + (criterion in paragraph(b)(1)(ii) of this section × 25 percent) + (criterion in paragraph(b)(1)(iii) of this section × 25 percent)

(3) *Basic formula allocation*. See paragraph (b)(3) of this section. States receiving administrative allocations do not receive formula allocations.

(4) *Transition formula*. See paragraph (b)(4) of this section. The percentage range for the transition formula equals 30 percent (plus or minus 15%).

(5) *Base allocation*. See paragraph (b)(5) of this section. States receiving administrative allocations do not receive base allocations.

(6) *Administrative allocation*. See paragraph (b)(6) of this section. States participating in the formula and base allocation procedures do not receive administrative allocations.

(7) *Reserve*. See paragraph (b)(7) of this section. Any State may request reserve funds by forwarding a request to the National Office. Generally, a request for additional funds will not be honored unless the State has insufficient funds to obligate the loan requested.

(8) *Pooling of funds*. See paragraph (b)(8) of this section. Funds are generally pooled at mid-year and year-end. Pooled funds will be placed in the National Office reserve and will be made available administratively.

(9) *Availability of the allocation*. See paragraph (b)(9) of this section. The allocation of funds is made available for States to obligate on an annual basis although the Office of Management and Budget apportions it to the Agency on a quarterly basis.

(10) *Suballocation by the State Director*. See paragraph (b)(10) of this section. The State Director has the option to suballocate funds to processing offices.

§ 1780.19 Public information.

(a) Public notice of intent to file an application with the Agency. Within 60 days of filing an application with the Agency the applicant must publish a notice of intent to apply for a RUS loan or grant. The notice of intent must be published in a newspaper of general circulation in the proposed area to be served.

(b) General public meeting. Applicants should inform the general public regarding the development of any proposed project. Any applicant not required to obtain authorization by vote of its membership or by public referendum, to incur the obligations of the proposed loan or grant, must hold at least one public information meeting. The public meeting must be held not later than loan or grant approval. The meeting must give the citizenry an opportunity to become acquainted with the proposed project and to comment on such items as economic and environmental impacts, service area, alternatives to the project, or any other issue identified by Agency. To the extent possible, this meeting should cover items necessary to satisfy all public information meeting requirements for the proposed project. To minimize duplication of public notices and public involvement, the applicant shall, where possible, coordinate and integrate the public involvement activities of the environmental review process into this requirement. The applicant will be required, at least 10 days prior to the meeting, to publish a notice of the meeting in a newspaper of general circulation in the service area, to post a public notice at the applicant's principal office, and to notify the Agency. The applicant will provide the

Agency a copy of the published notice and minutes of the public meeting. A public meeting is not normally required for subsequent loans or grants which are needed to complete the financing of a project.

§§ 1780.20–1780.23 [Reserved]

§ 1780.24 Approval authorities.

Appropriate reviews, concurrence, and authorization must be obtained for all loans or grants in excess of the amounts indicated in RUS Staff Instruction 1780–1.

(a) *Redelegation of authority by State Directors.* Unless restricted by memorandum from the RUS Administrator, State Directors can redelegate their approval authorities to State employees by memorandum.

(b) *Restriction of approval authority by the RUS Administrator.* The RUS Administrator can make written restrictions or revocations of the authority given to any approval official.

§ 1780.25 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this part which is not inconsistent with the authorizing statute or other applicable law and is determined to be in the Government's interest.

§§ 1780.26–1780.30 [Reserved]

Subpart B—Loan and Grant Application Processing

§ 1780.31 General.

(a) Applicants are encouraged to contact the Agency processing office early in the planning stages of their project. Agency personnel are available to provide general advice and assistance regarding RUS programs, other funding sources, and types of systems or improvements appropriate for the applicants needs. The Agency can also provide access to technical assistance and other information resources for other project development issues such as public information, income surveys, developing rate schedules, system operation and maintenance, and environmental compliance requirements. Throughout the planning, application processing and construction of the project, Agency personnel will work closely and cooperatively with the applicant and their representatives, other State and Federal agencies and technical assistance providers.

(b) The processing office will handle initial inquiries and provide basic information about the program. They are to provide the application, SF 424.2, ''Application for Federal Assistance (For Construction),'' assist applicants as needed in completing SF 424.2, and in filing a request for intergovernmental review. Federally recognized Indian tribes are exempt from intergovernmental review. The processing office will explain eligibility requirements and meet with the applicant whenever necessary to discuss application processing.

(c) Applicants can make a written request for an eligibility determination in lieu of filing an SF 424.2 along with the information required by § 1780.33. Applicants seeking only an eligibility determination, should contact the processing office to obtain a list of the items needed to make this determination. An eligibility determination for loan or grant assistance will not give an applicant priority for funding as set forth in § 1780.17.

(d) Applications that are not developed in a reasonable period of time taking into account the size and complexity of the proposed project may be removed from the State's active file. Applicants will be consulted prior to taking such action.

(e) Starting with the earliest discussions with prospective applicants or review of applications and continuing throughout application processing, environmental issues must be considered. Throughout the application process the State Environmental Coordinator will discuss with the applicant and their engineer, environmental review requirements for evaluating a project's potential for environment impacts. This should provide flexibility to consider alternatives to the project and develop methods to mitigate identified adverse environmental impacts. The environmental review requirements shall be performed simultaneously and concurrently with the project's engineering design and mitigation measures integrated into the design to minimize any adverse environmental impacts.

§ 1780.32 Timeframes for application processing.

(a) The processing office will determine if the application is properly assembled. If not, the applicant will be notified within fifteen federal working days as to what additional submittal items are needed.

(b) The processing and approval offices will coordinate their reviews to ensure that the applicant is advised about eligibility and anticipated fund availability within 45 days of the receipt of a completed application.

§ 1780.33 Application requirements.

An initial application consists of the following:

(a) One copy of a completed SF 424.2;

(b) A copy of the State intergovernmental comments or one copy of the filed application for State intergovernmental review; and

(c) Two copies of the preliminary engineering report (PER) for the project.

(1) The PER may be submitted to the processing office prior to the rest of the application material if the applicant desires a preliminary review.

(2) The processing office will forward one copy of the PER with comments and recommendations to the State staff engineer for review upon receipt from the applicant.

(3) The State staff will consult with the applicant's engineer as appropriate to resolve any questions concerning the PER and any environmental concerns. Written comments will be provided by the State staff engineer and State Environmental Coordinator to the processing office to meet eligibility determination time lines.

(d) Written certification that other credit is not available.

(e) Supporting documentation necessary to make an eligibility determination such as financial statements, audits, organizational documents, or existing debt instruments. The processing office will advise applicants regarding the required documents. Applicants that are indebted to RUS will not need to submit documents already on file with the processing office.

(f) Form RD 1940–20, ''Request for Environmental Information'' or comparable information. The applicant should consult with the processing office to determine what information should be included with this form.

(g) The applicants Internal Revenue Service Taxpayer Identification Number (TIN). The TIN will be used by the Agency to assign a case number which will be the applicant's or transferee's TIN preceded by State and County Code numbers. Only one case number will be assigned to each applicant regardless of the number of loans or grants or number of separate facilities, unless an exception is authorized by the National Office.

(h) Other Forms and certifications. Applicants will be required to submit the following items to the processing office, upon notification from the processing office to proceed with further development of the full application:

(1) Form RD 442–7, ''Operating Budget'';

(2) Form RD 1910–11, ''Application Certification, Federal Collection Policies for Consumer or Commercial Debts'';

(3) Form RD 400–1, ''Equal Opportunity Agreement'';

(4) Form RD 400–4, ''Assurance Agreement'';

(5) Form AD–1047, ''Certification Regarding Debarment, Suspension and other Responsibility Matters'';

(6) Form AD–1049, Certification regarding Drug-Free Workplace Requirements (Grants) Alternative I For Grantees Other Than Individuals;

(7) Certifications for Contracts, Grants, and Loans (Regarding Lobbying); and

(8) Certification regarding prohibited tying arrangements. Applicants that provide electric service must provide the Agency a certification that they will not require users of a water or waste facility financed under this part to accept electric service as a condition of receiving assistance.

§ 1780.34 [Reserved]

§ 1780.35 Processing office review.

Review of the application will usually include the following:

(a) *Nondiscrimination.* Boundaries for the proposed service area must not be chosen in such a way that any user or area will be excluded because of race, color, religion, sex, marital status, age, handicap, or national origin. This does not preclude construction of the project in phases as noted in § 1780.11 as long as it is not done in a discriminatory manner.

(b) *Grant determination.* Grants will be determined by the processing office in accordance with the following provisions and will not result in EDU costs below similar system user cost.

(1) *Maximum grant.* Grants may not exceed the percentages in § 1780.10(c) of the eligible RUS project development costs listed in § 1780.9.

(2) *Debt service.* Applicants will be considered for grant assistance when the debt service portion of the average annual EDU cost, for users in the applicant's service area, exceeds the following percentages of median household income:

(i) 0.5 percent when the median household income of the service area is equal to or below 80% of the statewide nonmetropolitan median income.

(ii) 1.0 percent when the median household income of the service area exceeds the 0.5 percent requirement but is not more than 100 percent the statewide nonmetropolitan household income.

(3) *Similar system cost.* If the grant determined in paragraph (b)(2) of this section results in an annual EDU cost that is not comparable with similar systems, the Agency will determine a grant amount based on achieving EDU costs that are not below similar system user costs.

(4) *Wholesale service.* When an applicant provides wholesale sales or services on a contract basis to another system or entity, similar wholesale system cost will be used in determining the amount of grant needed to achieve a reasonable wholesale user cost.

(5) *Subsidized cost.* When annual cost to the applicant for delivery of service is subsidized by either the state, commonwealth, or territory, and uniform flat user charges regardless of usage are imposed for similar classes of service throughout the service area, the Agency may proceed with a grant in an amount necessary to reduce such delivery cost to a reasonable level.

(c) *User charges.* The user charges should be reasonable and produce enough revenue to provide for all costs of the facility after the project is complete. The planned revenue should be sufficient to provide for all debt service, debt reserve, operation and maintenance and, if appropriate, additional revenue for facility replacement of short lived assets without building a substantial surplus. Ordinarily, the total debt reserve will be equal to one average annual loan installment which will accumulate at the rate of one-tenth of the total each year.

§ 1780.36 Approving official review.

Projects may be obligated as their applications are completed and approved.

(a) *Selection of applications for further processing.* The application and supporting information submitted will be used to determine the applications selected for further development and funding. After completing the review, the approval official will normally select those eligible applications with the highest priority scores for further processing. When authorizing the development of an application for funding, the following will be considered:

(1) Funds available in State allocation;

(2) Anticipated allocation of funds for the next fiscal year; and

(3) Time necessary for applicant to complete the application.

(b) *Lower scoring projects.* (1) In cases where preliminary cost estimates indicate that an eligible, high scoring application is unfeasible or would require an amount of funding from RUS that exceeds either 25 percent of a State's current annual allocation or an amount greater than that remaining in the State's allocation, the approval official may instead select the next lower scoring application for further processing provided the high scoring applicant is notified of this action and given an opportunity to revise the proposal and resubmit it.

(2) If it is found that there is no effective way to reduce costs or no other funding sources, the approval official, after consultation with applicant, may submit a request for an additional allocation of funds for the proposed project to the National Office. The request should be submitted during the fiscal year in which obligation is anticipated. Such request will be considered along with all others on hand. A written justification must be prepared and placed in the project file.

§ 1780.37 Applications determined ineligible.

If at any time an application is determined ineligible, the processing office will notify the applicant in writing of the reasons. The notification to the applicant will state that an appeal of this decision may be made by the applicant under 7 CFR part 11.

§ 1780.38 [Reserved]

§ 1780.39 Application processing.

(a) *Processing conference.* Before starting to assemble the full application, the applicant should arrange through the processing office an application conference to provide a basis for orderly application assembly. The processing office will explain program requirements, public information requirements and provide guidance on preparation of items necessary for approval.

(b) *Professional services and contracts related to the facility.* Fees provided for in contracts or agreements shall be reasonable. The Agency shall consider fees to be reasonable if they are not in excess of those ordinarily charged by the profession as a whole for similar work when RUS financing is not involved. Applicants will be responsible for providing the services necessary to plan projects including design of facilities, preparation of cost and income estimates, development of proposals for organization and financing, and overall operation and maintenance of the facility. Applicants should negotiate for procurement of professional services, whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiations of fair and reasonable compensation. Contracts or other forms of agreement between the applicant and its professional and

technical representatives are required and are subject to RUS concurrence.

(1) *Engineering and architectural services.* (i) Applicants shall publicly announce all requirements for engineering and architectural services, and negotiate contracts for engineering and architectural services on the basis of demonstrated competence and qualifications for the type of professional services required and at a fair and reasonable price.

(ii) When project design services are procured separately, the selection of the engineer or architect shall be done by requesting qualification-based proposals and in accordance with this section.

(iii) Applicants may procure engineering and architectural services in accordance with applicable State statutes or local requirements provided the State Director determines that such procurement meets the intent of this section.

(2) *Other professional services.* Professional services of the following may be necessary: Attorney, bond counsel, accountant, auditor, appraiser, environmental professionals, and financial advisory or fiscal agent (if desired by applicant). Guidance on entering into an agreement for legal services is available from the Agency.

(3) *Bond counsel.* Unless otherwise provided by subpart D of this part, public bodies are required to obtain the service of recognized bond counsel in the preparation of evidence of indebtedness.

(4) *Contracts for other services.* Contracts or other forms of agreements for other services including management, operation, and maintenance will be developed by the applicant and presented to the Agency for review and concurrence. Guidance on entering into a management agreement is available from the Agency.

(c) *User estimates.* Applicants dependent on users fees for debt payment or operation and maintenance expenses shall base their income and expense forecast on realistic user estimates. For users presently not receiving service, consideration must be given to the following:

(1) An estimated number of maximum users should not be used when setting user fees and rates since it may be several years before all residents will need service by the system. In establishing rates a realistic number of users should be employed.

(2) New user cash contributions. The amount of cash contributions required will be set by the applicant and concurred in by the approval official. Contributions should be an amount high enough to indicate sincere interest on the part of the potential user, but not so high as to preclude service to low income families. Contributions ordinarily should be an amount approximating one year's minimum user fee, and shall be paid in full before loan closing or commencement of construction, whichever occurs first. Once economic feasibility is ascertained based on a demonstration of potential user cash contributions, the contribution, membership fee or other fees that may be imposed are not a loan requirement under this section. A new user cash contribution is not required when:

(i) The Agency determines that the potential users as a whole in the applicant's service area cannot make cash contributions; or

(ii) State statutes or local ordinances require mandatory use of the system and the applicant or legal entity having such authority agrees in writing to enforce such statutes, or ordinances.

(3) An enforceable user agreement with a penalty clause is required (RUS Bulletin 1780–9 can be used) except:

(i) For users presently receiving service; or

(ii) Where mandatory use of the system is required.

(4) Individual vacant property owners will not be considered when determining project feasibility unless:

(i) The owner has plans to develop the property in a reasonable period of time and become a user of the facility; and

(ii) The owner agrees in writing to make a monthly payment at least equal to the proportionate share of debt service attributable to the vacant property until the property is developed and the facility is utilized on a regular basis. A bond or escrowed security deposit must be provided to guarantee this monthly payment and to guarantee an amount at least equal to the owner's proportionate share of construction costs. If a bond is provided, it must be executed by a surety company that appears on the Treasury Department's most current list (Circular 570, as amended) and be authorized to transact business in the State where the project is located. The guarantee shall be payable jointly to the borrower and the United States of America.

(5) Applicants must provide a positive program to encourage connection by all users as soon as service is available. The program will be available for review and concurrence by the processing office before loan closing or commencement of construction, whichever occurs first. Such a program shall include:

(i) An aggressive information program to be carried out during the construction period. The applicant should send written notification to all signed users in advance of the date service will be available, stating the date users will be expected to have their connections completed, and the date user charges will begin;

(ii) Positive steps to assure that installation services will be available. These may be provided by the contractor installing the system, local plumbing companies, or local contractors;

(iii) Aggressive action to see that all signed users can finance their connections.

(d) *Interim financing.* For all loans exceeding $500,000, where funds can be borrowed at reasonable interest rates on an interim basis from commercial sources for the construction period, such interim financing may be obtained so as to preclude the necessity for multiple advances of RUS loan funds. However, the approval official may make an exception when interim financing is cost prohibitive or unavailable. Guidance on informing the private lender of RUS's commitment is available from the Agency. When interim commercial financing is used, the application will be processed, including obtaining construction bids, to the stage where the RUS loan would normally be closed, that is immediately prior to the start of construction. The RUS loan should be closed as soon as possible after the disbursal of all interim funds.

(e) *Reserve requirements.* Provision for the accumulation of necessary reserves over a reasonable period of time will be included in the loan documents.

(1) *General obligation or special assessment bonds.* Ordinarily, the requirements for reserves will be considered to have been met if general obligation or other bonds which pledge the full faith and credit of the political subdivision are used, or special assessment bonds are used, and if such bonds provide for the annual collection of sufficient taxes or assessments to cover debt service.

(2) *Other than general obligation or special assessment bonds.* Each borrower will be required to establish and maintain reserves sufficient to assure that loan installments will be paid on time, for emergency maintenance, for extensions to facilities, and for replacement of short-lived assets which have a useful life significantly less than the repayment period of the loan. Borrowers issuing bonds or other evidences of debt pledging facility revenues as security will plan their reserve to provide for at least an annual reserve equal to one-tenth of an average

annual loan installment each year for the life of the loan unless prohibited by state law.

(f) *Membership authorization.* For organizations other than public bodies, the membership will authorize the project and its financing. Form RD 1942–8, ''Resolution of Members or Stockholders'' may be used for this authorization. The approval official may, with the concurrence of OGC, accept Form RD 1942–9, ''Loan Resolution (Security Agreement)'' without such membership authorization when State statutes and the organization's charter and bylaws do not require such authorization; and:

(1) The organization is well established and is operating with a sound financial base; or

(2) The members of the organization have all signed an enforceable user agreement with a penalty clause and have made the required meaningful user cash contribution.

(g) *Insurance.* The purpose of RUS's insurance requirements is to protect the government's financial interest based on the facility financed with loan funds. It is the responsibility of the applicant and not that of RUS to assure that adequate insurance and fidelity or employee dishonesty bond coverage is maintained. The requirements below apply to all types of coverage determined necessary. The approval official may grant exceptions to normal requirements when appropriate justification is provided establishing that it is in the best interest of the applicant and will not adversely affect the government's interest.

(1) Insurance requirements proposed by the applicant will be accepted if the processing office determines that proposed coverage is adequate to protect the government's financial interest. Applicants are encouraged to have their attorney, consulting engineer, and/or insurance provider(s) review proposed types and amounts of coverage, including any deductible provisions.

(2) The use of deductibles may be allowed by RUS providing the applicant has financial resources which would likely be adequate to cover potential claims requiring payment of the deductible.

(3) Fidelity or employee dishonesty bonds. Applicants will provide coverage for all persons who have access to funds, including persons working under a contract or management agreement. Coverage may be provided either for all individual positions or persons, or through ''blanket'' coverage providing protection for all appropriate employees. An exception may be granted by the approval official when funds relating to the facility financed are handled by another entity and it is determined that the entity has adequate coverage or the government's interest would otherwise be adequately protected. The amount of coverage required by RUS will normally approximate the total annual debt service requirements for the RUS loans.

(4) Property insurance. Fire and extended coverage will normally be maintained on all structures except as noted below. Ordinarily, RUS should be listed as mortgagee on the policy when RUS has a lien on the property. Normally, major items of equipment or machinery located in the insured structures must also be covered. Exceptions:

(i) Reservoirs, pipelines and other structures if such structures are not normally insured;

(ii) Subsurface lift stations except for the value of electrical and pumping equipment therein.

(5) General liability insurance, including vehicular coverage.

(6) Flood insurance required for facilities located in special flood-and mudslide-prone areas.

(7) Worker's compensation. The borrower will carry worker's compensation insurance for employees in accordance with State laws.

(h) The processing office will conduct appropriate environmental reviews in accordance with RUS requirements.

(i) The processing office will assure that appropriate forms and documents listed in RUS Bulletin 1780–6 are complete. Letters of conditions will not be issued unless funds are available.

§ 1780.40 [Reserved]

§ 1780.41 Loan or grant approval.

(a) The processing office will submit the following to the approval official:

(1) Form RD 1942–45, ''Project Summary'';

(2) Form RD 442–7, ''Operating Budget'';

(3) Form RD 442–3, ''Balance Sheet'' or a financial statement or audit that includes a balance sheet;

(4) Form RD 442–14, ''Association Project Fund Analysis'';

(5) ''Letter of Conditions'';

(6) Form RD 1942–46, ''Letter of Intent to Meet Conditions'';

(7) Form RD 1940–1, ''Request for Obligation of Funds'';

(8) Completed environmental review documents including copies of required publication evidence; and

(9) Grant determination, if applicable.

(b) Approval and applicant notification will be accomplished by mailing to the applicant on the obligation date a copy of Form RD 1940–1. The date the applicant is notified is also the date the interest rate at loan approval is established.

§ 1780.42 Transfer of obligations.

An obligation of funds established for an applicant may be transferred to a different (substituted) applicant provided:

(a) The substituted applicant is eligible and has the authority to receive the assistance approved for the original applicant; and

(b) The need, purpose(s) and scope of the project for which RUS funds will be used remain substantially unchanged.

§ 1780.43 [Reserved]

§ 1780.44 Actions prior to loan or grant closing or start of construction, whichever occurs first.

(a) Applicants must provide evidence of adequate insurance and fidelity or employee dishonesty bond coverage.

(b) Verification of users and other funds. In connection with a project that involves new users and will be secured by a pledge of user fees or revenues, the processing office will authenticate the number of users. Ordinarily each signed user agreement will be reviewed and checked for evidence of cash contributions. If during the review any indication is received that all signed users may not connect to the system, there will be such additional investigation made as deemed necessary to determine the number of users who will connect to the system.

(c) Initial compliance review. An initial compliance review should be completed under subpart E of part 1901 of this title.

(d) Applicant contribution. An applicant contributing funds toward the project cost shall deposit these funds in its project account before start of construction. Project costs paid with applicant funds prior to the required deposit time shall be appropriately accounted for.

(e) Excess RUS loan and grant funds. If there is a significant reduction in project cost, the applicant's funding needs will be reassessed. Decreases in RUS funds will be based on revised project costs and current number of users, however, other factors including RUS regulations used at the time of loan or grant approval will remain the same. Obligated loan or grant funds not needed to complete the proposed project will be deobligated. Any reduction will be applied to grant funds first. In such cases, applicable forms, the letter of conditions, and other items will be revised.

(f) Evidence of and disbursement of other funds. Applicants expecting funds from other sources for use in completing projects being partially financed with RUS funds will present evidence of the commitment of these funds from such other sources. An agreement should be reached with all funding sources on how funds are to be disbursed before the start of construction. RUS funds will not be used to pre-finance funds committed to the project from other sources.

(g) Acquisition of land, easements, water rights, and existing facilities. Applicants are responsible for acquisition of all property rights necessary for the project and will determine that prices paid are reasonable and fair. RUS may require an appraisal by an independent appraiser or Agency employee.

(1) *Rights-of-way and easements.* Applicants will obtain valid, continuous and adequate rights-of-way and easements needed for the construction, operation, and maintenance of the facility.

(i) The applicant must provide a legal opinion relative to the title to rights-of-way and easements. Form RD 442–22, ''Opinion of Counsel Relative to Rights-of-Way,'' may be used. When a site is for major structures such as a reservoir or pumping station and the applicant is able to obtain only a right-of-way or easement on such a site rather than a fee simple title, the applicant will furnish a title report thereon by the applicant's attorney showing ownership of the land and all mortgages or other lien defects, restrictions, or encumbrances, if any.

(ii) For user connections funded by RUS, applicants will obtain adequate rights to construct and maintain the connection line or other facilities located on the user's property. This right may be obtained through formal easement or user agreements.

(2) *Title for land or existing facilities.* Title to land essential to the successful operation of facilities or title to facilities being purchased, must not contain any restrictions that will adversely affect the suitability, successful operation, security value, or transferability of the facility. Preliminary and final title opinions must be provided by the applicant's attorney. The opinions must be in sufficient detail to assess marketability of the property. Form RD 1927–9, ''Preliminary Title Opinion,'' and Form RD 1927–10, ''Final Title Opinion,'' may be used to provide the required title opinions.

(i) In lieu of receiving title opinions from the applicant's attorney, the applicant may use a title insurance company. If a title insurance company is used, the applicant must provide the Agency a title insurance binder, disclosing all title defects or restrictions, and include a commitment to issue a title insurance policy. The policy should be in an amount at least equal to the market value of the property as improved. The title insurance binder and commitment should be provided to the Agency prior to requesting closing instructions. The Agency will be provided a title insurance policy which will insure RUS's interest in the property without any title defects or restrictions which have not been waived by the Agency.

(ii) The approval official may waive title defects or restrictions, such as utility easements, that do not adversely affect the suitability, successful operation, security value, or transferability of the facility.

(3) *Water rights.* The following will be furnished as applicable:

(i) A statement by the applicant's attorney regarding the nature of the water rights owned or to be acquired by the applicant (such as conveyance of title, appropriation and decree, application and permit, public notice and appropriation and use).

(ii) A copy of a contract with another company or municipality to supply water; or stock certificates in another company which represents the right to receive water.

(4) *Lease agreements.* Where the right of use or control of real property not owned by the applicant is essential to the successful operation of the facility during the life of the loan, such right will be evidenced by written agreements or contracts between the owner of the property and the applicant. Lease agreements shall not contain provisions for restricted use of the site of facility, forfeiture or summary cancellation clauses. Lease agreements shall provide for the right to transfer, encumber, assign and sub-lease without restriction. Lease agreements will ordinarily be written for a term at least equal to the term of the loan. Such lease contracts or agreements will be approved by the approval official with the advice and counsel of OGC, as necessary.

(h) Obtaining loan closing instructions. The information required by OGC will be transmitted to OGC with request for closing instructions. Upon receipt of closing instructions, the processing office will discuss with the applicant and its engineer, attorney, and other appropriate representatives, the requirements contained therein and any actions necessary to proceed with closing. State program officials have the option to work with OGC to obtain waivers for closing instructions in certain cases. Closing instructions are not required for grants.

§ 1780.45 Loan and grant closing and delivery of funds.

(a) *Loan closing.* Notes and bonds will be completed on the date of loan closing except for the entry of subsequent RUS multiple advances where applicable. The amount of each note will be in multiples of not less than $100. The amount of each bond will ordinarily be in multiples of not less than $1,000.

(1) Form RD 440–22, ''Promissory Note (Association or Organization),'' will ordinarily be used for loans to nonpublic bodies.

(2) Forms RD 1942–47, ''Loan Resolution (Public Bodies),'' or RD 1942–9, ''Loan Resolution (Security Agreement)'' will be adopted by public and other-than-public bodies. These resolutions supplement other provisions in this part.

(3) Subpart D of this part contains instructions for preparation of notes and bonds evidencing indebtedness of public bodies.

(b) *Loan disbursement.* (1) Multiple advances. Multiple advances will be used only for loans in excess of $100,000. Advances will be made only as needed to cover disbursements required by the borrower over a 30-day period.

(i) Subpart D of this part contains instructions for making multiple advances to public bodies.

(ii) Advances will be requested by the borrower in writing. The request should be in sufficient amounts to pay cost of construction, rights-of-way and land, legal, engineering, interest, and other expenses as needed. The borrower may use Form RD 440–11, ''Estimate of Funds Needed for 30 Day Period Commencing XXX,'' to show the amount of funds needed during the 30-day period.

(2) RUS loan funds obligated for a specific purpose, such as the paying of interest, but not needed at the time of loan closing will remain in the Finance Office until needed unless State statutes require all funds to be delivered to the borrower at the time of closing. Loan funds may be advanced to prepay costs under § 1780.9 (e)(2)(iv). If all funds must be delivered to the borrower at the time of closing to comply with State statutes, funds not needed at loan closing will be handled as follows:

(i) Deposited in an appropriate borrower account, such as debt service or construction accounts; or

(ii) Deposited in a joint bank account under paragraph (e)(3) of this section.

(c) *Grant closing.* RUS Bulletin 1780–12 ''Water or Waste System Grant

Agreement'' of this part will be completed and executed in accordance with the requirements of grant approval. The grant will be considered closed when RUS Bulletin 1780–12 has been properly executed. Processing or approval officials are authorized to sign the grant agreement on behalf of RUS. For grants that supplement RUS loan funds, the grant should be closed simultaneously with the closing of the loan. However, when grant funds will be disbursed before loan closing, as provided in paragraph (d)(1) of this section, the grant will be closed not later than the delivery date of the first advance of grant funds.

(d) *Grant disbursements.* RUS policy is not to disburse grant funds from the Treasury until they are actually needed by the applicant. Applicant funds will be disbursed before the disbursal of any RUS grant funds. RUS loan funds will be disbursed before the disbursal of any RUS grant funds except when:

(1) Interim financing of the total estimated amount of loan funds needed during construction is arranged; and

(2) All interim funds have been disbursed; and

(3) RUS grant funds are needed before the RUS loan can be closed.

(e) *Use and accountability of funds.* (1) Arrangements will be agreed upon for the prior concurrence by the Agency of the bills or vouchers upon which warrants will be drawn. Form RD 402–2, ''Statement of Deposits and Withdrawals,'' or similar form will be used by the Agency to monitor funds. Periodic reviews of these accounts shall be made by the Agency.

(2) Pledge of collateral for grants to nonprofit organizations. Grant funds must be deposited in a bank with Federal Deposit Insurance Corporation (FDIC) insurance coverage. Also, if the balance in the account containing grant funds exceeds the FDIC insurance coverage, the excess amount must be collaterally secured. The pledge of collateral for the excess will be in accordance with Treasury Circular 176.

(3) Joint RUS/borrower bank account. RUS funds and any funds furnished by the borrower including contributions to purchase major items of equipment, machinery, and furnishings will be deposited in a joint RUS/borrower bank account if determined necessary by the approval official. When RUS has a Memorandum of Understanding with another agency that provides for the use of joint RUS/borrower accounts, or when RUS is the primary source of funds for a project and has determined that the use of a joint RUS/borrower bank account is necessary, project funds from other sources may also be deposited in the joint bank account. RUS shall not be accountable to the source of the other funds nor shall RUS undertake responsibility to administer the funding program of the other entity. Joint RUS/borrower bank accounts should not be used for funds advanced by an interim lender. When funds exceeds the FDIC insurance coverage, the excess must have a pledge of collateral in accordance with Treasury Circular 176.

(4) Payment for project costs. Project costs will be monitored by the RUS processing office. Invoices will be approved by the borrower and their engineer, as appropriate, and submitted to the processing office for concurrence. The review and acceptance of project costs, including construction pay estimates, by RUS does not attest to the correctness of the amounts, the quantities shown or that the work has been performed under the terms of the agreements or contracts.

(f) *Use of remaining funds.* Funds remaining after all costs incident to the basic project have been paid or provided for will not include applicant contributions. Funds remaining, may be considered in direct proportion to the amounts obtained from each source. Remaining funds will be handled as follows:

(1) Remaining funds may be used for eligible loan or grant purposes, provided the use will not result in major changes to the facility(s) and the purpose of the loan and grant remains the same;

(2) RUS loan funds that are not needed will be applied as an extra payment on the RUS indebtedness unless other disposition is required by the bond ordinance, resolution, or State statute; and

(3) Grant funds not expended under paragraph (f)(1) of this section will be canceled. Prior to the actual cancellation, the borrower, its attorney and its engineer will be notified of RUS's intent to cancel the remaining funds. The applicant will be given appropriate appeal rights.

(g) *Post review of loan closing.* In order to determine that the loan has been properly closed the loan docket will be reviewed by OGC. The State program official has the option to consult with OGC to obtain waivers of this review.

§ 1780.46 [Reserved]

§ 1780.47 Borrower accounting methods, management reporting and audits.

(a) Borrowers are required to provide RUS an annual audit or financial statements.

(b) Method of accounting and preparation of financial statements. Annual organization-wide financial statements must be prepared on the accrual basis of accounting, in accordance with generally accepted accounting principles (GAAP), unless State statutes or regulatory agencies provide otherwise, or an exception is granted by the Agency. An organization may maintain its accounting records on a basis other than accrual accounting, and make the necessary adjustments so that annual financial statements are presented on the accrual basis.

(c) Record retention. Each borrower shall retain all records, books, and supporting material for 3 years after the issuance of the audit or management reports. Upon request, this material will be made available to RUS, Office of the Inspector General (OIG), United States Department of Agriculture (USDA), the Comptroller General, or to their assignees.

(d) Audits. All audits are to be performed in accordance with the latest revision of the generally accepted government auditing standards (GAGAS), developed by the Comptroller General of the United States. In addition, the audits are also to be performed in accordance with various Office of Management and Budget (OMB) Circulars. The type of audit each borrower is required to submit will be designated by RUS. Further guidance on preparing an acceptable audit can be obtained from RUS. It is not intended that audits required by this part be separate and apart from audits performed in accordance with State and local laws. To the extent feasible, the audit work should be done in conjunction with those audits. Audits shall be annual unless otherwise prohibited and supplied to the processing office as soon as possible but in no event later than 150 days following the period covered by the audit. OMB Circulars are available in any USDA/RUS office.

(e) Borrowers exempt from audits. All borrowers who are exempt from audits, will, within 60 days following the end of each fiscal year, furnish the RUS with annual financial statements, consisting of a verification of the organization's balance sheet and statement of income and expense by an appropriate official of the organization. Forms RD 442–2, ''Statement of Budget, Income and Equity,'' and 442–3 may be used.

(f) Management reports. These reports will furnish management with a means of evaluating prior decisions and serve as a basis for planning future operations and financial strategies. In those cases where revenues from multiple sources are pledged as security for an RUS loan, two reports will be required; one for the

project being financed by RUS and one combining the entire operation of the borrower. In those cases where RUS loans are secured by general obligation bonds or assessments and the borrower combines revenues from all sources, one management report combining all such revenues is acceptable. The following management data will be submitted by the borrower to the processing office. These reports at a minimum will include a balance sheet and income and expense statement.

(1) Quarterly reports. A quarterly management report will be required for the first year for new borrowers and for all borrowers experiencing financial or management problems for one year from the date problems were noted. If the borrower's account is current at the end of the year, the processing office may waive the required reports.

(2) Annual management reports. Prior to the beginning of each fiscal year the following will be submitted to the processing office. (If Form RD 442–2 is used as the annual management report, enter data in column three only of Schedule 1, and complete all of Schedule 2.)

(i) Two copies of the management reports and proposed ''Annual Budget''.

(ii) Financial information may be reported on Form RD 442–2 which includes Schedule 1, ''Statement of Budget, Income and Equity'' and Schedule 2, ''Projected Cash Flow'' or information in similar format.

(iii) A copy of the rate schedule in effect at the time of submission.

(g) Substitute for management reports. When RUS loans are secured by the general obligation of the public body or tax assessments which total 100 percent of the debt service requirements, the State program official may authorize an annual audit to substitute for other management reports if the audit is received within 150 days following the period covered by the audit.

§ 1780.48 Regional commission grants.

Grants are sometimes made by regional commissions for projects eligible for RUS assistance. RUS has agreed to administer such funds in a manner similar to administering RUS assistance.

(a) When RUS has funds in the project, no charge will be made for administering regional commission funds.

(b) When RUS has no loan or grant funds in the project, an administrative charge will be made pursuant to the Economy Act of 1932, as amended (31 U.S.C. 1535). A fee of 5 percent of the first $50,000 of a regional commission grant and 1 percent of any amount over $50,000 will be paid RUS by the commission.

(1) *Appalachian Regional Commission (ARC).* RUS Bulletin 1780–23 will be followed in determining the responsibilities of RUS. The ARC Federal Co-chairman and the State program official will provide each other with the necessary notification and certification.

(2) *Other regional commissions.* Title V of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 *et seq.*) authorizes other commissions similar to ARC. RUS Bulletin 1780–23 will be used to develop a separate project management agreement between RUS and the commission for each project. The agreement should be prepared by the State program official as soon as notification is received that a commission grant will be made and the amount is confirmed.

(c) Regional commission grants should be obligated as soon as possible in accordance with § 1780.41, except that the announcement procedure referred to in RUS Staff Instruction 1780–2 is not applicable. Regional commission grants will be disbursed from the Finance Office in the same manner as RUS funds.

§ 1780.49 Rural or Native Alaskan villages.

(a) *General.* (1) This section contains regulations for providing grants to remedy the dire sanitation conditions in rural Alaskan villages using funds specifically made available for this purpose.

(2) Unless specifically modified by this section, grants will be made, processed, and serviced in accordance with this subpart.

(b) *Definitions*—(1) *Dire sanitation condition.* For the purpose of this section a dire sanitation condition exists where:

(i) Recurring instances of a waterborne communicable disease have been documented; or

(ii) No community-wide water and sewer system exists and individual residents must haul water to or human waste from their homes and/or use pit privies.

(2) *Rural or Native Alaskan village.* A rural or Native Alaskan community which meets the definition of a village under State statutes and does not have a population in excess of 10,000 inhabitants, according to the latest decennial Census of the United States.

(c) *Eligibility.* (1) The applicant must be a rural or Native Alaskan village.

(2) The median household income of the village cannot exceed 110 percent of the statewide nonmetropolitan household income.

(3) A dire sanitation condition must exist in the village.

(4) The applicant must obtain 50 percent of project development costs from State or local contributions. The local contribution can be from loan funds authorized under this part.

(d) *Grant amount.* Grants will be made for up to 50 percent of the project development costs.

(e) *Use of funds.* Grant funds can be used to pay reasonable costs associated with providing potable water or waste disposal services to residents of rural or Native Alaskan villages.

(f) *Construction.* (1) If the State of Alaska is contributing to the project costs, the project does not have to meet the construction requirements of this subpart.

(2) If a loan is made in accordance with this part for part of the local contribution, all of the requirements of this part apply.

§§ 1780.50–1780.52 [Reserved]

Subpart C—Planning, Designing, Bidding, Contracting, Constructing and Inspections

§ 1780.53 General.

This subpart is specifically designed for use by owners including the professional or technical consultants or agents who provide assistance and services such as engineering, environmental, inspection, financial, legal or other services related to planning, designing, bidding, contracting, and constructing water and waste disposal facilities. These procedures do not relieve the owner of the contractual obligations that arise from the procurement of these services. For this subpart, an owner is defined as an applicant, borrower, or grantee.

§ 1780.54 Technical services.

Owners are responsible for providing the engineering, architect and environmental services necessary for planning, designing, bidding, contracting, inspecting, and constructing their facilities. Services may be provided by the owner's ''in house'' engineer or architect or through contract, subject to Agency concurrence. Engineers and architects must be licensed in the State where the facility is to be constructed.

§ 1780.55 Preliminary engineering reports.

Preliminary engineering reports (PER)s must conform with customary professional standards. PER guidelines for water, sanitary sewer, solid waste,

and storm sewer are available from the Agency.

§ 1780.56 [Reserved]

§ 1780.57 Design policies.

Facilities financed by the Agency will be designed and constructed in accordance with sound engineering practices, and must meet the requirements of Federal, State and local agencies.

(a) *Environmental review.* Facilities financed by the Agency must undergo an environmental impact analysis in accordance with RUS requirements. Facility planning and design must not only be responsive to the owner's needs but must consider the environmental impacts of the proposed project. Facility designs shall incorporate and integrate, where practicable, mitigation measures that avoid or minimize adverse environmental impacts. Environmental reviews serve as a means of assessing environmental impacts of project proposals, rather than justifying decisions already made. Applicants may not take any action on a project proposal that will have an adverse environmental impact or limit the choice of reasonable project alternatives being reviewed prior to the completion of the Agency's environmental review.

(b) *Architectural barriers.* All facilities intended for or accessible to the public or in which physically handicapped persons may be employed must be developed in compliance with the Architectural Barriers Act of 1968 (42 U.S.C. 4151 *et seq.*) as implemented by 41 CFR 101–19.6, section 504 of the Rehabilitation Act of 1973 (42 U.S.C 1474 *et seq.*) as implemented by 7 CFR parts 15 and 15b, and Titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*).

(c) *Energy/environment.* Facility design should consider cost effective energy-efficient and environmentally-sound products and services.

(d) *Fire protection.* Water facilities should have sufficient capacity to provide reasonable fire protection to the extent practicable.

(e) *Growth capacity.* Facilities should have sufficient capacity to provide for reasonable growth to the extent practicable.

(f) *Water conservation.* Owners are encouraged, when economically feasible, to incorporate water conservation practices into a facility's design. For existing water systems, evidence must be provided showing that the distribution system water losses do not exceed reasonable levels.

(g) *Conformity with state drinking water standards.* No funds shall be made available under this part for a water system unless the Agency determines that the water system will make significant progress toward meeting the standards established under title XIV of the Public Health Service Act (commonly known as the 'Safe Drinking Water Act') (42 U.S.C. 300f *et seq.*).

(h) *Conformity with federal and state water pollution control standards.* No funds shall be made available under this part for a water treatment discharge or waste disposal system unless the Agency determines that the effluent from the system conforms with applicable Federal and State water pollution control standards.

(i) *Combined sewers.* New combined sanitary and storm water sewer facilities will not be financed by the Agency. Extensions to existing combined systems can only be financed when separate systems are impractical.

(j) *Dam safety.* Projects involving any artificial barrier which impounds or diverts water, or the rehabilitation or improvement of such a barrier, must comply with the provisions for dam safety as set forth in the Federal Guidelines for Dam Safety (Government Printing Office stock No. 041–001–00187–5, Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954) as prepared by the Federal Coordinating Council for Science, Engineering and Technology.

(k) *Pipe.* All pipe used shall meet current American Society for Testing Materials (ASTM) or American Water Works Association (AWWA) standards.

(l) *Water system testing.* For new water systems or extensions to existing water systems, leakage shall not exceed limits set by either ASTM or AWWA whichever is the more stringent.

(m) *Metering devices.* Water facilities financed by the Agency will have metering devices for each connection. An exception to this requirement may be granted by the State program official when the owner demonstrates that installation of metering devices would be a significant economic detriment and that environmental considerations would not be adversely affected by not installing such devices. Sanitary sewer projects should incorporate water system metering devices whenever practicable.

(n) *Economical service.* The facility's design must provide the most economical service practicable.

§§ 1780.58–1780.60 [Reserved]

§ 1780.61 Construction contracts.

Contract documents must be sufficiently descriptive and legally binding in order to accomplish the work as economically and expeditiously as possible.

(a) *Standard construction contract documents.* If the construction contract documents utilized are not in the format previously approved by the Agency, OGC's review of the construction contract documents will be obtained prior to their use.

(b) *Contract review and concurrence.* The owner's attorney will review the executed contract documents, including performance and payment bonds, and will certify that they are adequate, and that the persons executing these documents have been properly authorized to do so. The contract documents, engineer's recommendation for award, and bid tabulation sheets will be forwarded to the Agency for concurrence prior to awarding the contract. All contracts will contain a provision that they are not effective until they have been concurred in by the Agency. The State program official or designee is responsible for concurring in construction contracts with the legal advice and guidance of the OGC when necessary.

§ 1780.62 Utility purchase contracts.

Applicants proposing to purchase water or other utility service from private or public sources shall have written contracts for supply or service which are reviewed and concurred in by the Agency. To the extent practical, the Agency review and concurrence of such contracts should take place prior to their execution by the owner. OGC advice and guidance may be requested. Form RD 442–30, ''Water Purchase Contract,'' may be used when appropriate. If the Agency loan will be repaid from system revenues, the contract will be pledged to the Agency as part of the security for the loan. Such contracts will:

(a) Include a commitment by the supplier to furnish, at a specified point, an adequate quantity of water or other service and provide that, in case of shortages, all of the supplier's users will proportionately share shortages.

(b) Set out the ownership and maintenance responsibilities of the respective parties including the master meter if a meter is installed at the point of delivery.

(c) Specify the initial rates and provide a type of escalator clause which will permit rates for the association to be raised or lowered proportionately as certain specified rates for the supplier's regular customers are raised or lowered. Provisions may be made for altering rates in accordance with the decisions of the appropriate State agency which may have regulatory authority.

(d) Cover period of time which is at least equal to the repayment period of the loan. State program officials may approve contracts for shorter periods of time if the supplier cannot legally contract for such period, or if the owner and supplier find it impossible or impractical to negotiate a contract for the maximum period permissible under State law, provided:

(1) The supplier is subject to regulations of the Federal Energy Regulatory Commission or other Federal or State agency whose jurisdiction can be expected to prevent unwarranted curtailment of supply; or

(2) The contract contains adequate provisions for renewal; or

(3) A determination is made that in the event the contract is terminated, there are or will be other adequate sources available to the owner that can feasibly be developed or purchased.

(e) Set out in detail the amount of connection or demand charges, if any, to be made by the supplier as a condition to making the service available to the owner. However, the payment of such charges from loan funds shall not be approved unless the Agency determines that it is more feasible and economical for the owner to pay such a connection charge than it is for the owner to provide the necessary supply by other means.

(f) Provide for a pledge of the contract to the Agency as part of the security for the loan.

(g) Not contain provisions for:

(1) Construction of facilities which will be owned by the supplier. This does not preclude the use of money paid as a connection charge for construction to be done by the supplier.

(2) Options for the future sale or transfer. This does not preclude an agreement recognizing that the supplier and owner may at some future date agree to a sale of all or a portion of the facility.

(h) If it is impossible to obtain a firm commitment for either an adequate quantity or sharing shortages proportionately, a contract may be executed and concurred in provided adequate evidence is furnished to enable the Agency to make a determination that the supplier has adequate supply and/or treatment facilities to furnish its other users and the applicant for the foreseeable future; and:

(1) The supplier is subject to regulations of the Federal Energy Regulatory Commission or other Federal or State agency whose jurisdiction can be expected to prevent unwarranted curtailment of supply; or

(2) A suitable alternative supply could be arranged within the repayment ability of the borrower if it should become necessary; or

(3) Concurrence in the proposed contract is obtained from the National Office.

§ 1780.63 Sewage treatment and bulk water sales contracts.

Owners entering into agreements with private or public parties to treat sewage or supply bulk water shall have written contracts for such service and all such contracts shall be subject to the Agency concurrence. Section 1780.62 should be used as a guide to prepare such contracts.

§§ 1780.64–1780.66 [Reserved]

§ 1780.67 Performing construction.

Owners are encouraged to accomplish construction through contracts with qualified contractors. Owners may accomplish construction by using their own personnel and equipment provided the owners possess the necessary skills, abilities and resources to perform the work and provided a licensed engineer prepares design drawings and specifications and inspects construction and furnishes inspection reports as required by § 1780.76. Inspection services may be provided by individuals as approved by the State staff engineer. Payments for construction will be handled under § 1780.76(e).

§ 1780.68 Owner's contractual responsibility.

This part does not relieve the owner of any responsibilities under its contract. The owner is responsible for the settlement of all contractual and administrative issues arising out of procurement entered into in support of a loan or grant. These include, but are not limited to: source evaluation, protests, disputes, and claims. Matters concerning violation of laws are to be referred to the applicable local, State, or Federal authority.

§ 1780.69 [Reserved]

§ 1780.70 Owner's procurement regulations.

Owner's procurement requirements must comply with the following standards:

(a) Code of conduct. Owners shall maintain a written code or standards of conduct which shall govern the performance of their officers, employees or agents engaged in the award and administration of contracts supported by Agency funds. No employee, officer or agent of the owner shall participate in the selection, award, or administration of a contract supported by Agency funds if a conflict of interest, real or apparent, would be involved. Examples of such conflicts would arise when: the employee, officer or agent; any member of their immediate family; their partner; or an organization which employs, or is about to employ, any of the above; has a financial or other interest in the firm selected for the award.

(1) The owner's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to subagreements.

(2) To the extent permitted by State or local law or regulations, the owner's standards of conduct shall provide for penalties, sanctions, or other disciplinary actions for violations of such standards by the owner's officers, employees, agents, or by contractors or their agents.

(b) Maximum open and free competition. All procurement transactions, regardless of whether by sealed bids or by negotiation and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition. Procurement procedures shall not restrict or eliminate competition. Examples of what are considered to be restrictive of competition include, but are not limited to: placing unreasonable requirements on firms in order for them to qualify to do business; noncompetitive practices between firms; organizational conflicts of interest; and unnecessary experience and bonding requirements. In specifying materials, the owner and its consultant will consider all materials normally suitable for the project commensurate with sound engineering practices and project requirements. The Agency shall consider fully any recommendation made by the owner concerning the technical design and choice of materials to be used for a facility. If the Agency determines that a design or material, other than those that were recommended should be considered by including them in the procurement process as an acceptable design or material in the water or waste disposal facility, the Agency shall provide such owner with a comprehensive justification for such a determination. The justification will be documented in writing.

(c) Owner's review. Proposed procurement actions shall be reviewed by the owner's officials to avoid the purchase of unnecessary or duplicate items. Consideration should be given to consolidation or separation of procurement items to obtain a more

economical purchase. Where appropriate, an analysis shall be made of lease versus purchase alternatives, and any other appropriate analysis to determine which approach would be the most economical. To foster greater economy and efficiency, owners are encouraged to enter into State and local intergovernmental agreements for procurement or use of common goods and services.

(d) Solicitation of offers, whether by competitive sealed bid or competitive negotiation, shall:

(1) Incorporate a clear and accurate description of the technical requirements for the material, product or service to be procured. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a ''brand name or equal'' description may be used to define the performance or other salient requirements of a procurement. The specific feature of the name brands which must be met by the offeror shall be clearly stated; and

(2) Clearly specify all requirements which offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(e) Affirmative steps should be taken to assure that small, minority, and women businesses are utilized when possible as sources of supplies, equipment, construction and services.

(f) Contract pricing. Cost plus a percentage of cost method of contracting shall not be used.

(g) Unacceptable bidders. The following will not be allowed to bid on, or negotiate for, a contract or subcontract related to the construction of the project:

(1) An engineer as an individual or firm who has prepared plans and specifications or who will be responsible for monitoring the construction;

(2) Any firm or corporation in which the owner's engineer is an officer, employee, or holds or controls a substantial interest;

(3) The governing body's officers, employees, or agents;

(4) Any member of the immediate family or partners in the entities referred to in paragraphs (g)(1), (g)(2) or (g)(3) of this section; or

(5) An organization which employs, or is about to employ, any person in the entities referred to in paragraphs (g)(1), (g)(2), (g)(3) or (g)(4) of this section.

(h) Contract award. Contracts shall be made only with responsible parties possessing the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall include but not be limited to matters such as integrity, record of past performance, financial and technical resources, and accessibility to other necessary resources. Contracts shall not be made with parties who are suspended or debarred by any Agency of the United States Government.

§ 1780.71 [Reserved]

§ 1780.72 Procurement methods.

Procurement shall be made by one of the following methods: Small purchase procedures; competitive sealed bids (formal advertising); competitive negotiation; or noncompetitive negotiation. Competitive sealed bids (formal advertising) is the preferred procurement method for construction contracts.

(a) *Small purchase procedures.* Small purchase procedures are those relatively simple and informal procurement methods that are sound and appropriate for a procurement of services, supplies or other property, costing in the aggregate not more than $100,000. If small purchase procedures are used for a procurement, written price or rate quotations shall be requested from at least three qualified sources.

(b) *Competitive sealed bids.* In competitive sealed bids (formal advertising), an invitation for sealed bids is publicly advertised and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is lowest, price and other factors considered. When using this method the following shall apply:

(1) The invitation for bids shall be publicly advertised at a sufficient time prior to the date set for opening of bids. The invitation shall comply with the requirements in § 1780.70(d). Bids shall be solicited from an adequate number of qualified sources;

(2) All bids shall be opened publicly at the time and place stated in the invitation for bids;

(3) A firm-fixed-price contract award shall be made by written notice to that responsible bidder whose bid, conforming to the invitation for bids, is lowest. When specified in the bidding documents, factors such as discounts and transportation costs shall be considered in determining which bid is lowest; and

(4) Any or all bids may be rejected by the owner when it is in its best interest.

(c) *Competitive negotiation.* In competitive negotiations, proposals are requested from a number of sources and the Request for Proposal is publicized. Negotiations are normally conducted with more than one of the sources submitting offers. Competitive negotiation may be used if conditions are not appropriate for the use of formal advertising and where discussions and bargaining with a view to reaching agreement on the technical quality, price, other terms of the proposed contract and specifications may be necessary. If competitive negotiation is used for a procurement, the following requirements shall apply:

(1) Proposals shall be solicited from an adequate number of qualified sources to permit reasonable competition consistent with the nature and requirements of the Procurement. The Request for Proposal shall be publicized and reasonable requests by other sources to compete shall be honored to the maximum extent practicable;

(2) The Request for Proposal shall identify all significant evaluation factors and their relative importance;

(3) The owner shall provide mechanisms for technical evaluation of the proposals received, determination of responsible offerors for the purpose of written or oral discussions, and selection for contract award; and

(4) Award may be made to the responsible offeror whose proposal will be most advantageous to the owner. Unsuccessful offerors should be promptly notified.

(d) *Noncompetitive negotiation.* Noncompetitive negotiation is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate. Noncompetitive negotiation may be used when the award of a contract is not feasible under small purchase or competitive sealed bids. Circumstances under which a contract may be awarded by noncompetitive negotiations are limited to the following:

(1) The item is available only from a single source; or

(2) There exists a public exigency or emergency and the urgency for the requirement will not permit a delay incident to competitive solicitation; or

(3) After solicitation of a number of sources, competition is determined inadequate; or

(4) No acceptable bids have been received after formal advertising; or

(5) The procurement is for professional services; or

(6) The aggregate amount does not exceed $100,000.

§ 1780.73 [Reserved]

§ 1780.74 Contracts awarded prior to applications.

Owners awarding construction or other procurement contracts prior to

filing an application, must provide evidence that is satisfactory to the Agency that the contract was entered into without intent to circumvent the requirements of Agency regulations.

(a) *Modifications.* The contract shall be modified to conform with the provisions of this part. Where this is not possible, modifications will be made to the extent practicable and, as a minimum, the contract must comply with all State and local laws and regulations as well as statutory requirements and executive orders related to the Agency financing. When all construction is complete and it is impracticable to modify the contracts, the owner must provide the certification required by paragraph (c) of this section.

(b) *Consultant's certification.* Provide a certification by an engineer, licensed in the State where the facility is constructed, that any construction performed complies fully with the plans and specifications.

(c) *Owner's certification.* Provide a certification by the owner that the contractor has complied with applicable statutory and executive requirements related to Agency financing for construction already performed.

§ 1780.75 Contract provisions.

In addition to provisions required for a valid and legally binding contract, any recipient of Agency funds shall include the following contract provisions in all contracts.

(a) *Remedies.* Contracts other than small purchases shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. A realistic liquidated damage provision should be included in all contracts for construction.

(b) *Termination.* All contracts exceeding $10,000, shall contain suitable provisions for termination by the owner including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(c) *Surety.* In all contracts for construction or facility improvements exceeding $100,000, the owner shall require bonds or cash deposit in escrow assuring performance and payment each in the amount of 100 percent of the contract cost. The surety will be in the form of performance bonds and payment bonds. For contracts of lesser amounts, the owner may require surety. When a surety is not provided, contractors will furnish evidence of payment in full for all materials, labor, and any other items procured under the contract. Form RD 1924–10, ''Release by Claimants,'' and Form RD 1924–9, ''Certificate of Contractor's Release,'' may be used for this purpose. Companies providing performance bonds and payment bonds must hold a certificate of authority as an acceptable surety on Federal bonds as listed in Treasury Circular 570 as amended and the surety must be listed as having a license to do business in the State where the facility is located.

(d) *Equal employment opportunity.* All contracts awarded in excess of $10,000 by owners shall contain a provision requiring compliance with Executive Order 11246 (3 CFR, 1966 Comp., p.339), entitled, ''Equal Employment Opportunity,'' as amended by Executive Order 11375 (3 CFR, 1968 Comp., p. 321), and as supplemented by Department of Labor regulations 41 CFR chapter 60.

(e) *Anti-kickback.* All contracts for construction shall include a provision for compliance with the Copeland ''Anti-Kickback'' Act (18 U.S.C. 874). This Act provides that each contractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which they are otherwise entitled. The owner shall report suspected or reported violations to the Agency.

(f) *Records.* All negotiated contracts (except those of $10,000 or less) awarded by owners shall include a provision to the effect that the owner, the Agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific Federal loan or grant program for the purpose of making audits, examinations, excerpts, and transcriptions. Owners shall require contractors to maintain all required records for 3 years after making final payment and all other pending matters are closed.

(g) *State energy conservation plan.* Contracts shall incorporate mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

(h) *Change orders.* The construction contract shall require that all contract change orders be concurred in by the Agency.

(i) *Agency concurrence.* All contracts must contain a provision that they shall not be effective unless and until the State program official or designee concurs in writing.

(j) *Retainage.* All construction contracts shall contain adequate provisions for retainage. No payments will be made that would deplete the retainage nor place in escrow any funds that are required for retainage nor invest the retainage for the benefit of the contractor. The retainage shall not be less than an amount equal to 5 percent of an approved partial payment estimate until the project is substantially complete and accepted by the owner, consulting engineer and Agency. The contract must provide that additional amounts may be retained if the job is not proceeding satisfactorily.

(k) *Other compliance requirements.* Contracts in excess of $100,000 shall contain a provision which requires compliance with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738 (3 CFR, 1974 Comp., p.209), and Environmental Protection Agency (EPA) regulations 40 CFR part 15, which prohibit the use under non-exempt Federal contracts, grants or loans of facilities included on the EPA List of Violating Facilities. The provision shall require reporting of violations to the Agency and to the U.S. Environmental Protection Agency, Assistant Administrator for Enforcement. Solicitations and contract provisions shall include the requirements of 4 CFR 15.4(c) as set forth in RUS Bulletin 1780–14.

§ 1780.76 Contract administration.

Owners shall be responsible for maintaining a contract administration system to monitor the contractors' performance and compliance with the terms, conditions, and specifications of the contracts.

(a) *Preconstruction conference.* Prior to beginning construction, the owner will schedule a preconstruction conference where the consulting engineer will review the planned development with the Agency, owner, resident inspector, attorney, contractor, and other interested parties. The conference will thoroughly cover applicable items included in Form RD 1924–16, ''Record of Pre-construction Conference,'' and the discussions and agreements will be documented.

(b) *Monitoring reports.* The owner is required to monitor construction and

provide a report to the Agency giving a full explanation under the following circumstances:

(1) Reasons why approved construction schedules were not met;

(2) Analysis and explanation of cost overruns and how payment is to be made for the same; and

(3) If events occur which have a significant impact upon the project.

(c) *Inspection.* Full-time resident inspection is required for all construction unless a written exception is made by the Agency upon written request of the owner. Unless otherwise agreed, the resident inspector will be provided by the consulting engineer. Prior to the preconstruction conference, the consulting engineer will submit a resume of qualifications of the resident inspector to the owner and to the Agency for acceptance in writing. If the owner provides the resident inspector, it must submit a resume of the inspector's qualifications to the project engineer for comments and the Agency for acceptance in writing prior to the preconstruction conference. The resident inspector will work under the technical supervision of the project engineer and the role and responsibilities will be defined in writing.

(d) *Inspector's daily diary.* The resident inspector will maintain a record of the daily construction progress in the form of a daily diary and daily inspection reports. The daily entries shall be made available to the Agency personnel and will be reviewed during project inspections. The original complete set will be furnished to the owner upon completion of construction. RUS Bulletin 1780–18 is available from the Agency for preparing daily inspection reports or the reports can be provided in other formats approved by the State staff engineer.

(e) *Payment for Construction.* Form RD 1924–18, ''Partial Payment Estimate,'' or other similar form may be used for construction payments. If Form 1924–18 is not used, prior concurrence by the State staff engineer must be obtained.

(1) Payment of contract retainage will not be made until such retainage is due and payable under the terms of the contact.

(2) Invoices for the payment of construction costs must be approved by the owner, project engineer and concurred in by the Agency.

(3) The review and acceptance of project costs, including construction payment estimates by the Agency shall not attest to the correctness of the amounts, the quantities shown, or that the work has been performed under the terms of agreements or contracts.

(f) *Prefinal inspections.* A prefinal inspection will be made by the owner, resident inspector, project engineer, contractor, representatives of other agencies involved, and Agency representative (preferably the State staff engineer or designee). The inspection results will be recorded by the project engineer and a copy provided to all interested parties.

(g) *Final inspection.* A final inspection will be made by the Agency before final payment is made.

(h) *Changes in development plans.* (1) Changes in development plans shall be reviewed and approved by the Agency provided:

(i) Funds are available to cover any additional costs; and

(ii) The change is for an authorized loan or grant purpose; and

(iii) It will not adversely affect the soundness of the facility operation or the Agency's security; and

(iv) The change is within the scope of the contract,

(2) Changes will be recorded on Form RD 1924–7, ''Contract Change Order,'' or other similar form if approved by the State program official or designee. Regardless of the form, change orders must be approved by the State program official or designee.

(3) Changes should be accomplished only after Agency approval and shall be authorized only by means of contract change order. The change order will include items such as:

(i) Any changes in labor and material;

(ii) Changes in facility design;

(iii) Any decrease or increase in quantities based on final measurements that are different from those shown in the bidding schedule; and

(iv) Any increase or decrease in the time to complete the project.

(4) All changes shall be recorded on chronologically numbered contract change orders as they occur. Change orders will not be included in payment estimates until approved by all parties.

§§ 1780.77–1780.79 [Reserved]

Subpart D—Information Pertaining to Preparation of Notes or Bonds and Bond Transcript Documents for Public Body Applicants

§ 1780.80 General.

This subpart includes information for use by public body applicants in the preparation and issuance of evidence of debt (bonds, notes, or debt instruments, referred to as bonds in this subpart) and other necessary loan documents.

§ 1780.81 Policies related to use of bond counsel.

The applicant is responsible for preparation of bonds and bond transcript documents. The applicant will obtain the services and opinion of recognized bond counsel experienced in municipal financing with respect to the validity of a bond issue, except for issues of $100,000 or less. With prior approval of the approval official, the applicant may elect not to use bond counsel. Such issues will be closed in accordance with the following:

(a) The applicant must recognize and accept the fact that application processing may require additional legal and administrative time;

(b) It must be established that not using bond counsel will produce significant savings in total legal costs;

(c) The local attorney must be able and experienced in handling this type of legal work;

(d) The applicant must understand that it will likely have to obtain an opinion from bond counsel at its expense should the Agency require refinancing of the debt;

(e) Bonds will be prepared in accordance with this regulation and conform as closely as possible to the preferred methods of preparation stated in § 1780.94; and

(f) Closing instructions must be issued by OGC.

§ 1780.82 [Reserved]

§ 1780.83 Bond transcript documents.

Any questions relating to Agency requirements should be discussed with Agency representatives. Bond counsel or local counsel, as appropriate, must furnish at least two complete sets of the following to the applicant, who will furnish one complete set to the Agency:

(a) Copies of all organizational documents;

(b) Copies of general incumbency certificate;

(c) Certified copies of minutes or excerpts from all meetings of the governing body at which action was taken in connection with the authorizing and issuing of the bonds;

(d) Certified copies of documents evidencing that the applicant has complied fully with all statutory requirements incident to calling and holding a favorable bond election, if one is necessary;

(e) Certified copies of the resolutions, ordinances, or other documents such as the bond authorizing resolutions or ordinances and any resolution establishing rates and regulating use of facility, if such documents are not included in the minutes furnished;

(f) Copies of the official Notice of Sale and the affidavit of publication of the Notice of Sale when State statute requires a public sale;

(g) Specimen bond, with any attached coupons;

(h) Attorney's no-litigation certificate;

(i) Certified copies of resolutions or other documents pertaining to the bond award;

(j) Any additional or supporting documents required by bond counsel;

(k) For loans involving multiple advances of Agency loan funds, a preliminary approving opinion of bond counsel (or local counsel if no bond counsel is involved) if a final unqualified opinion cannot be obtained until all funds are advanced. The preliminary opinion for the entire issue shall be delivered at or before the time of the first advance of funds. It will state that the applicant has the legal authority to issue the bonds, construct, operate and maintain the facility, and repay the loan, subject only to changes occurring during the advance of funds, such as litigation resulting from the failure to advance loan funds, and receipt of closing certificates;

(l) Final unqualified approving opinion of bond counsel, (and preliminary approving opinion, if required) or local counsel if no bond counsel is involved, including an opinion as to whether interest on bonds will be exempt from Federal and State income taxes. With approval of the State program official, a final opinion may be qualified to the extent that litigation is pending relating to Indian claims that may affect title to land or validity of the obligation. It is permissible for such opinion to contain language referring to the last sentence of section 306 (a)(1) or to section 309A (h) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926 (a)(1) or 1929a (h)).

§§ 1780.84 and 1780.86 [Reserved]

§ 1780.87 Permanent instruments for Agency loans.

Agency loans will be evidenced by an instrument determined legally sufficient and in accordance with the following order of preference:

(a) *First preference—Form RD 440–22, ''Promissory Note''.* Refer to paragraph (b) of this section for methods of various frequency payment calculations.

(b) *Second preference—single instruments with amortized installments.* A single instrument providing for amortized installments which follows Form RD 440–22 as closely as possible. The full amount of the loan must show on the face of the instrument, and there must be provisions for entering the date and amount of each advance on the reverse or an attachment. When principal payments are deferred, the instrument will show that ''interest only'' is due on interest-only installment dates, rather than specific dollar amounts. The payment period including the ''interest only'' installment cannot exceed 40 years, the useful life of the facility, or State statute limitations, whichever occurs first. The amortized installment, computed as follows, will be shown as due on installment dates thereafter.

(1) *Monthly payments.* Multiply by twelve the number of years between the due date of the last interest-only installment and the final installment to determine the number of monthly payments. When there are no interest-only installments, multiply by twelve the number of years over which the loan is amortized. Then multiply the loan amount by the amortization factor and round to the next higher dollar.

(2) *Semiannual payments.* Multiply by two the number of years between the due date of the last interest-only installment and the due date of the final installment to determine the correct number of semiannual periods. When there are no interest-only installments, multiply by two the number of years over which the loan is amortized. Then multiply the loan amount by the applicable amortization factor.

(3) *Annual payments.* Subtract the due date of the last interest-only installment from the due date of the final installment to determine the number of annual payments. When there are no interest-only installments, the number of annual payments will equal the number of years over which the loan is amortized. Then multiply the loan amount by the applicable amortization factor and round to the next higher dollar.

(c) *Third preference—single instruments with installments of principal plus interest.* If a single instrument with amortized installments is not legally permissible, use a single instrument providing for installments of principal plus interest accrued on the principal balance. For bonds with semiannual interest and annual principal, the interest is calculated by multiplying the principal balance times the interest rate and dividing this figure by two. Principal installments are to be scheduled so that total combined interest and principal payments closely approximate amortized payments.

(1) The repayment terms concerning interest only installments described in paragraph (b) of this section apply.

(2) The instrument shall contain in substance provisions indicating:

(i) Principal maturities and due dates;

(ii) Regular payments shall be applied first to interest due through the next principal and interest installment due date and then to principal due in chronological order stipulated in the bond; and

(iii) Payments on delinquent accounts will be applied in the following sequence:

(A) billed delinquent interest;

(B) past due interest installments;

(C) past due principal installments;

(D) interest installment due; and

(E) principal installment due.

(d) *Fourth preference—serial bonds with installments of principal plus interest.* If instruments described under the first, second, and third preferences are not legally permissible, use serial bonds with a bond or bonds delivered in the amount of each advance. Bonds will be numbered consecutively and delivered in chronological order. Such bonds will conform to the minimum requirements of § 1780.94. Provisions for application of payments will be the same as those set forth in paragraph (c)(2)(ii) of this section.

(e) *Coupon bonds.* Coupon bonds will not be used unless required by State statute. Such bonds will conform to the minimum requirements of § 1780.94.

§ 1780.88 [Reserved]

§ 1780.89 Multiple advances of Agency funds using permanent instruments.

Where interim financing from commercial sources is not used, Agency loan proceeds will be disbursed on an ''as needed by borrower'' basis in amounts not to exceed the amount needed during 30-day periods.

§ 1780.90 Multiple advances of Agency funds using temporary debt instruments.

When none of the instruments described in § 1780.87 are legally permissible or practical, a bond anticipation note or similar temporary debt instrument may be used. The debt instrument will provide for multiple advances of Agency funds and will be for the full amount of the Agency loan. The instrument will be prepared by bond counsel, or local counsel if bond counsel is not involved, and approved by the State program official and OGC. At the same time the Agency delivers the last advance, the borrower will deliver the permanent bond instrument and the canceled temporary instrument will be returned to the borrower. The approved debt instrument will show at least the following:

(a) The date from which each advance will bear interest;

(b) The interest rate as determined by § 1780.13;

(c) A payment schedule providing for interest on outstanding principal at least annually; and

(d) A maturity date which shall be no earlier than the anticipated issuance date of the permanent instruments and no longer than the 40-year statutory limit.

§§ 1780.91–1780.93 [Reserved]

§ 1780.94 Minimum bond specifications.

The provisions of this section are minimum specifications only and must be followed to the extent legally permissible.

(a) Type and denominations. Bond resolutions or ordinances will provide that the instruments be either a bond representing the total amount of the indebtedness or serial bonds in denominations customarily accepted in municipal financing (ordinarily in multiples of not less than $1,000). Single bonds may provide for repayment of principal plus interest or amortized installments. Amortized installments are preferred by the Agency.

(b) Bond registration. Bonds will contain provisions permitting registration for both principal and interest. Bonds purchased by the Agency will be registered in the name of ''United States of America'' and will remain so registered at all times while the bonds are held or insured by the Government. The Agency address for registration purposes will be that of the Finance Office.

(c) Size and quality. Size of bonds and coupons should conform to standard practice. Paper must be of sufficient quality to prevent deterioration through ordinary handling over the life of the loan.

(d) Date of bond. Bonds will normally be dated as of the day of delivery. However, the borrower may use another date if approved by the Agency. Loan closing is the date of delivery of the bonds or the date of delivery of the first bond when utilizing serial bonds, regardless of the date of delivery of the funds. The date of delivery will be stated in the bond if different from the date of the bond. In all cases, interest will accrue from the date of delivery of the funds.

(e) Payment date. Loan payments will be scheduled to coincide with income availability and be in accordance with State law.

(1) If income is available monthly, monthly payments are recommended unless precluded by State law. If income is available quarterly or otherwise more frequently than annually, payments must be scheduled on such basis. However, if State law only permits principal plus interest (P&I) type bonds, annual or semiannual payments will be used.

(2) The payment schedule will be enumerated in the evidence of debt, or if that is not feasible, in a supplemental agreement.

(3) If feasible, the first payment will be scheduled one full month, or other period, as appropriate, from the date of loan closing or any deferment period. Due dates falling on the 29th, 30th, and 31st day of the month will be avoided. When principal payments are deferred, interest-only payments will be scheduled at least annually.

(f) Extra payments. Extra payments are derived from the sale of basic chattel or real estate security, refund of unused loan funds, cash proceeds of property insurance and similar actions which reduce the value of basic security. At the option of the borrower, regular facility revenue may also be used as extra payments when regular payments are current. Unless otherwise established in the note or bond, extra payments will be applied as follows:

(1) For loans with amortized debt instruments, extra payments will be applied first to interest accrued to the date of receipt of the payment and second to principal.

(2) For loans with debt instruments with P&I installments, the extra payment will be applied to the final unpaid principal installment.

(3) For borrowers with more than one loan, the extra payment will be applied to the account secured by the lowest priority of lien on the property from which the extra payments was obtained. Any balance will be applied to other Agency loans secured by the property from which the extra payment was obtained.

(4) For assessment bonds, see paragraph (k) of this section.

(g) The place of payments on bonds purchased by the Agency will be determined by the Agency.

(h) Redemptions. Bonds will normally contain customary redemption provisions. However, no premium will be charged for early redemption on any bonds held by the Government.

(i) Additional revenue bonds. Parity bonds may be issued to complete the project. Otherwise, parity bonds may not be issued unless acceptable documentation is provided establishing that net revenues for the fiscal year following the year in which such bonds are to be issued will be at least 120 percent of the average annual debt serviced requirements on all bonds outstanding, including the newly-issued bonds. For purposes of this section, net revenues are, unless otherwise defined by State statute, gross revenues less essential operation and maintenance expenses. This limitation may be waived or modified by the written consent of bondholders representing 75 percent of the then-outstanding principal indebtedness. Junior and subordinate bonds may be issued in accordance with the loan resolution.

(j) Precautions. The following types of provisions in debt instruments should be avoided:

(1) Provisions for the holder to manually post each payment to the instrument.

(2) Provisions for returning the permanent or temporary debt instrument to the borrower in order that it, rather than the Agency, may post the date and amount of each advance or repayment on the instrument.

(3) Provisions that amend covenants contained in Forms RD 1942–47 or RD 1942–9.

(4) Defeasance provisions in loan or bond resolutions. When a bond issue is defeased, a new issue is sold which supersedes the contractual provisions of the prior issue, including the refinancing requirement and any lien on revenues. Since defeasance in effect precludes the Agency from requiring refinancing before the final maturity date, it represents a violation of the statutory refinancing requirement; therefore, it is disallowed. No loan documents shall include a provision of defeasance.

(k) Assessment bonds. When security includes special assessment to be collected over the life of the loan, the instrument should address the method of applying any payments made before they are due. It may be desirable for such payments to be distributed over remaining payments due, rather than to be applied in accordance with normal procedures governing extra payments, so that the account does not become delinquent.

(l) Multiple debt instruments. The following will be adhered to when preparing debt instruments:

(1) When more than one loan type is used in financing a project, each type of loan will be evidenced by a separate debt instrument or series of debt instruments;

(2) Loans obligated in different fiscal years and those obligated with different terms in the same fiscal year will be evidenced by separate debt instruments;

(3) Loans obligated for the same loan type in the same fiscal year with the same term may be combined in the same debt instrument;

(4) Loans obligated in the same fiscal year with different interest rates that

will be closed at the same interest rate may be combined in the same debt instrument.

§ 1780.95 Public bidding on bonds.

Bonds offered for public sale shall be offered in accordance with State law and in such a manner to encourage public bidding. The Agency will not submit a bid at the advertised sale unless required by State law, nor will reference to Agency's rates and terms be included. If no acceptable bid is received, the Agency will negotiate the purchase of the bonds.

§§ 1780.96–1780.100 [Reserved]

Part 1942, Subpart I [Redesignated as Part 1781 and Revised]

5. Subpart I of 7 CFR part 1942 is redesignated as 7 CFR part 1781 and is revised to read as follows:

PART 1781—RESOURCE CONSERVATION AND DEVELOPMENT (RCD) LOANS AND WATERSHED (WS) LOANS AND ADVANCES

Sec.

1781.1 Purpose.
1781.2 Policy.
1781.3 Authorities, responsibilities, and delegation of authority.
1781.4 Definitions.
1781.5 Eligibility.
1781.6 Loan purposes.
1781.7 Loan and advance limitations and obligations incurred before loan closing.
1781.8 Rates and terms—WS loans and WS advances and RCD loans.
1781.9 Security, feasibility, evidence of debt, title insurance, and other requirements.
1781.10 [Reserved]
1781.11 Other considerations.
1781.12 Preapplication and application processing.
1781.13 [Reserved]
1781.14 Planning, options, and appraisals.
1781.15 Planning and performing development.
1781.16 [Reserved]
1781.17 Docket preparation and processing.
1781.18 Feasibility.
1781.19 Approval, closing, and cancellation.
1781.20 Disbursement of WS and RCD loan funds and WS advance funds.
1781.21 Borrower accounting methods, management, reporting, and audits.
1781.22 Subsequent loans.
1781.23 Servicing.
1781.24 State supplements and availability of bulletins, instructions, forms, and memorandums.
1781.25–1781.100 [Reserved]

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

§ 1781.1 Purpose.

This part prescribes the policies and procedures for making:

(a) Watershed (WS) loans and Watershed (WS) advances for works of improvement in a watershed project; and

(b) Resource Conservation and Development (RCD) loans for measures or projects needed to implement the RCD area plan to achieve objectives in an RCD area.

§ 1781.2 Policy.

(a) Rural Utilities Service (RUS), is an agency of the United States Department of Agriculture established pursuant to section 232 of the Department of Agriculture Reorganization Act of 1994 (Pub. L. 103–354, 108 Stat. 3178), successor to the Farmers's Home Administration. Natural Resources Conservation Service (NRCS), is an agency of the United States Department of Agriculture established pursuant to section 232 of the Department of Agriculture Reorganization Act of 1994 (Pub. L. 103–354, 108 Stat. 3178), successor to the Soil Conservation Service. RUS will make WS and RCD loans available to sponsoring local public bodies, agencies, and nonprofit organizations to assist them in obtaining the local cost of WS works of improvement and RCD measures. Any processing or servicing activity conducted pursuant to this part involving authorized assistance to RUS employees, members of their families, known close relatives, or business or close personal associates, is subject to the provisions of subpart D of Part 1900 of this title. Applicants for this assistance are required to identify any known relationship or association with an RUS employee. RUS will assist the local sponsors and the NRCS in making loans from NRCS construction funds as WS advances when needed for the development of future water supplies or for site preservation.

(b) Rural Development State and local offices will administer these programs on behalf of RUS and will coordinate application processing with the NRCS and other appropriate State and Federal agencies.

§ 1781.3 Authorities, responsibilities and delegation of authority.

(a) NRCS provides technical and financial assistance to sponsoring local organizations for developing WS and RCD area plans and for individual RCD measures or projects and watershed works of improvement. The watershed work plan for developing, operating, and maintaining watershed works of improvement must be agreed upon by sponsoring local organizations and NRCS. When approved, it is the basis for extending technical and cost sharing assistance from watershed funds. The RCD area plan is prepared for the development of the RCD area by sponsoring local organizations with assistance from NRCS and other agencies, endorsed by the Governor or by the agency designated by the Governor, and accepted by the Secretary of Agriculture or his delegate. It includes objectives, planned courses of action, and RCD measures or projects to be developed. It is amended as necessary to include continuing activities and needs in the RCD area.

(b) RUS receives and processes applications for WS loans and NRCS WS advances and RCD loans and makes and services such loan and advances. WS loans are made by RUS from either Public Law 534 (78th Cong.) funds authorized in the Flood Control Act of 1944 (33 U.S.C. 701 *et seq.*) or Public Law 566 (83rd Cong.) funds authorized in the Watershed Protection and Flood Prevention Act of 1954 (68 Stat. 666) to cover a part or all of the local cost for a watershed work of improvement.

(c) WS loans and WS advances may be made to project sponsors in watershed project areas for which:

(1) A watershed work plan has been approved administratively or by resolutions adopted by the Committee on Agriculture and Forestry of the Senate and by the Committee on Agriculture of the House of Representatives; and

(2) Federal assistance has been authorized for the installation of works of improvement by the Administrator of NRCS.

(d) RCD loans may be made in areas authorized for RCD program assistance by the Secretary of Agriculture and for which an RCD plan design or area plan has been accepted by the State NRCS Conservationist.

(e) Delegation of authority. The Rural Development State Director is authorized to approve WS and RCD loans subject to limitations in RUS Staff Instruction 1780–1 and conditions of this part. The Rural Development State Director is authorized to relegate authority in accordance with this part to the Chief, Community Programs; or other members of the State Office staff.

(f) NRCS is responsible for providing technical and financial assistance to sponsoring local organizations for planning and developing WS and RCD areas. This includes development of WS and RCD plans and WS works of improvement and RCD measures or projects.

(g) RUS is responsible for making and servicing WS loans and advances and RCD loans.

(h) The NRCS–RUS Agreements in RUS Bulletin's 1781 and 1781–2 include further responsibilities and functions of NRCS and RUS in WS and RCD areas.

§ 1781.4 Definitions.

(a) *Watershed (WS) project.* An authorized area in which watershed assistance from NRCS and other U.S. Department of Agriculture (USDA) agencies including WS loans and advances may be provided. Watershed assistance is provided in two types of watershed projects identified by the Public Law under which they are authorized.

(1) *Public Law-534 Watershed.* One of the 11 watersheds authorized by Congress in the Flood Control Act of 1944 (33 U.S.C. 701 *et seq.*), Public Law 78–534 as amended.

(2) *Public Law-566 Watershed.* A small watershed of not more than 250,000 acres authorized in accordance with the Watershed Protection and Flood Prevention Act, August 4, 1954, Public Law 83–566 as amended.

(b) *Resource Conservation and Development (RCD) area.* An area in which RCD program assistance from NRCS and other USDA agencies has been authorized. It usually includes all or part of more than one county and may be coterminous with substate planning and development areas. RCD loans are authorized under Section 32 of Title III of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1011).

(c) *Watershed plan.* A plan agreed upon by sponsoring local organizations and the NRCS for developing, operating, and maintaining watershed works of improvement.

(d) *RC&D measure plan.* A plan document for a land area, directly controlled or under the jurisdiction of the sponsoring public bodies or public nonprofit organization. It involves one of the measure purposes eligible for RC&D cost sharing assistance. The document sets forth what will be done, how, when and by whom, and involves RC&D technical and/or financial assistance.

(e) *RCD area plan.* A plan prepared by sponsoring local organizations with assistance from NRCS and other agencies for the development of the RCD area which has been endorsed by the Governor or his designated agency and accepted by the Secretary of Agriculture or his delegate. It includes objectives, planned courses of action, and RCD measures to be developed. It is amended as necessary to include continuing activities and needs in the RCD area.

(f) *Watershed works of improvement.* Structural, nonstructural, and land treatment measures included in a watershed plan which are to be installed in a watershed project.

(g) *RCD measure or project.* An activity or development indicated in the RCD area plan as being needed to achieve RCD area goals and objectives.

(h) *Cost sharing.* The WS and RCD legislative authorities provide for sharing certain costs of installing WS works of improvement or RCD measures by the Federal Government and by sponsoring local organizations. Federal cost sharing from WS and RCD funds is provided by NRCS for certain WS works of improvement and RCD measures. Information on amounts, purposes, and procedures for cost sharing is available from the NRCS.

(i) *Local cost.* The part of the cost of a WS work of improvement or a RCD measure or project that is to be paid by a sponsoring local organization.

(j) *Public agency or public body.* A State agency or department or instrumentality, county, municipality or other political subdivision or instrumentality of a State or agencies or districts created by or pursuant to State law for making improvements of a public nature or providing public services such as soil and water conservation districts, irrigation districts, drainage districts, flood prevention and control districts, school districts, other special purpose districts, municipal corporations or similar governmental units.

(k) *Non-profit corporation.* Mutual and other irrigation, water users, water supply, drainage, or waste disposal companies or associations, ditch companies, grazing, recreation and forestry associations and similar associations and organizations generally designated as private corporations operating on a non-profit basis. They may be organized and chartered under special law, general nonprofit corporation law, or general profit corporation law, if operated on a nonprofit basis under adequate charter, bylaw, mortgage or supplementary agreement provisions which will assure continued operation in that manner.

(l) *Sponsoring local organization.* A local public agency or body or a local nonprofit corporation having authority under State law to plan, develop, maintain and operate WS works of improvement or RCD measures or projects included in a WS or RCD area plan. The name of the sponsoring local organization must be included in the plan and sponsorship must be evidenced by execution of the plan.

(m) *Watershed loan.* A loan made by RUS from watershed funds to a sponsoring local organization to develop a WS work of improvement.

(n) *RCD loan.* A loan made by RUS from RCD funds to a local sponsoring organization to develop a RCD measure or project. RCD loans are made from RCD funds to enable sponsoring local organizations to provide a part or all of the local share of cost for an RCD measure.

(o) *Watershed advance.* A loan made from NRCS watershed construction funds to develop a future water supply or for the preservation of a site for a work of improvement authorized in a watershed plan.

(p) *Future water supply.* Water storage capacity in a reservoir with related facilities for release or withdrawal of water to meet future needs for municipal or industrial use.

(q) *Preservation of sites.* Acquisition to assure their availability for planned developments. Land, easements, or rights-of-way essential to preserve sites for watershed works of improvement or RCD measures.

(r) *Processing office.* Means the office designated by the Rural Development State Director to accept and process applications for WS and RCD loans and advances.

§ 1781.5 Eligibility.

To be eligible for a WS loan, WS advance, or an RCD loan, the sponsoring local organization must meet the following requirements as applicable. Questions on eligibility will be referred to the Regional Attorney, OGC for legal advise prior to development of a loan docket.

(a) Be named in the WS or RCD plan as a sponsor of the development to be financed.

(b) Be legally organized and established in the WS or RCD area with legal authority, responsibility and capability to develop and operate the facility for which assistance is requested.

(c) Have authority under and comply with Federal, State and local laws on such matters as:

(1) Organizing, installing, operating, and maintaining proposed WS works of improvement or RCD measures or projects.

(2) Borrowing money, giving security, levying taxes, making assessments or raising revenues for operation and maintenance of the facility and repayment of loans.

(3) Land use zoning.

(4) Acquiring necessary property, lands, and rights.

(5) Obtaining approval of construction plans and specifications by appropriate Federal, State, and local agencies and construction facilities.

(6) Health and sanitation standards, water pollution control, and environmental regulations.

(7) Design and installation standards.

(8) Public service commission or similar State public body rules and regulations.

(d) Be financially sound and capable of providing service essential to the rural development needs of the area.

(e) If it is a nonprofit corporation.

(1) Membership should be broadly based and representative of the area benefiting from the facility. Membership on the governing board of the corporation will be limited to those living in the area to be benefited unless for justifiable reasons the Rural Development State Director gives prior approval for other than local residents to serve on the board of directors.

(2) The corporation must propose a facility which will primarily serve or generate other substantial, tangible benefits for farmers and other residents of the area. In the case of a recreational development at least two-thirds of the membership must be farmers and other residing in the area.

(3) Nonprofit corporations will not be formed to serve an area which could be served by a public agency which has adequate authority to provide the needed service unless prior approval of the National Office is obtained.

§ 1781.6 Loan purposes.

(a) *WS and RCD loans.* WS and RCD loans may be used for:

(1) Water development, storage, treatment and conveyance to farms for irrigation and other farm use, including farmstead, livestock, orchard, and crop spraying.

(2) Drainage systems and facilities in farm areas to sustain agricultural production or protect farmers and rural residents from water damage.

(3) Agricultural water management practices for annual streamflow stabilization, recharging ground water reservoirs, and conserving water supplies by management and control of vegetation along waterways and in drainage basins.

(4) Soil conservation and water control facilities such as dikes, terraces, detention reservoirs, stream channels, ditches, and other special land treatment and stabilization measures needed to protect farms and rural residents from water damage, provided such facilities cannot be installed or improved under, or will not conflict with, other public programs such as those administered by the Corps of Engineers.

(5) Special treatment measures or equipment primarily, though not exclusively, for flood prevention such as:

(i) Facilities and equipment for fire prevention and control.

(ii) Tree planting and establishment of other vegetative cover for stabilizing critical runoff and sediment-producing areas.

(iii) Structural and vegetative measures to stabilize stream channels and gullies.

(iv) Basic farm conservation practices to control runoff, erosion, and sedimentation.

(6) Installing, repairing, and improving water storage facilities, including outlets for immediate and future domestic, municipal and industrial water supply and water quality management, and conveying water to treatment facilities or distribution systems. When payment of loans for such facilities are primarily dependent upon revenues from use of water stored the loan approval official must determine the adequacy of facility for use of the water before a loan is closed.

(7) Public water based recreation and fish and wildlife developer loans will only be made to public bodies for the local share of cost for such developments for which NRCS is providing technical or financial assistance from WS or RCD funds. Loans will not be made for developments larger or more elaborate than that which is included in the WS or RCD plan. Loans may include funds for:

(i) Construction of necessary water resource improvements such as storage capacity in multipurpose and single purpose reservoirs, water level control structures in reservoirs and streams, and stream channel improvements necessary for the development of the facilities. This may include practices for improvement of fish and wildlife habitat and environment and related areas and facilities for proper protection and management of the development.

(ii) Essential developments, improvements, equipment and facilities for access, public health and safety, and efficient operation management and maintenance; such as energy utilities, water supply and waste disposal systems, maintenance buildings, fences, cattle guards, roads and trails, parking, picnicking, camping, beaches, playgrounds, and related shelters and equipment.

(iii) Special areas and structures such as forest and other vegetative cover, marshes, pits, shelters and fish ladders to provide protected natural spawning, breeding, nesting, and feeding for fish and wildlife.

(8) Soil and Water Management for Agriculture-Related Pollutant Control. Measures to reduce agriculture-related pollutants that adversely affect the community and the general public. Measures may include, but are not limited to, holding ponds, debris basins, diversions, terraces, and community distribution systems.

(9) Acquiring fee simple title to lands or perpetual easements, or rights-of-way for sites for works of improvement or project measures and related costs for removal, relocation, or replacement of existing improvements including relocation payments for displaced persons, business enterprises and facilities, and other related purposes. Funds for land acquisition will be limited to costs necessary for WS works of improvement or RCD measures. Final construction plans will indicate minimum essential lands and rights-of-way to be acquired. In some cases, sponsoring local organizations may need to acquire lands in excess of actual needs when it is expedient for planned development. If the Rural Development State Director determines that the acquisition of excess land is necessary or expedient for the orderly development of a WS works of improvement, or RCD measure, he may authorize the action subject to the following conditions:

(i) The applicant must agree to sell excess land as soon as practicable and apply the proceeds, together with any income from excess land, on the debt to RUS.

(ii) The applicant must furnish legal evidence of authority to acquire additional land and dispose of it as agreed.

(iii) Evidence must be provided to justify acquisition of additional land.

(iv) Easements for land or water resource protection structures must be perpetual and must not include clauses that terminate the easement with the dissolution or abandonment of the applicant organization. Loan funds will not be used for an easement that deviates in any way from that provided in the standard NRCS form unless modifications of it are approved by both NRCS and RUS.

(10) Acquisition of water supply or water right by purchase or by appropriation under local, State, and Federal laws. The loan may include funds for the purchase of land on which the water supply or water right is presently being used when:

(i) The water supply or water right cannot be purchased without the land; and

(ii) The value of the land is not the major portion of the cost; and

(iii) Any excess land thus acquired will be sold as soon as possible and the proceeds applied on the loan.

(11) Purchase of equipment and machinery necessary for development and operation of planned WS works of improvement or RCD measures or projects including:

(i) *Special-purpose equipment.* Purchase or rent special-purpose equipment to install or maintain any community facility in categories in paragraph (a)(11) of this section or to establish on farms soil and water conservation measures such as terraces, ponds, land leveling for irrigation or drainage, subsoiling, seeding, tree planting, and removal of brush, scattered trees, and stumps, provided:

(A) Such equipment is not otherwise available when needed.

(B) There is sufficient need and local demand to justify ownership or rental.

(C) Rates to be charged include, among other things, an allowance for depreciation, obsolescence, and replacement based upon the recommendations of the equipment manufacturer or the experience of contractors engaged in providing services for similar types of work.

(ii) *Forestry equipment and services.* Purchase or rent basic special-purpose equipment, facilities, certain land or land rights, and supplies needed for furnishing services for the establishment, improvement, protection, and harvesting of timber (not processing) suitable for lumber, pulp, poles or posts; providing that the forest program and forest practices benefiting from such services are in accordance with approved conservation practices for the development, use, and control of water resources on farms and in forests. Special-purpose equipment may include such items as tractors, bull dozers, plows, planters, trucks, loaders, fire-fighting equipment, and sprayers. Facilities may include such items as ponds and reservoirs, pipelines, buildings for storage of equipment and supplies, nurseries, access roads, fire lanes, and lookout towers. Supplies may include such things as seed, seedlings, fertilizers, fencing, and pesticides. Land or land-rights acquisition will be limited to that necessary for sites for facilities listed above which are directly related to the forestry program. Loans for these purposes may be made only when the equipment, supplies, and facilities to be provided:

(A) Are not readily available when needed.

(B) Will be justified by local need and demand.

(C) Will be available to users at rates sufficient to cover loan amortization, obsolescence, replacement, operation, and cost of supplies.

(D) Will more efficiently serve the group through cooperative effort.

(12) Refinancing debt obligations of the sponsoring local organization that were incurred before application for a WS or RCD loan when that is not the primary purpose of the loan and:

(i) The debt being refinanced was for works of improvement or measures for which loan funds could be used; and

(ii) The debt is a valid obligation of the sponsor; and

(iii) Creditors will not modify payment terms on existing debts, and the organization cannot pay existing debts and a loan from RUS over the same period of time; and

(iv) Long-term debts will not be refinanced unless necessary to provide a sound basis for the loan or WS advance and concurrence is obtained from the National Office.

(13) If repayment is based on revenues, loan funds (not WS advances) can be used for payment of interest installments until the facility is generating enough revenue to make accrued interest payments. Loan funds for interest payments will not exceed the estimated amount that will accrue to the end of the third full calendar year after loan closing without prior approval from the National Office.

(14) Relocation payment to displaced persons, businesses, and farm operations and for relocation assistance advisory services in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91–646, 84 Stat. 1894), the Regulations issued by the Secretary of Agriculture under the Act (7 CFR part 21), and the Memorandum of Understanding Between NRCS and RUS.

(15) Services of engineers, architects, attorneys, auditors, construction foremen, managers, clerks, and others for organizing, planning, surveying, supervising, analyzing, developing, operating, managing, and accounting for activities related to loan processing and closing and development for which the loan is made.

(16) Buildings, fences, roads, utilities, facilities, and relocation:

(i) To construct buildings of modest design essential for the operation and maintenance of the works of improvement or measure.

(ii) To provide support facilities and utilities such as gas, electricity, water, sewer, and waste disposal.

(iii) To build or relocate roads, bridges, utilities, fences, and other improvements when necessary to acquire rights-of-ways or to construct or operate the facility.

(17) Services and fees. To pay costs for services for any purposes listed under this section such as:

(i) Fees or other legal expenses for establishing a water right through appropriation, agreement, permit, or court decree.

(ii) Purchase of water stock or membership in an incorporated water users' association to acquire a water supply.

(iii) Costs of labor, technical or professional services, and fees to be incurred in obtaining the loan and in planning and completing the facilities or services to be financed with loan funds.

(iv) Services such as those listed in paragraph (a) (16) of this section.

(b) *RCD loans.* Purposes for which RCD loans may be made in addition to those included in paragraph (a) of this section are:

(1) *Solid waste management.* Lands, equipment and facilities to collect, transport, and dispose of solid waste in sanitary landfills for which NRCS is providing technical assistance.

(2) *Shifts-in-land use.* Lands for uses such as grazing, forestry, wildlife, natural areas and parks, greenbelts, and other open spaces.

(3) *Purchase existing facilities.* Purchase existing facilities for shift-in-land use, soil and water development, conservation, control and use when it is determined that purchase is necessary to provide efficient service through a facility owned and operated by a public agency (or a nonprofit corporation in a rural area), or the owner is either unwilling or unable to make improvements, enlargement, or extensions needed to provide significant additional or improved service for present users or for a new group of users at reasonable rates.

(c) *NRCS watershed advances.* NRCS watershed advances are loans that may be made from NRCS construction funds for the following purposes included in a watershed work plan agreement:

(1) To pay construction costs including cost of engineering and related services for increasing reservoir capacity (including intake and outlet structures) for a future water supply for municipal, domestic, industrial, or agricultural uses.

(2) To preserve sites for authorized watershed works of improvement by acquiring land, easements, and rights-of-ways or other property rights.

§ 1781.7 Loan and advance limitations and obligations incurred before loan closing.

(a) *WS and RCD loan limitations.* (1) Loans will not be used for:

(i) Land treatment measures on individual farms except as provided in § 1781.6(a)(5)(iv).

(ii) Buildings and facilities to be used for lodging, dining or entertainment purposes.

(iii) Building industrial parks or constructing facilities in them, or establishing private industrial or commercial enterprises, or purchasing land to be used primarily for industrial purposes.

(iv) Paying costs allocated to structural measures for flood prevention.

(v) Facilities for the production and harvesting of fish and wildlife such as hatcheries, rearing ponds, and related facilities other than those under natural conditions.

(vi) Facilities primary for treatment and distribution of water or for sewerage, collection and treatment for domestic or industrial use or for municipal or community systems.

(vii) Electric generating, transmission, and distribution facilities, except when provided as part of the minimum basic facilities for recreation and fish and wildlife developments authorized in § 1781.6(a)(7).

(viii) Storm and sanitary sewers and solid waste disposal facilities other than authorized in § 1781.6(b)(1).

(ix) Payment for a tract of land, easements, or rights-of-ways on which NRCS will share the cost if the amount to be paid with loan funds exceeds the difference between the NRCS share and the value on which the NRCS share is based.

(x) Purchasing tracts of land primarily for later resale to private developers or individuals for agricultural or nonagricultural use.

(xii) Buildings for residential, commercial, or industrial, use.

(xiii) Developments on private property primarily for the benefit of the individual property owner.

(xiv) Payment of that part of the cost of facilities, improvements, and practices that could be earned by participation in agricultural conservation programs unless such cost cannot be covered by purchase orders or assignments to material suppliers or contractors. If a loan is made for such purposes for which practice or cost share payments exceed $500, RUS will obtain an assignment on such payments to be paid on the loan.

(xv) Primarily for water and sewage treatment plants and distribution systems.

(xvi) Drainage facilities primarily for the benefit of other than rural areas.

(xvii) Any single RCD measure that requires a loan of more than $500,000.

(xviii) The total amount of principal outstanding for all WS loans made for one or more watershed works of improvement in a single watershed project, whether made to one or more sponsoring organizations, will not exceed $10,000,000.

(b) *Watershed advance limitations.* (1) A WS advance for future water supply will not be used for acquiring property rights including lands, easements, and rights-of-way; water rights; administration of contracts; storage capacity for immediate municipal use; pipelines from the reservoir to place of use; or for other uses such as irrigation, fish and wildlife, and recreation.

(2) A WS advance for increasing reservoir capacity for future water supply will not exceed 30 percent of the total installation cost of one structure.

(3) A WS advance for site preservation will not exceed that determined necessary by NRCS except to purchase land in excess of actual needs in accordance with the provisions of § 1781.6(a)(7).

(4) Before a project agreement is entered into, there must be satisfactory evidence that the borrower will develop the site to be acquired or will use the future water supply and that revenue will be sufficient to meet all scheduled installments.

(c) *Obligations incurred before loan closing.* (1) WS loans, WS advances, and RCD loans may be used for payment of obligations incurred before loan closing when the Rural Development State Director determines that:

(i) The obligations incurred are necessary for planned developments; and

(ii) The obligations are incurred for authorized loan purposes; and

(iii) Contracts and construction plans meet RUS and NRCS standards; and

(iv) The applicant has legal authority to incur the obligations at the time proposed; and

(v) The Rural Development State Director authorizes such action in a letter to the applicant.

(2) The Rural Development State Director's letter will specifically state that the permission is granted on the condition that RUS is not committed to make a loan and assumes no responsibility for any obligation incurred by the applicant because of the permission granted and that the loan will be closed subject to compliance with agency regulations including closing instructions of the Regional Attorney Office of the General Counsel.

§ 1781.8 Rates and terms—WS loans and WS advances and RCD loans.

(a) *Interest rates.* The interest rate for WS loans, WS advances and RCD loans will be at a rate not to exceed the current market yield for outstanding municipal obligations with remaining periods to maturity comparable to the average maturity for the loan, adjusted to the nearest 1/8 of 1 percent.

(1) For loans, unless otherwise required by State law, interest will accrue from date of check delivery where Form RD 440–22, ''Promissory Note (Association Organization),'' is used. Where bonds are used interest will accrue from the applicable dates recorded on the bonds. Where multiple loan disbursements are used interest will accrue from date of check.

(2) Interest on an advance for future water supply will begin as required by State law, when water is first used from the future water storage capacity installed with advance, or ten years from the scheduled date of the completion of the facility, whichever date is the earlier.

(3) Interest on an advance for preservation of sites will begin on the date the advance is closed.

(b) *Length of repayment period.* The repayment period on loans may not exceed the shortest of the following periods:

(1) The statutory limitation on the sponsoring local organization's borrowing authority.

(2) Fifty (50) years for WS loans and WS advances and 30 years for RCD loans from the date when the principal benefits from the WS works of improvement or RCD measure being financed first become available.

(3) The useful life of the WS works of improvement or RCD measure being financed with loan or advance funds.

(c) *Deferred or partial payments.* Deferred or partial payments may be authorized in the following circumstances:

(1) Payments need to be delayed until the receipt of income from taxes or other revenues is enough to meet a regular installment but not exceed:

(i) The completion date of the facility; or

(ii) The date when benefits from the facility begins; but

(iii) In no case for more than 5 years for other than future water supply.

(2) Payments will depend on the increased returns expected from planned improvements, or from the installation on individual farms of land development or other soil and water improvements essential for obtaining benefits from the improvement to be installed with loan funds.

(3) They will not be used to permit the accelerated payment of other debts, to make capital improvements, or to create operating reserves.

(4) Where prohibited by State statutes; interest payments will not be deferred even though payments on principal may be deferred.

(5) Loans or advances for future water supply will be repaid within the life of the reservoir structure but in no event later than 50 years for WS and 30 years for RCD after the reservoir structure is built. Payments on the principal amount may be deferred one year after the water is first used from the storage capacity installed with the advance or for 10 years from the scheduled completion date of the structures, whichever occurs first.

(i) Interest will begin for a future water supply as required by State law, or when water is first used from the future storage capacity or 10 years from the scheduled date of completion of the facility, whichever occurs first.

(ii) If State law requires that interest be charged and repaid before water is first used or earlier than 10 years from completion date of the structure, interest payments will be scheduled to comply with State law even though payments of principal may be deferred.

(iii) The borrower should be encouraged to begin repayments as soon as practicable after the reservoir is built even though this liberal deferment policy exists.

(iv) WS advances for preservation of sites must be fully repaid before beginning construction of the works of improvement for which such sites were acquired.

(A) Unless a WS advance is to be repaid with a WS loan, installments will be scheduled at the earliest possible date following the date of closing the advance. The date and amount of each such installment will be fixed to coincide with the receipt of income from taxes or other revenues.

(B) Payments for both principal and interest on a WS advance for preservation of sites may be scheduled for payment in one installment to be paid on the date of the closing of a WS loan which includes funds for the repayment of the WS advance.

(C) Interest on a WS advance for preservation of sites will begin on the date the WS advance is closed.

(d) *Payment amortization and application.* (1) A borrower may make prepayments on WS loans, WS advances or RCD loans in any amount at any time.

(2) Payments will be applied first to interest accrued to the date of the receipt of payment, and second to the principal balance. If the regular payments plus any prepayments exceed the cumulative amount due, the excess payments will be applied on the next installment first to interest, then principal. Loan refunds and proceeds from the sale of security property, however, will be applied on the final unpaid installment.

(3) Payments will be scheduled annually beginning one year following the date of loan closing or one year following the end of any approved deferment period, unless another annual due date is required by State statute or upon prior written authorization from the National Office. In those cases where loans are being made under statutes requiring a repayment date other than this, the Rural Development State Director will send a copy of the Regional Attorney's opinion that such is required, to the Finance Office.

(4) When a single obligation instrument is used, amortized installments will be required. When this cannot be done because of state law, serial bonds or a single bond having installments of principal plus interest, stated separately, will be used. In cases where the payment of interest has been deferred, all collections will be applied to interest until such interest has been paid. Also, when a full installment is not paid when due, the payment made will be applied first to accrued interest.

(5) In cases where the indebtedness will be represented by serial bonds or a single bond having installments of principal plus interest, stated separately, annual payments of principal and interest will be scheduled to permit them to be paid in amounts approximately equal to the amounts that would be required for annual amortized installments.

(6) If the borrower will be retiring other debts represented by bonds or notes, the payment on such bonds may be considered in developing the payment schedule for the RUS loan. In some cases, it may be desirable to reduce the amount of payments to RUS in the early years of the loan in order to preclude the necessity for refinancing the outstanding debt. When such payment schedules are proposed, National Office authorization will be obtained prior to loan approval.

(7) Payment date. Insofar as loan payments are consistent with income availability, applicable State statutes, and commercial customs in the preparation of bonds or other evidence of indebtedness, they should be scheduled on a monthly basis either in the bond or other evidence of indebtedness or through the use of a supplemental agreement. Such requirements will be accomplished not later than the time of loan closing. When monthly payments are required, such payments will be scheduled beginning one full month following the date of loan closing or the end of any approved deferment period. Subsequent monthly payments will be scheduled each full month thereafter. In those cases where evidence of indebtedness calls for annual or semiannual payments, they will be scheduled beginning six or twelve full months, respectively following the date of loan closing or the end of any approved deferment period. Subsequent payments will be scheduled each sixth or twelfth full month respectively, thereafter. When the evidence of indebtedness is dated the 29th, 30th, or 31st day of a month, the payment date will be scheduled the 28th day of the month.

§ 1781.9 Security, feasibility, evidence of debt, title, insurance and other requirements.

(a) *Security.* WS loans, WS advances, and RCD loans will be secured in accordance with applicable provisions of § 1780.14 of this chapter.

(b) *Feasibility.* All projects financed under the provisions of this part must be based on taxes, assessments, revenues, fees, or other satisfactory sources in an amount that will provide for facility operation and maintenance, a reasonable reserve, and payment of the debt. The Rural Development State Director may obtain needed assistance in determining economic feasibility from officials of NRCS and other appropriate USDA agencies. See § 1780.7(f) of this chapter for applicable economic feasibility requirements and feasibility reports.

(c) *Notes, bonds, and bond transcript documents.* See subpart D of Part 1780 of this chapter for applicable requirements and provisions.

(d) *Insurance.* See § 1780.39(g) of this chapter for requirements.

(e) *National flood insurance.* The requirements of the National Flood Insurance Act of 1968 (42 U.S.C. 4001 *et seq.*) as amended by the Flood Disaster Protection Act of 1973 (42 U.S.C. 4003 *et seq.*) will be complied with in accordance with applicable provisions of RD Instruction 1901-L. Also see § 1780.39(g) of this chapter.

(f) *Borrower contracts and bonds.* See subpart C of Part 1780 of this chapter for applicable provisions.

(g) *Title requirements.* (1) Title evidence for land, easements, and rights-of-way to be acquired with proceeds of loans or advances will be furnished by the sponsoring local organization in accordance with NRCS policies and procedures.

(2) RUS will specify and approve the form and content of instruments for conveying title to or interest in real estate on which a lien will be taken to

secure a WS loan, WS advance, or RCD loan. These should be consistent with the applicable provisions of § 1780.14 of this chapter. The Rural Development State Director will make his decision after consultation with the Regional Attorney and the State Conservationist. He will notify NRCS in writing of his decision. Thereafter, title clearance will be completed under NRCS regulations except that a marketable title must be obtained on any tract of land, a part of which will be sold as excess land in accordance with § 1781.6(a)(9). In addition to the title evidence required by NRCS, applicants will furnish an opinion of legal counsel on all land and interest in land acquired with loan or advance funds.

(h) *Purchasing lands, rights and facilities.* The amounts paid for lands, rights, and facilities with loan funds will be not more than that determined to be reasonable and fair by the loan approval official based upon an appraisal of the current market value made by an Rural Development employee or an independent appraiser.

(i) *Water rights.* Applicants will be required to comply with applicable State and local laws and regulations governing appropriating, diverting, storing and using water, changing the place and manner of use of water, and in disposing of water. All of the rights of any landowner, appropriator, or user of water from any source will be fully honored in all respects as they may be affected by facilities installed with WS loans and advances and RCD loans. If, under the provisions of State law, notice of the proposed diversion or storage of water by the applicant may be filed, the applicant will be required to file such a notice. An applicant must furnish evidence to provide reasonable assurance that its water rights will be or have been properly established, will not interfere with prior vested rights, will likely not be contested or enjoined by other water users or riparian owners, and will be within the provisions of any applicable interstate compact.

§ 1781.10 [Reserved]

§ 1781.11 Other considerations.

(a) *Technical assistance.* When pipelines from reservoirs to treatment plants are included in watershed work plans, NRCS will not furnish engineering services for their design or installation. When such pipelines are to be financed by WS or RCD loans, RUS will supervise the activities of the private engineers retained for the purpose. Such RUS supervision will include, among other things, approval of private engineer's contracts, approval of plans and specifications, authorization of contract awards, spot checks of engineering inspection, and final inspection and acceptance.

(b) *Professional services.* Applicants will be responsible for providing the services necessary to plan projects including design of facilities, preparation of cost and income estimates, development of proposals for organization and financing, and overall operation and maintenance of the facility. Necessary professional services may include such as that of an engineer, architect, attorney, bond counsel, accountant, auditor, and financial advisor or fiscal agent. Form RD 442–19, ''Agreement for Engineering Services,'' may be used when appropriate. RUS Bulletin 1780–7, ''Legal Service Agreement'' may be used to prepare the agreement for legal services.

(c) *Other services.* Contracts for other services such as management, operation, and maintenance will be developed by the applicant and presented to the RUS official developing the docket for review and approval.

(d) *Fees for services.* Fees provided for in contracts, agreements or services will not be more than those ordinarily charged by the profession for similar work when RUS financing is not involved.

(e) *State pollution control or Environmental Protection Agency standards.* Facilities will be designed, installed and operated to prevent pollution of water in excess of established standards. Effluent disposal will conform with appropriate State and Federal Water Pollution Control Standards.

(f) *Water pollution.* When repayment of a WS loan, WS advance, or RCD loan will be dependent upon income from the use or sale of water, RUS approval will be contingent upon a determination that the proposed use of stored water for recreation or municipal supply might not be permitted by a State health department because the water is being polluted from an upstream or other source.

(g) *Environmental requirements.* Actions will be taken to comply with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) in accordance with subpart G of part 1940 of this title. When environmental assessments and environmental impact statements have been prepared on WS plans or RCD area plans by NRCS, a separate environmental impact statement or assessment on WS works of improvement or RCD measures for which a WS loan, WS advance, or RCD loan is requested will not be necessary unless the NRCS environmental review fails to meet the requirements of subpart G of part 1940 of this title. The Rural Development State Director should document the action taken by NRCS in compliance with the requirements of the National Environmental Policy Act and formally adopt the impact statement or assessment if satisfactory. If a determination is made that a further analysis of the environmental impact is needed, the Rural Development State Director will make necessary arrangements with the State NRCS conservationist for such action to be taken before a loan is made.

(h) *National Historic Preservation Act.* All projects will comply with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.*) in accordance with RD Instruction 1901–F.

(i) *Civil Rights Act of 1964.* Recipients of WS loans, WS advances, or RCD loans are subject to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), which prohibits discrimination because of race, color, or national origin. Borrowers must agree not to discriminate in their operations by signing Form RD 400–4, ''Nondiscrimination Agreement,'' before loan closing. This requirement should be discussed with the applicant as early in the negotiations as possible. Necessary actions will be taken in accordance with RD Instruction 1901–E.

(j) *Appraisals.* When required by the Rural Development State Director, appraisals will be made by an Rural Development official designated or an independent appraiser. Form RD 442–10, ''Appraisal Report—Water and Waste Disposal Systems,'' with appropriate supplements, may be modified as needed for use with the type of facilities being appraised.

(k) *Architectural Barriers Act of 1968.* All facilities financed with RUS loans and grants which are accessible to the public or in which physically handicapped persons may be employed or reside must be developed in compliance with this act (42 U.S.C. 4151 *et seq.*).

§ 1781.12 Preapplication and application processing.

(a) *WS and RCD Loans.*—(1) *Preapplications.* (i) The processing office or other person designated by the Rural Development State Director may assist the applicant in completing SF 424.1, ''Application for Federal Assistance (For Non-construction),'' and will forward one of SF 424.1 to the Rural Development State Director.

(ii) The Rural Development State Director will review SF 424.1 along with other necessary information and will

coordinate selection of preapplications to be processed with NRCS. He will consult with NRCS State Conservationist concerning the status of the WS plan or RCD measure plan, the estimated time schedule for construction and cost of the proposed works to be installed with the loan, cost sharing funds to be made available to the applicant, and other pertinent information.

(iii) Form AD–622, ''Notice of Preapplication Review Action,'' will be prepared and signed by the Rural Development State Director within forty-five (45) days from receipt of the preapplication in the processing office stating the results of the review action. An original and one copy of Form AD–622 will be sent to the processing office who will deliver the original to the applicant.

(2) *Applications.* (i) The application includes applicable forms and information indicated in RUS Instruction 1780. When the Rural Development State Director determines that an application will be further processed and Form AD–622 is delivered, he will designate a community program specialist (field), or a member of the community program staff to assist the processing office and the applicant with assembling and processing the application.

(ii) The processing office should arrange needed conferences with the applicant and its legal and engineering consultants, and when necessary, arrange for review of other Rural Development officials, and provide bulletins, forms, instructions and other assistance with assembling and processing the application. A processing checklist and time schedule will be established by using Form RD 1942–40, ''Processing Check List (Public Bodies),'' or Form RD 1942–39, ''Processing Check List (Other than Public Bodies).'' The processing office will send a letter and a copy of the processing checklist to the applicant to confirm decisions reached at the conference. The original and a copy of the processing checklist will be kept in the processing office and will be posted current as application processing actions are taken. The copy will be circulated from the processing office to the State Office for use in updating copies of the forms retained, after which it will be returned from the State Office to the processing office.

(3) *Dockets.* WS loan, WS advance, and RCD loan dockets will be developed and assembled in accordance with applicable RUS Instruction 1780.

(b) *Watershed advances.* Applications for WS advances will be developed and processed with NRCS assistance as necessary.

(1) The Rural Development State Director will arrange with the NRCS State Conservationist to be advised when a local sponsoring organization applies to NRCS for a WS advance.

(2) The Rural Development State Director will request the NRCS State Conservationist to provide information justifying the WS advance along with a written recommendation that it be made. This will include:

(i) Economic feasibility of the proposed WS advance.

(ii) Evidence of the legal authority of the sponsoring local organization to incur the obligation and make required payments.

(iii) Any limitations on the issuance of additional bonds or notes which may be imposed by the provisions of bond ordinances or on resolutions which authorize the issuance of any outstanding obligation of the sponsoring local organization.

(iv) The amount of WS advance funds to be provided, purpose for which funds will be used, and date funds will be needed.

(3) When the above information has been made available to the Rural Development State Director, he will send written recommendations concerning further action on the WS advance request to the NRCS State Conservationist including actions to be taken in the preparation of the WS advance docket.

(c) *Combination WS loans and WS advances.* If an applicant requests both a WS loan and WS advance, the application for the WS loan should indicate the amount of the WS advance needed and whether a request for it has been made to NRCS. The Rural Development State Director and the NRCS State Conservationist will coordinate applicable processing actions of such applications. When the Rural Development State Director determines that favorable consideration will be given to an application for a loan or advance, he will provide instructions to the processing office for completing and processing the appropriate docket. Any questions concerning eligibility or other legal matters should be cleared with the Regional Attorney.

(d) *Review of Decision.* When it is determined that the preapplication or application cannot be given favorable consideration, the Rural Development State Director will return it to the processing office along with written reasons. When the processing office receives this information, it will notify the applicant in writing of the reasons why the request was not favorably considered. The notification to the applicant will state that the RUS Administrator may be requested to review the decision. This action will be taken in accordance with § 1780.37 of this chapter.

(1) Upon receipt of the State Office copy of a review request from the applicant, the Rural Development State Director will furnish a report on the matter to the Administrator.

(2) The Administrator will notify the applicant and the Rural Development State Director in writing of his decision and the reasons therefore.

§ 1781.13 [Reserved]

§ 1781.14 Planning, options, and appraisals.

(a) WS and RCD area plans are developed by sponsoring local agencies and organizations with technical assistance from NRCS and other Federal and State agencies. These plans include WS works of improvement and RCD measures to be developed or constructed for which NRCS construction funds may be made available on a cost share basis along with funds provided by the sponsoring local organization, a portion or all of which may be obtained by a WS loan and/or WS advance or a RCD loan.

(b) Current information on the availability of cost share funds and purposes for which they may be used is provided by NRCS. The amount of NRCS cost share funds and the amount of funds to be provided by the sponsoring local organizations will be indicated in each plan. The estimated amount of WS loan, WS advance or RCD loan anticipated by the sponsoring local organization should also be included.

(c) Plans for the development or construction of individual WS works of improvement and RCD measures will normally be developed with NRCS technical assistance. In every case they will be approved by both the NRCS State conservationist and the Rural Development State Director or their designated agent when a WS loan, WS advance or RCD loan is made.

(d) Options and appraisals related to the purchase of real estate for which a WS loan, WS advance, or RCD loan is made must be developed in accordance with NRCS and RUS requirements and approved by RUS. The determination of present market value will be made in accordance with § 1780.44(g) of this chapter.

§ 1781.15 Planning and performing development.

Planning and performing development will be handled in accordance with subpart C of part 1780

of this chapter and guidance from NRCS.

§ 1781.16 [Reserved]

§ 1781.17 Docket preparation and processing.

(a) *Loan dockets.* Dockets for WS loans, WS advances and RCD loans will be prepared in accordance with the applicable provisions of part 1780 of this chapter.

(1) *Time for preparation of docket.* Docket preparation may begin as soon as a preliminary draft of the watershed plan or RCD area plan, together with an estimate of costs and benefits, have been prepared with the assistance of NRCS and approved by the sponsoring local organization applicant. However, the applicant must understand that approval of the WS loan, WS advance, or RCD loan will not be determined until the work plan has been authorized for assistance by NRCS. To the extent practicable, docket preparation may be completed by that time to facilitate the availability of funds when needed.

(2) *Instructions for preparation of docket.* When the Rural Development State Director has determined that plans and other requirements are completed to the extent that preparation of the loan docket may begin, he will send the processing office a memorandum giving complete instructions for docket preparation, with a list of documents to be included in the docket.

(3) *Objectives of the docket.* The docket should include information for use in determining that:

(i) The sponsoring local organization:

(A) Has legal authority to construct and operate the proposed facility, borrow money, give security, incur debt, and generate revenue needed for operation, maintenance, reserves, debt payment, and other cash requirements.

(B) Is a sponsor or cosponsor of the WS plan or RCD work plan and is otherwise eligible for assistance.

(ii) Funds will be used for authorized purposes.

(iii) The source of income to be pledged for debt payment and the security proposed is adequate.

(iv) Actions required for loan closing are administratively satisfactory, legally sufficient and properly documented in accordance with Agency regulations.

(4) *Assembly of the docket.* The docket will be assembled in accordance with paragraph (a)(2) of this section and will include the following:

(i) A copy of the WS works of improvement agreement or RCD measure agreement.

(ii) A copy of the Operation and Maintenance Agreement between NRCS and the WS or RCD sponsoring local organization for the WS works of improvement or the RCD measure.

(iii) A statement from the NRCS State Conservationist concurring in the feasibility of the WS work of improvement or RCD measure and that NRCS is providing financial and/or technical assistance in accordance with applicable WS or RCD authorities.

(5) *Narrative by processing office.* This should be included in or attached to the Project Summary. It should relate project costs to benefits of the WS or RCD loan or WS advance. Minimum and average individual charges, tax levies or assessments should be given where applicable. Where taxes or assessments on land will be levied, acres should be indicated and average cost per acre should be given. Analyses of income from recreational facilities should be based on the best information available from local, State, and Federal agencies concerned with such recreation facilities. Determination of water rates, schedules, and estimated consumption of water should be made by the same methods as for loans for domestic water and irrigation.

(6) *Estimates of right-of-way Costs.* The docket should include, as part of the Project Summary, current estimated costs of easements, rights-of-way, and other land rights which must be acquired. The amount estimated for such purposes in the WS or RCD plan should reflect current conditions.

(b) *Loan processing by State Office.*—(1) *Review of the docket.* The processing office will check the docket for accuracy and completeness and forward it to the State Office with their recommendations. The Rural Development State Director will review the docket to determine that:

(i) All documents are accurate and complete.

(ii) The proposed loan complies with WS and RCD program policies and procedures of both RUS and NRCS.

(iii) Security is adequate and the repayment plan is sound.

(iv) Funds requested are for authorized purposes.

(v) Actions are in compliance with requirements of applicable Federal and State laws.

(2) *Letter of conditions.* When the Rural Development State Director determines that the docket is complete and the proposed activity is feasible, he will prepare a proposed letter of conditions under which the application may be further processed. The letter will be delivered to and discussed with the applicant. Upon acceptance of the conditions the applicant will indicate intentions to meet the conditions by a letter of interest and the application will be further processed.

(3) *Legal review.* The complete docket and proposed letter of conditions will be forwarded to the Regional Attorney, OGC for review and preparation of closing instructions. If it is not possible to issue closing instructions at that time, the Regional Attorney, will issue a preliminary legal opinion commenting upon the applicants legal existence, authority to incur debt and give security for the WS loan, WS advance, or RCD loan requested and actions to be taken before closing instructions may be issued.

(4) *Authorization for approval.* When the Rural Development State Director receives closing instructions or a preliminary legal opinion for a WS loan, WS advance, or RCD loan that is not within his approval authority he will send this information along with the docket, the proposed letter of conditions, and a memorandum recommending approval to the National Office. A copy of his memorandum will be sent to the processing office. If the proposed action is within the Rural Development State Director's approval authority he need not submit the material listed in this paragraph (b)(4) to the National Office unless he wants review and comments before approval.

(c) *WS advance processing.* (1) When the Rural Development State Director has concurred with the NRCS State Conservationist in the inclusion of a WS advance in a watershed plan, preparation of the advance docket can be initiated and will be processed in the same manner as for a WS loan. Where both a WS loan and WS advance are planned only one docket will be prepared to include both the WS loan and WS advance.

(2) If the advance appears to be sound and proper, the Rural Development State Director will send a proposed memorandum of concurrence to the NRCS State Conservationist. The memorandum will state that RUS concurs in the execution of a work of improvement agreement for which NRCS will obligate advance funds and that RUS will accept the proposed obligations of the applicant to repay the advance subject to conditions specified in or attached to the memorandum. These conditions will include all appropriate requirements in accordance with paragraph (b)(2) of this section and will specify compliance with closing instructions issued by the Regional Attorney. It will also indicate that preparation of the WS advance docket will be in accordance with paragraph (a) of this section.

(3) The Rural Development State Director and the NRCS State Conservationist will sign the memorandum of concurrence to NRCS when:

(i) It has been determined that funds for the advance will be obligated by NRCS; and

(ii) The WS advance docket, has been approved; and

(iii) Closing instructions have been issued by the Regional Attorney; and

(iv) The Rural Development State Director and NRCS State Conservationist have determined that the applicant can comply with all requirements of the letter of conditions and closing instructions.

§ 1781.18 Feasibility.

(a) Before WS loan, WS advance, or RCD loan is approved, a determination of feasibility will be made by the Rural Development State Director based upon a review of plans developed in cooperation with NRCS personnel. The feasibility determination must have the concurrence of the NRCS State Conservationist before a WS loan, WS advance, or RCD loan is approved.

(b) A written assessment of the project's feasibility will be made by the processing office, Architect/Engineer, and Program Chief in their recommendations or comments on the Project Summary. These should reflect concurrence of the respective NRCS personnel in counterpart positions with whom they cooperate in administering these programs.

§ 1781.19 Approval, closing, and cancellation.

(a) Approval and closing actions will be taken in accordance with the applicable provisions of part 1780 of this chapter and the following requirements have been met:

(1) The WS or RCD plan has been approved for operations by NRCS and the applicant is an official sponsoring or cosponsoring local organization for the plan as evidenced by being included in the list of sponsoring or co-sponsoring local organizations in the plan.

(2) Closing instructions or a preliminary legal opinion has been prepared by the Regional Attorney.

(3) The governing body of the applicant's sponsoring local organization has formally passed and approved the loan resolution.

(4) The Rural Development State Director and NRCS State Conservationist have determined that all planned actions can be carried out as proposed in the project plan and the docket.

(5) The NRCS State Conservationist and Rural Development State Director have mutually agreed on the priority to be given the WS loan or WS advance, or RCD loan. In making this determination, consideration will be given to the relative priority of the WS works of improvement or RCD measures to all other such work in the State and the anticipated availability of Federal and local funds to assure continuity of action and work until the project is completed. When funds are to be provided by NRCS for a WS or RCD loan or a WS advance such funds must be obligated by NRCS before closing.

(6) Public bodies will be required to use bond counsel in accordance with subpart D of part 1780 of this chapter.

(b) When favorable action is not taken on a WS loan, WS advance, or RCD loan, the Rural Development State Director will notify the NRCS State Conservationist and the applicant in writing and, if possible, arrange for a meeting of RUS and NRCS representatives with the applicant to explain the action. WS loans, WS advances, or RCD loans may be canceled before closing.

§ 1781.20 Disbursement of WS and RCD loan funds and WS advance funds.

(a) WS and RCD loan funds will be disbursed by the processing office in accordance with the applicable provisions of § 1780.45 of this chapter and RUS Bulletin 1781–1, paragraph (5). Funds will be made available to the borrower as needed for payment of development or other costs for which the loan is made. The processing office must determine that the payment is for an authorized purpose and is for benefits accrued to the borrower. This will require evidence from NRCS in accordance with the applicable provisions of RUS Bulletin 1781–1, ''Memorandum of Understanding Between RUS and NRCS.''

(b) WS advance funds may be disbursed in the same manner as WS loan funds if such funds are transferred to RUS by NRCS for disbursement or they may be disbursed by NRCS. When WS advance funds are disbursed by NRCS, payments from advance of funds will be reported to the Rural Development State Director each month to be reported to the Finance Office and charged to the borrower's account. This action will be taken in accordance with the applicable provisions of RUS Bulletin 1781–1 or RUS Bulletin 1781–2 and agreement between the NRCS State Conservationist and Rural Development State Director as follows:

(1) When a future water supply is being developed with NRCS, WS advance funds, the NRCS State Conservationist will send the Rural Development State Director a monthly report of funds disbursed. This will include three (3) copies of Form NRCS–AS–49a and 49b, ''Contract Payment Estimate and Construction Progress Report,'' along with a transmittal Memorandum showing the sequential number (first, second, third, etc.) of the payment, the amount and date of payment, the check number by which the payment was made and the cumulative amount of advance funds disbursed to date. When the works of improvement, for which WS advance funds are used is completed the final report will, in addition to the above, show the date that construction was completed and the total amount of WS advance funds used.

(2) WS advances for construction costs will be set out each month on Form NRCS–49a. The Rural Development State Director should make arrangements with the NRCS State Conservationist to be supplied each month with a copy of Form NRCS 49a when advance funds are included together with an official statement from the NRCS State Administrative Officer giving the date of the check and the exact amount of each advance of funds made under the advance provisions of the project agreement or of any engineering services agreement or other supplementary agreement which further implements the proposal for the advance in the project agreement. The original will be sent immediately to the Finance Office and a copy provided for the processing office file.

(3) When WS advance funds are used to acquire property for site preservation the same reporting procedure as for a future water supply will be used except that Form NRCS–AS–49a and 49b if used, should be adopted to indicate fund use. As payments are made on land on which a mortgage or other security instrument is required, such instruments will be executed in accordance with instructions from the Regional Attorney, OGC.

(4) The Rural Development State Director must send the bond or note evidencing WS advance indebtedness of the borrower to the Finance Office along with reports of payments from advance funds disbursed by NRCS. A copy of the bond or note and copy of each report of payment will be sent to the processing office.

(c) *Actions subsequent to closing of loans or advances.* Actions will be taken in accordance with § 1780.44 of this chapter.

§ 1781.21 Borrower accounting methods, management, reporting, and audits.

These activities will be handled in accordance with the provisions of § 1780.47 of this chapter.

§ 1781.22 Subsequent loans.

Subsequent loans will be processed in accordance with this part.

§ 1781.23 Servicing.

Servicing will be handled in accordance with the provisions of subpart E of part 1951 of this title.

§ 1781.24 State supplements and availability of bulletins, instructions, forms, and memorandums.

(a) State supplements will be issued as needed in accordance with applicable provisions of part 1780 of this chapter.

(b) Bulletins, instructions, forms and memorandums are available from any USDA/Rural Development office or the Rural Utilities Service, United States Department of Agriculture, Washington, DC. 20250–1500.

§§ 1781.25—1781.100 [Reserved]

PART 1901—PROGRAM-RELATED INSTRUCTIONS

Subpart E—Civil Rights Compliance Requirements*C*

6. The authority citation for subpart E of part 1901 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 40 U.S.C. 442; 42 U.S.C. 1480, 2942.

7. Section 1901.204 is amended by revising paragraph (a)(25) to read as follows:

§ 1901.204 Compliance reviews.

(a) * * *

(25) Section 306C WWD loans and grants.

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PART 1940—GENERAL

8. The authority citation for part 1940 is revised to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

Subpart L—Methodology and Formulas for Allocation of Loan and Grant Program Funds

§§ 1940.586 and 1940.587 [Removed and Reserved]

9. Sections 1940.586 and 1940.587 are removed and reserved.

PART 1942—ASSOCIATIONS

10. The authority citation for part 1942 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005.

Subpart A—Community Facility Loans

11. Section 1942.1 is amended by revising paragraph (a) to read as follows:

§ 1942.1 General.

(a) This subpart outlines the policies and procedures for making and processing insured loans for community facilities except for fire and rescue and water and waste disposal facilities. This subpart applies to community facility loans for fire and rescue facilities only as specifically provided for in subpart C of this part. Water and waste loans are provided for in part 1780 of this title. The Agency shall cooperate fully with State and local agencies in making loans to assure maximum support to the State strategy for rural development. State Directors and their staffs shall maintain coordination and liaison with State agency and substate planning districts. Funds allocated for use under this subpart are also for the use of Indian tribes within the State, regardless of whether State development strategies include Indian reservations within the State's boundaries. Indians residing on such reservations must have equal opportunity to participate in the benefits of these programs as compared with other residents of the State. Federal statues provide for extending Agency financial programs without regard to race, color, religion, sex, national origin, marital status, age, or physical/mental handicap. The participants must possess the capacity to enter into legal contracts under State and local statutes. Any processing or servicing activity conducted pursuant to this subpart involving authorized assistance to Agency employees, members of their families, known close relatives, or business or close personal associates, is subject to the provisions of subpart D of part 1900 of this chapter. Applicants for this assistance are required to identify any known relationship or association with an Agency employee.

* * * * *

12. Section 1942.17 is amended by revising the heading and introductory text of paragraph (p)(6)(i) to read as follows:

§ 1942.17 Community facilities.

* * * * *

(p) * * *

(6) * * *

(i) *Agency loan and/or grant funds.* Remaining funds may be used for purposes authorized by paragraph (d) of this section, provided the use will not result in major changes to the facility design or project and that the purposes of the loan and/or grant remains the same.

* * * * *

Subpart G—Rural Business Enterprise Grants and Television Demonstration Grants

13. Section 1942.308 is amended by revising paragraph (c) to read as follows:

§ 1942.308 Regional Commission grants.

* * * * *

(c) ARC is authorized under the Appalachian Regional Development Act of 1965 (40 U.S.C. 1–405), as amended, to serve the Appalachian region. ARC grants are handled in accordance with the ARC Agreement which applies to all ARC grants administered by the Agency. Therefore, a separate Project Management Agreement between the Agency and ARC is not needed for each ARC grant.

* * * * *

14. Section 1942.349 is revised to read as follows:

§ 1942.349 Forms, guides, and attachments.

Guides 1 and 2 of this subpart, Attachment 1 and Forms referenced (all available in any Rural Development office) are for use in administering RBE/television demonstration grants.

Subpart H—[Removed and Reserved]

15. Subpart H of part 1942 is removed and reserved.

PART 1951—SERVICING AND COLLECTIONS

16. The authority citation for part 1951 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

Subpart E—Servicing of Community and Insured Business Programs Loans and Grants

17. Section 1951.201 is revised to read as follows:

§ 1951.201 Purposes.

This subpart prescribes the Rural Development mission area policies, authorizations, and procedures for servicing Water and Waste Disposal System loans and grants; Community Facility loans and grants; Rural Business Enterprise/Television Demonstration grants; loans for Grazing and other shift-in-land-use projects; Association Recreation loans; Association Irrigation and Drainage loans; Watershed loans and advances; Resource Conservation and Development loans; Insured Business loans; Economic Opportunity

Cooperative loans; loans to Indian Tribes and Tribal Corporations; Rural Renewal loans; Energy Impacted Area Development Assistance Program grants; National Nonprofit Corporation grants; Water and Waste Disposal Technical Assistance and Training grants; Emergency Community Water Assistance grants; System for Delivery of Certain Rural Development Programs panel grants; section 306C WWD loans and grants; and Rural Technology and Cooperative Development Grants in subpart F of part 4284 of this title. Rural Development State Offices act on behalf of the Rural Utilities Service, the Rural Business-Cooperative Service, and the Farm Service Agency as to loan and grant programs formerly administered by the Farmers Home Administration and the Rural Development Administration. Loans sold without insurance to the private sector will be serviced in the private sector and will not be serviced under this subpart. The provisions of this subpart are not applicable to such loans. Future changes to this subpart will not be made applicable to such loans.

PART 1956—DEBT SETTLEMENT

18. The authority citation for part 1951 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1989; 31 U.S.C. 3711; 42 U.S.C. 1480.

Subpart C—Debt Settlement-Community and Business Programs

19. Section 1956.101 is revised to read as follows:

§ 1956.101 Purposes.

This subpart delegates authority and prescribes policies and procedures for debt settlement of Water and Waste Disposal System loans; Community Facility loans; Association Recreation loans; Watershed loans and advances; Resource, Conservation and Development loans; Rural Renewal loans; direct Business and Industry loans; Irrigation and Drainage loans; Shift-in-land-use loans; and Indian Tribal Land Acquisition loans; and Section 306C WWD loans. Settlement of Economic Opportunity Cooperative loans, Claims Against Third Party Converters, Nonprogram loans, Rural Business Enterprise/Television Demonstration Grants, Rural Development Loan Fund loans, Intermediary Relending Program loans, Nonprofit National Corporations Loans and Grants, and 601 Energy Impact Assistance Grants, is not authorized under independent statutory authority and settlement under these programs is handled pursuant to the Federal Claims Collection Joint Standards, 4 CFR parts 101–105 as described in § 1956.147 of this subpart.

Dated: May 15, 1997.

Jill Long Thompson,

Under Secretary for Rural Development.

[FR Doc. 97–13445 Filed 6–18–97; 8:45 am]

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federal register

Thursday
June 19, 1997

Part III

Department of Education

Office of Special Education and Rehabilitative Services; National Institute on Disability and Rehabilitation Research; Notice Inviting Applications for New Awards Under Certain Programs for Fiscal Year 1998; Notice

DEPARTMENT OF EDUCATION

[CFDA Nos.: 84.133F, 84.133G, and 84.133P]

Office of Special Education and Rehabilitative Services; National Institute on Disability and Rehabilitation Research; Notice Inviting Applications for New Awards Under Certain Programs for Fiscal 1998

Note To Applicants: This notice is a complete application package. Together with the statute authorizing the programs and applicable regulations governing the programs, including the Education Department General Administrative Regulations (EDGAR), this notice contains information, application forms, and instructions needed to apply for a grant under these competitions.

These programs support the National Education Goal that calls for all Americans to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

The estimated funding levels in this notice do not bind the Department of Education to make awards in any of these categories, or to any specific number of awards or funding levels, unless otherwise specified in statute.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR), 34 CFR parts 74, 75, 77, 80, 81, 82, 85, and 86; and the following program regulations:

Research Fellowships—34 CFR part 356.

Field-Initiated Projects—34 CFR parts 350.

Advanced Rehabilitation Research Training Projects—34 CFR part 350.

Program Title: Research Fellowships.

CFDA Number: 84.133F.

Purpose: The purpose of the Research Fellowship program is to build research capacity by providing support to highly qualified individuals, including those who are individuals with disabilities, to perform research on the rehabilitation of individuals with disabilities. Fellows may conduct original research in any area authorized by section 204 of the Rehabilitation Act of 1973, as amended. Fellows may address problems encountered by persons with disabilities in their daily lives that are due to the presence of a disabling condition, problems associated with the provision of rehabilitation services to individuals with disabilities, and problems connected with the conduct of disability research.

The program provides two categories of Fellowships: Merit Fellowships and Distinguished Fellowships. To be eligible for a Distinguished Fellowship, an individual must have seven or more years of research experience in subject areas, methods, or techniques relevant to rehabilitation research and must have a doctorate, other terminal degree, or comparable academic qualifications. To be eligible for a Merit Fellowship, an individual must have either advanced professional training or experience in independent study in an area which is directly pertinent to disability and rehabilitation.

The Fellowship awards are for twelve months, and award recipients are required to work full time on authorized fellowship activities. A Fellowship award includes a fixed stipend and a flat rate allowance for research and research-related expenses including travel expenses. Applicants are not required to submit budget proposals.

Selection Criteria: The Secretary evaluates applications for Fellowships according to the following criteria in 34 CFR 356.30.

(a) Quality and level of formal education, previous work experience, and recommendations of present or former supervisors or colleagues that include an indication of the applicant's ability to work creatively in scientific research; and

(b) The quality of a research proposal of no more than 12 pages containing the following information:

(1) The importance of the problem to be investigated to the purpose of the Act and the mission of NIDRR.

(2) The research hypotheses or related objectives and the methodology and design to be followed.

(3) Assurance of the availability of any necessary data resources, equipment, or institutional support, including technical consultation and support where appropriate, required to carry out the proposed activity.

Eligible Applicants: Only individuals are eligible to be recipients of Fellowships. Institutions are not eligible to be recipients of Fellowships.

Program Authority: 29 U.S.C. 761a(d).

APPLICATION NOTICE FOR FISCAL YEAR 1998 RESEARCH FELLOWSHIPS, CFDA NO. 84.133F

Funding priority	Deadline for transmittal of applications	Estimated number of awards	Maximum award amount (per year) *	Project period (months)
Research Fellowships	August 29, 1997	10	Merit: $45,000 Distinguished: $55,000.	12

NOTE: The Secretary will reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount (See 34 CFR 75.104(b)).

Program Title: Field-Initiated Projects

CFDA Number: 84.133G.

Purpose: Field-Initiated (FI) projects must further one or more of the following purposes: develop methods, procedures, and rehabilitation technology, that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities; and improve the effectiveness of services authorized under the Act. Field-Initiated projects carry out *either* research activities *or* development activities.

In carrying out a research activity, a grantee must identify one or more hypotheses, and based on the hypotheses identified, perform an intensive systematic study directed toward new or full scientific knowledge, or understanding of the subject or problem studied.

In carrying out a development activity, a grantee must use knowledge and understanding gained from research to create materials, devices, systems, or methods beneficial to the target population, including design and development of prototypes and processes. Target population means the group of individuals, organizations, or other entities expected to be affected by the project. More than one group may be involved since a project may affect those who receive services, provide services, or administer services.

There are two different sets of selection criteria for FI projects: one set to evaluate applications proposing to carry out research activities, and a

second set to evaluate applications proposing to carry out development activities. An applicant for a FI project should designate clearly on the cover page of the application whether the project proposes to carry out research or development activities. The set of FI selection criteria that will be used to evaluate an application will be based on the applicant's designation of the type of activity that the application proposes to carry out.

Invitational Priorities: The Secretary is particularly interested in applications that address one of the following invitational priorities. However, under 34 CFR 75.105(c)(1) an application that meets an invitational priority does not receive competitive or absolute preference over other applications. The invitational priorities are: (1) The implications of new developments in genetic research on the areas of civil rights and counseling for individuals with disabilities; (2) the use of teleconferencing technology in providing disability-related services, such as rehabilitation and medical services; (3) the marketing of disability-related products, services, and publications; (4) issues related to the implementation of the Americans with Disabilities Act on individuals with disabilities from minority backgrounds, especially Asian-Americans; and (5) the needs of individuals with a combination of significant physical and speech disabilities.

Selection Criteria: Field-Initiated Project—Research Activities

The Secretary uses the following criteria to evaluate a Field-Initiated Project application that proposes to carry out *research activities.*

(a) *Importance of the problem* (15 points total).

(1) The Secretary considers the importance of the problem.

(2) In determining the importance of the problem, the Secretary considers the following factors:

(i) The extent to which the applicant clearly describes the need and target population (5 points).

(ii) The extent to which the proposed activities further the purposes of the Act (4 points).

(iii) The extent to which the proposed project will have beneficial impact on the target population (6 points).

(b) *Design of research activities* (40 points total).

(1) The Secretary considers the extent to which the design of research activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the research activities constitute a coherent, sustained approach to research in the field, including a substantial addition to the state-of-the-art (10 points).

(ii) The extent to which the methodology of each proposed research activity is meritorious, including consideration of the extent to which—

(A) The proposed design includes a comprehensive and informed review of the current literature, demonstrating knowledge of the state-of-the-art (5 points);

(B) Each research hypothesis is theoretically sound and based on current knowledge (5 points);

(C) Each sample population is appropriate and of sufficient size (5 points);

(D) The data collection and measurement techniques are appropriate and likely to be effective (4 points); and

(E) The data analysis methods are appropriate (4 points).

(iii) The extent to which anticipated research results are likely to satisfy the original hypotheses and could be used for planning additional research, including generation of new hypotheses where applicable (7 points).

(c) *Design of dissemination activities* (5 points total).

(1) The Secretary considers the extent to which the design of dissemination activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors: (i) The extent to which the materials to be disseminated are likely to be effective and usable, including consideration of their quality, clarity, variety, and format (2 points).

(ii) The extent to which the materials and information to be disseminated and the methods for dissemination are appropriate to the target population, including consideration of the familiarity of the target population with the subject matter, format of the information, and subject matter (2 points).

(iii) The extent to which the information to be disseminated will be accessible to individuals with disabilities (1 point).

(d) Plan of operation (6 points total).

(1) The Secretary considers the quality of the plan of operation.

(2) In determining the quality of the plan of operation, the Secretary considers the adequacy of the plan of operation to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, and timelines for accomplishing project tasks (6 points).

(e) *Adequacy and reasonableness of the budget* (4 points total).

(1) The Secretary considers the adequacy and the reasonableness of the proposed budget.

(2) In determining the adequacy and the reasonableness of the proposed budget, the Secretary considers the following factors:

(i) The extent to which the costs are reasonable in relation to the proposed project activities (2 points).

(ii) The extent to which the budget for the project, including any subcontracts, is adequately justified to support the proposed project activities (2 points).

(f) *Plan of evaluation* (10 points total).

(1) The Secretary considers the quality of the plan of evaluation.

(2) In determining the quality of the plan of evaluation, the Secretary considers the following factors:

(i) The extent to which the plan of evaluation provides for periodic assessment of progress toward—

(A) Implementing the plan of operation (3 points); and

(B) Achieving the project's intended outcomes and expected impacts (2 points).

(ii) The extent to which the plan of evaluation provides for periodic assessment of a project's progress that is based on identified performance measures that—

(A) Are clearly related to the intended outcomes of the project and expected impacts on the target population (3 points); and

(B) Are objective, and quantifiable or qualitative, as appropriate (2 points).

(g) *Project staff* (15 total points).

(1) The Secretary considers the quality of the project staff.

(2) In determining the quality of the project staff, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (2 points).

(3) In addition, the Secretary considers the following:

(i) The extent to which the key personnel and other key staff have appropriate training and experience in disciplines required to conduct all proposed activities (5 points).

(ii) The extent to which the commitment of staff time is adequate to

accomplish all the proposed activities of the project (3 points).

(iii) The extent to which the key personnel are knowledgeable about the methodology and literature of pertinent subject areas (5 points).

(h) *Adequacy and accessibility of resources* (5 points total).

(1) The Secretary considers the adequacy and accessibility of the applicant's resources to implement the proposed project.

(2) In determining the adequacy and accessibility of resources, the Secretary considers the following factors:

(i) The extent to which the applicant is committed to provide adequate facilities, equipment, other resources, including administrative support, and laboratories, if appropriate (3 points).

(ii) The extent to which the facilities, equipment, and other resources are appropriately accessible to individuals with disabilities who may use the facilities, equipment, and other resources of the project (2 points).

Selection Criteria: Field-Initiated Project—Development Activities

The Secretary uses the following criteria to evaluate a Field-Initiated Project application that proposes to carry out *development activities.*

(a) *Importance of the problem* (15 points total).

(1) The Secretary considers the importance of the problem.

(2) In determining the importance of the problem, the Secretary considers the following factors:

(i) The extent to which the applicant clearly describes the need and target population (5 points).

(ii) The extent to which the proposed activities further the purposes of the Act (4 points).

(iii) The extent to which the proposed project will have beneficial impact on the target population (6 points).

(b) *Design of development activities* (40 points total).

(1) The Secretary considers the extent to which the design of development activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the plan for development, clinical testing, and evaluation of new devices and technology is likely to yield significant products or techniques, including consideration of the extent to which—

(A) The proposed project will use the most effective and appropriate technology available in developing the new device or technique (6 points);

(B) The proposed development is based on a sound conceptual model that demonstrates an awareness of the state-of-the-art in technology (9 points);

(C) The new device or technique will be developed and tested in an appropriate environment (6 points);

(D) The new device or technique is likely to be cost-effective and useful (5 points);

(E) The new device or technique has the potential for commercial or private manufacture, marketing, and distribution of the product (9 points); and

(F) The proposed development efforts include adequate quality controls and, as appropriate, repeated testing of products (5 points).

(c) *Design of dissemination activities* (5 points total).

(1) The Secretary considers the extent to which the design of dissemination activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the materials to be disseminated are likely to be effective and usable, including consideration of their quality, clarity, variety, and format (2 points).

(ii) The extent to which the materials and information to be disseminated and the methods for dissemination are appropriate to the target population, including consideration of the familiarity of the target population with the subject matter, format of the information, and subject matter (2 points).

(iii) The extent to which the information to be disseminated will be accessible to individuals with disabilities (1 point).

(d) *Plan of operation* (6 points total).

(1) The Secretary considers the quality of the plan of operation.

(2) In determining the quality of the plan of operation, the Secretary considers the adequacy of the plan of operation to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, and timelines for accomplishing project tasks (6 points).

(e) *Adequacy and reasonableness of the budget* (4 points total).

(1) The Secretary considers the adequacy and the reasonableness of the proposed budget.

(2) In determining the adequacy and the reasonableness of the proposed budget, the Secretary considers the following factors:

(i) The extent to which the costs are reasonable in relation to the proposed project activities (2 points).

(ii) The extent to which the budget for the project, including any subcontracts, is adequately justified to support the proposed project activities (2 points).

(f) *Plan of evaluation* (10 points total).

(1) The Secretary considers the quality of the plan of evaluation.

(2) In determining the quality of the plan of evaluation, the Secretary considers the following factors:

(i) The extent to which the plan of evaluation provides for periodic assessment of progress toward—

(A) Implementing the plan of operation (3 points); and

(B) Achieving the project's intended outcomes and expected impacts (2 points).

(ii) The extent to which the plan of evaluation provides for periodic assessment of a project's progress that is based on identified performance measures that—

(A) Are clearly related to the intended outcomes of the project and expected impacts on the target population (3 points); and

(B) Are objective, and quantifiable or qualitative, as appropriate (2 points).

(g) *Project staff* (15 total points).

(1) The Secretary considers the quality of the project staff.

(2) In determining the quality of the project staff, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (2 points).

(3) In addition, the Secretary considers the following:

(i) The extent to which the key personnel and other key staff have appropriate training and experience in disciplines required to conduct all proposed activities (5 points).

(ii) The extent to which the commitment of staff time is adequate to accomplish all the proposed activities of the project (3 points).

(iii) The extent to which the key personnel are knowledgeable about the methodology and literature of pertinent subject areas (5 points).

(h) *Adequacy and accessibility of resources* (5 points total).

(1) The Secretary considers the adequacy and accessibility of the applicant's resources to implement the proposed project.

(2) In determining the adequacy and accessibility of resources, the Secretary considers the following factors:

(i) The extent to which the applicant is committed to provide adequate facilities, equipment, other resources, including administrative support, and laboratories, if appropriate (3 points).

(ii) The extent to which the facilities, equipment, and other resources are appropriately accessible to individuals with disabilities who may use the facilities, equipment, and other resources of the project (2 points).

Eligible Applicants: Public and private organizations, including institutions of higher education and Indian tribes and tribal organizations, are eligible to apply for awards under this program.

Program Authority: 29 U.S.C. 762.

APPLICATION NOTICE FOR FISCAL YEAR 1998 FIELD-INITIATED PROJECTS, CFDA NO. 84.133G

Funding priority	Deadline for transmittal of applications	Estimated number of awards	Maximum award amount (per year)*	Project period (months)
Field-Initiated Projects	August 29, 1997	30	$125,000	36

NOTE: The Secretary will reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount (See 34 CFR 75.104(b)).

Program Title: Advanced Rehabilitation Research Training Projects.

CFDA Number: 84.133P

Purpose: Advanced Rehabilitation Research Training (ARRT) Projects must provide research training and experience at an advanced level to individuals *with doctorates or similar advanced degrees* who have clinical or other relevant experience. ARRT Projects train rehabilitation researchers, including individuals with disabilities, with particular attention to research areas that support the implementation and objectives of the Rehabilitation Act and that improve the effectiveness of services authorized under the Act.

ARRT Projects must carry out all of the following activities: recruit and select candidates for advanced research training; provide a training program that includes didactic and classroom instruction, is multidisciplinary, and emphasizes scientific methodology, and may involve collaboration among institutions; provide research experience, laboratory experience or its equivalent in a community-based research setting, and a practicum that involves each individual in clinical research and in practical activities with organizations representing individuals with disabilities; provide academic mentorship or guidance, and opportunities for scientific collaboration with qualified researchers at the host university and other appropriate institutions; and provide opportunities for participation in the development of professional presentations and publications, and for attendance at professional conferences and meetings as appropriate for the individual's field of study and level of experience.

Selection Criteria: Advanced Rehabilitation Research Training Projects

The Secretary uses the following criteria to evaluate an Advanced Rehabilitation Research Training Project application.

(a) *Importance of the problem* (10 points total).

(1) The Secretary considers the importance of the problem.

(2) In determining the importance of the problem, the Secretary considers the extent to which the applicant proposes to provide training in a rehabilitation discipline or area of study in which there is a shortage of qualified researchers, or to a trainee population in which there is a need for more qualified researchers (10 points).

(b) *Design of training activities* (40 points total).

(1) The Secretary considers the extent to which the design of training activities is likely to be effective in accomplishing the objectives of the project.

(2) In determining the extent to which the design is likely to be effective in accomplishing the objectives of the project, the Secretary considers the following factors:

(i) The extent to which the proposed training methods are of sufficient quality, intensity, and duration (5 points).

(ii) The extent to which the proposed training materials and methods are accessible to individuals with disabilities (6 points).

(iii) The extent to which the applicant's proposed recruitment program is likely to be effective in recruiting highly qualified trainees, including those who are individuals with disabilities (7 points).

(iv) The extent to which the proposed didactic and classroom training programs emphasize scientific methodology and are likely to develop highly qualified researchers (6 points).

(v) The extent to which the quality and extent of the academic mentorship, guidance, and supervision to be provided to each individual trainee are of a high level and are likely to develop highly qualified researchers (6 points).

(vi) The extent to which the type, extent, and quality of the proposed clinical and laboratory research experience, including the opportunity to participate in advanced-level research, are likely to develop highly qualified researchers (5 points).

(vii) The extent to which the opportunities for collegial and collaborative activities, exposure to outstanding scientists in the field, and opportunities to participate in the preparation of scholarly or scientific publications and presentations are extensive and appropriate (5 points).

(c) *Plan of operation* (10 points total).

(1) The Secretary considers the quality of the plan of operation.

(2) In determining the quality of the plan of operation, the Secretary considers the following factors:

(i) The adequacy of the plan of operation to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, and timelines for accomplishing project tasks (5 points).

(ii) The adequacy of the plan of operation to provide for using resources, equipment, and personnel to achieve each objective (5 points).

(d) *Collaboration* (5 points total).

(1) The Secretary considers the quality of collaboration.

(2) In determining the quality of collaboration, the Secretary considers one or more of the following factors:

(i) The extent to which the applicant's proposed collaboration with one or more agencies, organizations, or institutions is likely to be effective in achieving the relevant proposed activities of the project (2 points).

(ii) The extent to which agencies, organizations, or institutions demonstrate a commitment to collaborate with the applicant (2 points).

(iii) The extent to which agencies, organizations, or institutions that commit to collaborate with the applicant have the capacity to carry out collaborative activities (1 point).

(e) *Adequacy and reasonableness of the budget* (10 points).

(1) The Secretary considers the adequacy and the reasonableness of the proposed budget.

(2) In determining the adequacy and the reasonableness of the proposed budget, the Secretary considers the following factors:

(i) The extent to which the costs are reasonable in relation to the proposed project activities (4 points).

(ii) The extent to which the budget for the project, including any subcontracts, is adequately justified to support the proposed project activities (3 points).

(iii) The extent to which the applicant is of sufficient size, scope, and quality to effectively carry out the activities in an efficient manner (3 points).

(f) *Plan of evaluation* (10 points).

(1) The Secretary considers the quality of the plan of evaluation.

(2) In determining the quality of the plan of evaluation, the Secretary considers the following factors:

(i) The extent to which the plan of evaluation provides for periodic assessment of progress toward—

(A) Implementing the plan of operation (2 points); and

(B) Achieving the project's intended outcomes and expected impacts (2 points).

(ii) The extent to which the plan of evaluation will be used to improve the performance of the project through the feedback generated by its periodic assessments (2 points).

(iii) The extent to which the plan of evaluation provides for periodic assessment of a project's progress that is based on identified performance measures that—

(A) Are clearly related to the intended outcomes of the project and expected impacts on the target population (2 points); and

(B) Are objective, and quantifiable or qualitative, as appropriate (2 points).

(g) *Project staff* (10 points total).

(1) The Secretary considers the quality of the project staff.

(2) In determining the quality of the project staff, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability (2 points).

(3) In addition, the Secretary considers the following:

(i) The extent to which the key personnel and other key staff have appropriate training and experience in disciplines required to conduct all proposed activities (2 points).

(ii) The extent to which the commitment of staff time is adequate to accomplish all the proposed activities of the project (2 points).

(iii) The extent to which the key personnel are knowledgeable about the methodology and literature of pertinent subject areas (2 points).

(iv) The extent to which the project staff includes outstanding scientists in the field (1 point).

(v) The extent to which key personnel have up-to-date knowledge from research or effective practice in the subject area covered in the priority (1 point).

(h) *Adequacy and accessibility of resources* (5 points).

(1) The Secretary considers the adequacy and accessibility of the applicant's resources to implement the proposed project.

(2) In determining the adequacy and accessibility of resources, the Secretary considers the following factors:

(i) The extent to which the applicant is committed to provide adequate facilities, equipment, other resources, including administrative support, and laboratories, if appropriate (2 points).

(ii) The quality of an applicant's past performance in carrying out a grant (1 point).

(iii) The extent to which the applicant has appropriate access to clinical populations and organizations representing individuals with disabilities to support advanced clinical rehabilitation research (1 point).

(iv) The extent to which the facilities, equipment, and other resources are appropriately accessible to individuals with disabilities who may use the facilities, equipment, and other resources of the project (1 point).

Eligible Applicants: Institutions of higher education are eligible to receive awards under this program.

Program Authority: 29. U.S.C. 761a(k).

APPLICATION NOTICE FOR FISCAL YEAR 1998 ADVANCED REHABILITATION RESEARCH TRAINING PROJECTS, CFDA NO. 84.133P

Funding Priority	Deadline for transmittal of applications	Estimated number of awards	Maximum award amount (per year) *	Project period (months)
Advanced Rehabilitation Research Training Projects.	August 29, 1997	5	$150,000	60

NOTE: The Secretary will reject without consideration or evaluation any application that proposes a project funding level that exceeds the stated maximum award amount (See 34 CFR 75.104(b)).

Instructions for Application Narrative

The Secretary strongly recommends that applicants for FI or ARRT projects include a one-page abstract in their application.

Strict Page Limits: FI and ARRT Projects

Part III of the application, the Application Narrative, requires applicants to address the selection criteria that will be used by reviewers in evaluating individual proposals. The applicant for a FI or ARRT project must limit Part III—Application Narrative to no more than 50 double-spaced 8½ x 11″ pages (on one side only) with one inch margins (top, bottom, and sides). This page limitation applies to all materials presented in the application narrative—including, for example, any charts, tables, figures, and graphs. The application narrative page limit does not apply to: Part I—the electronically scannable form; Part II—the budget section (including the narrative budget justification); and Part IV—the assurances and certifications. Also, the one-page abstract, resume(s), bibliography, or letters of support, while considered part of the application, are not subject to the page limitation. Applicants should note that reviewers are not required to review any

information provided in addition to the application information listed above. All sections of text in the application narrative must be double-spaced (no more than 3 lines per vertical inch). If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 14 characters per inch. If using a nonproportional font or typewriter, do not use more than 12 characters per inch. Double-spacing and font requirements do not apply within charts, tables, figures, and graphs, but the information presented in those formats should be easily readable.

Strict Page Limits: Research Fellowships

The research proposal for a Fellowship application must be limited to no more than 12 pages.

Note: The Secretary will reject without consideration or evaluation any application for a FI project, ARRT project, or Research Fellowship that does not adhere to these requirements.

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # [Applicant must insert number and letter]), Washington, DC 20202–4725, or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. [Washington, DC time] on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA # [Applicant must insert number and letter]), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) An applicant wishing to know that its application has been received by the Department must include with the application a stamped self-addressed postcard containing the CFDA number and title of this program.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and letter, if any—of the competition under which the application is being submitted.

Application Forms and Instructions

The appendix to this application is divided into four parts. These parts are organized in the same manner that the submitted application should be organized. These parts are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II: Budget Form—Non-Construction Programs (Standard Form 524A) and instructions.

Part III: Application Narrative.

Additional Materials

Estimated Public Reporting Burden.

Assurances—Non-Construction Programs (Standard Form 424B).

Certification Regarding Lobbying, Debarment, Suspension, and Other Responsibility Matters: and Drug-Free Work-Place Requirements (ED Form 80–0013).

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form 80–0014) and instructions.

Note: ED Form GCS–014 is intended for the use of primary participants and should not be transmitted to the Department.

Disclosure of Lobbying Activities (Standard Form LLL (if applicable) and instructions; and Disclosure Lobbying Activities Continuation Sheet (Standard Form LLL–A).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an *original signature.* No grant may be awarded unless a completed application form has been received.

For Applications Contact: The Grants and Contracts Service Team, Department of Education, 600 Independence Avenue SW., Switzer Building, 3317, Washington, DC 20202, or call (202) 205–8207. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–9860. The preferred method for requesting information is to FAX your request to (202) 205–8717.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Server (at gopher:// gcs.ed.gov); or on the World Wide Web (at http://gcs.ed.gov). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 29 U.S.C. 760–762.

Dated: June 12, 1997.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

Appendix

Application Forms and Instructions

Applicants are advised to reproduce and complete the application forms in this Section. Applicants are required to submit an original and two copies of each application as provided in this Section.

Frequent Questions

1. Can I Get An Extension Of The Due Date?

No! On rare occasions the Department of Education may extend a closing date for all applicants. If that occurs, a notice of the revised due date is published in the **Federal Register**. However, there are no extensions or exceptions to the due date made for individual applicants.

2. What Should Be Included In The Application?

The application should include a project narrative, vitae of key personnel, and a budget, as well as the Assurances forms included in this package. Vitae of staff or consultants should include the individual's title and role in the proposed project, and other information that is specifically pertinent to this proposed project. The budgets for both the first year and all subsequent project years should be included.

If collaboration with another organization is involved in the proposed activity, the application should include assurances of participation by the other parties, including written agreements or assurances of cooperation. It is *not* useful to include general letters of support or endorsement in the application.

If the applicant proposes to use unique tests or other measurement instruments that are not widely known in the field, it would be helpful to include the instrument in the application.

Many applications contain voluminous appendices that are not helpful and in many cases cannot even be mailed to the reviewers. It is generally not helpful to include such things as brochures, general capability statements of collaborating organizations, maps, copies of publications, or descriptions of other projects completed by the applicant.

3. What Format Should Be Used For The Application?

NIDRR generally advises applicants that they may organize the application to follow the selection criteria that will be used. The specific review criteria vary according to the specific program, and are contained in this Consolidated Application Package.

4. May I Submit Applications To More Than One NIDRR Program Competition Or More Than One Application To A Program?

Yes, you may submit applications to any program for which they are responsive to the program requirements. You may submit the same application to as many competitions as you believe appropriate. You may also submit more than one application in any given competition.

5. What Is The Allowable Indirect Cost Rate?

The limits on indirect costs vary according to the program and the type of application. Applicants for an Advanced Rehabilitation Research Training project must limit indirect charges to 8 percent. Applicants for a Field-Initiated project program should limit indirect charges to the organization's approved rate. If the organization does not have an approved rate, the application should include an estimated actual rate. Fellowship awards are made to individuals, therefore indirect cost rates do not apply.

6. Can Profitmaking Businesses Apply For Grants?

Yes. However, for-profit organizations will not be able to collect a fee or profit on the grant, and in some programs will be required to share in the costs of the project.

7. Can Individuals Apply For Grants?

No. Only organizations are eligible to apply for *grants* under NIDRR programs. However, individuals are the only entities eligible to apply for *fellowships.*

8. Can NIDRR Staff Advise Me Whether My Project Is Of Interest To NIDRR Or Likely To Be Funded?

No. NIDRR staff can advise you of the requirements of the program in which you propose to submit your application. However, staff cannot advise you of whether your subject area or proposed approach is likely to receive approval.

9. How Do I Assure That My Application Will Be Referred To The Most Appropriate Panel For Review?

Applicants should be sure that their applications are referred to the correct competition by clearly including the competition title and CFDA number, including alphabetical code, on the Standard Form 424, and including a project title that describes the project.

10. How Soon After Submitting My Application Can I Find Out If It Will Be Funded?

The time from closing date to grant award date varies from program to program. Generally speaking, NIDRR endeavors to have awards made within five to six months of the closing date. Unsuccessful applicants generally will be notified within that time frame as well. For the purpose of estimating a project start date, the applicant should estimate approximately six months from the closing date, but no later than the following September 30.

11. Can I Call NIDRR To Find Out If My Application Is Being Funded?

No. When NIDRR is able to release information on the status of grant applications, it will notify applicants by letter. The results of the peer review cannot be released except through this formal notification.

12. If My Application Is Successful, Can I Assume I Will Get The Requested Budget Amount In Subsequent Years?

No. Funding in subsequent years is subject to availability of funds and project performance.

13. Will All Approved Applications Be Funded?

No. It often happens that the peer review panels approve for funding more applications than NIDRR can fund within available resources. Applicants who are approved but not funded are encouraged to consider submitting similar applications in future competitions.

BILLING CODE 4000–01–P

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: *Application* ☐ Construction ☐ Non-Construction; *Preapplication* ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ . ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT:

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:

a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE_____

b NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

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INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control No. 1875-0102

Expiration Date: 9/30/98

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	**Total (f)**
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED FORM NO. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	**Total (f)**
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington, D.C. 20503.

INSTRUCTIONS FOR ED FORM NO. 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Section B - Budget Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

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Public reporting burden for these collections of information is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding this burden estimate or any other aspect of these collections of information, including suggestions for reducing this burden, to: the U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project 1820–0027, Washington, DC 20503.

Research Fellowships—(CFDA No. 84.133F) 34 CFR Part 356.

Field-Initiated Research—(CFDA No. 84.133G) 34 CFR Part 350.

Research Training and Career Development Program—(CFDA No. 84.133P) 34 CFR part 350.

BILLING CODE 4000–01–P

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE	
APPLICANT ORGANIZATION		DATE SUBMITTED

SF 424B (4-88) Back

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about–

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will–

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion–Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:
☐ a. contract
b. grant
c. cooperative agreement
d. loan
e. loan guarantee
f. loan insurance

2. Status of Federal Action:
☐ a. bid/offer/application
b. initial award
c. post-award

3. Report Type:
☐ a. initial filing
b. material change

For Material Change Only:
year _____ quarter ____
date of last report _____

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee
Tier _____, *if known:*

Congressional District, *if known:*

5. If Reporting Entity in No.4 is Subawardee, Enter Name and Address of Prime:

Congressional District, *if known:*

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, *if applicable*: _____

8. Federal Action Number, *if known:*

9. Award Amount, *if known:*

$

10. a. Name and Address of Lobbying ~~Entity~~ Registrant *(if individual, last name, first name, MI):*

b. Individuals Performing Services *(including address if different from No. 10a) (last name, first name, MI):*

~~**11. Amount of Payment** *(check all that apply):*~~

~~$ _____ ☐ actual ☐ planned~~

~~**12. Form of Payment** *(check all that apply):*~~

~~☐ a. cash~~
~~☐ b. in-kind; specify: nature _____ value _____~~

~~**13. Type of Payment** *(Check all that apply):*~~

~~☐ a. retainer~~
~~☐ b. one-time fee~~
~~☐ c. commission~~
~~☐ d. contingent fee~~
~~○ e. deferred~~
~~☐ f. other; specify: _____~~

~~**14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:**~~

~~*(attach Continuation Sheet(s) SF-LLL-A, if necessary)*~~

~~**15. Continuation Sheet(s) SF-LLL attached:** ☐ Yes ☐ No~~

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____

Print Name: _____

Title: _____

Telephone No.: _____ **Date:** _____

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INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. ~~Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate.~~ Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and conract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee" then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number, grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state, and zip code of the ~~lobbying entity~~ registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

~~11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this a material change report, enter the cumulative amount of payment made or planned to be made.~~

~~12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of in-kind payment.~~

~~13. Check the appropriate box(es). Check all boxes that apply. If other specify nature.~~

~~14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.~~

~~15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.~~

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

[FR Doc. 97–15931 Filed 6–18–97; 8:45 am]
BILLING CODE 4000–01–C

federal register

Thursday
June 19, 1997

Part IV

Department of Education

Office of Postsecondary Education; Federal Perkins Loan Program Expanded Lending Option; Institutional Participation Agreement; Notice

DEPARTMENT OF EDUCATION

Office of Postsecondary Education; Federal Perkins Loan Program, Expanded Lending Option; Institutional Participation Agreement

AGENCY: Department of Education.

ACTION: Notice of deadline of submission of institutional agreement for participation in the Federal Perkins Loan Program Expanded Lending Option.

SUMMARY: This notice establishes the deadline for submission of the ''Institutional Agreement For Participation In the Federal Perkins Loan Program Expanded Lending Option (ELO)'' (ELO Participation Agreement) by those eligible institutions that elect to participate in the Federal Perkins Loan Program ELO in the 1997–98 award year (the period from July 1, 1997 through June 30, 1998).

CLOSING DATE FOR TRANSMITTAL OF ELO PARTICIPATION AGREEMENT: To ensure participation in the Federal Perkins Loan Program ELO in the 1997–98 award year, an eligible institution that elects to participate must submit its ELO Participation Agreement by August 1, 1997.

SUPPLEMENTARY INFORMATION: The Federal Perkins Loan Program provides low-interest loans to financially needy students attending institutions of higher education to help them pay their educational costs. The ELO is available for the 1997–98 award year for institutions of higher education that participate in the Federal Perkins Loan Program.

To be eligible to participate in the Federal Perkins Loan Program ELO for 1997–98, an institution must have had a Federal Perkins Loan cohort default rate of 15 percent or less as of June 30, 1996, and must have participated in the Federal Perkins Loan Program for the two previous award years (1995–96 and 1996–97). In addition, an institution must enter into a special ELO Participation Agreement with the Secretary. An institution that elects to participate in the ELO must complete, sign, date, and submit the ELO Participation Agreement by the deadline date to obtain approval.

Institutions that become Federal Perkins Loan Program ELO participants will be required to increase the Institutional Capital Contribution (ICC) to at least a dollar-for-dollar match with any portion of the 1997–98 award year Federal Capital Contribution (FCC) received. Only new FCC received on or after July 1, 1997, would be matched at the increased rate. Institutions would not match funds received prior to July 1, 1997, at the higher rate.

Institutions that become Federal Perkins Loan Program ELO participants may make loans to eligible students at higher maximum annual and aggregate limits than is the case with nonparticipating institutions. ELO participating institutions that do not ultimately make any loans at the higher ELO levels for the 1997–98 award year must still honor the ELO Participation Agreement to deposit in the Federal Perkins Loan Program Fund an ICC at least equal to the 1997–98 award year FCC deposited into the Fund. All other administrative procedures would remain the same as for institutions not participating in the Federal Perkins Loan Program ELO.

ELO Participation Agreement Delivered By Mail: An ELO Participation Agreement delivered by mail must be addressed to the U.S. Department of Education, Student Financial Assistance Programs, Institutional Financial Management Division, Campus-Based Programs-Expanded Lending Option, P.O. Box 23781, Washington, DC 20202–0781.

An institution must show proof of mailing its ELO Participation Agreement by the closing date. Proof of mailing consists of one of the following: (1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service, (2) a legibly dated U.S. Postal Service postmark, (3) a dated shipping label, invoice, or receipt from a commercial carrier, or (4) any other proof of mailing acceptable to the U.S. Secretary of Education.

If an ELO Participation Agreement is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office. An institution is encouraged to use certified or at least first-class mail.

ELO Participation Agreement Delivered By Hand and Commercial Delivery Services: An ELO Participation Agreement delivered by hand must be delivered to the U.S. Department of Education, Student Financial Assistance Programs, Institutional Financial Management Division, Campus-Based Financial Operations Branch, 7th and D Streets, SW., Room 4714, Regional Office Building 3, Washington DC. Hand-delivered ELO Participation Agreements will be accepted between 8 a.m. and 4:30 p.m. daily (Eastern Daylight Time), except Saturdays, Sundays, and Federal holidays. An ELO Participation Agreement that is hand-delivered will not be accepted after 4:30 p.m. on August 1, 1997.

Applicable Regulations: The following regulations apply to this program:

Student Assistance General Provisions, 34 CFR part 668.

Federal Perkins Loan Program, 34 CFR part 674.

Federal Work-Study Program, 34 CFR part 675.

Federal Supplemental Educational Opportunity Grant Program, 34 CFR part 676.

Institutional Eligibility Under the Higher Education Act of 1965, as amended, 34 CFR part 600.

Federal Family Educational Loan Program, 34 CFR part 682.

New Restrictions on Lobbying, 34 CFR part 82.

Government-wide Debarment and Suspension (Non-procurement) and Government-wide Requirements for Drug-Free Workplace (Grants), 34 CFR Part 85.

FOR FURTHER INFORMATION CONTACT: For information concerning ELO Participation Agreement submissions, contact Sandra Donelson, Financial Management Specialist, Campus-Based Financial Operations Branch, Institutional Financial Management Division, Office of Postsecondary Education, 600 Independence Avenue, SW. (Room 4714, ROB–3), Washington, DC 20202–5452. Telephone: 202–708–9751.

For technical assistance concerning the Federal Perkins Loan Program ELO, contact Gail McLarnon or Sylvia R. Ross, Program Specialists, Policy Development Division, Student Financial Assistance Programs, Office of Postsecondary Education, U.S. Department of Education, 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.

(Catalog of Federal Domestic Assistance Numbers: 84.038, Federal Perkins Loan Program)

Dated: June 6, 1997.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

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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.

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Rural Business-Cooperative Service

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