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Contents

Federal Register

Vol. 62, No. 123

Thursday, June 26, 1997

Separate Parts In This Issue

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

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CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 62, No. 123
Thursday, June 26, 1997

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 330

RIN 3206–AH26

Career Transition Assistance for Surplus and Displaced Federal Employees; Effective Date Correction

AGENCY: Office of Personnel Management.

ACTION: Final regulation; correction of effective date.

SUMMARY: The Office of Personnel Management (OPM) published final regulations to implement the President's memorandum of September 12, 1995, requiring Federal agencies to develop career transition assistance programs to help their employees affected by downsizing obtain other employment on June 9, 1997 (62 FR 31315). The effective date in the **DATES** section on page 31315, column 1, contained incomplete and misleading information. This document corrects the **DATES** section as set forth below to accurately reflect OPM's intent with regard to the effective dates and compliance dates of the final regulations.

DATES: *Effective dates:* The final regulation is effective July 9, 1997, except that the revision of subpart F of 5 CFR part 330 is effective September 8, 1997.

Compliance dates: Agencies will comply with the regulatory changes affecting the Interagency Career Transition Assistance Plan (ICTAP) by July 9, 1997. Agencies will amend their Career Transition Assistance Plans (CTAP), reflecting regulatory changes on providing internal selection priority and services to their surplus and displaced employees, as soon as possible, but no later than September 8, 1997.

FOR FURTHER INFORMATION CONTACT: Susan Shelton or Ed McHugh on (202) 606–0960, FAX (202) 606–2329, or TDD (202) 606–0023.

Office of Personnel Management.

James B. King,

Director.

[FR Doc. 97–16848 Filed 6–25–97; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 94–106–5]

RIN 0579–AA71

Importation of Beef From Argentina

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning the importation of animal products to allow, under certain conditions, the importation of fresh, chilled or frozen beef from Argentina. This change is warranted because it removes unnecessary restrictions on the importation of meat from Argentina into the United States.

EFFECTIVE DATE: August 25, 1997.

FOR FURTHER INFORMATION CONTACT: Dr. Gary Colgrove, Chief Staff Veterinarian, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231, (301) 734–8590.

SUPPLEMENTARY INFORMATION:

Background

The Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture (USDA), has promulgated regulations regarding the importation of animals and animal products in order to guard against the introduction into the United States of animal diseases not currently present or prevalent in this country. These regulations are set forth in the Code of Federal Regulations (CFR), title 9, chapter 1, subchapter D.

On April 18, 1996, we published in the **Federal Register** a proposed rule (61 FR 16978–17105, Docket No. 94–106–1) to revise the regulations in six different parts of 9 CFR to establish importation criteria for certain animals and animal products based on the level of disease risk in specified geographical regions. In proposing the amendments to the regulations, we stated that we considered the proposed regulatory changes to be consistent with and to meet the requirements of international trade agreements that had recently been entered into by the United States.

We solicited comments concerning our proposal for 90 days ending July 17, 1996. During the comment period, several commenters requested that we extend the period during which we would accept comments. In response to these requests, on July 11, 1996, we published in the **Federal Register** a notice that we would consider comments on the proposed rule for an additional 60 days ending September 16, 1996 (61 FR 36520, Docket No. 94–106–4). During the comment period, we conducted four public hearings at which we accepted oral and written comments from the public. These public hearings (announced in the **Federal Register** on May 6 and May 29, 1996, 61 FR 20190–20191 and 26849–26850, Docket Nos. 94–106–2 and 94–106–3, respectively) were held in Riverdale, MD; Atlanta, GA; Kansas City, MO; and Denver, CO.

We received 113 comments on the proposed rule on or before September 16, 1996. These comments came from representatives of State and foreign governments, international economic and political organizations, veterinary associations, State departments of agriculture, livestock industry associations and other agricultural organizations, importing and exporting associations, members of academia and the research community, brokerage firms, exhibitors, animal welfare organizations, and other members of the public.

Based on our review of the comments received, it is clear that drafting a final rule in response to recommendations submitted by commenters will require close analysis of numerous and complex issues. However, it is also clear to us that there are a limited number of provisions within the proposal that we can make final at this time. Where these provisions involve trade, we believe that delaying their implementation is unwarranted and not in the best interests of trade relations with other countries. On June 26, 1997, we published a final rule in the **Federal Register** to allow the importation of

fresh, chilled or frozen pork from the State of Sonora, Mexico (62 FR (INSERT FR CITE), Docket No. 94–106–6), based on the provisions for such importation set forth in our proposed rule. Similarly, in this final rule, we are establishing provisions, described below, to allow the importation, under certain conditions, of fresh, chilled or frozen beef from Argentina. Among these provisions are those that would allow the importation of fresh, chilled or frozen beef from Argentina under specified conditions. Therefore, in this final rule, we are establishing provisions to allow such importation, as described below. Although the regulations in current 9 CFR 94.1 prohibit the importation of fresh, chilled or frozen beef from countries affected with either foot-and-mouth disease (FMD) or rinderpest, the rule changes described below deal only with the status of Argentina with regard to foot-and-mouth disease (FMD). This is because rinderpest has never been known to exist in Argentina, and the regulations in part 94 restricting importations from Argentina have been based on its FMD status.

As part of the proposed rule, we proposed to designate Argentina as a region in which there has been no case of foot-and-mouth disease (FMD) for at least 1 year, but from which certain animals and animal products would pose some disease risk if imported into the United States without mitigating measures. We cited the fact that vaccination for FMD is still being conducted in Argentina as one reason for certain animals and animal products presenting a risk if imported into the United States without mitigating measures being applied. Vaccination of animals for FMD makes it difficult to distinguish between responses because of the actual disease and responses from the vaccinations. Further, if the disease is present in a region, vaccinating an infected animal can suppress the symptoms of the disease and thus prevent those symptoms from manifesting themselves at a clinical level, so that it appears as if the disease is eradicated. This is referred to as masking the disease. Additionally, we noted that Argentina supplements its national meat supply by importing fresh, chilled and frozen meat of ruminants and swine from countries of greater risk for FMD.

Mitigating Measures

In our proposal, we set forth a number of mitigating measures that we believed to be adequate to reduce to a negligible level the risk of disease introduction from importations of fresh, chilled and frozen meat of ruminants from Argentina. These measures included certification of the following: (1) That the meat has not been in contact with meat from regions of greater disease risk; (2) that the meat originated from premises where FMD and rinderpest have not been present during the lifetime of any ruminants or swine slaughtered for export; (3) that the meat originated from premises on which ruminants or swine have not been vaccinated with modified or attenuated live viruses for FMD during the lifetime of any of the ruminants or swine slaughtered for export; (4) that the meat is from ruminants or swine that have not been vaccinated for other specified diseases; (5) that the meat comes from carcasses that have been allowed to maturate at 40 to 50 °F (4 to 10 °C) for a minimum of 36 hours after slaughter and have reached a maximum pH of 6.0 in the loin muscle at the end of the maturation period; and (6) that all bone, blood clots, and lymphoid tissue have been removed from the meat.

Public Comments

Of the comments we received on our proposed rule, a small number addressed our proposed classification of Argentina and mitigating measures for animals and animal products from Argentina. The commenters on these issues included members of the domestic livestock industry, a State department of agriculture, representatives of foreign governments and meat producers, and other members of the public. We discuss below each of the issues raised by the commenters with regard to the importation of beef from Argentina, since this final rule addresses only the importation of beef from Argentina. We will discuss all other comments on the proposed rule, as appropriate, in future rulemaking documents.

Some commenters expressed general concern that the regulations as proposed would increase the risk of FMD being introduced into the United States, without providing specific information supporting those concerns. Other commenters expressed general support for our proposed classification of Argentina with regard to FMD. Some commenters stated that meat may not present as much risk as live animals, because any FMD virus in meat may be inactivated by pH change. These commenters suggested no changes and we are making no changes based on their comments.

One of the mitigating measures in our proposal for the importation of fresh, chilled or frozen meat of bovines from Argentina was that the meat must originate from premises where FMD has not been present during the lifetime of any bovines slaughtered for export of meat. One commenter stated the regulations should instead require that the premises have been free of FMD during the lifetime of any ruminant or swine currently living on the premises. We are making no changes based on this comment. Under the scenario suggested by the commenter, premises infected with FMD during the lifetime of any ruminants or swine currently living on the premises could not export beef to the United States until all animals on the premises at the time of the infection were sold or slaughtered. We consider such a restriction unnecessarily stringent. The proposed regulations required that meat originate from premises where FMD and rinderpest have not been present during the lifetime of any bovines slaughtered for export of meat. Moreover, under the regulations we proposed, fresh, chilled or frozen beef could not be imported from Argentina if the meat originated from premises where ruminants or swine have been vaccinated with modified or attenuated live viruses for FMD at any time during the lifetime of the bovines slaughtered for export of meat. In effect, this prohibition of vaccination makes the animals intended for export sentinel animals for FMD. Absence of disease in these animals is an excellent indicator that the premises is free of FMD.

A commenter addressed the criteria we used in proposing to consider Argentina as a country of low risk for FMD. Instead of 1 year with no reported cases of the disease, as was proposed, the commenter recommended that the criterion be 5 years with no reported cases of the disease. The condition we proposed of at least 1 year with no reported cases of FMD is consistent with the standards set forth in our existing regulations. Research and our experience enforcing the regulations has shown that from the time of the last reported case of FMD in a country, some period of time should pass before importation restrictions are relieved, due to the possibility that some animals not showing clinical evidence of the disease might be carrier animals. Internationally, a number of countries recognize 12 months as a sufficient ''waiting period.'' We believe that after a waiting period of 12 months, it is safe to conclude that no carrier animals exist in that country.

The difference between Argentina and countries we have recognized in the past as free of FMD is that Argentina continues to vaccinate for FMD in some situations and areas where that country

perceives an increased risk of disease introduction. Although the practice of vaccination does not mean that FMD exists in a country, it does introduce risk factors such as the possibility of introducing disease from improperly inactivated vaccine or the masking of chronic cases of FMD. To mitigate these additional risk factors, we proposed to require the measures described above in this **SUPPLEMENTARY INFORMATION** under the heading ''Mitigating Measures,'' including the requirement that the meat to be exported originated from premises on which ruminants or swine have not been vaccinated with modified or attenuated live viruses for FMD during the lifetime of any of the bovines slaughtered for export. We believe from our experience that the mitigation measures we proposed will reduce any disease risk to a negligible level.

Some commenters objected to the proposed classification of Argentina. Of those commenters expressing concern, some cited the reliance in Argentina on vaccination for FMD. As discussed above, we agree that the practice of vaccination can reduce the certainty that a country or other region is free of a specific disease, and so we are imposing restrictions, also described above, on the importation of beef from Argentina to mitigate to a negligible level any risk that might exist. Moreover, due to the continued practice of vaccination in Argentina, we have determined that an additional mitigating measure should be required to ensure that animals slaughtered for beef for importation do not come into contact with animals that might not meet the other required mitigating measures. Therefore, we are requiring in § 94.21, as set forth in this rule, the requirement that fresh, chilled or frozen beef to be imported from Argentina come from bovines that were moved directly from the premises of origin to the slaughterhouse without any contact with other animals.

One commenter stated that under the recommendations of a 1994 assessment for disease risk for Argentina, that country should be considered a country in which FMD exists, or, at the minimum, as a country with an unknown status. The commenter expressed concern that cases of FMD were reported in Argentina until 1994. The commenter also pointed out that Argentina has 380 km of unprotected border with Bolivia and 500 km of unprotected border with Chile. We are making no changes based on this comment. Although the report recognized the existence of FMD in Argentina until 1994, there have been no reported cases of the disease in Argentina since that year. With regard to borders, Chile is listed in the regulations (9 CFR 94.1) as a country free of FMD and rinderpest. The border area with Bolivia referenced by the commenter is in a desert area, with little vegetation and very few, if any, cattle. Consequently, there is very little risk of any animal crossings of concern from that area. Additionally, the national police in Argentina have authority to enforce sanitary regulations along the border and elsewhere in the country, and are active in carrying out such enforcement.

Some commenters stated that the proposed classification of Argentina contained no quantitative risk assessment for that classification. One commenter recommended that Argentina be considered to have an unknown risk status for FMD until a quantitative risk assessment has been done to determine the final risk and the appropriate biosecurity measures for that country and the public has had an opportunity to comment on it. The commenter stated that a careful review of the situation in Argentina might lead to a decision to divide that country, for risk classification purposes, into regions separated by the Parana River and the Barrancas-Colorado Rivers. We are making no changes based on this comment. We conducted an extensive review of the data made available to us by Argentina, developed a quantitative risk assessment following a site visit to that country, and did not find any disease risk basis to differentiate between various regions in Argentina. The factors used in developing the risk assessment are discussed below.

Some commenters stated that the proposed rule contained no discussion of how the proposed disease classification of Argentina was arrived at, and no final risk analysis calculation. Some commenters requested that the risk assessment results and methods be publicized. In our proposed rule, we included a discussion of the basis for the proposed disease classification of Argentina. This discussion was set forth on page 16988 of the proposed rule and included the following points. The last outbreak of FMD in Argentina occurred in 1994. Vaccinations for FMD in Argentina continue, and Argentina supplements its national meat supply by importing fresh, chilled and frozen meat of ruminants and swine from countries in which FMD is known to exist. Additionally, APHIS reviewed information submitted by the government of Argentina, and sent a team of APHIS officials to Argentina in 1994 to conduct an on-site evaluation of that country's animal health program.

In assessing the risk of the introduction of FMD virus into the United States through the importation of up to 20,000 metric tons of fresh, chilled or frozen beef from Argentina, we created a scenario tree for the risk assessment. As part of the scenario tree, we identified factors and potential situations that could contribute to an increased risk of the introduction of FMD. We then estimated, based on the information available to us and on our 1994 site visit to Argentina, the likelihood of each of the factors or situations occurring.

The factors or situations we identified included the following: (1) The prevalence of residual infection in Argentina; (2) the risk of disease re-introduction from neighboring areas; (3) the likelihood of not detecting disease outbreaks; (4) the likelihood of infected animals not being detected before leaving the farm; (5) the likelihood of infected animals not being detected in transit; (6) the likelihood of FMD not being detected at antemortem inspection; (7) the likelihood of FMD not being detected at postmortem inspection; (8) the likelihood of FMD-infected material not being removed during slaughter; (9) the likelihood of the FMD virus surviving the process of meat maturation; (10) the likelihood of FMD virus not being eliminated during deboning of meat; and (11) the likelihood of the virus not being eliminated through pH meter checks.

After estimating the likelihood of each of the above situations occurring, we concluded in our risk assessment that if 20,000 metric tons of beef were exported indefinitely at the level of risk calculated in 1994, this would result in the movement of FMD-infected meat to the receiving country once every 444,537 years. We stated that these values were time-sensitive, and that the longer Argentina went without additional cases of FMD, the less the risk of exporting FMD would become. From the time the risk assessment was developed until the present, no cases of FMD have been found to exist in Argentina. Based on the information available to us, and on the risk assessment we used, we consider the FMD risk from the importation of fresh, chilled or frozen beef from Argentina to be low. Details concerning the on-site evaluation, including the APHIS 1994 risk assessment for Argentina and an updated risk assessment recently prepared by APHIS, are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

One commenter stated that, although vaccination has historically been viewed as an indicator of a disease

presence, and it is true that many vaccines can hide the incidence of a disease or produce false positives, the assessment of vaccination use should be reconsidered. The commenter stated that vaccination should be an acceptable risk reduction or ''biosecurity'' measure in some instances, without resulting in an automatic classification to a higher risk status. The commenter inquired whether the role of vaccination has been fully evaluated, or whether such an evaluation will take place on a case-by-case basis. We are making no changes based on this comment. We agree that vaccination is a useful tool in areas that present a higher risk because of factors such as proximity to areas where FMD exists, or past disease experience. We also agree that vaccine use is not necessarily an indicator of the existence of a disease agent. However, we do not believe it can be definitely assumed that vaccine use is not masking a disease agent at a low level. We intend to continue to evaluate the issue of vaccine use and the risk it presents with various diseases and vaccines. We will, if appropriate, propose changes in the future with regard to the regulatory assessment of the use of vaccination, when we believe we can be sure of a region's disease status, notwithstanding the use of vaccination within that region.

Some commenters stated that, in general, a country or region should not be designated as an area of low risk if that country or region imports products from a country or region of a higher risk, or if it borders a country or region of higher risk. In particular, the commenters cited the fact that Argentina imports fresh, chilled and frozen meat of ruminants and swine from countries where FMD is known to exist, and shares land borders with countries of an unknown risk. The commenters stated that Argentina should be considered to present the same level of risk as the highest risk country or region from which it imports. We are making no changes based on these comments. In determining the risk of importations from Argentina, we considered the factors cited by the commenters. Although Argentina does share borders with countries of higher risk, access across those borders is restricted through either natural barriers or border patrols. Additionally, among the restrictions we proposed to impose on the importation of fresh, chilled or frozen meat from Argentina are the requirements that the meat has not been in contact with meat from regions of greater disease risk, and that the meat comes from deboned carcasses that have been allowed to maturate to a pH level sufficient to inactivate the FMD virus.

Some commenters requested we eliminate the proposed requirement for deboning fresh meat before importation from Argentina, and also for other countries that may be similarly classified for FMD. We are making no changes based on these comments. We consider deboning, and the other measures described in the following paragraph, necessary to minimize the disease risk from such importations. Furthermore, much of the meat shipped internationally is already deboned and cryogenically packed. We do not believe, therefore, that requiring meat to be deboned before shipment to the United States from such regions will present a significant hardship.

In § 94.1 of our proposal, we proposed that fresh, chilled or frozen meat from ruminants or swine raised and slaughtered in regions classified as proposed for Argentina for FMD could not be imported into the United States if the meat has not reached a maximum of 6.0 pH in the loin muscle. Additionally, all bone, blood clots, and lymphoid tissue would need to have been removed from the meat. Several commenters stated that these requirements should not apply to regions classified as proposed for Argentina, because such regions would already need to be free of the disease agent for at least 1 year. We are making no changes based on these comments. Argentina is a country where vaccination for FMD is still carried out. This may mask low-level infections in the animals. The mitigation measures proposed will significantly reduce any potential FMD risk from the importation of beef from Argentina.

In the **SUPPLEMENTARY INFORMATION** section of our proposed rule, we stated that acidic or alkaline conditions readily kill the FMD virus. One commenter took issue with this statement, stating that research has shown that although a pH below 6.0 or above 11.5 will inactivate the FMD virus, the virus resident in the micro-environment of animal tissue—such as lymphatic tissue, bone marrow, or coagulated blood—is resistant to inactivation over a practical pH range. Although we agree with the commenter, the regulations as proposed already address the concerns raised. We assume that by ''micro-environment,'' the commenter is referring to those areas of meat in the carcass that are in the immediate area of the bones, lymphatic tissue, or coagulated blood. In the proposed regulations, one of the conditions for importing fresh, chilled or frozen meat from Argentina was that all bone, blood clots, and lymphoid tissue be removed from the meat.

We are, however, making a change to one of the proposed provisions discussed by the commenter—the pH level considered necessary to inactivate the FMD virus. We proposed to require that fresh, chilled or frozen meat to be imported from Argentina ''have reached a maximum pH of 6.0.'' Upon review of the comment we received and of generally accepted literature on the subject, we agree with the commenter that the pH level reached should be less than 6.0. The literature showed that, while a pH level of 6.0 was sufficient to inactivate the bulk of an FMD virus population, small fractions of that population were able to withstand the 6.0 level (Cottral, *et al.*). A majority of available literature on this topic indicates that a pH level of 5.8 or less will relieve this concern. Therefore, we are making this change in § 94.21 as set forth in this rule.

Equivalency of Mitigation Measures

One commenter stated the proposed requirements for the importation of animal products under part 94 do not allow for the exporting countries to apply different, but equivalent, risk mitigation measures. The commenter stated such an omission is contrary to the equivalence principle under WTO–SPS. We are making no changes based on this comment at this time. In our proposal, we proposed quantitative risk assessment options that would allow different risk mitigation measures. We are currently reviewing the comments we received on these options and will address them in future rulemaking. Additionally, should alternative risk mitigation measures be submitted to APHIS, we will review and consider them carefully and, when appropriate, we will incorporate them into our regulatory system.

Comments on Initial Regulatory Flexibility Analysis

Several commenters addressed the Initial Regulatory Flexibility Analysis we published in our proposed rule. The commenters objected to the statement in our analysis that selected cuts of meat from grass-fed cattle from Argentina could possibly be classified as grain-fed beef. The commenters stated that, under standard industry practice, such a classification would not be made by the exporting country. We agree that our statement as written could be misleading. Our intent in the proposal was not to imply that grass-fed beef could potentially be identified as grain-fed beef by the exporting country. Rather, we were referring to the system

of quality grading carried out by the Department's Agricultural Marketing Service. At the retail level, the USDA grades most familiar to the consumer are ''prime,'' ''choice,'' and ''select.'' These grades are followed in descending order by a number of other grades. Beef from grass-fed cattle is much less likely to achieve the higher grade classifications familiar to consumers than is beef from grain-fed cattle, because beef from grass-fed cattle does not generally have the characteristic marbling of grain-fed beef required for the higher quality grades. However, in theory, certain cuts of meat from certain grass-fed cattle might qualify for some of the higher grades. In order to clarify our meaning, we have worded our Final Regulatory Flexibility Analysis in this document to read that ''selected cuts from grass-fed cattle could possibly be graded as the same quality as grain-fed beef available to consumers at the retail level.''

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be economically significant for purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

Under the ''Regulatory Flexibility Act'' (5 U.S.C. § 603), we are required to include in this Final Regulatory Flexibility Analysis a description of significant alternatives to this rule. In developing this final rule, APHIS considered either (1) taking no action on the proposed requirements for the importation of fresh, chilled or frozen beef from Argentina, (2) allowing the importation of fresh, chilled or frozen beef from Argentina under conditions that are either more or less stringent than those adopted in this rule, or (3) adopting the proposed conditions which reduce the risk of introduction of FMD into the United States to a neglible level.

We rejected the first alternative, which essentially would have been to retain the restrictions on the importation of fresh, chilled and frozen beef from Argentina that are set forth in the existing regulations. Because fresh, chilled, or frozen beef can be imported under certain conditions from Argentina with negligible FMD risk, taking no action would not be scientifically defensible and would be contrary to trade agreements entered into by the United States. We also rejected the second alternative, which would allow the importation of fresh, chilled or frozen beef from Argentina under conditions other than those proposed. In developing the proposed criteria for the importation of such beef, we determined that criteria and mitigating measures less stringent than those proposed would increase the risk of the introduction of FMD into the United States to more than a negligible level, and that more stringent conditions would be unnecessarily restrictive. We consider the proposed conditions to be both effective and necessary in reducing to a negligible level the risk of the introduction of FMD because of beef imports from Argentina.

Under 5 U.S.C. 603, we are also required to include in this analysis an assessment of comments received on our Initial Regulatory Flexibility Analysis. When we proposed the conditions for the importation of meat from Argentina, we did so based on the information available to us from Argentina, USDA sources, an APHIS site visit to that country, and scientific literature. We requested comments on the proposed conditions for such importation of meat, along with the rest of the proposed rule. We received and considered comments on the proposed conditions, and our responses are discussed in the **SUPPLEMENTARY INFORMATION** section, above. After reviewing the comments received and preparing a risk assessment which is available upon request, we continue to consider the proposed conditions for the importation of beef from Argentina to be effective in reducing the risk of the introduction of FMD to a negligible level, and have determined that it is neither warranted nor necessary to revise those conditions in this final rule. As discussed above, we are making a wording change in this Final Regulatory Flexibility Analysis to clarify our description of certain cuts of beef from grain-fed cattle.

Over 95 percent of the beef and dairy industries are composed of producers and firms that can be categorized as small according to the Small Business Administration's (SBA) size classification. Economic impacts resulting from this rule would therefore largely affect small entities. The analysis of economic impacts discussed below would thus fulfill the requirement of a cost-benefit analysis under E.O. 12866, as well as the analysis of impacts of small entities as required by the Regulatory Flexibility Act. A discussion of the size distribution of these industries is also provided to support the above rationale to merge these required analyses based on their size classification.

Analysis of Anticipated Economic Impacts

Under this rule, fresh, chilled and frozen beef may be imported from Argentina. Currently, meat processed by curing, cooking, and canning is allowed to be imported from Argentina. Practically speaking, fresh beef cannot be transported from Argentina to the United States without being chilled or frozen. This rule change is expected to increase the amount of beef imports from Argentina, because the United States has prohibited the importation of fresh beef from Argentina since enactment of the 1930 Tariff Act.

Background of the Argentine Beef Industry

Argentine cattle inventories (about 54.7 million head at the end of 1994) are about 50 percent of U.S. cattle inventories (estimated at 103.3 million head on January 1, 1995). Argentina was the world's leading beef exporter for many years, up until the early 1970's. Argentina's decline has been attributed to national policies that discouraged production and trade and also to unfavorable weather.[1] Nevertheless, historical data indicate that the costs of producing Argentine beef is one of the lowest in the world. In many years, Argentine beef cow and steer prices are less than one half U.S. cow prices.[2] Both the history and cost structure suggest that Argentina has the natural resources to increase beef production and trade. Long-standing working commercial arrangements exist between Argentine and U.S. firms. Although trade has been restricted to cooked product, the U.S. ranks as the second most important beef market for Argentina. In 1992 and 1993, Argentine beef export markets totaled 297 KT (thousand metric ton) and 279 KT. Destinations for this product (and their volumes for 1992 and 1993, in parentheses) were: the European Economic Community (137 KT and 125 KT); the U.S. (101 KT and 86 KT); Chile (16 KT and 22 KT); and all others (0.038 KT and 0.037 KT).

Although the Argentine cattle inventory is about 53 percent of the U.S. cattle inventory, its beef production is roughly 25 percent of U.S. production due to differences between the Argentine and U.S. beef production systems. U.S. beef cattle is fed predominately grain-based rations, while Argentine cattle is fed largely on

[1] Source: McCoy et al., *Livestock and Meat Marketing,* 3rd Edition, Van Nostrand Reinhold, 1988, pg. 546.

[2] Source: USDA, *Ag. Statistics 1972,* Table 455 and USDA, ERS, *The World Beef Market-Government Intervention and Multilateral Policy Reform,* pg. 37.

grass. The U.S. system results in cattle reaching slaughter weights more quickly and heavier at slaughter than cattle fed on grass.

Cattle fed grain produces beef that is often times referred to as ''fed beef''. Argentine beef produced from cattle raised on grass and U.S. beef produced from culled, older animals produce beef commonly referred to as ''nonfed beef''. Both the Argentine and domestically produced nonfed beef are suitable for lower quality uses in the U.S. beef market. Such uses include hamburger meat patties, sausages, and other prepared meals and foods. Selected cuts of Argentine beef could possibly meet the quality requirements comparable to U.S. grain-fed beef products.

Assumptions of Analysis

This analysis assumes that Argentine uncooked beef exports to the U.S. do not exceed their 20 KT tariff-free quota limit. These assumptions are based on the difficulties that will likely be encountered by Argentine beef producers and processors in increasing production and aligning production with consumer demands in export markets. The economic impact on U.S. beef producers will depend on demand-side factors, such as consumer acceptance of Argentine product, but probably most heavily on two supply-side factors: Whether the uncooked beef imports consist mainly of beef that can be substituted for U.S. nonfed beef and the total quantity of uncooked beef shipments to the U.S. The higher returns from uncooked product (as compared with current shipments of cooked product) will likely cause an immediate shift to chilled or frozen uncooked beef product shipments. However, current production and export commitments are expected to constrain increases in beef exports for some time. Given adequate adjustment time to increase production and shift markets, it is possible that Argentina could increase its beef exports and its potential to produce a beef product that could grade up to the quality requirements comparable with US fed beef. However, at this time, USDA and many trade analysts conclude that Argentina exports to the U.S. will most likely consist of nonfed beef within tariff-free specified levels.

Method of Analysis

This analysis is based on results generated by the USDA's Economic Research Service's United States Mathematical Programming (USMP) model. USMP is a static, programming model of U.S. agriculture with considerable regional and cross-commodity detail. U.S. beef production, use and trade are broken into two main classes: grain fed beef and nonfed beef. For this analysis, USMP was used specifically to determine the effect of an additional 20 KT carcass weight equivalent (CWE) of nonfed beef. All estimates reflect a 3-to 5-year adjustment period. These results represent historical relationships in production, consumption, and trade, and are based on existing industry structure and pricing arrangements in agricultural markets, and 1995 base-year prices and quantities.

The increase in imports represents less than one-fifth of one-percent of total U.S. beef availability (11,573 KT CWE) in 1995, and less than a 2-percent increase in imported beef. This beef availability came from domestic production (10,390 KT); beginning stocks at 172 KT; and imports of 1,011 KT. Utilization of these supplies in 1995 were distributed as follows: 10,776 KT in domestic food uses; 625 KT exported; and, 172 KT in ending stocks. The market clearing price was $4,402.17 per MT CWE at wholesale level. The implied price elasticity of demand for nonfed beef in the USMP model is almost negative one; that is, given a 3-to 5-year adjustment period, a one percent decline in price elicits about an equal percentage increase in quantities demanded. The lack of supply response registered in the model implies that the supply of U.S. nonfed beef is perfectly price inelastic. This outcome is consistent with the observed behavior of U.S. dairy and beef cow-calf operations. The decision to market these animals is largely determined by factors other than the price of nonfed beef.

Impact on U.S. Consumers

An increase of 20 KT of Argentine nonfed beef product in U.S. uncooked beef market is estimated to increase consumer welfare gains by $89.15 million annually. This increase in welfare results from beef supplies that would be added to other nonfed beef supplies used mainly in ''non table cut'' beef applications, such as in hamburger meat patties, sausages, and other prepared meals and foods. Increased market quantities reduced average wholesale U.S. beef prices by $8.27 per MT CWE (from $4,402.17 to $4,393.9 per MT CWE), less than a fifth of one percent drop in price.

Although most of the welfare gains are expected to accrue directly to consumers, some of the consumer welfare gains from increased beef imports may be initially retained by beef importers. Given time, competition among importers in sales to the domestic market will force prices lower and thus transfer welfare gains to consumers.

Impact on U.S. Livestock Sector

Primary producers of livestock and beef products are negatively affected by beef imports increases solely through lower prices. The price effect generated in the model is not sufficient to force producers to lower their production. In the aggregate, producer welfare losses of $40.15 million were estimated to result from the additional nonfed beef supplies on the U.S. beef market (Table 1). These losses result from a drop of around $3.85 per MT CWE across total U.S. beef production. For purposes of this analysis, these losses were distributed across firms in the following three sub-sectors: beef cow-calf operators and milk producers; feedlot operators; and, cattle slaughterers and processors.

Beef Cow-Calf Operators and Milk Producers

Increased imports of nonfed beef would compete with U.S. domestic sources of this type of beef such as cull beef and dairy cow slaughter. Thus, the resulting impact of increased nonfed beef imports is lower prices for both cull beef and dairy cows. Because the sale of cull cows is a by-product of these farming operations, production does not decrease.[3] Thus, even though increased beef imports lower cull dairy prices by almost 0.3 percent (from $541.71 per head to $540.17, or $1.54 per head), lower prices do not cause producers to cutback production. The lower returns reduce producer welfare of milk producers by about $18.65 million. Similarly, the lower returns on cull beef cows reduce producer welfare of beef cow-calf operators by $12.7 million. In total, these cow-calf beef operators and dairy farmers experience producer welfare declines of $31.35 million.

Feedlot Operators

It is shown above that increased imports of nonfed beef displaces low-quality beef, mainly affecting dairy and beef cow-calf operations. The beef sector is further affected due to fewer feeder calves received at feedlots as a result of increased culling of beef cows. A reduction in supply of feeder calves caused prices for both yearling beef

[3] The majority of producers receipts of these two commodities are realized through the sale of primary outputs (feeder calves in the case of beef cow-calf operators and milk in the case of dairy producers). The minor role of cull cow sales to total income is particularly evident on dairy operations which typically generate up to 90 percent of their returns from milk sales.

calves and fed cattle to rise. The feedlot gains from output price increases on fed cattle at slaughter nearly offset the increased costs to purchase yearling beef calves. The net losses in feedlots of $0.24 per head multiplied over the estimated number of cattle fed (22,500,000 head) produced an aggregate feedlot operators' producer welfare loss of $5.4 million.[4]

Cattle Slaughterers/Primary Processors

Slaughterhouses received the same number of marketings as under the baseline, but received cull beef and dairy cows at lower prices. These benefits were off-set slightly by price increases on purchases of fed cattle to be slaughtered. In addition, slaughterers faced lower wholesale prices on their nonfed beef output. Combining these three effects—the benefit of lower cull beef and dairy cow prices, offset by slightly higher fed cattle prices and lower wholesale nonfed beef prices—resulted in an average net loss to cattle slaughters and primary beef processors of $3.7 million. The slaughterers principally affected by this rule would be those that handle cull beef and dairy cows and supply manufacturing beef.

TABLE 1.—PRODUCER WELFARE LOSSES

[In millions of dollars]

Item	Welfare losses
Subtotal—Dairy Sector	18.65
Subtotal—Beef Sector	21.8
—Beef Cow-Calf Operators	12.7
—Beef Feedlot Operators	5.4
—Beef Slaughterers	3.7
Total beef and dairy sectors	40.45

Producer losses, on a per farm or firm basis, are relatively small. It is shown in Table 2 that the losses incurred per farm range from $16 for cow-calf producers to roughly $2,700 for slaughters. These losses are small compared with total gross sales from livestock sales for either beef or dairy operations, representing on average less than 0.1 percent of the value of sales.

TABLE 2.—DISTRIBUTION OF ECONOMIC IMPACTS ON U.S. AGRICULTURAL SECTOR OF BEEF IMPORTS

Sub-sector	Size category	Numbers in size category	Market share	Economic loss		
			(Percent)	Total	Per entity	% of sales
		(Numbers)		(million)	(loss/firm)	(Percent)
Beef Cow-Calf	Small	801,940	99.8	$11.82	$14.74	0.07
	All	803,240	100	12.70	15.84	0.07
Dairy Farms	Small	152,500	68.5	12.72	83.41	0.09
	All	159,500	100	18.65	116.93	0.09
Feed Lots	Small	57,141	30	1.65	28.80	0.03
	All	57,541	100	5.3	93.43	0.03
Slaughterers	Small	1,330	81	2.98	2,253	0.01
	All	1,385	100	3.68	2,657	0.01

Impact on Small Entities

Beef Cow-Calf Operators and Milk Producers

Beef and dairy farms with annual sales of less than $0.5 million are considered small according to Small Business Administration (SBA) size criteria. Recent Census data show that about 99.8 percent of operations with beef cows have fewer than 1,000 head-herd size.[5] On average, these 801,940 operations had sales of under $0.5 million while maintaining 92.9 of beef cow inventories. Farms with less than $0.5 million of cattle and calves sales averaged sales of $20,976 in 1992, as opposed to average sales of $1.3 million on larger farms. Similarly for dairy operations, most producers fell in the ''small'' business category. Recent USDA data show that 95.6 percent of operations with milk cows have fewer than 200 head in their herds. Census data is available on farms with dairy product sales, but not by herd size. These data show that 95.2 percent of these farms have sales less than $0.5 million. Assuming that both USDA and Census data were tracking roughly the same dairy operations, it is estimated that 68.2 percent of milk cow inventories are on the 152,500 operations with sales less than $0.5 million with average dairy product sales of $93,800 per farm in 1992. Besides the sale of dairy products, the sale of cull dairy cattle and young stock (not selected to be retained for milking or breeding purposes) contribute to farm income. USDA budget data for 1992 indicated that, on an average U.S. dairy operation, the sale of culled cattle contributed $1.27 (around 8 percent) for every $15.85 of receipts.[6] Census data indicate that cattle sales contributes about $8,000 toward gross farm sales on a small dairy farm (making total sales average about $102,000): also, about 8 percent of total gross farm income. Net farm income drops of about $15 on ''small'' beef farms and $83 on ''small'' dairy farms were estimated by dividing the adjusted aggregate economic impact estimated by the model, by the number of small U.S. beef and dairy operations.[7]

Feedlot Operators

The number of ''small'' entities in the feedlot industry was estimated using data and information from various sources. U.S. Census of Agriculture data show that there were 57,541 beef feedlot operations (SIC 0211) with total agricultural sales of over $20.7 billion ($0.8 million in crop sales and $19.9 billion in livestock sales).[8] No distributional data on sales are

[4] Yearling beef calf prices go up more per head ($0.64 per head) than for fed cattle ($0.40 per head). These changes are based on: a $76.34 per cwt live weight beef yearling calf price and animal weights of 600 pounds and a $71.99 per cwt live weight fed slaughter cattle price and animal weights of 1200 pounds.

[5] Source: 1992 U.S. Census, Beef Cow Herd Size by Inventory and Sales: 1992, Table 28, pg. 30.

[6] USDA, Ken Mattrews, USDA, ERS, ''Economic Indicators of the Farm Sector: Costs of Production, 1992—Major Field Crops and Livestock and Dairy''.

[7] This adjustment was obtained by multiplying the total aggregate economic impact by the percentage of cattle inventories held on small dairy and beef farms.

[8] Source: U.S. Census, Selected Characteristics of Farms by Standard Industrial Classification: 1992, Table 18, pg. 25.

available, but using the aggregate totals gives average annual sales per feedlot at $345,840. (SBA classification of feedlots put small operations as those establishments with sales at $1.5 million or less.) Although casual observation would suggest that most cattle placed on feed occurs on highly concentrated (both geographically and size-wise) feedlots, without any additional information or data, all feedlots in the U.S. would fall into SBA's small entity category. However, other data sources indicate that the cattle feeding business is dominated by a few feedlots with high sales. Crom notes that large feedlots (with 8,000 head capacity) marketed 63 percent of the fed cattle in 1984 and numbered only 379.[9] Sales on such operations would average over 35,000 head per year and take them out of SBA's ''small entity'' category. Updating Crom's estimated by a 1993 CF Resources, Cattle Industry Reference Guide (CIRG) which reported a total number of 46,141 feedlot operations with over 22.388 million fed cattle marketings in 1992 with the feedlot numbers from Census, and assuming that large feedlot marketings' percentage grew to 70 percent and numbers increased to 400 by 1990, would imply that less than 7 million head of fed cattle are distributed across the 57,141 ''small'' feedlots. Given this recent production and marketing data, these ''small'' feedlots appear to average sales of about 120 fed cattle per year valued at about $103,666. These size and small feedlot extrapolations do not seem to violate Crom's earlier findings that ''farm feedlots made up 97 percent of all lots but fed only 19 percent of the cattle in 1984''. Almost all of the cattle fed by large and small lots alike purchased a high percentage of the cattle fed out (on average 60 percent in 1984). Thus, most feedlots are large operations (making up roughly 70 percent of all operations) and market a high percentage of national total fed cattle marketings. Using the above data on feedlot size, the impact on ''small'' feedlot operators from increased imports of nonfed beef translated into less than a $30 per year drop in gross sales on an average ''small'' feedlot (about a 0.03 percent drop).

Cattle Slaughterers/Primary Processors

The size distribution of firms in this sub-sector made it difficult to allocate the small losses estimated above across large and small firms. In the past, the desire to cut transportation costs of cattle and product, to gain economics of scale in plant operations, and to shift to newer plants (without existing labor contracts) has lead to increased industry concentration in this U.S. sub-sector. The exit of many older, smaller plants and companies have also contributed to increased market concentration. Most firms have multi-million dollar operations made up of new, large, state-of-the-art slaughter and packing plants located close to areas of high concentration of fed cattle (Kansas, Nebraska, Texas, Colorado, and Iowa). Still, there are substantial numbers of packers that ''can be characterized as having small slaughter capacities and often only one or two slaughter plants. They typically possess only about one percent of the industry slaughter and often slaughter cows as well as fed cattle.'' [10] The main output of packers is boxed beef which make up the bulk of beef shipments (up from 43 percent of beef shipments in 1979 and over 80 percent in 1988.[11] [12] In 1992, there were 1,385 meat packing establishments in the U.S. down from 1,434 such establishments in 1987.[13] The 1987 data indicate that 214 establishments exclusively processed beef, however no such data is available for 1992 at this time. Also, the 1987 data indicated that most plants fell in the SBA classifications of ''small'' with 96 percent of the establishments employing less than 500 employees, shipping almost 81 percent of total product.[14] [15] At the present time, the 1992 firm distribution data is not available. Thus, this analysis assumes that 81 percent of the volume is handled by the 1330 ''small'' firms (96 percent times 1,385 firms). This is despite the fact that concentration studies have found that slaughter activities are highly concentrated among the top 3–4 companies, but that substantial competition exists for cattle on the local level due to local inter-firm bidding for slaughter animals.[16] Four-firm concentration ratios rose steadily throughout the 1980s and reached levels of 70.3 for steers and heifers and 55.8 for all cattle in 1990.[17] Using the aggregate slaughterers/processor producer welfare losses calculated above (and adjusted to reflect the volume handled by ''small'' entities), producer welfare losses incurred by ''small'' beef slaughterers/processors was estimated at $2,253 per year when increased imports consisted of nonfed beef. These losses compare with average ''small'' firm value of shipments of over $30 million in 1992.

TABLE 3.—AVERAGE ''SMALL'' ENTITY WELFARE LOSSES IN DOLLARS PER FARM OR FIRM PER YEAR.

Farm type affected	Loss per entity per year
Beef Cow-Calf Operators	(14.72)
Dairy Producers	(83.41)
Feedlot Operators	(30.00)
Slaughterers/Primary Processors	(2,253.00)

Summary

This rule would allow the importation of fresh, chilled or frozen beef from Argentina. If Argentina were able to fill its 20 KT quota to the U.S.'s uncooked beef market with nonfed beef product, consumer welfare gains of around $90 million annually are possible. These consumer gains, as well as the likely producer welfare losses, would depend on the type of beef and total quantities received in the U.S. from Argentina. The 20 KT of imports will likely consist mainly of nonfed beef. Consumers would enjoy both lower prices and greater supplies, while producers realize lower returns from lower prices, but not lower quantities produced. These gains, even after taking into account the likely producer losses discussed below, produce a net social welfare gain to the United States of $48.7 million (Table 4).

Primary producers of livestock and beef products are negatively affected by beef import increases solely through lower prices. The price effect generated is not sufficient to discourage producers from continuing traditional levels of production. In the aggregate, producer welfare losses of $40.45 million are distributed between the dairy and beef sectors, the latter sector being composed of cow-calf, feedlot and slaughter operations.

[9] Source: USDA, ERS, Agricultural Information Bulletin Number 545, *Economics of the U.S. Meat Industry*, Richard J. Crom, November 1988, pg. 57.

[10] Source: Marion, Bruce W., *The Organization and Performance of the U.S. Food System*, NC 117 Committee, Lexington Books, 1985, pg. 128.

[11] Agricultural Input and Processing Industries, Iowa State University, pg. 6.

[12] These boxed beef products are fairly substitutable and provide processors with meat cut into primal or subprimal cuts sealed in vacuum-pack bags, shipped in 60-pound cardboard boxes. Boxed beef has cut transportation costs and labor costs of retailers, increased product quality and shelf life and made for more product standardization.

[13] Source: 1992 Census of Manufacturers, MC92–SUM–1(P), Preliminary Report, Summary Series, pg. 9.

[14] SBA classification of meat packing plants put small operations as those establishments with less than 500 employees.

[15] Census of Manufacturing, Industry Series—Meat Products, SIC 2011,2013,2015. 1987.

[16] (Iowa, pg. 7; Crom, pg.)

[17] (Iowa, pg. 5)

Nonfed beef imports are expected to add to sales of low-quality beef made from both beef and dairy cows at lower prices. With nonfed beef, the prices for cull beef and dairy cattle are lowered, reducing milk producers' welfare by almost $19 million and beef producers' welfare by almost $13 million. On a small farm basis, these losses translate into reduced net farm incomes of just over $15 on beef farms and $83 on dairy farms. These drops are small compared with total gross sales from livestock sales for either beef or dairy operations.

Feedlot operations are expected to be negatively affected, albeit marginally, by increased beef imports. The impact on feedlots is low in the case of nonfed beef due to the fact that milk producers share part of the negative effect on cull cows while no quantity effect in numbers marketed occurs. In the aggregate, feedlot net incomes are expected to be reduced by $5.4 million.

Cattle slaughterers and primary meat processors will be faced with the same amount of livestock at lower prices—both concerning what processors purchase from producers and what they sell. The net effect of these price changes are lower net returns to slaughterers of $3.7 million.

Over 95 percent of the beef and dairy industries are composed of producers and firms that can be categorized as small according to the SBA's size classification. This rule would therefore largely affect small entities, and the economic impacts analyzed would be directly applicable to these entities.

TABLE 4.—AGGREGATE CONSUMER AND PRODUCER WELFARE CHANGES

[In millions of dollars]

Item	Welfare change
Total Consumer Welfare Gain (Loss)	89.15
Total Producer Welfare Gain (Loss)	(40.45)
Net Social Welfare Gain (Loss)	48.7

Small Business Regulatory Enforcement Fairness Act of 1996.

This rule has been designated by the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, as a major rule under the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Pub. L. 104–121, 5 U.S.C. 801–808). Therefore, it has been submitted for a 60-day Congressional review in accordance with that Act, and will not become effective until that review period ends.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this rule. The assessment provides a basis for the conclusion that the actions required or authorized by this rule will not present a significant risk of introducing or disseminating FMD and will not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW, Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT.**

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule have been approved by the Office of Management and Budget (OMB). The assigned OMB control number is 0579–0015.

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, tribal governments, and the private sector. Under section 202 of the UMRA, APHIS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires APHIS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

List of Subjects in 9 CFR Part 94

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

Accordingly, 9 CFR part 94 is amended as follows:

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

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

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

2. In § 94.1, paragraph (a)(1) is revised to read as follows:

§ 94.1 Countries where rinderpest or foot-and-mouth disease exists; importations prohibited.

(a) * * *

(1) Except as provided in § 94.21, rinderpest or foot-and-mouth disease exists in all countries of the world, except those listed in paragraph (a)(2) of this section;

* * * * *

3. A new § 94.21 is added to read as follows:

§ 94.21 Restrictions on importation of beef from Argentina.

Notwithstanding any other provisions of this part, fresh, chilled or frozen beef from Argentina may be exported to the United States under the following conditions:

(a) The meat is beef that originated in Argentina;

(b) The meat came from bovines that were moved directly from the premises of origin to the slaughterhouse without any contact with other animals;

(c) The meat has not been in contact with meat from countries other than those listed in § 94.1(a)(2);

(d) The meat came from bovines that originated from premises where foot-and-mouth disease and rinderpest have not been present during the lifetime of any bovines slaughtered for export of meat;

(e) Foot-and-mouth disease has not been diagnosed in Argentina within the previous 12 months;

(f) The meat came from bovines that originated from premises on which ruminants or swine have not been vaccinated with modified or attenuated live viruses for foot-and-mouth disease at any time during the lifetime of the bovines slaughtered for export of meat;

(g) The meat came from bovines that have not been vaccinated for rinderpest at any time during the lifetime of any of the bovines slaughtered for export of meat;

(h) The meat came from bovine carcasses that have been allowed to maturate at 40 to 50 °F (4 to 10 °C) for a minimum of 36 hours after slaughter and have reached a pH of 5.8 or less in the loin muscle at the end of the maturation period. Any carcass in which the pH does not reach 5.8 or less may be allowed to maturate an additional 24 hours and be retested, and, if the carcass still does not reach a pH of 5.8 or less after 60 hours, the meat from the carcass may not be exported to the United States;

(i) All bone, blood clots, and lymphoid tissue have been removed from the meat; and

(j) An authorized official of Argentina certifies on the foreign meat inspection certificate that the above conditions have been met.

Done in Washington, DC, this 23rd day of June 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–16748 Filed 6–25–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AWP–15]

Revision of Class D and Class E Airspace; Los Angeles, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the legal description for the Class D and Class E airspace areas at Los Angeles, CA. This action is a modification of the surface areas for the Los Angeles Hawthorne Municipal Airport, CA. A review of airspace classification and air traffic procedures has made this action necessary. The intended effect of this action is to reduce the complexity of the air traffic procedures and reduce the number of facilities controlling traffic within this area.

EFFECTIVE DATE: 0901 UTC July 17, 1997.

FOR FURTHER INFORMATION CONTACT: Larry Tonish, Airspace Branch, AWP–520.7, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725–6555.

SUPPLEMENTARY INFORMATION:

History

On April 14, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by revising the Class D and Class E airspace areas at Los Angeles, CA (62 FR 18066). This action modifies the surface areas for the Los Angeles Hawthorne Municipal Airport, CA. A review of airspace classification and air traffic procedures has made this action necessary. The intended effect of this action is to reduce the complexity of the air traffic procedures and reduce the number of facilities controlling traffic within this area.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposals to the FAA. No comments to the proposal were received. Class D airspace areas extending upward from the surface are published in Paragraph 5000, and Class E airspace designations for airspace areas designated as an extension to a Class D or Class E surface area are published in Paragraph 6004 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designation listed in this document would be published subsequently in this Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revises the surface areas for the Los Angeles Hawthorne Municipal Airport, CA. A review of airspace classification and air traffic procedures has made this action necessary. The intended effect of this action is to reduce the complexity of the air traffic procedures and reduce the number of facilities controlling traffic within this area.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D airspace.

* * * * *

AWP CA D Los Angeles, CA [Revised]

Jack Northrop Field/Hawthorne Municipal Airport, CA
(Lat 33°55′22″ N, long. 118°20′07″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 2.6-mile radius of the Jack Northrop Field/Hawthorne Municipal Airport and that airspace within the area bounded by lat. 33°53′19″ N., long. 118°22′03″ W.; to lat. 33°53′19″ N., long. 118°23′23″ W.; to lat. 33°55′59″ N., long. 118°25′55″ W.; to lat. 33°56′07″ N., long. 118°23′06″ W.; thence counterclockwise along the 2.6-mile radius of the Jack Northrop Field/Hawthorne Municipal Airport to lat. 33°53′19″ N., long. 118°22′03″ W.; and that airspace within the area bounded by lat. 33°57′16″ N., long. 118°17′58″ W.; to lat. 33°57′22″ N., long. 118°15′33″ W.; to lat. 33°53′46″ N., long. 118°15′36″ W.; to lat. 33°53′16″ N., long. 118°15′40″ W.; to lat. 33°53′28″ N., long. 118°17′58″ W.; thence counterclockwise along the 2.6-mile radius of the Jack Northrop Field/Hawthorne Municipal Airport to lat. 33°57′16″ N., long. 118°17′58″ W. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004 Class E airspace areas designated as an extension to a Class D or Class E surface area.

* * * * *

AWP CA E4 Los Angeles, CA [Revised]

Jack Northrop Field/Hawthorne Municipal Airport, CA
(Lat. 33°55′22″ N., long. 118°20′07″ W)

That airspace extending upward from the surface beginning at lat. 33°57′22″ N., long. 118°15′33″ W.; to lat. 33°53′46″ N., long. 118°15′36″ W.; to lat. 33°53′54″ N., long. 118°12′26″ W.; to lat. 33°57′30″ N., long. 118°12′40″ W.; thence to the point of beginning. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Los Angeles, California, on June 10, 1997.

Rosie L. Marino,

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

[FR Doc. 97–16463 Filed 6–25–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–24]

Amendment to Class E Airspace; Lewisburg, WV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies the Class E airspace at Lewisburg, WV, to accommodate a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 4 and RWY 22, and a VHF Omnidirectional Radio Range (VOR) SIAP to RWY 22 at Greenbrier Valley Airport. The intended effect of this action is to provide adequate controlled airspace for instrument flight rules (IFR) operations at the airport.

EFFECTIVE DATE: 0901 UTC, September 11, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Frances Jordan, Airspace Specialist, Operations Branch, AEA–530, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On May 23, 1997, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR part 71) by modifying Class E airspace at Lewisburg, WV (62 FR 28389). This action would provide adequate Class E airspace for IFR operations at Greenbrier Valley Airport.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Class E airspace areas designations are published in paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies Class E airspace area at Lewisburg, WV, to accommodate a GPS RWY 4 SIAP, a GPS RWY 22 SIAP, a VOR SIAP RWY 22 and for IFR operations at Greenbrier Valley Airport.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

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

* * * * *

AEA WV E5 Lewisburg, WV [Revised]

Greenbrier Valley Airport, WV
(Lat. 37°51′30″N., long. 80°23′58″W.)

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Greenbrier Valley Airport and within 4.4 miles each side of the 215° bearing from the Greenbrier Valley Airport extending from the 9-mile radius to 17 miles southwest of the airport and within 4.4 miles each side of the 020° bearing from the Greenbrier Valley Airport extending from the 9-mile radius to 12 miles northeast of the airport.

* * * * *

Issued in Jamaica, New York on June 10, 1997.

James K. Buckles,

Acting Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–16468 Filed 6–25–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 600

[Docket No. 970304043–7145–03; I.D. 061397A]

RIN 0648–AJ59

Magnuson-Stevens Act Provisions; Foreign Fishing Vessels in Internal Waters; Reporting Requirements

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

ACTION: Final rule, technical amendment and correction.

SUMMARY: On May 19, 1997, NMFS published a final rule implementing new reporting requirements for foreign fishing vessels (FFV's) operating in the internal waters of a state. This document corrects a typographical error in that final rule and makes a technical amendment to clarify that the reporting of the location of where fish were harvested must include the name and official vessel number of the vessel of the United States that harvested the fish.

DATES: Effective June 26, 1997.

ADDRESSES: Comments regarding burden-hour estimates for the collection-of-information requirements contained in this final rule should be sent to George H. Darcy, F/SF3, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: George H. Darcy, 301–713–2341.

SUPPLEMENTARY INFORMATION: On May 19, 1997, NMFS published a final rule at 62 FR 27182 that implemented reporting requirements for FFV's operating in the internal waters of a state, to reflect the October 1996 amendments to the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*). Additional background for that action is contained in the preamble to the final rule and in the preamble to the proposed rule that was published March 20, 1997, at 62 FR 13360, and is not repeated here.

Following publication of the final rule, it was recognized that the reporting element added at 50 CFR 600.508(f)(2)(i)(D), which requires that the harvest location of the fish received for processing be reported, was not sufficiently explicit. In order for NMFS to properly account for such harvested fish, the harvest location information must include the name and official number of the vessel of the United States that harvested the fish. This technical amendment makes that reporting requirement explicit by revising § 600.508(f)(2)(i)(D). Such information is expected to be maintained as a normal part of conducting business and does not materially change the burden hour estimates published in the preamble to the May 19, 1997, final rule.

Because section 3507(c)(B)(i) of the Paperwork Reduction Act (PRA) requires agencies to inventory and display a current control number assigned by the Director, OMB, for each agency information collection, the May 19, 1997, final rule also amended 15 CFR 902.1(b) by adding the control number for the approved collection of information. A typographical error in the final rule transposed the numerals in the OMB approval number that was added to the table in 15 CFR 902.1(b); this final rule corrects that error. Under NOAA Administrative Order 205–11, 7.01, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated to the Assistant Administrator for Fisheries, NOAA, the authority to sign material for publication in the **Federal Register**.

Classification

Because this technical amendment makes only a minor, non-substantive clarification and correction to an existing rule, prior notice and opportunity for public comment would serve no purpose. Accordingly, the Assistant Administrator for Fisheries, under 5 U.S.C. 553(b)(B), for good cause finds that prior notice and opportunity for public comment are unnecessary. For the same reasons, there is good cause under 5 U.S.C. 553(d) not to delay the effective date of the technical amendment for 30 days.

Because this rule is being issued without prior comment, it is not subject to the Regulatory Flexibility Act requirement for a regulatory flexibility analysis and none has been prepared.

This rule contains a collection-of-information requirement subject to the PRA. This collection has been approved by OMB under control number 0648–0329. Public reporting burden is estimated to average 0.5 hours per response to fill out and submit each weekly report to the Regional Administrator, 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 burden estimates, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

This rule makes minor technical changes to a rule that has been determined to be not significant under E.O. 12866. No changes in the regulatory impact previously reviewed and analyzed will result from implementation of this technical amendment.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 600

Fisheries, Fishing.

Dated: June 23, 1997.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR chapter IX and 50 CFR chapter VI are amended as follows:

15 CFR Chapter IX

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. In § 902.1, paragraph (b), the table is amended by revising the entry for 50 CFR 600.508 to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * * * *	
50 CFR	
* * * * *	
600.508	–0329
* * * * *	

* * * * *

50 CFR Chapter VI

PART 600—MAGNUSON ACT PROVISIONS

3. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

4. In § 600.508, paragraph (f)(2)(i)(D) is revised to read as follows:

§ 600.508 Fishing operations.

* * * * *

(f) * * *

(2) * * *

(i) * * *

(D) Location(s) from which the fish received were harvested and the name and official number of the vessel of the United States that harvested the fish.

* * * * *

[FR Doc. 97–16772 Filed 6–25–97; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Federal Highway Administration

23 CFR Parts 1200 and 1205

[NHTSA Docket No. 93–55, Notice 5]

RIN 2127–AG69

Uniform Procedures for State Highway Safety Programs

AGENCY: National Highway Traffic Safety Administration and Federal Highway Administration, DOT.

ACTION: Interim final rule; request for comments.

SUMMARY: This document establishes new uniform procedures governing the implementation of State highway safety programs. It amends existing requirements by providing a more flexible system under which States are responsible for setting highway safety goals and implementing programs to achieve those goals.

This document is being issued as an interim final rule to provide guidance to the States before the start of fiscal year 1998. The agencies request comments on the rule. The agencies will publish a notice responding to the comments received and, if appropriate, will amend provisions of the regulation.

DATES: This interim final rule becomes effective June 26, 1997. Comments on this interim rule are due no later than August 11, 1997.

ADDRESSES: Comments should refer to the docket number set forth above and be submitted (preferably in 10 copies) to the Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are from 9:30 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: In NHTSA, Marlene Markison, Office of State and Community Services, 202–366–2121; John Donaldson, Office of the Chief Counsel. In FHWA, Mila Plosky, Office of Highway Safety, 202–366–6902; Michael Falk, 202–366–0834.

SUPPLEMENTARY INFORMATION:

A. Statutory Requirements

The Highway Safety Act of 1966 (23 U.S.C. 401 *et seq.*) established a formula grant program to improve highway safety in the States. As a condition of the grant, the Act provides that the States must meet certain requirements contained in 23 U.S.C. 402.

Section 402(a) requires each State to have a highway safety program, approved by the Secretary of Transportation, which is designed to reduce traffic crashes and the deaths, injuries, and property damage resulting from those crashes. Section 402(b) sets forth the minimum requirements with which each State's highway safety program must comply. For example, the Secretary may not approve a program unless it provides that the Governor of the State is responsible for its administration through a State highway safety agency which has adequate powers and is suitably equipped and organized to carry out the program to the satisfaction of the Secretary. Additionally, the program must authorize political subdivisions of the State to carry out local highway safety programs and provide a certain minimum level of funding for these local programs each fiscal year. The enforcement of these and other continuing requirements is entrusted to the Secretary and, by delegation, to the National Highway Traffic Safety Administration (NHTSA) and the Federal Highway Administration (FHWA) (the agencies).

When it was originally enacted in 1966, the Highway Safety Act required the agencies to establish uniform standards for State highway safety programs to assist States and local communities in implementing their highway safety programs. Eighteen such standards were established and, until 1976, the Section 402 program was directed principally toward achieving State and local compliance with these standards. Over time, State highway safety programs matured and, in 1976, the Highway Safety Act was amended to provide for more flexible implementation of the program. States were no longer required to comply with every uniform standard or with each element of every uniform standard. As a result, the standards became more like guidelines for use by the States, and management of the program shifted from enforcing standards to using the standards as a framework for problem identification, countermeasure development, and program evaluation. In 1987, Section 402 of the Highway Safety Act was amended, formally changing the standards to guidelines.

Another amendment to the Highway Safety Act required the Secretary to determine, through a rulemaking process, those programs ''most effective'' in reducing crashes, injuries, and deaths, taking into account ''consideration of the States having a major role in establishing (such) programs.'' The Secretary was authorized to revise the rule from time to time. The Act, as amended, provides that only those programs established under the rule as most effective in reducing crashes, injuries and deaths would be eligible for Federal financial assistance under the Section 402 program. In accordance with this provision, the agencies have identified, over time, nine such programs, the ''National Priority Program areas.'' These programs appear in a rule at 23 CFR part 1205, discussed further below, under the heading ''Current Regulations.''

B. Current Regulations

1. Part 1200

In recent years, the agencies have administered the Section 402 program in accordance with an implementing regulation, Uniform Procedures for State Highway Safety Programs (23 CFR part 1200). That regulation, portions of which are amended by today's action, contains detailed procedures governing the content and Federal approval of a ''Highway Safety Plan,'' to be submitted each fiscal year by the States. In particular, under the regulation each

State's highway safety plan is required to contain a ''problem identification summary,'' highlighting highway safety problems in the State, describing countermeasures planned to address those problems, and providing supporting statistical crash data. Additionally, in the highway safety plan, the State must describe and justify program areas to be funded, discuss planning and administration and training needs, and provide certain certifications and financial documentation.

The regulation requires Federal approval for proposed expenditures within program areas, both under the State's initially submitted Highway Safety Plan and subsequently for any proposed changes in expenditures exceeding ten percent of the total amount in a given program area. Federal approval is also required, on a year-by-year basis, if a State wishes to continue a NHTSA project beyond three years. Such approval is conditioned on a showing that the project has demonstrated great merit or the potential for significant long-range benefits, and is subject to increased cost assumption by the State. The regulation provides the agencies with broad discretion to approve, conditionally approve, or disapprove a highway safety plan or any portion of the document. Agency approving officials are centrally involved in an evaluation of whether the highway safety plan establishes the existence of bona fide highway safety problems, identifies countermeasures and projects reasonably calculated to address the problems, and proposes an efficient use of Federal funds.

Under the regulation, States are required to submit a comprehensive and detailed annual evaluation report. The annual report is required to contain a three-to-five page statewide overview of highway safety accomplishments, a description of projects conducted and costs incurred by program area, a discussion of legislative and administrative accomplishments, and a report on the status of remedial actions.

The submission and approval requirements under the current Part 1200 place a greater emphasis on Federal oversight of State highway safety programs than the agencies believe is necessary or desirable at this time. State highway safety programs have matured substantially since the inception of the Section 402 program. Accordingly, under the heading ''Changes to Regulation,'' the agencies discuss amendments to these portions of the regulation, made by today's notice, that provide the States more flexibility.

Part 1200 contains other provisions, such as those concerning the apportionment and obligation of Federal funds, financial accounting (including submission of vouchers, program income, and the like), and closeout of each year's program. These provisions remain essentially unchanged by today's action.

2. Part 1205

Today's action also amends portions of another regulation, 23 CFR part 1205, Highway Safety Programs; Determinations of Effectiveness. Part 1205 lists each highway safety program area that the agencies have determined, in accordance with the Highway Safety Act, to be most effective in reducing crashes, injuries, and deaths. The agencies have, through a series of rulemaking actions, as discussed above, identified these program areas as ''National Priority Program Areas.'' There are currently nine priority program areas: Alcohol and Other Drug Countermeasures, Police Traffic Services, Occupant Protection, Traffic Records, Emergency Medical Services, Motorcycle Safety, Roadway Safety, Pedestrian and Bicycle Safety, and Speed Control.

Part 1205 currently provides for expedited funding approval of programs developed in any of the National Priority Program Areas. Part 1205 provides that programs developed under other program areas may also be funded, but they must be approved under a more detailed approval process. As further described under the heading ''Changes to Regulation,'' today's notice provides States with more flexibility also with regard to their ability to fund these programs.

C. The Pilot Program

In the years since the original enactment of Section 402, States have developed the infrastructure, tools, and resources necessary to conduct effective highway safety programs. Increasingly, States have expressed interest in assuming more responsibility for the planning and direction of their programs, with a decreased emphasis on the detailed Federal oversight that exists under the current regulation. Just as Congress earlier recognized the desirability of changing the mandatory standards to more flexible guidelines, the agencies believe it is appropriate at this time to provide the States with added flexibility to set their own goals, define their own performance measures, and determine the best means of accomplishing their goals, subject to the existing statutory parameters requiring overall program approval.

Consistent with efforts to relieve burdens on the States under the President's regulatory reform initiative, the agencies took the first step in providing more flexibility for the States by establishing a pilot program in fiscal years1996 and 1997 for highway safety programs conducted under Section 402. The pilot program was announced in the **Federal Register** on September 12, 1995 (60 FR 47418) for fiscal year 1996 and on September 6, 1996 (61 FR 46895) for fiscal year 1997.

1. Procedures

The pilot program waived the requirement for State submission and Federal approval of the Highway Safety Plan required under part 1200 for those States that chose to participate, and instead provided for a benchmarking process by which the States set their own highway safety goals and performance measures. Under the benchmarking process, participating States were required to submit a planning document and a benchmarking report, rather than the previously required highway safety plan. The planning document, which described how Federal funds would be used, consistent with the guidelines, priority areas, and other requirements of Section 402, was required to be approved by the Governor's Representative for Highway Safety.

The States were required to submit the benchmark report to the agencies for approval by August 1 prior to the fiscal year for which the highway safety program was to be conducted.

The benchmark report was required to contain three components: a Process Description, Performance Goals, and a Highway Safety Program Cost Summary. Under the Process Description component, States were required to describe the processes used to identify highway safety problems, establish performance goals, and develop the programs and projects in their plans. Under the Performance Goals component, States were required to identify highway safety performance goals (developed through a problem identification process) and to identify performance measures to be used to track progress toward each goal. Under the Highway Safety Program Cost Summary component, States submitted HS Form 217, a financial accounting form that was previously required under part 1200.

The focus of the Federal review and approval process under the pilot program shifted away from a review of the substantive details of the program, on a project-by-project basis, as required under part 1200. Instead, the process

focused on verification that the State had committed itself, through a performance-based planning document approved by the Governor's Representative for Highway Safety and a benchmark report, to a highway safety program that targeted identified State highway safety concerns. The agencies waived the requirement under part 1200 that States seek approval for changes in expenditures exceeding ten percent in a given program area.

Under the pilot program, the requirements governing the annual evaluation report were changed to accommodate the shift to a performance-based process. States were required to report on their progress toward meeting goals, using performance measures identified in the benchmark report, and the steps they took toward meeting goals. States were also required to describe State and community projects funded during the year.

In other respects, the pilot program followed the requirements of part 1200 without change. Provisions concerning the submission of certifications and assurances, the apportionment and obligation of Federal funds, financial accounting (including submission of vouchers, program income, and the like), and the closeout of each year's program continued to apply to the pilot program.

The **Federal Register** notices announcing the pilot program explained that, if the pilot program was successful, the agencies expected to revise the regulations governing State highway safety programs to adopt the pilot procedures permanently.

2. Experience Under the Pilot Program

Over the two-year period during which the pilot program has been in place, it has met with support from States. Sixteen States participated in the pilot program during fiscal year 1996, and 41 States, the District of Columbia, Puerto Rico, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands participated during fiscal year 1997. Most participating States expressed enthusiasm about the goal-setting process used in the pilot program, and felt a greater sense of ''ownership'' of their highway safety programs under the pilot procedures. Prior to their participation in the pilot program, many of these States had already adopted performance measures in their State budgeting and management processes, which eased the transition for these States to a performance-based process under the pilot program. The majority of participating States reported that the pilot program procedures resulted in reduced Federally-imposed burdens and increased State flexibility in administering their highway safety programs.

In December 1996, the 16 States that participated in the pilot program during its initial year submitted their annual evaluation reports regarding their highway safety accomplishments under the pilot program. Overall, the reports revealed improvements in data systems, goal-setting, and project selection. They also reported reductions in costs and time expended for the administration of the program, and a broadening of highway safety partnerships. In addition, the reports revealed that pilot States are making steady progress toward achieving established goals. Experience to date confirms that the pilot program has resulted in the implement of successful highway safety programs, consistent with national highway safety goals and Federal goals for regulatory reform, streamlining procedures, and improvements in performance.

In January 1997, during the second year of the pilot program, the agencies held a meeting that was attended by representatives of all States and territories. State representatives identified concerns and offered suggestions in an effort to make further improvements in the pilot program procedures. States generally expressed a desire for more flexibility, such as by extending the due date for submission of application documents, permitting a multi-year planning process, and accommodating short and long range goals in the goal-setting process. States agreed that, if progress toward meeting goals does not occur in a State, both State and Federal officials should cooperate to develop an improvement plan for the State.

D. Changes to the Regulation

1. In General

Based on the success of the pilot program during its nearly two years of operation, today's interim final rule revises the regulations governing State highway safety programs to implement the pilot procedures. It also addresses issues raised during the January 1997 meeting. It extends the due date for submission of application documents from August 1 to September 1, which is a change in both the pilot procedures and the procedures under part 1200. The interim final rule accommodates the States' desire for flexibility to plan and set goals covering time periods that best meet State needs. It also provides for a joint effort by Federal and State officials to develop an improvement plan, where a State fails to progress to meet goals. States are free at any time to request assistance or advice from the agencies' field offices, which remain ready to devote available resources as needed.

This interim final rule replaces the existing procedures governing the preparation, submission, review, and approval of State Highway Safety Plans, contained in the Uniform Procedures for State Highway Safety Programs (23 CFR part 1200) and discussed generally under the heading ''Part 1200,'' above, with new procedures that are modeled after those used in the pilot program. The interim final rule requires the States to submit information detailing their highway safety programs in the same format as required under the pilot program. However, the rule makes some adjustments to the pilot program procedures, as discussed above.

In addition, the interim final rule makes some changes in terminology from that used in the pilot program. The more descriptive terms ''performance plan'' and ''highway safety plan'' replace the terms ''benchmark report'' and ''planning document,'' which were used in the pilot program to describe State highway safety goals and planned activities. However, the functions of these documents remain essentially unchanged from those existing under the pilot program, as described under the heading ''The Pilot Program.'' (Retention of the familiar term ''highway safety plan'' is for convenience, and does not convey that procedures predating the pilot program continue to apply to that document.) States may choose (and are encouraged) to prepare their Performance Plan and Highway Safety Plan as comprehensive documents which also include goals and activities for highway safety programs other than the Section 402 program (such as Federal incentive grants). If this is done, the Highway Safety Plan should identify those programs or activities funded from other sources in a separate section or should identify them clearly in some other manner.

Under the interim final rule, the nature of the Federal approval process has been changed. Instead of approving a highway safety plan based on a project-by-project justification, the agencies instead will review the State's highway safety program as a whole, to verify that the State has developed a goal-oriented highway safety program that has been approved by the Governor's Representative for Highway Safety, and that identifies the State's highway safety problems, establishes

goals and performance measures to effect improvements in highway safety, and describes activities designed to achieve those goals. When establishing performance measures, States may wish to consult the ''Examples of Performance Measures'' section of the Pilot State Highway Safety Program Notice of Waiver published in the **Federal Register** on September 5, 1996 (61 FR 46895).

The agencies have retained the requirement, contained in both part 1200 and the pilot procedures, that States must submit an annual report. However, the interim final rule changes the contents of the annual report from those required by part 1200 (described under the heading ''Part 1200''). Under the interim final rule, the States are required to describe their progress in meeting State highway safety goals, using performance measures identified in the Performance Plan, and the projects and activities funded during the fiscal year. They must also include in these reports an explanation of how these projects and activities contributed to meeting the State's highway safety goals.

The agencies believe that the performance-based process, which places the States in charge of determining the best means of improving traffic safety within their borders, is an effective means of ensuring the proper identification of highway safety problems and the efficient deployment of resources to address those problems. Experience under the pilot program confirms that States are uniquely qualified to assess their highway safety deficiencies, and that they are able to effectively address these deficiencies by establishing goals and using performance measures, without the need for detailed Federal review at the project level.

No substantive changes have been made to provisions relating to the apportionment and obligation of Federal funds, financial accounting, and the like. These sections of the regulation are being republished in this notice simply for ease of reference.

2. Highlighted Provisions

In order to complete the change to procedures modeled after those of the pilot program, and to improve clarity and organization, the agencies have made certain other changes to part 1200. For example, the requirement that States must seek Federal approval before implementing program changes (including changes exceeding ten percent of the funding in a program area), has been replaced with a simple notification requirement in the interim final rule, consistent with the pilot program procedures. This change reduces administrative burdens and increases the States' ability to make efficient adjustments to their programs. The section on equipment has been simplified in the interim final rule, making it easier to follow. There are no longer separate definitions for major and non-major equipment since, for most purposes, all equipment used in the Section 402 program is treated alike. Instead, within the section on equipment, a paragraph concerning major purchases and dispositions identifies the threshold at which Federal approval is necessary.

The agencies have made some structural refinements throughout the regulation to improve clarity or to include useful information or cross-references. For example, the interim final rule changes, deletes, or streamlines some definitions, where they are no longer needed or where the text of the proposed rule is sufficiently clear without the definition. The interim final rule also sets forth the minimum statutory requirements for approval of a state highway safety program (responsibility of the Governor for program administration, participation by political subdivisions, access for handicapped persons, and programs for use of safety belts). These elements have been longstanding requirements of the Section 402 program under the Highway Safety Act, and are restated in the interim final rule for convenience. Additionally, the interim final rule includes a cross-reference to sanctions required by the Highway Safety Act to be imposed for failure to have or to implement a highway safety program, also for convenience.

The agencies have changed the definition of ''approving official,'' due to a change in the appropriation process for the Section 402 program. In fiscal year 1997, Congress placed all Section 402 funding under NHTSA's appropriation, while retaining separate authorizing legislation for the Section 402 program for both NHTSA and the FHWA. (Previously, NHTSA and the FHWA had separate appropriations as well as authorizations for the Section 402 program.) As a result, NHTSA has assumed the lead responsibility for administration of the Section 402 program, though the agencies will continue to coordinate many decisions. The proposed definition reflects this new relationship.

The agencies have deleted the requirement that States must seek Federal approval and assume a greater share of project costs prior to continuing a NHTSA-funded project or activity beyond three years. Over the years, this requirement has been used to ensure that NHTSA funds are predominantly used as ''seed money,'' to assist states with the start-up of innovative new projects whose implementation would later be taken over by the State. With the change to a performance-based program, the agencies no longer are involved in project-by-project review, and this project-level approval provision is no longer appropriate. However, States are encouraged to develop their own ''seed money'' and cost sharing requirements for local highway safety projects and activities, to stimulate the continued introduction of innovative new solutions to highway safety problems at the local level. The agencies are pleased to note that several States (e.g., Florida, Georgia, and Mississippi) have developed and are implementing such requirements.

Finally, this interim final rule makes conforming changes to the funding procedures for National Priority Program Areas and other program areas, appearing in 23 CFR part 1205, Highway Safety Programs; Determinations of Effectiveness, consistent with the agencies' objectives of placing more decisionmaking responsibilities in the hands of the States. With these changes, States can now pursue activities in program areas identified either by the agencies as National Priority Program areas or by the States as State priorities. In pursuing activities under the latter category, States will be required to identify programs that address problems of State concern and for which effective countermeasures have been identified. The current regulation specifies a formal process for approval of activities under program areas identified by the States and requires detailed Federal review. Under this interim final rule, States are given more flexibility in the processes they may use to identify program areas that are State priorities, and the level of Federal oversight has been reduced.

A number of other requirements apply to the Section 402 program, including those appearing in other parts of Chapter II of Title 23 CFR, and such government-wide provisions as the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (49 CFR part 18) and the Office of Management and Budget (OMB) Circulars containing cost principles and audit requirements (e.g., OMB Circulars A–21, A–87, A–122, A–128, and A–133). These provisions are unaffected by today's notice, and continue to apply in accordance with their terms.

E. Regulatory Analyses and Notices

Executive Order 12612 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that it does not have sufficient Federalism implications to warrant the preparation of a Federalism assessment. This action increases the flexibility of the States by implementing a performance-based process under which the States are responsible for setting highway safety goals, in accordance with their individual needs. In other respects, this action is consistent with the procedures of a common rule for the administration of grants to State and local governments (49 CFR part 18) which has as its basis the principles of Federalism, and which recognizes that States possess unique constitutional authority, resources, and competence to administer national grant programs, and provides for the application of State laws and procedures to many aspects of grant administration.

Executive Order 12778 (Civil Justice Reform)

This rule does not have any preemptive or retroactive effect. It merely revises existing requirements imposed on States to afford States more flexibility in implementing a grant program. The enabling legislation does not establish a procedure for judicial review of final rules promulgated under its provisions. There is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceedings before they may file suit in court.

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

The agencies have determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation Regulatory Policies and Procedures. This rule does not impose any additional burden on the public, but rather reduces burdens and improves the flexibility afforded to States in implementing highway safety programs. This action does not affect the level of funding available in the highway safety program. Accordingly, neither a Regulatory Impact Analysis nor a full Regulatory Evaluation is required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the agencies have evaluated the effects of this action on small entities. We hereby certify that this action will not have a significant economic impact on a substantial number of small entities. States are the recipients of any funds awarded under the Section 402 program. The preparation of a Regulatory Flexibility Analysis is unnecessary.

Paperwork Reduction Act

The requirement relating to this action, that each State must submit certain documents to receive Section 402 grant funds, is considered to be an information collection requirement, as that term is defined by OMB. This information collection requirement has been previously submitted to and approved by OMB, pursuant to the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The requirement has been approved through September 30, 1998; OMB Control No. 2127–0003.

Environmental Impacts

The agencies have reviewed this action for the purpose of compliance with the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and have determined that it will not have a significant effect on the human environment.

F. Interim Final Rule

This notice is published as an interim final rule, without prior notice and opportunity to comment. Because this regulation relates to a grant program, the requirements of the Administrative Procedure Act (APA), 5 U.S.C. 553, are not applicable. Moreover, even if the notice and comment provisions of the APA did apply, the agencies believe that there is good cause for finding that providing notice and comment in connection with this rulemaking action is impracticable, unnecessary, and contrary to the public interest, since it would delay the availability of guidance to States concerning new procedures applicable to fiscal year 1998 highway safety programs under 23 U.S.C. 402. States require this information well in advance of the start of the fiscal year to which the highway safety program applies in order to comply with application procedures and to allow sufficient time for program planning activities. This finding is further supported because the amendments made in this interim final rule are consistent with the provisions of a pilot program whose procedures are already known to the States. The pilot program is in its second year of operation, with most States participating, and its procedures were closely coordinated with the States prior to the start of the pilot program. For these reasons, the agencies also believe that there is good cause to make the rule effective immediately upon publication.

As an interim final rule, this regulation is fully in effect and binding upon its effective date. No further regulatory action by the agencies is necessary to make the rule effective. However, in order to benefit from comments which interested parties and the public may have, the agencies are requesting that comments be submitted to the docket for this notice. All comments submitted in response to this notice, in accordance with the procedures outlined below, will be considered by the agency. Following the close of the comment period, the agencies will publish a notice responding to the comments and, if appropriate, the agencies will amend the provisions of this rule.

G. Comments to the Docket

The agencies are providing a 45-day comment period for interested parties to present data, views, and arguments concerning this notice. The agencies invite comments on the issues raised in this notice and any other issues commenters believe are relevant to this action. Comments must not exceed 15 pages in length (49 CFR 553.21). This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion. Necessary attachments may be appended to these submissions without regard to the 15-page limit.

All comments received by the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date. Following the close of the comment period, the agencies will publish a notice responding to the comments and, if appropriate, the agencies will amend the provisions of this rule. The agencies will continue to file relevant material in the docket as it becomes available after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified of receipt of their comments by the docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receipt of the comments, the docket supervisor will return the postcard by mail.

Copies of all comments will be placed in Docket 93–55, Notice 5 of the NHTSA Docket Section in Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

List of Subjects in 23 CFR Parts 1200 and 1205

Grant programs—transportation, Highway safety.

For the reasons set out in the preamble, title 23, chapter II of the Code of Federal Regulations is amended as set forth below.

1. Subchapter A, part 1200, is revised to read as follows:

SUBCHAPTER A—PROCEDURES FOR STATE HIGHWAY SAFETY PROGRAMS

PART 1200—UNIFORM PROCEDURES FOR STATE HIGHWAY SAFETY PROGRAMS

Subpart A—General

Subpart B—Application, Approval, and Funding of the Highway Safety Program

Subpart C—Implementation and Management of the Highway Safety Program

Subpart D—Closeout

Authority: 23 U.S.C. 402; delegations of authority at 49 CFR 1.48 and 1.50.

Subpart A—General

§ 1200.1 Purpose.

This part establishes uniform application, approval, implementation, and closeout procedures for State highway safety programs authorized under 23 U.S.C. 402.

§ 1200.2 Applicability.

The provisions of this part apply to highway safety programs conducted by States under 23 U.S.C. 402.

§ 1200.3 Definitions.

As used in this subchapter—

Approving Official means a Regional Administrator of the National Highway Traffic Safety Administration, with the concurrence of a Division Administrator of the Federal Highway Administration as necessary.

Carry-forward funds means those funds that a State has obligated but not expended in the fiscal year in which they were apportioned, that are being reprogrammed to fund activities in a subsequent fiscal year.

Contract authority means the statutory language that authorizes the agencies to incur an obligation without the need for a prior appropriation or further action from Congress and which, when exercised, creates a binding obligation on the United States for which Congress must make subsequent liquidating appropriations.

Equipment means any tangible personal property acquired for use under the State's approved highway safety program.

FHWA means the Federal Highway Administration.

Fiscal year means the Federal fiscal year, consisting of twelve months beginning each October 1 and ending the following September 30.

Governor means the Governor of any of the fifty States, Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands, the Mayor of the District of Columbia, or, for the application of this part to Indians as provided in 23 U.S.C. 402(i), the Secretary of the Interior.

Governor's Representative for Highway Safety means the official appointed by the Governor to implement the State's highway safety program or, for the application of this part to Indians as provided in 23 U.S.C. 402(i), an official of the Bureau of Indian Affairs who is duly designated by the Secretary of the Interior to implement the Indian highway safety program.

NHTSA means the National Highway Traffic Safety Administration.

Program area means a National Priority Program Area identified in § 1205.3 of this chapter or a program area identified by the State in the highway safety plan as encompassing a major highway safety problem in the State and for which effective countermeasures have been identified.

Program income means gross income received by the State or any of its subgrantees or contractors that is directly or indirectly generated by a Federally-supported project during the project performance period.

Section 402 means section 402 of title 23 of the United States Code.

State means any of the fifty States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or, for the application of this part to Indians as provided in 23 U.S.C. 402(i), the Secretary of the Interior.

Subpart B—Application, Approval, and Funding of the Highway Safety Program

§ 1200.10 Application.

Each fiscal year, a State's application for funds for its highway safety program shall consist of the following components:

(a) A Performance Plan, containing the following elements:

(1) A list of objective and measurable highway safety goals, within the National Priority Program Areas and other program areas, based on highway safety problems identified by the State during the processes under paragraph (a)(2) of this section. Each goal must be accompanied by at least one performance measure that enables the State to track progress, from a specific baseline, toward meeting the goal (e.g., a goal to ''increase safety belt use from XX percent in 19__ to YY percent in 20__,'' using a performance measure of ''percent of restrained occupants in front outboard seating positions in passenger motor vehicles'').

(2) A brief description of the processes used by the State to identify its highway safety problems, define its highway safety goals and performance measures, and develop projects and activities to address its problems and achieve its goals. In describing these processes, the State shall identify the participants in the processes (e.g., highway safety committees, community and constituent groups), discuss the strategies for project or activity selection (e.g., constituent outreach, public meetings, solicitation of proposals), and list the information and data sources consulted.

(b) A Highway Safety Plan, approved by the Governor's Representative for Highway Safety, describing the projects and activities the State plans to implement to reach the goals identified in the Performance Plan. The Highway Safety Plan must, at a minimum, describe one year of activities.

(c) A Certification Statement, signed by the Governor's Representative for

Highway Safety, providing assurances that the State will comply with applicable laws and regulations, financial and programmatic requirements, and in accordance with § 1200.11 of this part, the special funding conditions of the Section 402 program.

(d) A Program Cost Summary (HS Form 217), completed to reflect the State's proposed allocations of funds (including carry-forward funds) by program area, based on the goals identified in the Performance Plan and the projects and activities identified in the Highway Safety Plan. The funding level used shall be an estimate of available funding for the upcoming fiscal year.

§ 1200.11 Special funding conditions.

The State's highway safety program under Section 402 shall be subject to the following conditions, and approval under § 1200.13 of this part shall in no event be deemed to waive these conditions:

(a) Responsibility of the Governor—The Governor of the State shall be responsible for the administration of the Section 402 program through a State highway safety agency that shall have adequate powers and be suitably equipped and organized to carry out the program.

(b) Participation by Political Subdivisions—Political subdivisions shall be authorized to carry out local highway safety programs, approved by the Governor, as a part of the State highway safety program, and at least 40 percent of all Federal funds provided under this part shall be used by or for the benefit of political subdivisions, in accordance with the provisions of part 1250 of this chapter.

(c) Access for Persons with Disabilities—Adequate and reasonable access shall be provided for the safe and convenient movement of persons with physical disabilities, including those in wheelchairs, across curbs constructed or replaced on or after July 1, 1976, at all pedestrian crosswalks throughout the State.

(d) Use of Safety Belts—Programs shall be provided (which may include financial incentives and disincentives) to encourage the use of safety belts by drivers and passengers in motor vehicles.

(e) Planning and Administration Costs—Funding and matching requirements for planning and administration costs shall be in accordance with the provisions of part 1252 of this chapter.

(f) Purchase and Disposition of Equipment—Major purchases and dispositions of equipment shall require prior approval by the approving official, in accordance with the provisions of § 1200.21(d) of this part.

§ 1200.12 Due date.

Three copies of the application documents identified in § 1200.10 of this part must be received by the NHTSA regional office no later than September 1 preceding the fiscal year to which the documents apply. The NHTSA regional office will forward copies to NHTSA headquarters and the FHWA division office. Failure to meet this deadline may result in delayed approval and funding.

§ 1200.13 Approval.

(a) Upon receipt of application documents complying with the provisions of § 1200.10 and § 1200.11 of this part, the Approving Official will issue a letter of approval to the Governor and the Governor's Representative for Highway Safety.

(b) The approval letter identified in paragraph (a) of this section will contain the following statement:

> We have reviewed (STATE)'s _____ fiscal year 19__ Performance Plan, Highway Safety Plan, Certification Statement, and Cost Summary (HS Form 217), as received on (DATE) _____. Based on these submissions, we find your State's highway safety program to be in compliance with the requirements of the Section 402 program. This determination does not constitute an obligation of Federal funds for the fiscal year identified above or an authorization to incur costs against those funds. The obligation of Section 402 program funds will be effected in writing by the NHTSA Administrator at the commencement of the fiscal year identified above. However, Federal funds reprogrammed from the prior-year Highway Safety Program (carry-forward funds) will be available for immediate use by the State on October 1. Reimbursement will be contingent upon the submission of an updated HS Form 217, consistent with the requirements of 23 CFR 1200.14(d), within 30 days after either the beginning of the fiscal year identified above or the date of this letter, whichever is later.

(c) If approval is withheld, for reasons of non-compliance with § 1200.10 or § 1200.11 of this part or other applicable law, the Approving Official shall identify in writing the specific area(s) of non-compliance which formed the basis for withholding approval.

§ 1200.14 Apportionment and obligation of Federal funds.

(a) Except as provided in paragraph (b) of this section, on October 1 of each fiscal year the NHTSA Administrator shall, in writing, distribute funds available for obligation under Section 402 to the States and specify any conditions or limitations imposed by law on the use of the funds.

(b) In the event that authorizations exist but no applicable appropriation act has been enacted by October 1 of a fiscal year the NHTSA and FHWA Administrators shall, in writing, distribute a part of the funds authorized under Section 402 contract authority to ensure program continuity and shall specify any conditions or limitations imposed by law on the use of the funds. Upon appropriation of Section 402 funds, the NHTSA Administrator shall, in writing, promptly adjust the obligation limitation, and specify any conditions or limitations imposed by law on the use of the funds.

(c) The funds distributed under paragraph (a) or (b) of this section shall be available for expenditure by the states to satisfy the Federal share of expenses under the approved highway safety program, and shall constitute a contractual obligation of the Federal Government, subject to any conditions or limitations identified in the distributing document.

(d)(1) Notwithstanding the provisions of paragraph (c) of this section, reimbursement of State expenses shall be contingent upon the submission of an updated HS Form 217, within 30 days after either the beginning of the fiscal year or the date of the written approval required under § 1200.13 of this part, whichever is later.

(2) The updated HS Form 217 required under paragraph (d)(1) of this section shall reflect the State's allocation of Section 402 funds made available for expenditure during the fiscal year, including known carry-forward funds.

Subpart C—Implementation and Management of the Highway Safety Program

§ 1200.20 General.

Except as otherwise provided in this subpart and subject to the provisions herein, the requirements of 49 CFR part 18 and applicable cost principles govern the implementation and management of State highway safety programs carried out under 23 U.S.C. 402. Cost principles include those referenced in 49 CFR 18.22 and those set forth in applicable Department of Transportation, NHTSA, or FHWA Orders.

§ 1200.21 Equipment.

(a) *Title.* Except as provided in paragraphs (e) and (f) of this section, title to equipment acquired under the Section 402 program will vest upon acquisition in the State or its subgrantee, as appropriate.

(b) *Use.* All equipment shall be used for the originally authorized grant purposes for as long as needed for those purposes, as determined by the Approving Official, and neither the State nor any of its subgrantees or contractors shall encumber the title or interest while such need exists.

(c) *Management and disposition.* Subject to the requirement of paragraphs (b), (d), (e) and (f) of this section, States and their subgrantees and contractors shall manage and dispose of equipment acquired under the Section 402 program in accordance with State laws and procedures.

(d) *Major Purchases and dispositions.* All purchases and dispositions of equipment with a useful life of more than one year and an acquisition cost of $5,000 or more must receive prior written approval from the Approving Official.

(e) *Right to transfer title.* The Approving Official may reserve the right to transfer title to equipment acquired under the Section 402 program to the Federal Government or to a third party when such third party is otherwise eligible under existing statutes. Any such transfer shall be subject to the following requirements:

(1) The equipment shall be identified in the grant or otherwise made known to the State in writing;

(2) The Approving Official shall issue disposition instructions within 120 calendar days after the equipment is determined to be no longer needed in the Section 402 program, in the absence of which the State shall follow the applicable procedures in 49 CFR part 18.

(f) *Federally-owned equipment.* In the event a State or its subgrantee is provided Federally-owned equipment:

(1) Title shall remain vested in the Federal Government;

(2) Management shall be in accordance with Federal rules and procedures, and an annual inventory listing shall be submitted;

(3) The State or its subgrantee shall request disposition instructions from the Approving Official when the item is no longer needed in the Section 402 program.

§ 1200.22 Changes.

States shall provide documentary evidence of any reallocation of funds between program areas by submitting to the NHTSA regional office an amended HS form 217, reflecting the changed allocation of funds, within 30 days of implementing the change.

§ 1200.23 Vouchers and project agreements

Each State shall submit official vouchers for total expenses incurred to the Approving Official. Copies of the project agreement(s) and supporting documentation for the vouchers, and any amendments thereto, shall be made available for review by the Approving Official upon request.

(a) *Content of vouchers.* At a minimum, each voucher shall provide the following information for expenses claimed in each program area:

(1) Program Area;

(2) Federal funds obligated;

(3) Amount of Federal funds allocated to local benefit (provided mid-year (by March 31) and with the final voucher);

(4) Cumulative Total Cost to Date;

(5) Cumulative Federal Funds Expended;

(6) Previous Amount Claimed;

(7) Amount Claimed this Period;

(8) Matching rate (or Special matching writeoff used, i.e., sliding scale rate authorized under 23 U.S.C. 120(a), determined in accordance with the applicable NHTSA Order).

(b) *Submission requirements.* At a minimum, vouchers shall be submitted to the Approving Official on a quarterly basis, no later than 15 working days after the end of each quarter, except that where a State receives funds by electronic transfer at an annualized rate of one million dollars or more, vouchers shall be submitted on a monthly basis, no later than 15 working days after the end of each month. Failure to meet these deadlines may result in delayed reimbursement.

§ 1200.24 Program income.

(a) *Inclusions.* Program income includes income from fees for services performed, from the use or rental of real or personal property acquired with grant funds, from the sale of commodities or items fabricated under the grant agreement, and from payments of principal and interest on loans made with grant funds.

(b) *Exclusions.* Program income does not include interest on grant funds, rebates, credits, discounts, refunds, taxes, special assessments, levies, fines, proceeds from the sale of real property or equipment, income from royalties and license fees for copyrighted material, patents, and inventions, or interest on any of these.

(c) *Use of program income.*—(1) *Addition.* Program income shall ordinarily be added to the funds committed to the Highway Safety Plan. Such program income shall be used to further the objectives of the program area under which it was generated.

(2) *Cost sharing or matching.* Program income may be used to meet cost sharing or matching requirements only upon written approval of the Approving Official. Such use shall not increase the commitment of Federal funds.

§ 1200.25 Improvement Plan

If a review of the Annual Report required under § 1200.33 of this part or of other relevant information indicates little or no progress toward meeting State goals, the Approving Official and State officials will jointly develop an improvement plan. This plan will detail strategies, program activities, and funding targets to meet the defined goals.

§ 1200.26 Non-Compliance.

Where a State is found to be in non-compliance with the requirements of the Section 402 program or with applicable law, the special conditions for high-risk grantees and the enforcement procedures of 49 CFR part 18, or the sanctions procedures of part 1206 of this chapter, may be applied as appropriate.

§ 1200.27 Appeals.

Review of any written decision by an Approving Official under this part may be obtained by submitting a written appeal of such decision, signed by the Governor's Representative for Highway Safety, to the Approving Official. Such appeal shall be forwarded promptly to the NHTSA Associate Administrator for State and Community Services or the FHWA Regional Administrator with jurisdiction over the specific division, as appropriate. The decision of the NHTSA Associate Administrator or FHWA Regional Administrator shall be final and shall be transmitted to the Governor's Representative for Highway Safety through the cognizant Approving Official.

Subpart D—Closeout

§ 1200.30 Expiration of the right to incur costs.

Unless extended in accordance with the provisions of § 1200.31 of this part, the right to incur costs under Section 402 expires on the last day of the fiscal year to which it pertains. The State and its subgrantees and contractors may not incur costs for Federal reimbursement past the expiration date.

§ 1200.31 Extension of the right to incur costs.

Upon written request by the State, specifying the reasons therefor, the Approving Official may extend the right to incur costs for some portion of the State highway safety program by a maximum of 90 days. The approval of

any such request for extension shall be in writing, shall specify the new expiration date, and shall be signed by the Approving Official. If an extension is granted, the State and its subgrantees and contractors may continue to incur costs in accordance with the Highway Safety Plan until the new expiration date, and the due dates for other submissions covered by this subpart shall be based upon the new expiration date. However, in no case shall any extension be deemed to authorize the obligation of additional Federal funds beyond those already obligated to the State, nor shall any extension be deemed to extend the due date for submission of the Annual Report. Only one extension shall be allowed during each fiscal year.

§ 1200.32 Final voucher.

Each State shall submit a final voucher which satisfies the requirements of § 1200.23(a) of this part within 90 days after the expiration of each fiscal year, unless extended in accordance with the provisions of § 1200.31 of this part. The final voucher constitutes the final financial reconciliation for each fiscal year.

§ 1200.33 Annual report.

Within 90 days after the end of the fiscal year, each State shall submit an Annual Report. This report shall describe:

(a) The State's progress in meeting its highway safety goals, using performance measures identified in the Performance Plan. Both baseline and most current level of performance under the performance measure will be given for each goal.

(b) The projects and activities funded during the fiscal year, including an explanation of how each of these projects and activities contributed to meeting the State's highway safety goals.

§ 1200.34 Disposition of unexpended balances.

Any funds which remain unexpended after final reconciliation shall be carried forward, credited to the State's highway safety account for the new fiscal year, and made immediately available for use under the State's new highway safety program, subject to the approval requirements of § 1200.13 of this part. Carry-forward funds must be identified by the program area from which they are removed when they are reprogrammed from the previous fiscal year. Once so identified, such funds are available for use without regard to the program area from which they were carried forward, unless specially earmarked by the Congress.

§ 1200.35 Post-grant adjustments.

The closeout of a highway safety program in a fiscal year does not affect the ability of NHTSA or FHWA to disallow costs and recover funds on the basis of a later audit or other review or the State's obligation to return any funds due as a result of later refunds, corrections, or other transactions.

§ 1200.36 Continuing requirements.

The following provisions shall have continuing applicability, notwithstanding the closeout of a highway safety program in a fiscal year:

(a) The requirements governing equipment, as provided in § 1200.21 of this part;

(b) The audit requirements and records retention and access requirements of 49 CFR part 18.

PART 1205—HIGHWAY SAFETY PROGRAMS; DETERMINATIONS OF EFFECTIVENESS

2. The authority citation for part 1205 continues to read as follows:

Authority: 23 U.S.C. 402; delegations of authority at 49 CFR 1.48 and 1.50.

3. Section 1205.4 is revised to read as follows:

§ 1205.4 Funding requirements.

A State may use funds made available under 23 U.S.C. 402 to support projects and activities within—

(a) Any National priority program area identified in § 1205.3 of this part; or

(b) Any other highway safety program area that is identified in the Highway Safety Plan required under § 1200.10(b) of this chapter as encompassing a major highway safety problem in the State and for which effective countermeasures have been identified.

§ 1205.5 [Removed]

4. Section 1205.5 is removed.

Issued on: June 23, 1997.

Jane F. Garvey,

Acting Administrator, Federal Highway Administration.

Ricardo Martinez,

Administrator, National Highway Traffic Safety Administration.

[FR Doc. 97–16779 Filed 6–25–97; 8:45 am]

BILLING CODE 4910–59–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD033–7157; FRL–5844–3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland 1990 Base Year Emission Inventory; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; correcting amendments.

SUMMARY: This document corrects inadvertent errors in amendatory instructions in three direct final rules pertaining to the Maryland 1990 base year emission inventory for ozone.

DATES: Effective June 26, 1997.

FOR FURTHER INFORMATION CONTACT: Rose Quinto at (215) 566–2182 or by e-mail at quinto.rose@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA published a document on September 27, 1996 (61 FR 50715) inadvertently adding a § 52.1075 when that section already existed. The intent of the rule was to amend that section by adding a paragraph (c). That rule was also intended to revise the section heading. On December 3, 1996 (61 FR 64028) and April 23, 1997 (62 FR 19679), EPA published two other documents to amend the same section, but neither document addressed the erroneous ''adding'' of the already-existing section. This document corrects the erroneous amendatory language in the three documents.

In the direct final rule (FR Docket 96–24524) published in the **Federal Register** on September 27, 1996 (61 FR 50715), on page 50717 in the third column, the second amendatory instruction is corrected to read—''2. Section 52.1075 is amended by adding a paragraph (c) to read as follows:'' and the new text is designated as paragraph (c).

In the direct final rule (FR Docket 96–30476) published in the **Federal Register** on December 3, 1996 (61 FR 64028), on page 64029 in the first column, the second amendatory instruction is corrected to read as follows:

''2. Section 52.1075 is amended by revising the heading and adding paragraph (d) to read as follows:'' and the new text is designated as paragraph (d).

In the direct final rule (FR Docket 97–10508) published in the **Federal Register** on April 23, 1997. (62 FR 19676) make the following correction—

on page 19679, in the first column, the third amendatory instruction is corrected to read as follows:

''3. Section 52.1075 is amended by adding paragraph (e) to read as follows:'' and the new text is designated as paragraph (e).

Administrative Requirements

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

Because this corrective rulemaking action for Maryland's 1990 base year ozone emissions inventory is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

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

Dated: June 11, 1997.

Stanley L. Laskowski,

Acting, Regional Administrator, Region III.

[FR Doc. 97–16738 Filed 6–25–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN79–1A; FRL–5848–4]

Approval and Promulgation of State Implementation Plan; Indiana

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is approving a February 5, 1997, request from Indiana, for a State Implementation Plan (SIP) revision for the Vanderburgh County ozone nonattainment area. The revision is for a transportation control measure (TCM) to reduce the emissions of volatile organic compounds (VOCs) from motor vehicles by converting city-owned vehicles to compressed natural gas as a fuel. Reductions in VOCs help protect the public's health and welfare by reducing ground level ozone, commonly known as urban smog. High concentrations of ground level ozone can aggravate asthma, cause inflammation of lung tissue, decrease lung function, and impair the body's defenses against respiratory infection.

DATES: This ''direct final'' rule is effective on August 25, 1997, unless USEPA receives written comments that are adverse or critical by July 28, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the documents relevant to this action are available for inspection during normal business hours at the following location: Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Please contact Patricia Morris at (312) 353–8656 before visiting the Region 5 office.

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Patricia Morris, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), U.S.Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8656.

SUPPLEMENTARY INFORMATION:

I. Background

Section 108(e) of the Clean Air Act, as amended in 1990 (Act), provides for transportation-air quality planning guidance for the development and implementation of transportation and other measures necessary to demonstrate and maintain attainment of national ambient air quality standards. Section 108(f)(1)(A) provides a list of transportation control measures with emission reduction potential. The USEPA has further provided guidance in the final report entitled *Transportation Control Measures: State Implementation Plan Guidance* dated September 1990; and also in *Transportation Control Measure Information Documents* dated March 1992.

Section 108(f)(1)(A) of the Act lists sixteen TCMs for consideration by States and planning agencies to use to reduce emissions and help attain and maintain the national ambient air quality standards. Programs to reduce motor vehicle emissions consistent with title II of the Act are listed in section 108(f)(1)(A)(xii).

II. Evaluation of the State Submittal

On February 5, 1997, Indiana submitted to the USEPA a SIP revision request for Vanderburgh County Transportation Control Measures, specifically, a fleet conversion request. A public hearing was held on March 12, 1997, and documentation on the public hearing was submitted to complete the SIP revision request. The SIP submission was found to be complete by the USEPA in a letter dated April 3, 1997.

The TCM for Vanderburgh County is the conversion of 40–60 city-owned vehicles from using gasoline as a fuel to compressed natural gas. This project is consistent with the title II provisions in section 241 for clean-fuel vehicles, and is thus consistent with section 108(f)(1)(A)(xii) as a program to reduce motor vehicle emissions. Vanderburgh County is currently designated as marginal nonattainment for ozone, but can adopt any and all measures to help reduce ozone precursor pollutants and thus attain and maintain the ozone ambient air quality standard. This TCM is consistent with the measures provided in section 108(f)(1)(A)(xii) of the Act.

The project was formally endorsed by the Evansville Urban Transportation Study (EUTS) Board at its June 18, 1996, public meeting. EUTS is seeking Congestion Mitigation and Air Quality (CMAQ) funds for the project from the Department of Transportation, to be matched with local money.

The SIP revision request provides an estimate of the emission reduction for a fuel conversion of 40 light duty vehicles from the city and county fleets to compressed natural gas. The air quality benefits are estimated utilizing emission test results from the California Air Resources Board and, assuming that each vehicle will average 20,000 miles of use per year with a five year life cycle. The estimated air quality benefit is calculated as 0.141 tons per year of hydrocarbon emissions, 1.225 tons per year of carbon monoxide emissions, and 0.194 tons per year of oxides of nitrogen

emissions. These pollutants are precursors of ground level ozone or smog, and reductions in precursors will reduce the concentrations of ground level ozone.

The SIP revision request thus meets the requirements for a TCM, as defined in section 108 of the Act, and meets the requirements for emission reductions to help attain and maintain the national ambient air quality standards.

As an approved TCM in the SIP for Vanderburgh County, this TCM will need to be included in the transportation improvement program and transportation plan for the area, and tracked and reported for conformity purposes. The requirements for transportation conformity cannot be met unless TCMs in the approved SIP for the area are proceeding according to schedule.

III. USEPA Action

The USEPA approves Indiana's February 5, 1997, SIP revision request to implement the transportation control measure of fleet conversion of city and county vehicles (at least 40) to compressed natural gas as a fuel.

The USEPA is publishing this action without prior proposal because USEPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the USEPA is proposing to approve the SIP revision should adverse or critical written comments be filed. This action will be effective on August 25, 1997, unless, by July 28, 1997, adverse or critical written comments on the approval are received.

If the USEPA receives adverse written comments, the approval will be withdrawn before the effective date by publishing a subsequent rulemaking that will withdraw the final action. All written public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The USEPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on August 25, 1997.

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

IV. Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility

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

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

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, USEPA must undertake various actions in association with any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. This Federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

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

F. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 25, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Transportation control measure.

Dated: June 11, 1997.

Michelle D. Jordan,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart P—Indiana

2. Section 52.777 is amended by adding paragraph (q) to read as follows:

§ 52.777 Control strategy: Photochemical oxidants (hydrocarbons).

* * * * *

(q) Approval—On February 5, 1997, Indiana submitted a transportation control measure under section 108(f)(1)(A) of the Clean Air Amendments of 1990 for Vanderburgh County, Indiana to aid in reducing emissions of precursors of ozone. The transportation control measure being approved as a revision to the ozone state implementation plan is the conversion

of at least 40 vehicles from gasoline as a fuel to compressed natural gas.

[FR Doc. 97–16739 Filed 6–25–97; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[VA–066–5024 and VA–068–5024; FRL–5846–7]

Approval and Promulgation of Air Quality Implementation Plans; Designation of Areas; Virginia; Redesignation of Hampton Roads Ozone Nonattainment Area, Maintenance Plan and Mobile Emissions Budget

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a redesignation request and two state implementation plan (SIP) revisions submitted by the Commonwealth of Virginia. On August 27, 1996, the Commonwealth of Virginia submitted a request to redesignate the Hampton Roads marginal ozone nonattainment area to attainment and a maintenance plan, as a SIP revision. This request is based upon three years of complete, quality-assured ambient air monitoring data for the area which demonstrate that the National Ambient Air Quality Standard (NAAQS) for ozone has been attained. On August 29, 1996 Virginia submitted a second SIP revision establishing the mobile emissions budget (also known as a motor vehicle emissions budget) for the Hampton Roads ozone nonattainment area. The SIP revisions establish a maintenance plan for Hampton Roads, including contingency measures which provide for continued attainment of the ozone NAAQS until the year 2008; and adjust the motor vehicle emissions budget established in the maintenance plan for Hampton Roads to support the area's transportation plans in the horizon years 2015 and beyond. Under the Clean Air Act (the Act), nonattainment areas may be redesignated to attainment if sufficient data are available to warrant the redesignation and the area meets the Act's other redesignation requirements. The intended effect of this action is to approve the redesignation request, the maintenance plan, and the motor vehicle emissions budget for Hampton Roads. This action is being taken under sections 107 and 110 of the Act.

EFFECTIVE DATE: This final rule is effective on July 28, 1997.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Kristeen Gaffney, Ozone/Carbon Monoxide and Mobile Sources Section (3AT21), USEPA—Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, or by telephone at: (215) 566–2092. Questions may also be addressed via e-mail, at the following address: Gaffney.Kristeen@epamail.epa.gov

SUPPLEMENTARY INFORMATION:

I. Background

On March 12, 1997, EPA published a direct final rule [62 FR 11337] approving the Commonwealth of Virginia's request to redesignate the Hampton Roads marginal ozone nonattainment area from nonattainment to attainment and the 10 year maintenance plan and mobile emissions budget submitted by the Commonwealth for the Hampton Roads area as revisions to the Virginia SIP. As stated in the March 12, 1997 rulemaking document, EPA's action to approve the redesignation was based upon its review of the Commonwealth's submittal and its determination that all five criteria for redesignation in section 107 of the Act have been met by and for the Hampton Roads area. The ambient air quality data monitored in the Hampton Roads area indicated that it had attained the National Ambient Air Quality Standard (NAAQS) for ozone for the years 1993–1995. Review of the data monitored in 1996 has indicated continued attainment of the ambient standard. EPA also determined that the Commonwealth had a fully approved Part D SIP for the Hampton Roads area, was fully implementing that SIP, and that the air quality improvement in the Hampton Roads area was due to permanent and enforceable control measures. In the same rulemaking, EPA approved the maintenance plan submitted by the Commonwealth of Virginia as a SIP revision because it provides for maintenance of the ozone standard for 10 years and a mobile emissions budget for the Hampton Roads area.

In its March 12, 1997 rulemaking, EPA stated that if adverse comments were received on the direct final rule within 30 days of its publication, EPA would publish a document announcing the withdrawal of its direct final rulemaking action. Because EPA received adverse comments on the direct final rulemaking within the prescribed comment period from the Allies in Defense of Cherry Point and U.S. Senator Lauch Faircloth of North Carolina, EPA withdrew the March 12, 1997 final rulemaking action pertaining to the Hampton Roads nonattainment area. This withdrawal document appeared in the **Federal Register** on April 29, 1997 (62 FR 23139).

A companion proposed rulemaking was published in the Proposed Rules section of the March 12, 1997 **Federal Register** for the Hampton Roads redesignation (62 FR 11405). In the proposed notice, EPA also stated that if adverse comments were received on the direct final action within 30 days of its publication, it would withdraw the direct final rule. In their letter submitting adverse comments, the Allies in Defense of Cherry Point also indicated that they intended to submit additional adverse comments and requested that the comment period on the proposed rulemaking be extended. However, because the 30 day public comment period EPA provided on the proposed rule was due to close two days after receipt of their request, there was insufficient time for EPA to publish a document extending the comment period. In order, therefore, to provide additional time to the Allies in Defense of Cherry Point to review EPA's rulemaking decision and provide additional comment, EPA reopened the public comment period on the proposed rule for a period of two weeks. This notice was published on April 29, 1997 in the **Federal Register** at 62 FR 23196. The second public comment period closed on May 13, 1997.

II. Response to Comments

EPA received two letters of adverse comment and numerous letters of support for EPA's action to redesignate the Hampton Roads area. Letters of support for EPA's rulemaking decision were received from: all the local governments in the nonattainment area, the Hampton Roads Planning District Commission, the United States Navy, the Office of the Attorney General for the Commonwealth of Virginia; U.S. Senators John Warner and Charles Robb from Virginia and U.S. Congressman Owen Pickett from Virginia, among

others. These parties provided positive comments and are supportive of EPA's approval of the redesignation of the Hampton Roads area to attainment.

Letters providing adverse comments on EPA's rulemaking were received from Senator Lauch Faircloth of North Carolina and the Allies in Defense of Cherry Point, North Carolina (the Allies). The following discussion summarizes and responds to the adverse comments received.

Comment 1: Both the Allies and Senator Faircloth stated that, as part of a Base Closure and Realignment (BRAC) decision, the U.S. Navy is assessing the potential environmental impact, including the increase in ozone precursor emissions, of a realignment of fighter jet squadrons from Florida to the Oceana Naval Air Station in the Hampton Roads area. The commenters believe that EPA's decision on the redesignation should be deferred until the draft environmental impact statement and conformity analysis of the Navy's BRAC decision is complete and available for public review.

Response: EPA does not agree with this comment. The Clean Air Act Amendments of 1990 established five criteria which must be met for areas to be redesignated to attainment. These criteria are found in section 107 and are listed as follows: (1) The area must have attained the applicable NAAQS; (2) the area must meet all applicable requirements under section 110 and part D of the Act; (3) the area must have a fully approved SIP under section 110(k) of the Act; (4) the air quality improvement must be due to permanent and enforceable measures; and, (5) the area must have a fully approved maintenance plan pursuant to section 175A of the Act. Review of environmental impact statements regarding the construction of federal projects within an attainment or nonattainment area are not a consideration during the determination of designations of areas. EPA's review of the Navy's BRAC Draft Environmental Impact Statement and Conformity Analysis determinations are not part of the criteria used for determining whether the Hampton Roads area should be redesignated to attainment. EPA's decision to redesignate the Hampton Roads area to attainment is based solely on the fact that the Hampton Roads area has satisfied all five criteria of the Act.

The Act did make provisions for assuring that future federal actions and transportation projects conform to the state implementation plan emission budgets. All projects funded with federal monies proposed in both air quality nonattainment areas and maintenance areas are subject to the conformity requirements of section 176 of the Act. Regardless of whether Hampton Roads is redesignated to attainment of the ozone standard, the Navy will still be required to make a conformity determination and show that the relocation of the fighter squadrons remains within the emission budgets developed in the Hampton Roads maintenance plan as incorporated into the SIP.

Comment 2: The Allies alleged that Virginia has not adequately addressed the potential air quality impacts of the possible BRAC realignment in the maintenance plan. They claim that Virginia should have accounted for the projected increase in mobile source emissions of nitrogen oxides (NO_X) associated with the BRAC move and the addition of 5,300 military personnel and their dependents. They also contend that the maintenance plan is inaccurate because it projects zero population growth in federal military personnel for the entire maintenance period and a decrease in federal civilian personnel after the year 2000.

Response: EPA does not agree with this comment. Maintenance plans are required to project some reasonable level of growth in the area during the 10-year time span and to demonstrate how increased emissions associated with growth will be offset. The maintenance plan for the Hampton Roads area does project growth in population, economic activity and mobile sources between 1993 and 2008, using standard acceptable methodology. In addition, the Navy's decision regarding the BRAC redeployment to Oceana Naval Air Station in Hampton Roads is not final, and hence remains speculative. The Commonwealth is not required to include potential projects which may or may not happen at some future date in the maintenance plan for the area. As discussed above, the air quality impacts of individual projects are considered during the conformity analysis process. Projects must be able to demonstrate that their potential emissions will remain below the levels established in the emission budgets for the area set in the maintenance plan. Furthermore, the maintenance plan submitted by the Commonwealth contains contingency provisions should the area exceed the levels established in the emissions budgets for the area. In the SIP, the Commonwealth has committed to track levels of emissions and to implement contingency measures to reduce emissions of VOCs should actual emissions in future years rise above the levels established in the maintenance plan.

Despite the fact that the Commonwealth is not required to account for speculative emissions associated with potential growth scenarios in the maintenance plan, the Commonwealth of Virginia went beyond the requirements and did account for potential increased emissions associated with the BRAC relocation in the point source projection year inventory of the maintenance plan for the Hampton Roads area. To make room in the inventory for these potential future emissions, source specific emission caps were placed on two existing large sources of emissions in the Hampton Roads area to offset the anticipated increase in emissions associated with the increase in flight squadrons and related activities of the BRAC relocation. In effect, Virginia has provided a cushion in the budget with 200 tons/year of VOC and 800 tons/year of NO_X reductions in anticipation of the potential increased emissions associated with the relocation, and can still demonstrate that it remains within the levels of the attainment year inventory in the maintenance plan.

Comment 3: The Allies commented that they believe the maintenance plan substantially underestimates the growth in vehicle miles traveled (VMT) and emissions from automobiles. They also stated population growth was also underestimated in the maintenance plan in their view, and that VMT growth should be higher than population growth. The Allies claim it is unrealistic to project a consistently declining growth rate in population in a rapidly growing area. The commenter further questions why VMT growth is predicted to drop off dramatically in the 2000–2008 period, compared to the 1988–1993 period.

Response: EPA does not agree with these statements made by the commenter. EPA policy on maintenance demonstrations requires states to develop projection year inventories that consider future growth, including population, mobile sources and industry, and to demonstrate that these projections are consistent with the attainment inventory and EPA guidance on inventory development.[1] EPA's guidance document on projecting emissions inventories[2] recommends using U.S. Bureau of Economic Analysis (BEA) growth factors or growth

[1] ''Procedures for Processing Requests to Redesignate Areas to Attainment'', September 4, 1992, memorandum from John Calcagni, Director, Air Quality Management Division.

[2] ''Procedures for Preparing Emissions Projections'', July 1991, EPA–450/4–91–019.

projections from local metropolitan planning organizations (MPOs) for projecting growth in point and area source inventories. The traditional data source for economic indicators used in projecting stationary source growth is the BEA growth factors. BEA has published state, regional and metropolitan statistical area growth factors in ''BEA Regional Projections to 2040''. Following EPA guidance, Virginia properly relied on population growth estimates supplied by BEA in the Hampton Roads maintenance plan. For point source growth, Virginia utilized EPA's developed and approved Economic Growth Analysis System (E–GAS). E–GAS is an economic and activity forecast model that translates the user's assumptions regarding regional economic policies and resource prices into industry growth factors.

The EPA guidance document entitled ''Procedures for Preparing Emissions Projections'' states that the preferred method for performing VMT projections for on-road mobile sources is to use a validated travel demand model. According to EPA's guidance document for preparing emission projections from mobile sources,[3] both EPA and the U.S. Department of Transportation have endorsed the Department of Transportation's Highway Performance Monitoring System (HPMS) as the appropriate source of VMT estimates in SIP development. In response to the comments received on VMT projections, the Virginia Department of Environmental Quality (VADEQ) submitted additional documentation regarding the source of VMT estimates that has been added to the docket. The VMT estimates in the maintenance plan were obtained from the Hampton Roads Planning District commission and the Virginia Department of Transportation (VDOT) and were developed for the official conformity analysis performed annually for the area. VDOT determines VMT estimates using HPMS protocol. The officially recognized MINUTP transportation demand model was used to estimate VMT and related traffic data in the conformity analysis process. The VMT and population growth estimates in the maintenance plan can be verified by comparing the maintenance plan to the conformity documentation for the nonattainment area. Both the VMT and population growth estimates are consistent in the Hampton Roads maintenance plan and approved conformity documents. Furthermore, the predicted population growth in Hampton Roads contained in the maintenance plan and conformity analysis are also consistent with the BEA projections for the same period.

The commenter is incorrect in his statement that the VMT growth rate is smaller than the growth rate assumed for population in the Hampton Roads area. The average annual growth rate from 1993 to 2008 in the maintenance plan for VMT is 1.1692%, while the annual growth rate in population is .834%. It can be seen that VMT is growing annually at a rate that is 40% higher than the annual predicted population growth.

In response to the question ''what accounts for the dramatic decrease in VMT growth rate over historical patterns [after 1993]'', the VADEQ has submitted the following discussion for inclusion in the public record.

> The VMT spike between 1988 and 1993 is due to the opening of a second major water crossing (the I–664 Monitor Merrimac Bridge/Tunnel) in 1992. This provided a new link between the Peninsula and Southside portions of Hampton Roads. This new crossing also provided another way to Virginia Beach and the outer banks of North Carolina which is highly used in the summer months due to the congestion at the I–64 bridge/tunnel crossing. This also opened up a new door for more travel between these two areas by people who normally did not do so before due to traffic congestion and limited travel choices. As can be seen from the VMT estimates after 1993, the level of increase has reverted back to a level consistent with population growth. As with any region of this type which is separated by a large body of water with limited crossings, a new crossing of this size will have a major impact on VMT. Once the impact was initially felt in the early 1990's, the region has been growing at a more normal rate.

Virginia has utilized recognized sources of growth factor surrogates in projecting growth in VMT and population, such as BEA data or local data from the MPOs. EPA has no reason to doubt the credibility of these growth projections.

Comment 4: The Allies argued that Virginia's VMT estimates differ sharply from (and are substantially lower than) EPA's own estimates for the Hampton Roads area.

Response: The commenter is referring to data compiled in 1993 by EPA to create the annual national air quality trends reports. EPA utilizes VMT data from the HPMS database administered by the U.S. Department of Transportation. There are several complexities associated with using HPMS data to estimate VMT for this inventory. The county is the basic geographic unit in EPA's emissions trends inventory. To the contrary, all data in HPMS are divided into rural, small urban, and individualized urban geographic areas. For the purposes of the trends reports and estimating highways emissions levels on a national basis, EPA uses apportioning schemes to distribute the data and develops county-level VMT estimates. These schemes are estimation tools which allow different areas of the country to be compared based on similar parameters. The methodology EPA uses to apportion these county-level VMT estimates can be found in Section 4 of EPA's ''National Air Pollutant Emission Trends Procedures Document for 1900–1993'', page 4–81. The same schemes were not used to develop the VMT growth estimates in the Hampton Roads maintenance plan. Therefore, it is reasonable to expect that even though both methods of determining VMT are valid, they are for two separate applications. The VMT growth in the Hampton Roads area estimated by Virginia using approved EPA methods in SIP planning, as discussed in the response to the previous comment, may vary from the VMT growth in that same area obtained using the different schemes to determine trends. EPA does not advise that EPA's VMT information from the trends database be used by states in SIP planning. Furthermore, the VMT projections in the EPA trends database for the years 2000 and 2008, quoted by the commenter, are four years old and based on 1993 data. The maintenance plan SIP for the Hampton Roads area relies on more up-to-date and precise information regarding VMT supplied by the Virginia Department of Transportation and the Hampton Roads local metropolitan planning organization.

Comment 5: The Allies commented that the three-year attainment period selected by Virginia may not be representative of historical weather conditions in the Hampton Roads area that are conducive to ozone formation. They question whether 1994 and 1995 ozone seasons deviate from the historical weather patterns in Hampton Roads in that they were unusually cool.

Response: EPA disagrees with this comment. EPA recognizes that the accumulation of ozone may be dependent upon weather conditions, particularly high temperatures and stagnant air flows. To offset the variability of weather in the production of ozone, EPA requires the use of a three-year period to demonstrate compliance with the ozone standard. EPA relies on a three-year period for determining designation status of an area in part for the reasons being questioned by the commenter: to reduce

[3] ''Procedures for Emission Inventory Preparation, Volume IV: Mobile Sources'', EPA–450/4–81–026d (revised), 1992.

the potential for unrepresentative weather patterns. EPA can see no basis for disregarding quality assured data under the statuate and 40 CFR part 50.9 and Appendix H.

The Hampton Roads area has four years of data which demonstrate compliance with the ozone standard—or two consecutive three year periods, 1993–1995 and 1994–1996, which qualifies the area for redesignation. EPA believes that four years of data present an even stronger case demonstrating that the Hampton Roads area has achieved the ozone standard. It is unlikely that exceptionally good weather conditions could exist for a continuous four year period. More importantly, the commenter has neglected to recognize that several national and state VOC control measures, such as the Federal Motor Vehicle Control Program (FMVCP) and reformulated gasoline, were implemented in the Hampton Roads area during the period between 1991 and 1996, which reduced the amount of ozone precursor emissions. It is important to recognize that these and other emission reduction measures were responsible for bringing the area into attainment of the ozone standard, not favorable weather conditions.

Comment 6: Both the Allies and Senator Faircloth commented that Virginia has not adopted conformity regulations as required by section 176 of the Clean Air Act. They contend that EPA should not approve the redesignation unless Virginia has met all requirements of the Clean Air Act for the Hampton Roads area.

Response: EPA does not agree with this comment. The Commonwealth of Virginia has adopted both general and transportation conformity rules pursuant to section 176 of the Act in 1996 and submitted these rules to EPA for inclusion into the SIP in the early part of 1997. EPA is presently reviewing both of these submittals and will take rulemaking action on them at a future date.

EPA addressed the conformity requirements for the Hampton Roads area in the March 12, 1997 direct final rulemaking. As noted in the original rulemaking, EPA interprets the conformity requirements of section 176 of the Act as being inapplicable for the purposes of evaluating redesignation requests under section 107(d) of the Act. The rationale for this is twofold. First, the conformity provisions of the Act continue to apply to areas after they have been redesignated to attainment. EPA's conformity rules require states to adopt both transportation and general conformity provisions in their SIPs for areas designated nonattainment or subject to a maintenance plan. Therefore, the Commonwealth is obliged to adopt, submit, and implement conformity regulations in the Hampton Roads maintenance area. Second, EPA's general conformity rules require the performance of conformity analyses in the absence of state adopted rules. Until EPA completes rulemaking action on Virginia's conformity SIP submittals, the Commonwealth is required to implement the federal conformity regulations.

Because areas are subject to conformity requirements regardless of whether they are redesignated to attainment and must implement the federal conformity rules until appropriate state rules are approved into the SIP, it has been EPA's policy to redesignate areas to attainment that meet the requirements of section 107(d)(3)(E) of the Act, even where EPA has not yet approved a state's transportation and general conformity rules. EPA has used this policy many times in the past to redesignate other nonattainment areas to attainment when EPA has not yet approved state conformity regulations. *See* the discussions in 61 FR 31835–31836 (Grand Rapids, MI redesignation, June 21, 1996); 60 FR 52748 (Tampa, FL redesignation, December 7, 1995); and 61 FR 20458 (Cleveland-Akron-Lorraine, OH redesignation, May 7, 1996).

Comment 7: The Allies commented that the maintenance demonstration shows a slight increase in NO_X emissions by the year 2008. They further maintain that Virginia should be required to support, through required photochemical modeling, that excess VOC reductions can be used to offset the increase in NO_X emissions. They also stated that ''[w]e seriously question EPA's authority to waive the fundamental 'no net increase' requirement for approval of a maintenance plan.''

Response: EPA does not agree with the comment. The commenter has misread the information provided in EPA's technical support document (TSD) developed for this rulemaking. While EPA does mention on page 34 of the TSD that NO_X emissions are projected to increase between the 1999 and 2008, the NO_X emissions in 2008 will still not exceed the NO_X levels of the attainment year inventory. No net increase refers to no net increase above the total level of emissions set in the attainment year inventory for a specific pollutant. The 1993 attainment year level of NO_X emissions is 230.079 tons/day. The level of NO_X is projected to decrease by 1999 to 228.882 tons/day due to control measures, such as FMVCP. Virginia projects that by the year 2008, NO_X emissions will increase again slightly to 229.221 tons/day, a figure attributed to normal growth within the region. However, even considering this slight increase, the level of NO_X emissions in 2008 continues to remain below the 1993 attainment year level.

As a marginal ozone nonattainment area, Hampton Roads is not required to submit photochemical modeling to demonstrate maintenance of the ozone standard. EPA policy allows states to demonstrate maintenance of the ozone standard by showing that future emissions of ozone precursors will not exceed the level of the attainment year inventory. Virginia has met this requirement to demonstrate that the level of both VOC and NO_X emissions will remain below the levels set in the 1993 attainment year inventory.

III. Final Action

The EPA has evaluated the Commonwealth's redesignation request for Hampton Roads for consistency with the Act, EPA regulations, and EPA policy. The EPA has determined that the redesignation request and monitoring data demonstrate that this area has attained the ozone standard. In addition, EPA has determined that the redesignation request meets the requirements of section 107(d)(3)(E) and the policy set forth in the General Preamble and policy memorandum for area redesignations, and today is approving Virginia's redesignation request for Hampton Roads submitted on August 27, 1996. Furthermore, EPA is approving into the Virginia SIP, the required maintenance plan because it meets the requirements of section 175A of the Act and the motor vehicle emissions budget for the Hampton Roads area. Other specific requirements of redesignations and maintenance plans and the rationale for EPA's approval action were explained in the March 12, 1997 direct final rulemaking and will not be restated here.

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

IV. Administrative Requirements

A. Executive Order 12866

This action has been delegated to the Regional Administrator for signature. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

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

Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. EPA certifies that the approval of the redesignation request will not affect a substantial number of small entities.

C. Unfunded Mandates

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

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

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of EPA's approval of the Hampton Roads redesignation request, maintenance plan and mobile emissions budget must be filed in the United States Court of Appeals for the appropriate circuit by August 25, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirement.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: June 17, 1997.

W. Michael McCabe,

Regional Administrator, Region III.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart VV—Virginia

2. Section 52.2420 is amended by adding paragraph (c)(117) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

(117) The ten year ozone maintenance plan for Hampton Roads, Virginia ozone nonattainment area submitted by the Virginia Department of Environmental Quality on August 27, 1996:

(i) Incorporation by reference.

(A) Letter of August 27, 1996 from the Virginia Department of Environmental Quality transmitting the 10 year ozone maintenance plan for the Hampton Roads marginal ozone nonattainment area.

(B) The ten year ozone maintenance plan including emission projections, control measures to maintain attainment and contingency measures for the Hampton Roads ozone nonattainment area adopted on August 27, 1996.

(ii) Additional material.

(A) Remainder of August 27, 1996 Commonwealth submittal pertaining to the redesignation request and maintenance plan referenced in paragraph (c)(117)(i) of this section.

3. Section 52.2424 is added to read as follows:

§ 52.2424 Motor vehicle emissions budgets.

Motor vehicle emissions budget for the Hampton Roads maintenance area adjusting the mobile emissions budget contained in the maintenance plan for the horizon years 2015 and beyond adopted on August 29, 1996 and submitted by the Virginia Department of Environmental Quality on August 29, 1996.

PART 81—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart C—Section 107 Attainment Status Designations

4. In § 81.347 the ''Virginia—Ozone'' table is amended by revising the entry for ''Norfolk-Virginia Beach-Newport News (Hampton Roads) Area'' to read as follows:

§ 81.347 Virginia.

* * * * *

VIRGINIA—OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Norfolk-Virginia-Beach Newport News (Hampton Roads) Area.	July 28, 1997	Attainment.		
Chesapeake				
Hampton				
James City County				
Newport News				
Norfolk				
Poquoson				
Portsmouth				
Suffolk				
Virginia Beach				
Williamsburg				
York County				
* * * * * * *				

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

* * * * *

[FR Doc. 97–16651 Filed 6–25–97; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS–50620A; FRL–5723–3]

RIN 2070–AB27

Butanamide, 2,2′-[3′dichloro[1,1′-biphenyl]-4,4′-diyl) bisazobis N-2,3-dihydro-2-oxo-1H-benximdazol-5-yl)-3-oxo-; Withdrawal of Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of final rule.

SUMMARY: EPA is withdrawing a significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance generically described as butanamide, 2,2′-[3′dichloro[1,1′-biphenyl]-4,4′-diyl)bisazobis *N*-2,3-dihydro-2-oxo-1H-benximdazol-5-yl)-3-oxo- which was the subject of premanufacture notice (PMN) P–93–1111. EPA initially published this SNUR using direct final rulemaking procedures. EPA received a notice of intent to submit adverse comments on this rule. Therefore, the Agency is withdrawing this rule, as required under the expedited SNUR rulemaking process (40 CFR part 721, subpart D). In a separate notice of proposed rulemaking in today's **Federal Register**, EPA is proposing a SNUR for this substance with a 30-day comment period.

EFFECTIVE DATE: This action is effective on June 26, 1997.

FOR FURTHER INFORMATION CONTACT: Susan Hazen, Director, Environmental Assistance Division (7408), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, telephone: (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of March 1, 1995 (60 FR 11033) (FRL–4868–4), EPA issued several direct final SNURs including a SNUR for the substance generically described as butanamide, 2,2′-[3′dichloro[1,1′-biphenyl]-4,4′-diyl)bisazobis *N*-2,3-dihydro-2-oxo-1H-benximdazol-5-yl)-3-oxo-, PMN P-93-1111. As described in 40 CFR 721.160, EPA is withdrawing the rule issued for P–93–1111 under direct final rulemaking procedures because the Agency received adverse comments. Pursuant to § 721.160(a)(3)(ii), EPA is proposing a revised SNUR for this chemical substance elsewhere in today's **Federal Register**. For further information regarding EPA's expedited process for issuing SNURs, interested parties are directed to 40 CFR part 721, subpart D and the **Federal Register** of July 27, 1989 (54 FR 31314). The record for the direct final SNUR for this substance which is being withdrawn was established at OPPTS–50620. That record includes information considered by the Agency in developing this rule and the adverse comments to which the Agency is responding with this notice of withdrawal. The docket control number for the withdrawal is OPPTS–50620A. For more information refer to the proposal elsewhere in today's **Federal Register**. The relevent portions of the original docket for the direct final SNUR are being incorporated under OPPTS–50620B, which is established for the proposed rule.

II. Rulemaking Record

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket number OPPTS–50620A (including comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information (CBI), is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements.

Dated: June 18, 1997.

Ward Penberthy,

Acting Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

721.1907 [Removed]

2. By removing § 721.1907.

[FR Doc. 97–16759 Filed 6–25–97; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS–50623B; FRL–5726–2]

RIN 2070–AB27

Certain Chemical Substances; Withdrawal of Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of final rule.

SUMMARY: EPA is withdrawing a significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for certain chemical substances which were the subject of premanufacture notice (PMNs). EPA initially published the SNUR using direct final rulemaking procedures. EPA received a notice of intent to submit adverse comments on this rule. Therefore, the Agency is withdrawing this rule, as required under the expedited SNUR rulemaking process (40 CFR part 721, subpart D). In a separate notice of proposed rulemaking in today's **Federal Register**, EPA is proposing a SNUR for these substances with a 30-day comment period.

EFFECTIVE DATE: This action is effective on June 26, 1997.

FOR FURTHER INFORMATION CONTACT: Susan Hazen, Director, Environmental Assistance Division (7408), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, telephone: (202) 554–1404, TDD: (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of December 2, 1996 (61 FR 63726) (FRL–4964–3), EPA issued several direct final SNURs, including SNURs for the five chemical substances which are the subject of this withdrawal. As described in 40 CFR 721.160, EPA is withdrawing the rule issued for these substances under direct final rulemaking procedures because the Agency received a notice to submit adverse comments. Pursuant to § 721.160 (a)(3)(ii), EPA is proposing a SNUR for these chemical substances elsewhere in today's **Federal Register**. For further information regarding EPA's expedited process for issuing SNURs, interested parties are directed to 40 CFR part 721, subpart D and the **Federal Register** of July 27, 1989 (54 FR 31314). The record for the direct final SNUR for these substances which is being withdrawn was established at OPPTS–50623. That record includes information considered by the Agency in developing this rule and the notice to submit adverse comments to which the Agency is responding with this notice of withdrawal. The docket control number for the withdrawal is OPPTS–50623B. For more information refer to the proposal elsewhere in today's **Federal Register**. The relevent portions of the original docket for the direct final SNUR are being incorporated under OPPTS–50623C, which is established for the proposed rule.

II. Rulemaking Record

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket number OPPTS–50623B (including comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information (CBI), is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements.

Dated: June 18, 1997.

Ward Penberthy,

Acting Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

§ 721.979 [Removed]

2. By removing § 721.979.

§ 721.4525 [Removed]

3. By removing § 721.4525.

[FR Doc. 97–16758 Filed 6–25–97; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS–50622B; FRL–5723–5]

RIN 2070–AB27

Substituted Phenol; Withdrawal of Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Partial removal of final rule.

SUMMARY: EPA is withdrawing a significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance generically described as substituted phenol which was the subject of premanufacture notices (PMN) P–89–1125, P–91–87, P–92–41, P–92–511, P–94–1527, and P–94–1755. EPA initially published this SNUR using direct final rulemaking procedures. EPA received a notice of intent to submit adverse comments on this rule. Therefore, the Agency is withdrawing this rule, as required under the expedited SNUR rulemaking process (40 CFR part 721, subpart D). In a separate notice of proposed rulemaking in today's **Federal Register**, EPA is proposing a SNUR for this substance with a 30-day comment period.

EFFECTIVE DATE: This action is effective on June 26, 1997.

FOR FURTHER INFORMATION CONTACT: Susan Hazen, Director, Environmental Assistance Division (7408), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, telephone: (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of August 30, 1995 (60 FR 45072) (FRL–4926–2), EPA issued several direct final SNURs including a SNUR for the substance generically described as a substituted phenol. As described in 40 CFR 721.160, EPA is withdrawing the rule issued for this substance under direct final rulemaking procedures because the Agency received a notice to submit adverse comments. Pursuant to § 721.160(a)(3)(ii), EPA is proposing a SNUR for this chemical substance elsewhere in today's **Federal Register**. For further information regarding EPA's expedited process for issuing SNURs, interested parties are directed to 40 CFR part 721, subpart D and the **Federal Register** of July 27, 1989 (54 FR 31314). The record for the direct final SNUR for

this substance which is being withdrawn was established at OPPTS–50622. That record includes information considered by the Agency in developing this rule and the adverse comments to which the Agency is responding with this notice of withdrawal. The docket control number for the withdrawal is OPPTS–50622B. For more information refer to the proposal elsewhere in today's **Federal Register**. The relevent portions of the original docket for the direct final SNUR are being incorporated under OPPTS–50622C, which is established for the proposed rule.

II. Rulemaking Record

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket number OPPTS–50622B (including comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information (CBI), is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements.

Dated: June 18, 1997.

Ward Penberthy,

Acting Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

§ 721.5867 [Removed]

2. By removing § 721.5867.

[FR Doc. 97–16761 Filed 6–25–97; 8:45 am]
BILLING CODE 6560–50–F

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 107 and 190

[Docket No. RSPA–97–2522 (RSP–3)]

RIN 2137–AD00

Availability of Interpretations of Hazardous Materials and Pipeline Safety Regulations; Correction

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation (DOT).

ACTION: Final rule; correction.

SUMMARY: This document makes corrections to a final rule which RSPA published in the **Federal Register** on May 2, 1997 (62 FR 24055). The final rule established two new informational sections which included Internet web site addresses. This final rule provides the most current web site address for RSPA's Office of Hazardous Materials Safety and corrects the web site address for RSPA's Office of Pipeline Safety.

EFFECTIVE DATE: June 26, 1997.

FOR FURTHER INFORMATION CONTACT: Nancy E. Machado, Office of the Chief Counsel, (202) 366–4400, RSPA, Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590–0001 (for hazardous materials transportation issues); or, Paul Sanchez, Office of the Chief Counsel, (202) 366–4400, RSPA, Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590–0001 (for pipeline safety issues).

SUPPLEMENTARY INFORMATION: RSPA published a final rule on May 2, 1997 (62 FR 24055) that established two new informational sections. The new sections give notice of the availability of informal guidance and interpretative assistance concerning the Federal hazardous materials transportation law and the Hazardous Materials Regulations, as well as the Federal pipeline safety law and the pipeline safety regulations. The final rule provided Internet web site addresses for RPSA's Office of the Chief Counsel, Office of Hazardous Materials Safety (OHMS) and Office of Pipeline Safety (OPS). This document provides the most current web site address for OHMS. The Internet web site address for OPS was incorrect. This document provides the correct web site address for OPS.

In consideration of the foregoing in Docket RSP–3, FR Doc. 97–11436 published in the **Federal Register** on May 2, 1997 (62 FR 24055), make the following corrections:

§ 107.14 [Corrected]

1. On page 24057, in the second column, in § 107.14, paragraph (a)(1), the last two lines, correct the Internet web site address ''http://www.volpe.dot.gov/ohm'' to read ''http://ohm.volpe.dot.gov/ohm''.

§ 190.11 [Corrected]

2. On page 24057, in the third column, in § 190.11, paragraph (a)(1), the last two lines, correct the Internet web site address ''http://www.dot.ops.gov'' to read ''http://ops.dot.gov''.

Issued in Washington, D.C. on June 20, 1997, under the authority delegated in 49 CFR 1.53.

Kelley S. Coyner,

Deputy Administrator.

[FR Doc. 97–16777 Filed 6–25–97; 8:45 am]
BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 960816226–7144–04; I.D. 060597A]

RIN 0648–AJ04

Atlantic Tuna Fisheries; Regulatory Adjustments

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

ACTION: Final rule; technical amendment.

SUMMARY: NMFS is amending the final regulations governing the Atlantic tunas fisheries by removing a restriction on vessel permit changes that was inadvertently included in a recently published interim final rule that postponed the deadline for permit category changes for calendar year 1997. When issuing the interim final rule, it was not the intent of NMFS to add a restriction to limit category changes to a maximum of once per calendar year.

DATES: Effective June 25, 1997.

FOR FURTHER INFORMATION CONTACT: Christopher W. Rogers or John D. Kelly, 301–713–2347, FAX: 301–713–1917.

SUPPLEMENTARY INFORMATION: On May 20, 1997, NMFS published an interim final rule (62 FR 27518) that suspended indefinitely the deadline for Atlantic tunas vessel permit category changes for 1997. The final rule inadvertently included a restriction to limit such

permit category changes to a maximum of once per calendar year. This amendment revises the final regulations by removing the words ''a maximum of once per calendar year'' in the first sentence of 50 CFR 285.21(b)(7).

Classification

The Assistant Administrator for Fisheries, under 5 U.S.C. 553(b)(B), finds that providing prior notice and opportunity for public comment on this rule is unnecessary, because the rule merely corrects an earlier rule by removing an unintended restriction. The unintentional inclusion of this prohibition could result in adverse impacts on individual businesses that would not be able to select the appropriate permit category for their fishing operation. Because this rule relieves a restriction, under 5 U.S.C. 553(d)(1), it is not subject to a 30-day delay in effective date.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable. This rule is exempt from review under E.O. 12866.

List of Subjects in 50 CFR Part 285

Fisheries, Fishing, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: June 20, 1997.

C. Karnella,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 285 is amended as follows:

PART 285—ATLANTIC TUNA FISHERIES

1. The authority citation for part 285 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*

2. In § 285.21, paragraph (b)(7) is revised to read as follows:

§ 285.21 Vessel permits.

* * * * *

(b) * * *

(7) Except for purse seine vessels for which a permit has been issued under this section, an owner may change the category of the vessel's Atlantic tunas permit to another category by application on the appropriate form to NMFS before the specified deadline. After the deadline, the vessel's permit category may not be changed to another category for the remainder of the calendar year, regardless of any change in the vessel's ownership. In years after 1997, the deadline for category changes is May 15.

* * * * *

[FR Doc. 97–16696 Filed 6–25–97; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 123
Thursday, June 26, 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 LABOR

Occupational Safety and Health Administration

29 CFR Part 1915

[Docket No. S–051]

RIN 1218–AB51

Fire Protection for Shipyard Employment Negotiated Rulemaking Advisory Committee; Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Public meeting.

SUMMARY: The Occupational Safety and Health Administration announces a public meeting of the Fire Protection for Shipyard Employment Negotiated Rulemaking Advisory Committee. The members represent groups interested in, or significantly affected by, the outcome of the rulemaking: they come from shipyards, labor unions, professional associations, and government agencies. The committee will continue its discussions on scope and application, controls and work practices, fire brigades, written fire plans, technological advances, costs of fire protection, and the content of appendices for a proposed standard to protect workers from fires in ''shipyard employment.'' The committee's goal is to draft a proposed rule and explanatory preamble that the members support.

DATES: The meeting will be held July 15–17, 1997, starting at 9:00 a.m. and ending about 4:00 p.m. daily. By June 30, 1997, make all requests for oral presentations to the committee or requests for appropriate accommodations for persons with disabilities.

ADDRESSES: The meeting will be held in Room G–90–C, of the Fallon Federal Building, 31 Hopkins Plaza, Baltimore, Maryland. Send written comments in response to this notice to: U.S. Department of Labor, OSHA Docket Office, Docket S–051, 200 Constitution Ave., NW, Room N–2625, Washington, D.C. 20210. The telephone number is (202) 219–7894.

Send requests to make an oral presentation to: Ms. Odet Shaw, U.S. Department of Labor, OSHA Office of Maritime Standards, 200 Constitution Avenue, NW, Room N–3647, Washington, D.C. 20210. For appropriate accommodations for persons with disabilities, call Ms. Theda Kenney at (202) 219–8061.

FOR FURTHER INFORMATION CONTACT: Ms. Odet Shaw, U.S. Department of Labor, OSHA Office of Maritime Standards, 200 Constitution Avenue, NW, Room N–3647, Washington, D.C. 20210. Also, you can reach Ms. Shaw at: (202) 219–7234, ext. 121.

SUPPLEMENTARY INFORMATION: OSHA invites all interested persons to attend the public meetings of this committee. Seating will be available to the public on a first-come, first-served basis. Contact Ms. Kenney for appropriate accommodations for persons with disabilities.

OSHA encourages the public to participate in the discussions throughout the meeting, subject to time available. A public participant may request to make an oral presentation, which must be limited to statements of fact and opinion, to the Committee. The request should state the time desired, the interest the party represents, and a brief outline of the presentation so that the Committee facilitator can determine the time needed and the point in the meeting for the presentation.

Detailed minutes rather than verbatim transcripts are kept to encourage the free exchange of information and ideas during the negotiations. The minutes of past meetings and other relevant materials are available for public inspection at the docket office.

For an explanation of negotiated rulemaking and why OSHA is using this process to develop a proposed standard to protect employees from fires in ''shipyard employment'' see OSHA's Notice of Intent to Form a Negotiated Rulemaking Committee to Develop a Proposed Rule on Fire Protection in Shipyard Employment (61 FR 28824 (June 6, 1996)).

Agenda: The agenda for the meeting includes: review of the revised ''Scope and Application,'' reports on working group progress, and working group meetings as needed.

Authority: OSHA prepared this document pursuant to Section 3 of the Negotiated Rulemaking Act of 1990 (104 Stat. 4969; Title 5 U.S.C. 561 *et seq.*) and Section 7(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1597; Title 29 U.S.C. 656).

Signed at Washington, D.C., this 20th day of June 1997.

Greg Watchman,

Acting Assistant Secretary of Labor.

[FR Doc. 97–16671 Filed 6–25–97; 8:45 am]

BILLING CODE 4510–26–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[AD–FRL 5848–2]

Industrial Combustion Coordinated Rulemaking Federal Advisory Committee Notice of Upcoming Meeting

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Industrial Combustion Coordinated Rulemaking (ICCR) Federal Advisory Committee notice of upcoming meeting.

SUMMARY: As required by section 9(a)(2) of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, section 9(c), EPA gave notice of the establishment of the ICCR Federal Advisory Committee (hereafter referred to as the ICCR Coordinating Committee) in the **Federal Register** on August 2, 1996 (61 FR 40413).

The public can follow the progress of the ICCR through attendance at meetings (which will be announced in advance) and by accessing the Technology Transfer Network (TTN), which serves as the primary means of disseminating information about the ICCR.

DATES: The next meeting of the ICCR Coordinating Committee is scheduled for July 22–23, 1997. Also, the ICCR Work Groups—which report to the Coordinating Committee—have meetings scheduled in July, August, and September, 1997. The dates of these Work Group meetings are summarized below. Further information on the dates of the Coordinating Committee meeting and the Work Group meetings may be obtained by accessing the TTN or by calling EPA (see **FOR FURTHER INFORMATION CONTACT**).

ADDRESSES: The Coordinating Committee meeting on July 22-23, 1997 will be held at the Renaissance Long Beach Hotel, 111 East Ocean Boulevard, Long Beach, California (562–437–5900). The locations of the Work Group meetings are summarized below. Further information on the locations of the Coordinating Committee meeting and the Work Group meetings may be obtained by accessing the TTN or by calling EPA (see **FOR FURTHER INFORMATION CONTACT**).

Inspection of Documents: Docket. Minutes of the meetings, as well as other relevant materials, will be available for public inspection at U.S. EPA Air and Radiation Docket and Information Center, Docket No. A–96–17. The docket is open for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday except for Federal holidays, at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (6102), 401 M Street SW, Washington, DC 20460; telephone: (202) 260–7548. The docket is located at the above address in Room M–1500, Waterside Mall (ground floor). A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Fred Porter or Sims Roy, U.S. Environmental Protection Agency, Emission Standards Division, Combustion Group, (MD–13), Research Triangle Park, NC 27711, telephone numbers (919) 541–5251 and 541–5263, respectively.

SUPPLEMENTARY INFORMATION:

Technology Transfer Network (TTN)

The TTN is one of the EPA's electronic bulletin boards. The TTN can be accessed through the Internet at:

FTP: ttnftp.rtpnc.epa.gov
WWW: ttnwww.rtpnc.epa.gov

When accessing the WWW site, select TTN BBS Web from the first menu, then select Gateway to Technical Areas from the second menu, and finally, select ICCR-Industrial Combustion Coordinated Rulemaking from the third menu.

Access to the TTN through FTP is a streamlined approach for downloading files, but is only useful, if the desired filenames are known.

If more information on the TTN is needed, call the help desk at (919) 541–5384.

Meetings of the ICCR Coordinating Committee and Work Groups are open to the public. All Coordinating Committee meetings will be announced in the **Federal Register** and on the TTN. Work Group meetings will be announced on the TTN and in the **Federal Register**, when possible.

The next meeting of the Coordinating Committee will be held July 22–23, 1997 at the Renaissance Long Beach Hotel located at 111 East Ocean Boulevard, Long Beach, California from about 8:30 a.m. to about 6:00 p.m. The agenda for this meeting will include reports from the Work Groups on their progress, testing needs and prioritization issues, discussion of data gathering efforts to support the ICCR, and a discussion of direction and guidance from the Coordinating Committee to the Work Groups. An opportunity will be provided for the public to offer comments and address the Coordinating Committee.

The Work Groups have currently scheduled the following meetings:

Work group	Date	Location
Incinerators ..	July 15, 1997	RTP, NC.
	September 18, 1997.	RTP, NC.
IC Engines ...	July 24, 1997	Long Beach, CA.
	September 18, 1997.	RTP, NC.
Boilers	July 24, 1997	Long Beach, CA.
	August 19, 1997.	Denver, CO.
	September 18, 1997.	RTP, NC.
Stationary	July 24–25, 1997.	Long Beach, CA.
Combustion Tubines.	September 18, 1997.	RTP, NC.
Process Heaters.	July 24, 1997	Long Beach, CA.
	September 18, 1997.	RTP, NC.

The agendas for these meetings include review and revision of the ICCR databases, data and information gathering efforts, possible emission testing, and potential subcategorization. An opportunity will be provided at each meeting for the public to offer comments and address the Work Group.

Individuals interested in Coordinated Committee meetings, Work Group meetings, or any aspect of the ICCR for that matter, should access the TTN on a regular basis for information.

Two copies of the ICCR Coordinating Committee charter are filed with appropriate committees of Congress and the Library of Congress and are available upon request to the Docket (ask for item #I–B–1). The purpose of the ICCR Coordinating Committee is to assist EPA in the development of regulations to control emissions of air pollutants from industrial, commercial, and institutional combustion of fuels and non-hazardous solid wastes. The Coordinating Committee will attempt to develop recommendations for national emission standards for hazardous air pollutants (NESHAP) implementing section 112 and solid waste combustion regulations implementing section 129 of the Act, and may review and make recommendations for revising and developing new source performance standards (NSPS) under section 111 of the Act. The recommendations will cover boilers, process heaters, industrial/commercial and other incinerators, stationary internal combustion engines, and stationary combustion turbines.

Lists of Coordinating Committee and Work Group members are available from the TTN for the purpose of giving the public the opportunity to contact members to discuss concerns or information they would like to bring forward during the ICCR process.

It is anticipated that the next meeting of the Coordinating Committee, following the meeting in July, will be September 16 and 17, 1997 in Research Triangle Park, North Carolina.

Dated: June 20, 1997.

Mary D. Nichols,

Assistant Administrator.

[FR Doc. 97–16736 Filed 6–25–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN79–1B; FRL–5848–5]

Approval and Promulgation of State Implementation Plan; Indiana

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is proposing to approve a February 5, 1997, request from Indiana, for a State Implementation Plan (SIP) revision for the Vanderburgh County ozone nonattainment area. The revision is for a transportation control measure (TCM) to reduce the emissions of volatile organic compounds (VOCs) from motor vehicles by converting city-owned vehicles to compressed natural gas as a fuel. Reductions in VOCs will help protect the health and welfare of the public by reducing the emissions of VOCs which contribute to the formation of ground level ozone, commonly known as smog. High concentrations of ground level ozone can aggravate asthma, cause inflammation of lung

tissue, decrease lung function, and impair the body's defenses against respiratory infection.

DATES: Written comments on this proposed action must be received by July 28, 1997.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Patricia Morris, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8656.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final rule which is located in the Rules section of this **Federal Register**. Copies of the request are available for inspection at the following address: (Please telephone Patricia Morris at (312) 353–8656 before visiting the Region 5 office.) EPA, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone.

Dated: June 11, 1997.

Michelle D. Jordan,

Acting Regional Administrator.

[FR Doc. 97–16740 Filed 6–25–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[NV029–0003; FRL–5847–5]

Clean Air Act Reclassification; Nevada-Clark County Nonattainment Area; Carbon Monoxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to find that the Clark County, Nevada carbon monoxide (CO) nonattainment area has not attained the CO national ambient air quality standard (NAAQS) by the Clean Air Act (CAA) after having received a one year extension from the mandated attainment date of December 31, 1995 for moderate nonattainment areas to December 31, 1996. This finding is based on EPA's review of monitored air quality data for compliance with the CO NAAQS. If EPA takes final action on this proposed finding, the Clark County, Nevada nonattainment area will be reclassified by operation of law as a serious nonattainment area. As a result of a reclassification the State will have additional time to submit a new State implementation plan (SIP) providing for attainment of the CO NAAQS by no later than December 31, 2000, the CAA attainment deadline for serious CO areas.

DATES: Written comments on this proposal must be received by July 28, 1997.

ADDRESSES: Written comments should be sent to: Julia Barrow, Chief, Air Planning Office, AIR–2, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105.

The rulemaking docket for this document, Docket No. NV029–0003, may be inspected and copied at the following location between 8 a.m. and 4:30 p.m. on weekdays. A reasonable fee may be charged for copying parts of the docket. U.S. Environmental Protection Agency, Region 9, Air Division, Air Planning Office, AIR–2,75 Hawthorne Street, San Francisco, California 94105.

Copies of the docket are also available at the State and County offices listed below:

Nevada Division of Environmental Protection, 333 West Nye Lane, Carson City, Nevada, 89710; and,

Clark County Department of Comprehensive Planning, 500 South Grand Central Parkway, Suite 3012, Las Vegas, Nevada, 89155–1741.

FOR FURTHER INFORMATION CONTACT: Larry Biland, AIR–2, Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1227.

SUPPLEMENTARY INFORMATION:

I. Background

A. CAA Requirements and EPA Actions Concerning Designation and Classifications

The Clean Air Act Amendments of 1990 (CAA) were enacted on November 15, 1990. Under section 107(d)(1)(C) of the CAA, each carbon monoxide (CO) area designated nonattainment prior to enactment of the 1990 Amendments, such as the Clark County area, was designated nonattainment by operation of law upon enactment of the 1990 Amendments. Under section 186(a) of the Act, each CO area designated nonattainment under section 107(d) was also classified by operation of law as either ''moderate'' or ''serious'' depending on the severity of the area's air quality problem. CO areas with design values between 9.1 and 16.4 parts per million (ppm), such as the Clark County area, were classified as moderate. These nonattainment designations and classifications were codified in 40 CFR part 81. See 56 FR 56694 (November 6, 1991).

States containing areas that were classified as moderate nonattainment by operation of law under section 107(d) were required to submit State implementation plans (SIPs) designed to attain the CO national ambient air quality standard (NAAQS) as expeditiously as practicable but no later than December 31, 1995.[1]

B. Attainment Date Extensions

If a state does not have the two consecutive years of clean data necessary to show attainment of the NAAQS, it may apply, under section 186(a)(4) of the CAA, for a one year attainment date extension. EPA may, in its discretion, grant such an extension if the state has: (1) complied with the requirements and commitments pertaining to the applicable implementation plan for the area, and (2) the area has measured no more than one exceedance of the CO NAAQS at any monitoring site in the nonattainment area in the year preceding the extension year. Under section 186(a)(4), EPA may grant up to two such extensions if these conditions have been met. EPA has granted Clark County one extension to December 31, 1996. (40 CFR Part 52 Vol. 61, No. 216, Wednesday, Nov. 6, 1996).

C. Reclassification to a Serious Nonattainment Area

EPA has the responsibility, pursuant to sections 179(c) and 186(b)(2) of the CAA, of determining, within six months of the applicable attainment date, whether the Clark County area has attained the CO NAAQS. Under section 186(b)(2)(A), if EPA finds that the area has not attained the CO NAAQS, it is reclassified as serious by operation of law. Pursuant to section 186(b)(2)(B) of the Act, EPA must publish a document in the **Federal Register** identifying areas which failed to attain the standard and therefore must be reclassified as serious by operation of law.

EPA makes attainment determinations for CO nonattainment areas based upon

[1] The moderate area SIP requirements are set forth in section 187(a) of the Act and differ depending on whether the area's design value is below or above 12.7 ppm. The Clark County area has a design value below 12.7 ppm. 40 CFR 81.303.

whether an area has two years (or eight consecutive quarters) of clean air quality data.[2] Section 179(c)(1) of the Act states that the attainment determination must be based upon an area's ''air quality as of the attainment date.'' Consequently, where an area has received an extension, EPA will determine whether an area's air quality has met the CO NAAQS by the required date, or in the case of Clark County by the extended date of December 31, 1996, based upon the most recent two years of air quality data.

EPA determines a CO nonattainment area's air quality status in accordance with 40 CFR 50.8 and EPA policy.[3] EPA has promulgated two NAAQS for CO: an 8-hour average concentration and a 1-hour average concentration. Because there were no violations of the 1-hour standard in the Clark County area, this notice addresses only the air quality status of the Clark County area with respect to the 8-hour standard. The 8-hour CO NAAQS requires that not more than one non-overlapping 8-hour average in any consecutive two-year period per monitoring site can exceed 9.0 ppm (values below 9.5 are rounded down to 9.0 and they are not considered exceedances). The second exceedance of the 8-hour CO NAAQS at a given monitoring site within the same two-year period constitutes a violation of the CO NAAQS.

II. Today's Action

By today's action, EPA is proposing to find that the Clark County CO nonattainment area has failed to attain the CO NAAQS by December 31, 1996. This proposed finding is based upon air quality data showing exceedances of the CO NAAQS during 1995 and 1996, resulting in two violations in 1996.

A. Ambient Air Monitoring Data

The following table lists each of the monitoring sites in the Clark County CO nonattainment area where the 8-hour CO NAAQS has been exceeded during 1995 and 1996.

EXCEEDANCES OF 8-HOUR CARBON MONOXIDE NATIONAL AMBIENT AIR QUALITY STANDARD[1] IN THE CLARK COUNTY, NEVADA NONATTAINMENT AREA

Monitoring site	1995		1996	
	Concentration [2]	Date	Concentration [2]	Date
2850 East Charleston Blvd.	10.2 ppm	11/23	10.1 ppm	1/6
			10.3 ppm	1/14
			10.2 ppm	3/10

[1] The eight-hour carbon monoxide NAAQS is 9 parts per million.
[2] Concentration = monitored carbon monoxide concentration in parts per million.

1. 1995 Data

During calendar year 1995, Clark County exceeded the eight-hour CO NAAQS once at the East Charleston monitoring site. Consequently, there were no violations of the CO NAAQS in 1995.

2. 1996 Data

During the first quarter of 1996, Clark County exceeded the eight-hour CO NAAQS three times, all at the East Charleston monitoring site. These exceedances total two violations of the CO NAAQS.

3. Discussion of CO NAAQS Exceedances During the 1995–96 Winter CO Season

Clark County qualified for an attainment date extension to December 31, 1996 by having no more than one exceedance of the CO NAAQS in the nonattainment area in 1995. However, this achievement was clouded by three exceedances of the CO NAAQS during January and March 1996. Clark County raised several concerns with the East Charleston monitoring site which recorded the violations, suggesting that siting problems biased the data collected there.

a. Clark County Concerns With East Charleston Monitoring Site

In 1995 and early 1996, Clark County raised to EPA several concerns with the siting of the East Charleston monitor, and also proposed several changes to their CO monitoring network.[4] Clark County asserted that the configuration of the East Charleston monitoring site was inconsistent with the requirements for National Air Monitoring Stations (NAMS) given in the Code of Federal Regulations (see 40 CFR Part 58) and this was biasing the data. Because of these concerns, Clark County asked EPA to delay a finding of attainment or nonattainment for the 1995 attainment deadline until new CO data was collected during October to December of 1996 at the new monitoring sites. Towards this end, Clark County proposed the following actions: (a) to relocate the East Charleston monitoring station within the same neighborhood; (b) to increase the number of EPA recognized neighborhood sites by adding monitoring sites at East Sahara and East Flamingo Boulevards, and at Crestwood Elementary School in the East Charleston Blvd. vicinity, and, (c) to add a microscale monitoring station with high pedestrian traffic at the Las Vegas Blvd. and Tropicana Ave. intersection.

In response to Clark County's concerns and proposal, EPA agreed with revisions to the CO monitoring network in Clark County. The East Charleston monitoring site continued to operate according to all applicable protocols until its lease expired in 1997. Three new monitoring sites were added to the Clark County air monitoring network before the 1996–97 winter CO season: two neighborhood scale sites, one at Sunrise Acres Elementary School and the other at Crestwood Elementary School in the East Charleston area; and, a microscale site, the MGM site, located on Las Vegas Blvd. at Tropicana. The Sunrise Acres site was the direct replacement site for the high-CO East Charleston site.

At the close of the winter 96–97 season Region 9 and the State of Nevada examined whether East Charleston CO levels correlated with the levels at

[2] See generally memorandum from Sally L. Shaver, Director, Air Quality Strategies and Standards Division, EPA, to Regional Air Office Directors, entitled ''Criteria for Granting Attainment Date Extensions, Making Attainment Determinations, and Determinations of Failure to Attain the NAAQS for Moderate CO Nonattainment Areas,'' October 23, 1995 (Shaver memorandum).

[3] See memorandum from William G. Laxton, Director Technical Support Division, entitled ''Ozone and Carbon Monoxide Design Value Calculations'', June 18, 1990. See also Shaver memorandum.

[4] See correspondence from Michael Naylor, Clark Co. Health District to John Kennedy, U.S. Environmental Protection Agency, February 7, 1996.

Sunrise Acres. Based on November 1996 to March 1997 CO data, EPA staff determined that there was a strong correlation of peak 1- and 8-hour average CO levels at East Charleston and Sunrise Acres. A comparison of peak 8-hour CO concentrations at Sunrise Acres and the East Charleston site showed that Sunrise Acres values consistently exceeded East Charleston levels. With the continued operation of Sunrise Acres and MGM replacement sites, and the value-added Crestwood site, Region 9 supported Clark County's shutdown of the East Charleston site. It is implicit that in showing that Sunrise Acres closely tracked East Charleston CO levels, that previous East Charleston data were valid. Previous Clark County assertions that the configuration of the East Charleston siting positively biased previously collected CO data are inconsistent with EPA findings. Thus EPA considers data from the East Charleston station collected in 1995–96 to be valid for regulatory purposes. EPA is relying on this data in the proposed finding that Clark County failed to attain the Federal CO standard on December 31, 1996.

B. SIP Requirements for Serious CO Areas

CO nonattainment areas reclassified as serious under section 186(b)(2) of the CAA are required to submit, within 18 months of the area's reclassification, SIP revisions demonstrating attainment of the CO NAAQS as expeditiously as practicable but no later than December 31, 2000. The serious CO area planning requirements are set forth in section 187(b) of the CAA. EPA has issued two general guidance documents related to the planning requirements for CO SIPs. The first is the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' that sets forth EPA's preliminary views on how the Agency intends to act on SIPs submitted under Title I of the Act. See generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992). The second general guidance document for CO SIPs issued by EPA is the ''Technical Support Document to Aid the States with the Development of Carbon Monoxide State Implementation Plans,'' July 1992.

If the Clark County area is reclassified to serious, the State would have to submit a SIP revision to EPA within 18 months of the final reclassification that, in addition to the attainment demonstration, includes: (1) Any new measures necessary to attain the standard; (2) a forecast of vehicle miles traveled (VMT) for each year before the attainment year and provisions for annual updates of these forecasts; (3) adopted contingency measures; and (4) adopted transportation control measures and strategies to offset any growth in CO emissions from growth in VMT or number of vehicle trips. See CAA sections 187(a)(7), 187(a)(2)(A), 187(a)(3), 187(b)(2), and 187(b)(1). Upon reclassification, contingency measures in the moderate area plan for the Clark County area must be implemented.

III. Executive Order (EO) 12866

Under E.O. 12866, 58 FR 51735 (October 4, 1993), EPA is required to determine whether regulatory actions are significant and therefore should be subject to OMB review, economic analysis, and the requirements of the Executive Order. The Executive Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may meet at least one of the four criteria identified in section 3(f), including, under paragraph (1), that the rule may ''have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities''.

The Agency has determined that the finding of failure to attain proposed today would result in none of the effects identified in section 3(f). Under section 186(b)(2) of the CAA, findings of failure to attain and reclassification of nonattainment areas are based upon air quality considerations and must occur by operation of law in light of certain air quality conditions. They do not, in-and-of-themselves, impose any new requirements on any sectors of the economy. In addition, because the statutory requirements are clearly defined with respect to the differently classified areas, and because those requirements are automatically triggered by classifications that, in turn, are triggered by air quality values, findings of failure to attain and reclassification cannot be said to impose a materially adverse impact on State, local, or tribal governments or communities.

IV. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

As discussed in section III of this notice, findings of failure to attain and reclassification of nonattainment areas under section 186(b)(2) of the CAA do not in-and-of-themselves create any new requirements. Therefore, I certify that today's proposed action does not have a significant impact on small entities.

V. Unfunded Mandates

Under sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, EPA must assess whether various actions undertaken in association with proposed or final regulations include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local or tribal governments in the aggregate. EPA believes, as discussed above, that the proposed finding of failure to attain and reclassification of the Clark County nonattainment area are factual determinations based upon air quality considerations and must occur by operation of law and, hence, do not impose any Federal intergovernmental mandate, as defined in section 101 of the Unfunded Mandates Act.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations.

Authority: 42 U.S.C. 7401–7671q.

Dated: June 16, 1997.

Felicia Marcus,

Regional Administrator.

[FR Doc. 97–16754 Filed 6–25–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS–50623C; FRL–5726–3]

RIN 2070–AB27

Significant New Uses of Certain Chemical Substances; Proposed Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for certain chemical substances which were the subject of premanufacture notices (PMNs). This proposal would require certain persons

who intend to manufacture, import, or process these substances for a significant new use to notify EPA at least 90 days before commencing any manufacturing, importing, or processing activities for a use designated by this SNUR as a significant new use. The required notice would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it can occur.

DATES: Written comments must be received by EPA by July 28, 1997.

ADDRESSES: Each comment must bear the docket control number OPPTS–50623C. All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. ET–G099, 401 M St., SW., Washington, DC 20460.

Comments and data may also be submitted electronically by following the instructions under Unit VIII of this document. No confidential business information (CBI) should be submitted through e-mail.

All comments which are claimed confidential must be clearly marked as such. Three additional sanitized copies of any comments containing CBI must also be submitted. Nonconfidential versions of comments on this rule will be placed in the rulemaking record and will be available for public inspection. See Unit VII for further information.

FOR FURTHER INFORMATION CONTACT: Susan Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, telephone: (202) 554–1404, TDD: (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This proposed SNUR would require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of substituted phenol for the significant new uses designated herein. The required notice would provide EPA with information with which to evaluate an intended use and associated activities.

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the chemical substance for that use. Section 26 of TSCA authorizes EPA to take action under section 5(a)(2) with respect to a category of chemical substances.

Persons subject to this SNUR would comply with the same notice requirements and EPA regulatory procedures as submitters of premanufacture notices under section 5(a)(1) of TSCA. In particular, these requirements include the information submission requirements of section 5(b) and (d)(1), the exemptions authorized by section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities for which it has received a SNUR notice. If EPA does not take action, section 5(g) of TSCA requires EPA to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR part 707.

II. Applicability of General Provisions

General regulatory provisions applicable to SNURs are codified at 40 CFR part 721, subpart A. On July 27, 1988 (53 FR 28354) and July 27, 1989 (54 FR 31298), EPA promulgated amendments to the general provisions which apply to this SNUR. In the **Federal Register** of August 17, 1988 (53 FR 31252), EPA promulgated a ''User Fee Rule'' (40 CFR part 700) under the authority of TSCA section 26(b). Provisions requiring persons submitting SNUR notices to submit certain fees to EPA are discussed in detail in that **Federal Register** document. Interested persons should refer to these documents for further information.

III. Background

EPA published a direct final SNUR for these chemical substances in the **Federal Register** of December 2, 1996 (61 FR 63726) (FRL–4964–3). EPA received notice of intent to submit adverse comments following publication for these chemical substances. Therefore, as required by § 721.160, the final SNUR for these substances is being withdrawn elsewhere in this issue of the **Federal Register** and this proposed rule on the substances is being issued.

IV. Substance Subject to This Rule

EPA is proposing significant new use and recordkeeping requirements for the following chemical substances under 40 CFR part 721, subpart E.

PMN Numbers P–91–1299 and P–95–1667, P–91–1298 and P–91–1297

Chemical name: l-Aspartic acid, homopolymer and ammonium and potassium salts.
CAS number: 25608–40–6 (P–91–1299 and P–95–1667) and 64723–18–8 (P–91–1298).
Effective date of section 5(e) consent order: March 29, 1993.
Basis for section 5(e) consent order: The order was issued under section 5 (e)(1)(A)(i), (e)(1)(A)(ii)(I), and (e)(1)(A)(ii)(II), of TSCA based on findings that this substance is expected to be produced in substantial quantities and there may be significant or substantial human exposure to the substances.
Recommended testing: EPA has determined that a 28-day oral study (OECD 407), an acute oral study (OPPTS 870.1100 test guideline (public draft)), an ames assay (40 CFR 798.5265), a mouse micronucleus assay by the intraperitoneal route (40 CFR 798.5395), and a developmental toxicity study in one species by the oral route (40 CFR 798.4900) would help characterize possible environmental effects of the substance. The PMN submitter of P–91–1297, P–91–1298, and P–91–1299 has agreed not to exceed the production volume limit without performing these tests on one of the PMN substances.
CFR citation: 40 CFR 721.979.

PMN Numbers P–95–116/96–1250 and P–96–117/96–1251

Chemical name: (generic) Isothiazolinone derivatives.
CAS number: Not available.
Basis for action: The PMN substances will be used as preservatives. Based on analogy of the substances to isothiazolones, EPA is concerned that toxicity to aquatic organisms may occur at a concentrations as low as 10 parts per billion (ppb) of the PMN substances in surface waters. Based on analogy of the substances to similar substances, EPA is concerned for acute lethality, corrosion, developmental toxicity, liver toxicity, sensitization, and cancer to exposed workers. EPA determined that use of the substances as described in the PMN did not present an unreasonable risk because the substances would not be released to surface waters above a concentration of 10 ppb and significant worker exposure would not occur because the substance was not

manufactured domestically. EPA has determined that other uses of the substances may result in releases to surface waters which exceed the concern concentration and significant worker exposure. Based on this information the PMN substances meet the concern criteria at § 721.170 (b)(4)(ii) and (b)(3)(ii).

Recommended testing: EPA has determined that a fish acute toxicity study (40 CFR 797.1400), a daphnid acute toxicity study (40 CFR 797.1300), and an algal toxicity study (40 CFR 797.1050) would help characterize the environmental effects of the PMN substances. EPA has determined that a developmental toxicity study (40 CFR 798.4900) and a 90-day subchronic study (40 CFR 798.2650) would help characterize the health effects of the PMN substances.

CFR citation: 40 CFR 721.4525.

V. Applicability of SNUR to Uses Occurring Before Effective Date of the Final SNUR

EPA has decided that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of proposal rather than as of the effective date of the rule. Because this SNUR was first published on December 2, 1996, as a direct final rule, that date will serve as the date after which uses would be considered to be new uses. If uses which had commenced between that date and the effective date of this rulemaking were considered ongoing, rather than new, any person could defeat the SNUR by initiating a significant new use before the effective date. This would make it difficult for EPA to establish SNUR notice requirements. Thus, persons who begin commercial manufacture, import, or processing of the substances for uses that would be regulated through this SNUR after December 2, 1996, would have to cease any such activity before the effective date of this rule. To resume their activities, such persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires. EPA, not wishing to unnecessarily disrupt the activities of persons who begin commercial manufacture, import, or processing for a proposed significant new use before the effective date of the SNUR, has promulgated provisions to allow such persons to comply with this proposed SNUR before it is promulgated. If a person were to meet the conditions of advance compliance as codified at § 721.45(h) (53 FR 28354, July 17, 1988), the person would be considered to have met the requirements of the final SNUR for those activities. If persons who begin commercial manufacture, import, or processing of the substances between proposal and the effective date of the SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

VI. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of the chemical substances at the time of the direct final rule. The analysis is unchanged for the substances in this proposed rule. The Agency's complete economic analysis is available in the public record for this proposed rule (OPPTS–50623C).

VII. Comments Containing Confidential Business Information

Any person who submits comments containing information claimed as confidential business information must mark the comments as ''confidential,'' ''trade secret,'' or other appropriate designation. Comments not claimed as confidential at the time of submission will be placed in the public file without further notice to the submitter. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR part 2. Any party submitting comments claimed to be confidential must prepare and submit a nonconfidential public version in triplicate of the comments that EPA can place in the public file.

VIII. Rulemaking Record

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket number OPPTS–50623C (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information (CBI), is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number OPPTS–50623C. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

The OPPTS harmonized test guidelines referenced in this document are available on EPA's World Wide Web site under ''Researchers and Scientists,'' ''Environmental Test Methods & Guidelines'' (http://www.epa.gov/epahome/research.htm).

IX. Regulatory Assessment Requirements

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

An agency may not conduct or sponsor, and a person is not required to respond to, an information collection request unless it displays a currently valid OMB control number. The information collection requirements related to this action have already been approved by OMB pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burdens requiring additional OMB approval. The public reporting burden for this collection of information is estimated to average 100 hours per response. The burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

In addition, pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency has determined that the promulgation of a SNUR does not have a significant adverse economic impact on a

substantial number of small entities. The Agency's generic certification for promulgation of new SNURs appears on June 2, 1997 (62 FR 29684) (FRL–5597–1), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

X. Submission to Congress and the General Accounting Office

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

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements.

Dated: June 18, 1997.

Ward Penberthy,

Acting Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, it is proposed that 40 CFR part 721 be amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 would continue to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

2. By adding new § 721.979 to subpart E to read as follows:

§ 721.979 l-Aspartic acid, homopolymer and ammonium and potassium salts.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances l-Aspartic acid, homopolymer and ammonium and potassium salts (PMNs P–91–1299 and P–95–1667, P–91–1298 and P–91–1297; CAS nos. 25608–40–6 and 64723–18–8) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* A significant new use of these substances is any manner or method of manufacture, import, or processing associated with any use of these substances without providing risk notification as follows:

(A) If as a result of the test data required under the section 5(e) consent order for these substances, the employer becomes aware that these substances may present a risk of injury to human health or the environment the employer must incorporate this new information, and any information on methods for protecting against such risk, into a Material Safety Data Sheet (MSDS) as described in § 721.72(c) within 90 days from the time the employer becomes aware of the new information. If these substances are not being manufactured, imported, processed, or used in the employer's workplace, the employer must add the new information to an MSDS before the substances are reintroduced into the workplace.

(B) The employer must ensure that persons who will receive, or who have received their substances from the employer within 5 years from the date the employer becomes aware of the new information described in paragraph (a)(2)(i)(A), are provided an MSDS as described in § 721.72(c) containing the information required under paragraph (a)(2)(i)(A) within 90 days from the time the employer becomes aware of the new information.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (h), and (i) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.1725(b)(1) apply to this section.

3. By adding new § 721.4525 to subpart E to read as follows:

§ 721.4525 Isothiazolinone derivatives.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substances identified generically as isothiazolinone derivatives (PMNs P–95–116/96–1250 and P–95–117/96–1251) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f).

(ii) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N = 10).

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (i), and (k) are applicable to manufacturers, importers, and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS–50620B; FRL–5723–4]

RIN 2070–AB27

Butanamide, 2,2′-[3′dichloro[1,1′-biphenyl]-4,4′-diyl) bisazobis N-2,3-dihydro-2-oxo-1H-benximdazol-5-yl)-3-oxo-; Proposed Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance described as butanamide, 2,2′-[3′dichloro[1,1′-biphenyl]-4,4′-diyl)bisazobis *N*-2,3-dihydro-2-oxo-1H-benximdazol-5-yl)-3-oxo- which is the subject of premanufacture notice (PMN) P–93–1111. This proposal would require certain persons who intend to manufacture, import, or process this substance for a significant new use to notify EPA at least 90 days before commencing any manufacturing, importing, or processing activities for a use designated by this SNUR as a significant new use. The required notice would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it can occur.

DATES: Written comments must be received by EPA by July 28, 1997.

ADDRESSES: Each comment must bear the docket control number OPPTS-50620B. All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. ET–G099, 401 M St., SW., Washington, DC 20460.

Comments and data may also be submitted electronically by following the instructions under Unit VIII of this

document. No confidential business information (CBI) should be submitted through e-mail.

All comments which are claimed confidential must be clearly marked as such. Three additional sanitized copies of any comments containing CBI must also be submitted. Nonconfidential versions of comments on this rule will be placed in the rulemaking record and will be available for public inspection. See Unit VII for further information.

FOR FURTHER INFORMATION CONTACT: Susan Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, telephone: (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: This proposed SNUR would require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of P–93–1111 for the significant new uses designated herein. The required notice would provide EPA with information with which to evaluate an intended use and associated activities.

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the chemical substance for that use. Section 26(c) of TSCA authorizes EPA to take action under section 5(a)(2) with respect to a category of chemical substances.

Persons subject to this SNUR would comply with the same notice requirements and EPA regulatory procedures as submitters of premanufacture notices under section 5(a)(1) of TSCA. In particular, these requirements include the information submission requirements of section 5(b) and (d)(1), the exemptions authorized by section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities for which it has received a SNUR notice. If EPA does not take action, section 5(g) of TSCA requires EPA to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR part 707.

II. Applicability of General Provisions

General regulatory provisions applicable to SNURs are codified at 40 CFR part 721, subpart A. On July 27, 1988 (53 FR 28354) and July 27, 1989 (54 FR 31298), EPA promulgated amendments to the general provisions which apply to this SNUR. In the **Federal Register** of August 17, 1988 (53 FR 31252), EPA promulgated a ''User Fee Rule'' (40 CFR part 700) under the authority of TSCA section 26(b). Provisions requiring persons submitting SNUR notices to submit certain fees to EPA are discussed in detail in that **Federal Register** document. Interested persons should refer to these documents for further information.

III. Background

EPA published a direct final SNUR for the chemical substance, which was the subject of PMN P–93–1111 in the **Federal Register** of March 1, 1995 (60 FR 11033) (FRL–4868–4). EPA received comments following publication for this chemical substance. Therefore, as required by § 721.160, the final SNUR for P–93–1111 is being withdrawn elsewhere in this issue of the **Federal Register** and this proposed rule on the substance is being issued. The commenter stated that one statement required on the Material Safety Data Sheet (MSDS) and label in the section 5(e) consent order was not required in the SNUR while several statements required in the SNUR were not required in the order. EPA has changed the proposed SNUR so that its hazard communication requirements match those of the section 5(e) consent order.

IV. Substance Subject to This Rule

EPA is proposing significant new use and recordkeeping requirements for the following chemical substance under part 721 subpart E.

PMN Number P–93–1111

Chemical name: Butanamide, 2,2′-[3′dichloro[1,1′-biphenyl]-4,4′-diyl)bisazobis *N*-2,3-dihydro-2-oxo-1H-benximdazol-5-yl)-3-oxo-.
CAS number: 78245–94–0.
Effective date of section 5(e) consent order: May 27, 1994.
Basis for section 5(e) consent order: The order was issued under section 5 (e)(1)(A)(i) and (e)(1)(A)(ii)(I) of TSCA based on a finding that this substance may present an unreasonable risk of injury to human health and the environment.
Toxicity concern: Structurally similar chemicals have been shown to cause carcinogenicty and mutagenicity in test animals and toxicity to aquatic organisms.
Recommended testing: The following data are recommended to help characterize the PMN substance's potential to cause human health and environmental effects: Monitoring data to detect the presence of dichlorobenzidine (DCB) under actual conditions of use; monitoring data to detect airborne concentrations of DCB; monitoring data on releases of DCB to surface waters. (See Agency guidelines and information on performing monitoring studies.) Also recommended to help determine the PMN substance's potential to cause environmental effects: An anaerobic biodegradation study (OPPTS 835.3400 test guideline (public draft)).
CFR citation: 40 CFR 721.1907.

V. Applicability of SNUR to Uses Occurring Before Effective Date of the Final SNUR

EPA has decided that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of proposal rather than as of the effective date of the rule. Because this SNUR was first published on March 1, 1995, as a direct final rule, that date will serve as the date after which uses would be considered to be new uses. If uses which had commenced between that date and the effective date of this rulemaking were considered ongoing, rather than new, any person could defeat the SNUR by initiating a significant new use before the effective date. This would make it difficult for EPA to establish SNUR notice requirements. Thus, persons who begin commercial manufacture, import, or processing of the substance for uses that would be regulated through this SNUR after March 1, 1995, would have to cease any such activity before the effective date of this rule. To resume their activities, such persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires. EPA, not wishing to unnecessarily disrupt the activities of persons who begin commercial manufacture, import, or processing for a proposed significant new use before the effective date of the SNUR, has promulgated provisions to allow such persons to comply with this proposed SNUR before it is promulgated. If a person were to meet the conditions of advance compliance as

codified at § 721.45(h) (53 FR 28354, July 17, 1988), the person would be considered to have met the requirements of the final SNUR for those activities. If persons who begin commercial manufacture, import, or processing of the substance between proposal and the effective date of the SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

VI. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of the chemical substance at the time of the direct final rule. The analysis is unchanged for the substance in this proposed rule. The Agency's complete economic analysis is available in the public record for this proposed rule (OPPTS–50620B).

VII. Comments Containing Confidential Business Information

Any person who submits comments containing information claimed as confidential business information must mark the comments as ''confidential,'' ''trade secret,'' or other appropriate designation. Comments not claimed as confidential at the time of submission will be placed in the public file without further notice to the submitter. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR part 2. Any party submitting comments claimed to be confidential must prepare and submit a nonconfidential public version in triplicate of the comments that EPA can place in the public file.

VIII. Rulemaking Record

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket number OPPTS–50620B (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information (CBI), is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number OPPTS–50620B. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

The OPPTS harmonized test guidelines referenced in this document are available on EPA's World Wide Web site under ''Researchers and Scientists,'' ''Environmental Test Methods & Guidelines'' (http://www.epa.gov/epahome/research.htm).

IX. Regulatory Assessment Requirements

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

An agency may not conduct or sponsor, and a person is not required to respond to, an information collection request unless it displays a currently valid OMB control number. The information collection requirements related to this action have already been approved by OMB pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, under OMB control number 2070-0012 (EPA ICR No. 574). This action does not impose any burdens requiring additional OMB approval. The public reporting burden for this collection of information is estimated to average 100 hours per response. The burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

In addition, pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency has determined that the promulgation of a SNUR does not have a significant adverse economic impact on a substantial number of small entities. The Agency's generic certification for promulgation of new SNURs appears on June 2, 1997 (62 FR 29684) (FRL–5597–1), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

X. Submission to Congress and the General Accounting Office

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

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements.

Dated: June 18, 1997.

Ward Penberthy,

Acting Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, it is proposed that 40 CFR part 721 be amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 would continue to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

2. By adding new § 721.1907 to read as follows:

§ 721.1907 Butanamide, 2,2′-[3′dichloro[1,1′-biphenyl]-4,4′-diyl)bisazobis N-2,3-dihydro-2-oxo-1H-benximdazol-5-yl)-3-oxo-.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as butanamide, 2,2′-[3′dichloro[1,1′-biphenyl]-4,4′-diyl)bisazobis *N*-2,3-dihydro-2-oxo-1H-benximdazol-5-yl)-3-oxo- (PMN P-93-1111) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program*. Requirements as specified in § 721.72 (a), (b), (c), (d), (e), (concentration set at 0.1 percent), (f), (g)(3)(i), (g)(3)(ii), (g)(4)(iii), and (g)(5). The following

additional statements shall appear on each label and Material Safety Data Sheet (MSDS) as specified by the paragraph: This substance decomposes in polymers or sheet metal coatings at temperatures greater than 280 °C to give 3′,3′ DCB a suspect human carcinogen.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(f) and processing or use at temperatures above 280 °C.

(iii) *Release to water.* Requirements as specified in § 721.90 (b)(1) and (c)(1). When the substance is processed or used as a colorant for dyeing plastics, this section does not apply.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), (f), (g), (h), (i) and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS–50622C; FRL–5723–6]

RIN 2070–AB27

Substituted Phenol; Proposed Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance described as substituted phenol which is the subject of several premanufacture notices (PMN) P–89–1125, P–91–87, P–92–41, P–92–511, P–94–1527, and P–94–1755. This proposal would require certain persons who intend to manufacture, import, or process this substance for a significant new use to notify EPA at least 90 days before commencing any manufacturing, importing, or processing activities for a use designated by this SNUR as a significant new use. The required notice would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it can occur.

DATES: Written comments must be received by EPA by July 28, 1997.

ADDRESSES: Each comment must bear the docket control number OPPTS–50622C. All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. ET–G099, 401 M St., SW., Washington, DC 20460.

Comments and data may also be submitted electronically by following the instructions under Unit VIII of this document. No confidential business information (CBI) should be submitted through e-mail.

All comments which are claimed confidential must be clearly marked as such. Three additional sanitized copies of any comments containing CBI must also be submitted. Nonconfidential versions of comments on this rule will be placed in the rulemaking record and will be available for public inspection. See Unit VII for further information.

FOR FURTHER INFORMATION CONTACT: Susan Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: This proposed SNUR would require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of substituted phenol for the significant new uses designated herein. The required notice would provide EPA with information with which to evaluate an intended use and associated activities.

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a ''significant new use.'' EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the chemical substance for that use. Section 26(c) of TSCA authorizes EPA to take action under section 5(a)(2) with respect to a category of chemical substances.

Persons subject to this SNUR would comply with the same notice requirements and EPA regulatory procedures as submitters of premanufacture notices under section 5(a)(1) of TSCA. In particular, these requirements include the information submission requirements of section 5(b) and (d)(1), the exemptions authorized by section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities for which it has received a SNUR notice. If EPA does not take action, section 5(g) of TSCA requires EPA to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR part 707.

II. Applicability of General Provisions

General regulatory provisions applicable to SNURs are codified at 40 CFR part 721, subpart A. On July 27, 1988 (53 FR 28354) and July 27, 1989 (54 FR 31298), EPA promulgated amendments to the general provisions which apply to this SNUR. In the **Federal Register** of August 17, 1988 (53 FR 31252), EPA promulgated a ''User Fee Rule'' (40 CFR part 700) under the authority of TSCA section 26(b). Provisions requiring persons submitting SNUR notices to submit certain fees to EPA are discussed in detail in that **Federal Register** document. Interested persons should refer to these documents for further information.

III. Background

EPA published a direct final SNUR for the chemical substance, which was the subject of PMNs P–89–1125, P–91–87, P–92–41, P–92–511, P–94–1527, and P–94–1755 in the **Federal Register** of August 30, 1995 (60 FR 45072) (FRL–4926–2). EPA received notice of intent to submit adverse comments following publication for this chemical substance. Therefore, as required by § 721.160, the final SNUR for this substance is being withdrawn elsewhere in this issue of the **Federal Register** and this proposed rule on the substance is being issued.

IV. Substance Subject to This Rule

EPA is proposing significant new use and recordkeeping requirements for the following chemical substance under 40 CFR part 721, subpart E.

PMN Numbers P–89–1125, P–91–87, P–92–41, P–92–511, P–94–1527, and P–94–1755

Chemical name: Substituted phenol.
CAS number: Not available.
Basis of action: The PMN substance has been the subject of six different PMN notices. Based on test data on the PMN

substance and by analogy to phenols. EPA is concerned that toxicity to aquatic organisms may occur at concentrations as low as 1 parts per billion (ppb) of the PMN substance in surface waters. EPA determined that use of the substance as described in several of the PMNs did not present an unreasonable risk because the substance did not exceed a concentration of 1 ppb when released to surface waters. The only PMN where releases over 1 ppb were expected has been withdrawn. EPA has determined that other uses and increased production volume may result in relases to surface waters above 1 ppb. Based on this information, the PMN substance meets the concern criteria at § 721.170(b)(4)(i).

Recommended testing: EPA has determined that an algal acute toxicity study (40 CFR 797.1050), a chronic 60-day fish early life stage toxicity test in rainbow trout (40 CFR 797.1600), and a 21-day daphnid chronic toxicity test (40 CFR 797.1330) would help characterize the environmental effects of the PMN substance.

CFR citation: 40 CFR 721.5867.

V. Applicability of SNUR to Uses Occurring Before Effective Date of the Final SNUR

EPA has decided that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of proposal rather than as of the effective date of the rule. Because this SNUR was first published on August 30, 1995, as a direct final rule, that date will serve as the date after which uses would be considered to be new uses. If uses which had commenced between that date and the effective date of this rulemaking were considered ongoing, rather than new, any person could defeat the SNUR by initiating a significant new use before the effective date. This would make it difficult for EPA to establish SNUR notice requirements. Thus, persons who begin commercial manufacture, import, or processing of the substance for uses that would be regulated through this SNUR after March 1, 1995, would have to cease any such activity before the effective date of this rule. To resume their activities, such persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires. EPA, not wishing to unnecessarily disrupt the activities of persons who begin commercial manufacture, import, or processing for a proposed significant new use before the effective date of the SNUR, has promulgated provisions to allow such persons to comply with this proposed SNUR before it is promulgated. If a person were to meet the conditions of advance compliance as codified at § 721.45(h) (53 FR 28354, July 17, 1988), the person would be considered to have met the requirements of the final SNUR for those activities. If persons who begin commercial manufacture, import, or processing of the substance between proposal and the effective date of the SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

VI. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of the chemical substance at the time of the direct final rule. The analysis is unchanged for the substance in this proposed rule. The Agency's complete economic analysis is available in the public record for this proposed rule (OPPTS–50622C).

VII. Comments Containing Confidential Business Information

Any person who submits comments containing information claimed as confidential business information must mark the comments as ''confidential,'' ''trade secret,'' or other appropriate designation. Comments not claimed as confidential at the time of submission will be placed in the public file without further notice to the submitter. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR part 2. Any party submitting comments claimed to be confidential must prepare and submit a nonconfidential public version in triplicate of the comments that EPA can place in the public file.

VIII. Rulemaking Record

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket number OPPTS–50622C (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information (CBI), is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number OPPTS–50622C. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

IX. Regulatory Assessment Requirements

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

An agency may not conduct or sponsor, and a person is not required to respond to, an information collection request unless it displays a currently valid OMB control number. The information collection requirements related to this action have already been approved by OMB pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, under OMB control number 2070–0012 (EPA ICR No. 574). This action does not impose any burdens requiring additional OMB approval. The public reporting burden for this collection of information is estimated to average 100 hours per response. The burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information.

In addition, pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency has determined that the promulgation of a SNUR does not have a significant adverse economic impact on a substantial number of small entities.

The Agency's generic certification for promulgation of new SNURs appears on June 2, 1997 (62 FR 29684) (FRL–5597–1), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

X. Submission to Congress and the General Accounting Office

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

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements.

Dated: June 18, 1997.

Ward Penberthy,

Acting Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, it is proposed that 40 CFR part 721 be amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 would continue to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

2. By adding new § 721.5867 to read as follows:

§ 721.5867 Substituted phenol.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance generically identified as substituted phenol (PMNs P–89–1125, P–91–87, P–92–41, P–92–511, P–94–1527, and P–94–1755) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4)(where n = 1).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125 (a), (b), (c), and (k) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

[FR Doc. 97–16760 Filed 6–25–97; 8:45 am]
BILLING CODE 6560–50–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 970611133–7133–01; I.D. 052997B]

RIN: 0648–AJ36

Fisheries of the Exclusive Economic Zone Off Alaska; Improved Retention/ Improved Utilization

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 49 to the Fishery Management Plan for the Groundfish Fishery in the Bering Sea and Aleutian Islands Area (FMP). Amendment 49 would require all vessels fishing for groundfish in the Bering Sea and Aleutian Islands Management Area (BSAI) to retain all pollock and Pacific cod beginning January 1, 1998, and all rock sole and yellowfin sole beginning January 1, 2003. This proposed rule would establish a 15-percent minimum utilization standard for all at-sea processors; for pollock and Pacific cod beginning January 1, 1998, and for rock sole and yellowfin sole beginning January 1, 2003. This action is necessary to respond to socioeconomic needs of the fishing industry that have been identified by the North Pacific Fishery Management Council (Council) and is intended to further the goals and objectives of the FMP.

DATES: Comments on the proposed rule must be received at the following address by August 11, 1997.

ADDRESSES: Comments must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori J. Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of the proposed FMP amendment and the Environmental Assessment/ Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for Amendment 49 are available from NMFS at the above address, or by calling the Alaska Region, NMFS at 907–586–7228. Send comments regarding burden estimates or any other aspect of the data requirements, including suggestions for reducing the burdens, to NMFS and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503, Attn: NOAA Desk Officer.

FOR FURTHER INFORMATION CONTACT: Kent Lind, 907–586–7228.

SUPPLEMENTARY INFORMATION: The domestic groundfish fisheries in the exclusive economic zone of the BSAI are managed by NMFS under the FMP. The FMP was prepared by the Council under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations governing the groundfish fisheries of the BSAI appear at 50 CFR parts 600 and 679.

The Council has submitted Amendment 49 for Secretarial review and a notice of availability of the FMP amendment was published on June 5, 1997 (62 FR 30835), with comments on the FMP amendment invited through August 4, 1997. Comments may address the FMP amendment, the proposed rule, or both, but must be received by August 4, 1997, to be considered in the approval/disapproval decision on the FMP amendment. All comments received by August 4, 1997, whether specifically directed to the FMP amendment or the proposed rule, will be considered in the approval/ disapproval decision on the FMP amendment.

Management Background and Need for Action

In September 1996, the Council approved an Improved Retention/ Improved Utilization (IR/IU) program as Amendment 49 to the FMP. Amendment 49 is the result of over 3 years of analysis and debate of alternative solutions to the problem of discards occurring in the groundfish fisheries off Alaska. Approximately 600 million lbs (273,000 mt) of groundfish were discarded annually in the groundfish fisheries of the BSAI, in each of the last several years, which represents an unacceptably high level of discard and waste in the opinion of the Council, the fishing industry, and the American public. The bulk of these groundfish discards are ''economic'' discards (i.e., catch that is discarded voluntarily for economic reasons). Economic discards include fish of the target species that are the wrong sex or of a size not suitable for the processing equipment being used, species of lower

value than the target species or for which viable markets do not exist, and damaged fish rendered unsuitable for processing.

Because such discards are counted against the overall total allowable catch (TAC) established for each species, they do not represent a direct biological concern. However, they represent foregone harvest opportunities for other fishing operations that might otherwise target and utilize those fish. Furthermore, the high levels of discards represent an important social policy issue, which the fishing industry and the Council choose to address.

One of the Council's Comprehensive Fishery Management Goals, adopted in 1984, is to ''Minimize the catch, mortality, and waste of non-target species, and reduce the adverse impacts of one fishery on another.'' In adopting this goal, the Council recognized that fish caught as bycatch in one fishery represent an allocation away from any target fishery for the bycatch species. This is especially so when a bycatch species (e.g., pollock), is fully utilized by other sectors of the industry.

In addition, a priority objective of the FMP is to ''provide for the rational and optimal use, in a biological and socioeconomic sense, of the region's fisheries resources as a whole.'' Consistent with these goals and objectives, many of the management programs passed by the Council and enacted by NMFS are aimed at reducing the bycatch of non-target species and thereby increasing the relative amounts of each species that are taken and utilized by target fisheries. In this context, bycatch is broadly understood to mean the unintended capture or mortality of fish regardless of whether the unwanted bycatch is subsequently discarded.

The issues of bycatch and discards of groundfish resources have been long-term subjects of Council concern. In 1993, the Council began discussion and scoping analyses of specific alternatives aimed at reducing bycatch and discards. A common thread among these alternative programs was to provide incentives to reduce the bycatch of unwanted species and to increase the utilization of those species that are caught. Alternative programs under analysis included: Individual fishing quotas for groundfish species; a ''Harvest Priority'' program, which would provide for quota set-asides for vessels exhibiting low bycatch rates of non-target species; and mandates for retention and utilization, with the built-in incentives for fishing operations to avoid catch of unwanted species. While other alternatives were discussed, primary focus was given to these three alternative programs.

After public testimony and debate, the Council decided to further narrow its focus on mandatory retention and utilization requirements as the most expeditious and direct method to address groundfish discards. In addition, the Council believed that a mandatory retention program would provide significant incentives for industry to avoid bycatch in the first place and develop more selective fishing gear and methods.

In 1994, the Council examined bycatch and discard statistics and concluded that two species, pollock and rock sole, were being discarded at unacceptably high rates. The Council initially proposed an IR/IU program that would be limited to discards of pollock and rock sole in the midwater pollock and rock sole fisheries, respectively. An ''Implementation Issues Assessment'' was completed in March 1995 and presented to the Council's Advisory Panel (AP) and Scientific and Statistical Committee. In September 1995, the Council appointed an industry committee as a sounding board for implementation issues related to the proposed IR/IU program. Subsequently, on advice of the industry committee and the AP, Pacific cod and yellowfin sole were added to the program because discard rates for those species were also determined to be unacceptably high. The Council also extended the program to all groundfish fisheries and gear types because applying IR/IU regulations to specific target fisheries was determined to be unworkable. In December 1995, at the request of the Council, NMFS began preparation of a formal analysis Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) of the proposed IR/IU program.

The analysis determined that pollock, Pacific cod, rock sole, and yellowfin sole represent approximately 76 percent of the total discards of allocated groundfish in the BSAI groundfish fisheries (over the period of the analysis). The Council concluded that by requiring 100 percent retention of these four species, initially pollock and Pacific cod, and subsequently yellowfin and rock sole, the Council's objective of ''substantially reducing discards of unprocessed groundfish'' in these fisheries could be achieved. The expressed intent of the Council was to implement a program that ''would provide an incentive for fishermen to avoid unwanted catch, increase utilization of fish that are taken, and thus reduce discards of whole fish.'' The following Problem Statement accompanied the Council's December 1995 action:

> In managing the fisheries under its jurisdiction, the North Pacific Fishery Management Council is committed to: (1) Assuring the long-term health and productivity of fish stocks and other living marine resources of the North Pacific and Bering Sea ecosystem; and (2) reducing bycatch, minimizing waste, and improving utilization of fish resources in order to provide the maximum benefit to present generations of fishermen, associated fishing industry sectors, communities, consumers, and the nation as a whole. These commitments are also reflected in the Council's CRP [Comprehensive Rationalization Plan] problem statement.
>
> The Council's overriding concern is to maintain the health of the marine ecosystem to ensure the long-term conservation and abundance of the groundfish and crab resources. As a response to this concern, a program to promote improved utilization and effective control/reduction of bycatch and discards in the fisheries off Alaska should address the following problems:
>
> 1. Bycatch and discard loss of groundfish, crab, herring, salmon, and other non-target species.
>
> 2. Economic loss and waste associated with the discard mortality of target species harvested but not retained for economic reasons.
>
> 3. Inability to provide for a long-term, stable fisheries-based economy due to loss of fishery resources through wasteful fishing practices.
>
> 4. The need to promote improved retention and utilization of fish resources by reducing waste of target groundfish species to achieve long-term sustainable economic benefits to the nation.

At the April 1996 Council meeting, the IR/IU Industry Working Group and NMFS staff made their respective reports to the AP and Council. In response, again at the urging of the AP, and supported by public testimony, the Council further modified the IR/IU options under consideration. The Council identified two retention options, the no-action or ''Status Quo'' alternative and a ''species-based'' approach. The Council also identified three utilization options (in addition to the ''Status Quo'' alternative), each dictating, to a greater or lesser degree, the form and extent of processing of the retained catch.

The revised proposal would apply only to BSAI groundfish fisheries, extend to all gear types, and require 100 percent retention of pollock, Pacific cod, rock sole, and yellowfin sole. In the case of the two flatfish species, the revised proposal also examined two additional sub-options: (1) Incrementally phasing in 100 percent retention over a period of time, or (2) delaying implementation of the 100 percent retention requirement until a specified date in the future. In

either case, however, the Council indicated its intent to require 100 percent retention of pollock and Pacific cod for all operations beginning January 1, 1998.

In September 1996, after extensive debate and public testimony, the Council took final action on the IR/IU program and adopted it as Amendment 49 to the FMP. The retention option adopted by the Council would require full retention of pollock and Pacific cod beginning January 1, 1998, and full retention of rock sole and yellowfin sole beginning January 1, 2003.

The utilization option adopted by the Council, the least restrictive of the three options under consideration, would allow retained catch of the four groundfish species to be processed into any product form, regardless of whether the resulting product is suitable for direct human consumption. Of present products, only meal, bait, and offal are regarded as not suitable for direct human consumption, with offal considered to be processing waste rather than a product form.

The Council also established a 15-percent minimum utilization rate or aggregate product recovery rate (PRR) by species. NMFS has calculated average PRRs for each species/product combination produced in the groundfish fisheries off Alaska. These standard PRRs are established in regulation at Table 3 of 50 CFR part 679. Because the lowest NMFS PRR for a non-roe, primary product produced from an IR/IU species is 16 percent (for deep skin pollock fillets), the IR/IU Industry Working group concluded that a 15-percent minimum utilization rate was achievable for all sectors of the industry and would allow for variations in actual PRRs by size of fish and season. If, under certain circumstances, a processor falls below 15 percent for a particular primary product, the vessel operator would be able to meet the minimum utilization requirement by retaining sufficient ancillary products to bring the aggregate utilization rate above 15 percent.

On October 11, 1996, the President signed into law the Sustainable Fisheries Act of 1996 (Public Law 104–297) which reauthorized and amended the Magnuson-Stevens Act. Several provisions of the Magnuson-Stevens Act now provide statutory authority for regulatory programs to improve retention and utilization in the groundfish fisheries off Alaska. Section 303(a)(11) of the Magnuson-Stevens Act requires the Council to ''establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority—(A) minimize bycatch; and (B) minimize the mortality of bycatch which cannot be avoided.'' In implementing this provision of the Act, the Council is further required under section 313(f) to ''submit conservation and management measures to lower, on an annual basis for a period of not less than 4 years, the total amount of economic discards occurring in the fisheries under its jurisdiction.'' The proposed IR/IU program, submitted by the Council, is intended to meet these statutory requirements.

Elements of the Proposed IR/IU Program

Affected Vessels and Processors

The proposed IR/IU program would apply to all vessels fishing for groundfish in the BSAI and all at-sea processors processing groundfish harvested in the BSAI, regardless of vessel size, gear type, or target fishery. Because the Magnuson-Stevens Act does not authorize NMFS to regulate on-shore processing of fish, the requirements of this proposed rule would not be extended to shore-based processors.

The Council has assumed that the State of Alaska (State) will implement a parallel IR/IU program for shore-based processors. In testimony at the September 1996 and April 1997 Council meetings, the State indicated its intent to implement parallel IR/IU regulations for the shore-based processing sector. Parallel State regulations are especially necessary to address the relationship between the processing plant and the delivering vessel. A shore-based IR/IU program must require a processor to accept all IR/IU species offered for delivery by a vessel fishing for groundfish in the BSAI. Otherwise, rejection of deliveries by a processor would be the equivalent of discarding of IR/IU species by that processor.

IR/IU Species

The proposed IR/IU program would define four groundfish species as IR/IU species: pollock, Pacific cod, rock sole, and yellowfin sole. Retention and utilization requirements would apply to pollock and Pacific cod beginning January 1, 1998. Rock sole and yellowfin sole would be added to the program beginning January 1, 2003. The purpose of the 5-year delay for rock sole and yellowfin sole is to provide industry with sufficient time to develop more selective fishing techniques and/or markets for these fish.

Minimum Retention Requirements

The proposed rule would establish minimum retention requirements by vessel type (catcher vessel, catcher/processor, and mothership), and by the directed fishing status of the IR/IU species (open to directed fishing, closed to directed fishing, and retention prohibited). In general, vessel operators would be required to retain 100 percent of their catch of an IR/IU species unless a closure to directed fishing limits retention of that species. When a closure to directed fishing limits retention of an IR/IU species, the vessel operator would be required to retain all catch of that species up to the maximum retainable bycatch (MRB) amount in effect for that species, and catch in excess of the MRB amount must be discarded. The specific retention requirements by vessel type and directed fishing status are set out in table format at § 679.27(c) of the proposed regulations and are summarized below.

Catcher Vessels

Operators of catcher vessels would be required to retain all IR/IU species brought on board the vessel until the catch is lawfully transferred to an authorized party (e.g., a federally licensed processor or buying station). This requirement applies to all IR/IU species brought on board a vessel, whether harvested by the vessel itself, or transferred from another vessel. When an IR/IU species is closed to directed fishing, vessel operators would be required to retain all fish of that species brought on board the vessel up to the MRB amount in effect for that species, and discard all catch in excess of the MRB amount in effect for that species. When regulations require an IR/IU species to be treated as a prohibited species, retention of that species would be prohibited, and all catch of that species would have to be discarded.

Catcher/Processors and Motherships

Operators of catcher/processors and motherships would be required to retain a primary product from all IR/IU species brought on board the vessel until the product is lawfully transferred or offloaded to an authorized party. Because catcher/processors and motherships process groundfish at sea, discarding of processing waste from IR/IU species would be allowed provided that a primary product is retained from each fish that is brought on board the vessel. No restrictions would exist on the type of primary product produced from each IR/IU species provided that all primary and ancillary products are logged in the vessel's daily cumulative

production logbook (DCPL). Whole fish could be considered a product for the purpose of this program provided that they are logged as whole fish in the vessel's DCPL.

When an IR/IU species is closed to directed fishing, operators of catcher/processors and motherships would have to retain a primary product from all fish of that species brought on board the vessel up to the point that the round-weight equivalent of primary products equals the MRB amount in effect for that species. Catch or production in excess of the MRB amount would have to be discarded. If a closure requires an IR/IU species to be treated as a prohibited species, retention would be prohibited and all catch of that species would have to be discarded.

Retention Requirements Under Directed Fishing Closures

NMFS assesses each groundfish TAC annually to determine how much of a species' TAC is needed as bycatch in other groundfish fisheries. The remainder is made available as a directed fishing allowance. NMFS closes a species or species group to directed fishing when the directed fishing allowance for that species has been reached in order to leave sufficient portions of the TAC to provide for bycatch in other fisheries. However, if TAC is reached, retention of that species becomes prohibited and all catch of the species must be discarded. Under existing regulations, a species or species group may be open to directed fishing, closed to directed fishing, or retention may be prohibited.

Directed fishing is defined in regulations as ''any fishing activity that results in the retention of an amount of a species or species group on board a vessel that is greater than the MRB amount for that species or species group.'' The MRB amount for a species is calculated as a percentage (by weight) of the species closed to directed fishing relative to the weight of other species that are open for directed fishing and retained on board the vessel. On catcher/processors, which retain product rather than whole fish, the MRB amount is determined using round-weight equivalents, which are calculated using NMFS PRRs established by regulation at Table 3 of 50 CFR part 679. The MRB percentage for each species is established in regulation at Table 11 of 50 CFR part 679. When a species is closed to directed fishing, bycatch amounts of the species may still be retained on board a vessel, up to the MRB amount in effect for that species and catch in excess of the MRB amount must be discarded.

The MRB percentages serve as a management tool to slow down the rate of harvest of a species closed to directed fishing, and to reduce the incentive for fishing vessels to target on that species. In most cases, an MRB of 20 percent is established to slow the harvest rate of a species, yet avoid significant discard amounts of these species to the extent they are taken as bycatch in other open groundfish fisheries. Directed fishing closures are also made when a fishery has reached a prohibited species bycatch allowance, or to prevent overfishing of another groundfish species taken as bycatch.

Under the proposed IR/IU program, if a vessel's bycatch of an IR/IU species exceeds an MRB amount in effect for that species, all catch in excess of the MRB amount would have to be discarded. Under such a circumstance, monitoring, enforcement, and compliance with the IR/IU program will be complicated. This situation is most likely to occur in trawl fisheries where bycatch of pollock is prevalent. Directed fishing for pollock (by inshore and offshore sectors) typically is closed from late February or early March until release of the second seasonal allowance of pollock on September 1. During this time, pollock may be a prevalent bycatch species in Pacific cod and flatfish fisheries and could comprise more than 20 percent (the MRB percentage for pollock) of total catch by some vessels. If this occurs, a vessel may be required to simultaneously retain and discard portions of the catch of an IR/IU species. The relationship between the proposed IR/IU program and directed fishing closures is illustrated in the two following examples.

Example 1: Simultaneous Compliance With IR/IU and a Directed Fishing Closure on a Catcher Vessel

Table 1 provides an example of a catcher vessel on a hypothetical fishing trip for Pacific cod while pollock is closed to directed fishing. In this example, IR/IU requirements apply only to pollock and Pacific cod as would be the case prior to 2003. The example shows the vessel operator retaining all Pacific cod and retaining pollock up to the 20 percent MRB in effect for pollock. Catch of other groundfish species not governed by the IR/IU program may be retained or discarded subject to other regulations and the discretion of the vessel operator. To simplify the example, all catch of other groundfish species is shown as discarded.

TABLE 1.—HYPOTHETICAL FISHING TRIP FOR A CATCHER VESSEL FISHING FOR PACIFIC COD WHILE DIRECTED FISHING FOR POLLOCK IS CLOSED (CATCH AND DISCARDS SHOWN IN MT)

Haul No.	Haul weight	Pacific cod			Pollock			Other species		
		Total	Ret.	Disc.	Total	Ret.	Disc.	Total	Ret.	Disc.
1	60.0	25.0	25.0	0.0	25.0	5.0	20.0	10.0	0.0	10.0
Subtotal	60.0	25.0	25.0	0.0	25.0	5.0	20.0	10.0	0.0	10.0
2	50.0	40.0	40.0	0.0	5.0	5.0	0.0	5.0	0.0	5.0
Subtotal	110.0	65.0	65.0	0.0	30.0	10.0	20.0	15.0	0.0	15.0
3	55.0	35.0	35.0	0.0	10.0	10.0	0.0	10.0	0.0	10.0
Subtotal	165.0	100.0	100.0	0.0	40.0	20.0	20.0	25.0	0.0	25.0
4	50.0	45.0	45.0	0.0	3.0	3.0	0.0	2.0	0.0	2.0
Total	215.0	145.0	145.0	0.0	43.0	23.0	20.0	27.0	0.0	27.0

Table 1 shows the vessel operator retaining and discarding pollock during the course of the fishing trip to remain in compliance with the proposed IR/IU program and the MRB amount in effect for pollock. The disposition of pollock in each haul is as follows:

Haul 1. This haul of 60 mt contains 25 mt of Pacific cod, 25 mt of pollock, and 10 mt of other groundfish. The vessel operator retains all 25 mt of Pacific cod in compliance with IR/IU, at his discretion discards the other groundfish and retains an amount of pollock equal to 20 percent of the

retained catch of species open to directed fishing, or 5 mt (25 mt of retained Pacific cod × 0.2 = 5 mt).

Haul 2. This haul of 50 mt contains 40 mt of Pacific cod, 5 mt of pollock and 5 mt of other groundfish. The vessel operator retains all 40 mt of Pacific cod in compliance with IR/IU, at his discretion discards the 5 mt of other groundfish, and retains all 5 mt of pollock. At this point, the vessel's MRB amount for pollock equals 13 mt (65 mt retained Pacific cod × 0.2 = 13 mt) and the cumulative retained catch of pollock equals 10 mt, therefore all pollock from this haul must be retained.

Haul 3. This haul of 55 mt contains 35 mt of Pacific cod, 10 mt of pollock and 10 mt of other groundfish. The vessel operator retains all 35 mt of Pacific cod in compliance with IR/IU, at his discretion discards the 10 mt of other groundfish, and retains all 10 mt of pollock. At this point, the vessel's MRB amount for pollock equals 20 mt (100 mt retained Pacific cod × 0.2 = 20 mt) and the cumulative retained catch of pollock equals 20 mt.

Haul 4. This haul of 50 mt contains 45 mt of Pacific cod, 3 mt of pollock and 2 mt of other groundfish. The vessel operator retains all 45 mt of Pacific cod in compliance with IR/IU, at his discretion discards the 2 mt of other groundfish and retains all 3 mt of pollock. At this point, the vessel's MRB amount for pollock equals 29 mt (145 mt retained Pacific cod × 0.2 = 29 mt) and the cumulative retained catch of pollock equals 23 mt.

At the time of delivery, the vessel's fish ticket should show landed weights of 145 mt for Pacific cod and 23 mt for pollock and the processor will report 20 mt of pollock discards and 27 mt of other groundfish discards in the NMFS daily cumulative production logbook. In this example, the delivery weight of pollock as a percentage of the delivery weight of Pacific cod is equal to 15.9 percent, which is less than the 20 percent MRB percentage for pollock. In addition, the vessel's logbook will show 20 mt of pollock discards. Nevertheless, the vessel would be in compliance with the proposed IR/IU regulations because retention of the extra 20 mt of pollock from haul 1 would have exceeded the MRB amount for pollock at the time that haul 1 was brought on board.

Example 2: Simultaneous Compliance With IR/IU and a Directed Fishing Closure on a Catcher/Processor

Tables 2 and 3 provide an example of a catcher/processor beginning a hypothetical rock sole fishing trip during which some species are open to directed fishing and other species are closed to directed fishing. In this example, IR/IU requirements would apply to all four IR/IU species as would be the case after 2003. A hypothetical distribution of catch, retention and discard of 100 mt of groundfish under the existing status quo is displayed on Table 2, and under the proposed IR/IU program with all four IR/IU species on Table 3. Fishery status for all species in the catch is indicated as either open, closed, or retention prohibited.

TABLE 2.—HYPOTHETICAL DISTRIBUTION OF A 100 MT HAUL OF GROUNDFISH FOR A CATCHER/PROCESSOR PARTICIPATING IN THE BSAI ROCK SOLE FISHERY, UNDER THE STATUS QUO

Round weight catch and discard				Retained products and round-weight equivalents			
Species	Status of fishery	Round wt. catch	Round wt. discard	Product	NMFS PRR [1]	Product wt.	Round-wt. equivalent
Rock sole	Open	52.0	31.0	H&G w/roe	0.8	16.8	21.0
Yellowfin sole	Open	6.0	4.0	H&G eastern cut	0.65	1.3	2.0
Other flatfish	Open	7.0	4.0	H&G eastern cut	0.65	1.95	3.0
Pacific cod	Open	8.0	5.0	H&G eastern cut	0.47	1.41	3.0
Sablefish	Open	0.1	0.0	H&G western cut	0.68	0.07	0.1
Other groundfish	Open	3.1	3.1	None		0.0	0.0
Subtotal		76.2	47.1				[2] 29.1
Pollock	Closed	20.0	18	H&G eastern cut	0.56	1.12	2.0
Greenland turbot	Closed	0.2	0.1	H&G eastern cut	0.65	0.07	0.1
Atka mackerel	Closed	0.7	0.2	H&G eastern cut	0.61	0.31	0.5
Arrowtooth	Closed	2.3	2.3	H&G eastern cut		0.0	0.0
Rockfish	Prohibited	0.6	0.6	None		0.0	0.0
Subtotal		23.8	21.2				2.6
Total		100.0	68.3				31.7

[1] The actual PRR realized by a particular vessel may vary from the NMFS standard PRR due to the size of fish, time of year, and adjustment of processing equipment. However, NMFS standard PRRs are always used when calculating round-weight equivalents for the purpose of determining MRB amounts. As a result, the round-weight equivalent amount for a particular product may not equal the actual round weight of fish used to produce that product.

[2] Round-weight equivalent of retained groundfish used to calculate MRB amounts for species closed to directed fishing.

TABLE 3.—HYPOTHETICAL DISTRIBUTION OF A 100 MT HAUL OF GROUNDFISH FOR A CATCHER/PROCESSOR PARTICIPATING IN THE BSAI ROCK SOLE FISHERY, WITH IR/IU REQUIREMENTS FOR POLLOCK, PACIFIC COD, ROCK SOLE AND YELLOWFIN SOLE

Round weight catch and discard				Retained products and round-weight equivalents			
Species	Status of fishery	Round wt. catch	Round wt. discard	Product	NMFS PRR	Product wt.	Round-wt. equivalent [1]
Rock sole	Open	52.0	0.0	H&G w/roe	0.8	41.6	52.0
Yellowfin sole	Open	6.0	0.0	H&G eastern cut	0.65	3.9	6.0
Other flatfish	Open	7.0	4.0	H&G eastern cut	0.65	1.95	3.0
Pacific cod	Open	8.0	0.0	H&G eastern cut	0.47	3.76	8.0
Sablefish	Open	0.1	0.0	H&G western cut	0.68	0.07	0.1
Other groundfish	Open	3.1	3.1	None		0.0	0.0

TABLE 3.—HYPOTHETICAL DISTRIBUTION OF A 100 MT HAUL OF GROUNDFISH FOR A CATCHER/PROCESSOR PARTICIPATING IN THE BSAI ROCK SOLE FISHERY, WITH IR/IU REQUIREMENTS FOR POLLOCK, PACIFIC COD, ROCK SOLE AND YELLOWFIN SOLE—Continued

Round weight catch and discard				Retained products and round-weight equivalents			
Species	Status of fishery	Round wt. catch	Round wt. discard	Product	NMFS PRR	Product wt.	Round-wt. equivalent [1]
Subtotal		76.2	7.1				69.1 [1]
Pollock	Closed	20.0	6.2 [2]	H&G eastern cut	0.56	7.73	13.8
Greenland turbot	Closed	0.2	0.1	H&G eastern cut	0.65	0.07	0.1
Atka mackerel	Closed	0.7	0.2	H&G eastern cut	0.61	0.31	0.5
Arrowtooth	Closed	2.3	2.3	H&G eastern cut		0.0	0.0
Rockfish	Prohibited	0.6	0.6	None		0.0	0.0
Subtotal		23.8	9.4				14.4
Total		100.0	16.5				83.5

[1] Round-weight equivalent of retained groundfish used to calculate MRB amounts for species closed to directed fishing.
[2] Pollock catch in excess of the MRB amount that must be discarded.

In Table 3, the vessel's hypothetical retained and discarded catch is redistributed from Table 2 to show that:

1. All catch of Pacific cod, yellowfin sole, and rock sole must be retained because the directed fisheries for these species are open.
2. Catch of groundfish open to directed fishing, other than Pacific cod, yellowfin sole, and rock sole, may be retained or discarded subject to other regulations.
3. With the exception of pollock, catch of groundfish closed to directed fishing may be retained up to the MRB amount.
4. Catch of pollock, for which the directed fishery is closed, must be retained up to the MRB. At that point, all additional bycatch of pollock must be discarded. Because the vessel is a catcher/processor, MRB calculations are made using round-weight equivalents of the vessel's retained products. The MRB percentage for pollock is 20 percent. In Table 3, the round-weight equivalent of retained catch of species open to directed fishing is 69.1 mt. Therefore, a round-weight equivalent of primary pollock products equal to 13.8 mt (69.1 mt $\times$ 0.2 = 13.8 mt) must be retained and the remainder of the catch (20 mt $-$ 13.8 mt = 6.2 mt) must be discarded.
5. Catch of Greenland turbot and Atka mackerel do not exceed MRB percentages, so all of this catch may be retained or discarded at the discretion of the operator. Retention of rockfish is prohibited and all catch of rockfish must be discarded.

Note that in Example 2, the vessel is beginning a fishing trip and no other catch or products are retained on board. As the vessel continues the fishing trip, all MRB calculations would be made based on all retained catch during the fishing trip as shown in Example 1, rather than the retained catch from each individual haul.

Examples 1 and 2 illustrate simple cases of one species for which the vessel operator must retain a portion of the catch to meet the proposed retention standards but must simultaneously discard the remainder to comply with a pollock directed fishing closure. As more species are closed to directed fishing, or placed on prohibited status, monitoring the exact quantities of each bycatch species that must be retained and discarded will become more complicated for industry, observers, and enforcement officers.

Additional Retention Requirements

Bleeding Codends and Shaking Longline Gear

The minimum retention requirements outlined above apply to all fish of each IR/IU species that are brought on board a vessel. Any activity intended to cause the discarding of IR/IU species prior to their being brought on board a vessel, such as bleeding codends or shaking fish off longlines, would be prohibited. NMFS recognizes that some escapement of fish from fishing gear does occur in the course of fishing operations. Therefore, incidental escapement of IR/IU species, such as fish squeezing through mesh or dropping off longlines, would not be considered a violation unless the escapement is intentionally caused by action of the vessel operator or crew.

At-Sea Discard of Products

In addition to the retention requirements outlined above, the proposed rule would prohibit the at-sea discard of products from any IR/IU species. This would include any IR/IU product that has been frozen, canned, or reduced to meal.

Discard of Fish or Product Transferred From Other Vessels

The retention requirements of this proposed rule would apply to all IR/IU species brought on board a vessel, whether caught by that vessel or transferred from another vessel. Discard of IR/IU species or products that were transferred from another vessel would be prohibited.

R/IU Species Used as Bait

IR/IU species could be used as bait provided the bait is physically attached to authorized fishing gear when deployed. Dumping IR/IU species as loose bait (e.g., chumming) would be prohibited. Minimum Utilization Requirements

Beginning January 1, 1998, all catcher/processors and motherships would be required to maintain a 15 percent utilization rate for each IR/IU species. Calculation of a vessel's utilization rate would depend on the type of vessel (catcher/processor or mothership) and directed fishing status of the IR/IU species in question. The minimum utilization requirements by vessel type and directed fishing status are set out in tables at § 679.27(h) of the proposed regulations and are summarized below.

Catcher/Processors

On a catcher/processor, when directed fishing for an IR/IU species is open, the total weight of retained or lawfully transferred products from IR/IU species harvested during a fishing trip would have to equal or exceed 15 percent of the round weight catch of that species during the fishing trip. When directed fishing for an IR/IU species is closed, the weight of retained products would have to equal or exceed either 15 percent of the MRB amount in

effect for that species or 15 percent of the round weight catch of that species, whichever is lower. When retention of an IR/IU species is prohibited, there would be no minimum utilization rate and any retention of fish or products would be prohibited.

Motherships

On a mothership, when directed fishing for an IR/IU species is open, the total weight of retained or lawfully transferred products from an IR/IU species received during a reporting week must equal or exceed 15 percent of the round weight of that species received during the same reporting week. When directed fishing for an IR/IU species is closed, the weight of retained products would have to equal or exceed 15 percent of the MRB amount in effect for that species or 15 percent of the round weight catch of that species, whichever is lower. When retention of an IR/IU species is prohibited, there would be no minimum utilization rate and any retention of fish or products would be prohibited.

Simultaneous Compliance With Retention and Utilization

A vessel operator must simultaneously meet both the minimum retention standard and the minimum utilization standard to be in compliance with the proposed IR/IU program. Compliance with either standard in the absence of the other would be considered a violation.

Recordkeeping Requirements

This proposed rule includes changes to existing recordkeeping requirements to aid the monitoring and enforcement of the IR/IU program. Beginning January 1, 1998, all catcher vessels and catcher/processors that are currently required to maintain NMFS logbooks would be required to log the round weight catch of pollock and Pacific cod in the NMFS catcher vessel daily fishing logbook (DFL) or catcher/processor DCPL on a haul-by-haul or set-by-set basis. Motherships would be required to log the receipt round weight of pollock and Pacific cod in the mothership DCPL on a delivery-by-delivery basis. Beginning January 1, 2003, this requirement would extend to rock sole and yellowfin sole. These changes are necessary to provide vessel operators and enforcement agents with round weight information for each IR/IU species in order to monitor compliance with the IR/IU program.

Technical Changes to Existing Regulations

The definition of ''round weight or round-weight equivalent'' at § 679.2 would be changed by restricting the definition to ''round-weight equivalent''. The term ''round weight'' is already defined by NMFS in regulations appearing at 50 CFR part 600. In addition, regulations at § 679.50(c)(i), which specify observer coverage requirements for motherships based on ''round weight or round-weight equivalent'' of groundfish processed, would be revised by removing the term ''round weight.'' Observer coverage requirements for motherships during a calendar month would therefore be based only on the round-weight equivalent of groundfish processed. This change is necessary because the terms ''round weight'' and ''round-weight equivalent'' would no longer be synonymous under the proposed rule.

Classification

At this time, NMFS has not determined that Amendment 49 is consistent with the national standards, other provisions of the Magnuson-Stevens Act, and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period, which ends August 4, 1997.

This proposed rule contains a revised collection-of-information requirement subject to the Paperwork Reduction Act (PRA). This collection-of-information requirement has been submitted to OMB for approval. The catcher vessel DFL, catcher/processor DCPL and mothership DCPL would be revised to require that vessel operators log the round weight of each IR/IU species on a haul-by-haul basis for catcher vessels and catcher/processors and a delivery-by-delivery basis for motherships. The estimated current and new public reporting burdens for these collections of information are as follows: For catcher vessels using fixed gear, the estimated burden would increase from 20 minutes to 23 minutes; for catcher vessels using trawl gear, the estimated burden would increase from 17 minutes to 22 minutes; for catcher/processors using fixed gear, the estimated burden would increase from 32 minutes to 35 minutes; for catcher/processors using trawl gear, the estimated burden would increase from 29 minutes to 34 minutes; for motherships, the estimated burden would increase from 28 to 33 minutes. Send comments regarding reporting burden estimates or any other aspect of the data requirements, including suggestions for reducing the burdens to NMFS and OMB (see **ADDRESSES**).

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the PRA, unless that collection-of-information displays a currently valid OMB control number.

An RIR was prepared for this proposed rule that describes the management background, the purpose and need for action, the management action alternatives, and the social impacts of the alternatives. The RIR also estimates the total number of small entities affected by this action and analyzes the economic impact on those small entities.

An IRFA was prepared as part of the RIR, which describes the impact this proposed rule would have on small entities, if adopted. The analysis examines the economic effects of this proposed rule by fishery and gear type and makes the following conclusions: (1) The economic effects of the proposed rule on vessels using longline, jig, and pot gear would not be significant; (2) the economic effects of the proposed rule on trawl catcher vessels and shore-based processors would not be significant; and (3) the economic effects of the proposed rule on trawl catcher/processor operations may or may not be significant depending upon the fishery as well as the size and processing capacity of the vessel in question.

Under the category of trawl catcher/processors, the economic effects on vessels participating in the pollock, sablefish, Greenland turbot, rockfish, and Atka mackerel fisheries would not be significant. However, the economic effects on vessels participating in the Pacific cod, rock sole, yellowfin sole, flathead sole and ''other'' flatfish fishery would be significant. This is because the bycatch of IR/IU species in these fisheries is substantial. The quantity of additional retained catch that operators in these fisheries would be required to handle under the proposed rule would impose significant operational costs on these fisheries, taken as a whole. This is especially true for products for which markets are limited or undeveloped (e.g., small Pacific cod, male rock sole,

and head-and-gut (H&G) pollock). Current prices for these products may be insufficient to cover the costs of their production.

In general, the impacts on any individual factory trawler operation would vary inversely with the size and configuration of the vessel, hold capacity, processing capability, markets and market access, as well as the specific composition and share of the total catch of the four IR/IU species. The burden would tend to fall most heavily upon the smallest, least diversified operations among the current fleet. In addition, the groundfish vessel moratorium, proposed license limitation program, and U.S. Coast Guard load-line requirements severely limit reconstruction to increase vessel size and/or processing capacity. These restrictions are expected to further limit the ability of smaller catcher/processors to adapt to the proposed IR/IU program.

NMFS data indicate that in 1995, 44 at-sea processors participated in the BSAI Pacific cod trawl fishery (4 motherships and 40 catcher/processors); 38 at-sea processors participated in the BSAI rock sole fishery (2 motherships and 36 catcher/processors); 48 at-sea processors participated in the BSAI yellowfin sole fishery (4 motherships and 44 catcher/processors); 19 catcher/processors participated in the flathead sole fishery; and 23 at-sea processors participated in the ''other'' flatfish fishery (1 mothership and 22 catcher/processors).

The IRFA further concludes that catcher/processors participating in the Pacific cod fishery with the capability to fillet product would face no significant burden in complying with the proposed IR/IU program. Catcher/processors in the Pacific cod fishery that are limited to H&G product would be significantly disadvantaged because viable markets for H&G pollock do not exist. For this reason, catcher/processors limited to H&G product would be significantly disadvantaged in every fishery where substantial quantities of pollock bycatch occurs.

The physical limitations of the current fleet of catcher/processors that operate in the rock sole, yellowfin sole, flathead sole, and ''other'' flatfish fisheries could make adaptation to, and compliance with, the proposed IR/IU program effectively impossible. The result may be that adoption of the proposed rule would create such an operational barrier that the rock sole fishery would be discontinued, or alternatively the small-vessel fleet, which currently comprises this fishing fleet, might be displaced by larger and more operationally diversified fleets of vessels, (e.g., larger catcher/processors and motherships).

The no action alternative was rejected because, under a continuation of the current regulations, underutilized groundfish catches would result in an unacceptably high level of discards.

The option of requiring retention of rock sole and yellowfish sole to be phased-in beginning with the first year of the program was rejected in favor of postponing retention requirements for these species for 5 years to provide the opportunity for these fisheries to adapt and attempt to come into compliance with the proposed program.

The utilization options requiring all retained catches of the four species to be processed for direct human consumption and limiting the production of fish meal from the four species were rejected as too restrictive.

The RFA requires that the IRFA describe significant alternatives to the proposed rule that accomplish the stated objectives of the applicable statutes and that minimize any significant impact on small entities. Consistent with the stated statutory objectives, the IRFA must discuss significant alternatives to the proposed rule such as (1) establishing different reporting requirements for small entities that take into account the resources available to small entities; (2) consolidation or simplification of reporting requirements; (3) the use of performance rather than design standards; and (4) allowing exemptions from coverage for small entities. The economic impacts imposed by this rule would not be alleviated by modifying reporting requirements for small entities. Where relevant, this proposed rule employs performance standards rather than design standards and allows maximum flexibility in meeting its requirements. The Council also considered and rejected the following alternatives that might have mitigated impacts on small businesses. (1) An alternative that would have allowed exemptions or modified phase-in periods based on vessel size, was rejected because it would have diluted the reductions in bycatch and discards and would have provided an unfair competitive advantage to a certain sector of the industry. (2) A ''harvest priority program'' that would have rewarded vessels demonstrating low bycatch rates was rejected because it would not reduce discard rates expeditiously enough. (3) A voluntary bycatch and discard reduction program was rejected because it would not have met statutory requirements of the Magnuson-Stevens Act.

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

The Administrator, Alaska Region, NMFS determined that fishing activities conducted under this rule would not affect endangered and threatened species listed or critical habitat designated pursuant to the Endangered Species Act in any manner not considered in prior consultations on the groundfish fisheries of the BSAI.

List of Subjects in 50 CFR Part 679

Fisheries, Reporting and recordkeeping requirements.

Dated: June 19, 1997.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq,* 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.2, the definitions of ''IR/IU'' and ''IR/IU species'' are added in alphabetical order and the heading and the definition of ''round weight or round-weight equivalent'' are revised to read as follows:

§ 679.2 Definitions.

* * * * *

IR/IU means the improved retention/improved utilization program set out at § 679.27.

IR/IU species means any groundfish species that is regulated by a retention or utilization requirement set out at § 679.27.

* * * * *

Round-weight equivalent means the weight of groundfish calculated by dividing the weight of the primary product made from that groundfish by the PRR for that primary product as listed in Table 3 of this part, or, if not listed, the weight of groundfish calculated by dividing the weight of a primary product by the standard PRR as determined using the best available evidence on a case-by-case basis.

* * * * *

3. In § 679.5, paragraphs (c)(3)(ii)(G) and (e)(2)(ii)(F) are added to read as follows:

§ 679.5 Recordkeeping and reporting.

* * * * *

(c) * * *

(3) * * *

(ii) * * *

(G) The round weight catch of pollock and Pacific cod.

* * * * *

(e) * * *

(2) * * *

(ii) * * *

(F) The receipt round weight of pollock and Pacific cod.

* * * * *

4. Section 679.27 is added to read as follows:

§ 679.27 Improved Retention/Improved Utilization Program.

(a) *Applicability.* The retention and utilization requirements of this section apply to any vessel fishing for groundfish in the BSAI or processing groundfish harvested in the BSAI.

(b) *IR/IU species.* The following species are defined as ''IR/IU species'' for the purposes of this section:

(1) Pollock

(2) Pacific cod

(3) (beginning January 1, 2003) rock sole

(4) (beginning January 1, 2003) yellowfin sole

(c) *Minimum retention requirements*—(1) *Definition of retain on board.* Notwithstanding definitions at 50 CFR part 600, for this purpose of this section, to retain on board means to be in possession of on board a vessel.

(2) The following table displays minimum retention requirements by vessel category and directed fishing status:

If you own or operate a	And	You must retain on board until lawful transfer
(i) Catcher vessel	(A) Directed fishing for an IR/IU species is open	All fish of that species brought on board the vessel.
	(B) Directed fishing for an IR/IU species is prohibited.	All fish of that species brought on board the vessel up to the MRB amount for that species.
	(C) Retention of an IR/IU species is prohibited	No fish of that species.
(i) Catcher/ processor	(A) Directed fishing for an IR/IU species is open	A primary product from all fish of that species brought on board the vessel.
	(B) Directed fishing for an IR/IU species is prohibited.	A primary product from all fish of that species brought on board the vessel up to the point that the round-weight equivalent of primary products on board equals the MRB amount for that species.
	(C) Retention of an IR/IU species is prohibited	No fish or product of that species.
(i) Mothership	(A) Directed fishing for an IR/IU species is open	A primary product from all fish of that species brought on board the vessel.
	(B) Directed fishing for an IR/IU species is prohibited.	A primary product from all fish of that species brought on board the vessel up to the point that the round-weight equivalent of primary products on board equals the MRB amount for that species.
	(C) Retention of an IR/IU species is prohibited	No fish or product of that species.

(d) *Bleeding codends and shaking longline gear.* Any action intended to discard or release an IR/IU species prior to being brought on board the vessel is prohibited. This includes, but is not limited to bleeding codends and shaking or knocking fish off longline gear.

(e) *At-sea discard of product.* Any product from an IR/IU species that has been frozen, canned, or reduced to meal may not be discarded at sea.

(f) *Discard of fish or product transferred from other vessels.* The retention requirements of this section apply to all IR/IU species brought on board a vessel, whether harvested by that vessel or transferred from another vessel. At-sea discard of IR/IU species or products that were transferred from another vessel is prohibited.

(g) *IR/IU species as bait.* IR/IU species may be used as bait provided that the deployed bait is physically secured to authorized fishing gear. Dumping of unsecured IR/IU species as bait (chumming) is prohibited.

(h) *Minimum utilization requirements.*

(1) *Catcher/processors.* If you own or operate a catcher/processor, the minimum utilization requirement for an IR/IU species harvested in the BSAI is determined by the directed fishing status for that species according to the following table:

If . . .	Your total weight of retained or lawfully transferred products produced from the catch of that IR/IU species during a fishing trip must . . .
(i) Directed fishing for an IR/IU species is open.	Equal or exceed 15 percent of the round weight catch of that species during the fishing trip.
(ii) Directed fishing for an IR/IU species is prohibited.	Equal or exceed 15 percent of the round weight catch of that species during the fishing trip or 15 percent of the MRB amount for that species, whichever is lower.
(iii) Retention of an IR/IU species is prohibited.	Equal zero.

(2) *Motherships.* If you own or operate a mothership, the minimum utilization requirement for an IR/IU species harvested in the BSAI is determined by the directed fishing status for that species according to the following table:

If . . .	Your weight of retained or lawfully transferred products produced from deliveries of that IR/IU species received during a reporting week must . . .
(i) Directed fishing for an IR/IU species is open.	Equal or exceed 15 percent of the round weight of that species received during the reporting week.

If . . .	Your weight of retained or lawfully transferred products produced from deliveries of that IR/IU species received during a reporting week must . . .
(ii) Directed fishing for an IR/IU species is prohibited.	Equal or exceed either 15 percent of the round weight of that species received during the reporting week or 15 percent of the MRB amount for that species, whichever is lower.
(iii) Retention of an IR/IU species is prohibited.	Equal zero.

5. In § 679.50, paragraphs (c)(1)(i) and (c)(1)(ii) are revised to read as follows:

§ 679.50 Groundfish Observer Program applicable through December 31, 1997.

* * * * *

(c) * * *

(1) * * *

(i) A mothership of any length that processes 1,000 mt or more in round-weight equivalent of groundfish during a calendar month is required to have an observer aboard the vessel each day it receives or processes groundfish during that month.

(ii) A mothership of any length that processes from 500 mt to 1,000 mt in round-weight equivalent of groundfish during a calendar month is required to have an observer aboard the vessel at least 30 percent of the days it receives or processes groundfish during that month.

* * * * *

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Notices

Federal Register

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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

Office of the Secretary

[Docket No. 97–056–1]

Declaration of Emergency Because of the Mediterranean Fruit Fly

A serious outbreak of the Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), is occurring in Florida.

The Mediterranean fruit fly is one of the most destructive pests of over 200 species of fruits, nuts, and vegetables, especially citrus and stone fruits. The pest can develop rapidly and spread easily, causing severe damage to entire citrus and other fruit and vegetable growing areas. At least 43 countries are known to regulate in some manner for the Mediterranean fruit fly.

As of June 2, 1997, an infestation of the Mediterranean fruit fly had been found in a portion of Hillsborough County, FL. The presence of this fruit fly in the continental United States could severely disrupt the fruit and vegetable industry due to the loss of export markets. The Florida agricultural industry, worth an estimated $6 billion annually, is based on continued trade in international markets. According to industry sources, in 1996 the value of Florida citrus exports, in fresh and juice form, was estimated at approximately $940 million.

In cooperation with the State of Florida, the Animal and Plant Health Inspection Service (APHIS) has initiated a program to eradicate this fruit fly infestation in Florida. The State of Florida is assisting APHIS in the funding of the program costs. However, APHIS resources are insufficient to meet the estimated $2.1 million needed for the Federal share. In addition, some of these resources may be needed to fund other, small scale emergencies before the end of the year.

Therefore, in accordance with the provisions of the Act of September 25, 1981, 95 Stat. (7 U.S.C. 147b), I declare that there is an emergency which threatens the citrus and other fruit and vegetable growing industries of this country and hereby authorize the transfer and use of such funds as may be necessary from appropriations or other funds available to the agencies or corporations of the United States Department of Agriculture for the conduct of a program to detect and identify Mediterranean fruit fly infested areas, to control and prevent the spread of the Mediterranean fruit fly to noninfested areas in the United States, and to eradicate Mediterranean fruit fly wherever it may be found in the continental United States.

Effective Date: This declaration of emergency shall become effective June 20, 1997.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 97–16716 Filed 6–25–97; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Utilities Service

Rural Business Service

Farm Service Agency

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service, USDA.

ACTION: Proposed collection; comments request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Agency's intention to seek continued OMB approval for a currently approved information collection contained in 7 CFR 1927–B, Real Estate Title Clearance and Loan Closing.

DATES: Comments on this notice must be received by August 25, 1997, to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: E. Sue Smith, Senior Loan Specialist, Single Family Housing Processing Division, RHS, U. S. Department of Agriculture, Ag Stop 0783, 1400 Independence Avenue, SW., Washington, DC 20250–0783, Telephone (202) 690–4507.

SUPPLEMENTARY INFORMATION:

Title: Real Estate Title Clearance and Loan Closing.

OMB Number: 0575–0147.

Expiration Date of Approval: November 30, 1997.

Type of Request: Extension of a currently approved information collection.

Abstract: Section 501 of Title V of the Housing Act of 1949, as amended, authorizes the Secretary of Agriculture to extend financial assistance to construct, improve, alter, repair, replace or rehabilitate dwellings, farm buildings and/or related facilities to provide decent, safe, and sanitary living conditions and adequate farm buildings and other structures in rural areas. Title Clearance is required to assure the Agency(s) that the loan is legally secured and has the required lien priority.

The Agency will be collecting information to assure that those participating in this program remain eligible to proceed with loan closing and to ensure that loans made with Federal funds are legally secured. The respondents are individuals or households, farms, businesses, and non-profit institutions. The information required is used by Agency personnel to verify that the required lien position has been obtained. The information is collected at the field office responsible for processing a loan application through loan closing. The information is also used to insure the program is administered in a manner consistent with legislative and administrative requirements. If not collected, the Agency would be unable to determine if the loan is adequately and legally secured.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .23 per response.

Respondents: Individuals or households, Farms, Business, Non-Profit Institutions.

Estimated Number of Respondents: 70,000.

Estimated Number of Responses per Respondent: 5.81.

Estimated Total Annual Burden on Respondents: 96,780.

Copies of this information collection can be obtained from the Barbara Williams, Regulations and Paperwork Management Branch, Support Services Division, at (202) 720–9734.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of Agencies' estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Barbara Williams, Regulations and Paperwork Management Branch, Support Services Division, U. S. Department of Agriculture, Stop 0743, 1400 Independence Avenue, SW., Washington, DC 20250–0743. 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.

Dated: June 16, 1997.

Jan E. Shadburn,

Acting Administrator, Rural Housing Service.

Dated: June 11, 1997.

Bruce R. Weber,

Acting Administrator, Farm Service Agency.

[FR Doc. 97–16745 Filed 6–25–97; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Amended Export Trade Certificate of Review, Application No. 88–7A016.

SUMMARY: The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted to Wood Machinery Manufacturers of America (''WMMA'') on February 3, 1989. Notice of issuance of the Certificate was published in the **Federal Register** on February 9, 1989 (54 FR 6312).

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (1997).

The Office of Export Trading Company Affairs (''OETCA'') is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description Of Amended Certificate: Export Trade Certificate of Review No. 88–00016, was issued to Wood Machinery Manufacturers of America on February 3, 1989 (54 FR 6312, February 9, 1989) and previously amended on June 22, 1990 (55 FR 27292, July 2, 1990); August 20, 1991 (56 FR 42596, August 28, 1991); December 13, 1993 (58 FR 66344, December 20, 1993); August 23, 1994 (59 FR 44408, August 29, 1994); and September 20, 1996 (61 FR 50471).

WMMA's Export Trade Certificate of Review has been amended to: 1. Add the following company as a new ''Member'' of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)): CEMCO Inc., Whitesburg, Tennessee; and

2. Delete Mattison Machine Works, Rockford, Illinois as a ''Member'' of the Certificate.

A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: June 20, 1997.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 97–16776 Filed 6–25–97; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Review: Notice of Termination of Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of Motion to Terminate the Panel Review of the final countervailing duty determination made by the International Trade Administration in the administrative review, respecting Pure and Alloy Magnesium From Canada (Secretariat File No. USA–97–1904–04).

SUMMARY: Pursuant to the Notice of Motion to Terminate the Panel Review by the requestors, the panel review is terminated as of June 20, 1997. No complaints were filed pursuant to Rule 39, no Notices of Appearance were filed pursuant to Rule 40 and no panel has been appointed. Thus there are no ''participants'' in this review as defined in Rule 3 of the *Rules of Procedure for Article 1904 Binational Panel Review*. Pursuant to Rule 71(2) of the *Rules of Procedure for Article 1904 Binational Panel Review*, this panel review is terminated.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, D.C. 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter was requested and terminated pursuant to these Rules.

Dated: June 20, 1997.

James R. Holbein,

United Stats Secretary, NAFTA Secretariat.

[FR Doc. 97–16722 Filed 6–25–97; 8:45 am]

BILLING CODE 3510–GT–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061997A]

Marine Mammals; Photography Permit (File No. 863–1378)

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

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Mr. Hardy Jones, 1252 B Street, Petaluma, CA, 94952, has applied in due form for a permit to take Hawaiian spinner dolphins (*Stenella longirostris*) for purposes of commercial photography.

DATES: Written comments must be received on or before July 28, 1997.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213 (310/980–4001); and

Protected Species Program Manager, Pacific Area Office, NMFS, 2570 Dole Street, Room 106, Honolulu, HI 96822–2396 (808–973–2987).

Written data or views, or requests for a public hearing on this request, should be submitted to the Director, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate. Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of § 104(c)(6) of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216). Section 104(c)(6) provides for photography for educational or commercial purposes involving non-endangered and non-threatened marine mammals in the wild. NMFS is currently working on proposed regulations to implement this provision. However, in the meantime, NMFS has received and is processing this request as a ''pilot'' application for Level B Harassment of non-listed and non-depleted marine mammals for photographic purposes. The applicant seeks authorization to photograph Hawaiian spinner dolphins (*Stenella longirostris*) in Hawaii waters. The applicant proposes to initiate this work upon receipt of the permit.

Dated: June 19, 1997.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–16771 Filed 6–25–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061297A]

International Whaling Commission: Meetings

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

ACTION: Notice of meetings.

SUMMARY: NOAA makes use of a public Interagency Committee to assist in preparing for meetings of the International Whaling Commission (IWC). This notice sets forth guidelines for participating on the Committee and a tentative schedule of meetings and other important dates.

DATES: See **SUPPLEMENTARY INFORMATION** for dates of scheduled meetings.

ADDRESSES: Recommendations to the U.S. Commissioner to the IWC and nominations to the U.S. delegation to the IWC should be sent to: Dr. D. James Baker, Under Secretary for Oceans and Atmosphere, Department of Commerce, Herbert C. Hoover Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230, with a copy sent to Angela Somma, NMFS, 1315 East West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Angela Somma, Office of Protected Resources, NMFS, 1315 East West Highway, Silver Spring, MD 20910, (301) 713–2319.

SUPPLEMENTARY INFORMATION: The Secretary of Commerce is charged with the responsibility of discharging the obligations of the United States under the International Convention for the Regulation of Whaling, 1946. This authority has been delegated to the Under Secretary for Oceans and Atmosphere, who is also the U.S. Commissioner to the IWC. The U.S. Commissioner has primary responsibility for the preparation and negotiation of U.S. positions on international issues concerning whaling and for all matters involving the IWC. He is staffed by the Department of Commerce and assisted by the Department of State, the Department of the Interior, the Marine Mammal Commission, and other interested agencies.

Each year, NOAA conducts meetings and other actions to prepare for the annual meeting of the IWC. The major purpose of the preparatory meetings is to provide for input in the development of policy by members of the public and non-governmental organizations interested in whale conservation. NOAA believes that this participation is important for the effective development and implementation of U.S. policy concerning whaling. Any person with an identifiable interest in United States whale conservation policy may participate in the meetings, but NOAA reserves the authority to inquire about the interest of any person who appears at a meeting and to determine the appropriateness of that person's participation. Foreign nationals and persons who represent foreign governments may not attend. These stringent measures are necessary to promote the candid exchange of information. Such measures are a necessary basis for the relatively open process of preparing for IWC meetings that characterizes current practice.

The tentative schedule of meetings and deadlines, including those of the IWC and deadlines for the preparation of position papers during 1994 is as follows:

August 1, 1997—Nominations for the U.S. Delegation to the May IWC meetings are due to the U.S. Commissioner, with a copy to Angela Somma at the address above. All persons wishing to be considered pursuant to the U.S. Commissioner's recommendation to the Department of State concerning the composition of the delegation should ensure that nominations are received by this date. Prospective Congressional advisors to the Delegation should contact the Department of State directly.

September 9, 1997 (2:00 PM, Room 6009, Herbert C. Hoover Building, Department of Commerce, 14th and Constitution, Washington, D.C.)—Tentative Interagency Committee meeting date to review recent events

relating to the IWC and to review U.S. positions for the 1997 IWC meetings.

September 26 - October 11, 1997—Scientific Committee of the IWC meets in Bournemouth, UK.

October 17 - 24, 1997, Monaco—49th Annual Meeting of the International Whaling Commission.

Dated: June 23, 1997.

Joe Blum,

Acting Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–16773 Filed 6–25–97; 8:45 am]

BILLING CODE 3510–22–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Sunshine Act Meeting

Pursuant to the provisions of the Government in the Sunshine Act (5 U.S.C. 552b), notice is hereby given of the following meeting of the Board of Directors of the Corporation for National and Community Service (Corporation).

DATE AND TIME: Sunday, June 29, 1997, from 12:00 p.m. to 3:00 p.m.

PLACE: The New York Hilton and Towers, 1335 Avenue of the Americas, New York, New York, 10019.

STATUS: The meeting will be open to the public up to the seating capacity of the room, except that Board deliberations addressing grant decisions will be closed, pursuant to exemptions (4) and (9(b)) of the Government in the Sunshine Act. The basis for this partial closing has been certified by the Corporation's Deputy General Counsel. A copy of the certification will be posted for public inspection at the Corporation's headquarters at 1201 New York Avenue NW., Suite 8200, Washington, DC 20525, and will otherwise be available upon request.

MATTERS TO BE CONSIDERED: The Board of Directors of the Corporation will meet to review (1) reports from committees of the Board of Directors on Corporation activities, (2) a report from the Chief Executive Officer, and (3) the status of Corporation initiatives.

ACCOMMODATIONS: Those needing interpreters or other accommodations should notify the Corporation as soon as possible. This notice may be requested in an alternative format for the visually impaired.

FOR FURTHER INFORMATION CONTACT: Rhonda Taylor, Associate Director of Special Projects and Initiatives, the Corporation for National and Community Service, 1201 New York Avenue NW., 8th Floor, Washington, DC 20525. Telephone (202) 606–5000 ext. 282.

Dated: June 23, 1997.

Stewart Davis,

Acting General Counsel.

[FR Doc. 97–16809 Filed 6–23–97; 4:28 pm]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0114]

Submission for OMB Review; Comment Request Entitled Right of First Refusal of Employment

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0114).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Right of First Refusal of Employment. A request for public comments was published at 62 FR 19313, on April 21, 1997. No comments were received.

DATES: *Comment due date:* July 28, 1997.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to the General Services Administration, FAR Secretariat, 1800 F Street, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0114 in all correspondence.

FOR FURTHER INFORMATION CONTACT: Jack O'Neill, Federal Acquisition Policy Division, GSA, (202) 501–3856.

SUPPLEMENTARY INFORMATION:

A. Purpose

Right of First Refusal of Employment is a regulation which establishes policy regarding adversely affected or separated Government employees resulting from the conversion from in-house performance to performance by contract. The policy enables these employees to have an opportunity to work for the contractor who is awarded the contract.

The information gathered is used by the Government to gain knowledge of which employees, adversely affected or separated as a result of the contract award, have gained employment with the contractor within 90 days after contract performance begins.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *3* hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *130*; responses per respondent, *1*; total annual responses, *130*; preparation hours per response, *3*; and total response burden hours, *390*.

C. Annual Recordkeeping Burden

The annual recordkeeping burden is estimated as follows: Recordkeepers, *100*; hours per recordkeeper, *.5*; and total recordkeeping burden hours, *50*.

Obtaining Copies of Proposals

Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4037, 1800 F Street, NW, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0114, Right of First Refusal of Employment, in all correspondence.

Dated: June 23, 1997.

Sharon A. Kiser,

FAR Secretariat.

[FR Doc. 97–16732 Filed 6–25–97; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency, Scientific Advisory Board Closed Meeting

AGENCY: Department of Defense, Defense Intelligence Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by Section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Scientific Advisory Board has been scheduled as follows:

DATES: 10 July 1997 (800am to 1600pm).

ADDRESSES: The Defense Intelligence Agency, Bolling AFB, Washington, D.C. 20340–5100.

FOR FURTHER INFORMATION CONTACT: Maj Michael W. Lamb, USAF, Executive Secretary, DIA Scientific Advisory Board, Washington, D.C. 20340–1328 (202) 231–4930.

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(I), Title 5 of the U.S. Code and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA, on related scientific and technical matters.

Dated: June 20, 1997.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 97–16743 Filed 6–25–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency, Scientific Advisory Board Closed Meeting

AGENCY: Department of Defense, Defense Intelligence Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by Section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Scientific Advisory Board has been scheduled as follows:.

DATES: July 8–9, 1997 (800am to 500pm).

ADDRESSES: The Defense Intelligence Agency, Bolling AFB, Washington, D.C. 20340–5100.

FOR FURTHER INFORMATION CONTACT: Maj Michael W. Lamb, USAF, Executive Secretary, DIA Scientific Advisory Board, Washington, D.C. 20340–1328 (202) 231–4930.

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(I), Title 5 of the U.S. Code and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA, on related scientific and technical matters.

Dated: June 20, 1997.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 97–16744 Filed 6–25–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Policy Board Advisory Committee

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meeting.

SUMMARY: The Defense Policy Board Advisory Committee will meet in closed session from 8 am until 3 pm, June 27, 1997 in the Pentagon, Washington, DC. This notice is less than fifteen days prior to the meeting due to difficulties in coordinating the schedules of the members and obtaining administrative clearance of the agenda.

The mission of the Defense Policy Board is to provide the Secretary of Defense, Deputy Secretary of Defense and the Under Secretary of Defense for Policy with independent, informed advice and opinion concerning major matters of defense policy. At this meeting the Board will old classified discussions on national security matters.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this Defense Policy Board meeting concerns matters listed in 5 U.S.C. § 552b(c)(1)(1982), and that accordingly this meeting will be closed to the public.

Dated: June 23, 1997.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer Department of Defense.

[FR Doc. 97–16741 Filed 6–25–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

[Case No. DH–011]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver From the Vented Home Heating Equipment Test Procedure to Fireplace Manufacturers Incorporated

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Decision and order.

SUMMARY: Notice is given of the decision and order (Case No. DH–011) granting a Waiver to Fireplace Manufacturers Incorporated (Fireplace) from the existing Department of Energy (DOE or Department) test procedure for vented home heating equipment. The Department is granting Fireplace's Petition for Waiver regarding the use of pilot light energy consumption in calculating the Annual Fuel Utilization Efficiency (AFUE) for its models DVF30, DVF36, DVF42, DVF36PNL, GW30, and GW30P vented heaters.

FOR FURTHER INFORMATION CONTACT: Bill Hui, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–43, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0121, Telephone: (202) 586–9145, Facsimile: (202) 586–4617, E-Mail: william.hui@hq.doe.gov; or Eugene Margolis, Esq, U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0103, Telephone: (202) 586–9507, Facsimile: (202) 586–4116, E-Mail: eugene.margolis@hq.doe.gov.

SUPPLEMENTARY INFORMATION: In accordance with Title 10 CFR 430.27(j), notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, Fireplace has been granted a Waiver for its models DVF30, DVF36, DVF42, DVF36PNL, GW30, and GW30P vented heaters, permitting the company to use an alternate test method in determining AFUE.

Issued in Washington, DC, on June 20, 1997.

Joseph J. Romm,

Acting Assistant Secretary, Energy Efficiency and Renewable Energy.

Decision and Order

In the Matter of: Fireplace Manufacturers Incorporated (Case No. DH–011)

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act, Public Law 94–163, 89 Stat. 917, as amended (EPCA), which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including vented home heating equipment. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions, and will determine whether a product complies with the applicable energy conservation standard. These test procedures appear at Title 10 CFR part 430, subpart B.

The Department amended the prescribed test procedures by adding Title 10 CFR 430.27 to create a waiver process, 45 FR 64108 (September 26, 1980). Thereafter, DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures, 51 FR 42823 (November 26, 1986).

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

Fireplace Manufacturers Incorporated (Fireplace) filed a ''Petition for Waiver,'' dated December 31, 1996, in accordance with section 430.27 of Title 10 CFR part 430. The Department published in the **Federal Register** on April 23, 1997, Fireplace's Petition and solicited comments, data and information respecting the Petition, 62 FR 19742 (April 23, 1997). Fireplace also filed an ''Application for Interim Waiver'' under section 430.27(b)(2), which DOE granted on April 17, 1997, 62 FR 19742 (April 23, 1997).

No comments were received concerning either the ''Petition for Waiver'' or the ''Interim Waiver.'' The Department consulted with the Federal Trade Commission (FTC) concerning Fireplace's Petition. The FTC does not have any objections to the issuance of the waiver to Fireplace.

The Department on February 28, 1997, issued the final rule on test procedures for furnaces/boilers, vented home heating equipment, and pool heaters. 62 FR 26140 (May 12, 1997). This final rule incorporates test procedure waivers granted to different manufacturers regarding the use of pilot light energy consumption in calculating the Annual Fuel Utilization Efficiency (AFUE). This Waiver granted to Fireplace expires on November 10, 1997, the date when the final test procedure rule becomes effective, resolving the issue necessitating this Waiver.

Assertions and Determinations

Fireplace's Petition seeks a waiver from the DOE test provisions regarding the use of pilot light energy consumption in calculating the AFUE. The DOE test provisions in section 3.5 of Title 10 CFR part 430, subpart B, Appendix O, require measurement of energy input rate to the pilot light (Q_P) with an error no greater than 3 percent for vented heaters, and use of this data in section 4.2.6 for the calculation of AFUE using the formula: AFUE = $[4400\eta_{SS}\eta_u Q_{in\text{-}max}]/[4400\eta_{SS}Q_{in\text{-}max} + 2.5(4600)\eta_u Q_P]$. Fireplace requests that it be allowed to delete Q_P and accordingly, the $[2.5(4600)\eta_u Q_P]$ term in the calculation of AFUE. Fireplace states that its models DVF30, DVF36, DVF42, DVF36PNL, GW30, and GW30P vented heaters are designed with a transient pilot which is to be turned off by the user when the heater is not in use.

The control knob on the combination gas control in these heaters has three positions: ''Off,'' ''Pilot,'' and ''On.'' Gas flow to the pilot is obtained by rotating the control knob from ''Off'' to ''Pilot,'' depressing the knob, holding in, pressing the piezo igniter. When the pilot heats a thermocouple element, sufficient voltage is supplied to the combination gas control for the pilot to remain lit when the knob is released and turned to the ''On'' position. The main burner can then be ignited by moving an On/Off switch to the ''On'' position. Instructions to users to turn the gas control knob to the ''Off'' position when the heater is not in use, which automatically turns off the pilot, are provided in the User's Instruction Manual and on a label adjacent to the gas control valve. If the manufacturer's instructions are observed by the user, the pilot light will not be left on. Since the current DOE test procedure does not address this issue, and since others have received the same waiver under the same circumstances, Fireplace asks that the Waiver be granted.

Previous Petitions for Waiver under the same circumstances have been granted by DOE to Appalachian Stove and Fabricators, Inc., 56 FR 51711 (October 15, 1991); Valor Inc., 56 FR 51714 (October 15, 1991); CFM International Inc., 61 FR 17287 (April 19, 1996); Vermont Castings, Inc., 61 FR 17290 (April 19, 1996); Superior Fireplace Company, 61 FR 17885 (April 23, 1996); Vermont Castings, Inc., 61 FR 57857 (November 8, 1996); Heat-N-Glo Fireplace Products, Inc., 61 FR 64519 (December 5, 1996); CFM Majestic Inc., 62 FR 10547, (March 7, 1997); Hunter Energy and Technology Inc., 62 FR 14408, (March 26, 1997); and Wolf Steel Ltd., 62 FR 14409, (March 26, 1997).

Based on DOE's review of how Fireplace's models DVF30, DVF36, DVF42, DVF36PNL, GW30, and GW30P vented heaters operate and the fact that if the manufacturer's instructions are followed, the pilot light will not be left on, DOE grants Fireplace its Petition for Waiver to exclude the pilot light energy input in the calculation of AFUE.

This decision is subject to the condition that the heaters shall have an easily read label near the gas control knob instructing the user to turn the valve to the off-position when the heaters are not in use.

It is, therefore, Ordered that:

(1) The ''Petition for Waiver'' filed by Fireplace Manufacturers Incorporated (Case No. DH–011) is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4), and (5).

(2) Notwithstanding any contrary provisions of Appendix O of Title 10 CFR Part 430, Subpart B, Fireplace Manufacturers Incorporated shall be permitted to test its models DVF30, DVF36, DVF42, DVF36PNL, GW30, and GW30P vented heaters on the basis of the test procedure specified in Title 10 CFR part 430, with modifications set forth below:

(I) Delete paragraph 3.5 of Appendix O.

(ii) Delete paragraph 4.2.6 of Appendix O and replace with the following paragraph:

4.2.6 Annual Fuel Utilization Efficiency. For manually controlled vented heaters, calculate the Annual Fuel Utilization Efficiency (AFUE) as a percent and defined as:

$AFUE = \eta_u$

where η_u is defined in section 4.2.5 of this appendix.

(iii) With the exception of the modification set forth above, Fireplace Manufacturers Incorporated shall comply in all respects with the test procedures specified in Appendix O of Title 10 CFR part 430, subpart B.

(3) The Waiver shall remain in effect from the date of issuance of this Order until November 10, 1997, the date when the Department's final test procedure appropriate to models DVF30, DVF36, DVF42, DVF36PNL, GW30, and GW30P vented heaters manufactured by Fireplace Manufacturers Incorporated becomes effective.

(4) This Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that a factual basis underlying the Petition is incorrect.

(5) Effective June 20, 1997, this Waiver supersedes the Interim Waiver granted Fireplace Manufacturers Incorporated on April 17, 1997, 62 FR 19742 (April 23, 1997). (Case No. DH–011).

Issued in Washington, DC, on June 20, 1997.

Joseph J. Romm,

Acting Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 97–16747 Filed 6–25–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–579–000]

Florida Gas Transmission Company; Notice of Request Under Blanket Authorization

June 20, 1997.

Take notice that on June 13, 1997, Florida Gas Transmission Company (FGT), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP97–579–000, a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to operate the existing Gulf States Utilities (GSU) Calcasieu Meter Station and related facilities located in Calcasieu Parish, Louisiana, under FGT's blanket certificate issued in Docket No. CP82–553–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

FGT requests authorization to operate the GSU Calcasieu Meter Station and appurtenant facilities, including the original 12-inch tap valve and related piping, which were constructed under Section 311 of the Natural Gas Policy Act (311 Facilities). FGT states that the 311 Facilities are currently being utilized pursuant to Section 284.11 of the Commission's regulations with deliveries of natural gas to Enron Industrial Natural Gas Company (Enron Industrial) for GSU.

FGT states that it would like to remove the restrictions applicable to Section 311 and utilize the facilities for the transportation of natural gas under Part 284, Subpart G to allow all shippers on its system access to the GSU delivery point. FGT states that upon receipt of the proposed authorization, FGT will serve GSU and other markets under open-access transportation agreements, instead of separate transportation contracts.

FGT states that with the certification of the 311 Facilities, the administrative burden and rate stacking associated with transporting through facilities owned by both FGT and Enron Industrial will be removed. FGT also states that the volumes to be transported on an interruptible basis through the delivery point are estimated to be 10,000 MMBtu per day or 3,650,000 MMBtu annually.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–16704 Filed 6–25–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG97–15–000]

Kern River Gas Transmission; Notice of Filing

June 20, 1997.

Take notice that on June 17, 1997, Kern River Gas Transmission Company (Kern River) filed updated standards of conduct under Section 161.3(i) of the Commission's regulations, 18 CFR 161.3(i).

Kern River states that it served a copy of the filing on its customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with 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 July 7, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–16709 Filed 6–25–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–588–000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

June 20, 1997.

Take notice that on June 17, 1997, NorAm Gas Transmission Company (NGT), 1600 Smith Street, Houston, Texas 77002, filed in Docket No. CP97–

588–000 a request pursuant to Sections 157.205, 157.212 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212, 157.216) for authorization to abandon and construct certain facilities in Arkansas under NGT's blanket certificate issued in Docket No. CP82–384–000, *et al.*, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

NGT proposes to abandon a 1-inch tap and 2-inch U-shape, meter station on NGT's Line KM–51 in Union County, Arkansas. NGT will abandon the tap in place and reclaim the meter station to allow the installation of a new 2-inch tap and 3-inch, I-shape, meter station to deliver gas to industrial and domestic customers served by Arkla.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–16703 Filed 6–25–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM97–2–59–000]

Northern Natural Gas Company; Notice of Compliance Filing

June 20, 1997.

Take notice that on June 16, 1997 Northern Natural Gas Company (Northern), tendered for filing a Compliance Filing in compliance with the Commission's Order Accepting and Suspending Tariff Sheets Subject to Refund and Conditions and Establishing Technical Conference dated May 30, 1997.

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such petitions or protests must be filed in accordance with Section 154.210 of the Commission Regulation's. All protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make protestant a party 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 inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–16715 Filed 6–25–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–990–000]

Northern States Power Company (Minnesota Company); Notice of Filing

June 20, 1997.

Take notice that on May 7, 1997, Northern States Power Company (NSP) tendered its Amendment No. 2 in the above referenced docket.

Any person desiring to be heard or to protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214. All such motions or protests should be filed on or before June 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 application are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–16705 Filed 6–25–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–1000–000]

Northern States Power Company (Minnesota Company); Notice of Filing

June 20, 1997.

Take notice that on May 13, 1997, Northern States Power Company (NSP) tendered its Amendment No. 1 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, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before July 2, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–16706 Filed 6–25–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–249–000, et al., Docket No. CP97–238–000]

Portland Natural Gas Transmission System, Portland Natural Gas Transmission System, and Maritimes & Northeast Pipeline L.L.C.; Notice of Site Visit

June 20, 1997.

On July 8, 1997, the Office of Pipeline Regulation (OPR) staff will inspect, on the ground, locations related to the facilities proposed by Portland Natural Gas Transmission System (PNGTS) and alternative routes near the Towns of Shelburne and Gorham, New Hampshire for the PNGTS Project.

All interested parties may attend. We will depart from the parking lot of the Town and Country Inn, Route 2, Gorham, New Hampshire, at noon. Those planning to attend the July 8, 1997 site inspection must provide their own transportation.

For further information, call Paul McKee, Office of External Affairs, at (202) 208–1088.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–16700 Filed 6–25–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–129–004]

Questar Pipeline Company; Notice of Tariff Filing

June 20, 1997.

Take notice that on June 18, 1997, Quester Pipeline Company submitted to be effective June 1, 1997, a corrected Substitute Original Sheet No. 75B to First Revised Volume No. 1 of its FERC Gas Tariff.

Questar explained that, while the red-lined copy of this tariff sheet as tendered with Quester's May 27, 1997, compliance tariff filing in Docket No. RP97–129–002 was complete, the tariff sheet to be filed with the Commission did not include the last line of subparagraph (v). Quester requested that the tendered copy of Substitute Original Sheet No. 75B be inserted into and considered part of Quester's May 27, 1997, compliance filing.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–16713 Filed 6–25–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA97–602–000]

Southern California Edison; Notice of Filing

June 20, 1997.

Take notice that on May 30, 1997, Southern California Edison Company (Edison) tendered for filing a revised Open Access Transmission Tariff (Revised Tariff), which amends the open access transmission tariff filed by Edison on May 29, 1997 in compliance with Order No. 888–A (Compliance Tariff). The Revised Tariff extends Firm Point-To-Point Transmission Services offered under Part II of Edison's Compliance Tariff by adding hourly delivery. This Revised Tariff supercedes the Compliance Tariff.

Copies of this filing were served upon the Public Utilities Commission of the State of California, entities which have received transmission service from Edison since the Commission issued its Open Access NOPR in 1995, and those persons who names appear on the official service list in Docket No. OA96–76–000.

Edison seeks waiver of the 60 day prior notice requirement and requests that the Commission assign an effective date of June 2, 1997.

Any person desiring to be heard or to protest this application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before July 2, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A Watson, Jr.,

Acting Secretary.

[FR Doc. 97–16710 Filed 6–25–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–1436–000]

Southern Company Services, Inc.; Notice of Filing

June 20, 1997.

Take notice that on May 30, 1997, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Companies) filed a revised service agreement for network integration transmission service between SCS, as agent for Southern Companies, and Southern Wholesale Energy, a Department of SCS, as agent for Gulf Power Company, Under Part III of the Open Access Transmission Tariff of Southern Companies.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before July 2, 1997. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–16707 Filed 6–25–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–1437–000]

Southern Company Services, Inc.; Notice of Filing

June 20, 1997.

Take notice that on May 30, 1997, Southern Company Services, Inc., acting on behalf of Gulf Power Company filed a revised Service Agreement by and among itself, as agent for Gulf Power Company, Gulf Power Company and Florida Public Utilities Company pursuant to which Gulf Power Company

will make wholesale power sales to the Florida Public Utilities Company for a term in excess of one (1) year.

Any person desiring to be heard or to protest such 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 July 2, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–16708 Filed 6–25–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–575–000]

Southern Natural Gas Company; Notice of Request Under Blanket Authorization

June 20, 1997.

Take notice that on June 12, 1997, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP97–575–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct, install and operate a meter station for delivery of gas to Oxy USA Inc. (Oxy) for use as gas-lift gas on its offshore production platform in Main Pass Block 311A, Offshore, Louisiana, under the blanket certificate issued in Docket No. CP82–406–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Southern proposes to install a 2-inch meter station. According to Southern, Oxy has agreed to reimburse Southern for the total, actual cost of the meter station for the delivery of gas. Southern estimates the cost to be $57,900. Southern states that it will provide the transportation service to the meter station pursuant to the terms and conditions of the Service Agreement between Southern and Oxy dated November 1, 1993, under Southern's Rate Schedule IT. Southern asserts that Oxy has plans to use on average 400 Mcf/d and 146,000 Mcf annually on an interruptible basis at the meter station for its gas-lift operations.

Southern states that the delivery of gas to Oxy is subject to the availability of excess capacity in its pipeline facilities and the operating conditions of its system. Southern claims that the proposal will have no significant impact on its peak day capabilities. Southern states that it will continue to own and operate the meter station as part of its pipeline system. Southern notes that the proposed construction, installation and operation of the existing facilities is allowed by Southern's tariff. Additionally, Southern contends that it has the capacity to accomplish the deliveries proposed by the installation without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–16702 Filed 6–25–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–565–000]

Tennessee Gas Pipeline Company; Notice of Request Under Blanket Authorization

June 20, 1997.

Take notice that on June 12, 1997, Tennessee Gas Pipeline Company (Tenneco), P.O. Box 2511, Houston, Texas 77252–2511, filed in Docket No. CP97–565–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to install a delivery point located in Starr County, Texas, under Tenneco's blanket certificate issued in Docket No. CP82–413–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tenneco proposes to install a delivery point located in Starr County, Texas, to provide interruptible transportation service of up to a proposed maximum of 500 dekatherms per day of Onyx Gathering Company, L.C. (Onyx). Tenneco states it will modify the existing 2-inch assembly at Side Valve 406B–261 by installing a 2-inch tie-in assembly consisting of a 2-inch tee, a check valve, and a ball valve in addition to inspecting Onyx's installation of approximately 40 feet of 2-inch interconnect piping, upstream pressure regulation, separation, and measurement facilities.

Tenneco declares Onyx will own, operate, and maintain the interconnect piping, pressure regulation and separation facilities, and own and maintain the measurement facilities, as well as providing any necessary site preparations; additional utility services, and an all-weather access road. Tenneco asserts it will own, operate, and maintain the 2-inch tie-in assembly and will operate the meter.

Tenneco states Onyx will reimburse them for the project cost which is estimated to have a total cost of $12,200.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–16701 Filed 6–25–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER96–338–004]

Texas Eastern Transmission; Corporation; Notice of Compliance Filing

June 20, 1997.

Take notice that on June 17, 1997, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following revised tariff sheet to become effective June 2, 1997:

First Revised Sheet No. 7

Texas Eastern asserts that the purpose of this filing is to comply with the Commission's Order on Rehearing issued June 2, 1997 in Docket No. RP96–338–003 which denied the request for rehearing and directed Texas Eastern to revise its use-or-reduce tariff provision to provide that a reduction in a Section 14.9 entitlement be effective 30 days after receipt of a valid request for the capacity, provided that all other conditions are met.

Texas Eastern states that the tariff sheet listed above provides that a Section 14.9 entitlement reduction will not become effective sooner than 30 days after Texas Eastern's receipt of a valid request for the capacity.

Texas Eastern states that copies of the filing were served on all affected parties.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–16711 Filed 6–25–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–3–007]

Texas Eastern Transmission Corporation; Notice of Compliance Filing

June 20, 1997.

Take notice that on June 17, 1997, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following revised tariff sheets to become effective August 1, 1997:

Second Revised Sheet No. 436
First Revised Sheet No. 461
Second Revised Sheet No. 472
Second Revised Sheet No. 496
Second Revised Sheet No. 504
Third Revised Sheet No. 624A
Second Revised Sheet No. 681
Fourth Revised Sheet No. 1000

Texas Eastern asserts that the purpose of this filing is to comply with the Commission's order issued June 2, 1997 in Docket No. RP97–3–006 which required Texas Eastern to file tariff sheets within 15 days to incorporate GISB Business Practice Standard 4.3.6 effective August 1, 1997.

Texas Eastern states that the tariff sheets listed above implement Standard 4.3.6 to be effective August 1, 1997.

Texas Eastern states that copies of the filing were served on all affected parties.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–16712 Filed 6–25–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–352–003]

Williston Basin Interstate Pipeline Company; Notice of Supplemental Filing

June 20, 1997.

Take notice that on June 17, 1997, Williston Basin Interstate Pipeline Company (Williston Basin) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective June 1, 1997:

2nd Sub Second Revised Sheet No. 505
2nd Sub Third Revised Sheet No. 555
2nd Sub Second Revised Sheet No. 605

Williston Basin states that on June 13, 1997, it filed tariff sheets to remove certain tariff language rejected by the Commission's ''Order Accepting Tariff Sheets Subject to Conditions, and Rejecting Other Tariff Sheets'' issued May 29, 1997 in Docket No. RP97–148–002.

Upon further review, Williston Basin states it discovered a pagination error on the tariff sheets filed June 13, 1997 and is filing the above tariff sheets to correct the pagination error.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests must be filed in accordance with Section 154.210 of the Commission Regulation's. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Copies of the filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–16714 Filed 6–25–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5848–1]

Acid Rain Division; Acid Rain Provisions

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: EPA today announces the allocation of allowances to small diesel refineries for desulfurization of fuel during 1996. The eligibility for and calculation of allowances to small diesel refineries is in accordance with Section 410(h) of the Clean Air Act, implemented at 40 CFR Part 73, subpart G.

FOR FURTHER INFORMATION CONTACT: Kathy Barylski, EPA Acid Rain Division (6204J), 401 M St., SW, Washington DC; telephone (202) 233–9074. Information is also available through the Acid Rain Division website at http://www.epa.gov/acidrain.

SUPPLEMENTARY INFORMATION: EPA's Acid Rain Program was established by Title IV of the Clean Air Act Amendments of 1990 (CAAA) to reduce acid rain in the continental United States. The Acid Rain Program will achieve a 50 percent reduction in sulfur dioxide (SO_2) emissions from utility units. The SO_2 reduction program is a flexible market-based approach to environmental management. As part of this approach, EPA allocates ''allowances'' to affected utility units. Each allowance is a limited authorization to emit up to one ton of SO_2. At the end of each calendar year, each unit must hold allowances in an amount equal to or greater than its SO_2 emissions for the year. Allowances may be bought, sold, or transferred between utilities and other interested parties. Those utility units whose annual emissions are likely to exceed their allocations may install control technologies or switch to cleaner fuels to reduce SO_2 emissions or buy additional allowances.

Section 410(h) of the Clean Air Act provides allowances for small diesel refineries that desulfurize diesel fuel from October 1, 1993 through December 31, 1999. Small refineries are not otherwise affected by the Acid Rain Program and do not need the allowances to comply with any provision of the Clean Air Act. Thus, the allowances serve as a financial benefit to small diesel refineries desulfurizing diesel fuel.

The following table lists allowances to be allocated to eligible refineries for desulfurization of diesel fuel during calendar year 1996.

Refiner	Refinery/location	Allocation
Big West Oil	Flying J, Utah	1389
Cenex	Laurel, Montana	1500
Crysen	Woods Cross, Utah.	820
Frontier	Cheyenne, Wyoming	1500
Giant	Ciniza, New Mexico.	1479
	Giant Ref., New Mexico.	1235
Holly	Lea, New Mexico	1500
	Navajo, New Mexico.	1500
	Montana Refining, Montana.	306
Hunt	Tuscaloosa, Alabama.	1500
Kern	Bakersfield, California.	1500
La Gloria	Tyler, Texas	1500
Lion	El Dorato, Arkansas	1500
Paramount	Paramount, California.	581
Pennzoil	Atlas, Louisiana	1500
	Products, Texas	696
Pride	Abilene, Texas	1315
Sinclair	Little America, Wyoming.	1500
	Sinclair, Wyoming	1500
	Tulsa, Oklahoma.	1500
U.S. Oil & Refining.	Tacoma, Washington	1082
Witco	Golden Bear, California.	112
Wyoming Refining.	Newcastle, Wyoming	563

A total of 27,578 allowances are allocated to 17 refiners, which produced 55,721 thousand barrels of desulfurized diesel fuel. These allowances have a compliance year of 1997.

Requests for allowances for desulfurization during 1997 are due no later than April 1, 1998. Allowances allocated in 1998 will have a compliance year of 1998.

Dated: June 11, 1997.

Brian J. McLean,

Director, Acid Rain Division.

[FR Doc. 97–16737 Filed 6–25–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5848–6]

Common Sense Initiative Council (CSIC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of public CSIC Petroleum Refining Sector Subcommittee Meeting; Common Sense Initiative Council Meeting; and CSIC Iron and Steel Sector Subcommittee Meeting; open meetings.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the CSIC Petroleum Refining Sector Subcommittee, the Common Sense Initiative Council and the CSIC Iron and Steel Sector Subcommittee will meet on the dates and times described below. All meetings are open to the public. Seating at all three meetings will be on a first-come basis and limited time will be provided for public comment. For further information concerning specific meetings, please contact the individuals listed with the Council and two Sector Subcommittee announcements below.

(1) Petroleum Refining Sector Subcommittee—July 14–15, 1997

Notice is hereby given that the Environmental Protection Agency will hold an open meeting of the Petroleum Refining Sector Subcommittee on July 14 and 15, 1997. On Monday, July 14, 1997, the meeting will begin at approximately 1:00 p.m. CDT and end at 5:00 p.m. CDT. On Tuesday, July 15, the meeting will run from approximately 8:00 a.m. CDT until 5:00 p.m. CDT. The meeting will be held at the Midland Hotel, 172 West Adams, Chicago, Illinois 60603–3604. The telephone number is (312) 332–1200.

The agenda for this Petroleum Refining Sector Subcommittee meeting includes an introduction of new members, a discussion of process improvements for the Petroleum Sector, a presentation on the economic position of the petroleum refining industry, and an update on the status of the One Stop Reporting and Public Access Project and the Equipment Leaks Project. The Subcommittee also expects to establish sector goals for the next year and discuss potential new project ideas. A public comment period has been scheduled from 2:00 p.m. CDT until 3:00 p.m. CDT on Tuesday, July 15, 1997.

For further information concerning this Petroleum Refining Sector Subcommittee meeting, please contact either Craig Weeks, Designated Federal Officer (DFO), by mail at EPA, Region 6, mail code 6EN, 1445 Ross Avenue, Dallas, Texas 75202–2733, by telephone on (214) 665–7505 or by e-mail at weeks.craig@epamail.epa.gov or Judy Heckman-Prouty, Alternate DFO, by mail at EPA Region 1, mail code SPN, John F. Kennedy Federal Building, Boston, MA 02203–0001, by telephone on (617) 565–3269 or by e-mail at heckman.judy@epamail.epa.gov.

(2) Common Sense Initiative Council—July 21 and 22, 1997

Notice is hereby given that the Environmental Protection Agency will hold an open meeting of the Common Sense Initiative Council on Monday, July 21, 1997 from 12:30 p.m. EDT to 5:30 p.m. EDT and Tuesday, July 22, 1997, from 8:30 a.m. EDT to 3:30 p.m. EDT. The meeting will be held at the DuPont Plaza Hotel, 1500 New Hampshire Avenue, NW, Washington, DC 20036. The telephone number is (202) 483–6000.

The Council will focus on a variety of topics including an overview of the new EPA Office of Reinvention and the role of the CSI Council. The Council will continue the February Council meeting discussion on challenges to improving the existing environmental management system, including a presentation and discussion on accessibility to environmental information, and on emergency response plans. Three Sector Subcommittees, Automobile Manufacturing, Iron and Steel, and Metal Finishing, are scheduled to present recommendations to the Council.

For further information concerning this meeting of the Common Sense Initiative Council, please contact Kathleen Bailey, DFO, at EPA by telephone on (202) 260–7417, or by e-mail at bailey.kathleen@epamail.epa.gov.

(3) Iron and Steel Sector Subcommittee—July 23 and 24, 1997

Notice is hereby given that the Environmental Protection Agency will hold an open meeting of the Iron and Steel Sector Subcommittee on Wednesday, July 23, 1997, from 10:00 a.m. EDT until 5:00 p.m EDT and on Thursday, July 24, 1997, from 8:00 a.m. EDT until 4:00 p.m. EDT. The meeting will be held at the Ramada Plaza Pentagon Hotel, 4641 Kenmore Avenue, Alexandria, Virginia. The telephone number is (703) 751–4510. The purpose of this meeting is for the Subcommittee to make final decisions on the sector's work plan and projects, and to begin implementation.

At its March 1997 meeting, the Subcommittee discussed the development of a work plan for the next year and decided that prior to making any decisions, it needed to have a better picture of the industry today and a vision of the industry's future. It formed three temporary task groups and charged them with developing a baseline picture of the industry and its major problems, developing objectives for the work plan, and with examining the current regulatory scheme. At the July meeting, the Subcommittee will review the reports of each of the three task groups, hear a panel discussion about the economic environment in which the industry operates, and develop its work plan and projects to be carried out. Additionally, it will establish appropriate task forces to carry out the work plan, discuss with the Office of Enforcement and Compliance Assurance the results of the study describing the nature on compliance problems in the industry, and have status reports on the few on-going projects which the Subcommittee is overseeing (Brownsfields, Iron and Steel Web Site, Community Advisory Committee, Consolidated Reporting, and Alternative Compliance Strategy). Several hours will also be devoted to allowing the newly formed task forces time to organize and begin work on the identified projects.

For further information concerning this meeting of the Iron and Steel Sector Subcommittee, please contact Ms. Judith Hecht, alternate DFO, at EPA on (202) 260–5682 in Washington, DC or Bob Tolpa, at EPA Region 5 in Chicago on (312) 886–6706, or Dr. Mahesh Podar, DFO, at EPA on (202) 260–5711.

Inspection of Council and Subcommittee Documents

Documents relating to the above announcements will be publicly available at the meetings. Thereafter, these documents, together with the official minutes for the meetings, will be available for public inspection in room 2821M of EPA Headquarters, Common Sense Initiative Staff, 401 M Street, SW, Washington, DC 20460, telephone number 202–260–7417. Common Sense Initiative information can be accessed electronically on our web site at http./ /www.epa.gov/commonsense.

Dated: June 23, 1997.

Kathleen Bailey,

Designated Federal Officer.

[FR Doc. 97–16755 Filed 6–25–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 97–1284]

Cable Services Action Commission Announces Change of Date for En Banc Hearing on Industry Proposal For Rating Video Programming and on ''V-Chip'' Technology

June 19, 1997.

The en banc hearing on: (1) The joint proposal submitted to the Commission on January 17, 1997 by the National Association of Broadcasters, the National Cable Television Association and the Motion Picture Association of America describing a voluntary system for rating video programming; and (2) video programming blocking technology, has been changed from June 20, 1997 to July 14, 1997. The en banc hearing will begin at 9:30 a.m. in the Commission meeting room, Room 856, 1919 M Street, N.W., Washington, D.C. 20554. The Commission will announce participants and a hearing format in the near future.

On February 7, 1997, the Commission issued a Public Notice seeking comment on the industry proposal. See Public Notice, Commission Seeks Comment on Industry Proposal for Rating Video Programming, CS Docket No. 97–55, FCC 97–34, Report No. CS 97–6 (February 7, 1997). Copies of the Public Notice, which attaches a copy of the industry proposal as an Appendix, may be obtained from the Commission's Public Reference Room, Room 239, 1919 M Street, N.W., Washington, D.C., from the Commission's Internet site (http://www.fcc.gov/vchip), or by calling ITS, the Commission's transcription service, at (202) 857–3800.

On April 23, 1997, the Commission announced that the en banc hearing would be held on June 4, 1997. See Public Notice, Commission Announces En Banc Hearing on Industry Proposal for Rating Video Programming and on ''V-Chip'' Technology, CS Docket No. 97–55, DA 97–857, 62 FR 24654 (May 6, 1997).

In order to provide interested parties an opportunity to respond to matters raised in the en banc hearing, the due date for surreply comments in CS Docket No. 97–55 is extended from July 7, 1997 to July 28, 1997.

Media contact: Morgan Broman (202) 418–2358

TV Ratings contact: Meryl S. Icove or Rick Chessen (202) 418–7200; Buck Logan (202) 418–2130.

V-Chip Technology contact: Rick Engelman (202) 418–2157

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–16692 Filed 6–25–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (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: Renewal of currently approved collection.

Title: Application for Federal Deposit Insurance.

Form Number: 6200/05.

OMB Number: 3064–0001.

Annual Burden: Annual number of respondents: 200; Hours to respond to an application: 250; Annual burden hours: 50,000.

Expiration Date of OMB Clearance: June 30, 1997. (An extension of the expiration date is expected).

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, D.C. 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before [insert date 30 days after date of publication in the Federal Register] to both the OMB reviewer and the FDIC 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: Section 5 of the FDI Act (12 U.S.C. 1815) provides that any depository institution engaged in the business of receiving deposits other than trust funds, upon application and examination by the FDIC and approval by its Board of Directors, may become an insured depository institution. Application is made on form FDIC 6200/05 which requests information relating to seven factors established by Section 6 of the FDI Act (12 U.S.C. 1816) to determine whether the applicant will qualify for Federal deposit insurance.

Dated: June 23, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 97–16752 Filed 6–25–97; 8:45 am]

BILLING CODE 6711–01–M

FEDERAL HOUSING FINANCE BOARD

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 62 FR 33080, June 18, 1997.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2:00 p.m., Wednesday, June 25, 1997.

CHANGE IN THE MEETING: Previously announced Board meeting time has been changed from 2:00 p.m. to 3:30 p.m.

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408–2837.

William W. Ginsberg,

Managing Director.

[FR Doc. 97–16960 Filed 6–24–97; 2:46 pm]

BILLING CODE 6725–01–P–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 10, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. James Hugh Bryan, Jasper, Georgia; to acquire an additional .67 percent, for a total of at least 10 percent of the voting shares of JBC Bancshares, Inc., Jasper, Georgia, and thereby indirectly acquire Jasper Banking Company, Jasper, Georgia.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Charles E. Waterman, Frankfort, Illinois; to control at least 48.3 percent, of the voting shares of South Holland Bancorp, Inc., South Holland, Illinois, and thereby indirectly acquire South Holland Trust & Savings Bank, South Holland, Illinois.

Board of Governors of the Federal Reserve System, June 20, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–16689 Filed 6–25–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 21, 1997.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. NSS Bancorp, Inc., Norwalk, Connecticut; to acquire 100 percent of the voting shares of Norwalk Savings Society, Norwalk, Connecticut.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Area Bancshares Corporation, Owensboro, Kentucky; to acquire 100 percent of the voting shares of Cardinal Bancshares, Inc., Lexington, Kentucky, and thereby indirectly acquire The Vine Street Trust Company, Lexington, Kentucky; First & Peoples Bank, Springfield, Kentucky; HNB Bank National Association, Harlan, Kentucky; and Jefferson Banking Company, Louisville, Kentucky.

In connection with this application, Applicant has also applied to acquire Alliance Bank, FSB, Somerset, Kentucky, and thereby engage in the operation of a federal savings bank, pursuant to § 225.28(b)(4)(ii) of the Board's Regulation Y, and Cardinal Data Services Corporation, Lexington, Kentucky, and thereby engage in data processing activities, pursuant to § 225.28(b)(14) of the Board's Regulation Y.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. First National Bank of Julesburg and South Platte Bancorp, ESOP, Julesburg, Colorado; to acquire 1.41 percent for a total of 34.64 percent, of the voting shares of South Platte Bancorp, Julesburg, Colorado.

D. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Bryan Family Management Trust, Bryan, Texas; to become a bank holding company by acquiring 3 percent of the voting shares of Bryan-Heritage Limited Partnership, Bryan, Texas, and thereby indirectly acquire The First National Bank of Bryan, Bryan, Texas.

In connection with this application, Bryan-Heritage Limited Partnership, Bryan, Texas also has applied to become a bank holding company by acquiring 24.99 percent of the voting shares of The First National Bank of Bryan, Bryan, Texas.

E. Federal Reserve Bank of San Francisco (Pat Marshall, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Eggemeyer Advisory Corp., San Diego, California; Castle Creek Capital, L.L.C., San Diego, California; Castle Creek Capital Partners Fund - I, L.P., San Diego, California; and Western Bancorp, Laguna Niguel, California, to merge with SC Bancorp, Anaheim, California, and thereby indirectly acquire Southern California Bank, Anaheim, California.

Board of Governors of the Federal Reserve System, June 20, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–16690 Filed 6–25–97; 8:45 am]

BILLING CODE 6210–01–F

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. The notice also will 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 10, 1997.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Cooperative Centrale Raiffeisen-Boerenleenbank, B.A., Rabobank Nederland, Utrecht, the Netherlands; to engage *de novo* through its subsidiaries, Smith Graham & Co. Asset Managers L.P., Houston, Texas; SGR Global Advisers, Houston, Texas; Robeco Institutional Asset Management US, Inc., Houston, Texas; AEA Global Advisors LLC, New York, New York; and Robeco Group, N.V., Rotterdam, in retaining up to 40 percent, and to acquire up to 100 percent of Smith Graham & Co. Asset Managers L.P.; in retaining 100 percent of SGR Global Advisers, a limited partnership; in acquiring 100 percent of Robeco Institutional Asset Management US, Inc., a *de novo* corporation; and to acquire initially 33-1/3 percent, and in the future to acquire up to 100 percent of AEA Global Advisors, LLC, and thereby to engage through Smith Graham & Co. Asset Managers L.P., SGR Global Advisers, Robeco Institutional Asset Management US, Inc., and AEA Global Advisors LLC, in acting as investment or financial advisor (on a discretionary basis) to any person, pursuant to § 225.28(b)(6) of the Board's Regulation Y; in acting as a general partner to and providing administrative services to investment partnerships, including placing interests in such partnerships, *See The Bessemer Group*, 82 Fed. Res. Bull. 569 (1996), and *Meridian Bancorp, Inc.*, 80 Fed. Res. Bull. 736 (1994); in acting as a commodity pool operator, *See The Bessemer Group*, 82 Fed. Res. Bull. 569 (1996); and in providing administrative services to open-end investment companies, *See The Governor and Company of the Bank of Ireland*, 82 Fed. Res. Bull. 1129 (1996), with certain exceptions relating to the proposed provision of advisory and administrative services to open-end investment companies that are discussed in the notice.

Board of Governors of the Federal Reserve System, June 20, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–16688 Filed 6–25–97; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[FAR Case 95–011]

Submission for OMB Review; Comment Request Entitled Subcontract Consent

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding a new collection requirement.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR)

Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve a new information collection requirement concerning Subcontract Consent (FAR Case 95–011). A request for public comments was published at 62 FR 19464 on April 21, 1997. No comments were received.

DATES: *Comment Due Date:* July 28, 1997.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat, Room 4037, 1800 F Street, NW, Washington, DC 20405. Please cite FAR case 95–011, Subcontract Consent, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein, Office of Federal Acquisition Policy, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

The objective of consent to subcontract, as discussed in FAR Part 44, is to evaluate the efficiency and effectiveness with which the contractor spends Government funds, and complies with Government policy when subcontracting. The consent package provides the administrative contracting officer a basis for granting, or withholding consent to subcontract. The rule reduces the burden on contractors by placing greater reliance on purchasing system approvals, and by reducing the number of subcontract actions under which they must submit consent packages.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *2 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.

The annual reporting burden is estimated as follows: Respondents *4,252*; responses per respondent, *3.61*; total annual responses, *15,344*; preparation hours per response, *.87*; and total response burden hours, *13,384*.

Obtaining Copies of Justifications: Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, 1800 F Street, NW, Washington, DC 20405, telephone (202) 501–4755. Please cite FAR case 95–011, Subcontract Consent, all correspondence.

Dated: June 23, 1997.

Sharon A. Kiser,

FAR Secretariat.

[FR Doc. 97–16731 Filed 6–25–97; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0096]

Submission for OMB Review; Comment Request Entitled Patents

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0096).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Patents. A request for public comments was published at 62 FR 19313, April 21, 1997. No comments were received.

FOR FURTHER INFORMATION CONTACT: Jack O'Neill, Federal Acquisition Policy Division, GSA (202) 501–3856.

DATES: *Comment Due Date:* July 28, 1997.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to the General Services Administration, FAR Secretariat, 1800 F Street, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0096 in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

The patent coverage in FAR subpart 27.2 requires the contractor to report each notice of a claim of patent or copyright infringement that came to the contractor's attention in connection with performing a Government contract above a dollar value of $25,000 (sections 27.202–1 and 52.227–2). The contractor is also required to report all royalties anticipated or paid in excess of $250 for the use of patented inventions by furnishing the name and address of licensor, date of license agreement, patent number, brief description of item or component, percentage or dollar rate of royalty per unit, unit price of contract item, and number of units (sections 27.204–1, 52.227–6, and 52.227–9). The information collected is to protect the rights of the patent holder and the interest of the Government.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *.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.

The annual reporting burden is estimated as follows: Respondents, *30;* responses per respondent, *1;* total annual responses, *30;* preparation hours per response, *.5;* and total response burden hours, *15*.

Obtaining Copies of Proposals: Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4037, 1800 F Street, NW, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0096, Patents, in all correspondence.

Dated: June 23, 1997.

Sharon A. Kiser,

FAR Secretariat.

[FR Doc. 97–16733 Filed 6–25–97; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement 768]

HIV, STDs, and TB Related Applied Research Projects

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of funds beginning in fiscal year (FY) 1997 for cooperative agreements to conduct human immunodeficiency virus (HIV), sexually transmitted diseases (STDs), and tuberculosis (TB) related applied research into the control and prevention of HIV, STDs and TB.

CDC is committed to achieving the health promotion and disease prevention objectives of ''Healthy People 2000,'' a national activity to reduce morbidity and mortality and improve the quality of life. This announcement relates to the Healthy People 2000 priority areas of Educational and Community-Based Programs, HIV Infection, Sexually Transmitted Diseases (STDs), and Immunization and Infectious Diseases. (For ordering a copy of ''Healthy People 2000,'' see the section entitled ''Where to Obtain Additional Information.'')

Authority

This program is authorized under the Public Health Service Act, Sections 317(k)(2)(42 U.S.C. 247b(k)(2), 317E (42 U.S.C.247b–6) and 318 of the Public Health Service Act, (42 U.S.C. 247c), as amended. Regulations governing grants for STD research are codified in Part 51b, Subparts A and F of Title 42, Code of Federal Regulations.

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Eligible applicants will include universities, colleges, research institutions, hospitals, public and private non-profit organizations, community-based, national, and regional organizations, State and local governments or their bona fide agents or instrumentalities, federally recognized Indian Tribal governments, Indian tribes or organizations, and small, minority- and/or women owned non-profit businesses.

Note: Organizations described in section 501(c)(4)of the Internal Revenue Code of 1986 that engage in lobbying are not eligible to receive Federal grant/cooperative agreement funds.

Availability of Funds

Approximately $500,000 is available in FY 1997 to fund up to three awards. The awards will be made for a 12-month budget period within a project period of up to five years. Funding will be available during the fiscal year for applications submitted that are consistent with the National Center for HIV, STD, and TB Prevention (NCHSTP) National Program Goals. Funding estimates may vary and are subject to change.

Continued support in future years will be based on the availability of funds and success in demonstrating progress toward achievement of objectives.

Use of Funds

Restrictions on Lobbying

Applicants should be aware of restrictions on the use of HHS funds for lobbying of Federal or State legislative bodies. Under the provisions of 31 U.S.C. Section 1352 (which has been in effect since December 23, 1989), recipients (and their subtier contractors) are prohibited from using appropriated Federal funds (other than profits from a Federal contract) for lobbying Congress or any Federal agency in connection with the award of a particular contract, grant, cooperative agreement, or loan. This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

In addition, the FY 1997 HHS Appropriations Act, which became effective October 1, 1996, expressly prohibits the use of 1997 appropriated funds for indirect or ''grass roots'' lobbying efforts that are designed to support or defeat legislation pending before State legislatures. This new law, Section 503 of Pub. L. No. 104–208, provides as follows:

Sec. 503(a)—No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress, . . . except in presentation to the Congress or any State legislative body itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997, as enacted by the Omnibus Consolidated Appropriations Act, 1997, Division A, Title I, Section 101(e), Pub. L. No. 104–208 (September 30, 1996).

Program Priority Areas

In future announcements, CDC will announce priority areas through both the **Federal Register** and the Internet.

Background

HIV continues to be a major health problem in the Nation with an estimated 650,000 to 900,000 persons currently infected. Through the end of June 1996, 548,102 AIDS cases and 346,127 deaths were reported. AIDS is currently the eighth leading cause of death in Americans of all ages and the leading cause of death in persons aged 25 to 44 years.

STDs are a major public health problem in the United States with over 12 million new cases occurring every year. These diseases frequently result in severe, irreversible complications, including involuntary infertility, fatal ectopic pregnancy, fetal wastage, congenital infections, cervical cancer, and at least a three-to five-fold increased risk of HIV transmission. Effective STDs prevention efforts in the United States require a broad base of support and collaboration between public and private providers. The prevention of STDs will result in achievement of goals for other programs as well as including reduction in HIV transmission and healthier women and infants.

Between 1985 and 1992, after more than 3 decades of steady decline, there was a resurgence of TB in this country with a 20 percent increase in the number of reported cases. In 1992, many State and local TB prevention and control programs received funding increases for TB control in response to the needs created by this resurgence. These programs rapidly mobilized to implement portions of the 1989 Strategic Plan for the Elimination of Tuberculosis in the United States and the ''1992 National Action Plan to Combat Multi-drug Resistant Tuberculosis'. The funding increases allowed programs to improve laboratory capabilities for prompt diagnosis of TB; pay close attention to program performance indicators to measure and improve success; and apply techniques to ensure that patients complete therapy and are no longer infectious (such as hiring outreach workers to meet with patients and provide directly observed therapy). As a result, the number of reported cases for 1996 will be the fourth consecutive annual decline as compared to the previous year. However, the global TB problem (over 8 million cases and 3 million deaths per year) has an important impact on the United States, where in 1995 an increasing percentage of new cases were

in foreign-born persons (35 percent). Thus, the efforts responsible for the recent decreases in TB cases must be sustained to achieve the ultimate elimination of TB from the United States. State and local TB control programs are working to prevent, control, and eventually eliminate TB in the United States. This effort requires a wide variety of activities and collaboration between private and public efforts and patients or patient advocates.

Purpose

The purpose of this program is to provide funding for new and innovative methods that further the prevention efforts related to HIV, STDs and TB. Projects that will be considered for funding are applied research into the control and prevention of HIV, STDs, or TB.

National Program Goals

CDC's national strategic goals for the programs supported by the National Center for HIV, STDs and TB Prevention are:

1. Increase public understanding of, involvement in, and support for HIV, STDs, and TB prevention.
2. Ensure completion of therapy for persons identified with active TB or TB infection.
3. Prevent or reduce behaviors or practices that place persons at risk for HIV and STDs infection or, if already infected, place others at risk.
4. Increase individual knowledge of HIV serostatus and improve referral systems to appropriate prevention and treatment services.
5. Assist in building and maintaining the necessary State, local, and community infrastructure and technical capacity to carry out necessary prevention programs.
6. Strengthen the current systems and develop new systems to accurately monitor HIV, STDs, and TB, as a basis for assessing and directing prevention programs.

Program Requirements

Recipient activities to achieve the purposes of this program will vary by project. Some examples of the range and types of activities are described below under Recipient Activities. CDC will be responsible for the activities under CDC Activities.

1. Recipient Activities

A. Develop and implement prevention strategies for HIV, STDs or TB transmission.

B. Develop and implement strategies for identifying and addressing behavioral, diagnostic, prevention and treatment problems that have not been fully explored.

C. Develop and implement an evaluation plan that measures the effectiveness of the projects.

D. Ensure that appropriate approvals are secured for the protection of human subjects, Office of Management and Budget and Paperwork Reduction Act, privacy, confidentiality, and data security.

E. Compile and disseminate findings.

2. CDC Activities

A. Monitor and evaluate scientific and operational accomplishments of the project through periodic site visits, frequent telephone calls, and review of technical reports and interim data analysis.

B. If an awardee should need to collaborate with a State or local health department, CDC will assist in facilitating the planning and implementation of the necessary linkages with local or State health departments and assist with the developmental strategies for applied clinical or prevention oriented research programs.

C. Assist in the development and implementation of an evaluation plan that measures the effectiveness of the projects and their overall impact on prevention goals.

D. Facilitate the technological and methodological dissemination of successful prevention and intervention models among appropriate target groups, such as, State and local health departments, community based organizations, and other health professionals.

E. Participate in planning, implementing, and evaluating strategies and protocols.

F. Participate in the publication and dissemination of study results.

Technical Reporting Requirements

Progress reports are required annually as part of the continuation application (75 days prior to the start of the next budget period). The progress reports must contain information on accomplishments during the previous budget period. Financial status reports (FSR) are required no later than 90 days after the end of the budget period. The final performance and financial status reports are required 90 days after the end of the project period. The final performance report should include, at a minimum, a statement of original objectives, a summary of methodology, a summary of positive and negative findings, and a list of publications resulting from the project. Research papers, project reports, or theses are acceptable items to include in the final report. The final report should stand alone rather than citing the original application. Three copies of reprints of publications prepared under the award should accompany the report. All reports must be submitted to the Grants Management Branch, Procurement and Grants Office, CDC.

Letter of Intent (LOI)

Potential applicants must submit an original and two copies of a two-page typewritten Letter of Intent (LOI) that briefly describes the title of the project, purpose and need for the project as well as its relationship to the National Program Goals, the estimated total cost of the proposed project, and the dollar amount and percentage of the total cost being requested from CDC. Current recipients of CDC funding must provide the award number and title of the funded programs. No attachments, booklets, or other documents accompanying the LOI will be considered.

LOI's will be reviewed by CDC program staff and an invitation to submit a full application will be made based on the documented need for the proposed project, contribution to the National Program Goals, and the availability of funds.

An invitation to submit a full application does not constitute a commitment by CDC to fund the applicant.

Application Content

Applications may be submitted only after a Letter of Intent has been approved by the CDC and a written invitation from the CDC has been extended to the prospective applicant. Applicants who are invited to submit a full application must use Form PHS 398 (OMB Number 0925–0001), and submit an original and five copies. The application narrative should consist of:

1. Abstract (Not to exceed 1 page): An executive summary of your program covered under this announcement.
2. Program Plan (Not to exceed 10 pages): In developing the application under this announcement, please review the recipient activities and evaluation criteria and respond concisely and completely.
3. Budget: Submit an itemized budget that is consistent with your proposed program plan.

Evaluation Criteria

Applications responding to this announcement will be evaluated individually according to the following criteria:

1. Degree to which proposed objectives are clearly established, obtainable, and for which progress toward attainment can be measured, are time-phased, and related to the program objectives. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

a. The proposed plan for the inclusion of both sexes and racial and minority populations for appropriate representation;

b. The proposed justification when representation is limited or absent;

c. A statement as to whether the design of the study is adequate to measure differences when warranted; and

d. A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits. (40 points)

2. The degree to which the applicant institution offers a supportive environment and documents success in achieving objectives similar to those of this project. (30 points)

3. Extent to which personnel involved in this project are qualified, including evidence of past achievements appropriate to the project. Evidence of adequacy of facilities and other resources needed to carry out the project. (30 points)

4. Other (not scored).

(a) Budget: Will be reviewed to determine the extent to which it is reasonable, clearly justified, consistent with the intended use of the funds, and allowable. All budget categories should be itemized.

(b) Human Subjects: Whether or not exempt from the Department of Health and Human Services regulations, are procedures adequate for the protection of human subjects? Recommendations on the adequacy of protections include the following: (a) protections appear adequate and there are no comments to make or concerns to raise, (b) protections appear adequate, but there are comments regarding the protocol, (c) protections appear inadequate and the Objective Review Group (ORG) has concerns related to human subjects; or (d) disapproval of the application is recommended because the research risks are sufficiently serious and protection against the risks are inadequate as to make the entire application unacceptable.

Executive Order 12372 Review

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers are 93.941, HIV Demonstration, Research, Public and Professional Education; 93.943, Epidemiologic Research Studies of Acquired Immunodeficiency Virus (AIDS) and Human Immunodeficiency Virus (HIV) Infection in Selected Population Groups; 93.947, Tuberculosis Demonstration, Research, Public and Professional Educations; and 93.978, Prevention Health Services—Sexually Transmitted Diseases Research, Demonstrations, and Public Information and Education Grants.

Other Requirements

Human Subjects

Recipients must comply with the Department of Health and Human Services Regulations, 45 CFR Part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines provided in the application kit.

Confidentiality

All personally identifying information obtained in connection with the delivery of services provided to any individual under any program that is being carried out with a cooperative agreement made under this announcement shall not be disclosed unless required by a law of a State or political subdivision or unless such an individual provides written, voluntary informed consent.

Women, Racial and Ethnic Minorities

It is the policy of the CDC to ensure that individuals of both sexes and the various racial and ethnic groups will be included in CDC-supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No. 15 and include American Indian, Alaska Native, Asian, Pacific Islander, Black and Hispanic. Applicants shall ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exist that inclusion is inappropriate or not feasible, this situation must be explained as part of the application. This policy does not apply to research studies when the investigator cannot control the race, ethnicity and/or sex of subjects. Further guidance to this policy is contained in the **Federal Register**, Vol. 60, No. 179, Friday, September 15, 1995, pages 47947–47951 (a copy is included in the application kit).

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by the cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

HIV/AIDS Requirements

Recipients must comply with the document entitled ''Content of AIDS-Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions'' (June 1992), a copy of which is included in the application kit. At least one member of the program review panel must be an employee (or a designated representative) of the health department consistent with the ''Content'' guidelines. The names of the review panel members must be listed on the Assurance of Compliance for CDC 0.1113, which is also included in the application kit. The recipient must submit, as an attachment to the application, the program review panel's report affirming that all materials have been reviewed and approved.

Submission Requirements and Deadlines

A. Letter of Intent (LOI)

ONE ORIGINAL AND TWO COPIES of the LOI must be postmarked on or before July 18, 1997. (FACSIMILES ARE NOT ACCEPTABLE.)

B. Application

ONE ORIGINAL AND FIVE COPIES of the invited applications must be submitted on Form PHS 398 (OMB Number 0925–0001) and must be postmarked on or before August 15, 1997.

C. Address for Submission of Letter of Intent and Invited Application

Van Malone, Grants Management Officer, Grants Management Branch, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road NE., Room 300, Mailstop E–15,

Atlanta, Georgia 30305, ATTN: Juanita Dangerfield.

D. Application Deadline

Letters of Intent and Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date, or

2. Postmarked on or before the deadline date and received in time for submission to the objective review committee. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

E. Late Applications

Applications that do not meet the criteria in D.1. or D.2. above are considered late applications and will be returned to the applicant without review.

Where To Obtain Additional Information

Business management technical assistance may be obtained from Juanita Dangerfield, Grants Management Specialist, Grants Management Branch, Centers for Disease Control and Prevention (CDC), Procurement and Grants Office, 255 East Paces Ferry Road NE., Room 300, Mailstop E–15, Atlanta, GA 30305, telephone (404) 842–6577, or facsimile at (404) 842–6513, or INTERNET address: jdd2@cdc.gov.

Programmatic technical assistance may be obtained from the National Center for HIV, STDs and TB Prevention, Centers for Disease Control and Prevention (CDC), Atlanta, GA 30303, for HIV, contact Lynn Austin, telephone (404) 639–0902; for STD, contact Sevgi Aral, telephone (404) 639–8259; for TB, contact Bess Miller, telephone (404) 639–8120.

Please refer to Announcement 768 when requesting information and submitting an application.

Potential applicants may obtain a copy of ''Healthy People 2000'' (Full Report, Stock No. 017–001–00474–0), ''Healthy People 2000'' (Summary Report, Stock No. 017–001–00473–1), referenced in the ''INTRODUCTION'' through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: June 20, 1997.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–16725 Filed 6–25–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS 97–07A]

Fiscal Year 1997 Family Violence Prevention and Services Discretionary Funds Program; Availability of Funds and Request for Applications

Correction

In the **Federal Register**, Vol. 62, No. 103, May 29, 1997, beginning on page 29244 make the following correction:

On page 29249 in the second column, under Minimum Requirements for Project Design, in the last sentence, ''900 hours per semester'' should read ''400 hours per year.''

(Catalog of Federal Domestic Assistance number 93.592, Family Violence Prevention and Services)

Dated: June 23, 1997.

Donald Sykes,

Director, Office of Community Services.

[FR Doc. 97–16775 Filed 6–25–97; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS 97–09]

Request for Applications Under the Office of Community Services' Fiscal Year 1997 Training, Technical Assistance, and Capacity-Building Program

AGENCY: Office of Community Services, ACF, DHHS.

ACTION: Request for Applications Under the Office of Community Services' Training, Technical Assistance and Capacity-Building Program.

SUMMARY: The Office of Community Services (OCS) announces that competing applications will be accepted for new grants pursuant to the Secretary's authority under section 674(a) of the Community Services Block Grant Act of 1981, as amended, the Human Services Amendments of 1994, (Pub. L. 103–252). This Program Announcement consists of seven parts. Part A covers information on the legislative authority and defines terms used in the Program Announcement. Part B describes the purposes and Priority Areas that will be considered for funding, and describes which organizations are eligible to apply in each Priority Area. Part C provides details on application prerequisites, anticipated amounts of funds available in each Priority Area, tentative numbers of grants to be awarded, etc. Part D provides information on application procedures including the availability of forms, where to submit an application, criteria for initial screening of applications, and project evaluation criteria. Part E provides guidance on the content of an application package and the application itself. Part F provides instructions for completing an application. Part G details post-award requirements.

CLOSING DATE: The closing time and date for receipt of applications is 4:30 p.m., Eastern time zone, on August 11, 1997. Applications received after 4:30 p.m. on that date will be classified as late. Postmarks and other similar documents do not establish receipt of an application. Detailed application submission instructions including addresses where applications must be received are found in Part D of this Announcement.

FOR FURTHER INFORMATION CONTACT: Margaret Washnitzer, Director, Division of State Assistance, Office of Community Services, Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, DC. 20447 (202) 401–9343. This Program Announcement is accessible on the OCS Electronic Bulletin Board for downloading through a computer modem by calling 1–800–627–8886. For assistance in accessing the Bulletin Board, *A Guide to Accessing and Downloading* is available from Ms. Minnie Landry at (202) 401–5309.

Part A—Preamble

1. Legislative Authority

Under section 674(a)(1) and (2) of the Community Services Block Grant (CSBG) Act of 1981, as amended by the Human Services Amendments of 1994, Pub. L. 103–252, the Secretary of Health and Human Services is authorized to utilize a percentage of appropriated funds for training, technical assistance, planning, evaluation, and data collection activities related to programs or projects carried out under this subtitle. To carry out the above activities, the Secretary is authorized to

make grants, or enter into contracts or cooperative agreements with eligible entities or with organizations or associations whose membership is composed of CSBG-eligible entities or agencies that administer programs for CSBG-eligible entities.

The process for determining the technical assistance, training and capacity-building activities to be carried out under this referenced section shall (a) ensure that the needs of community action agencies and programs relating to improving program quality, including financial management practices, are addressed to the maximum extent feasible; and (b) incorporate mechanisms to ensure responsiveness to local needs, including an ongoing procedure for obtaining input from the community action, State and national networks. A major step to improve program quality and management of programs within the Community Services Network has been the thrust of the CSBG Task Force on Monitoring and Assessment. The Task Force has taken a comprehensive approach to monitoring including establishing national goals and outcome measures, reviewing data needs relevant to these outcome measures, and assessing technical assistance and training provided toward capacity building within the Community Services Network.

2. Definitions of Terms

For purposes of this Program Announcement the following definitions apply:

Eligible entity means any organization which was officially designated as a community action agency (CAA) or a community action program under section 673(1) of the Community Services Block Grant Act (CSBG), and meets all the requirements under section 675(c)(3) of the CSBG Act. All ''eligible entities'' are current recipients of Community Services Block Grant funds, including Migrant and Seasonal Farmworker programs which received CSBG funding in the previous fiscal year (FY 1996). In cases where eligible entity status is unclear, final determination will be made by OCS/ACF.

Performance Measure is a tool used to objectively assess how a program is accomplishing its mission through the delivery of products, services, and activities.

Outcome Measures are indicators which focus on the direct results one wants to have on customers.

Results-Oriented Management is an approach to monitoring and assessment that identifies measures of program success that are targeted to outcome measures.

Training is an educational activity or event which is designed to impart knowledge, understanding, or increase the development of skills. Such training activities may be in the form of assembled events such as workshops, seminars, conferences or programs of self-instructional activities.

Technical assistance is an activity, generally utilizing the services of an expert (often a peer), aimed at enhancing capacity, improving programs and systems, or solving specific problems. Such services may be provided proactively to improve systems or as an intervention to solve specific problems. Services may be provided on-site, by telephone, or other communications systems.

State means all of the States and the District of Columbia. Except where specifically noted, for purposes of this Program Announcement, it also means *Territory*.

Territory refers to the Commonwealth of Puerto Rico, the American Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau.

Local service providers are the approximately 1,144 local public or private non-profit agencies that receive Community Services Block Grant funds from States to provide services to, or undertake activities on behalf of, low-income people.

Nationwide refers to the scope of the technical assistance, training, data collection, or other capacity-building projects to be undertaken with grant funds. Nationwide projects must provide for the implementation of technical assistance, training or data collection for all or a significant number of States, and the local service providers who administer CSBG funds.

Statewide refers to training, technical assistance and other capacity-building activities undertaken with grant funds and available to one or more community action agencies in a State, as needed and appropriate.

Community Services Network refers to the various organizations involved in planning and implementing programs funded through the Community Services Block Grant or providing training, technical assistance or support to them. The network includes local community action agencies, other eligible entities, State CSBG offices and their national association, CAA State, regional and national associations, and related organizations which collaborate and participate with community action agencies and other eligible entities in their efforts on behalf of low-income people.

Program technology exchange refers to the process of sharing expert technical and programmatic information, models, strategies and approaches among the various partners in the Community Services Network. This may be done through written case studies guides, seminars, technical assistance, and other mechanisms.

Capacity-building refers to activities that assist community action agencies and programs to improve or enhance their overall or specific capability to plan, deliver, manage and evaluate programs efficiently and effectively to produce results. This may include upgrading internal financial management or computer systems, establishing new external linkages with other organizations, improving board functioning, adding or refining a program component or replicating techniques or programs piloted in another local community, or other cost effective improvements.

Part B—Purposes/Program Priority Areas

Section 674(a)(1) and (2) of the CSBG Act authorizes the Secretary of the Department of Health and Human Services to make grants, or to enter into contracts or cooperative arrangements with eligible entities or with organizations or associations whose membership is composed of eligible entities or agencies that administer programs for eligible entities for purposes of providing training, technical assistance, planning, evaluation, and data collection activities related to programs or projects carried out under the CSBG Act. Therefore, the principal purpose of this Announcement is to stimulate and support the activities of planning, training, technical assistance and data collection which strengthen the Community Services Network to affect results for low-income people. New and revised techniques and tools are needed to fundamentally change the way the Network does business on a daily basis.

In addition to the changes in the 1994 CSBG Reauthorization Act, two other concepts which frame the technical assistance and training activities in this Program Announcement have converged to assist the Community Services Network in making this change: (a) the Government Performance and Results Act of 1993 (Pub. L. 103–62), which requires Federal programs to determine and describe expected program outcomes; and (b) the Community Services Block Grant Task Force on Monitoring and Assessment established

by the Director of the OCS to develop a process to encourage the Community Services Network to manage for results. Thus, the importance of strong technical assistance, training, planning and data collection is essential to ensure a results-oriented strategy for the management and delivery of service to low-income people.

OCS is soliciting applications which implement these legislative mandates in a systematic manner on a nationwide or Statewide basis, as appropriate to the Priority Area. OCS believes that identifying training and technical assistance needs requires substantial involvement of eligible entities at local, State and national levels. OCS also anticipates that the recipients of awards under this Program Announcement can be expected to implement the approved project(s) without substantial Federal agency involvement and direction. Therefore, subject to the availability of funds, funds will be provided in the form of grants. Priorities 1.1—Training and Technical Assistance to Enhance Community Action Agencies' and Other Local Service Provider's Capacity and 1.2—T&TA to CAA State and Regional Associations were announced as continuation grants for FY 1997 and FY 1998. Although these grants are therefore continued in FY 1997 and FY 1998 without competition, depending upon the availability of funds and the priorities of the department, we have included the amounts of the grant in the Availability of Funds section of this Announcement. The National Association of Community Action Agencies is the present grantee for both of these priority areas. The other major Priority Areas of the Office of Community Services' Fiscal Year 1997 Training, Technical Assistance, and Capacity-Building Program are as follows:

Priority Area 1.0: Training and Technical Assistance for the Community Services Network

Sub-Priority Areas:

1.3 Replication of Pilot Training and/or Service Delivery Projects;

1.4 Provision of Coordinated Peer-to-Peer TA Strategies for CAAs and Programs Related to Welfare Reform

1.5 TA to Develop Special Initiatives Between CAAs and Organizations Addressing Urban Problems.

Priority Area 2.0: Data Collection, Analysis, Dissemination, and Utilization

Sub-Priority Areas:

2.1 Collection, Analysis, and Dissemination of Information on CSBG Activities Nationwide; and

2.2 CAAs and Technology.

Priority Area 1.0: Training and Technical Assistance for the Community Services Network: This Priority Area addresses the development and implementation of coordinated, comprehensive nationwide or, where appropriate, statewide training and/or technical assistance programs to assist State CSBG staff, staff of State and regional organizations representing eligible entities, and staff of local service providers which receive funding under the CSBG Act, to acquire the skills and knowledge needed to plan, administer, implement, monitor, and evaluate programs designed to ameliorate the causes of poverty in local communities. Programs should include the provision of training and/or technical assistance to State staff, CAA associations, and/or staff of local service providers statewide or nationwide and a description of collaboration with State CSBG staff and local service providers.

Sub-Priority Area 1.3: Replication of Pilot Training and/or Service Delivery Projects. The purpose of this Sub-Priority Area is to further the capacity of eligible entities to deliver and manage services to low-income people. This purpose is in keeping with the guideline approach which was shared by the CSBG Task Force on Monitoring and Assessment that ''Agencies Increase Their Capacity To Achieve Results'' relating to management which was shared with the Community Services Network by the CSBG Task Force. In order to hasten the utilization of these innovative training and service projects, OCS is proposing to fund a limited number of projects which have developed systems to improve the measurement of incremental individual, family and community changes. Such projects may need resources in order to expand or replicate on a statewide, regional or nationwide basis to other organizations in the Network.

The Task Force on Monitoring and Assessment is particularly interested in supporting projects to further assess the use of ''scales'' or ''ladders'' to accurately portray the effectiveness of programs operated by the Community Services Network to policy makers. Scales attempt to measure client, family or community status on a continuum (e.g., numerical rating or by categories such as *in crisis*, *vulnerable*, *stable*, and *thriving*), and then record changes in status along the continuum as services are provided. Present scales have largely focused on measuring client and family self-sufficiency or family development/stability outcomes at the local level. Current measurement technologies may need refining in order to capture incremental individual, family and community changes which are useful to local operations or State and Federal levels. The Task Force continues to be interested in reviewing measurement tools such as, scales and ladders, and is concerned about whether such scales, when refined, can yield data which is conducive to local, state and national use for policy makers. Applicants must be able to demonstrate that (1) they are already using an incremental approach and have achieved measurable results; (2) the approach is designed for multi-service use and includes tracking changes in community conditions; (3) the organization commits to aggregation and dissemination; and (4) the proposed project can leverage private sector, foundation or public funds to expand the funding base. Approaches developed and refined must be related to the purposes and coordinated with the strategies of welfare reform.

Sub-Priority Area 1.4: Provision of Coordinated Peer-to-Peer TA for CAAs and Programs Related to Welfare Reform. The purpose of this Sub-Priority Area is to fund organizations to develop and implement strategies to provide coordinated, timely peer-to-peer technical assistance and crisis aversion intervention strategies for CAAs which have identified themselves as experiencing programmatic, administrative, Board, and/or fiscal problems. Such technical assistance should be designed to prevent problems from deteriorating into crisis situations that would threaten the capacity of CAAs to provide quality services to their communities. In agreement with the chosen CAAs, this grantee will coordinate and deploy the technical assistance resources of experienced individuals within the Community Services Network and other resource experts as may be necessary to assist in the identification and resolution of problems, through necessary actions, including training, to ensure that relevant and timely assistance is provided. Such technical assistance may be requested to assist the agency in resolving adverse program monitoring or audit findings, improving or upgrading financial management systems to prevent losses of funds, averting serious deterioration of the boards of directors, or other immediate assistance to CAAs as requested. To the extent feasible, the grantee may be expected to develop an expert technical assistance resource bank of experienced individuals from the Community Action Network or other experienced specialists who may be deployed to provide peer technical assistance.

Sub-Priority Area 1.5: Technical Assistance to Develop Special Initiatives

Between CAAs and Organizations Addressing Urban Problems. Issues of crime, violence, drug abuse, unemployment, poverty, family breakdown, and inadequate education and training of many young people to attain productive employment in an increasingly technological labor market, threaten the safety and viability of many urban communities. These multi-faceted problems cannot be solved by CAAs alone. This project will provide technical assistance to assist CAAs in developing and implementing collaborative community-wide strategies, effective organizational working relationships, and special initiatives among CAAs and other organization(s) focusing on issues of crime, violence, family breakdowns, drug abuse and poverty. Emphasis will be on assisting CAAs to bring together the various community, business, labor, voluntary, educational, civil rights, and governmental sectors required to develop model local strategies to improve conditions in low-income, urban communities. Applicants are encouraged to develop applications in collaboration with at least one other national private, non-profit organization which has a substantial track record in formulating strategies to improve conditions in low-income urban communities.

Priority Area 2.0: Data Collection, Analysis, Dissemination and Utilization. The purpose of this Priority Area is to fund a project to improve the collection, analysis, dissemination and utilization of data and information on CSBG activities and effective approaches to ameliorating poverty. This includes the development of a CSBG data collection instrument and collection, analysis and dissemination of information on FY 1996 CSBG Programs on a nationwide basis through a process that relies on voluntary State cooperation. The information should be comprehensive enough and disseminated in such formats as to enable State and local service providers to improve their planning, management and delivery of services and to assure that the general public has a clear understanding of those programs and their outcomes. Of particular importance is the continued knowledge building and knowledge development of the concepts and technologies of results-oriented management in order to meet the requirements of the CSBG Act of 1994 and the Government Performance and Results Act of 1993. This priority also includes computer technology for community action agencies and other partners in the Community Services Network for two specific objectives: (1) their ability to participate in the information highway, and (2) their ability to use and disseminate data, research, and information regarding poverty issues, particularly activities and outcomes of the Community Services Network.

Sub-Priority Area 2.1: Collection, Analysis and Dissemination of Information on the CSBG Activities Nationwide. The purposes of this Sub-Priority Area are two-fold: (1) To provide accurate, reliable and comparable data from the Community Services Network nationwide; and (2) to ensure that applicable research data regarding the conditions of poverty necessary for framing program design and organizational management are available to the Community Services Network. The first purpose will be assisted by the development or continuous improvement of a process for data collection, analysis, assessment, training, monitoring, reporting and dissemination of CSBG and CAA best practices and programs information. Continuous coordination and collaboration of all Federal, State and local level partners within the Community Services Network are critical to the implementation of this Priority Area. The second purpose relates to expanding the knowledge and use of results-oriented management concepts and technologies (ROMA). The grantee will need to structure innovative strategies and capitalize on appropriate opportunities to achieve such expansion in the Community Services Network. It will need to work closely with the CSBG Task Force for the purposes of exchanging views, information or guidance in setting such goals. And, the grantee will also need to work directly with a sample number of States yearly to measure progress with results oriented tools and practices. Key related service program areas, including the areas of substance abuse, child care, transportation, and domestic violence, also need knowledge sharing and updates. These program areas are of key importance in the implementation of welfare reform and will have a major impact on the low income populations served by the Community Services Block Grant. In addition to using technology to amplify low-income issues, attention must be given to working with the mass media who can be helpful in portraying positive examples of program outcomes. Improving conditions in which low-income people live is a major program outcome of the CSBG statute and encouraged for implementation by the CSBG Task Force for the Network. Several performance measures have been set forth which assess incremental change in these conditions. Dissemination of research data which provides the framework for program planning and organizational improvements is critical to effective service provision. Also, some consistent track record in the collection, analysis and dissemination of CSBG and other poverty-related data is important to the effectiveness of this priority.

Priority Area 2.2: CAAs and Technology. To promote management efficiency and program productivity, it is essential that local CAAs and other partners in the Community Services Network share effective program techniques already developed by eligible entities which address various aspects of poverty and participate in new and appropriate information systems technologies. The purposes of this Sub-Priority Area are to fund grants to share information and program technology in specific areas of expertise with other organizations in the Community Services Network and to improve the computer technology capability of State CSBG offices and eligible entities to participate in the Information Super Highway. Activities to exchange information and program technology may include development and dissemination of case studies or best practices, ''how-to'' guides and other publications, workshops and seminars, training and technical assistance, etc. Activities to improve computer capability should include the development of a training and technical assistance capacity to enable the Community Services Network to replicate currently piloted computer-based, multi-media, community workstation projects and to build an in-house capacity to provide technical assistance and training to additional CAAs to participate in integrated service delivery networks. Collaboration on the national level is an essential ingredient to the objective of this priority.

See Part F, Section 4, for special instructions on developing a work program. Applicants must be able to demonstrate that the projects and program models they wish to share are effective and produce results.

Part C—Application Prerequisites

1. Eligible Applicants

In general, eligible applicants under the various Priority Areas in this Program Announcement are restricted to ''eligible entities'' as defined in Section A or organizations or associations whose membership is composed of

eligible entities or agencies that administer programs for eligible entities or with organizations or associations whose membership is composed of eligible entities or agencies that administer programs for eligible entities for purposes of providing training, technical assistance, planning, evaluation, and data collection activities related to programs or projects carried out under the CSBG Act.

2. Availability of Funds

The total amount of funds available for grant awards in FY 97 is expected to be $2,275,000 of which $800,000 is committed for continuation grants. Amounts expected to be available and numbers of grants under each Sub-Priority Area stated in Part B are as follows:

Sub-priority area	Approx. funds available	Estimated number of grants
1.1 T&TA to Enhance CAAs' and Other Service Providers' Capacity**	**$300,000	1
1.2 T&TA to CAA State and Regional Associations**	**500,000	1
1.3 Replication of Pilot Training and/or Service Delivery Projects	400,000	Up to 6
1.4 Provision of Coordinated Peer-to-Peer TA Strategies for CAAs and Programs Related to Welfare Reform	250,000	Up to 5
1.5 TA to Develop Special Initiatives Between CAAs and Organizations Addressing Urban Problems	100,000	1
2.1 Collection, Analysis, and Dissemination of Information on the CSBG Activities Nationwide	450,000	1
2.2 CAAs and Technology	300,000	Up to 12
Total	2,300,000	Up to 26

** Continuation grants announced in FY1996.

3. Project and Budget Periods

For most projects included in this Announcement, the project and budget periods are 12 months. The exceptions are Sub-Priority 1.1–T&TA to Enhance CAA and Other Local Service Providers' Capacity and Sub-Priority 1.2–T&TA to CAA State and Regional Associations which have project years through FY 1998. 2.1 Collection, Analysis, and Dissemination of Information on CSBG Activities Nationwide is being announced for a project period up to three (3) years. Applications for continuation grants funded under these awards beyond the initial 12-month budget period, but within the three-year project period will be entertained in subsequent years, on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee and determination that continued funding would be in the best interest of the government. All budget periods are for 12 months unless in rare instances, depending on the justification presented by the applicant, a grant may be made for a period of up to 17 months.

4. Project Beneficiaries

The overall intended beneficiaries of the projects to be funded under this Program Announcement are the various ''partners'' in the Community Services Network. Specific beneficiaries are indicated under each Sub-Priority Area in Part B. It is the intent of OCS, through funding provided under this Program Announcement, to significantly strengthen the capacity of State and regional CAA associations to provide technical assistance and support to local service providers; to strengthen the capacity of State CSBG offices to collect and disseminate accurate and reliable data and to provide support for local service providers; and to enhance the capacities of local service providers themselves. The ultimate beneficiaries of improved program management, data and information collection and dissemination, and service quality of local service providers are low-income individuals, families, and communities.

5. Sub-Contracting or Delegating Projects

OCS will not fund any project where the role of the applicant is primarily to serve as a conduit for funds to organizations other than the applicant. This prohibition does not bar the making of subgrants or subcontracting for specific services or activities needed to conduct the project. However, the applicant must have a substantive role in the implementation of the project for which funding is requested.

6. Number of Projects in Application

Separate applications must be made for each Sub-Priority Area. The Sub-Priority Area must be clearly identified by title and number.

7. Project Evaluations

Each application must include an assessment/self evaluation to determine the degree to which the goals and objectives of the project are met, such as, client satisfaction surveys, administration of simple before/after tests of knowledge with comparison of scores to show grasp of teaching points, simple measures of the results of service delivery, and others as appropriate.

Part D—Application Procedures

1. Availability of Forms

Attachments A, B and C contain all of the standard forms necessary for the application for awards under these OCS programs. These forms may be photocopied for use in developing the application.

Copies of the **Federal Register** containing this Announcement are available at most local libraries and Congressional District Offices for reproduction. It is also available on the internet through GPO Access at the web site http:ttp://www.access.gpo.gov/ su__ docs/aces140.html. If copies are not available at these sources, they may be obtained by writing or telephoning the office listed under the section entitled **FOR FURTHER INFORMATION** at the beginning of this Announcement. A copy is also available on the OCS Electronic Bulletin Board. (See **FOR FURTHER INFORMATION** section.)

For purposes of this Announcement, all applicants will use SF–424, SF–424A, and SF–424B, Attachments A, B. and C. Instructions for completing the SF–424, SF–424A, and SF–424B are found in Part F of this Announcement.

Part F also contains instructions for the project narrative. The project narrative will be submitted on plain bond paper along with the SF–424 and related forms.

Attachment I provides a checklist to aid applicants in preparing a complete application package for OCS.

2. Deadlines

Refer to the section entitled ''Closing Date'' at the beginning of this Program Announcement for the last day on which applications should be submitted. Mailed applications shall be

considered as meeting the announced deadline if they are received on or before the deadline time and date at the U.S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants. 370 L'Enfant Promenade, SW., Mail Stop 6C–462, Washington, DC. 20447, Attention: Application for Training, Technical Assistance and Capacity-Building Program. Applicants are responsible for mailing applications well in advance, when using all mail services, to ensure that the applications are received on or before the deadline time and date.

Applications handcarried by applicants, applicant couriers, or by overnight/express mail couriers, shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., at the U.S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, ACF Mail room, 2nd Floor Loading Dock, Aerospace Center, 901 D Street, SW., Washington, DC. 20024 between Monday and Friday (excluding Federal holidays). (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.) ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time or submission and time of receipt.

Late applications: Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines: ACF may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is widespread disruption of the mails. However, if ACF does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants. Applications, once submitted, are considered final and no additional materials will be accepted.

One signed original application and two copies should be submitted.

Paperwork Reduction Act of 1980

Under the Paperwork Reduction Act of 1980, Pub. L. 96–511, the Department is required to submit to OMB for review and approval any reporting and record keeping requirements in regulations, including program announcements. This Program Announcement does not contain information collection requirements beyond those approved for ACF grant applications under OMB Control Number 0970–0062.

3. Intergovernmental Review

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs'' and 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alabama, Alaska, American Samoa, Colorado, Connecticut, Hawaii, Kansas, Idaho, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, and the Republic of Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these twenty-three jurisdictions need take no action regarding E.O. 12372.

Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions, so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424A, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 45 days from the application deadline date to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which they intend to trigger the ''accommodate or explain'' rule under 45 CFR 100.10.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, OCS–97–09, 6th Floor, 370 L'Enfant Promenade, SW., Washington, DC 20447.

A list of the Single Points of Contact for each State and Territory is included as Attachment G to this announcement.

4. Application Consideration

Applications which meet the screening requirements in Sections 5a and 5b below will be reviewed competitively. Such applications will be referred to reviewers for a numerical score and explanatory comments based solely on responsiveness to program guidelines and evaluation criteria published in this Announcement.

Applications will be reviewed by persons outside of the OCS unit which would be directly responsible for programmatic management of the grant. The results of these reviews will assist OCS in considering competing applications. Reviewers' scores will weigh heavily in funding decisions but will not be the only factors considered. Applications will be ranked and generally considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding since other factors deemed relevant may be considered including, but not limited to, the timely and proper completion of projects funded with OCS funds granted in the past 5 years; comments of reviewers and government officials; staff evaluation and input; geographic distribution; previous program performance of applicants; compliance with grant terms under previous DHHS grants; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowances on OCS or other Federal agency grants.

OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to ascertain the applicant's performance record.

5. Criteria for Screening Applications

a. Initial Screening

All applicants will receive an acknowledgement with an assigned identification number. This number, along with any other identifying codes, must be referenced in all subsequent communications concerning the application. If an acknowledgement is not received within two weeks after the deadline date, please notify ACF by telephone at (202) 401–9365. All applications that meet the published deadline for submission will be screened to determine completeness and conformity to the requirements of this Announcement. Only those applications meeting the following requirements will be reviewed and evaluated competitively. Others will be returned

to the applicants with a notation that they were unacceptable.

(1) The application must contain a Standard Form 424 ''Application for Federal Assistance'' (SF–424), a budget (SF–424A), and signed ''Assurances'' (SF–424B) completed according to instructions published in Part F and Attachments A, B, and C of this Program Announcement.

(2) A project narrative must also accompany the standard forms.

(3) The SF–424 and the SF–424B must be signed by an official of the organization applying for the grant who has authority to obligate the organization legally.

b. Pre-rating Review

Applications which pass the initial screening will be forwarded to reviewers and/or OCS staff to verify, prior to the programmatic review, that the applications comply with this Program Announcement in the following areas:

(1) *Eligibility:* Applicant meets the eligibility requirements found in Part B. Applicant also must be aware that the applicant's legal name as required on the SF 424 (Item 5) *must match* that listed as corresponding to the Employer Identification Number (Item 6).

(2) *Duration of Project:* The application contains a project that can be successfully implemented in the project period.

(3) *Target Populations:* The application clearly targets the specific outcomes and benefits of the project to State staff administering CSBG funds, CAA State or regional associations, and/or local providers of CSBG-funded services and activities. Benefits to low-income consumers of CSBG services also must be identified.

(4) *Program Focus:* The application must address development and implementation of nationwide or statewide comprehensive activities as described in Part B of this document for each Priority Area. While some technical assistance activities will focus on individual eligible entities, the applicant must be able to develop a system to offer such services on a nationwide or statewide basis to many eligible entities.

An application may be disqualified from the competition and returned to the applicant if it does not conform to one or more of the above requirements.

c. Evaluation Criteria

Applications which pass the pre-rating review will be assessed and scored by reviewers. Each reviewer will give a numerical score for each application reviewed. These numerical scores will be supported by explanatory statements on a formal rating form describing major strengths and major weaknesses under each applicable criterion published in this Announcement.

The in-depth evaluation and review process will use the following criteria coupled with the specific requirements contained in Part B.

Criteria for Review and Evaluation of Applications Submitted Under This Program Announcement

(1) *Criterion I: Need for Assistance* (Maximum: 20 points).

(a) The application documents that the project addresses vital needs related to the purposes stated under Sub-Priority Areas discussed in this Program Announcement (Part B) and provides statistics and other data and information in support of its contention. (0–10 points).

(b) The application provides current supporting documentation or other testimonies regarding needs from *State* CSBG Directors, *local* service providers and/or State and Regional organizations of local service providers. (0–10 points)

(2) *Criterion II: Work Program* (Maximum: 30 points).

The work program must be results-oriented, appropriately related to the legislative mandate and specifically related to the proposed Sub-Priority Area. Applicant must address specific outcomes to be achieved; performance targets which the project is committed to achieving, including specifications for not setting lower or higher target levels and how the project will verify the achievement of these targets; critical milestones which must be achieved if results are to be gained; organizational support including priority this project has for the agency, past performance in similar work and specific resources contributed to the project which are critical to success. Applicants must define the comprehensive nature of the project and methods which will be used to ensure that the results can be used to address a statewide or nationwide project as defined by the priority area.

(3) *Criterion III: Significant and Beneficial Impact* (Maximum 15 points).

Applicant adequately describes how the project will assure long-term program and management improvements and have advantages over other products offered to achieve the same outcomes for State CSBG offices, CAA State associations, and/or local providers of CSBG services and activities. The applicant must provide the types and amounts of public and/or private resources it will mobilize and how those resources will directly benefit the project, and how the project will ultimately benefit low-income individuals and families.

An applicant proposing a project with a training and technical assistance focus also must indicate the number of organizations and/or staff it will impact. An applicant proposing a project with a data collection focus also must provide a description of the mechanism the applicant will us to collect data, how it can assure collections from a significant number of States, and how many States will be willing to submit data to the applicant. An applicant proposing to develop the symposium series or other policy-related projects must identify the number and types of beneficiaries. Methods of securing participant feedback and evaluations of activities must be described for all Priority Areas.

(4) *Criterion IV: Evidence of Significant Collaborations* (Maximum 10 points).

A new performance-based paradigm is replacing a compliance-based approach to managing CSBG programs. Under this new approach, development and strengthening of collaborative working relationships among all eligible entities in the Community Services Network and with other related organizations is emphasized. OCS does not believe that the Priority Areas in this Program Announcement can be effectively carried out without collaboration and cooperation. Thus, applicants must describe how they will involve partners in the Community Services Network in their activities. Where appropriate, applicants must describe how they will interface with other related organizations. If subcontracts are proposed, documentation of the willingness and capacity for the subcontracting organization(s) to participate must be described.

(5) *Criterion V: Ability of Applicant to Perform* (Maximum: 20 points).

(a) The applicant demonstrates experience and a successful track record relevant to the specific activities and program area that it proposes to undertake, therefore, organizations which propose providing training and technical assistance must detail their competence in the specific program Priority Area and as a deliverer with expertise in the specific fields of training and technical assistance on a nationwide basis. If applicable, information provided by these applicants must also address related achievements and competence of each cooperating or sponsoring organization. (0–10 points)

(b) The application must fully describe (e.g. a resume) the experience and skills of the proposed project

director and primary staff showing specific qualifications and professional experiences relevant to the successful implementation of the proposed project. (0–10 points)

(6) *Criterion VI: Adequacy of Budget* (Maximum: 5 points).

(a) The resources requested are reasonable and adequate to accomplish the project. (0–3 points)

(b) Total costs are reasonable and consistent with anticipated results. (0–2 points)

Part E—Contents of Application and Receipt Process

1. Contents of Application

Each application should include one original and two additional copies of the following:

a. A completed Standard Form 424 which has been signed by an official of the organization applying for the grant who has authority to obligate the organization legally. The applicant must be aware that, in signing and submitting the application for this award, it is certifying that it will comply with the Federal requirements concerning the drug-free workplace and debarment regulations set forth in Attachments D and E.

b. ''Budget Information-Non-Construction Programs'' (SF–424A).

c. A filled out, signed and dated ''Assurances—Non-Construction Programs'' (SF–424B), Attachment C.

d. Certifications Regarding Lobbying—Certification for Contracts.

Grants, Loans, and Cooperative Agreements: Fill out, sign and date form found at Attachment F.

e. Certification Regarding Environmental Tobacco Smoke found at Attachment G—sets forth the Federal certification requirement. The applicant is certifying that it will comply by signing and submitting the SF–424.

f. Disclosure of Lobbying Activities, SF–LLL: Fill out, sign and date form found at Attachment F, as appropriate.

g. A Project Abstract describing the proposal in 200 words or less.

h. A Project Narrative consisting of the following elements preceded by a consecutively numbered Table of Contents that will describe the project in the following order:

(i) Need for Assistance.

(ii) Work Program.

(iii)Significant and Beneficial Impact.

(iv) Evidence of Significant Collaborations.

(v) Ability of Applicant to Perform.

(vi) Appendices including proof of non-profit status, such as IRS determination of non-profit status, where applicable; relevant sections of By-Laws, Articles of Incorporation, and/or statement from appropriate State CSBG office which confirms eligibility; resumes; Single Point of Contact Comments, where applicable; and any partnership/collaboration agreements etc.

The original must bear the signature of the authorizing official representing the applicant organization. The total number of pages for the entire application package should not exceed 35 pages, including appendices. Pages should be numbered sequentially throughout. If appendices include photocopied materials, they must be legible. Applications should be two-hole punched at the top center and fastened separately with a compressor slide paper fastener or a binder clip. The submission of bound applications or applications enclosed in a binder is specifically discouraged.

Applications must be uniform in composition since OCS may find it necessary to duplicate them for review purposes. Therefore, applications must be submitted on white 8½ × 11 inch paper only. They must not include colored, oversized or folded materials. Do not include organizational brochures or other promotional materials, slides, films, clips, etc. in the proposal. They will be discarded if included.

Part F—Instructions for Completing Application Package

(Approved by the OMB under Control Number 0970–0062)

The standard forms attached to this Announcement shall be used when submitting applications for all funds under this Announcement.

It is recommended that the applicant reproduce the SF–424 (Attachment A), SF–424A (Attachment B), SF–424B (Attachment C) and that the application be typed on the copies. If an item on the SF–424 cannot be answered or does not appear to be related or relevant to the assistance requested, the applicant should write ''NA'' for ''Not Applicable.''

The application should be prepared in accordance with the standard instructions in Attachments A and B corresponding to the forms, as well as the specific instructions set forth below:

1. SF–424 ''Application for Federal Assistance'' Item

1. For the purposes of this Program Announcement, all projects are considered ''Applications''; there are no ''Pre-Applications.''

5 and 6. The legal name of the applicant must match that listed as corresponding to the Employer Identification Number. Where the applicant is a previous Department of Health and Human Services grantee, enter the Central Registry System Employee Identification Number (CRS/EIN) and the Payment Identifying Number, if one has been assigned, in the Block entitled ''Federal Identifier'' located at the top right hand corner of the form.

7. If the applicant is a non-profit corporation, enter ''N'' in the box and specify ''non-profit corporation'' in the space marked ''Other.'' Proof of non-profit status such as IRS determination, Articles of Incorporation, or by-laws, must be included as an appendix to the project narrative.

8. For the purposes of this Announcement, all applications are ''New''.

9. Enter ''DHHS–ACF/OCS''.

10. The Catalog of Federal Domestic Assistance number for the OCS program covered under this Announcement is ''93.570''.

11. In addition to a brief descriptive title of the project, the following Priority Area designations must be used to indicate the Priority and Sub-Priority Areas for which funds are being requested:

CB—Sub-Priority 1.1—T&TA to Enhance CAA and Other Local Service Providers' Capacity;

CR—Sub-Priority 1.2—T&TA to CAA State and Regional Associations;

PT—Sub-Priority 1.3—Replication of Pilot Training and/or Service Delivery Projects;

PP—Sub-Priority 1.4—Provision of Coordinated Peer-to-Peer TA for CAAs Experiencing Programmatic, Administrative and/or Fiscal Problems; and UI—Sub-Priority 1.5—TA to Develop Special Initiatives Between CAAs and Organizations Addressing Urban Problems;

IS—Sub-Priority 2.1—Collection, Analysis, and Dissemination of Information on CSBG Activities Nationwide; and

CT—Sub-Priority 2.2—CAA Program and Technology Exchange.

The title is ''Office of Community Services'' Discretionary CSBG Awards—Fiscal Year 1996 Training, Technical Assistance, and Capacity-Building Programs.''

15a. For purposes of this Announcement, this amount should reflect the amount requested for the entire project period.

15b–e. These items should reflect both cash and third party in-kind contributions for the total project period.

2. SF–424A—''Budget Information-Non-Construction Programs''

See instructions accompanying this page as well as the instructions set forth below:

In completing these sections, the ''Federal Funds'' budget entries will relate to the requested OCS Training and Technical Assistance Program funds only, and ''Non-Federal'' will include mobilized funds from all other sources—applicants, State, and other. Federal funds, other than those requested from the Training and Technical Assistance Program, should be included in ''Non-Federal'' entries.

Sections A and D of SF–424A must contain entries for both Federal (OCS) and non-Federal (mobilized funds).

Section A—Budget Summary

Line 1–4
Col. (a):
Line 1 Enter ''OCS Training and Technical Assistance Program'';
Col. (b):
Line 1 Enter ''93.570''.
Col. (c) and (d): Not Applicable
Col. (e)–(g):
For each line 1–4, enter in columns (e), (f) and (g) the appropriate amounts needed to support the project for the entire project period.

Line 5 Enter the figures from Line 1 for all columns completed, (e), (f), and (g).

Section B—Budget Categories

This section should contain entries for OCS funds only. For all projects, the first budget period of 12 months will be entered in Column #1. Allowability of costs is governed by applicable cost principles set forth in 45 CFR parts 74 and 92.

A separate itemized budget justification should be included to explain fully and justify major items, as indicated below. The budget justification should immediately follow the Table of Contents.

Column 5: Enter total requirements for Federal funds by the Object Class Categories of this section.

Line 6a—Personnel: Enter the total costs of salaries and wages.

Justification

Identify the project director. Specify by title or name the percentage of time allocated to the project, the individual annual salaries and the cost to the project (both Federal and non-Federal) of the organization's staff who will be working on the project.

Line 6b—Fringe Benefits: Enter the total costs of fringe benefits, unless treated as part of an approved indirect cost rate which is entered on line 6j.

Justification

Enter the total costs of fringe benefits, unless treated as part of an approved indirect cost rate.

Line 6c—Travel: Enter total cost of all travel by employees of the project. Do not enter costs for consultant's travel.

Justification

Include the name(s) of traveler(s), total number of trips, destinations, length of stay, mileage rate, transportation costs and subsistence allowances.

Line 6d—Equipment: Enter the total costs of all non-expendable personal property to be acquired by the project. Equipment means tangible non-expendable personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit.

Justification

Equipment to be purchased with Federal funds must be required to conduct the project, and the applicant organization or its subgrantees must not already have the equipment or a reasonable facsimile available to the project. The justification also must contain plans for future use or disposal of the equipment after the project ends.

Line 6e—Supplies: Enter the total costs of all tangible personal property (surplus) other than that included on line 6d.

Line 6h—Other: Enter the total of all other costs. Such costs, where applicable, may include, but are not limited to, insurance, food, medical and dental costs (noncontractual), fees and travel paid directly to individual consultants, local transportation (all travel which does not require per diem is considered local travel), space and equipment rentals, printing and publication, computer use training costs including tuition and stipends, training service costs including wage payments to individuals and supportive service payments, and staff development costs.

Line 6j—Indirect Charges: Enter the total amount of indirect costs. This line should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services or other Federal agencies. With the exception of States and local governments, applicants should enclose a copy of the current approved rate agreement if it was negotiated with a Federal agency other than the Department of Health and Human Services. For an educational institution the indirect costs on training grants will be allowed at the lesser of the institution's actual indirect costs or 8 percent of the total direct costs.

If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the pertinent *DHHS Guide for Establishing Indirect Cost Rates,* and submit it to the appropriate DHHS Regional Office.

It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool cannot be also budgeted or charged as direct costs to the grant.

The total amount shown in Section B, Column (5), Line 6k, should be the same as the amount shown in Section A, Line 5, Column (e).

Line 7—Program Income: Enter the estimated amount of income, if any, expected to be generated from this project. Separately show expected program income generated from OCS support and income generated from other mobilized funds. Do not add or subtract this amount from the budget total. Show the nature and source of income in the program narrative statement. Column 5: Carry totals from Column 1 to Column 5 for all line items.

Justification

Describe the nature, source and anticipated use of program income in the Program Narrative Statement.

Section C—Non-Federal Resources

This section is to record the amounts of ''Non-Federal'' resources that will be used to support the project. ''Non-Federal'' resources mean other than OCS funds for which the applicant has received a commitment. Provide a brief explanation, on a separate sheet, showing the type of contribution, broken out by Object Class Category, (See Section B.6) and whether it is cash or third-party in-kind. The firm commitment of these required funds must be documented and submitted with the application.

Except in unusual situations, this documentation must be in the form of letters of commitment or letters of intent from the organization(s)/individuals from which funds will be received.

Line 8—

Col. (a): Enter the project title.

Col. (b): Enter the amount of cash or donations to be made by the applicant.

Col. (c): Enter the State contribution.

Col. (d): Enter the amount of cash and third party in-kind contributions to be made from all other sources.

Col. (e): Enter the total of columns (b), (c), and (d). Lines 9, 10, and 11 should be left blank.

Line 12—Carry the total of each column of Line 8, (b) through (e).

The amount in Column (e) should be equal to the amount on Section A, Line 5, Column (f).

Justification

Describe third party in-kind contributions, if included.

Section D—Forecasted Cash Needs

Line 13—Enter the amount of Federal (OCS) cash needed for this grant, by quarter, during the first 12 month budget period.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the total of Lines 13 and 14.

Section F—Other Budget Information

Line 21—Include narrative justification required under Section B for each object class category for the total project period.

Line 22—Enter the type of HHS or other Federal agency approved indirect cost rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied and the total indirect expense. Also, enter the date the rate was approved, where applicable. Attach a copy of the approved rate agreement if it was negotiated with a Federal agency other than the Department of Health and Human Services.

Line 23—Provide any other explanations and continuation sheets required or deemed necessary to justify or explain the budget information.

3. SF–424B ''Assurances Non-Construction''

All applicants must sign and return the ''Assurances'' found at Attachment C with their application.

4. Project Narrative

Each narrative section of the application must address one or more of the focus areas described in Part B and follow the format outlined below.

a. Need for Assistance
b. Work Program
c. Significant and Beneficial Impact
d. Evidence of Significant Collaborations
e. Ability of the Applicant to Perform

Part G—Post Award Information and Reporting Requirements

Following approval of the applications selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Financial Assistance Award which provides the amount of Federal funds approved for use in the project, the project and budget periods for which support is provided, the terms and conditions of the award, and the total project period for which support is contemplated.

In addition to the standard terms and conditions which will be applicable to grants, grantee will be subject to the provisions of 45 CFR parts 74 (non-governmental) and 92 (governmental) and OMB Circulars A–122 and A–87.

Grantees will be required to submit quarterly progress and financial reports (SF–269) as well as a final progress and financial report.

Grantees are subject to the audit requirements in 45 CFR Parts 74 (non-governmental) and 92 (governmental) and OMB Circulars A–128 and A–133.

Section 319 of Pub. L. 101–121, signed into law on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian tribes and tribal organizations. Current and prospective recipients (and their subtier contractors and/or grantees) are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement, or loan. In addition, for each award action in excess of $100,000 (or $150,000 for loans) the law requires recipients and their subtier contractors and/or subgrantees (1) to certify that they have neither used nor will use any appropriated funds for payment to lobbyists, (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom recipients or their subtier contractors or subgrantee will pay with profits or *non-appropriated* funds on or after December 22, 1989, and (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for noncompliance. See Attachment F for certification and disclosure forms to be submitted with the applications for this program.

Pub. L. 103–227, Part C. Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through States or local governmental by Federal grant, contract, loan or loan guarantee. The law does not apply to facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for in-patient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1,000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirement of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for children's services and that all subgrantees shall certify accordingly.

Attachment H indicates the regulations which apply to all applicants/grantees under this program.

Dated: June 20, 1997.

Donald Sykes,

Director, Office of Community Services.

BILLING CODE 4148–01–P

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

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 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		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	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

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Standard Form 424 (REV 4-92)
Prescribed by OMB Circular A-102

BILLING CODE 4184–01–C

Instructions for the SF 424

Public reporting burden for this collection of information is estimated to average 45 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 (0348–0043), Washington, DC 20503.

Please do not return your completed form to the Office of Management and Budget, send it to the address provided by the sponsoring agency.

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 and 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.

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 allowances, 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.)

BILLING CODE 4184–01–P

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. Totals		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (Rev. 4-92)
Prescribed by OMB Circular A-102

BILLING CODE 4184-01-C

SECTION C – NON-FEDERAL RESOURCES				
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTAL (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E – BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL (sum of lines 16 - 19)	$	$	$	$

SECTION F – OTHER BUDGET INFORMATION	
21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

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Standard Form 424A (Rev. 4-92) Page 2

Instruction for the SF 424A

Public reporting burden for this collection of information is estimated to average 180 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 (0348–0043), Washington, DC 20503.

Please do not return your completed form to the Office of Management and Budget, send it to the address provided by the sponsoring agency.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary Lines 1–4, Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple function or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number of each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by program.

Lines 1–4, Columns (c) Through (g)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in Columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the total for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants, the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k, should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals in Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Attachment C—Assurances—Non-Construction Programs

Public reporting burden for this collection of information is estimated to average 15 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 (0348–0043), Washington, DC 20503.

Please do not return your completed form to the Office of Management and Budget, send it to the address provided by the sponsoring agency.

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 representatives 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 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 CFR 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 X 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 non-discrimination 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, as applicable, 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.

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 hazards area to participate in the program and to 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 in 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 River 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 or OMB Circular No. A–133, Audits of Institutions of Higher Learning and other Non-profit Institutions.

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

Attachment D

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630(c) and (d)(2) and 76.645 (a)(1) and (h) provide that a Federal agency designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517–D, 200 Independence Avenue, SW, Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. This certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the

grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

5. Workplace under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all know workplaces constitutes a violation of the grantee's drug-free workplace requirements.

6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).

8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substances means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or no-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements

Alternate I. (Grantee Other Than Individuals)

The grantee certifies that it will or will continue to provided 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 ongoing 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 ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. 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 paragraph (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, country, state, zip code)

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

Alternative II. (Grantee Who Are Individuals)

(a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;

(b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

[55 FR 21690, 21702, May 25, 1990]

Attachment E—Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. 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 the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary 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 persons who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction unless authorized by the department or agency entering into this transaction.

7. The prospective primary 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 Transaction,'' provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. 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 proposed for debarment under 48 CFR part 9, subpart 9.4, 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 list of Parties Excluded from Federal Procurement and Nonprocurment Programs.

9. 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.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, 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 may terminate this transaction for cause or default.

* * * * *

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal 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/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

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 had 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 meaning 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, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, 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 this clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' 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 proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, 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 List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

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 proposed for debarment under 48 CFR part 9, subpart 9.4, 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 Regarding Debarment, Suspension, Ineligibility a Voluntary Exclusion—Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is 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.

Attachment F—Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) 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 an agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) 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 contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any 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 commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form—LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Signature

_____

Title

_____

Organization

_____

Date

BILLING CODE 4184–01–P

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:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ 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 Registrant *(if individual, last name, first name, MI):*	**b. Individuals Performing Services** *(including address if different from No. 10a)* *(last name, first name, MI):*

Items 11 through 15 are deleted.

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____

Federal Use Only:	Authorized for Local Reproduction Standard Form - LLL

BILLING CODE 4184–01–C

Attachment G—OMB State Single Point of Contact Listing *

January 22, 1997.

Arizona

Joni Saad, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone: (602) 280–1315, FAX: (602) 280–8144

Arkansas

Mr. Tracy L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, 1515 W. 7th St., Room 412, Little Rock, Arkansas 72203, Telephone: (501) 682–1074, FAX: (501) 682–5206

California

Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Room 121, Sacramento, California 95814, Telephone: (916) 323–7480, FAX: (916) 323–3018

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Office of the Budget, Thomas Collins Building, P.O. Box 1401, Dover, Delaware 19903, Telephone: (302) 739–3326, FAX: (302) 739–5661

District of Columbia

Charles Nichols, State Single Point of Contact, Office of Grants Mgmt. and Dev., 717 14th Street, NW., Suite 400, Washington, DC. 20005, Telephone: (202) 727–6554, FAX: (202) 727–1617

Florida

Florida State Clearinghouse, Department of Community Affairs, 2740 Centerview Drive, Tallahassee, Florida 32399–2100, Telephone: (904) 922–5438, FAX: (904) 487–2899

Georgia

Tom L. Reid, III, Coordinator, Georgia State Clearinghouse, 270 Washington Street, SW.,—8th Floor, Atlanta, Georgia 30334, Telephone: (404) 656–3855, FAX: (404) 656–3828

Illinois

Virginia Bova, State Single Point of Contact, Illinois Department of Commerce and Community Affairs, James R. Thompson Center, 100 West Randolph, Suite 3–400, Chicago, Illinois 60601, Telephone: (312) 814–6028, FAX: (312) 814–1800

Indiana

Frances Williams, State Budget Agency, 212 State House, Indianapolis, Indiana 46204–2796, Telephone: (317) 232–5619, FAX: (317) 233–3323

Iowa

Steven R. McCann, Division for Community Assistance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone: (515) 242–4719 FAX: (515) 242–4859

Kentucky

Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capitol Center Drive—Suite 340, Frankfort, Kentucky 40601–8204, Telephone: (502) 573–2382, FAX: (502) 573–2512

Maine

Joyce Benson, State Planning Office, 184 State Street, 38 State House Station, Augusta, Maine 04333, Telephone: (207) 287–3261, FAX: (207) 287–6489

Maryland

William G. Carroll, Manager, Plan and Project Review, Maryland Office of Planning, 301 W. Preston Street—Room 1104, Baltimore, Maryland 21201–2365, Staff Contact: Linda Janey, Telephone: (410) 767–4490, FAX: (410) 767–4480

Michigan

Richard Pfaff, Southeast Michigan Council of Government, 660 Plaza Drive—Suite 1900, Detroit, Michigan 48226, Telephone: (313) 961–4266, FAX: (313) 961–4869

Mississippi

Cathy Mallette, Clearinghouse Officer, Department of Finance and Administration, 455 North Lamar Street, Jackson, Mississippi 39202–3087, Telephone: (601) 359–6762, FAX: (601) 359–6764

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Room 760, Truman Building, Jefferson City, Missouri 65102, Telephone: (314) 751–4834, FAX: (314) 751–7819

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone: (702) 687–4065 FAX: (702) 687–3983

New Hampshire

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process, Mike Blake, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone: (603) 271–2155, FAX: (603) 271–1728

New Mexico

Robert Peters, State Budget Division, Room 190 Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone: (505) 827–3640

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone: (518) 474–1605, FAX: (518) 486–5617

North Carolina

Chrys Baggett, Director, N.C. State Clearinghouse, Office of the Secretary of Admin., 116 West Jones Street—Suite 5106, Raleigh, North Carolina 27603–8003, Telephone: (919) 733–7232, FAX: (919) 733–9571

North Dakota

North Dakota Single Point of Contact, Office of Intergovernmental Assistance, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone: (701) 224–2094, FAX: (701) 224–2308

Ohio

Larry Weaver, State Single Point of Contact, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411

Please direct correspondence and questions about intergovernmental review to:

Linda Wise, Telephone: (614) 466–0698, FAX: (614) 466–5400

Rhode Island

Kevin Nelson, Review Coordinator, Department of Administration, Division of Planning, One Capitol Hill, 4th Floor, Providence, Rhode Island 02908–5870, Telephone: (401) 277–2656, FAX: (401) 277–2083

Please direct correspondence and questions to:

Office of Strategic Planning

South Carolina

Rodney Grizzle, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street—Room 331, Columbia, South Carolina 29201, Telephone: (803) 734–0494, FAX: (803) 734–0356

Texas

Tom Adams, Governors Office, Director, Intergovernmental Coordination, P.O. Box 12428, Austin, Texas 78711, Telephone: (512) 463–1771, FAX: (512) 463–1880

Utah

Carolyn Wright, Utah State Clearinghouse, Office of Planning and Budget, Room 116 State Capitol, Salt Lake City, Utah 84114, Telephone: (801) 538–1535, FAX: (801) 538–1547

West Virginia

Fred Cutlip, Director, Community Development Division, W. Virginia Development Office, Building #6, Room 553, Charleston, West Virginia 25305, Telephone: (304) 558–4010, FAX: (304) 558–3248

Wisconsin

Jeff Smith, Section Chief, State/Federal Relations, Wisconsin Department of Administration, 101 East Wilson Street—6th Floor, P.O. Box 7868, Madison, Wisconsin 53707, Telephone: (608) 266–0267, FAX: (608) 267–6931

Wyoming

Matthew Jones, State Single Point of Contact, Office of the Governor, 200 West 24th Street, State Capitol, Room 124, Cheyenne, WY 82002, Telephone: (307) 777–7446, FAX: (307) 632–3909

Territories

Guam

Mr. Giovanni T. Sgambelluri, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone: 011–671–472–2285, FAX: 011–671–472–2825

Puerto Rico

Norma Burgos/Jose E. Caro, Chairwoman/Director, Puerto Rico Planning Board, Federal Proposals Review Office, Minillas Government Center, PO. Box 41119, San Juan, Puerto 00940–1119, Telephone: (809)

727–4444, (809) 723–6190, FAX (809) 724–3270; (809) 724–3103

North Mariana Islands

Mr. Alvaro A. Santos, Executive Officer, Office of Management and Budget, Office of the Governor, Siapan, MP 96950, Telephone: (670) 664–2256, FAX: (670) 664–2272, Contact person: Ms. Jacoba T. Seman, Federal Programs Coordinator, Telephone: (670) 664–2289, FAX: (670) 664–2272

Virgin Islands

Nellon Bowry, Director, Office of Management and Budget, #41 Norregade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802

Please direct all questions and correspondence about intergovernmental review to:

Linda Clarke, Telephone: (809) 774–0750, FAX: (809) 776–0069

If you would like a copy of this list faxed to your office, please call our publications office at: (202) 395–9068

* In accordance with Executive Order #12372, ''Intergovernmental Review of Federal Programs,'' this listing represents the designated State Single Points of Contact. The jurisdictions not listed no longer participate in the process BUT GRANT APPLICANTS ARE STILL ELIGIBLE TO APPLY FOR THE GRANT EVEN IF YOUR STATE, TERRITORY COMMONWEALTH, ETC DOES NOT HAVE A ''STATE SINGLE POINT OF CONTACT.'' STATES WITHOUT ''STATE SINGLE POINTS OF CONTACT'' INCLUDE: Alabama, Alaska; American Samoa; Colorado; Connecticut; Kansas; Hawaii; Idaho; Louisiana; Massachusetts, Palau; Minnesota; Montana; Nebraska; New Jersey; Oklahoma; Oregon; Pennsylvania; South Dakota; Tennessee; Vermont, Virginia; and Washington. This list is based on the most current information provided by the States. Information on any changes or apparent errors should be provided to the Office of Management and Budget and the State in question. Changes to the list will only be made upon formal notification by the State. Also, this listing is published biannually in the Catalogue of Federal Domestic Assistance.

Certification Regarding Environmental Tobacco Smoke

Public Law 103–227, Part C—Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

Attachment H, DHHS Regulations Applicable to Grants

The following DHHS regulations apply to all applicants/grantees under the Training and Technical Assistance Program

Title 45 of the *Code of Federal Regulations:*

Part 16—Procedures of the Departmental Grant Appeals Board
Part 74—Administration of Grants (non-governmental)
Part 74—Administration of Grants (State and local governments and Indian Tribal affiliates):

Sections
74.26 Non-Federal Audits
74.27 Allowable Costs for Hospitals and Other Non-profit Organizations
74.90 Final Decisions in Disputes
74.32 Real Property
74.34 Equipment and
74.35 Supplies
74.24 General Program Income

Part 74—20–28 Fiscal Management
Part 74—40–48 Procedure Standards
Part 74—50–53 Reports and Records
Part 75—Informal Grant Appeal Procedures
Part 76—Debarment and Suspension form Eligibility for Financial Assistance

Subpart—Drug Free Workplace Requirements

Part 80—Non-discrimination Under Programs Receiving Federal Assistance through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964
Part 81—Practice and Procedures for Hearings Under Part 80 of this Title
Part 84—Non-discrimination on the Basis of Handicap in Programs
Part 86—Nondiscrimination on the basis of sex in the admission of individuals to training programs
Part 91—Non-discrimination on the Basis of Age in Health and Human Services Programs or Activities Receiving Federal Financial Assistance
Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments (**Federal Register**, March 11, 1988)
Part 93—New Restrictions on Lobbying
Part 100—Intergovernmental Review of Department of Health and Human Services Programs and Activities

[FR Doc. 97–16774 Filed 6–25–97; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0243]

Review of the Current State of Science Relating to Detection and Control of Cyclospora on Fresh Produce; Notice of Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting.

SUMMARY: The Food and Drug Administration (FDA), Center for Food Safety and Applied Nutrition, is announcing a public meeting that will review the current state of the science relating to the detection and control of *Cyclospora* on fresh produce.

DATES: The public meeting will be held on Wednesday, July 23, 1997, from 8:30 a.m. to 5 p.m. Submit written notices of participation by July 11, 1997. Registration must be received by July 11, 1997. Written comments will be accepted until August 8, 1997.

ADDRESSES: The public meeting will be held at the Marriott Metro Center, 775 12th St. NW., Washington, DC. Submit registration and written notices of participation to Catherine M. DeRoever (address below). Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Catherine M. DeRoever, Executive Operations Staff (HFS–22), Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4251, FAX 202–205–4970, or email ''cmd@fdacf.ssw.dhhs.gov''.

Those persons interested in attending the public meeting should fax their name, title, firm name, address, and telephone number to Catherine M. DeRoever (fax number above).

Those persons interested in presenting information at the meeting should fax their name, title, firm name, address, telephone number, and an outline of their presentation to Catherine M. DeRoever (fax number above).

There is no registration fee for this public meeting, but advance registration is suggested. Interested persons are

encouraged to register early because space may be limited.

SUPPLEMENTARY INFORMATION: The purpose of this public meeting will be to provide an opportunity for an open discussion of the current state of the science, and a review of technological and safety factors, relating to the detection and control of *Cyclospora* on fresh produce. The public meeting will also provide an opportunity for consideration of other issues and data pertaining to the recent foodborne disease outbreak associated with this organism and fresh berries and lettuce.

This meeting is of special interest to the fresh produce industry, public health associations, and health agencies of State and local governments. It will provide an occasion for an open discussion and exchange of information on the following topics: All relevant safety factors, current research accomplishments and future research, measures that would reduce the risk of future outbreaks, and related issues.

The agenda will include presentations on such topics as: (1) Outbreak data, (2) growing and harvesting practices, (3) traceback efforts, (4) research, and (5) related issues.

The agency is interested in learning about all aspects of production and distribution of fresh produce. Both oral and written comments are encouraged on the following topics: (1) Appropriate current good manufacturing practices, (2) the current availability of sanitizing agents to control the organism, (3) technological/intervention strategies now available or becoming available that appear to be effective control measures, and (4) related issues.

The agency is encouraging individuals with information and data on these matters to present their comments. The agency encourages interested persons to address relevant safety considerations, identification of needed research, what measures should be taken to reduce the risk of future outbreaks, and related issues.

Transcripts of the public meeting 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 meeting, at a cost of 10 cents per page. The transcript of the public meeting and submitted comments will be available for public examination at the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 19, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–16727 Filed 6–25–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Application of Good Guidance Practices to Revisions to the Shellfish Sanitation Model Ordinance

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Shellfish Sanitation Model Ordinance, which is part of the National Shellfish Sanitation Program (NSSP), contains procedures for the harvesting and processing of raw molluscan shellfish that the States belonging to the ISSC should adhere to if their shellfish are to be acceptable to the other States in the ISSC. The Model Ordinance is a Food and Drug Administration (FDA) guideline and, as such, is subject to FDA's policy relating to the development, issuance, and use of guidance documents. FDA is providing notice on how it intends to apply its policy on guidance documents to any revisions of the Model Ordinance that may result from the meeting of the Interstate Shellfish Sanitation Conference (ISSC) scheduled for July 12 through 18, 1997.

ADDRESSES: Submit written requests for copies of the issues that will be considered by the ISSC in July to Kenneth Moore, Executive Director, Interstate Shellfish Sanitation Conference, 115 Atrium Way, suite 117, Columbia, SC 29233.

FOR FURTHER INFORMATION CONTACT: Paul DiStefano, Center for Food Safety and Applied Nutrition (HFS–415), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3149.

SUPPLEMENTARY INFORMATION:

I. Program for Molluscan Shellfish

FDA is responsible for enforcing, among other laws, the Federal Food, Drug, and Cosmetic Act and certain portions of the Public Health Service Act. These laws require that all foods shipped in interstate commerce, including molluscan shellfish, be prepared, packed, and held under sanitary conditions that will protect their safety; that they be honestly and informatively labeled; and that the food itself be safe, clean, and sanitary. FDA is authorized to accept assistance from State and local authorities in the enforcement of laws to prevent and to suppress the spread of communicable disease (42 U.S.C. 243 and 21 U.S.C. 372).

This latter authority gave rise to the NSSP, which was initiated in 1925 and has continued to date as a voluntary FDA, State, and shellfish industry program. The safety of raw molluscan shellfish for human consumption begins with ensuring the quality of the water in which these sedentary organisms are grown and from which they are harvested. These waters are mostly State resources. Consequently, the NSSP is based on the premise that public health controls for raw molluscan shellfish can best be accomplished under State laws with Federal technical support and industry participation.

The success of the NSSP is largely dependent on the States adopting and implementing recommended requirements for the operation of effective programs. These recommended requirements, which traditionally have been incorporated into the NSSP ''Manual of Operations,'' relate to the proper ways to classify and monitor shellfish growing areas, to harvest and process shellfish, to inspect processors, and to address other related matters.

The ISSC consists of agencies from shellfish producing and receiving States, FDA, the National Marine Fisheries Service of the U.S. Department of Commerce, and the shellfish industry. A primary purpose of the ISSC has been to provide a formal structure for these entities to provide input on the Manual of Operations.

Recently, the ISSC has chosen to reconstitute the Manual of Operations in the form of a Shellfish Sanitation Model Ordinance in order to facilitate uniform adoption by the member States. The use of the Model Ordinance is expected to begin on January 1, 1998. The Model Ordinance is an FDA guideline and as such, is subject to the policy of FDA relating to the development, issuance, and use of guidance documents, as expressed in the **Federal Register** of February 27, 1997 (62 FR 8961 at 8969 through 8971).

Since the Manual of Operations was written, FDA has published the manual and periodic revisions to it and has issued interpretations of its provisions. The agency expects to do the same with the Model Ordinance. FDA performs this function in accordance with a memorandum of understanding (MOU) entered into in 1984 between FDA and the ISSC.

The Model Ordinance is revised through a process that begins with

discussion and voting at a meeting of the ISSC, usually its annual meeting. Revisions that have been agreed upon by the ISSC are forwarded to FDA for inclusion in the Model Ordinance. The agency may reject any revisions that conflict with Federal laws, regulations, or policies.

This year's meeting of the ISSC will take place in Sturbridge, MA, July 12 through 18, 1997. The ISSC and its meeting are open to all persons interested in fostering controls that will assure sources of safe and sanitary shellfish.

II. FDA's Guidance Documents Policy

As stated previously, although it is the States that use the Model Ordinance, this document is a Federal guideline. It is thus subject to FDA's policy regarding the issuance of guidance documents. It is FDA policy that the public be afforded the opportunity to comment on guidance documents, either before implementation or upon issuance, depending on whether the guidance document is classified as Level 1 or Level 2 guidance (see 62 FR 8961 at 8965).

Guidance documents are typically developed within the agency and lend themselves to a relatively simple notice and comment procedure. However, the annual meeting of the ISSC has, in the past, provided an essential forum for the development of revisions to the Manual of Operations. FDA expects this to continue to be the case with the Model Ordinance. Given the Federal-State cooperative nature of the program, FDA strongly believes that the participatory process that occurs at this meeting serves many of the purposes and principles set forth in the agency's guidance documents policy. Moreover, FDA expects to publish a notice of availability of the Model Ordinance after the work of the July ISSC meeting is complete.

FDA is also advising the public that the issues to be discussed at the July ISSC meeting are now available and may be obtained from the Executive Director of the ISSC at the address provided above. Information on how to attend the meeting may also be obtained from the Executive Director.

Dated: June 19, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–16729 Filed 6–25–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0092]

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Irradiation in the Production, Processing, and Handling of Food'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Margaret R. Wolff, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 21, 1997 (62 FR 13648), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). OMB has now approved the information collection and has assigned OMB control number 0910–0186. The approval expires on May 31, 2000. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Dated: June 17, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–16728 Filed 6–25–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA); Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the following meeting of the SAMHSA Special Emphasis Panel I in July.

A summary of the meeting 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 individual named as Contact for the meeting listed below.

The meeting will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals associated with the applications. Accordingly, this meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App. 2, § 10(d).

Committee Name: SAMHSA Special Emphasis Panel I (SEP I).

Meeting Dates: July 13–16, 1997.

Place: Park Hyatt Washington, 1201 24th Street, NW, The Victoria Park Boardroom, 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 Treatment Workplace Managed Care.

Contact: Pamela C. Roddy, Ph.D., Room 17–89, Parklawn Building, Telephone: 301–443–1001 and FAX: 301–443–3437.

Dated: June 20, 1997.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 97–16726 Filed 6–25–97; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–707102

Applicant: Priour Brothers Ranch, Ingram, TX

The applicant requests the renewal of their permit to cull excess male captive-bred Eld's brow-antlered deer (*Cervus eldii*), swamp deer (=barasingha) (*Cervus duvauceli*), and red lechwe (*Kobus leche*) via sport-hunting. Interstate and foreign commerce and export authorization are also requested as animals are to be hunted by U.S. and foreign citizens.

PRT–830449

Applicant: Disney's Animal Kingdom, Lake Buena Vista, FL

The applicant requests a permit to purchase in interstate commerce an interest in a captive-breeding program of black rhinoceros (*Diceros bicornis minor*) from the La Coma Ranch of Red Gate, McAllen, Texas, for the purposes of enhancement of the survival of the species through captive breeding and conservation education.

PRT–736469

Applicant: Chris Kilpatrick, Harvest, AL

The applicant requests a permit to export and re-import captive-born tigers (*Panthera tigris*) held by the applicant to/from world wide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

PRT–830451

Applicant: Simpson William, Portland, OR

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–830500

Applicant: Zoological Society of San Diego, San Diego, CA

The applicant requests a permit to export four captive-born Andean condors (*Vultur gyrphus*) to the Purace National Park, Colombia, for release into the wild to enhance the survival of the species.

PRT–830745

Applicant: Henry Doorly Zoo, Omaha, NE

The applicant requests a permit to export semen samples from a captive-born guar (*Bos gaurus*) to the Biotechnology Division of the Department of Livestock and Development of Thailand, Pathumthani, Thailand, for the purpose of enhancement of the survival of the species through captive breeding.

PRT–830751

Applicant: Richard Harris, Missoula, MT

The applicant requests a permit to import hair, bone, teeth, and skin samples of Argali (*Ovis ammon*) salvaged from carcasses of animals that died from natural causes or incidental to local subsistence harvest in the Quinghai Province, China, for the purposes of scientific research.

PRT–825863

Applicant: Carnivore Preservation Trust, Pittsboro, NC

The applicant requests a permit to export two captive-bred ocelots (*Leopardus pardalis*) to the St. Maarten Zoological and Botanical Garden, Netherlands Antilles, for the purposes of enhancement of the survival of the species through conservation education.

PRT–830007

Applicant: Dickerson Park Zoo, Springfield, MO

The applicant requests a permit to import one captive-born ocelot (*Leopardalis* (=*Felis*) *pardalis*) from the Calgary zoo, Calgary, Canada, for the purposes of enhancement of the survival of the species through captive breeding.

The public is invited to comment on the following application(s) for permits to conduct certain activities with marine mammals. The application(s) was/were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

PRT–766818

Applicant: Alaska Science Center, Anchorage, AK

Type of Permit: Scientific Research, amendment.

Name and Number of Animals: Alaskan sea otter (*Enhydra l. lutris*), 10.

Summary of Activity to be Authorized: The applicant has requested an amendment to the permit, PRT–766818, to lethally take up to 10 northern sea otters that have eluded all other recapture attempts for recovery of externally attached TDR transmitters. This is the second publication of notice for this amendment request. This notice has been republished for an additional 30 day public comment period as a result of substantial, new information which was not available for public review during the preceding public comment period for this amendment request.

Source of Marine Mammals for Research/Public Display: Alaskan waters as currently authorized under permit 766818.

Period of Activity: through the 2/7/2002 expiration date of PRT–766818.

Concurrent with the publication of this notice in the **Federal Register**, the Office of Management Authority is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 430, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

The following applicants have each requested a permit to import a sport-hunted polar bear (*Ursus maritimus*) from the Northwest Territories, Canada for personal use.

Applicant/address	Population	PRT
Robert Rod, Brookshire, TX	Southern Beaufort	830613
Donald Williams, Benton, KY	.....do	830806
Hossein Golabchi, Augusta, GA	Viscount Melville	830486
Dennis Schlegel, Ione, WA	Northern Beaufort	830807
Walter Krywucki Jr., Chester, NJ	.....do	830614
Frederick Leonard, Alto, MI	McClintock Channel	830818
Larry Johnson, Olympia, WA	.....do	830817
Mark Harlow, Aberdeen, SD	Lancaster Sound	830616

Written data or comments, requests for copies of the complete applications, or requests for a public hearing on any of these applications for marine mammal permits should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 430, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a

hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents and other information submitted with all of the applications listed in this notice are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice at the above address.

Dated: June 20, 1997.

Karen Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 97–16694 Filed 6–25–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permits for Marine Mammals

On April 9, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 68, Page 17200, that an application had been filed with the Fish and Wildlife Service by each of the following individuals for a permit to import a sport-hunted polar bear (*Ursus maritimus*) from Canada for personal use.

Applicant/address	Population	PRT
William Katen, Patchogue, NY	Southern Beaufort	826911
Harry Brickley, Indianapolis, IN	Northern Beaufort	827123
Derek A. Burdeny, Omaha, NE	.....do	827124

Notice is hereby given that on June 6, 1997, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permits subject to certain conditions set forth therein.

On April 24, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 79, Page 20019, that an application had been filed with the Fish and Wildlife Service by each of the following individuals for a permit to import a sport-hunted polar bear (*Ursus maritimus*) from Canada for personal use.

Applicant/address	Population	PRT
Fred McMillan, Ridgeland, MS	Southern Beaufort	828002
Nick Mueller, Campbellsport, WI	.....do	827891
John Dale Powers, Baton Rouge, LA	.....do	827771
Marvin Shick, Meadville, PA	.....do	827081
John Munsinger, Mills, WY	Northern Beaufort	828001
Dick Jacobs, Montesano, WA	.....do	827627
Robert McClimon, Pottstown, PA	.....do	827774
Roger Wendel, Vancouver, WA	.....do	828118
J. Martin Benchoff, Waynesboro, PA	.....do	828120
Patrick O'Neill, St. Cloud, MN	McClintock Channel	827088

On April 30, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 83, Page 23478, that an application had been filed with the Fish and Wildlife Service by each of the following individuals for a permit to import a sport-hunted polar bear (*Ursus maritimus*) from Canada for personal use.

Applicant/address	Population	PRT
Gerald Davis, Vancouver, WA	Northern Beaufort	828439
Peter Studwell, Port Chester, NY	Southern Beaufort	828356

Notice is hereby given that on June 16, 1997, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permits subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Rm 430, Arlington, Virginia 22203. Phone (703) 358–2104 or Fax (703) 358–2281.

Date: June 20, 1997.

Karen Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 97–16693 Filed 6–25–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–00–P; AA–6679–L]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a) and Sec. 1410 of the Alaska National Interest Lands

Conservation Act, 43 U.S.C. 1621, will be issued to Manokotak Natives, Limited for approximately 1,380 acres. The lands involved are in the vicinity of Manokotak, Alaska, within Tps. 14 S., Rs. 58 and 61 W., Seward Meridian, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the *Anchorage Daily News.* Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until July 28, 1997 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Katherine L. Flippen,

Land Law Examiner, ANCSA Team, Branch of 962 Adjudication.

[FR Doc. 97–16723 Filed 6–25–97; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

National Park Service

Request for Reinstatement, With Change, of a Previously Approved Information Collection

AGENCY: National Park Service, DOI.

ACTION: Notice of submission to OMB and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 *et seq.*) and OMB rules (5 CFR Part 1320), this notice announces that the National Park Service (NPS) has requested from the Office of Management and Budget (OMB) a reinstatement of, and revisions to, a previously approved information collection for certain activities related to 36 CFR Part 61, Procedures for State, Tribal and Local Historic Preservation Programs. The proposed revisions are based on program changes made since 1989. NPS received no comments on its September 3, 1996, **Federal Register** notice of intent to seek OMB reinstatement of this information collection (61 FR 46483).

DATES: Comments on this notice must be received by July 28, 1997 to be assured of consideration.

ADDRESSES: Send comments on this information collection to: Desk Officer for the Interior Department, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

A copy of the comments should be sent to: Mr. John W. Renaud, Project Coordinator, Branch of State, Tribal, and Local Programs, Heritage Preservation Services, National Park Service, U.S. Department of the Interior, P.O. Box 37127, Washington, DC 20013–7127.

FOR FURTHER INFORMATION CONTACT: Mr. John W. Renaud, Project Coordinator, Branch of State, Tribal, and Local Programs, Heritage Preservation Services Division, National Park Service, U.S. Department of the Interior, P.O. Box 37127, Washington D.C. 20013–7127, (202) 343–1059.

SUPPLEMENTARY INFORMATION:

Title: 36 CFR Part 61, Procedures for State, Tribal, and Local Government Historic Preservation Programs.

OMB Number: 1024–0038.

Type of Request: Reinstatement, with change, of a previously approved collection for which approval has expired.

Abstract: This information collection has an impact on State and local governments that wish to participate formally in the national historic preservation program and who wish to apply for Historic Preservation Fund grant assistance. The National Park Service uses the information to ensure compliance with the National Historic Preservation Act and government-wide grant requirements.

Respondents: State and Local Governments.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 14.06 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and reviewing the collection of information.

Estimated Number of Respondents: 363. This is the gross number of respondents for all of the documents included in this information collection. The net number of States and local governments participating in this information collection annually is 119. The frequency of response varies depending upon activity. Grant application and end-of-year report documents are completed once a year. Project documents are required at the beginning and end of each subgrant with a large Federal share. Each State's program is reviewed once every four years. Information is required from a local government when it applies for certification.

Estimated Number of Responses per Respondent: 1.07.

Estimated Total Annual Burden on Respondents: 5,384 hours.

Copies of this information collection can be obtained from Mr. John W. Renaud, Project Coordinator, at (202) 343–1059.

NPS is soliciting comments regarding: (1) Whether the collection of information is necessary for the proper performance of the functions of NPS, including whether the information will have practical utility; (2) the accuracy of the burden estimate including the validity of the method and assumptions used; (3) the quality, utility, and clarity of the information to be collected; (4) ways to minimize the burden, including through the use of automated collection or other forms of information technology; or (5) any other aspect of this collection of information.

All responses to this notice will be summarized in the final rulemaking for 36 CFR Part 61. All comments will also become a matter of public record.

Diane M. Cooke,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 97–16730 Filed 6–25–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Request OMB emergency approval; Sponsor's notice of change of address.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection emergency notice was previously published in the **Federal Register** on December 27, 1996 at 61 FR 68296, allowing for a 60-day comment period and subsequently withdrawn by the Immigration and Naturalization Service (Service). No comments were

received by the Service prior to withdrawal of this information collection.

The proposed information collection is now published to obtain comments from the public and affected agencies. OMB approval has been requested by June 20, 1997. If granted, the emergency approval is only valid for 180 days. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Immigration and Naturalization Service, Director, Policy Directives and Instructions Branch, Richard Sloan (202–616–7600).

Comments and questions about the ICR listed below should be forwarded to OMB, Office of Information and Regulatory Affairs, Attention: Ms. Debra Bond, 202–395–7316, Department of Justice Desk Officer, Room 10235, Washington, DC 20503.

During the first 60 days of this same period a regular review of this information collection is also being undertaken. Comments are encouraged and will be accepted until August 25, 1997. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information 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.

Overview of this information collection:

(1) *Type of Information Collection:* New information collection.

(2) *Title of the Form/Collection:* Sponsor's notice of change of address.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–865. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. The form will be used by every sponsor who has filed an affidavit of support under section 213A of the INA to notify the Service of a change of address. The data will be used to locate a sponsor if there is a request for reimbursement.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 100,000 respondents at .233 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 23,300 annual burden hours.

If you have additional comments, suggestions,or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Mr. Richard A. Sloan, 202–616–7600, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536.

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 20530.

Dated: June 20, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–16717 Filed 6–25–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Request OMB Emergency Approval; Affidavit of Support Under Section 213A of the Act.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on December 26, 1996 at 61 FR 68056, allowing for a 60-day comment period and subsequently withdrawn by the Immigration and Naturalization Service (Service). One comment letter was received by OMB and the Service prior to withdrawal of this information collection. The comments have been reconciled with OMB and the author and have been incorporated in this new collection as appropriate.

The proposed information collection is now published to obtain comments from the public and affected agencies. OMB approval has been requested by June 20, 1997. If granted, the emergency approval is only valid for 180 days. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Immigration and Naturalization Service, Director, Policy Directives and Instructions Branch, Richard Sloan (202–616–7600).

Comments and questions about the ICR listed below should be forwarded to OMB, Office of Information and Regulatory Affairs, Attention: Ms. Debra Bond, 202–395–7316, Department of Justice Desk Officer, Room 10235, Office of Management and Budget, Washington, DC 20503.

During the first 60 days of this same period a regular review of this information collection is also being undertaken. Comments are encouraged and will be accepted until August 25, 1997. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information 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.

Overview of this information collection:

(1) *Type of Information Collection:* New Information Collection.

(2) *Title of the Form/Collection:* Affidavit of Support Under Section 213A of the Act.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–864. Adjudications Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or Households. The form is mandated by law for a petitioning relative to submit an affidavit on their relative's behalf. The executed form creates a contract between the sponsor and any entity that provides means-tested public benefits.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 610,000 respondents at 1.15 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 701,500 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Mr. Richard A. Sloan, 202–616–7600, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536.

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 20530.

Dated: June 20, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–16718 Filed 6–25–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Request OMB Emergency Approval; Generic Clearance of Customer Service Surveys.

The Department of Justice, Immigration and Naturalization Service (Service) has submitted the following information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. OMB approval has been requested by July 7, 1997.

Public Law 103–62 requires the Service to submit to the Director of the Office of Management and Budget and to the Congress a Strategic Plan for program activities by not later than September 30, 1997. In conformance with the Government Performance and Results Act (GPRA), and to satisfy the requirements as contained in section 306 of Pub. L. 103–62, this information collection will be made a part of the Service Strategic Plan. If granted, the emergency approval is only valid for 180 days. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Immigration and Naturalization Service, Director, Policy Directives and Instructions Branch, Richard Sloan (202–616–7600).

Comments and questions about the ICR listed below should be forwarded to the Office of Information and Regulatory Affairs, Attention: Ms. Debra Bond, 202–395–7316, Department of Justice Desk Officer, Room 10235, Office of Management and Budget, Washington, DC 20503.

During the first 60 days of this same period a regular review of this information collection is also being undertaken. Comments are encouraged and will be accepted until August 25, 1997. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information 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.

Overview of this information collection:

(1) *Type of Information Collection:* Revision of currently approved information collection.

(2) *Title of the Form/Collection:* Generic Clearance of Customer Service Surveys.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No agency form number. Office of Policy and Planning, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals and Households. This information will be used to assess individual and agency needs, identify problems, and plan for programmatic improvements in the delivery of immigration services.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 150,000 responses at 30 minutes (.5) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 75,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–616–7600, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

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 20530.

Dated: June 20, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–16719 Filed 6–25–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Request OMB Emergency Approval; INSPASS Customer Satisfactory Survey.

The Department of Justice, Immigration and Naturalization Service has submitted the following information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. OMB approval has been requested by June 30, 1997.

The Information Technology Management Reform Act (Cohen-1996), the Government Performance and Results Act (GPRA–), and the OMB Circular A–11, Planning, Budgeting, and Acquisition of Fixed Assets, dated July 1996, require the Immigration and Naturalization Service to provide a mechanism for evaluating and improving the customer service of the Immigration and Naturalization Service Passenger Accelerated Service System (INSPASS) program. To accomplish this task, the INS has contracted the services of the Electronic Data Systems (EDS) staff, specializing in survey construction and data analysis. The end of the INSPASS current period of performance is August 30, 1997, and the next scheduled new sight deployment date for INSPASS is November 7, 1997. It is imperative that the information collection be printed and distributed by not later than July 18, 1997, to ensure the EDS staff has adequate time to collect and analyze data to improve current and planned programs prior to deployment of new INSPASS sight and prior to the expiration of contracted services. The timeliness is critical, particarly if any improvements are necessary to the electronics of the INSPASS program. If granted, the emergency approval is only valid for 180 days. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Immigration and Naturalization Service, Director, Policy Directives and Instructions Branch, Richard Sloan (202–616–7600).

Comments and questions about the ICR listed below should be forwarded to the Office of Information and Regulatory Affairs, Attention: Ms. Debra Bond, 202–395–7316, Department of Justice Desk Officer, Room 10235, Office of Management and Budget, Washington, DC 20503.

During the first 60 days of this time period a regular review of this information collection is also being undertaken. Comments are encouraged and will be accepted until August 25, 1997. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information 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.

Overview of this information collection:

(1) *Type of Information Collection:* New information collection.

(2) *Title of Form/Collection:* INSPASS Customer Satisfaction Survey.

(3) *Agency form numbers, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form G–970, Office of Information Resource Management, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Federal Government; Individuals and Households. This information will be used to determine the level of user satisfaction, and identify concerns, or issues of this system may have with its functioning. The data will also be used to make needed improvement that may be identified by the users.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 3,300 responses at 20 minutes (.333) hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,099 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–616–7600, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time also be directed to Mr. Richard A. Sloan.

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 20530.

Dated: June 20, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–16720 Filed 6–25–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Standard Industrial Classification (SIC) Forms and Multiple Worksite Report Collections; Comment Request

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public of developments regarding the confidentiality statement appearing on Bureau of Labor Statistics (BLS) Annual Refiling Survey (ARS) form and Multiple Worksite Report (MWR), which are conducted under the BLS Covered Employment and Wages (ES–202) Program in cooperation with participating State agencies.

ADDRESSES: Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue, N.E., Washington, D.C. 20212. Ms. Kurz can be reached on 202–606–7628 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

Prior to the Fiscal Year 1997 ARS and Calendar Year 1997 MWR forms, three alternative confidentiality statements were used in the ARS and four were used in the MWR. Each State used the statement that reflected its laws and

confidentiality practices. In each of these statements, BLS made a commitment to survey respondents regarding State uses of the data.

BLS recently proposed to the participating State agencies that a single confidentiality statement be adopted that would accurately reflect the treatment of data gathered in these surveys and give the States full responsibility for determining their appropriate uses of the data. States overwhelmingly favored this new approach, and the confidentiality statement was revised for the 1997 forms.

Substantive changes to Federal information collections must be approved by the Office of Management and Budget (OMB) prior to implementation. Due to a BLS oversight, the States were instructed to use a revised confidentiality statement on the 1997 forms before the statement was submitted to OMB for clearance. Consequently the prior versions of the confidentiality statement, not the revised version which appeared for 1997, are the officially-approved statements.

Questions concerning this matter arose when BLS submitted the ARS clearance package for OMB approval, and a notice was published in the **Federal Register.** During that process, OMB received a public comment advising them that the confidentiality statement contained in the clearance package was already in use. OMB determined that the revised confidentiality statement is a substantive change which requires OMB clearance. BLS withdrew the ARS clearance package from OMB's docket to allow time for reconsideration of the new statement.

OMB has agreed that BLS and the States may continue 1997 ARS and MWR data collection using the correct forms without interruption.

However, because the revised confidentiality statement on the current forms is not approved by OMB, States are not required to use it. BLS is taking the following steps to bring the collections into full compliance with the Paperwork Reduction Act of 1995:

- BLS has prepared a new confidentiality statement to put forward in emergency OMB clearances of the ARS and MWR. This statement will be on the forms which will be printed this summer and mailed out between October 1997 and January 1999. This statement is very similar to one of the alternative statements used earlier with these programs, and is as follows:

The information collected on this form by the Bureau of Labor Statistics and the State agencies cooperating in its statistical programs will be used for statistical and Unemployment Insurance program purposes, and other purposes in accordance with law.

- Following-up on the emergency clearances, BLS will submit extension requests for three-year clearance of the ARS and MWR with the revised confidentiality statement. This process will include requests for public comment.

The confidentiality statements for the 1997 and 1998 forms conform to the following factors:

- BLS uses of the data are exclusively statistical.
- BLS may share the data with other Federal agencies for statistical purposes; however, as in the past, BLS will not share a State's confidential ES–202 data with another Federal agency unless that State has given BLS written permission to do so.
- BLS makes no confidentiality statement regarding State uses of the data.
- In some States, uses are not exclusively statistical.

Signed at Washington, D.C., this 20th day of June, 1997.

W. Stuart Rust, Jr.,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 97–16769 Filed 6–25–97; 8:45 am]

BILLING CODE 4510–24–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–272 and 50–311]

Public Service Electric and Gas Company; Notice of Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 196 to Facility Operating License No. NPF–70 and Amendment No. 179 to Facility Operating License NPF–75, issued to Public Service Electric & Gas Company (PSE&G, the license), which revised the Technical Specifications for operation of the Salem Nuclear Generating Station, Units 1 and 2, located in Salem County, New Jersey. The amendments are effective as of the date of issuance, to be implemented on each unit prior to entry into Mode 3 from its current outage.

The amendments modified the Technical Specification Table 3.3–5, ''Engineered Safety Features Response Time,'' to extend the Containment Fan Cooler Unit response time from 45 to 60 seconds.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing in connection with this action was published in the **Federal Register** on November 21, 1996 (62 FR 59249). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to the action and has determined not to prepare an environmental impact statement. Based upon the environmental assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment (62 FR 26573).

For further details with respect to the action see (1) the application for amendment dated October 25, 1996, as supplemented December 11, 1996, and January 28, March 27, April 24, June 3, and June 12, 1997, (2) Amendment No. 196 to License No. DPR–70 and Amendment No. 179 to License No. DPR–75, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, and at the local public document room located at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

Dated at Rockville, Maryland, this 19th day of June 1997.

For the Nuclear Regulatory Commission.

Leonard N. Olshan,

Senior Project Manager, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–16734 Filed 6–25–97; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–26732]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

June 20, 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 14, 1997, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Consolidated Natural Gas Company, et al. (70–7258)

Consolidated Natural Gas Company (''CNG''), a registered holding company, and its subsidiaries Consolidated System LNG Company, CNG Research Company, CNG Financial Services, Inc. (''Financial Services''), Consolidated Natural Gas Service Company, Inc., CNG International Corporation (''International'') CNG Power Services Corporation (''Power Services''), CNG Telecom, Inc. (''Telecom'') and The Peoples Natural Gas Company, each of CNG Tower, 625 Liberty Avenue, Pittsburgh, Pennsylvania 15222; CNG Coal Company, CNG Producing Company, and CNG Pipeline Company (''Pipeline''), each of CNG Tower, 1450 Poydras Street, New Orleans, Louisiana 70112; CNG Transmission Corporation, CNG Storage Service Company (''Storage Service'') and CNG Iroquois, Inc. (''Iroquois''), each of 445 West Main Street, Clarksburg, West Virginia 26301; CNG Power Company (formerly CNG Energy Company), CNG Market Center Services, Inc. (''Market Center''), CNG Products and Services, Inc. (''Products and Services''), CNG Energy Services Corporation (formerly CNG Trading Company) (''Energy Services''), CNG Retail Services Corporation (''Retail Services''), each of One Park Ridge Center, P.O. Box 15746, Pittsburgh, Pennsylvania 15244; The East Ohio Gas Company, 1717 East Ninth Street, Cleveland, Ohio 44115; Virginia Natural Gas, Inc. (''VNG''), 5100 East Virginia Beach Boulevard, Norfolk, Virginia 23501; and Hope Gas, Inc., P.O. Box 2868, Clarksburgh, West Virginia 26302 (collectively, ''Subsidiaries''), have filed a post-effective amendment to an application-declaration pursuant to sections 6(a), 7, 9(a), 10 and 12(b) of the Act and Rules 43 and 45 and 54 thereunder.

By orders dated June 12, 1986 and July 16, 1986, HCAR No. 24128 and 24150 (''Original Orders''), respectively, CNG and most of the Subsidiaries were authorized to establish the Consolidated System Money Pool (''Money Pool'').[1] By order dated May 27, 1987 (HCAR No. 24399), Pipeline and Energy Services were authorized to become participants in the Money Pool. By order dated February 14, 1990 (HCAR No. 25040), VNG was authorized to become a participant in the Money Pool. By orders dated May 13, 1991 (HCAR No. 25311), April 8, 1994 (HCAR No. 26021) (''April 1994 Order''), and October 21, 1994 (HCAR No. 26148), Storage Service, Iroquois and Market Center, respectively, were each authorized to become a participant in the Money Pool. In the April 1994 Order, the Commission authorized a change in the interest rate charged on advances from the Money Pool.

Pursuant to an order of the Commission dated February 23, 1995 (HCAR No. 26234), Financial Services is engaged in the business of financing the purchase of certain gas equipment by customers who have or may purchase gas from a CNG subsidiary. By order dated May 30, 1996 (HCAR 26523), CNG was authorized to establish International, for the purpose of making investments in foreign utility companies, as defined in section 33 of the Act, and exempt wholesale generators (''EWGs''), as defined in section 32 of the Act, outside the United States. By order dated August 28, 1995 (HCAR No. 26363), the Commission authorized CNG to engage in the business of providing certain energy-related products and services to customers of its local distribution subsidiaries and CNG formed Products and Services to engage in this business. By order dated January 15, 1997 (HCAR No. 26647), CNG authorized Retail Services, a subsidiary of Energy Services, to market all types of energy commodities at retail. Power Services is an EWG and is CNG's national power marketing subsidiary. Telecom is an ''exempt telecommunications Company,'' as defined in section 34 of the Act. Financial Services, International, Products and Services, Retail Services, Power Services and Telecom now request authorization to participate in the Money Pool, subject to the terms and conditions previously authorized by the Commission in the Original Orders, as amended by the April 1994 Order.

By orders dated July 26, 1995, March 28, 1996, May 30, 1996, October 25, 1996, November 19, 1996 and January 15, 1997 (HCAR Nos. 26341, 26500, 26523, 26595, 26608 and 26647, respectively), the Commission authorized CNG to establish or acquire interests in entities to engage in certain energy-related businesses more particularly described in those orders. Applicants also request authorization for these entities to participate in the Money Pool, subject to the terms and conditions previously authorized by the Commission in the Original Orders, as amended by the April 1994 Order.

Funds taken from and provided to the Money Pool would be made in the form of open account advances. Open account advances would be repayable not more than one year from the date of the first advance. The rate charged to borrowers from the Money Pool equals the effective weighted average rate of interest on CNG's outstanding commercial paper and/or revolving credit borrowings. If no such borrowings are outstanding on the date of any advance, then the interest rate would be the Federal Funds' effective rate of interest as quoted daily by the Federal Reserve Bank of New York.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–16699 Filed 6–25–97; 8:45 am]

BILLING CODE 8010–01–M

[1] Two of the original applicants, The River Gas Company and West Ohio Gas Company, merged into The East Ohio Gas Company pursuant to two Commission orders dated April 29, 1994 (HCAR No. 26038) and December 10, 1996 (HCAR No. 26619), respectively.

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

This statement amends parts S and T of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Chapter TA covers the Office of the Deputy Commissioner for Programs and Policy. Notice is given that Subchapter TAJ, the Office of International Policy is being amended to reflect a realignment. The Division of International Program Policy and Agreements (TAJA) and the International Activities Staff (TAJB) are being abolished. A Deputy Associate Commissioner for International Policy position is being established and the organization will function under a team-based environment. Notice is further given that Subchapter TAH, the Office of Hearings and Appeals is being amended to reflect minor organizational and functional changes in that office. The changes are as follows:

Section TAJ.10 *The Office of International Policy*—(Organization):

Amend first sentence to read:

The Office of International Policy, under the leadership of the Associate Commissioner for International Policy includes:

Delete:

C. The Division of International Program Policy and Agreements (TAJA).

D. The International Activities Staff (TAJB).

Establish:

B. The Deputy Associate Commissioner for International Policy (TAJ).

Reletter the current ''B'' to ''C''.

Section TAJ.20 *The Office of International Policy*—(Functions):

Delete in their entirety:

C. The Division of International Program Policy and Agreements (TAJA).

D. The International Activities Staff (TAJB).

Establish:

B. The Deputy Associate Commissioner for International Policy (TAJ) assists the Associate Commissioner in carrying out his/her responsibilities and performs other duties the Associate Commissioner may prescribe.

Reletter the current ''B'' to ''C'' and amend new C as follows.

C. The Immediate Office of the Associate Commissioner for International Policy (TAJ) provides the Associate Commissioner with staff assistance on the full range of his/her responsibilities, helps coordinate the activities of OIP, and acts as the SSA or United States Government representative to international organizations and world bodies involved with international social security matters.

1. Plans, develops and evaluates program policies and procedures relating to foreign claims administration, foreign evidence and beneficiaries and modifies policies and procedures to meet program requirements in foreign countries.

2. Negotiates international Social Security (totalization) agreements with foreign governments and takes the actions necessary to secure their approval, develops policies and procedures to implement agreements and administers the coverage provisions of the agreements.

3. Issues certificates of coverage to United States-based workers who are on temporary assignments in countries with which the United States has international totalization agreements to exempt them (and their employers) from foreign social security taxes.

4. Interacts with various SSA components, other Federal agencies and governments of other countries on all foreign program matters, including evaluation of foreign social insurance systems for alien nonpayment purposes, benefit payment delivery and restrictions, acceptability of foreign evidence, program integrity and mutual assistance arrangements with other countries.

5. Conducts legislative and regulatory reviews, studies and analyses of all matters relating to international policy and international Social Security agreements and takes necessary legislative or regulatory action on foreign program and agreement problems requiring such remedy.

6. Develops and coordinates individualized programs of consultation and observation for foreign Social Security officials and experts in related fields on the United States Social Security system.

7. Coordinates SSA's technical assistance to foreign countries in designing and/or modernizing existing social security systems.

8. Serves as SSA's focal point in disseminating information about the United States Social Security program to foreign organizations.

9. Plans and coordinates SSA's international travel plan, including providing logistical support and administering all activities relating to control of official passports for SSA staff traveling abroad.

10. Plans, implements and manages SSA-hosted international conferences, meetings and seminars.

Section TAH.10. *The Office of Hearings and Appeals*—(Organization):

D. The Office of the Chief Administrative Law Judge (TAHA).

Retitle:

3. The Vocational Expert and Medical Advisor Staff (TAHA3) to the Vocational Expert and Medical Expert Staff (TAHA3).

F. Office of Appellate Operations (TAHB).

Retitle:

25. The Division of Retirement and Survivors Insurance, Supplemental Security Income and Health Insurance (TAHBT) to The Division of Retirement and Survivors Insurance and Supplemental Security Income (TAHBT).

Section TAH.20. *The Office of Hearings and Appeals*—(Functions):

F. The Office of Appellate Operations (TAHB). Delete all text after the first sentence and replace with:

In accordance with a direct delegation of authority from the Commissioner of Social Security, the Appeals Council is the final level of administrative review under the Administrative Procedure Act for claims filed under Titles II and XVI of the Social Security Act, as amended, and Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended. The Executive Director of the Office of Appellate Operations (OAO) is the Deputy Chair of the Appeals Council and is responsible for the day-to-day operations of a program of administrative review of Administrative Law Judge (ALJ) decisions issued under the provisions of the Social Security Act. Upon claimant request or on the Appeals Council's own motion, reviews ALJ decisions and dismissals involving claims for benefits filed under Titles II and XVI of the Social Security Act, as amended, and claims under Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, to determine if jurisdiction exists, and if so, takes appropriate action. The Appeals Council identifies cases which represent broad policy matters or have national impact, conducts oral hearings and acts to resolve the issues in such cases, establishing binding adjudicatory standards and decisional principles that govern OHA's adjudicatory process. Tracks and analyzes court case trends and disseminates information to guide adjudicators with respect to case law, to implement an effective appeals strategy, and to identify areas and make recommendations as to policies which need to be developed and/or clarified, new regulations which need to be developed and/or clarified, or clarifying legislation which should be sought.

Retitle:

25. The Division of Retirement and Survivors Insurance, Supplemental Security Income and Health Insurance (TAHBT) to The Division of Retirement and Survivors Insurance and Supplemental Security Income (TAHBT).

Delete first sentence and replace with:

25. The Division of Retirement and Survivors Insurance and Supplemental Security Income (TAHBT) serves as a support staff and provides advice to the Appeals Council in its review of decisions and dismissals involving claims to establish entitlement and the amount of benefits in old-age, survivors and disability under Title II of the Social Security Act; and claims to establish eligibility for any benefits payable in Title XVI cases.

H. The Office of Management (TAHE)

Add as the last two sentences to opening statement: Plans, directs, and provides administrative support services in the areas of safety and self-protection. Administers security programs and inspections, and coordinates with local law enforcement officials to ensure protection of OHA property and personnel, including emergency planning and security.

4. The Division of Materiel Resources (TAHE4).

Delete from first sentence ''safety and self protection, including emergency planning; security;''

Delete last sentence in its entirety.

Dated: June 12, 1997.

Paul D. Barnes,

Deputy Commissioner for Human Resources.

[FR Doc. 97–16687 Filed 6–25–97; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at the Quincy Municipal Airport—Baldwin Field, Quincy, Illinois

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Quincy Municipal Airport—Baldwin Field under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before July 28, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Chicago Airports District Office, 2300 E. Devon Avenue, Des Plaines, Illinois 60018.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Leon Kowalski, Director of Public Works, City of Quincy at the following address: City of Quincy, City Hall, 730 Main Street, Quincy Illinois 62301.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Quincy under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Philip M. Smithmeyer, P.E., Assistant Manager, Chicago Airports District Office, 2300 E. Devon Ave., Room 260, Des Plaines, IL 60018, (847) 294–7435. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Quincy Municipal Airport—Baldwin Field under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On June 3, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Quincy was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 9, 1997.

The following is a brief overview of the application:

PFC application number: 97–02–C–00–UIN.

Level of the proposed PFC: $3.00.

Proposed charge effective date: June 30, 1997.

Proposed charge expiration date: March 1, 2003.

Total estimated PFC revenue: $303,740.00.

Brief description of proposed project(s): PFC Application Fee; Local Share Aerial Mapping for Airport Layout Plan; Local Share for Phase 1 Reconstruction of Runway 4/22; Reconstruction for Sanitary Sewer Line; Terminal Roof Reconstruction; Local Share for Phase 2 Reconstruction of Runway 4/22; Local Share for Reconstruction of Runway 13/31; Construct a Bituminous Overlay on T-Hangar Access Road.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Charters.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Quincy.

Issued in Des Plaines, Illinois on June 18, 1997.

Irene Porter,

Acting Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 97–16780 Filed 6–25–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 97–033; Notice 1]

Vehicle Size and Safety; Relationship of Vehicle Weight to Fatality and Injury Risk in Model Year 1985–93 Passenger Cars and Light Trucks; Summary Report and Six Technical Reports

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for comments on summary report and six technical reports.

SUMMARY: This notice announces the publication by NHTSA of a summary report and six technical reports describing how a vehicle's size affects the safety of its occupants and the safety of those sharing the road. The summary report's title is *Relationship of Vehicle Weight to Fatality and Injury Risk in Model Year 1985–93 Passenger Cars and Light Trucks.*

DATES: Comments must be received no later than October 24, 1997.

ADDRESSES:

Report: Interested people may obtain copies of the reports free of charge by sending a self-addressed mailing label to Publications Ordering and Distribution Services (NAD–51), National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590.

Comments: All comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, SW, Washington, DC 20590. [Docket hours, 9:30 a.m.–4:00 p.m., Monday through Friday.]

FOR FURTHER INFORMATION CONTACT: Charles J. Kahane, Chief, Evaluation Division, Plans and Policy, National Highway Traffic Safety Administration, Room 5208, 400 Seventh Street, SW, Washington, DC 20590 (202–366–2560).

SUPPLEMENTARY INFORMATION: NHTSA performs statistical evaluations of the safety impacts of regulations and other factors that substantially influence vehicle design. In July 1991, NHTSA issued a study of the safety effects of passenger car downsizing during 1970–82 (*Effect of Car Size on Fatality and Injury Risk*). Since the mid-1980's, a major trend in the vehicle fleet has been the increase in the number as well as the weight of light trucks (pickup trucks, vans and sport utility vehicles). As of model year 1993, light trucks, on the average, weigh 900 pounds more than passenger cars. NHTSA records show that, each year since 1992, there have been more fatalities in car-light truck collisions than there have been in car-to-car collisions. In car-light truck collisions, 80 percent of the fatalities are occupants of the cars. The agency's *Evaluation Program Plan, 1994–98* (59 FR 30090) called for an updated evaluation of vehicle size and safety focusing, among other things, on the size-safety effects in light trucks and their interaction with passenger cars. In 1996, drafts of the summary report and the six technical reports constituting this evaluation were peer-reviewed by a panel of experts under the auspices of the Transportation Research Board of the National Academy of Sciences. The reports were then revised in response to the panel's recommendations.

The studies analyze the crash experience of model year 1985 through 1993 passenger cars and light trucks, and compare the rates at which lighter and heavier vehicles were involved in crashes involving fatalities (''fatal crash rate'') and those resulting in moderate-to-critical injuries (''serious injury crash rate'') or in police-reported ''A'' or ''K'' injuries (''less-serious injury crash rate''). After controlling for factors such as driver age, the studies found that the fatal crash rate for passenger cars increased by 1.1 percent for each 100 pound decrease in passenger car weight. The serious injury crash rate for these vehicles increased by 1.6 percent for each such reduction, and the less-serious injury crash rate by 3.2 percent. These findings suggest that a future 100-pound reduction in passenger car weight, unless offset by safety improvements, could result in an estimated 302 additional fatalities, 1,823 moderate-to-critical injuries and 8,804 less-serious injuries per year.

The studies showed the relationship to be largely reversed in the case of light trucks. Reductions in the weight of light trucks reduce risks for car occupants, pedestrians, bicyclists and motorcyclists involved in collisions with the trucks. As a result, the fatal crash rate involving light trucks decreased by 0.3 percent for each 100-pound decrease in light truck weight and the serious injury crash rate decreased by 1.3 percent; however, the less-serious injury crash rate increased by 1.5 percent. As such, a future 100-pound reduction in the weight of light trucks would be expected to prevent 40 fatalities and 601 moderate-to-critical injuries per year, due to the decreased risk to occupants of other vehicles or pedestrians involved in crashes with light trucks. This more than compensates for the added risk of fatalities or serious injuries to the occupants of the trucks. Less-serious injuries would be expected to increase by 1,794. A future increase in the weight of light trucks would have the opposite effect.

The summary report, titled *Relationship of Vehicle Weight to Fatality and Injury Risk in Model Year 1985–93 Passenger Cars and Light Trucks,* is publication No. DOT HS 808 569.

The titles and publication numbers of the six technical reports are as follows:

Relationships between Vehicle Size and Fatality Risk in Model Year 1985–93 Passenger Cars and Light Trucks, Report No. DOT HS 808 570.

Effect of Vehicle Weight on Crash-Level Driver Injury Rates, Report No. DOT HS 808 571.

Passenger Vehicle Weight and Driver Injury Severity, Report No. DOT HS 808 572.

Patterns of Driver Age, Sex and Belt Use by Car Weight, Report No. DOT HS 808 573.

Impacts with Yielding Fixed Objects by Vehicle Weight, Report No. DOT HS 808 574.

The Effect of Decreases in Vehicle Weight on Injury Crash Rates, Report No. DOT HS 808 575.

NHTSA welcomes public review of the reports and invites the reviewers to submit comments about the data and the statistical methods used in the reports. The agency is interested in learning of any additional data that could be used to expand or improve the analyses, including information on the curb weights, track widths or other parameters for specific passenger cars or light trucks.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and 7 copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested people continue to examine the docket for new material.

People desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Authority: 49 U.S.C. 30111, 30168; delegation of authority at 49 CFR 1.50 and 501.8.

William H. Walsh,

Associate Administrator for Plans and Policy.

[FR Doc. 97–16721 Filed 6–25–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 96–119; Notice 2]

Accuride Corporation; Grant of Application for Decision of Inconsequential Noncompliance

This notice grants the application by Accuride Corporation (Accuride) to be exempted from the notification and remedy requirements of 49 U.S.C. 30118 and 30120 for a noncompliance with 49 CFR 571.120, Federal Motor Vehicle Safety Standard (FMVSS) No. 120, ''Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars.'' The basis

of the grant is that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the application was published on March 7, 1997, and an opportunity afforded for comment (62 FR 10617).

Paragraph S5.2(a) of FMVSS No. 120 requires rims to be marked with a designation which indicates the source of the rim's published nominal dimension. Paragraph S5.2(c) requires the rim to be marked with the symbol DOT, constituting a certification by the manufacturer of the rim that the rim complies with all applicable motor vehicle safety standards.

Accuride's description of the noncompliance follows:

The motor vehicle equipment in issue are certain 22.5 & 24.5x8.25 inch, 15° drop center, one-piece, tubeless dual wheels produced by Kaiser Aluminum and Chemical Corporation at its Erie, Pennsylvania, forging plant and machined at Ultra Forge, Inc. at Cuyahoga Falls, Ohio. These wheels are designed and marketed by Accuride Corporation, a division of Phelps Dodge Corporation, under the brand name Accu-Forge. These wheels were sent to original equipment manufacturers and would be normal equipment on Class 8 conventional, over the highway trucks and their trailers. A total of 1,256 wheels were produced on line 4 between January 6, 1997, and January 10, 1997. 682 of these wheels were set aside to go through the polishing line and were then stamped later before shipment. The total number of suspect wheels is 574, date stamped December 23, 1996, January 6, 7, 8, or 9, 1997. Six wheels manufactured December 23, 1996 were also stamped during this time frame. 96 of these wheels were located in the plant and corrected, 478 were shipped. 100% of the 476 wheels shipped contain this condition described below.

These wheels are the subject of a noncompliance because of a[n] incorrect stamping of the rim marking. These wheels are 22.5 & 24.5x8.25 inch, 15° tubeless wheels made from a single-piece aluminum forging. They are manufactured correctly in accordance with the Accuride specification. However, the symbol ''DOT'' and the designation which indicates the source of the rim's published nominal dimensions, in this case ''T'', were not included. All other stampings specified by Federal Motor Vehicle Safety 120 and by Accuride, including the part number and the load rating, were correctly stamped on the product. On January 6, 1997 the rim stamping equipment on line 4 was replaced. The new equipment was set up without the complete stamping as stated above. On January 13, this condition was noted and corrected.

On January 13, Kaiser notified Accuride that a quantity of wheels had been shipped to customers without the symbols ''DOT–T''. On January 15, Accuride was notified that 478 wheels had been shipped to three separate customers. On January 17, Ms. Patricia Wallace at NHTSA was notified.

Accuride supported its application for an inconsequential noncompliance with the following:

1. Accuride Corporation is a Delaware corporation and is a subsidiary of Phelps Dodge Corporation. Accuride is headquartered in Henderson, Kentucky and is a major manufacturer of truck rims and wheels.

2. The motor vehicle equipment in question are a small number of Accu-Forge 22.5 & 24.5x8.25 inch, 15° drop center, one-piece tubeless dual wheels produced by Kaiser Aluminum and Chemical Corporation at its Erie, Pennsylvania, forging plant and machined at Ultra Forge, Inc. in Cuyahoga Falls, Ohio. In issue are an estimated 478 of the total 1,256 wheels of this size produced between January 6, 1997 and January 10, 1997. Six wheels manufactured December 23, 1996 were also stamped during this time frame. The non-compliance relates to the mis-stamping of the marking of the rim. The symbol ''DOT'' and the designation which indicates the source of the rim's published nominal dimensions, in this case ''T'', were not included. All other stampings and markings required by FMVSS 120 and Accuride, including the part number and load rating, are correctly identified on each of the components in questions.

3. The rim marking is for information only and there is no safety-related issue potentially arising from the exclusion of these symbols on the wheels.

No comments were received on the application.

The agency has reviewed the Accurride application and agrees that the noncompliance is inconsequential to motor vehicle safety. Between January 6, 1997, and January 10, 1997, Accurride manufactured an estimated 478 Accu-Forge 22.5 & 24.5x8.25 inch, 15 degree drop center, one-piece tubeless dual wheel rims that were not stamped with two of the markings required in FMVSS No. 120. Six wheels manufactured December 23, 1996, were also stamped during this time frame. All of the other applicable markings are on the rim.

Accuride stated the noncompliance is inconsequential to safety because ''the omitted stamping of ''DOT–T'' is only for information and there is no safety-related issue potentially arising from the deletion of this symbol.'' The agency disagrees in part with Accuride's argument, although it believes the noncompliance is inconsequential to motor vehicle safety. The labeling requirement is not ''only for information.'' Since August 1976, FMVSS No. 120 has required rims to be marked with five items of information: the size designation (and, in the case of multipiece rims, the type designation), an indication of the source of the rim's nominal dimensions, and the DOT symbol which must appear on the weather side, while identification of the manufacturer and date of manufacture may appear at any place on the rim's surface. FMVSS No. 120 established a set of code letters to indicate the required five items of information to reduce the possibility of confusion and to minimize the number of characters stamped on the rim. The symbol ''DOT'' constitutes certification by the manufacturer of the rim that the rim complies with applicable motor vehicle safety standards. The symbol ''T'' indicates that the rim's nominal dimensions are in accordance with the U. S.-based ''The Tire and Rim Association.'' Thus, the exclusion of information on the tire rim can be significant. The labeling of motor vehicle tires and rims with the information required by regulations and the Federal Motor Vehicle Safety Standards benefits motor vehicle manufacturers and consumers. Primarily, these labeling requirements help ensure that the tires are mounted on appropriate rims and that the rims and tires are mounted on vehicles for which they were intended. If tires and rims were not labeled, mismatching of tire and rim sizes would likely occur. This occurrence could often result in poor tire performance, and may cause tire and rim separation or tire blowouts from an overload. However, the rims identified in this application are designated for use on Class 8 vehicles; thereby, eliminating the likelihood that an unskilled consumer would misapply the rims.

NHTSA's decision to grant Accuride's application is also based on the fact that all other informational tire markings required by FMVSS No. 120, particularly the rim type designation, are on the rims, and correctly marked. Although NHTSA traditionally considers failure to mark ''DOT'' as a failure to certify under 49 Part 567–*Certification* rather than a failure to comply with a FMVSS, the absence of the ''DOT'' symbol will not compromise motor vehicle safety.

Accordingly, for the reasons expressed above, the applicant has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and the agency grants Accuride's application for exemption from notification of the noncompliance as required by 49 U.S.C. 30118 and from remedy as required by 49 U.S.C. 30120.

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8)

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: June 20, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–16751 Filed 6–25–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 97–042; Notice 1]

RIN 2127–AF55

Auto Theft and Recovery; Preliminary Report on the Effects of the Anti Car Theft Act of 1992 and the Motor Vehicle Theft Law Enforcement Act of 1984

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for comments.

SUMMARY: This notice announces the publication by NHTSA of a preliminary report for public comment pursuant to the Anti Car Theft Act of 1992 (codified in Chapter 331 of Title 49 of the United States Code), which directs the Secretary of Transportation to submit a report to Congress five years after the enactment of the statute (49 U.S.C. 3311(b)). The statute requires the Department to report on the effects of federal regulations on auto theft and comprehensive insurance premiums and what changes, if any, to these regulations are appropriate.

As required by the Chapter 331, the agency seeks public review and comment on this report prior to its submission to Congress. The report does not contain recommendations at this time. The Department will develop recommendations after a review of public comments.

DATES: Comments must be received no later than August 11, 1997.

ADDRESSES:

Report: Interested people may obtain a copy of the report free of charge by sending a self-addressed mailing label to Walter Culbreath, Publications Ordering and Distribution Services (NAD–51), National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

Comments: All comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. [Docket hours, 9:30 a.m.–4:00 p.m., Monday through Friday.]

FOR FURTHER INFORMATION CONTACT: Charles J. Kahane, Chief, Evaluation Division, Plans and Policy, National Highway Traffic Safety Administration, Room 5208, 400 Seventh Street, SW., Washington, DC 20590 (202–366–2560).

SUPPLEMENTARY INFORMATION:

History

As a result of the Department's recommendations in the 1991 report to Congress on the Motor Vehicle Theft Law Enforcement Act of 1984 and other information received by the Congress, the Anti Car Theft Act of 1992 was enacted. This Act built on the 1984 Act in several ways: Federal penalties for auto theft were enhanced. A grant program was authorized to help state and local law enforcement agencies concerned with auto theft. Experts were called on to look into and report on motor vehicle titling, registration, and salvage (the report was published in February 1994). The National Motor Vehicle Title Information System was to be established and the states were required to participate in the system; the Theft Prevention Standard was expanded, rules were established to check if salvage or junk vehicles are stolen; and the Attorney General is to maintain a National Stolen Auto Part Information System. Selling or distributing marked parts that are stolen became a Federal crime. Random customs inspection to detect stolen vehicles being exported were allowed. A pilot study on a nondestructive inspection system was authorized. As in the 1984 Act, the Anti Car Theft Act of 1992 calls for a report to the Congress on the effects of the Act on trends in motor vehicle thefts and recovery. The report is due five years after the legislation was enacted. The Anti Car Theft Act requires that the five year report to Congress address: motor vehicle theft and recovery statistics as well as their collection and reliability; the extent to which motor vehicles are dismantled and exported; the market for stolen parts; the cost and benefit of marking parts; arrest and prosecution of auto theft offenders; the Act's effect on the cost of comprehensive insurance premiums; the adequacy of Federal and state theft laws; and an assessment of parts marking benefits for other than passenger cars. As in the 1984 Act, a preliminary report is to be published and announced in the **Federal Register** for comment. This 1997 report addresses that requirement.

The 1992 Act's amendments on theft prevention include: expanding coverage to selected lines that were below the 1990/1991 median theft rate, and including high theft multipurpose passenger vehicles and light trucks that are rated at not more than 6,000 pounds gross vehicle weight under the provisions of the theft standard. These changes had to be made two years (1994) after the enactment of the Act. Three years later (1997), based on the Attorney General's findings, the Secretary of Transportation shall designate all remaining such lines of passenger motor vehicles (other than light-duty trucks), unless the Attorney General determines such additional parts marking would not substantially inhibit chop shop operations and vehicle thefts. By the end of 1999, the Attorney General shall determine if the rules have been effective in inhibiting chop shops and vehicle theft and send these findings to the Secretary. These findings are to include an analysis of the effectiveness of factory-installed antitheft devices as a substitute for parts marking.

The rulemaking process and manufacturer comments regarding lead time to implement parts marking resulted in expansion of the Theft Prevention Standard to a selected group of low theft line vehicle lines and other passenger vehicles beginning with the 1997 model year.

Summary of Preliminary Report

To compile this report, the Department obtained data from sources specified in the Act and available elsewhere, including the FBI's National Crime Information Center, the Justice Department's National Institute of Justice; the Bureau of Customs; the Highway Loss Data Institute, the National Information Crime Bureau; insurance companies; surveys of and interviews with state, county and city enforcement, motor vehicle administration and court officials; and autobody repair shops. The most recent theft data available for this report from the National Crime Information Center is the 1995.

Motor vehicle theft was a growing problem in the early and mid 1980's. In 1984, Congress enacted the Motor Vehicle Theft Law Enforcement Act (Public Law No. 98-547 (October 25, 1984)) in order to reduce the incidence of motor vehicle thefts and facilitate the tracing and recovery of stolen motor vehicles and parts from stolen vehicles. The Department of Transportation implemented the 1984 Act by issuing the Federal Motor Vehicle Theft Prevention Standard, which requires manufacturers of designated high theft passenger car lines to inscribe or affix the Vehicle Identification Number (VIN) onto the engine, the transmission, and

12 major body parts. As an alternative to parts marking, manufacturers could choose to install antitheft devices as standard equipment on those lines. The objective of parts marking is to allow law enforcement agencies to identify stolen vehicles or parts removed from stolen vehicles—and to deter professional thieves since they will have difficulty in marketing stolen marked parts and are more likely to get caught if they steal cars with marked parts. The high-theft car lines were designated in 1985, and actual parts marking began with model year 1987.

In 1991, the National Highway Traffic Safety Administration (NHTSA) presented a report to the Congress assessing the auto theft problem in the United States and, in particular, attempting to evaluate parts marking. At that time, however, only two years of theft and recovery data were available for cars with marked parts. Evidence of the effectiveness of parts marking could not be obtained through statistical analysis of theft and recovery rates. Nevertheless, the Department found wide support in 1991 for parts marking from the law enforcement community. Investigators believed that parts marking provided them with a valuable tool for detecting, apprehending, and prosecuting thieves. After considering the analyses, surveys and public comments obtained during the preparation of the 1991 report, the Department recommended that the theft prevention standard be continued with minor changes.

In 1991–92, motor vehicle theft was still a large problem. Thefts had increased from 830,000 in 1984 to 1,270,000 by 1990. In search of stronger remedies, and in response to the Department's recommendation and other information, Congress enacted Public Law No. 102–519 (October 25, 1992), the Anti Car Theft Act of 1992.

The 1992 Act requires the Department of Transportation to provide a report to the Congress updating the findings of the 1991 report and evaluating the effects of the 1984 and 1992 Acts. As a first step, the Department is publishing this Preliminary Report for public review and issuing a notice in the **Federal Register** announcing a 45 day opportunity for public comment. Comments received will be summarized and discussed as part of the Final Report that will be transmitted to the Congress.

The goals of this report are:

- To update the detailed statistics on motor vehicle theft and recovery presented in the 1991 report. For this report, theft and recovery data were available from 1984 through 1995, and insurance data from 1986 through 1992.
- To revisit the evaluation of parts marking, now that extensive data are available on the theft experience of cars with marked parts or antitheft devices. (However, since theft data were available only through 1995, the effectiveness of the 1992 Act as regards expanded coverage in 1997 and later models cannot be analyzed at this time.)
- To evaluate other provisions of the 1992 Anti Car Theft Act and the 1984 Act, focusing on changes that have occurred since the 1991 report.

The basic reasons for stealing cars have not changed since the 1991 report. Cars are stolen for transportation, joyriding, export, for repair parts, and to obtain expensive items such as stereo equipment for a quick profit. Since the last report to Congress, a new type of auto theft crime has emerged—carjacking—but the theft motives are still the same. Fundamentally, though, two types of auto theft may be recognized: (1) Professional thefts for profit, such as thefts to supply chop shops, retagging and retitling, or for illegal export. These thefts often result in a total loss to the original owner, but there is hope they can be deterred by remedies such as parts marking. They are believed to account for at least 23 percent of all thefts, and perhaps substantially more. (2) Nonprofessional thefts for purposes such as joyriding or to obtain temporary transportation. The vehicles are mostly recovered; on the other hand, parts marking would not appear as likely to deter these thefts.

As in the 1991 report, theft and recovery data come from the FBI's National Crime Information Center. The data do not indicate the motives for individual thefts or separate the ''professional'' from the ''nonprofessional'' thefts. Analyses based on aggregate data cannot identify the effectiveness of each subsection of the 1984 and 1992 Acts, but can provide insights on the trend in thefts and recoveries.

The principal finding of this evaluation is that the auto theft problem, which was growing during the mid 1980's, leveled off or even began to decline after 1989–90. In 1995, there were 1,180,000 motor vehicles stolen, a decline of seven percent from the all-time peak of 1,270,000 experienced in both 1990 and 1992. However, the 1995 thefts are still 39 percent more than the 830,000 experienced in 1984. The theft rate per 100,000 registered vehicles increased from 543 in 1984 to 714 in 1990, but had dropped back to 597 by 1995.

Passenger cars account for 71 percent of all motor vehicle thefts, followed by light trucks—pickup trucks, sport utility vehicles and vans—at 24 percent. The remaining thefts are split between heavy trucks and motorcycles. Theft rates for all four vehicle types have declined since 1990.

Recoveries of stolen vehicles have kept pace with thefts over the years—recovery rates have remained stable at close to 80 percent of thefts throughout 1984–95. Passenger cars have slightly higher recovery rates than light trucks. Motorcycles have substantially lower recovery rates than all other vehicle types, and they have gotten worse. It is estimated that the annual economic loss resulting from vehicle thefts—and from the fact that many vehicles are never recovered or only recovered in a damaged condition—is at least $4 billion and could be as high as $8 billion.

The average consumer cost of parts marking in 1995 models was $4.92 per car. At that cost, just a two percent reduction in the theft rate would create consumer benefits well exceeding the cost of parts marking.

Theft and recovery rates for car lines that got parts marking or antitheft devices in 1987 were compared to the rates for the car lines before 1987 and to the rates for car lines that did not get either remedy. However, the fact that, originally, only high-theft car lines got parts marking resulted in biases in the data that made it essentially impossible to attribute a specific percentage reduction in thefts or increase in recoveries to parts marking or antitheft devices. Still, the analyses provided four indications (hedged with caveats) that parts marking and antitheft devices quite possibly had beneficial effects at times, apparently greater than 2 percent:

- There seemed to be a conspicuous shift in theft rates in model years 1986–87, coinciding with the introduction of parts marking. Cars with marked parts had lower theft rates than expected, while those with unmarked parts had higher rates than expected. The effect was as strong as 20 percent when cars were new, but it weakened as they became older and seemed to have vanished by the time they were two years old. The latter is a noteworthy finding, since it is consistent with the view that many professional thieves subsequently learned how to obliterate the markings, and found them less of a deterrent.
- Almost all car lines had lower theft rates in their early 1990's models than in the late 1970's models. However, the long-term reduction was substantially greater in the car lines that got parts

marking or antitheft devices than in the car lines that did not. It is not so clear what happened during the crucial intervening years, the 1980's.

- Recovery rates for 1987 cars with marked parts were consistently higher than for corresponding 1986 models. However, this one-time favorable effect consistently deteriorated after 1987.
- There was a strong reduction after 1987 in the percentage of vehicles that were only recovered in-part—i.e., missing their engine, transmission or a major body part (those which for high theft lines are required to have markings). There was a corresponding increase in percentage of vehicles recovered in-whole (no major parts missing) or intact. This trend was especially strong in the car lines with marked parts.

Factory-installed antitheft devices were installed on far fewer car lines than parts marking. The findings on the effect of antitheft devices are generally parallel to those on parts marking, but less conclusive. Generally speaking, there was no strong evidence that factory-installed antitheft devices have a different effect than parts marking. No data were available for evaluating the effect of aftermarket antitheft devices.

Analysis of the effect of vehicle age on theft rates showed that eight year old vehicles were just as likely to be stolen as current model year vehicles. This suggests that parts marking methods need to be sufficiently permanent to last up to eight years or more.

On the whole, the analysis results seem to suggest that Chapter 331's approach, which views both parts-marking and factory-installed antitheft devices as effective deterrents to automobile theft has had benefits. There is some indication that the effect of parts marking might have been greater than two percent needed for cost-effectiveness, at least at certain times. Also, parts marking and antitheft devices seem to be integral components of a larger program to combat auto theft. That program has, on the whole had an impact, as evidenced by the leveling off and reduction of theft rates after 1990.

Collection and dissemination of theft and recovery information has improved since 1991, primarily because technical advances in communications and computer equipment made databases more complete and accessible to agencies needing the information. The two systems called for in the Anti Car Theft Act of 1992—the National Motor Vehicle Title Information System and the National Stolen Auto Part Information System—are either not completely in place or are so new that their effects on vehicle theft (prevention, recovery or apprehension of thieves) cannot be evaluated at this time.

In tandem with the number of motor vehicle thefts, arrests for auto theft peaked in 1989 and have leveled off since then. In 1994, an estimated 200,000 were arrested for auto theft or attempted theft in the United States.

While recent surveys of district attorneys and law enforcement agencies did not provide detailed statistical data on arrests, prosecutions, and convictions for auto theft, they present an even more encouraging picture than corresponding surveys in the earlier report. Since 1991, there have been moderate increases in the number of prosecutions under both Federal Acts. There have also been increases in the level of effort directed to each prosecution. Now that they have better evidence with which to work, both prosecutors and officers are willing to invest more effort at obtaining a conviction. By 1996, prosecutors saw an increase of over 20 percent in the number of prosecuted cases, and 10 percent said that theft rates had declined in their jurisdictions. By 1996, in contrast to almost no effect seen in 1991, almost half of the district attorneys reported an increase in convictions—and most of them attributed it to the Federal Acts. Stiffer sentencing was occurring in 45 percent of the convictions, including a 75 percent increase in jail sentences. This could be even higher, they report, but for prison overcrowding.

Law enforcement agencies report the same attitudes about the deterrent effects of parts marking in 1996 as they did in 1991. They feel that auto thefts for chop shop operations will continue if there is a demand for a part, marked or not. But almost half of the investigators feel that parts marking makes professional thieves more cautious or even deters them completely from stealing cars with marked parts. All investigators thought parts marking had no effect on amateur thieves. Parts marking seems to have the greatest effect on chop shop operators because of the increased cost of ''doing business.''

Auto theft investigators feel that parts marking is a valuable tool for arresting and prosecuting thieves. In 1991, they saw little or no effect, but by 1996, most of them felt that parts marking did assist in identifying and recovering stolen parts and vehicles. About three fourths of the law enforcement agencies in big cities said parts marking helped in arresting both chop shop operators and professional thieves. Auto theft investigators, as in 1991, still say that more permanent methods for parts marking are needed. Even though it is unlawful to remove labels from marked parts and the labels are required to leave evidence that they were once on the marked part, thieves have found methods for removing both the label and its ''footprint''. The investigator then has to be sufficiently knowledgeable to recognize that the part should have a label. Also without the label it is very difficult to trace the part back to the vehicle from which it was stolen.

Investigations and assistance provided by NHTSA to the Justice Department in the prosecution of violations of criminal statutes concerning altering or removing markings and forfeiture of certain motor vehicles and motor vehicle parts, and chop shops has brought to the agency's attention the fact that many law enforcement officers do not know which vehicles must be marked, where the markings are to be located or which parts are to be marked. Also, investigators often are unaware of the replacement parts-marking requirements. The agency investigators feel that an education program for law enforcement officials on the applicable parts-marking requirements is needed.

Data received from the Customs Service since the 1991 report, indicates it has improved its ability to recoup stolen vehicles.

Insurance companies have not reported any effects of parts marking on insurance premiums. Some insurance companies do offer discounts on comprehensive premiums for vehicles equipped with certain types of anti theft devices. Analysis of claim payments also has not shown any specific effects of either parts marking or antitheft devices. Insurance companies report that their used part policies have not changed since 1986. About three fourths of the reporting companies encourage the use of used parts for crash repairs. Most companies rely on the repair shops to obtain parts from reputable sources.

Analyses of the effectiveness of parts marking in ''high theft'' passenger car lines suggests that parts marking has benefits in reducing theft rates, and at times in increasing recovery rates. These benefits seem to exceed the cost of parts marking. The greatest impact of parts marking appears to have affected chop shops and ''professional'' auto thieves. While more vehicles stolen for export are being recovered, the number recovered is too small to say that parts marking has helped reduce thefts for export or recovery of these vehicles. Given that parts marking appears to be effective in currently marked passenger car lines, there is no reason to doubt

that it could also have benefits for other passenger vehicles.

In conclusion, it appears that parts marking and other provisions of the 1984 and 1992 Acts have given the law enforcement community tools they can use to deter thefts, trace stolen vehicles and parts, and apprehend and convict thieves. Theft rates leveled off after 1989–90 and have begun to drop. While the program to reduce auto theft has had an impact, there appear to be three areas with potential room for improvement: (1) Insurance companies and motor vehicle departments could take better advantage of the existing parts marking program by routinely requiring inspection of the markings of used parts acquired at body shops and used vehicles brought in for new titles. (2) To the extent that current parts markings can be obliterated, their long-term deterrent effect may be diminished. (3) Since many vehicles still do not have marked parts, the deterrent effect of parts marking at this time may be offset by increased thefts of the vehicles without marked parts.

Comments Sought

In addition to any comments regarding this report and its findings on effectiveness in deterring or reducing motor vehicle theft or enhancing recoveries, comment on the following questions are sought:

- Section 33113(b)(11) of Title 49 requires the report to include recommendations to Congress for legislative or administrative action for—(A) continuing without change the theft prevention standards prescribed under Chapter 331; (B) amending this chapter to cover more or fewer lines of passenger motor vehicles; (C) amending this chapter to cover other classes of motor vehicles. Please provide your comments on all or any one of these items, including the basis for your position.
- Given that the current marking methods cost the consumer less than $5 per vehicle and that Congress allows up to $22 per vehicle in 1995 dollars, are there more permanent methods for marking vehicles with the Vehicle Identification Number (VIN) that can be accomplished within the Congressionally mandated limit? Please include documentation on the marking method, how permanent the markings are (how difficult it is to remove the markings and what evidence is likely to remain that there were markings), cost estimates including the cost of any materials, equipment, tooling and labor. Please identify the economic year for the cost estimates. Please include a description of how the markings are applied including the time to mark all the major vehicle parts. If the information to be supplied is proprietary, application to the agency Chief Counsel's Office can be made.
- Are there other vehicle parts (e.g., air bags, radios) that should be classified as major parts and thus subject to parts marking? Some states allow glazing to be etched with the VIN. Should glazing be included as a major part and be required to be marked? Please provide a rationale with evidence to support any recommendations.
- Under the current standard, a limited number of lines are exempted from parts marking because the vehicles are equipped with factory installed antitheft devices as standard equipment. Because of the limited data available for evaluation, the effectiveness of antitheft devices as a deterrent could not be determined with much statistical confidence. Is there other evidence to support the effectiveness of antitheft devices? Please supply such evidence along with a description of the applicable antitheft device.
- Even though some insurance companies offer discounts for certain types of antitheft devices, it is unclear as to which devices are considered desirable for obtaining a discount. Also, what additional efforts are made by insurance companies to encourage parts marking and/or the installation of antitheft devices? What other measures does the insurance industry take to reduce the occurrence of motor vehicle theft? Please supply any supporting evidence that shows that these measures are helping to reduce motor vehicle theft or apprehending auto thieves.

All comments received before the close of business on the comment closing date will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested people continue to examine the docket for new material.

People desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Authority: 49 U.S.C. 30112, 33113(b).

William H. Walsh,

Associate Administrator for Plans and Policy.

[FR Doc. 97–16750 Filed 6–25–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub–No. 112X)]

Union Pacific Railroad Company—Abandonment Exemption—in Lancaster County, NE

On June 6, 1997, the Union Pacific Railroad Company (UP) filed with the Surface Transportation Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a 1.88-mile segment of its Lincoln Branch, extending from milepost 492.88 near 33rd Street to milepost 494.76 near 10th Street in Lincoln, NE. The line traverses U.S. Postal Service Zip Code 68503 in Lancaster County, NE.

The line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it. The interest of railroad employees will be protected by Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued within 90 days (by September 24, 1997).

Any offer of financial assistance under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $900. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 and any request for trail use/rail banking under 49 CFR 1152.29 will be due no later than July 16, 1997. Each trail use request must be accompanied by a $150 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–33 (Sub-No. 112X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–

0001, and (2) Joseph D. Anthofer, 1416 Dodge Street, Omaha, NE 68179–0830.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Section of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. EAs in these abandonment proceedings normally will be available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Decided: June 17, 1997.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams,

Secretary.

[FR Doc. 97–16767 Filed 6–25–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub–No. 111X)]

Union Pacific Railroad Company—Abandonment Exemption—in Jefferson County, WI

Union Pacific Railroad Company (UP) has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments and Discontinuances of Service and Trackage Rights to abandon and discontinue service over 2.0 miles of the Clyman Branch extending from the end of the line at milepost 110.0 to milepost 112.0, near Fort Atkinson, in Jefferson County, WI. The line traverses United States Postal Service Zip Code 53538.

UP has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements of 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on July 26, 1997, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by July 7, 1997. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 16, 1997, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Joseph D. Anthofer, General Attorney, Union Pacific Railroad Company, 1416 Dodge Street, Room 830, Omaha, NE 68179.

If the verified notice contains false or misleading information, the exemption is void ab initio.

UP has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by July 1, 1997. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by UP's filing of a notice of consummation by June 26, 1998, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Decided: June 18, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–16768 Filed 6–25–97; 8:45 am]

BILLING CODE 4915–00–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of Service Rail Lines, 5 I.C.C. 2d 377 (1989) Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $900. See 49 CFR 1002.2(f)(25)

[3] The Board will accept late-filed trail use requests as long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

UNITED STATES INFORMATION AGENCY

International Education and Cultural Activities; Open Grant Program

ACTION: Notice; Request for proposals.

SUMMARY: The Office of Citizen Exchanges (E/P) of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award program. Public or private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c) may apply to develop projects that link their international exchange interests with counterpart institutions/groups in ways supportive of the aims of the Bureau of Educational and Cultural Affairs. Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, as amended, Public Law 87–256, also know as the Fulbright Hays Act.

The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests,

developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' Programs and projects must conform with Agency requirements and guidelines outlined in the Application Package. USIA projects and programs are subject to the availability of funds.

Interested applicants should read the complete **Federal Register** announcement before addressing inquiries to the Office of Citizen Exchanges or submitting their proposals. Once the RFP deadline has passed, the Office of Citizen Exchanges may not discuss this competition in any way with applicants until after the Bureau program and project review process has been completed.

ANNOUNCEMENT NAME AND NUMBER: All communications concerning this announcement should refer to the Annual Open Grant Program. The announcement number is E/P–98–2. Please refer to title and number in all correspondence or telephone calls to USIA.

Deadline for Proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, D.C. time on Friday, October 10, 1997. Faxed documents will not be accepted at any time. Documents postmarked by the due date but received at a later date will not be accepted. It is the responsibility of each grant applicant to ensure that proposals are received by the above deadline. This action is effective from the publication date of this notice through October 10, 1997, for projects where activities will begin between January 1, 1998 and December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Interested organizations/institutions must contact the Office of Citizen Exchanges, E/PL, Room 216, United States Information Agency, 301 4th Street, S.W., Washington, D.C. 20547, (202) 619–5326, to request detailed application packets which include award criteria; all application forms; and guidelines for preparing proposals, including specific criteria for preparation of the proposal budget. Please direct inquiries and correspondence to *Charlene Toles*, E-Mail {CToles@USIA.GOV}.

TO DOWNLOAD A SOLICITATION PACKAGE VIA INTERNET: The Solicitation Package may be downloaded from USIA's website at http://www.usia.gov/education/rfps. Please read all information before beginning to download.

ADDRESSES: Applicants must follow all instructions given in the Application Package and send only complete applications with 15 copies to: U.S. Information Agency, REF: E/P–98–2 Annual Open Grant Competition, Grants Management Division (E/XE), 301–4th Street, S.W., Room 336, Washington, D.C. 20547.

Applicants must also submit to E/XE the ''Executive Summary'' and ''Narrative'' sections of each proposal on a 3.5″ diskette, formatted for DOS. This material must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. USIA will transmit these files electronically to USIS posts overseas for their review, with the goal of reducing the time it takes to get posts' comments for the Agency's grants review process.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' USIA ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Proposals should account for advancement of this goal in their program contents, to the full extent deemed feasible.

Overview

The Office of Citizen Exchanges works with U.S. private sector, non-profit organizations on cooperative international group projects that introduce American and foreign participants to each others' social, economic, and political structures, and international interests. The Office supports international projects in the United States or overseas involving leaders or potential leaders in the following fields and professions: urban planners, jurists, specialized journalists (specialists in economics, business, political analysis, international affairs), business professionals, NGO leaders, environmental specialists, parliamentarians, educators, economists, and other government officials.

Guidelines

Applicants should carefully note the following restrictions/recommendations for proposals in specific geographical areas:

Central and Eastern Europe (CEE) and the Newly Independent States (NIS): Requests for proposals involving the following countries will be announced in separate competitions: CEE—Albania, Bosnia-Herzegovina, Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Macedonia, Poland, Romania, Slovak Republic, and Slovenia; NIS—Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. Proposals involving these regions will not be accepted under this competition.

Western Europe and Canada (WEU): Request for proposals involving Western Europe and Canada will be announced in a separate competition. Proposals involving these regions will not be accepted under this competition.

East Asia and the Pacific (EA): Priority consideration will be given to the following themes and target countries/subregions.

Defense Writers' Seminar on East Asian Security (DW–SEAS) (regional project, including participants from Australia, Bangladesh, China, Hong Kong, India, Indonesia, Japan, Korea, Malaysia, New Zealand, Pakistan, the Philippines, Russia, Singapore, Sri Lanka, Thailand and/or Vietnam—This project would bring senior editors and writers covering security issues to USCINCPAC to Hawaii, to Washington and to an Asian country where U.S. defense forces are forward-deployed for an in-depth review of current security issues and the role that the U.S plays in ensuring regional stability.

Trade, Investment and Intellectual Property Rights (single-country or multi-country project involving Cambodia, China, Indonesia, Laos, Malaysia, Philippines, Thailand and/or Vietnam—This project should focus on the vital role that observance of intellectual property rights protection, open access to business information, transparency in public administration and observance of the rule of law can play in encouraging foreign investment, increased trade and access to technology. Projects in China

should focus on ICR and the role of trade associations in advancing industry interests; projects elsewhere could pair decision-makers from an ASIAN ''tiger'' economy (such as the Philippines, Malaysia or Thailand) with economic leaders from a country in transition (such as Cambodia, Laos or Vietnam).

The Administration of Justice and Rule of Law (multi-country or single-country project involving China, Hong Kong, Indonesia, the Philippines and/or Vietnam)—This project would help senior judges and legal experts develop a better understanding of how Federal and state judicial systems interact in the U.S. and how transparency, judicial integrity and independence help foster a climate that encourages business confidence.

Building Democracy at the Local Level (single-country or multi-country project involving Korea, Japan, Mongolia and/or the Philippines)—Projects should address the decentralized nature of American politics at the local level and the important role that non-governmental organizations, citizen's groups and grassroots institutions can play in a democracy. Participants could include community leaders from government, business, the media and NGOs; emphasis should be placed on the management of grassroots organizations and strategies to help make them more self-sustaining.

Asian Environments in Transition (multi-country project including Cambodia, Indonesia, Laos, Malaysia, the Philippines, Thailand and/or Vietnam)—As nations in East Asia move from largely agrarian to industrialized economies, the potential for ecological disaster intensifies. Participants in this exchange would include government officials and NGO leaders who are responsible for meeting the needs of an increasingly urban population, while trying to preserve biodiversity and a healthy environment. E/P contact for EA programs: Steve Koenig, 202/260–5485; E-Mail (Skoenig@USIA.GOV)

American Republics (AR): Only those proposals will be considered that evidence the applicant's substantial knowledge of both the proposed theme and the country/countries where the project is to take place. Preference will be given to proposals on the following themes and for the following eligible countries.

Civic Education—Proposals should focus on curriculum development and educational reform in the field of education for democracy. Projects must have as their ultimate goal the development or improvement of school curricula that prepare pupils for active and responsible citizenship. Eligible countries: Mexico, Chile, Argentina; the Andean Region (proposals should include two or more of the following countries: Bolivia, Ecuador, Peru, Venezuela); Central America (proposals should include at least two of the following countries: Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, Panama); and the Caribbean Region (Haiti and/or the Dominican Republic).

Democatic Institution Building—Priority will be given to proposals that focus on ethics in government/good governance/the fight against corruption. Other topics that will be considered are: human rights; grassroot democracy and citizen participation; women and leadership. Projects must have as their principal objective the strengthening of local institutions that promote these topics. Eligible countries: Argentina, Brazil, Chile, Guatemala, Haiti, Mexico, Nicaragua, Panama, Paraguay.

Rule of Law—Proposal should focus on the administration of justice, judicial reform, or alternative dispute resolution.

Eligible countries: Brazil; Central America (proposals should include at least two of the following countries: Costa Rica, El Salvador, Honduras, Nicaragua, Panama); the Caribbean Region (Haiti or the Dominican Republic). E/P contact for AR programs: Laverne Johnson, 202/619–5337; E-Mail (LJohnson@USIA.GOV)

Africa (AF): Proposals are requested for projects in the following thematic categories:

Trade and Investment—Proposals should foster an understanding of and commitment to policies and practices that support economic growth through the private sector and international trade. Preference will be given to projects that focus on creating an ''enabling environment'' supportive of these goals. Issues covered might include intellectual property rights, trade liberalization (e.g., tax and investment laws, along with other incentives), mechanisms of transparency and accountability, the role of business associations, and regional economic cooperation/integration.

Democratic Governance—Proposals should work to strengthen institutions of government whose work has a direct impact on the quality of a country's democracy. Examples of high-priority topics would be parliamentary administration; local government administration and/or decentralization; the administration of justice and rule of law; alternate dispute resolution; and protection of human rights.

Citizen Participation—Proposals should encourage the effective engagement of citizens in their country's political life. This could be done through projects that focus on organizations, both governmental and non-governmental, whose aim is to educate citizens about their democratic rights and responsibilities (civic education), or through projects that explore the important role played by key institutions of civil society, such as citizen's (e.g. women's) groups, grassroots/community organizations, professional associations, and non-governmental organizations generally.

Electronic Connectivity—Proposals should promote information sharing and network building between Americans and Africans as well as among Africans themselves. Preference will be given to projects that address the three thematic categories listed above. African participants might include government institutions (e.g., parliaments or trade policy departments within ministries); educational institutions; professional associations (e.g., bar, business, or journalism associations); and civic organizations (e.g., human rights or environmental groups). USIA funds may not be used for the purchase of equipment. Proposals must demonstrate a commitment to use and a capacity to maintain the necessary equipment.

Other themes may be proposed, but strong preference will be given to proposals that follow the guidelines above, and to proposals that include programming in at least three countries.

E/P contact for AF programs: Stephen Taylor, 202/205–0535; E-Mail {STaylor@USIA.GOV}

Near East, North Africa and South Asia (NEA): Proposals which respond to the following suggested themes and organizational approaches will receive priority consideration in the awarding of grants for exchange activity in the Near East, North Africa, and South Asia. While not all countries suggested as participants for each project must be included in the exchange, projects which bring together representatives from three or more countries will be given preference.

Urban Environment (India, Pakistan, Bangladesh, and Nepal)—The quality of life in urban areas throughout South Asia is deteriorating rapidly due to unchecked population growth, the byproducts of industrialization, and unprecedented—and unsatisfiable—demands on social infrastructure and natural resources. This undermines the viability of South Asia's cities both as places to live and as commercial centers. A project is needed which will bring together community activities, city

officials, and industry and business representatives to address such urban environmental issues as the need for clean air, clean water, effective waste management, and recycling. The public and the private sectors should be mobilized to cooperate in practicing environmental stewardship while supporting sustainable development, thereby creating a more hospitable environment for human habitation and for regional and international trade and investment.

Strengthening of Non-governmental Organizations (Syria, Jordan, Oman, Qatar, Tunisia, Egypt, Yemen, the Palestinian Authority)—Non-governmental organizations are an increasingly important catalyst for change in the Arab world. A project is needed to strengthen the ability of these organizations to mobilize support, organize, develop mutually reinforcing networks, strengthen the concept of voluntarism, and develop democratic methods of operation. Primary themes are those of political and social participation, professional development, and skills enhancement.

Reinventing Government (India, Pakistan, Bangladesh, Nepal)—Worldwide, many governments have become dysfunctionally cumbersome, bureaucratic, and unresponsive to the public. The project should stress practical and practicable approaches to streamlining government and increasing government's accountability, transparency, and responsiveness to the public. American federal, state, and local government ''success stories''—particularly those that feature public/private sector partnerships/collaboration—might be utilized both as case studies for workshops and as internship sites. Participants might include higher level civil servants (focus on short-term reforms) and educators (focusing on longer-term programs for training future public servants).

Young Journalists (Israel, Jordan, Egypt, the Palenstinian Authority, Tunisia, Morocco)—There is a need for young journalists in the Middle East and North Africa to focus more on—and improve the objectivity and the quality of—their investigative journalism and their writing about regional issues and a need for such journalists to develop cross-border professional relationships.

Public Administration/Management (UAE, Qatar, Kuwait, Oman, Behrain, Saudi Arabia)—Growing internet and satellite connectivity and the complexities inherent in the post-petroleum era global marketplace are inevitably challenging traditional public administration practices in the Gulf. The grantee organization will work with government officials and educators to examine, adapt, and/or develop new public sector management techniques, organizational structures, and market incentives applicable to the region.

Business and the Arts (Syria, India, Pakistan, Egypt, Israel, Jordan, the Palestinian Authority)—The arts serve as a major means of communication and cultural integration in many countries of the region. Stereotypes and communication barriers among diverse communities may be broken down through the creative use of the arts and the involvement of (for example) young people working together to understand the issues that separate—and unite—them. The grantee will, using examples from American society, demonstrate the value of effective partnerships among community activists, the private business sector, and cultural institutions in developing a cooperative, artistic medium of expression through which community differences can be examined and understanding enhanced. Participants might include businessmen involved in community outreach and local artists' associations.

Eco-tourism (Israel, Jordan, Egypt, the Palestinian Authority, Tunisia, Morocco)—There is a need for enhanced public/private sector cooperation in promoting national and regional tourism (supporting local and regional economic development and expansion) while concomitantly safeguarding and preserving natural and historical sites. The American grantee could develop a series of workshops highlighting U.S. public/NGO partnerships in promoting tourism while conserving natural areas. Selected participants might travel to the United States and work with each other and their American counterparts in learning about and developing strategies to promote eco-tourism.

E/P contact for NEA programs: Tom Johnston, 202/619–5325; E-Mail {TJohnston@USIA.GOV}

The Office of Citizen Exchanges strongly encourages the coordination of activities with respected universities, professional associations, and major cultural institutions in the U.S. and abroad, but particularly in the U.S. Projects should be intellectual and cultural, not technical. Vocational training (an occupation other than one requiring a baccalaureate or higher academic degree; i.e., clerical work, auto maintenance, etc., and other occupations requiring less than two years of higher education) and technical training (special and practical knowledge of a mechanical or a scientific subject which enhances mechanical, narrowly scientific, or semi-skilled capabilities) are ineligible for support. In addition, scholarship programs are ineligible for support.

The Office does not support proposals limited to conferences or seminars (i.e., one to fourteen-day programs with plenary sessions, main speakers, panels, and a passive audience). It will support conferences only insofar as they are part of a larger project in duration and scope which is receiving USIA funding from this competition. USIA-supported projects may include internships; study tours; short-term, non-technical training; and extended, intensive workshops taking place in the United States or overseas. The themes addressed in exchange programs must be of long-term importance rather than focused exclusively on current events or short-term issues. In every case, a substantial rationale must be presented as part of the proposal, one that clearly indicates the distinctive and important contribution of the overall project, including, where applicable, the expected yield of any associated conference. No funding is available exclusively to sent U.S. citizens to conferences or conference-type seminars overseas; nor is funding available for bringing foreign nationals to conferences or to routine professional association meetings in the United States. Projects that duplicate what is routinely carried out by private sector and/or public sector operations will not be considered. The Office of Citizen Exchanges strongly recommends that applicants consult with host country USIS posts *prior* to submitting proposals.

Selection of Participants

All grant proposals should clearly describe the type of persons who will participate in the program as well as the process by which participants will be selected. It is recommended that programs in support of U.S. internships include letters tentatively committing host institutions to support the internships. In the selection of foreign participants, USIA and USIS posts abroad retain the right to nominate all participants and to accept or deny participants recommended by grantee institutions. However, grantee institutions are often asked by USIA to suggest names of potential participants. The grantee institution will also provide the names of American participants and brief (two pages) biographical data on each American participant to the Office of Citizen Exchanges for information purposes. Priority will be given to foreign participants who have not previously travelled to the United States.

Additional Guidance

The Office of Citizen Exchanges offers the following additional guidance to prospective applicants:

1. The Office of Citizen Exchanges encourages project proposals involving more than one country. Pertinent rationale which links countries in multi-country projects should be included in the submission. Single-country projects that are clearly defined and possess the potential for creating and strengthening continuing linkages between foreign and U.S. institutions are also welcome.

2. Proposals for bilateral programs are subject to review and comment by the USIS post in the relevant country, and pre-selected participants will also be subject to USIS post review.

3. Bilateral programs should clearly identify the counterpart organization and provide evidence of the organization's participation.

4. The Office of Citizen Exchanges will consider proposals for activities which take place exclusively in other countries when USIS posts are consulted in the design of the proposed program and in the choice of the most suitable venues for such programs.

5. Office of Citizen Exchanges grants are not given to support projects whose focus is limited to technical or vocational subjects, or for research projects, for publications funding, for student and/or teacher/faculty exchanges, for sports and/or sports related programs. Nor does this office provide scholarships or support for long-term (a semester or more) academic studies. Competitions sponsored by other Bureau offices are also announced in the **Federal Register**.

For projects that would begin after December 21, 1998, competition details will be announced in the **Federal Register** on or about June 1, 1998. Inquiries concerning technical requirements are welcome prior to submission of applications.

Funding

Although no set funding limit exists, proposals for less than $135,000 will receive preference. Organizations with less than four years of successful experience in managing international exchange programs are limited to $60,000. Applicants are invited to provide both an all-inclusive budget as well as separate sub-budgets for each program component, phase, location, or activity in order to facilitate USIA decisions on funding. While an all-inclusive budget must be provided with each proposal, separate component budgets are optional. Competition for USIA funding support is keen.

The selection of grantee institutions will depend on program substance, cross-cultural sensitivity, and ability to carry out the program successfully. Since USIA grant assistance constitutes only a portion of total project funding, proposals should list and provide evidence of other anticipated sources of financial and in-kind support. Proposals with substantial private sector support from foundations, corporations, other institutions, et al. will be deemed highly competitive. The Recipient must provide a minimum of 33 percent cost sharing of the total project cost.

The following project costs are eligible for consideration for funding:

1. International and domestic air fares; visas; transit costs; ground transportation costs.

2. Per Diem. For the U.S. program, organizations have the option of using a flat $140/day for program participants or the published U.S. Federal per diem rates for individual American cities. For activities outside the U.S., the published Federal per diem rates must be used. **NOTE:** U.S. escorting staff must use the published Federal per diem rates, not the flat rate. Per diem rates may be accessed at (www.usia.gov/agency/ebur-ref.html).

3. Interpreters: If needed, interpreters for the U.S. program are provided by the U.S. State Department Language Services Division. Typically, a pair of simultaneous interpreters is provided for every four visitors who need interpretation. USIA grants do not pay for foreign interpreters to accompany delegations from their home country. Grant proposal budgets should contain a flat $140/day per diem for each Department of State interpreter, as well as home-program-home air transportation of $400 per interpreter plus any U.S. travel expenses during the program. Salary expenses are covered centrally and should not be part of an applicant's proposed budget.

4. Book and cultural allowance: Participants are entitled to and escorts are reimbursed a one-time cultural allowance of $150 per person, plus a participant book allowance of $50. U.S. staff do not get these benefits.

5. Consultants. May be used to provide specialized expertise or to make presentation. Daily honoraria generally do not exceed $250 per day. Subcontracting organizations may also be used, in which case the written agreement between the prospective grantee and subcontractor should be included in the proposal.

6. Room rental, which generally should not exceed $250 per day.

7. Materials development. Proposals may contain costs to purchase, develop, and translate materials for participants.

8. One working meal per project. Per capita costs may not exceed $5–8 for a lunch and $14–20 for a dinner, excluding room rental. The number of invited guests may not exceed participants by more than a factor of two-to-one.

9. A return travel allowance of $70 for each participant which is to be used for incidental expenditures incurred during international travel.

10. All USIA-funded delegates will be covered under the terms of a USIA-sponsored health insurance policy. The premium is paid by USIA directly to the insurance company.

11. Other costs necessary for the effective administration of the program, including salaries for grant organization employees, benefits, and other direct and indirect costs per detailed instructions in the application package. **Note:** the 20 percent limitation of ''administration costs'' included in previous announcements does not apply to the RFP. Please refer to the Application Package for complete budget guidelines.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines established herein and in the Application Packet. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will also be reviewed by the program office, as well the USIA geographic regional office and the USIS post overseas, where appropriate. Proposals may also be reviewed by the USIA's Office of General Counsel or by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with USIA's grants officer.

Review Criteria

USIA will consider proposals based on their conformance with the objectives and considerations already stated in this RFP, as well as the following criteria:

1. *Quality of Program Idea:* Proposals should exhibit originality, substance, precision, and relevance to the Agency mission.

2. *Program Planning/Ability to Achieve Program Objectives:* Detailed agenda and relevant work plan should

demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described below. Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program objectives and plan.

3. *Multiplier Effect/Impact:* Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

4. *Support of Diversity:* Proposals should demonstrate the substantive support of the Bureau's policy on diversity. Achievement and relevant features should be cited in both program administration (selection of participants, program venue, and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials, and follow-up activities.

5. *Institutional Capacity/Reputation/Ability:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's or project's goal. Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts. The Agency will consider the past performance of prior recipients and the demonstrated potential of new applicants.

6. *Follow-on Activities:* Proposals should provide a plan for continued follow-on activity (without USIA support) which ensures that USIA-supported programs are not isolated events.

7. *Evaluation Plan:* Proposals should provide a plan for a thorough and objective evaluation of the program/project by the grantee institution.

8. *Cost-Effectiveness/Cost Sharing:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by USIA that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the need of the program and the availability of funds. Organizations will be expected to cooperate with USIA in evaluating their programs under the principles of the Government Performance and Results Act of 1993, which requires federal agencies to measure and report on the results of their programs and activities.

Notification

Final awards cannot be made until funds have been fully appropriated by the Congress, allocated, and committed through internal USIA procedures. Awarded grants will be subject to periodic reporting and evaluation requirements.

Dated: June 20, 1997.

Dell Pendergrast,

Deputy Director for the Bureau of Educational and Cultural Affairs.

[FR Doc. 97–16646 Filed 6–25–97; 8:45 am]

BILLING CODE 8230–01–M

Corrections

Federal Register

Vol. 62, No. 123

Thursday, June 26, 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.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[TX-29-1-6085a; FRL-5834-2]

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

Correction

In rule document 97–14450 beginning on page 30270 in the issue of Tuesday, June 3, 1997, make the following correction:

§ 81.344 [Corrected]

On page 30273, in § 81.344, in the table, under ''Designated area'', in the third paragraph entry, in the fourth line from the bottom, ''Candall County'' should read ''Randall County''.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Division of Research Grants; Notice of Closed Meetings

Correction

In notice document 97–15738 beginning on page 32626 in the issue of Monday, June 16, 1997, make the following correction:

On page 32627, in the first column, in the 15th line ''Hyatt Regency Hotel, Arlington, VA.'' should read ''Hyatt Regency Hotel, Bethesda, MD''.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Meeting

Correction

In notice document 97–14715 appearing on page 30873 in the issue of Thursday, June 5, 1997, make the following corrections:

On page 30873:

1. In the first column, in the third line, in the **SUMMARY** section, ''of'' should read ''for''.

2. In the second column:

a. In the 17th line ''and'' should read ''with''.

b. In the sixth line above **Tentative Agenda** ''have'' should read ''has''.

c. In the fourth line above **Tentative Agenda** ''form'' should read ''from''.

d. In the fifth line, in the **Public Participation** section, ''statement'' should read ''statements''.

DEPARTMENT OF COMMERCE

International Trade Administration

[A-427-801, A-428-801, A-475-801, A-588-804, A-485-801-, A-559-801, A-401-801, A-412-801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom, Initiation of Antidumping Duty Administrative Reviews and Notice of Request for Revocation of an Order

Correction

In notice document 97–15867 beginning on page 32754 in the issue of Tuesday, June 17, 1997, make the following corrections:

On page 32754, in the table, the second and third entrys under ''France A-427-801'' and the first and second entrys under ''Germany A-428-801''should read as follows:

Proceedings and firms	Domestic like product
France A–427–801:	
SNFA	Ball & Spherical.
Societe Nouvelle de Roulements (SNR)	Ball & Cylindrical.
Germany A–428–801:	
Bruckner	Ball.
FAG Kugelfischer Georg Schaefer AG	All.

BILLING CODE 1505-01-D

Federal Register

Thursday
June 26, 1997

Part II

Department of Transportation

Coast Guard

46 CFR Parts 10, 12, and 15

Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW); Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 10, 12, and 15

[CGD 95–062]

RIN 2115–AF26

Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW)

AGENCY: Coast Guard, DOT.

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard is revising the current domestic rules on licensing and documentation of personnel serving on U.S. seagoing vessels. This interim rule implements the 1978 International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, as amended in 1995. Issuing a rule at this time is necessary because the 1995 Amendments to STCW came into force on February 1, 1997. The Coast Guard is inviting public comments on this rule because the ones it got on its proposed rule earlier this year were so useful that this rule differs appreciably from that rule.

DATES: This interim rule is effective on July 28, 1997. Comments must be received on or before December 23, 1997. The Director of the Federal Register approves the incorporation by reference of certain publications listed in this rule as of July 28, 1997.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) [CGD 95–062], U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477. Comments on collection-of-information requirements must be mailed also to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

A copy of the material listed in Incorporation by Reference of this preamble is available for inspection at room 3406, U.S. Coast Guard Headquarters.

A copy of the 1995 Amendments to STCW may be obtained by writing Commandant (G–MSO), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593–0001, or by calling (202) 267–0229, between 8 a.m. and 3 p.m. Monday through Friday, except Federal holidays. Requests may also be submitted by facsimile at (202) 267–4570. The 1995 STCW amendments are published by the International Maritime Organization (IMO) in ''STCW Convention 1995'' (IMO publication No. IMO–938E. This publication is available from the International Maritime Organization, Publications Section, 4 Albert Embankment, London SE1 7SR, England, telephone 011–44–171–735–7611.

Navigation and Vessel Inspection Circulars (NVICs) are available by subscription from the Government Printing Office, Washington, DC 20402, telephone (202) 512–1800. Previously issued NVICs available in paper or CDROM may be purchased from National Technical Information Services, 5285 Port Royal Road, Springfield, VA 22161, telephone (703) 487–4650. NVICs are located on the World Wide Web at: http://www.dot.gov/dotinfo/uscg/hq/g-m/gmhome.htm (Go to ''Publications, Reports, and Forms'').

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Young, Project Manager, Operating and Environmental Standards (G–MSO), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, telephone (202) 267–0216.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking [CGD 95–062] and the specific section of this interim rule to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this rule in view of the comments.

The Coast Guard plans no additional public hearings. Persons may request a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid in this rulemaking, the Coast Guard will hold another public hearing at a time and place announced by a later notice in the **Federal Register**.

Regulatory History

On July 7, 1995, a Conference of Parties to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), meeting at the Headquarters of the International Maritime Organization (IMO) in London, adopted a package of amendments to STCW. The amendments enter into force on February 1, 1997. In the notice of proposed rulemaking (NPRM) published on March 26, 1996 (61 FR 13284), the Coast Guard proposed a number of changes it considered necessary to implement the revised requirements to ensure that U.S. documents and licenses are issued in compliance with the 1995 Amendments to STCW (1995 Amendments).

STCW sets qualifications for masters, officers, and watchkeeping personnel on seagoing merchant ships. It was originally adopted in 1978 by a conference at IMO Headquarters and it entered into force in 1984. Currently, there are 119 Parties to STCW representing almost 95 percent of the world's merchant-ship tons. The United States became a Party in 1991.

Over 90 percent of ships visiting U.S. waters are foreign-flag. Approximately 350 large U.S. merchant ships that routinely visit foreign ports, as well as thousands of smaller U.S.-documented commercial vessels that operate on ocean or near-coastal voyages, are subject to the provisions of STCW.

In 1993, IMO embarked on a comprehensive revision of STCW to establish the highest practicable standards of competence and to address human error as a major cause of maritime casualties. By 1993, significant limitations to STCW had become apparent. They included requirements that were too vague and left too much to the discretion of the Parties; the absence of clear, uniform standards of competence; ineffective international oversight to verify that the Parties were in fact complying with the requirements of STCW; limited provisions for port-state control; and outdated technical references that failed to address modern shipboard systems, job descriptions, and

approaches to maritime training, such as the use of simulation technology.

The amendments adopted in July 1995 are comprehensive and detailed. They concern port-state control, communication of information to IMO to allow for mutual oversight, and responsibilities of all Parties to ensure that seafarers meet objective standards of competence. They also require candidates for certificates (licenses and document endorsements) to establish competence through both subject-area examinations and practical demonstrations of skills. Training, assessment, and certification of competence are all to be managed within a quality standards system (QSS) to ensure that stated objectives are being achieved.

The Coast Guard held seven public meetings in the months leading up to the conference on STCW to determine what positions U.S. delegations should advocate at preparatory meetings held by IMO, and to exchange views about amendments to STCW that were under discussion.

The Coast Guard also took advantage of advisory panels' meetings, particularly those of the Merchant Marine Personnel Advisory Committee (MERPAC), the Towing Safety Advisory Committee (TSAC), and the Navigational Safety Advisory Council (NAVSAC), to discuss developments relating to the amendments to STCW and the domestic implementation of these amendments.

Again, the Coast Guard published an NPRM in the **Federal Register** on March 26, 1996 (61 FR 13284). That NPRM described the 1995 Amendments, and proposed changes to implement them in existing domestic rules on licensing (46 CFR part 10), documentation (46 CFR part 12), and manning (46 CFR part 15). It also invited comments on the proposed rule. Over 500 letters were submitted to the public docket. Additionally, a number of comments, received by voice mail or in telephone conversations, were summarized for the docket. These letters and comments are addressed in the ''Discussion of Comments and Changes'' section of this preamble.

Three public meetings were held to receive comments on the proposed rule. These meetings were announced in the **Federal Register** notice on April 8, 1996 (61 FR 15438). Fifty-seven persons attended the meeting in New Orleans on May 8, 1996; thirteen persons presented oral comments during the meeting. Sixty-four persons attended the meeting in Seattle on May 14, 1996; twenty-two persons presented oral comments during that meeting. Thirty-four persons attended the meeting in Washington, DC, on May 23, 1996; twelve persons presented oral comments during that meeting. Comments received during the three meetings are discussed in the ''Discussion of Comments and Changes'' section of this preamble.

Before publication of the NPRM, the Coast Guard held a public meeting on August 31, 1995, to discuss the amendments that had been adopted by an international conference in July 1995. It invited public comments at that time on how the 1995 Amendments should be implemented by the United States. Subsequently, it published a Notice of Inquiry (NOI) in the **Federal Register** (60 FR 56970; November 13, 1995) to solicit information on the costs that may be associated with implementing the 1995 Amendments.

The comments submitted at the August 1995, public meeting, and in response to the Notice of Inquiry, were taken into account in preparing the NPRM and the preliminary regulatory analysis.

The Coast Guard is now seeking comments on this Interim Rule, because it has made a number of important changes, particularly as they relate to small vessels on domestic voyages, as a result of comments received in the docket or at the public meetings. It will take into account any comments received in response to this Rule before it publishes a final rule.

Discussion of Comments and Changes

The Coast Guard received over 500 comments responding to the NPRM published on March 29, 1996. These comments consisted of both letters to the docket and remarks at the public meetings in New Orleans, Seattle, and Washington, DC. The following paragraphs contain an analysis of comments received and an explanation of any changes made in the rule as proposed.

Several comments noted editorial errors in the NPRM. The Coast Guard has incorporated these comments where appropriate, without further discussion. In addition, a few comments addressed subjects beyond the scope of the revisions proposed in the NPRM. The Coast Guard does not discuss these comments in detail.

General Comments

Many of the comments found parts of the NPRM too vague to determine the precise requirements that they would have to meet, or for them to estimate the cost of compliance. The Coast Guard has tried to clarify the requirements, either by providing examples in the preamble when a requirement is under discussion or by adding specificity to the Interim Rule. However, in some instances, a degree of generality is needed to allow the rules to apply to a wide variety of conditions, and to prevent the rules for U.S. merchant mariners and U.S. vessels from being unfairly more restrictive than those applying to non-U.S. seafarers and non-U.S. ships under the international rules.

Several comments requested an extension of the comment period announced in the NPRM. One comment recommended use of an Interim Rule. The 1995 Amendments come into force on February 1, 1997. Therefore, the Coast Guard should publish and implement a rule without delay. To accommodate requests for an additional comment opportunity, the Coast Guard has decided to issue an Interim Rule with a 180-day comment period.

A few comments asserted that domestic operations should not be regulated through an international treaty. The application of STCW to ships on domestic voyages is not a result of the 1995 Amendments. STCW, as adopted in 1978 and as ratified by the United States in 1991, applied to personnel serving on ''seagoing ships,'' not only ships on international voyages. This scope of application was not modified under the 1995 Amendments. Consequently, the Coast Guard is not able to provide a general exemption for seagoing vessels on domestic-only voyages. Where flexibility is available under STCW for modifying rules to be more suitable for smaller vessels on near-coastal voyages, this Interim Rule introduces appropriate adjustments.

Several comments suggested that the new requirements not be imposed for at least 2 to 5 years to allow for compliance. There is a 5-year transitional period provided under the 1995 Amendments that is intended to avoid disruption in the industry by allowing current license holders to have their licenses renewed under the prior rules until 2002. The Coast Guard has redrafted the rule as proposed to allow for the phasing in of new requirements in accordance with the guidance developed by the Subcommittee of IMO on Standards of Training and Watchkeeping (STW) at its 28th session in September 1996. This guidance was issued in the form of an STCW circular (STWC–7/Circ.1; September 24, 1996), which is available on request from the Commandant (G–MSO) at the address given under **ADDRESSES**. Where appropriate, the circular is quoted in the following discussion.

Many comments offered observations on the potential impacts of the proposed rule. The Coast Guard has taken these

observations into account in preparing a final regulatory-impact assessment. This assessment is discussed under the section entitled ''Cost-Benefit Evaluation.''

One comment said the Coast Guard should avoid incorporation by reference and should publish all applicable STCW requirements in the actual rule. While in specific instances wording from STCW and the STCW Code are employed in this Interim Rule, the voluminous nature of the materials make this request impracticable. However, STCW and its Code are available from the Coast Guard on request, and are readily available for purchase from IMO and distributors of maritime publications in the U.S.

Comments concerning specific new requirements or other aspects of the NRPM are discussed in the following paragraphs:

Scope of Application

1. General

The majority of comments expressed a view on the scope of application of the proposed rule. A few recommended that the scope be expanded to include vessels navigating on inland waters. Most, however, sought to restrict the scope by exempting vessels at certain tonnage limits engaged in domestic-only voyages, or by exempting vessels engaged in a specific type of activity. These comments are summarized and discussed in the following paragraphs:

2. International Voyages

The Coast Guard received twenty-five comments suggesting that STCW apply only to ships on international voyages. The Coast Guard does not agree. With certain narrow exceptions, STCW applies to all seagoing vessels, and the United States, as a Party to STCW, is not able to exempt seagoing vessels on the grounds that they operate only to and from U.S. ports.

3. Inland Waters and Great Lakes

Five comments suggested that the rule be expanded to include vessels operating on inland waters and on the Great Lakes. The Coast Guard does not agree. The rule was and is intended only to implement the 1995 Amendments. The 1995 Amendments do not apply to vessels operating solely on inland waters, which includes the Great Lakes. To apply STCW to such vessels would exceed the scope of this rulemaking.

In discussions with the Coast Guard, Canadian officials have agreed that vessels navigating exclusively within the Great Lakes are outside the scope of STCW. However, in issuing certificates to its own mariners, Canada does not plan to distinguish the Great lakes from other waters.

One comment expressed concern about the application of STCW to vessels navigating between Seattle, Washington, and Vancouver, British Columbia, which is an international voyage on waters that require only an inland license. Canada has indicated that it expects mariners on these vessels to hold the appropriate STCW endorsement. The Coast Guard, however, considers vessels operating on the ''inside passage,'' between Seattle and Vancouver, to be on inland waters, and therefore, outside the scope of STCW.

The Coast Guard will issue STCW endorsements on request to licensed merchant mariners who may be required to display such documents when operating within Canadian jurisdiction. The endorsements will be limited to service on the ''Inside Passage.''

4. Short Voyages

Five comments suggested that the Coast Guard exempt vessels that operate beyond the Boundary Line but within a short distance of a U.S. port (i.e., 20 miles), or on short international voyages. The Coast Guard cannot agree with this suggestion because the Convention does not provide authority for granting such a broad exemption. STCW, however, provides administrative flexibility to allow for exemptions from unreasonable or impracticable requirements when personnel are serving on vessels engaged in near-coastal voyages. This Interim Rule is drafted in a way that allows for the full use of this flexibility, and a broad exemption based on length of voyage or distance offshore would not be appropriate.

5. Lower-Level Licenses

One comment stated that the Coast Guard was not taking into account the impacts of the STCW requirements on lower-level licenses, and on small companies that operate small commercial vessels, such as in the charter-boat industry. As explained in this preamble, the Coast Guard is taking steps to mitigate any unreasonable or adverse impact the new requirements might otherwise have on small vessels and on their operations and personnel.

6. Fish-Tender Vessels

The Coast Guard received 443 comments suggesting that fish-tender vessels be classed as fishing vessels, and, so be covered by the exemption applying to fishing vessels. These comments explained that fish-tender vessels in the Pacific Northwest and in Alaska work hand in hand with fishing vessels and even are occassionally used for catching fish. After publication of the NPRM, the fishing tenders received this exemption under the Coast Guard Authorization Act of 1996 (the Act). Section 1146 of the Act states that STCW will not apply to ''a fishing vessel, including a fishing vessel used as a fish tender vessel.'' The Coast Guard understands the terms ''fishing vessels.'' and ''fish tender vessels'' according to their definition in 46 U.S.C. 2101. Because of this exemption, the Coast Guard will not discuss in detail the range of impacts identified by those in the fish-tender industry who commented to the docket expressing concern about the costs of complying with the NPRM.

7. Fish-Processing Vessels

While many comments called for a broad exemption for all fishing-industry vessels, four comments specifically recommend that the exemption for fishing vessels also apply to fish-processing vessels. STCW does not provide authority for granting the suggested exemption. However, for fish-processing vessels of 200 gross register tons (GRT) and over, the Coast Guard can accept compliance with the requirements in 46 CFR part 28 (Requirements for Commercial Fishing Industry Vessels) as an equivalency for the requirements of basic safety-training under STCW. Watchkeeping personnel on fish-processing vessels will still be subject to the rest-hour rules; but these should not be a problem, because most operate on a two-watch system. Licensed and unlicensed personnel would be subject to the new requirements for receiving and renewing licenses and documents (e.g., medical fitness standards; training on automatic radar-plotting aids (ARPA), if the ship is fitted with ARPA; and an understanding of bridge teamwork procedures).

For fish-processing vessels less than 200 GRT, the Coast Guard will accept compliance with existing laws (statutes and rules), policies, and industry standards as an equivalency for the purposes of meeting the requirements of STCW.

8. Small Passenger Vessels

The Coast Guard received twenty-six comments suggesting that STCW and the implementing rules not apply to small passenger vessels on domestic voyages. STCW does not provide authority for a general exemption for these vessels. As previously noted, STCW applies to seagoing commercial vessels (except fishing vessels).

However, special provisions allow for exempting smaller vessels on near-coastal voyages from unreasonable or impracticable requirements.

Two comments suggested that the Coast Guard use equivalences to relieve small passenger vessels of unreasonable impacts that are perceived to exist if the requirements of the 1995 Amendments are imposed. One comment noted that training currently being provided is tailored to equipment the carriage of which is required on these vessels. A second provided a copy of the deckhand training manual currently being used in the small passenger vessel industry to indicate how seriously safety is taken. The Passenger Vessel Association (PVA) submitted to the docket a video tape as an example of materials being used as training aids.

The Coast Guard has determined that an equivalency between STCW requirements and current U.S. laws and industry practice is justified. The revisions to the rules on inspection and certification of small passenger vessels (subchapters T and K) of Title 46 CFR in CGD 85–080, as well as the fact that the Coast Guard has opportunity to perform direct oversight over the operational aspects of these vessels, supports such an equivalency. Therefore, this Interim Rule imposes no new requirements either on personnel serving on these vessels or on their owners or operators.

9. Uninspected Passenger Vessels

While the docket contains only a few comments from the uninspected-passenger-vessel industry, a couple of charter-boat operations commented on the negative impact the proposed rule could have on their industry. Although STCW technically encompasses such vessels, domestic law generally excludes them. The Coast Guard is exempting personnel serving on these vessels from the application of STCW and this Interim Rule on the grounds that application of STCW would constitute excessive and inappropriate regulation of an activity that has traditionally undergone a minimum of Federal scrutiny. The Coast Guard sees no need to alter that long-standing condition.

10. Towing Vessels

While one comment supported application of ''some of the new terms and concepts of the 1995 Amendments to the towing industry,'' another stated that the rule implementing STCW should be fully consistent with the proposals in CGD 94–055, ''Licensing and Manning for Officers of Towing Vessels.'' To avoid confusion and possible inconsistencies, rules on licenses and documents for towing-vessel personnel will be promulgated primarily under CGD 94–055. Only matters directly related to implementation of the 1995 Amendments and requirements for holding an STCW certificate or endorsement are covered under this Interim Rule.

In general, the principle of equivalency applies broadly to vessels of less than 200 GRT that are not subject to 46 U.S.C. 8304 (i.e., are outside the scope of the Officers' Competency Certificates Convention). The equivalency will be based, at least in part, on voluntary activities taking place within the towing-vessel industry to improve safety programs, such as the Responsible Carrier Program of the American Waterway Operators (AWO).

Those interested in issues of towing vessel licensing, however, should be aware that STCW endorsements are required for those serving on towing vessels operating beyond the Boundary Line.

11. Mobile Offshore-Drilling Units (MODUs)

Although one comment recommended that the new STCW requirements be applied to all MODU personnel, two comments stated that MODUs should not be subject to the rules that implement the 1995 Amendments. According to the comment, when a MODU is on location off the coast of a foreign country, the coastal state can impose its own personnel requirements, and neither the U.S., nor the company, has control over the training and assessment taking place in that country.

In domestic law, MODU is the term most commonly used, but IMO terminology employs the broader term ''mobile offshore unit.'' This term can include a construction barge used in constructing an offshore platform. Since the NPRM was published, the Subcommittee of IMO on STW has begun discussing the appropriate means of ensuring that maritime safety training is provided to personnel on mobile offshore units. STW has tentatively determined that only the traditional 'maritime crew' on a MOU should be subject to the requirements of STCW but that industrial personnel (who are neither seafarers nor passengers) should have separate and unique competency standards. These special standards for industrial personnel cannot definitely be established until IMO has completed work on consolidating existing resolutions concerning training for personnel on mobile offshore units. Currently, this subject is addressed in 46 CFR 10.468 through 10.474 and 10.920. These sections are not affected by the Interim Rule.

For the purposes of implementing STCW under this interim rule, the Coast Guard identifies the maritime crew on a self-propelled MODU as the crew required by the Certificate of Inspection (COI) and does not address other personnel. It will determine whether other implementing rules are necessary once the outcome of the IMO deliberations is known.

12. Offshore Supply Vessels (OSVs)

One comment stated that it was necessary to use equivalences when applying STCW to small-vessel operators in the OSV industry, given the special characteristics, methods of operation, and nature of service of these vessels. The Coast Guard agrees that OSVs require separate consideration when determining the most effective way to introduce the new STCW requirements. This interim rule takes account of, the special characteristics, methods of operation, and nature of service of OSVs, particularly in license structure and tonnage thresholds. This matter is discussed in more detail under ''Licensing Structure.''

For OSVs of less than 200 GRT, the Coast Guard considered the size and operating conditions of these vessels, in conjunction with the existing laws, policies, and industry practices, and has determined that such laws and practices serve as an equivalency for the purpose of meeting the full requirements of STCW.

Licensing Structure

Six comments discussed possible revisions to align the U.S. licensing structure more closely with the licensing structure in STCW.

One comment favored a ''dual system,'' under which current licensing rules would apply to personnel on domestic service, while the new STCW requirements could apply to personnel in international service. As indicated under ''Scope of Application'', the Coast Guard has determined that such a distinction is not necessary or appropriate.

One comment suggested that the Coast Guard move from the four-tier, four-examination structure to the three-tier, two-examination system of STCW. Another comment, however, said that the four-tier structure should be retained but that simulator training should be used to reduce the total sea-service requirements to upgrade a license.

Two comments recommended substantial changes in the engineering

department. Four expressed support for the introduction of some form of alternative certification under the U.S. licensing system. One of these four recommended consideration of an alternative for smaller ships. Another said, ''We support the alternative certification system envisioned in STCW and encourage the Coast Guard to work towards implementation of this approach. The concept of allowing skills to be mixed and matched will help broaden the experience and expertise of all onboard.'' This comment, however, gave no details or examples of how an alternative certification scheme should be introduced in the U.S. licensing and documentation system under current statutory constraints (such as the ''cross-over'' prohibition in 46 U.S.C. 8104(e)).

Two comments stated that the Coast Guard should not introduce alternative certification. One of these said it had the potential to cause unintended reductions in shipboard manning. The other said that the provisions of Chapter VII in STCW were too vague and that alternative certification should not be introduced in the U.S. until impacts on the crew could be evaluated.

Because adoption of the Alternative Certification System under Chapter VII of the 1995 Amendments involves consideration of how the seven functional areas and three levels of responsibility in STCW are to be integrated in a new licensing structure, the Coast Guard believes that the implications of making changes should first be considered in depth by MERPAC.

One comment expressed concern about meeting the Chief Mate's requirements on a two-watch ship with one master and one mate. This comment suggested that the mate meet the Chief Mate's requirements. Another noted a similar situation in the engine department. When a Designated Duty Engineer (DDE) is serving as the only licensed engineer, the DDE is in effect the Chief Engineer. This comment stated that using the same terminology for the license, the STCW endorsement, and the manning section on the COI is of great importance.

While the above ideas and comments are relevant to a review of the U.S. licensing structure (as well as of the review of the system of ratings used for unlicensed personnel), the Coast Guard views the specific proposals as outside the scope of this rulemaking or as not necessary at this time to implement the requirements of the 1995 Amendments.

One comment stated that a more suitable license structure is needed for the OSV industry. It recommended the following new categories of license: (1) Master—OSV; (2) Chief Mate—OSV; (3) Chief Engineer—OSV. It stated that introduction of these new license categories would ''necessitate an in-depth analysis of the functional skills required for OSV operation.'' It also said the requirements for training and sea-service associated with the new classes of 'Chief Engineer—OSV' licenses should be based on the current requirements for the corresponding classes of DDE licenses: DDE 1000 HP (750 KW), DDE 4000 HP (3000 kW), and DDE—unlimited.

The Coast Guard agrees that creating new categories of licenses for the OSV industry would be appropriate, particularly in light of the development of larger OSVs, and the publication of an interpretive rule on alternative tonnage in the **Federal Register** on December 18, 1996 (61 FR 66613). Therefore, this Interim Rule provides for the proposed categories in part 10. These new categories will have to meet new STCW standards, except where the Coast Guard determines that certain STCW requirements are inappropriate or unnecessary for service on an OSV, or where equivalencies are established under Article IX of STCW. Comments submitted to the docket on this approach will be taken into account when the Final Rule is prepared.

License Issuance and Renewal

One comment stated that the new requirements for approved training and practical demonstration of competency should apply only to seafarers who commence training or sea service on or after August 1, 1998. The Coast Guard agrees that those new requirements (other than basic safety-training and training for Ro-Ro passenger ships) should apply only to those seafarers and only on or after that date. But it notes that seafarers renewing their licenses for any service that will take place on or after February 1, 2002, will have to meet requirements for approved training and demonstration of skills to qualify for an STCW endorsement which will be valid for such service.

After publication of the NPRM, the IMO Subcommittee on STW developed guidance on the revalidation of certificates after February 1, 1997, for service on seagoing ships after February 1, 2002. Essentially, the STW guidance (as contained in STCW.–7/circ.1; September 24, 1996) provides that certificates (i.e., licenses) should not be revalidated (or endorsed) for service after February 1, 2002, and so makes the certificate holder meet the standards of competence required by the 1995 Amendments. However, where the holder does not meet specific standards (such as ARPA), the shortfall can be expressed as a limitation on the endorsement, which, otherwise is valid for service beyond February 1, 2002.

When renewing U.S. licenses and documents after February 1, 1997, the Coast Guard will issue the renewal for 5 years; but the associated STCW endorsement will be valid only through January 31, 2002, unless the candidate can provide sufficient evidence of having met the appropriate new requirements imposed by STCW (i.e., medical fitness; thorough understanding of bridge teamwork procedures; assessment of continued competency in basic safety within the previous 5 years; training with an ARPA simulator, if the ship is fitted with ARPA; approved training or assessment of competency as a GMDSS radio operator for service on ships with GMDSS; and assessment of continue proficiency in Survival Craft within the previous 5 years); and can otherwise meet the continued proficiency and recency requirements as set out under the current rules on renewal (46 CFR 10.209 and 46 CFR subpart 12.02). Where the candidate does not meet the ARPA or GMDSS requirements, an appropriate limitation will be placed on the STCW endorsement.

One comment stated that ARPA and GMDSS certification should be required for renewal of all unlimited-tonnage ocean deck licenses, regardless of the employment status of the deck officer. Another comment recommend that all mates be required to have ARPA training. This Interim Rule implements the requirements of the 1995 Amendments that require ARPA training only for masters and mates serving on ships fitted with ARPA, though it retains the option for limiting a license to service on ships not fitted with ARPA or ships outside GMDSS.

Two comments expressed concern about the impact of the 1995 Amendments on the pool of mariners available when needed on ships of the Ready Reserve Fleet (RRF). One of these comments recommended that those seeking renewals of licenses for continuity purposes only have to meet the new requirements. The Coast Guard does not agree with this suggestion. The ''continuity only'' endorsement is issued when the candidate is unwilling or unable to meet the professional or physical requirements set out in § 10.209. To make a candidate meet either kind of requirement would be inconsistent with the purposes stated in § 10.209(g).

In addition, the Coast Guard will work with the Maritime Administration (MARAD) and the Military Sealift

Command (MSC) to identify whether any new STCW requirement creates a problem for manning of ships of the RRF and will use existing authority to make any necessary adjustments on the COI if the need arises.

One comment said State pilots applying for renewal of Federal licenses should have to be trained in ARPA, bridge teamwork procedures, and personal survival. This comment recommended a special endorsement for pilots: ''Non-sailing license valid for pilotage only.'' The Coast Guard does not agree there is a need for the recommended endorsement. Anyone who applies for a license or renewal under 46 CFR part 10, even a State pilot, must meet the requirements for that license. Where limitations are available (as they are for ARPA and GMDSS) the applicant can receive a license with the appropriate restricted endorsement. The section on GMDSS contains further discussion of pilot requirements.

Documentation

Two comments recommended that the Coast Guard take steps to combine the U.S. license and the STCW endorsement into a single, internationally acceptable document, as permitted under the 1995 Amendments. For now, the Coast Guard will issue two separate documents in most cases; the STCW endorsement will be valid only when accompanied by the valid license of a holder. In the near future, the Coast Guard will begin issuing a combined document to licensed personnel serving on some classes of small vessels on domestic voyages. The possible combination of the STCW endorsement with all licenses and documents for seagoing service will be reviewed at a later date, since this combination does not appear feasible during the transitional period (1997 to 2002) when the 1978 STCW endorsements are phased out and the 1995 STCW endorsements are phased in.

Tonnage

Tonnage is a parameter used in the shipping laws to regulate a vessel according to its size. The traditional system used in the United States for measuring a vessel to determine its tonnage (called the ''regulatory measurement system or Gross Register Tonnage (GRT)'') consists of the standard, dual, and simplified measurement systems promulgated under 46 CFR part 69, subparts C, D, and E, respectively. The regulatory measurement system (with the exception of the simplified system used primarily for smaller vessels) is authorized under 46 U.S.C. chapter 145 and provides for a complex series of internal measurements and exemptions to arrive at gross tonnage. Over time, this system has become increasingly susceptible to manipulation because the system allows vessel designers to use features, such as excessive framing and tonnage openings, solely to reduce the gross tonnage of the vessel artificially. In this manner, increasingly larger vessels can be designed to fall within the tonnage bounds of their class.

In response to this development, the United States ratified the International Convention on the Tonnage Measurement of Ships, 1969, which establishes a worldwide system of measurement that provides a genuine representation of a vessel's size. Convention measurement is authorized under 46 U.S.C. chapter 143 and is implemented in 46 CFR part 69, subpart B. Under the convention measurement system, gross tonnage (GT) is based on a logarithmic function of the total enclosed volume of the vessel and is not subject to manipulation by the use of tonnage reduction techniques. Because convention measurement does not allow for artificial tonnage reduction techniques, vessels measured using this system often are greater in tonnage than vessels measured using regulatory measurement.

Six comments discussed the introduction of the tonnage thresholds in the 1995 Amendments (i.e., 500 and 3,000 gross tons (GT)) into the U.S. licensing regulations (46 CFR part 10). MERPAC recommended that a threshold of 3,000 GT be added as a new category of license without deleting any existing category. MERPAC also suggested that the requirements for the 3,000-GT license be identical to the requirements for a 1,600-GRT license. Therefore, anyone holding a 1,600-GRT license for a service on a ship on near-coastal or ocean service should be entitled to hold an STCW endorsement for service on seagoing ships of 3,000 GT.

Furthermore, MERPAC recommended that a merchant mariner holding a 200-GRT license for service on a ship on near-coastal or ocean service be entitled to hold an STCW endorsement for service on seagoing ships of 500 GT. This is explicitly permitted by STCW Regulation I/15.

One comment suggested that the Coast Guard make use of equivalents to align domestic and international tonnage on U.S. licenses and STCW endorsements. Another comment stated that it had no preference on how tonnage thresholds were introduced, as long as license holders were not penalized or precluded from serving on vessels for which they are presently qualified. A third comment said that the 1600-ton Master license should be retained, because its removal could have many implications.

Two comments recommended that the threshold for an unlimited U.S. deck license be raised to 3000 GT, but one comment stated that retaining parallel tonnage (i.e., both GRT and GT) would be confusing. One comment supported the idea of adjusting 1600 GRT to 3000 GT, but said there needed to be a clear path for advancement from unlicensed rating to licensed officer when service has been on a vessel with a low GRT (e.g., 97) but a high GT (e.g., 1671).

After publication of the NPRM, the Coast Guard Authorization Act of 1996 (the Act) opened up a new possibility for addressing the difference between tonnage thresholds employed in U.S. licensing rules (GRT) and those employed in international conventions, such as STCW, and based on the international tonnage-measurement system (GT). A special mechanism (interpretive rule) will enable the Coast Guard to align the tonnage thresholds used in domestic statutes and rules with the appropriate ones used in international conventions. Additionally, the Act allows for the issuance of licenses and documents on the basis of the international tonnage. In light of these new statutory provisions, the Coast Guard will defer deciding whether it is necessary to include a new STCW tonnage threshold in the licensing rules.

In preparing a final rule and any policy guidance on issuance of STCW endorsements, the Coast Guard will take into account developments relating to the interpretation of tonnage equivalencies as authorized by the Act. It also notes that STCW Regulation I/15, paragraphs (3), explicitly allows an Administration to change 200 GRT (under the national tonnage system) to 500 GT (under the international tonnage system), and 1600 GRT to 3000 GT.

Meanwhile, the Coast Guard considers it appropriate to reconfirm an understanding that was expressed at the time the Senate gave its consent to ratification of STCW in 1991. The Coast Guard will apply the domestic tonnage-measurement system in determining the application of STCW to vessels of less than 1600 GRT that operate exclusively to and from U.S. ports. (See letter from Secretary Skinner to Chairman Pell of the Senate Foreign Relations Committee dated January 29, 1991, and printed in S. Hrg. 102–106).

Seagoing Service

One comment noted that the sea-service requirements in the existing rules for licenses for service on small

ships were not fully consistent with those in STCW. This comment, however, did not recommend any specific changes to the existing rules. The sea-service requirements in 46 CFR part 10 are linked to size of vessel, area of operation (ocean or near-coastal), and category of license. Since no changes were proposed in the NPRM, and none have been proposed to the docket, the Coast Guard is retaining the current sea service requirements under the Interim Rule.

Medical Fitness

Four comments made recommendations for addressing standards of medical fitness for U.S. merchant mariners in this interim rule. One comment said the industry would benefit from Coast Guard guidance on ''performance requirements,'' (such as lift and carry so many pounds, and flexibility) in a revision of NVIC 6–89, Physical Evaluation Guidelines for Merchant Mariner's Documents and Licenses. Another comment suggested a revision of this NVIC to address several factors in determining fitness, including diagnosis, specific physical or mental impairment, job description, likelihood of recurrence, and feasibility of obtaining effective medical treatment offshore.

MERPAC suggested that the standards used by the Coast Guard for issuance of an original license (as set out in NVIC 6–89) be applied to all applicants for merchant mariners' documents (MMDs). Two comments suggested that the Coast Guard regard the Seafarers Health Improvement Program (SHIP) as the guidelines to be used by medical practitioners conducting physical examinations of merchant mariners. (SHIP is a MARAD-sponsored program that has developed guidance on physical standards for ''Original Entry of Seafarers into the U.S. Merchant Marine'' and for ''Retention of Seafarers in the U.S. Merchant Marine.'' The guidance was adopted by a joint committee of government and industry in 1985, and is currently being revised). One comment stated that this would assist in compliance with the Americans with Disabilities Act (ADA). Another comment said medical standards should apply equally to all crew members on board: they all must be equally fit.

Taking into account the above suggestions, as well as ongoing efforts by the International Labor Organization (ILO) and the World Health Organization (WHO) to define international standards of medical fitness for seafarers, the Coast Guard, in consultation with MERPAC, plans to revise NVIC 6–89 to reflect the appropriate material in SHIP. Under this Interim Rule, the NVIC in its current or revised form will apply as of August 1, 1998, to candidates for NMDs), licenses, and renewals for service on seagoing ships (except those ships explicitly exempted from this rule and those for which current rules are used as an equivalency for meeting STCW requirements.

One comment said that this rule should require mariners to report any taking of prescribed medicine. The Coast Guard agrees that this is important information, particularly in the case of watchkeeping personnel; however, no such requirement was proposed in the NPRM and none is mandatory for implementing the 1995 Amendments. Therefore, this interim rule is not calling for it. The Coast Guard will taken into consideration any comments submitted to the docket in this matter in determining whether to make a change in the final rule.

With respect to the qualifications of any person professionally competent to serve as a ''medical practitioner'' when evaluating the medical fitness of a merchant mariner, three comments said a certified physician should perform this function. One comment suggested that a licensed nurse practitioner be allowed to certify medical fitness; otherwise, some mariners would have difficulty locating a qualified medical practitioner.

The Coast Guard is not convinced that a licensed or certified physician is necessary in all cases to determine whether a seafarer is medically fit for duty. Certainly, in circumstances where a medical condition suggests unfitness, a physician should be consulted. However, current policy is to permit licensed medical doctors, licensed nurse practitioners, and licensed physicians' assistants to certify medical fitness. Appeals in all cases reach a licensed physician with special knowledge of maritime work. The Coast Guard will continue this policy for the time being. Comments identifying special concern with this approach must be submitted to the docket during the comment period. According to comments received, the Coast Guard will dispose of this matter in preparing the Final Rule.

Approved Training

One comment said allowing training programs to be ''self-certified'' as meeting Coast Guard standards could unfairly place mariners at risk. This comment suggested that training be certified ahead of time by an independent third party. The Coast Guard agrees that either the Coast Guard or the entity performing monitoring under a QSS must certify that the training meets certain standards before it is offered to students. This Interim Rule requires provisional certification, based on an initial evaluation under a Coast Guard-accepted QSS, that the training is capable of meeting its stated objectives. Comments on this approach will be taken into account in the Final Rule.

One comment suggested that the proposed process for removing training from the Coast Guard's list of approved training be applied to all Coast Guard-approved courses. The Coast Guard is not convinced that this would be appropriate at this time. The higher degree of direct Coast Guard oversight involved in Coast Guard-approved courses allows for immediate action if the conditions for approval are not being met.

One comment stated that the Coast Guard should accept responsibility for approving and monitoring training provided on board ships. The Coast Guard agrees that the standards for approval fall within its responsibility, but insists that its ongoing oversight would be impracticable unless third parties were available to help administer the QSSs.

One comment stated that the Coast Guard places too much emphasis on classroom hours in its course approvals. This can inhibit innovative approaches to training based on performance criteria and the use of remote technology. The Coast Guard understands the number of classroom hours to be one indication of how much time a course assigns to theoretical material as opposed to practical instruction. This remains an important, though not an exclusive, consideration in evaluating the suitability of a particular course for approval. However, the Coast Guard agrees that references in § 10.309(a)(2)(ii) as proposed might have been unduly restrictive. Therefore, it is replacing the phrase ''classroom hours in the presence of a qualified instructor'' with the phrase ''number of hours devoted to instruction in relevant areas of knowledge.''

Quality Standards System

One comment suggested that the requirements for QSSs be effective by August 1, 1997, to ensure that the QSSs themselves are fully in place by August 1, 1998. This Interim Rule puts a QSS in place for any training that implements a requirement of the 1995 Amendments to STCW. For most training, this will begin with candidates entering the system as of August 1, 1998. In the interim, when training is being modified to satisfy STCW, the

Coast Guard course-approval process will be available to serve as equivalent to or substitute for the QSS required by STCW.

Ten comments responded to possible methods for meeting the requirement that elements of training and assessment be monitored by a QSS. Two comments stressed the need for flexibility by the Coast Guard in determining what qualifies as an acceptable QSS. Another comment stated that effective QSSs require both a standard of quality and a process for overseeing those who apply the standards.

One comment preferred the concept of the ''regional accrediting body,'' under option (a) in the NPRM (61 FR 13288; March 26, 1996), for overseeing maritime training institutions. This comment suggested that ''teams of visitors'' be coordinated by the Coast Guard, and that rankings range from ''fully accredited'' through ''conditionally accredited,'' to ''probationary status.'' While not opposed in principle to degrees of accreditation, the Coast Guard has determined that it would not need to be directly involved in assembling and managing ''teams of visitors'' for there to be an effective accreditation system.

One comment specifically suggested that the QSS option (d), under the preamble to the NPRM, remain available to the industry for meeting the QSS requirements. This option would let an organization or company that has developed a QSS for maritime training be accepted or authorized by the Coast Guard to perform the monitoring. Another comment suggested this should be the only approach to meeting the QSS requirements. The Coast Guard, however, has determined flexibility for meeting QSS requirements should be retained in this Interim Rule.

Two comments expressed a preference for option (e), under the preamble to the NPRM. This option requires a periodic evaluation by ''a panel or team of maritime-education specialists, made up of professional staff from the State or Federal maritime academies, or from other recognized maritime-training institutions.'' One comment, however, expressed concern that this option might not provide for objective oversight since conflicts of interest could arise if competitors were monitoring each other.

Another comment stated that the Coast Guard should consider forming panels to evaluate training programs on a regional basis, because it would be difficult to ensure national uniformity. This comment stated that the current Coast Guard approval process is the best standard and that the STCW requirements for QSS should be deemed met by this process.

One comment stated that the Coast Guard needed to be concerned about uniformity in the QSS. This comment suggested that the Coast Guard periodically perform QSS evaluations before submitting its report to IMO under STCW Regulation I/8. The Coast Guard agrees that uniformity (common standards) must be maintained. As drafted, the Interim Rule allows the Coast Guard to conduct its own evaluations before submitting its report to IMO.

MERPAC supported the approach employing a panel of maritime-education specialists, but suggested expanding the phrase ''maritime training institutions'' to include maritime associations, maritime trade organizations, and maritime training institutions, corporations, or other organizations, providing these entities meet the requirements of § 10.309(a) (that section sets out three minimum requirements for those conducting independent evaluation of training or assessment). The Coast Guard agrees with this suggestion and will include it in the policy guidance that it will issue by NVIC to provide a procedure for application and acceptance for Coast Guard-accepted QSSs.

One comment stated that a combination of options (a) and (e) (regional accreditation and a panel of experts) is needed to keep QSS requirements from making procedures more important than results. This combination is permitted under the Interim Rule.

Five comments suggested allowing an additional option for meeting the QSS requirements. According to these comments, in-house training and assessment conducted by a company should be recognized as approved training, especially if that company holds a valid International Safety Management (ISM) certificate. While the Coast Guard accepts that the ISM certificate meets the overall intent of a QSS for training and assessment, the holding of the certificate would not in itself satisfy all of the reporting requirements associated with STCW Regulation I/8.

The Coast Guard concurs with one comment, which stated, ''Operators who either voluntarily comply with the ISM Code or are required to be ISM-certified by June 1, 1998, *and* who incorporate the training requirements outlined in the 1995 Amendments to the STCW into their training plan, should be recognized as meeting the intent of STCW Regulation I/8[,] which requires Parties to ensure that all training and assessments are 'continuously monitored through a quality-standards system' including the qualifications and experience of instructors and assessors.'' [Emphasis added]

Taking the preceding into account, the Coast Guard plans to accept the ISM Certificate of a company as sufficient evidence of a QSS for in-house training and assessment, provided that the company incorporates, in its ISM program, a commitment to comply with 46 CFR 10.309. This includes the obligation, when appropriate, to allow the conducting of assessment only by qualified assessors and to notify the National Maritime Center (NMC) of the Coast Guard advance of training or assessment it will be conducting, as well as of the results of independent monitoring (also in accordance with § 10.309). The stated aim must be to meet the relevant training objectives set out in the 1995 Amendments to STCW.

In this regard, one comment suggested that the monitoring interval be governed by ISM standards. The ISM Certificate is valid for 5 years, a period consistent with the STCW requirement that independent monitoring take place at intervals of not more than 5 years. However, at least at the initial stages, Coast Guard course approvals are renewed at shorter intervals. The interval will depend on the complexity of the training and assessment, or on the frequency with which important changes in them are likely to be introduced. This Interim Rule does not fix a specific interval. The interval will be one relevant factor when the Coast Guard determines that it will identify a particular QSS as Coast Guard-accepted for purposes of § 10.309. Comments submitted to the docket on this matter will be taken into account in preparing the Final Rule.

One comment stated that the Coast Guard should continue to offer course approvals until August 1, 1998, but that, after that date, all approved training should be conducted only under a QSS acceptable to the Coast Guard. The Coast Guard partly agrees. However, at the present time there is no guarantee that third-party options for QSS will be available to allow the Coast Guard to withdraw from the course approval process.

One comment expressed concern that small maritime training schools would incur a new cost if they had to meet QSS requirements as well as Coast Guard course-approval requirements. This interim rule will not impose two sets of requirements. Schools that receive Coast Guard course-approval will be deemed to be in compliance

with the QSS requirement under this rule.

One comment suggested a trial period to ensure that effective oversight can be maintained over any third party playing a critical role in QSS and in approved training. The Coast Guard agrees; it plans to entertain proposals for QSSs on a provisional or trial basis but to accept only those that can demonstrate the ability to maintain an independent monitoring based on, or adapted from, the guidance QSS in Section B–I/8 of the STCW Code.

Qualified Instructors and Assessors

One comment stated that the qualifications for instructors needed to be clarified; it identified professional knowledge as a more important factor than whether the merchant mariner held certain endorsements. On the other hand, another comment suggested that every instructor hold a license at least one level higher than that sought by the student. The Coast Guard considers both professional knowledge and professional qualifications to be important elements for instructors and assessors.

MERPAC has recommended that the Coast Guard certify individual Maritime Instructors, Maritime Practical Examiners, and Maritime Simulator Examiners to ensure that instructors and assessors, as well as the institutions who employ them, are accountable for training and assessing the competency of mariners. Under this recommendation, the Coast Guard would accept applications from individual applicants, independent of course approvals, and issue certificates to qualified applicants valid for 5 years.

A ''Certified Maritime Instructor'', according to MERPAC is someone giving instruction as part of an approved course or approved training program. This instructor would be competent in developing and administering written or oral examinations as part of an approved training program. To qualify for this designation, an applicant would have to (a) possess a valid U.S. merchant mariner's license, or provide documentation representing equivalent experience (i.e., merchant marine, military, or other, comparable job experience); (b) have at least one year of operational experience in a capacity corresponding to the level of qualification for which he or she would instruct; and (c) present any of four forms of evidence: of completion of a course of instruction in education that conforms with the intent of IMO guidance on training for instructors (IMO Model Course 6.09; of a current teacher's certificate issued by a State, county, or city that authorizes the holder to teach in a junior or senior high school or in adult education; of employment as an instructor in an accredited college, university, or post-secondary vocational-technical school; or of service as a classroom instructor in a maritime-related course (even if not Coast Guard-approved) for 2 years in the preceding 5 years. MERPAC recognized that waivers from these minimum requirements may be appropriate when they are consistent with guidelines established by the Coast Guard.

A ''Certified Maritime Practical Examiner,'' according to MERPAC, is someone observing and evaluating practical demonstrations for the issuance of certificates of completion of approved courses or other approved training that will be presented to the Coast Guard for licenses, certificates, or documents. MERPAC recommended that this examiner (a) have attained at least the level of qualification for which the assessment is being conducted; (b) have accumulated at least 2 years of operational experience in a capacity corresponding to the level of qualification concerned; and (c) understand and implement assessment techniques and evaluation processes. Again, MERPAC recognized that waivers may be appropriate when they are consistent with guidelines established by the Coast Guard.

A ''Certified Maritime Simulator Examiner,'' according to MERPAC, is someone conducting simulator-based assessments and corresponding written examinations for the issuance of certificates of completion of approved courses or other approved training that will be presented to the Coast Guard for licenses, certificates, or documents. MERPAC recommended that this examiner (a) have an appropriate level of knowledge and understanding of the competence to be assessed; (b) be qualified for the task being assessed; (c) be qualified as a ''Certified Maritime Instructor''; and (d) have practical experience of assessment on the particular type of simulator while under the supervision, and to the satisfaction, of an experienced assessor. Once again, MERPAC recognized that waivers may be appropriate when they are consistent with guidelines established by the Coast Guard.

One comment supported the proposal in § 10.309(a)(4) in the NPRM exempting certain instructors from holding Coast Guard licenses or MMDs. This comment recommended that marine instructors currently employed at maritime-training facilities be exempt from current certification requirements and that only those hired after a certain date be subject to new certification requirements.

One comment stated that faculty members at State and Federal maritime academies should be presumed qualified as a consequence of the thoroughness of the selection process. Fair enough, but the process must accord with the provisions of 46 CFR part 310.

The Coast Guard agrees that policy guidance along the lines developed by MERPAC is needed for those monitoring training and assessment. This can best be provided through a NVIC. The Coast Guard will issue a NVIC on QSSs that will take into account the recommendations of MERPAC on the qualifications of qualified instructors and designated assessors.

However, the Coast Guard does not agree that it is necessary to issue an individual certificate to every person serving as a maritime instructor, or conducting assessments and examinations. The guidelines for qualifications as instructor and assessor should be sufficiently clear to allow for qualifications to be established and verified in the context of Coast Guard course approvals, or in the context of other approved training subject to a QSS. Therefore, the options presented in the NPRM will persist in this Interim Rule: the instructor or assessor may be personally designated by Coast Guard letter or endorsement on his or her license or document or may be designated in the context of an approved program of training or assessment.

The Coast Guard agrees that faculty members at maritime academies are presumptively qualified to be instructors and assessors while they are so employed. Sections §§ 10.103 and 12.01–6 of this interim rule take this into account. Comments on this presumption, or equivalent presumptions for other categories of instructors, should be submitted to the docket; they will be taken into consideration when the Coast Guard prepares the final rule.

Use of IMO Model Courses

One comment stated that, although a training provider might be able to cover required material effectively in a certain number of days, the Coast Guard might inadvertently cause the provider to ''pad'' the material so it would occupy the number of days recommended in the relevant IMO model course. The Coast Guard views IMO model courses as good guidance, but does not enforce specific time periods if it is clear that an equivalent level of training can be achieved in a shorter period using a

different approach for effectively covering the same material.

The Subcommittee of IMO on STW in September 1996, validated the GMDSS radio operator course as an IMB model course. It included a footnote to emphasize achievement of learning objectives rather than devotion to specified time periods to individual subjects. It expressed this principle as follows: ''Providing that the learning objectives contained in this course are fully achieved, the course timetable may be adjusted to suit course entry requirements based on different standards of prior knowledge in radiocommunications or seagoing experience. In addition, any adjustment should take into account the need to maintain en effective instructor to student ratio and adequate access to equipment for practical training during the course.''

The Coast Guard views this principle as applicable to all IMO model course used as guidance for course approval. In addition, the course length must provide students with an adequate opportunity to achieve the training objectives.

Simulators

Seven comments discussed the use of simulators and Personal Computer-based (PC-based) training to comply with the requirements of the 1995 Amendments. One comment submitted resolutions from the Fourth U.S. Conference on Radar Simulation held in June 1996, at the Maritime Institute of Technology and Graduated studies, Linthicum Heights, Maryland. The resolutions recommended (1) use of IMO model-course format for submission of all Radar and ARPA training-course approvals; (2) use of IMO learning objectives from the relevant IMO model course; (3) minimum number of hours of training; (4) maximum number of students on each radar display for training evaluation; (5) recertification of ARPA competency every 5 years; and (6) use of STCW performance standards for radar and ARPA simulators used for testing, and allowance for grandfathering of existing radar and ARPA simulators as proposed in the NPRM.

One comment expressed concern that simulator-based training may be too expensive to use as a standard for meeting STCW requirements. Three comments suggested that technical-performance standards be determined before considering simulators for use in training. One comment recommended that technical definitions be established for ''simulator'' and ''simulation.'' Another comment recommended that MERPAC develop definitions or performance standards that let PC-based training be classified within the scope of simulator training.

One comment suggested that the Coast Guard allow for a wide range of computer-based training to meet STCW requirements.

Two comments noted that simulators should be realistic for practical training but that simulation should not be accepted as a substitute for sea time. The Coast Guard disagrees that this interim rule should prohibit simulation as a substitute for sea time, but agrees that the degree of realism provided by the simulator is an important factor when judging whether a particular simulator-based training is suitable as a substitute for sea time.

One comment contended that the Coast Guard should focus on the desired outcomes (i.e., skills to be acquired and assessed) rather than on the technical performance standards, which may become obsolete.

One comment noted that flexibility is necessary, but held some level of realism beyond that of a personal computer monitor is a reasonable requirement. Two comments recommended that PC-based training be limited to use as a diagnostic tool for instructors.

The Coast Guard's Research and Development (R&D) Center has suggested that, ''at a time of rapid technological development, desk-top simulators should be a part of the allowable variety,'' provided that the minimum standards of performance can be identified.

This interim rule is placing no restrictions on the use of computer-based training or assessment provided it serves the objectives and meets the standards required for Coast Guard approval or under the applicable QSS. Sections A–I/12 and B–I/12 of the STCW Code provide technical specifications and operative guidance on the use of simulation for training and assessment.

GMDSS

Five comments addressed the proposed requirement for masters and mates serving on ships in the GMDSS to be qualified as GMDSS radio operators under Regulation IV/2 of the 1995 Amendments.

MERPAC recommended that proposed 46 CFR 10.205(1) require candidates for masters' and mates' licenses, for service on ships participating in GMDSS, to obtain Federal Communications Commission (FCC) licenses as GMDSS operators, and either to complete a course approved by the Coast Guard or FCC on GMDSS, or otherwise to demonstrate proficiency in training approved by either of those agencies. Two comments suggested that the rule allow credit for courses and company-sponsored training completed before the approval process was put in place.

One comment noted that the FCC licensing program does not now require either a course completion or a practical demonstration of competency. Another comment suggested that the Coast Guard, rather than the FCC, approve courses and training for GMDSS radio operators, and that the FCC continue to act as the agency responsible for licensing mariners as GMDSS radio operators and maintainers.

One comment urged that the course approval not require the use of a simulator and not be linked too rigidly to a length criterion. Discussion of time periods is discussed above in the section on ''Use of IMO Model Courses.''

The National GMDSS Implementation Task Force (a panel comprising government and industry under the sponsorship of the Coast Guard) recommended that the Coast Guard issue a certificate for operators of radios in the GMDSS upon presentation of a certificate of completion from a Coast Guard-approved course. The Task Force further recommended that the syllabus for an approved GMDSS course (a) be based on the IMO model training course for GMDSS General Operator Certificates and (b) require demonstration of practical ability to operate GMDSS equipment in accordance with STCW requirements. And, for those persons who already hold FCC certificates for GMDSS radio operator, the Task Force recommended that all candidates for renewal of licenses after February 1, 1997, meet the requirements of STCW Regulation IV/2 (Mandatory minimum requirements for certification of GMDSS radio personnel).

In general, the Coast Guard agrees with these recommendations and here has revised § 10.205 in substance as well as in form (proposed § 10.205(l) has become actual § 10.205(m). The FCC, however, has indicated to the Coast Guard that it does not plan to get involved in course approvals. The Coast Guard is including in this Interim Rule a requirement that candidates for masters' and mates' licenses, for service on ships participating in GMDSS, present both FCC licenses as GMDSS operators and certificates of completion from either (a) Coast Guard-approved courses for GMDSS radio operators

(based on the IMO model course) or (b) approved training that includes assessment of competence by qualified assessors. The Task Force is developing a table of criteria and methods for assessment that should serve as a convenient checklist for the assessment of competence. This checklist will be useful for those who hold FCC certificates, and for those who have experience with GMDSS equipment but need proof of competence as required in Section A–IV/2 of STCW when applying for endorsements as masters or mates for service on ships participating in the GMDSS.

MERPAC recommended that, when renewing a Federal license, no independent pilot have to hold GMDSS certification. A pilot seeking renewal of a Federal license will receive a limitation on his or her STCW endorsement if he or she cannot establish competence in GMDSS. However, this limitation will not bar the pilot from performing piloting duties, as long as he or she is not also performing radiocommunication duties associated with GMDSS. Section 10.205(m) now indicates that a person seeking a license to serve only as a pilot need not meet requirements for GMDSS certification at the time the license is issued or renewed.

Four comments, including one from MERPAC, suggested that the Coast Guard state on the face of the STCW endorsement that a holder is qualified as a GMDSS radio operator, rather than that another holder is not qualified to serve on ships operating in GMDSS. The Coast Guard obliged both and will indicate either the qualification, or the limitation, on the face of the STCW endorsement as appropriate. However, when the renewal cycle for the radio-operator certificate is different from that for the deck license, the STCW endorsement will be valid without restriction only for the period when both the certificate and the license are valid.

One comment supported the proposed requirement of endorsement as a GMDSS radio operator for masters and mates, but recommended that the endorsement also be available to licensed engineers. The Coast Guard does not consider a change necessary to enable an engineer to acquire the endorsement.

Two comments suggested that the effective date of requiring GMDSS for license renewals be changed from August 1, 1998, to February 1, 1999, when GMDSS becomes mandatory under SOLAS. The Coast Guard agrees the compliance date can be deferred, and this Interim Rule will impose the requirements for service on or after February 1, 2002. A sufficient number of masters and mates must hold endorsements as GMDSS radio operators to meet FCC requirements for primary and secondary radio operators after February 1, 1999. However, under the 1995 Amendments, the requirement for deck officers to hold GMDSS Certification will not apply to current license holders until they receive STCW endorsements for service beyond February 1, 2002.

Electronics Technician

Fourteen comments supported the concept of an electronics technician, but five of these did not support it as proposed in the NPRM. One argued that the concept should be expanded to cover electronics equipment on the bridge, and should not be limited to GMDSS installations.

One comment expressed the view that ''a modern ship, regardless of GMDSS, will operate with an array of electronic equipment that will call for much of the same knowledge required of those on vessels that are GMDSS-equipped.''

Two comments argued that there should not be a separate rating for electronics technician but that the necessary skills should be required for a rating as a member of the engineering watch. Another comment suggested that such skills be built into requirements for specific ratings or licenses, to ensure that a wide range of expertise is available and on board ship at all times.

One comment noted that the NPRM addressed endorsements only at the support level of responsibility for electrical, electronic, and control engineering. The comment recommended a new endorsement, at the operator level, for the same engineering.

While a number of comments interpreted the proposal for a new rating as an electronics technician (non-GMDSS) to be a proposal for new manning (i.e., a dedicated position for maintaining and repairing electronics equipment), new manning was not a necessary consequence of the proposal. Other comments acknowledged the need for the Coast Guard to address problems associated with the increasing use of shipboard electronics and computers, but contended that this rulemaking is not the forum to address these problems. They suggested that the matter be addressed in a future revision of part 12. MERPAC, too, recommended that the proposal for a new rating as electronics technician be eliminated, but suggested that an endorsement as a GMDSS maintainer be available to licensed and unlicensed personnel.

The Coast Guard agrees that on-board responsibility for maintenance of electronic installations can most effectively be addressed in a future revision of part 12, and it withdraws the proposal for a new rating as electronics technician (non-GMDSS). It still provides, however, for a ''GMDSS at-sea maintainer,'' which will be available to licensed and unlicensed individuals.

Watchkeeping Ratings and Unlicensed Personnel

One comment noted that some unlicensed ratings on smaller ships (i.e., 500 to 3,000 gross tons) are ordinary seamen, each expected to serve as a member of the navigational watch from his or her first day on the vessel. The comment also noted that, to meet service requirements for a rating in the navigational watch, the ordinary seaman must be in a training capacity, which affects the ship's complement. The Coast Guard agrees with this interpretation. An untrained, inexperienced ordinary seaman cannot be the only rating serving as a member of the navigational watch.

One comment expressed concern about allowing an ordinary seaman or wiper (i.e., an entry-level rating) to serve in a watchkeeping capacity. The comment stated that the current practice of permitting a specially trained ordinary seaman to hold an STCW endorsement as a ''rating forming part of a navigational watch'' should not be extended to wiper in the engine department. The Coast Guard has no plans for extending this practice.

Training-Record Books

One comment questioned why the NPRM referred to a training-record book, when at that time the Coast Guard had not adopted a standard model to be used in meeting the requirement. The Coast Guard is aware that, at the time the NPRM was published, there was no model for the book. However, after the NPRM was published, the Subcommittee of IMO on STW did develop a model. The Coast Guard has chosen to adopt this model as a benchmark for meeting the requirements of § 10.304 of this Interim Rule. The National Maritime Center (NMC) will soon issue a NVIC containing this model, along with guidance for its use. Any training-record book that closely follows this model will meet these requirements. Additionally, training-record books using other formats may be approved by the Coast Guard, if a specimen is submitted to the NMC and is found to meet the requirements of § 10.304.

One comment recommended that only licensed officers be permitted to sign off on the assessment entries in the training-record book. This practice may become commonplace, but the Coast Guard contends that there are some skills that can be assessed by a designated examiner who is not licensed (for further discussion see the section on ''Qualified Instructors and Assessors'').

Another comment recommended that training-record books be required for all mariners whose sea service commences on or after August 1, 1998, and that qualified instructors and assessors be required to conduct on-board training and assessment subject to QSSs. The Coast Guard agrees with this recommendation and has introduced it where appropriate.

One comment requested clarification of where the training-record book is to be submitted. The book is to be submitted to the Coast Guard when a candidate applies for certificates and licenses. The Coast Guard plans to use the book as evidence that the indicated training has been completed and that the necessary assessments have been conducted. There is no plan for the Coast Guard to retain or maintain the book or supporting documents once the candidate's evaluation has been completed.

Three comments suggested that the rule allow electronic maintenance of training-record books, to mitigate the consequences of losing originals. As drafted, the Interim Rule does not prohibit electronic maintenance of the books. However, documentary versions of them, with original entries by qualified instructors and assessors, as appropriate, must be submitted to the Coast Guard as parts of applications for original engineers' licenses, and for mates' licenses when the candidates do not have 3 years of sea service. Electronic submission of the books will be considered when issues of integrity, reliability, protection, and accessibility can be resolved.

One comment argued that the training-record book should not be required as a separate and distinct document when assessments of competence are conducted as part of maintaining a QSS. The Coast Guard recognizes there is an overlap in these procedures, but the 1995 Amendments explicitly require use of the book in some instances.

One comment suggested that the Coast Guard require use of an approved training-record book for all unlicensed personnel, to ensure that on-board training is documented. Since such use is not necessary for the implementation of the 1995 Amendments, the Coast Guard has not required it in this Interim Rule; neither, however, has the Coast Guard forbidden it here. Most persons pursuing their first certification as deck officers or engineer officers will be unlicensed while they are completing their first training-record books.

One comment recommended that the training-record book contain specific tasks and measurable criteria. The Coast Guard agrees that these would make the book more precise; but, for the time being, under this Interim Rule, the Coast Guard will rely on the IMO model as the benchmark for meeting the requirements. Use of this model does not preclude the introduction of additional elements to make the record more suitable for various segments of the industry.

Rest Periods for Watchkeeping Personnel

Seven comments expressed views on the requirement for watchkeeping personnel to receive a minimum rest period that would prevent fatigue.

One comment observed that the rest period governs ''each person assigned as Officer in Charge of a navigational or engineering watch, or duty as a rating forming part of a navigational or engineering watch.'' The comment said that the phrase ''in Charge of'' should be deleted so the rest period would govern all officers on a navigational or engineering watch. The Coast Guard agrees in principle with this recommendation; however, the change could result in a broader and perhaps vaguer rule, and could extend beyond the precise requirements of Section A–VIII/1, paragraph 1, of the STCW Code, and even beyond the scope of the NPRM. The Coast Guard will, nevertheless, entertain further discussion on this matter when preparing a final rule.

Similarly, the comment recommended that performing drills be removed as a circumstance for deviation from, or interruption of, the rest period. An exception based on drills is explicitly provided in Section A–VIII/1, paragraph 3, of the STCW Code; the Coast Guard did not propose removing this exception for U.S. ships in the NPRM, but invites further comments on this issue.

The comment further recommended that ''any vessel, foreign or domestic[,] that operates beyond the Boundary Line shall, while operating in U.S. territorial waters'', comply with the rest-period requirements in proposed 46 CFR 15.710, and the enforcement of this standard using port-state inspections if necessary. The Coast Guard expects all ships subject to STCW, including foreign ships, to comply with these requirements. It will impose appropriate measures of port-state control to verify compliance on foreign ships.

The comment also discussed allowing interruption of, and deviation from, rest periods in ''overriding operational conditions'', including ones ''not foreseeable at the commencement of the voyage'' (proposed 46 CFR 15.710(d)(2)). The comment noted that any such exemption should be ''interpreted very strictly'' and that guidance should be provided to define conditions ''not foreseeable at the commencement of the voyage.'' The Coast Guard agrees that guidance on this matter would be helpful and could prevent problems from arising in the future. In the NPRM, the Coast Guard specifically invited comments on the extent to which the terms relative to rest hours should be clarified or interpreted, either in the rule itself or in associated policy on its enforcement (61 FR 13298, column 1). The comment has confirmed the need for clarification, and the Coast Guard invites comments on this matter that can be taken into account by the Coast Guard in preparing the Final Rule.

One comment contended that rules governing deviation from rest periods should not be for just ''any'' overriding operational condition, but should be limited to ''such activities as unforeseen shifting [of] berths that would require calling out the crew who would normally be in a rest period.'' Another comment argued that those rules should be flexible enough to let a vessel complete emergency operations, critical cargo movements, ''over-the-side'' operations with NOAA, and address weather changes. The Coast Guard agrees that the exception in STCW does not apply to just ''any'' overriding operational condition, and has accordingly modified this Interim Rule. However, the Coast Guard contends that neither the shifting of berths nor cargo movements are necessarily appropriate examples of conditions outside the control of the owner or operator under which operational necessity and urgency overrides the need to let watchkeeping personnel complete their rest periods. Furthermore, the Coast Guard agrees that, while a sudden change in the weather can impose an overriding operational condition, proper voyage planning can avoid operating in extended periods of severe weather. It expects companies to consider this issue when striving to meet their responsibilities whether under a safety-management system or under STCW Regulation I/14.

In the NPRM, proposed § 15.710(d)(1) defined ''rest period'' as a period during

which ''no tasks are assigned to the person concerned'' and ''the person is not scheduled to perform any duty.'' One comment recommended that guidance be provided to make sure that owners and operators understand that assigned duties include collateral duties, generally accepted as part of the job, that must be accomplished outside of navigation or engineering watches. The comment offered examples, such as correcting charts, publications, payrolls, accident reports, and crew lists; preparing port-entry documents; checking hazardous-cargo manifests and cargo inspections; and conducting tests and drills. Subject to remarks made earlier on ''drills'' as a special situation, the Coast Guard agrees that guidance along these lines is needed. Accordingly, it has incorporated this suggestion into this Interim Rule, and comments submitted on this matter will be considered in preparing a Final Rule.

Two comments contended that the reference to ''sleep'' in the proposed definition of ''rest period'' may be misconstrued to mean ''a period of sleep'', instead of rest. The comment recommended that the definition of ''rest period'' be changed to refer to ''sleep or other personal pursuits.'' One of these comments stated that a seafarer should be entitled to choose whether or not to work during normal rest periods. In other words, according to this comment, ''the company may not assign work; however, the seafarer may choose to work.'' The Coast Guard does not agree with this interpretation or with the proposed change to the definition of ''rest period.'' The definition as drafted simply states that ''the person is allowed to sleep'' during this period. This explanation does not prohibit the person from engaging in ''personal pursuits.'' However, if ''personal pursuits'' were interpreted to include either voluntary work associated with the ship or on-board training, then, the Coast Guard is concerned, outside influences (such as overtime pay, performance evaluations, or other incentives and pressures) might undermine the purpose of the rest period, which is to promote rest and recuperation between periods of watchkeeping. As one comment stated, training conducted on board (including computer-based training) must be administered in a way that maintains compliance with both the work-hour limitations established under 46 U.S.C. 8104 and the 10-hour rest period prescribed by STCW.

Another comment expressed concern that companies may expect watchkeeping officers to use, for performance of overtime responsibilities, the periods not designed for continuous rest. The comment also suggested that this rule restrict off-watch overtime to 4 hours in a 24-hour day. The Coast Guard is concerned about the potential misuse of the intervals between periods of watchkeeping duty. However, it does not agree that it should restrict overtime work under this rule, unless difficulties arise in interpreting either the definition of ''rest period'' or the conditions under which rest periods apply. It is difficult to define the nature of all activities that fall within prohibited overtime. Note that this Interim Rule already modifies the proposed rule so as to include examples of work that may not be performed during rest periods. Note further that the Coast Guard has incorporated the principle expressed in Section B–VIII/1 of the STCW Code, to the effect that the minimum specified rest periods shall not be interpreted as implying that all other hours may be devoted to watchkeeping or other duties.

This comment also expressed concern that the phrase ''overriding operational conditions'' is open to abuse, particularly if a company schedules port calls that leaves the master with insufficient opportunities for rest. It also suggested that the rule require shore-side support to relieve the master and chief mate of duties so they can obtain rest. The Coast Guard recognizes the potential problem associated with this issue, but the suggested solution does not appear to be an appropriate matter for this interim rule. The Coast Guard interprets the requirement of rest periods to apply to watchkeeping personnel over any period of 24 hours, including time in port. If the master is serving as the Officer in Charge of the navigational watch, he or she must be provided the opportunity for rest in accordance with STCW and this Interim Rule. This may require the company to arrange for shore-side support, adjust the ship's schedule, or assign an additional officer to take charge of the watch so the master can obtain rest.

This comment also stated that ''any posting of watch schedules must take into consideration the port rotation, not only as planned at the beginning of the voyage, but also when the itinerary is altered.'' The Coast Guard agrees and has modified this interim rule where appropriate (46 CFR 15.710(c) in the NPRM; § 15.1111(g) in this Interim Rule).

One comment expressed support for the rule on rest periods, and noted that requiring minimum and continuous rest periods may reduce fatigue, and may lead to a decrease in the risk of marine accidents caused by this significant problem. However, this comment posed a number of questions.

First, it sought clarification on when the 24-hour cycle would begin for determining compliance. Section A–VIII/1, paragraph 1, of the STCW Code, and 46 CFR part 15, state that 10 hours of rest must be provided ''in any 24-hour period.'' The Coast Guard understands this phrase to indicate that 10 hours of rest must be included within any given 24-hour period, whether the period is the 24 hours up to the start of work or rest or those up to the start or from the end of the watch. Determining compliance entails using a rolling 24-hour clock.

Second, this comment sought clarification of the relationship between U.S. law and STCW, and asked which takes precedence where they appear to be incompatible. Another comment raised a similar concern, stating that the minimum rest period of 10 hours a day under STCW may be viewed as promoting 14-hour workdays for lower-level mariners in violation of domestic law. The Coast Guard contends that the treatment of work hours in 46 U.S.C. 8104, and that of rest hours in STCW, enjoy equal legal status: that neither takes precedence over the other as a matter of law. As it noted in the preamble to the NPRM (61 FR 13297, column 3, and 13298, column 1), the Coast Guard considers the two provisions compatible. Both may be implemented without casing conflict to the other. In any specific set of circumstances, the stricter rule applies.

Two comments supported strict record-keeping to promote strict compliance with minimum rest periods for watchkeeping personnel. One of these comments recommended, along with strict record-keeping, a measure of flexibility for the company or organization to incorporate guidelines from the Coast Guard into their own systems. The Coast Guard will further address comments from the public in response to this Interim Rule, when preparing the final rule.

Bridge-Teamwork Procedures and Bridge-Resource Management

One comment suggested that training in bridge-teamwork procedures include unlicensed personnel, and that competence in bridge-teamwork procedures be reassessed every 5 years for all watchkeeping personnel. Another comment stated that the requirement for bridge-teamwork procedures should be met only if the candidate produces evidence of completing an approved course within 5 years of the date on which he or she applies for a new

license. The Coast Guard does not view these suggestions as necessary for implementation of the 1995 Amendments to STCW and has therefore not included them in this interim rule. Note, however, that the standards of competence both for the officer of the navigational watch and for the rating forming part of the navigational watch (Section A-II/1 and A-II/4, respectively) contain elements that imply a necessity for including unlicensed personnel in the exercises used for demonstrating ''a through knowledge of effective bridge teamwork procedures''. Consequently, training in bridge teamwork procedures should routinely take into account the role of unlicensed personnel; and such personnel, forming part of the navigational watch, particularly as new crew members should be familiarized with the bridge-teamwork procedures used on the ship.

In Table A-II/1 of the STCW Code, the assessment of competence confirming that a candidate has a thorough knowledge of bridge teamwork procedures may rest on approved in-service experience. The Coast Guard agrees that the factor of regency of training is important, even if gained through courses; but consistent long term in-service experience is also a suitable means of establishing competence in this area. Therefore, the Coast Guard will not require completion of courses for candidates who have evidence, based on such experience, that they meet the applicable standard of competence.

The Coast Guard holds that an on-board assessment of a working mate's competence in bridge-teamwork procedures should include confirmation that the mate has a thorough knowledge of effective procedures based on observation of exercises, or on circumstance in which the mate has applied this knowledge. The assessment should cover—

(1) Voyage planning, and evaluation of alternative routes, schedules, and arrangements;

(2) Bridge procedures, checklists, and logs;

(3) Watch conditions, watch augmentation, watch change, and management of work hours and rest periods for watchkeeping personnel;

(4) Effective communication, confirmation, and application of information among bridge-teamwork members, and between the bridge and the master;

(5) Situational awareness and error-trapping, based on a continuous reassessment of priorities and resource allocation; and effective use of bridge systems and equipment;

(6) Leadership in maintaining bridge discipline and vigilance; in promoting teamwork and information exchange, taking into account the skills and experience available; and in positioning and re-positioning of watchkeeping personnel;

(7) Response to bridge emergencies, such as failure of a critical component in an integrated navigational system, or sudden incapacity of a bridge-teamwork member; and

These topics of assessment will be included in a NVIC on company responsibilities.

(8) Integration of pilot into bridge team.

Two comments requested clarification of how the requirement on bridge teamwork procedures would apply to persons serving on the bridge of a small ship. One stated that special guidance should be developed on how to apply principles of bridge-resource management to towing vessels.

As stated earlier in this preamble, uninspected towing vessels and smaller cargo vessels (such as under 200 GRT) are not being subjected to this new requirement directly under this Interim Rule. Note also that, on smaller vessels, bridge arrangements and access to personnel, equipment, and essential information are not so cumbersome or complex that special training is required beyond routine familiarization with ship-specific conditions.

Company Responsibilities and ISM Code

Two comments sought clarification of the relationship between company responsibilities under the 1995 Amendments and the ISM Code. They also sought clarification about the requirement that new crew members receive a reasonable opportunity to become familiar with ship-specific procedures, equipment, and arrangements. Another comment argued that 46 CFR 15.405 (''Familiarity with vessel characteristics''), already covers the basic requirements of STCW Regulation I/14 (''familiarization'') and that therefore, this interim rule need not impose them.

The comment also suggested that the Coast Guard define ''company'' in 46 CFR part 15, as STCW Regulation I/1 defines it. The Coast Guard disagrees that a definition for ''company'' is necessary or appropriate, since, part 15 already bases references to owners and operators on the relevant statutory provisions.

Another comment held the presumption that a company holding a valid ISM certificate was fulfilling its obligations under STCW was ''flawed.'' But note that Regulation I/14 of the 1995 Amendments to STCW was drafted to be fully consistent with the principles contained in the ISM Code, particularly with the section of IMO Resolution A.741(18) that discusses ''resources and personnel.'' Therefore, if a company holds an ISM Certificate, it incurs no additional obligations under that Regulation. (Even if it does not hold the Certificate, the company should incur few, if any, new obligations under that Regulation.) Most of what this Interim Rule calls for is already common practice for U.S. companies, whether because vessels must be operated in accordance with their COIs or because companies maintain certain records on employees through routine business practice or because the domestic law of tort imposes on the employer the risk of liability for actions by an employee.

One comment argued that vessel operators have no means of maintaining comprehensive, meaningful files on mariners who serve on board ships. It suggested that the records be centralized, whether with several mariners, with the appropriate unions, or with the Coast Guard.

Another comment stated that it is ''routine practice for U.S. companies that employ seamen to maintain a personnel record for each employee or to ensure that one is maintained by an agency acting on behalf of the company.'' The comment also requested that this alternative practice be allowed to continue. This Interim Rule allows records to be maintained by an agency acting on behalf of the company.

Taking previously mentioned factors and comments into account, the interim rule restructures and clarifies company responsibilities, and includes a direct reference to meeting the requirements by virtue of holding a valid ISM Certificate.

One comment requested clarification of the requirement of ship-specific familiarization and proposed a particular list of equipment, systems, procedures, and arrangements with which a newly hired deck officer should be familiar in safety, navigation, communications, and cargo. By way of guidance, the Coast Guard recommends that a checklist comprise the following items, to ensure that newly employed, or newly arrived, crew members get a reasonable opportunity to become familiar with ship-specific equipment, systems, procedures, and arrangements;

(1) Visit spaces where primary duties will be performed.

(2) Locate muster stations, alarms, life-saving appliances, and emergency

escape routes, as well as any fire-fighting equipment and pollution-response equipment of which the crewmember concerned should be aware.

(3) Meet supervisor or other person who will be assigning duties.

(4) Locate equipment and systems necessary to perform duties and learn the controls, displays, and alarms for that equipment and those systems (and their critical components).

(5) Observe the equipment and systems in use by someone whose duties already require their use, when the opportunity can be arranged.

(6) Activate the equipment, and perform functions using the controls on the equipment, when conditions permit; locate operational manuals or other documents that may be needed for performing duties.

(7) Locate any personal-protection gear that may be necessary when performing duties, as well as first-aid and medical kits available at the work site.

(8) Read and understand relevant standing orders, safety and environmental-protection procedures, and company policies clarifying any unclear or confusing material.

(9) If serving in a watchkeeping capacity, get acquainted with the watch schedule and identify a personal work schedule that will comply with work-hour limits and rest-period requirements.

The above guidance will appear in a NVIC on company responsibilities. Companies holding ISM certificates are presumed to be in compliance with this Interim Rule.

One comment requested clarification of information to be maintained in the ''assessment of competency in performance of assigned shipboard duties'' in § 15.411(c) in the NPRM (§ 15.1107(c)) in this interim rule. The comment expressed concern that the assessment appears to be subjective. This information should correspond to the ''documents and data'' whose maintenance by companies STCW Regulation I/14 requires.

The Coast Guard envisions no specific assessment under § 15.411(c) (re-numbered as § 15.1107 in this interim rule). The company's records must contain evidence that the seafarer holds the proper documents and training for the assigned duties. To clarify this requirement, the Coast Guard has removed the reference to ''assessment''.

Basic Safety Training

Five comments requested that the Coast Guard clarify the requirements for basic safety training.

One comment contended that STCW does not impose basic safety training as a prerequisite for certification. The Coast Guard agrees with this observation to some extent, but there are specific cross-references in the standards of competence in Chapters II (Master and Deck Department) and III (Engine Department) and in the tables on basic safety training in Section A–VI/1 of the STCW Code, as they relate to fire-fighting and medical first aid. The elements of basic safety are retained in this interim rule as requirements for the issuance of licenses after August 1, 1998, and for the issuance of STCW endorsements for service beyond February 1, 2002.

All masters, mates, watchkeeping ratings, and others with safety and pollution-prevention duties (i.e., those listed on the COI or on the muster list) are required by Section A–VI/1 of the STCW Code to produce evidence of having achieved or maintained at 5-year intervals the specified standard of competence in the four elements of basic safety. This recurring requirement appears in this Interim Rule at 46 CFR part 15. Mariners who occupy positions listed on the COI, or on the muster list, will be prohibited from being assigned or performing duties unless they hold such evidence.

As a matter of convenience, a suitable endorsement will be placed on the mariner's STCW certificate upon request, or at the time of renewal, if the OCMI is satisfied that the evidence submitted is sufficient. One comment noted that securing this endorsement may facilitate mobility from one company to another, and should promote compliance with the requirements by making enforcement easier.

Two comments recommended that under this Interim Rule the level of basic safety training be adjusted to reflect the scope of equipment, type of vessel, and geographic area of operation, and that in-house training be acceptable. This Interim Rule lets in-house training or instruction be limited to a specific vessel and route.

One comment suggested that the four elements of basic safety training be consolidated into a single course. This Interim Rule allows for such a consolidation.

One comment contended that hands-on training is essential in personal survival, as reflected in IMO model course 1.19 (Personal Survival). The Coast Guard agrees with this contention and recommends course 1.19 as guidance for developing a program to meet the personal-survival element of basic safety training.

One comment requested clarification on how often basic safety training will have to occur under this Interim Rule. The Coast Guard notes that STCW requires initial approved training or instruction, and evidence of having achieved (or maintained) competency in basic safety every 5 years. Formal shore-side basic safety training is not necessary, if the mariner concerned holds evidence that he or she has maintained competence in the four elements of basic safety while serving on board ships. This evidence may reflect participation in a well-organized program of drills and other structured training exercises when the mariner's performance is evaluated against the appropriate criteria.

Five comments requested clarification of the social-responsibility elements of basic safety training. One comment recommended that training not be required since it might become ''an irritant'' to the marine community. Another contended that training should be tailored to the mariner's level of organizational responsibility. A third contended that some aspects of social responsibility, such as the dangers of drug and alcohol abuse, were already addressed by other domestic rules.

Note that the full title of this element of basic safety training is ''Personal Safety and Social Responsibility.'' This element comprises five aspects: (1) Compliance with emergency procedures; (2) precautions to prevent pollution of the marine environment; (3) observance of safe working practices; (4) ability to understand orders and to be understood; and (5) the need to contribute to effective human relationships on board ship. The Coast Guard maintains that the emphasis in training belongs on personal safety and safe working practices.

Social responsibility and effective human relationships will adequately be addressed if the training encompasses, and if the student appreciates the following:

(1) The dangers posed to himself or herself, and to the safety of a vessel and its crew, by drug and alcohol abuse.

(2) The importance of sanitation and personal hygiene for one living on board a vessel.

(3) The risk posed to the safety of a vessel and its crew unless good working relationships are maintained at all times, and disputes are resolved promptly, respectfully, and amicably.

(4) The impossibility of maintaining good working relationships on board a vessel when any crewmember behaves in a way that amounts to harassment, abuse, discrimination, or other offense against the personal dignity or

professional standing of another person on board the vessel.

(5) The adverse effects of fatigue, the need for rest to prevent fatigue, and the importance of notifying a supervisor when symptoms of fatigue are present.

(6) The procedures in place for calling attention (a) to unsafe or unhealthy conditions on board a vessel; or (b) to offensive behavior by another person on board the vessel.

The Coast Guard will include this guidance in a NVIC on company responsibilities.

One comment stated that an ISM Certificate should satisfy the requirements for approved on-the-job training in personal safety and social responsibility. As it has indicated elsewhere throughout this preamble (for instance, in the discussion on QSS), the Coast Guard will accept an ISM Certificate (with certain augmentations) as evidence of a satisfactory monitoring system. In any case, mariners provided training should receive evidence of having achieved or maintained a level of competence in basic safety, which evidence they can furnish to the Coast Guard when necessary (as when seeking a license or document or desiring an endorsement for basic safety training).

One comment argued that requirements for basic safety training should not apply to new employees for 3 to 6 months, to allow an evaluation before an investment is made in training them and that, even then, only half of the crew should be subject to those requirements. The Coast Guard does not consider these options to be available under the 1995 STCW Amendments. Unless a person is required by the manning section of the COI to be on board or is assigned duties on the muster list, he or she need not receive basic safety training. The individual must, however, receive familiarization instruction so he or she will know what to do in an emergency.

Two comments requested clarification of when a seafarer is ''designated'' as having duties in safety or pollution-prevention. A seafarer is so designated only if on board is part of the required complement (i.e., that stated in the manning section of the COI) or assigned to emergency duties on the muster list or station bill.

One comment expressed concern that the implementation date for basic safety training, of February 1, 1997, might not be attained by all mariners, and suggested that mariners already in service should be given credit for their experience.

Since publication of the NPRM, the IMO has recognized there may be practical difficulties in providing basic safety training to all seafarers who commenced sea service before February 1, 1997. Therefore, the Subcommittee recommended that administrations ''treat each case on its merits.'' The Coast Guard understands this to mean that those commencing sea service on or after February 1, 1997, must indeed receive formal training or instruction based on the tables in Section A–VI/1 of the STCW Code. But it also understands this to mean that those already in service by that date can meet the requirement (until more formal training or instruction can be arranged) with sufficient evidence that they have participated in well-organized drills and other structured exercises or in on-board programs of basic safety training, during which their performance was evaluated, and areas of weakness were brought to their attention.

Two comments suggested that both familiarization and basic safety training be conducted on board by using videos, structured drills, and interactive computer training. The Coast Guard agrees that these methods are suitable for familiarization and for confirming that seafarers are maintaining competence in basic safety after initial training or instruction. However, some aspects of basic safety training (e.g., extinguishing actual fire, and jumping from an actual height into actual water) work better at actual facilities than on virtual ones.

As also stated in the guidance developed by the STCW Subcommittee and circulated in STCW.7/circ. 1 dated September 24, 1996, masters, mates, and watchkeeping ratings need not be reassessed in basic safety to renew 1978 STCW endorsements, except for service after February 1, 2002. This guidance enters this interim rule at the rule on license renewal (§ 10.209).

To meet the requirements of the 1995 STCW Amendments, formal basic safety training or instruction must be ''approved'' or accepted by the Coast Guard and monitored by a OSS. But formal approval might reach few if any of the following: basic safety training conducted before February 1, 1997; seafarers commencing sea service after that date; and seafarers not otherwise required to complete approved training (such as fire-fighting and first aid) for licensing or documentation. The Coast Guard is preparing a two-state approach. Between January 31, 1997, and August 1, 1998, all basic safety training or instruction that meets the following criteria will count as Coast Guard-Accepted without further action by the Coast Guard, or by those offering the training, if—

(1) The training or instruction uses as checklists tables A–VI/1–1, A–VI/1–2, A–VI/1–3, and A–VI/1–4 in Section A–VI/1 of the STCW Code;

(2) The table adapted from STCW contains a statement that the seafarer under scrutiny has achieved the required standard of competence to undertake the tasks, duties, and responsibilities listed in column 1 of the relevant table or tables;

(3) The statement is dated and signed by an officer holding an ocean or near-coastal license issued under 46 CFR part 10, and an STCW endorsement, for service on seagoing vessels of 200 GRT and more; and

(4) The same person that signed the original of this statement signs a copy and provides the copy to the seafarer to serve as evidence required under Section A–VI/1, paragraph 2.2.

Any basic safety training or instruction conducted on or after August 1, 1998, must be approved either in accordance with Coast Guard course-approval procedures or under alternative procedures, governing approved training other than approved courses, set out in § 10.309 or subpart 12.03 of this interim rule.

Basic safety training established under the former procedures for the period starting February 1, 1997, and ending July 31, 1998, can continue beyond the later date, if it has been independently monitored in accordance with § 10.309 or § 12.03 of this interim rule.

Section-by-Section Analysis

Part 10—Licensing of Maritime Personnel

1. Section 10.101, which states the purposes of part 10, is retained as it was proposed in the NPRM.

2. Section 10.102 indicates that STCW (the Convention proper) and the associated STCW Code have been incorporated by reference into the regulations in part 10. Except for adjusting the list of regulations that refer to STCW or the Code, the wording remains as proposed in the NPRM.

3. Section 10.103 includes definitions for new terms used in part 10.

One comment recommended that the definitions for Qualified instructor and Designated examiner require that the person be certificated as an active mariner. As discussed in this preamble under the section on ''qualified Instructors and Assessors,'' the Coast Guard has determined that holding a license is not necessary in every case for performing these functions.

Another comment suggested that a definition be added for ''approved

course.'' The Coast Guard finds no need for a special definition of this term, since ''Approved'' training encompasses Coast Guard approval of courses under § 10.302.

One comment recommended that the STCW definition of ''seagoing ship'' be modified to ''self-propelled vessel'' and be included in this section. The Coast Guard understand the term ''seagoing ship'' to mean, for the purposes of applying STCW, a self-propelled vessel. Therefore, it does not consider it necessary to modify the STCW definition and include it in part 10; however, it does include a definition in part 15 to clarify the application of new STCW requirements to certain categories of vessels.

The wording of § 10.103 remains as proposed in the NPRM with two exceptions. First, the terms ''Qualified instructor'' and ''Designated examiner'' now indicate that a faculty member currently employed or instructing in a navigation or engineering course at a State maritime academy or the U.S. Merchant Marine Academy operated in accordance with 46 CFR part 310 is qualified to serve as a qualified instructor or designated examiner in his or her area(s) of specialization without individual designation by the Coast Guard. Comments on the extent to which this principle should be retained or broadened to include faculty employed at other reputable marine-training facilities can be made to the docket. They will be taken into account in preparing the final rule. Second, the term ''STCW endorsement'' now allows the Coast Guard to place the reference to STCW directly on the license or document. At present, this amounts only to an administrative convenience for facilitating issuance of licenses to personnel serving on small vessels on domestic-only voyages.

4. Section 10.107 indicates that certain substantive sections contain record-keeping requirements. The section remains as proposed in the NPRM.

5. Section 10.201 is a general regulation requiring applicants for licenses and certificates to establish their qualifications to the satisfaction of the Officer in Charge, Marine Inspection (OCMI), before this Officer will issue a license or certificate.

One comment suggested this section allow the use of third parties to evaluate the qualifications of a candidate and confirm that he or she is entitled to hold a Coast Guard license. The Coast Guard considers the use of a third party not restricted under this section. Therefore, no revision is necessary, and the section remains worded as it was in the NPRM.

6. Section 10.202(j) now states that the OCMI will issue an STCW endorsement to a person qualified to hold one.

Under § 10.202(k), holders of the following classes of licenses will be issued STCW endorsements on request, on the grounds that the laws (statutes and regulations), policies, and standard industry practices governing them provide for a degree of safety at sea and pollution prevention equivalent to that of the STCW requirements. Candidates for the following classes of license will not have to meet any new requirements under §§ 10.205 (k), (l), (m), (n), or (o), 10.304, or 10.901:

(1) Master's, mate's, operator's, or engineer's license for service on small passenger vessels that are subject to subchapter T or K of title 46, Code of Federal Regulations (CFR) and that operate beyond the Boundary Line.

(2) Master's, mate's, operator's, or engineer's license for service on seagoing vessels of less than 200 GRT (other than passenger vessels subject to subchapter H of title 46, CFR).

Section 10.202 also provides that personnel serving on the following vessels need not hold STCW certificates:

(1) Uninspected passenger vessels as defined in 46 U.S.C. 2101(42).

(2) Fishing vessels as defined in 46 U.S.C. 2101(11)(a).

(3) Fishing vessels used as fish-tender vessels as defined in 46 U.S.C. 2101(11)(c).

(4) Barges as defined in 46 U.S.C. 2101(2), including non-self-propelled mobile offshore-drilling units (MODUs) and also on international waters of the U.S. in the straits of Juna de Luca.

(5) Vessels operating exclusively on the Great Lakes.

7. Section 10.205 identifies requirements for original licenses and certificates. This section contains a number of substantive as well as editorial changes to its predecessor as that appeared in the NPRM. First, a new paragraph (k) consolidates the STCW requirements for basic safety training into one rule, and uses wording more closely aligned to STCW. Second, the requirements for ARPA appear as a new paragraph (1). Third, the requirements for GMDSS radio operator appear in paragraph (m) with a change that requires the candidate to hold both an FCC certificate and a certificate of completion form an approved course or approved program of training and assessment; wording in paragraph (m) indicates that a suitable statement of qualification will be added onto either the license of a candidate or onto his or her endorsement. Fourth, the requirements for bridge teamwork procedures occupy a new paragraph (n): Each new requirement must be met to allow the issuance of an unqualified STCW certificate or endorsement valid for any period on or after February 1, 2002. And, fifth, practical demonstration of skills is treated as it was in the NPRM, but occupies paragraph (o).

8. Section 10.207 concerns requirements for raises of grades of licenses. It is worded as it was proposed in the NPRM.

9. Section 10.209 identifies requirements for renewal of licenses, certificates of registry, and STCW certificates and endorsements. Under its revised paragraph (k), renewals after February 1, 1997, of certificates that will be valid for service after February 1, 2002, must rest on new STCW requirements. Also under the paragraph, requirements cross-refer to ones in § 10.205, including evidence of basic safety competence within the previous 5 years, and indicate that persons serving only on smaller vessels do not have to meet them. With respect to the references to ARPA, GMDSS, bridge teamwork procedures, basic safety training, and proficiency in survival craft, only basic safety training and proficiency in survival craft are subject to the requirement for maintaining evidence that competency have been reassessed within the 5 years prior to the renewal.

10. Section 10.304 mandates the use of approved training-record books only by candidates for certification as officers in charge of the navigational watch, officers in charge of the engineering watch, or designated duty engineers, commencing approved training or sea service on or after August 1, 1998. It also frees candidates for certain licenses for service on smaller vessels from having to use training-record books.

It also allows training-record books to be maintained electronically, provided the records meet Coast-Guard-accepted standards for accuracy, integrity, and availability.

11. Section 10.309, on Coast Guard-accepted training other than approved courses, now takes into account comments submitted to the docket and makes editorial changes. Substantive changes include the following: (1) Specific linkage to training and assessment necessary for holding an STCW certificate or endorsement; (2) a reference to designated examiners; (3) a shift from ''classroom hours'' to ''hours * * * devoted to instruction;'' (4) recognition that maritime academies are already subject to extensive monitoring under 46 CFR part 310; (5) the address for sending reports on the results of

independent monitoring; (6) letting the Coast Guard observe training and review documents without advance notice; and (7) provisional certification of offerors of approved training or assessment, under a Coast Guard-accepted QSS, as capable of providing the advertised training and of meeting the stated training objectives not less than 45 days before the training is offered to students. Comments on this approach should be submitted to the docket and will be taken into account in preparing the final rule.

Courses which remain subject to Coast Guard-approval are: Fire-fighting under § 10.205(g); Radar under § 10.480; Tankerman under part 13; and courses being used to substitute for seagoing service under § 10.304, as well as Lifeboatman under § 12.10–3(a)(6).

12. As discussed earlier in this preamble, §§ 10.491 through 10.497 establish three new classes of deck officers' licenses: ''Master (OSV),'' ''Chief Mate (OSV),'' and ''Mate (OSV).'' Sections 10.551 through 10.555 establish two new classes of engineer officers' licenses: ''Chief Engineer (OSV)'' and ''Engineer (OSV).'' Both subparts compel applicants to meet the applicable requirements of the 1995 Amendments. Both also let the Coast Guard exempt candidates from certain requirements that are irrelevant or inappropriate for service on an OSV, or that are met by equivalencies under Article IX of STCW. The Coast Guard will work with the offshore industry to determine the specific requirements for sea service, training, and competence for these new licenses. Any determinations made will be reflected in the final rule.

13. Sections 10.601 and 10.603, on certification of radio officers and radio operators, are now consistent with § 10.202(m) and take into account the Certificate for GMDSS radio operator. Section 10.603 entitles a person holding an FCC certificate as GMDSS radio operator and a certificate of completion from a Coast Guard-approved GMDSS radio-operator course, or from an approved program of training and assessment, to hold an STCW certificate suitably endorsed for performing duties associated with GMDSS.

14. Section 10.901, on general provisions, stays as proposed in the NPRM, but incorporates one comment that suggested clarifying that all the methods for demonstration of competence, allowed by the tables in part A of the STCW Code, be available to applicants seeking STCW certificates or endorsements valid for service on or after February 1, 2002.

15. Existing tables §§ 10.910 and 10.950 identify the subjects of license examinations and the practical demonstrations of competence required for each class of license. One comment recommended replacing the tables in the NPRM (ones based on the subject tables currently in §§ 10.910 and 10.950) with the tables from the STCW Code. Another said the Coast Guard should be receptive to lists of training and tasks that may not look like the tables in §§ 10.910 and 10.950 but that are more in line with actual training and tasks on a modern ship.

The Coast Guard is retaining the existing tables under this interim rule, partly because no change to the subjects affecting licenses for inland service is within the scope of this rulemaking and partly because personnel serving on smaller vessels will not have to meet new requirements under this interim rule.

However, §§ 10.901 and 10.903 does let the tables in part A of the STCW Code replace the current tables for candidates for certain licenses commencing approved training or approved sea service on or after August 1, 1998.

16. Sections 10.1001, 10.1003, and 10.1005, on Roll-on/Roll-off (Ro–Ro) passenger ships, stay as proposed in the NPRM, but correct the date from January 30, 1997, to January 31, 1997. In keeping with guidance issued by the Subcommittee of IMO on STW, training in crisis management under STCW Regulation V/2 is not required until August 1, 1998.

Part 12—Certification of Seamen

17. Section 12.01–1 addresses the purpose of the rule. Part 12 remains substantially as proposed in the NPRM.

18. Section 12.01–3 indicates that STCW (the Convention proper) and its associated STCW Code have been incorporated by reference into the regulations in part 12. Except for adjusting the list of regulations that refer to STCW or its Code, the wording remains as proposed in the NPRM.

19. Section 12.01–6 includes definitions for new terms used in part 12. Those now harmonize with those used in part 10 (from § 10.103). That of ''STCW endorsement'' allows the OCMI to enter an STCW endorsement directly on the MMD rather than issue a separate document.

20. Section 12.01–9 indicates that certain substantive sections contain record-keeping requirements. The section remains as proposed in the NPRM.

21. Section 12.02–7 addresses compliance dates and stays as proposed in the NPRM except for three substantive changes:

(1) It now reflects that the requirement to have an STCW endorsement for service as a rating forming part of a navigational watch is effective as of February 1, 1997 (as, in fact, it has long been under the original, 1978 STCW).

(2) It now provides that each person serving as a rating forming part of the engineering watch or, designated to perform duties in a periodically unmanned engine-room, shall as of February 1, 2002, in accordance with guidance issued by the Subcommittee of IMO on STW (STCW Circ. 7) hold an appropriate STCW endorsement certifying his or her qualification.

(3) It now provides that unlicensed mariners serving on certain classes of smaller vessels are exempt from any requirement to hold an STCW certificate or endorsement.

22. Section 12.02–11 sets forth the general provisions respecting merchant mariners' documents. This section remains as proposed in the NPRM except for minor editorial corrections.

23. Section 12.02–17 contains rules for issuance of documents. It now requires medical certificates of fitness only for those applicants who will be serving on seagoing ships of 200 gross register tons or more. The requirement is effective for entry-level personnel as of August 1, 1998.

24. Section 12.03–1 addresses Coast Guard-accepted training other than approved courses and has changed to harmonize with § 10.309 as changed. Training courses for lifeboatman endorsement under § 12.10–3(a)(6) remain subject to Coast Guard approval under § 10.302.

25. Section 12.05–3 imposes general requirements for endorsements as Able Seaman and particular ones for approved basic safety training for STCW endorsements that will be valid for service on or after February 1, 2002. By application of § 12.02–7, this section does not affect unlicensed personnel serving on certain classes of small vessels.

26. Section 12.05–7 requires service and training for endorsements as Able Seaman and stays basically as proposed in the NPRM. It is effective as of August 1, 1998.

27. Section 12.05–11 addresses general provisions for MMD endorsements as an Able Seaman, and stays as proposed in the NPRM.

28. Section 12.10–3 addresses general requirements for lifeboatman and is clarified by restoring the original wording of paragraph (a); by increasing the period of sea time from 3 to 6 months in paragraph (a)(6), as it was proposed in the NPRM; and by

increasing a minimum age in the new paragraph.

29. Section 12.10–5 is revised to incorporate by reference the requirements for proficiency in survival craft and rescue boats set forth by Section A–VI/2 and Table A–VI/2–1 of the STCW Code, effective as of August 1, 1998. The candidate must have evidence that his or her competency has been achieved or assessed within the previous 5 years.

30. Section 12.10–7 is revised by introducing a reference to the STCW requirements for proficiency in survival craft and rescue boats, or fast rescue boats.

31. New § 12.10–9, on evidence of proficiency in fast rescue boats, is added as proposed in the NPRM, effective as of August 1, 1998.

32. Proposed § 12.10–11 addresses persons designated to provide medical care, or take charge of medical care on board ship. It stays as proposed in the NPRM, but becomes new subpart 12.13. Its requirements will be effective as of August 1, 1998.

33. Section 12.15–3 addresses the qualified member of the engine department (QMED) and now requires approved basic safety training for an STCW endorsement, which will be valid for service on or after February 1, 2002. (Read with § 12.02–7 it does not require this of unlicensed personnel serving on certain classes of smaller vessels.)

34. Section 12.15–7 addresses service or training requirements for the engine-room rating. It stays as proposed in the NPRM, though it corrects the reference to the STCW Code.

35. Section 12.25–45, entitled ''Electronics Technician'' in the NPRM, is modified by (1) deleting references to a new rating for an ''Electronics technician—Non-GMDSS''; (2) replacing ''Electronics Technician'' with the term ''GMDSS At-sea Maintainer''; and (3) providing for the adding of a suitable endorsement to an MMD if the holder can furnish sufficient evidence of having received training in the maintenance of GMDSS installations on board ships. This section does not preclude anyone from serving as an GMDSS At-sea Maintainer if he or she meets FCC requirements. The section also allows a licensed person, as well as an unlicensed one, to receive a ''GMDSS At-sea Maintainer'' endorsement if he or she qualifies.

36. Subpart 12.30 addresses Ro-Ro passenger ships and stays essentially as proposed in the NPRM; the effective date, however, has changed to February 1, 1997, which is consistent with guidance issued by the Subcommittee of IMO on STW (STCW–7/Circ. 1).

Part 15—Manning

37. Section 15.103 contains general provisions that clarify the scope of part 15. New paragraph (d) states, subpart J applies to seagoing vessels which are subject to STCW. New paragraph (e) and (f) state that the regulations implementing STCW (i.e., those constituting new subpart J) do not directly apply to certain classes of smaller vessels or to the personnel serving on them. These vessels are already subject to a complex of laws that collectively secure a degree of safety at sea, and of pollution prevention, both at least equivalent to the applicable requirements of STCW itself. New paragraph (g) provides for the issuance of the appropriate STCW certificate or endorsement if the vessel engages in international voyages.

38. Section 15.105 indicates that STCW and its Code have been incorporated by reference into the regulations in part 10. Except for adjusting the list of regulations that refer to STCW or its Codes, the wording remains as proposed in the NPRM.

39. Section 15.301 contains definitions. It replaces the term ''Electronics technician'' with ''GMDSS At-sea Maintainer'', and withdraws the proposed term ''Electronics technician—Non-GMDSS''.

40. New subpart J consolidates the new requirements emanating from the 1995 STCW Amendments. Essentially, those proposed as §§ 15.401(b), 15.403, 15.411, and 15.705 all appear as elements of this new subpart.

Section 15.1101 is general and comprises (a) definitions; (b) a statement of applicability that exempts certain classes of smaller vessels by reference to paragraph 15.103(d); and (c) acceptance of a Safety Management Certificate that meets the requirements of the subpart. This recognition of the Certificate, which is international, and of its domestic counterpart reflects enactment of Pub. L. 104–324 (Coast Guard Authorization Act of 1996), and particularly of § 602, which provides the legal basis for earning the Certificate.

41. Section 15.1103 sets out restrictions, employment, service, and the effective dates of certain new requirements.

Paragraph (a) requires masters, mates, engineers, and radio operators, among others, to hold the appropriate STCW certificates or endorsements issued in accordance with part 10. (However, paragraph (e) allows for the continued use, through January 31, 2002, of STCW certificates and endorsements issued on the basis of 1978 STCW and of NVIC 8–95.)

Paragraph (b) requires unlicensed personnel in the navigational watch on seagoing vessels of 500 gross tons or more to hold the appropriate STCW certificates or endorsements issued in accordance with part 12. It becomes effective as of February 1, 1997. (A similar requirement has already been in effect under the 1978 STCW Convention).

Paragraph (c) requires unlicensed personnel in the engineering watch, on seagoing vessels with propulsion power of 750 kW (1000hp) or more, to hold the appropriate STCW certificates or endorsements in accordance with part 12. This paragraph, however, does not require the certificates or endorsements until February 1, 2002; it is in keeping with the guidance issued by the Subcommittee of IMO on STW.

Paragraph (d) applies to Ro-Ro passenger ships and is consistent with the terminology used in Chapter V of the STCW. It is effective as of February 1, 1997.

Paragraph (e) requires masters and mates to hold Certificates for Operators of Radio in GMDSS if they are serving on seagoing vessels on or after February 1, 2002. This does not affect the requirements of SOLAS and FCC that there be primary and secondary operators on board GMDSS ships as of February 1, 1999.

Paragraph (f) addresses the GMDSS At-sea Maintainer. Since it is fully consistent with Chapter IV of SOLAS, the Coast Guard considers it appropriate to align the effective date respecting the GMDSS At-sea Maintainer with that respecting the maintenance option in Chapter IV of SOLAS February 1, 1999.

42. Section 15.1105 addresses familiarization and basic safety-training. Section 15.403 in the NPRM, it clarifies its own scope by exempting personnel serving on certain classes of smaller vessels (see § 15.103(d)). Paragraph (a) provides that no person may be assigned duties on board a vessel unless he or she first receives familiarization training or instruction, to prepare him or her to take proper action in emergencies. Paragraph (b) provides that persons required to be on board as part of the crew complement must become familiar with ship-specific systems and arrangements, before being assigned to duties. Paragraph (c) provides that persons who are part of the crew complement or are assigned duties on the muster list must produce evidence of having (1) received approved basic safety training or instruction and (2) achieved or maintained competence in base safety within the last 5 years.

Paragraph 15.1105(d) reflects the guidance issued by the Subcommittee of

IMO on STW, to the effect that, in applying STCW Regulation V/1 on basic safety-training or instruction to seafarers who have commenced sea service before February 1, 1997, administrations should ''treat each case on its merits.'' It exempts those mariners (except where basic safety-training may be a requirement for holding a license or document under part 10 or 12) from undergoing formal training or instruction in basic safety until August 1, 2002, if they hold evidence of achieving or maintaining competence within the last 5 years. The required evidence can be based on records that a mariner has participated in well-organized drills and other structured exercises, or participated in on-board safety training programs, during which his or her performance was evaluated, and weaknesses brought to his or her attention.

43. Section 15.1107 covers maintenance of records. It now indicates that a certificate by a qualified medical practitioner, to the effect that a seaman is medically fit to perform tasks and duties likely to be involved in the performance of the job for which he or she is employed, is sufficient to meet the record-keeping requirement of this rule respecting medical fitness. Records must be maintained only for those seamen on seagoing vessels who hold licenses or merchant mariners' documents.

44. Section 15.1109 (which was § 15.705 in the NPRM) addressed watchkeeping. It stays basically as proposed, though with editorial improvements.

45. Section 15.1111 (which was § 15.710 in the NPRM) concerns work hours and rest periods. It is re-drafted (1) to square with STCW on rest periods; (2) to clarify that no rest period may be used for work even on a voluntary basis; (3) to provide examples of duties that should not be assigned during rest periods; (4) to require watchkeeping personnel to comply with domestic limits on work-hours in U.S.C. 8104; and (5) to make necessary editorial corrections.

Incorporation by Reference

The following material would be incorporated by reference in § 10.102, 12.01–3, and 15.105: Amendments to the Annex to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, and the associated Seafarers' Training, Certification and Watchkeeping (STCW) Code, as adopted under resolutions 1 and 2, respectively, by the Conference of Parties to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, held at IMO from June 26 to July 7, 1995.

Copies of the material are available for inspection where indicated under **ADDRESSES**. Copies of the material are also available from IMO, 4 Albert Embankment, London SE1 7SR, England, telephone in London 0171–735–7611.

The Coast Guard submitted this material to the Director of the Federal Register for approval of the incorporation by reference.

Assessment

This Interim Rule is a significant regulatory action under section 3(f) of Executive Order 12866 and has been reviewed by the Office of Management and Budget under that Order. It is significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11040; February 26, 1979). A regulatory assessment has been prepared for this interim rule based on comments on the NPRM and preliminary regulatory assessment. The regulatory assessment is available for inspection where indicated under **ADDRESSES**.

In response to the NPRM comments, recent legislation, and an overarching effort to reduce the regulatory burden we impose, the Coast Guard has made four notable decisions that will sharply reduce the breadth of this rulemaking and its concomitant costs. The long term benefits of the resultant rule far exceed its costs.

1. A number of comments indicated that requiring uninspected passenger vessels to comply with STCW would have a negative impact on the uninspected passenger vessel industry. Subsequent analysis by the Coast Guard supports this conclusion. Because domestic law has generally excluded uninspected passenger vessels from regulations applicable to ocean-going vessels and STCW is not likely to be cost-effective for that segment of the industry, the Coast Guard is exempting personnel serving on uninspected passenger vessels from the application of STCW.

2. Existing domestic regulations for small passenger vessels are equivalent to STCW standards. The Coast Guard therefore estimates that the interim rule will impose no costs on the small passenger vessel industry or on seafarers employed within this industry.

3. The Congress exempted the fish-tenders from application of SRCW under Section 1146 of the Coast Guard Authorization Act of 1996 (Pub. L. 104–324). The Coast Guard therefore estimates that the interim rule will impose no new costs on the fish-tender vessel industry or on seafarers employed within this industry.

4. The Coast Guard believes existing domestic regulations for seagoing vessels (other than passenger vessels) that are less than 200 GRTs are equivalent to STCW standards. Therefore, this interim rule imposes no additional burden or concomitant costs on the ''less than 200 GRT seagoing vessel'' industry or on seafarers employed within this industry.

The Coast Guard estimates that after these equivalences and exemptions are taken into account, approximately 1,356 vessels operating outside the Boundary Line will be affected by this interim rule. Vessels affected include: 114 fish processing vessels; 516 freight ships; 10 mobile offshore-drilling units (MODUs); 18 oil recovery vessels; 385 offshore supply vessels; 13 passenger vessels; 41 research vessels; 13 school ships; 201 tank ships; and 45 towboats, tugboats, and integrated tug-barge units.

In addition, the Coast Guard estimates that the interim rule will affect approximately 50,000 seafarers. This group includes: 16,000 deck and other officers; 7,500 engineering officers; 13,000 entry-level seafarers; 6,000 able seamen; 2,000 lifeboatmen; and 5,500 qualified members of the engineering department.

The following outlines the costs and benefits of STCW implementation; it presents all costs and benefits in 1996 dollars.

Costs

The costs of this interim rule fall into the following categories: training course and practical skills demonstration costs; ship company costs; maritime trainers' costs; and government costs.

Training Course and Practical Skills Demonstration Costs

Training course and practical skills demonstration costs vary with the number of seafarers applying for STCW certification. Because all seafarers employed on STCW certification. Because all seafarers employed on STCW-affected vessels will be required to have STCW certification by February 1, 2002, and because original certification is more expensive than recertification, training course and practical skills demonstration costs will be higher in the first five years following STCW implementation (1997–2001) than they will be in subsequent years.

A seafarer possessing a license or document may satisfy some STCW requirements by a demonstration of competence in lieu of training. If a seafarer is unable to demonstrate the

required competence in skills needed to perform their duties, however, it may be necessary for a seafarer to take certain STCW training required for an original license or document before receiving STCW certification. Consequently, training course and practical skill demonstration costs potentially affect both new and current seafarers.

Deck officers, engineers, and unlicensed personnel may be required to take new courses to receive STCW certificates or endorsements. Course costs for individuals are expected to be $8,384,739 annually between 1997 and 2001, and $1,619,969 annually after 2001.

When formal training is not required, deck officers, engineers, and unlicensed personnel will be required to demonstrate competency in skills relevant to their assigned duties before receiving or renewing STCW certification. The Coast Guard estimates the total cost of demonstrating competency and documenting experience will be $2,148,940 annually between 1997 and 2001, and $1,921,766 annually after 2001.

Ship Company Costs

The Coast Guard estimates that the burden of keeping company records, as required by STCW, will cost ship companies a total of $11,270 annually.

Maritime Training Costs

The STCW will impose negligible new costs on marine training institutions. The Interim Rule does not require that seafarers take all STCW training at any one institution, or that any one institution offer all training required for STCW certification. Therefore, marine training institutions need not offer any new courses. Any marine training institutions offering new courses will do so to meet increased demand in response to market forces.

Government Costs

There will be a one-time cost to the government of approximately $350,000 incurred between 1997 and 2001 for approving mariner courses, in-house training, policy development, and recordkeeping required by STCW-based rules.

Summary of Costs

The present value of the costs of this Interim Rule through 2006, discounted at 7% to 1996, will total $53,922,941.

Benefits

Human error is the cause of over 80% of all marine accidents. By ensuring that seafarers have the skills needed to perform their duties, STCW will prevent accidents that result from insufficient knowledge or inadequate skills. The benefits of STCW are the costs avoided by preventing accidents caused by human error.

To determine the economic value of accidents prevented, the Coast Guard analyzed casualty records of and investigation reports into the causes and costs of marine accidents that have occurred on U.S.-flagged vessels of the types to be affected by STCW. The benefits are a function of the type and magnitude of marine accidents that will be avoided. A lower and an upper range of benefits are estimated to bound the anticipated range of effectiveness STCW will have in preventing accidents. Casualty records analyzed and the methodology used to determine STCW's effectiveness in preventing accidents are presented in the regulatory assessment that is available for inspection as indicated under **ADDRESSES**. The Coast Guard's analysis of casualty records determined that STCW is likely to prevent damages and injuries valued between $13,820,709 and $24,511,455 annually.

The benefits of STCW flow from the accidents avoided. The benefits associated with preventing marine accidents are phased in according to the percentage of mariners who will complete the requirements needed to receive STCW certification each year. As the full effect of these STCW requirements will be gained by seafarers that enter the workforce or upgrade an existing license/document, the full benefit of STCW is assumed to accrue to the U.S. economy within 10 years.

Summary of Benefits

The Coast Guard estimates that the present value of the benefits discussed above, discounted at 7% through 2006, will total between $56,464,784 and $100,142,042.

Non-Quantifiable Benefits

The Coast Guard also identified non-quantifiable benefits due to STCW. As a result of implementing this international convention, the United States, acting in its capacity as a port state, will have the authority to detain foreign vessels that are not in compliance with STCW. The Coast Guard believes that these vessels are more likely to have marine accidents than those that are in compliance with STCW. As a result of its ability to restrain the movements of these unsafe foreign-flag vessels in U.S. waters, the Coast Guard expects to see fewer accidents in U.S. waters caused by foreign-flag vessels. Although these benefits are not quantified, it is worth noting that over 90% of the vessels subject to STCW and calling on U.S. ports fly the flag of a foreign nation.

Benefit/Cost Comparison

Tables 1 and 2 outline the present value of the costs and benefits of STCW, calculated from 1997 to the year noted in the tables. Each value has been discounted at 7% to 1996 and is presented in 1996 dollars.

TABLE 1.—PRESENT VALUE OF BENEFITS AND COSTS, BENEFITS CALCULATED AT LOWER END OF RANGE, 1996 DOLLARS

Year	PV benefits	PV costs	Benefit/cost ratio NPV
2006	56,464,784	53,922,941	1.05
2016	105,810,695	66,608,706	1.59
2026	130,895,655	73,057,506	1,79

NOTE.—PV: Present Value. NPV; Net Present Value.

TABLE 2.—PRESENT VALUE OF BENEFITS AND COSTS, BENEFITS CALCULATED AT UPPER END OF RANGE, 1996 DOLLARS

Year	PV benefits	PV costs	Benefit/cost ratio NPV
2006	100,142,042	53,922,941	1.86
2016	187,658,544	66,608,706	2.82
2026	232,147,496	73,057,506	3.18

NOTE.—PV: Present Value. NPV; Net Present Value.

Small Entities

Under the Regulatory Flexibility Act [5 U.S.C. 601 *et seq.*], the Coast Guard must consider whether this interim rule, if adopted, would have a significant economic impact on a substantial number of small entities. ''Small entities'' may include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under Section 3 of the Small Business Act (15 U.S.C. 632). ''Small entities'' also include small not-for-profit organizations and small governmental jurisdictions.

The Coast Guard did consider the impact on businesses, organizations, and jurisdictions defined as small entities and potentially affected by STCW. Small entities include: owners and operators of some STCW-affected vessels; training institutions; and businesses offering marine training courses or supplying assessors or examiners.

Because STCW does not require that any single business offer or assess all courses required under STCW, no training institution or business offering training course assessors will have to offer new services. This rulemaking allows for small entities to remain in and actively compete in the maritime training sector with options to teach and assess as many courses or functions as the entity chooses.

The NPRM generated over 400 comments from owners and operators of small passenger vessels, seagoing vessels (other than passenger vessels) that are less than 200 Gross Registered Tons (GRT), as well as uninspected passenger vessels and fish-tenders. Many of these owners and operators were small businesses. Their comments indicated that STCW might have a significant impact on their business. The Interim Rule addresses these concerns. Specifically, the system of equivalencies under existing domestic regulations established for small passenger vessels and for seagoing vessels (other than passenger vessels) that are less than 200 GRTs, as well as the system of exemptions for uninspected passenger vessels and fish-tenders, means that STCW will not impose any new requirements on these businesses.

These accommodations for owners and operators of small passenger vessels, seagoing vessels (other than passenger vessels) that are less than 200 GRTs, as well as for those of uninspected passenger vessels and fish-tenders, and the flexibility maintained in this Interim Rule for marine educators and assessors, convince the Coast Guard that it has eliminated impacts on small entities that would otherwise have been affected by the Interim Rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this Interim Rule will not have a significant economic impact on a substantial number of small entities. The regulatory flexibility analysis is included in the regulatory assessment, which is in the docket.

Unfunded Mandates

Under the Unfunded Mandates Reform Act (Pub. L. 104–4) (the Act), the Coast Guard must consider whether this Interim Rule will result in an annual expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation). The Act also requires (in section 205) that the Coast Guard identify and consider a reasonable number of regulatory alternatives, and from those alternatives, select the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the Interim Rule.

The cost analysis completed for this Interim Rule estimates that compliance costs through the year 2006 will total $53.9 million and through the year 2016 will total $66.6 million. This Interim Rule will not result in estimated annual costs of $100 million or more either to State, local, or tribal governments in the aggregate, or to the private sector.

Representatives of training institutions were interviewed to assess the impact of STCW. STCW does not require that any single business, including any State-training institution, offer or assess all courses required under STCW. In addition, no business, including any training institution offering training course assessors, will have to offer new services. At the same time, State and private training institutions will have the opportunity to remain in, and actively compete in, the maritime training sector.

Collection of Information

Under the Paperwork Reduction Act [44 U.S.C. 3501 *et seq.*], the Office of Management and Budget (OMB) reviews each rule that contains collection-of-information requirements to determine whether the practical value of the information is worth the burden imposed by its collection. Collection-of-information requirements include reporting, recordkeeping, notification, and other, similar requirements. The Coast Guard is currently requesting a revision of a current collection of information, under OMB control number 2115–0624, approved at the stage of the NPRM.

This Interim Rule contains collection-of-information requirements in the following sections: 10.205 (documentation of practical-skills demonstration); 10.304 (training-record books); 10.309 and 12.03–1 (documentation of training and assessment); 12.02–17 (documentation of medical fitness); 15.1107 (maintenance of merchant mariners' records by owner or operator); and 15.1111 (work hours and rest periods). The following particulars apply:

Where courses are not required, candidates for original licenses and license renewals must demonstrate competency in skills necessary to perform assigned duties. Evidence of demonstrated competency must be documented and submitted to the OCMI in order for candidates to receive STCW certification or documentation.

Candidates for an STCW certificate or endorsement as an officer in charge of a navigational watch or engineering watch may use a combination of training and sea service to meet STCW requirements. When seagoing service is combined with training in order to qualify for STCW certification, training must be documented in a Coast Guard-accepted training-record book.

Objectives and criteria used for training and assessment not subject to Coast Guard approval, but used to

qualify for STCW certification or endorsement, must also be documented and available for evaluation.

Applicants for merchant mariners' documents must submit written reports from medical practitioners stating that they are medically fit to perform assigned duties.

Ship companies must ensure that information regarding the medical fitness, experience, and competency of seafarers serving on any vessel is maintained and accessible to management. Recordkeeping requirements respecting any particular seafarer would be in effect only during the period of service of the seafarer concerned.

The rules in STCW were drafted to apply to companies and training programs worldwide. And in due course, under STCW as amended, the United States must show the IMO that it has in place domestic rules that implement those rules. But even the record-keeping requirements incidental to the NPRM generally reflected routine practices for U.S. ship companies and training institutions. The record-keeping requirements that the Coast Guard will institute with this interim rule reflect a basic reconsideration of the domestic rules themselves and of the requirements incidental to them: The rules and the requirements will not impose any new record-keeping burdens on companies operating smaller vessels on domestic voyages, or on institutions that train personnel for service on such vessels. This accounts for the reduction in cost impact.

DOT No.: 2115.

OMB Control No.: 2115–0624.

Administration: U.S. Coast Guard.

Title: Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW).

Need for Information: To ensure compliance with international training standards, and to maintain an acceptable level of quality in the training, assessment, skills, and fitness of merchant marinens.

Proposed use of Information: The Coast Guard would have access to information so it could monitor compliance with regulations and see where corrective action may be needed. Coast Guard officials issuing licenses, documents, and STCW certificates would then have a reliable source for determining whether training and assessment had been completed in accordance with domestic rules designed to ensure that merchant mariners have the skills and fitness necessary to perform assigned duties.

Frequency of Response: Under this interim rule, documentation of merchant mariners' training, assessment, skills, and fitness would have to be completed and submitted to the Coast Guard once every five years or when upgrading an existing license or endorsement. A ship company would have to maintain a record on a seafarer in its service as long as that seafarer remained employed in its service. Records of training and assessment would have to be kept on file by the institutions conducting training or assessment for one year.

Burden Estimate: 22,362 (down from 40,215 in the NPRM) hours annually.

Respondents: 22,930 (down from 28,645) annually.

Average Burden-Hour per Respondent: 0.975 (down from 1.4) hour.

The Coast Guard has submitted the less-burdensome requirements to OMB for final approval under sub-section 3504(h) of the Paperwork Reduction Act. Persons submitting comments on the requirements should submit their comments both to OMB and the Coast Guard where indicated under **ADDRESSES**.

Federalism

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

This interim rule should not have a direct impact on State, local, or tribal governments. States that operate or charter maritime training institutions will have to bring the relevant training programs into line with the new requirements. For the most part, however, the existing State-sponsored maritime training institutions already have programs that will need few adjustments to meet the new requirements. The accreditation process for these institutions will, under this interim rule, satisfy quality assurance provisions.

Environment

The Coast Guard considered the environmental impact of this interim rule and concluded that, under paragraph 2.B.2.e(34)(c) of Commandant Instruction M16475.1B, this interim rule is categorically excluded from further environmental documentation. This interim rule would have no direct environmental impact. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects

46 CFR Part 10

Fees, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Schools, Seamen, Vessels.

46 CFR Part 12

Fees, Incorporation by reference, Marine safety, Reporting and recordkeeping requirements, Schools, Seamen, Vessels.

46 CFR Part 15

Incorporation by reference, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Schools, Seamen, Vessel manning, Vessels.

For the reasons set out in the preamble, the Coast Guard is amending 46 CFR parts 10, 12, and 15 as follows:

PART 10—LICENSING OF MARITIME PERSONNEL

1. The authority citation for part 10 is revised to read as follows:

Authority: 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110; 46 U.S.C. Chapter 71; 46 U.S.C. 7502, 7505, 7701; 49 CFR 1.45, 1.46; Sec. 10.107 also issued under the authority of 44 U.S.C. 3507.

2. In § 10.101, paragraphs (a) and (c) are revised to read as follows:

§ 10.101 Purposes of regulations.

(a) The purposes of the regulations in this part are to provide—

(1) A comprehensive means of determining the qualifications an applicant must possess to be eligible for a license as a deck officer, engineer, pilot, radio officer, or radio operator on merchant vessels, or for a license to operate uninspected towing vessels or uninspected passenger vessels, or for a certificate of registry as a staff officer; and

(2) A means of determining that an applicant is competent to serve as a master, chief mate, officer in charge of a navigational watch, chief engineer officer, second engineer officer (first assistant engineer), officer in charge of an engineering watch, designated duty engineer, or radio operator, in accordance with the provisions of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995 (STCW), and other laws, and to receive the appropriate certificate or endorsement as required by STCW.

* * * * *

(c) The regulations in subpart C of this part prescribe the requirements applicable to—

(1) Each approved training course, if the training course is to be acceptable as a partial substitute for service or for a required examination, or as training required for a particular license or license endorsement; and

(2) All training and assessment associated with meeting the standards of competence established by STCW.

3. Section 10.102 is added to read as follows:

§ 10.102 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the **Federal Register** and must ensure that the material is available to the public. All approved material is available for inspection at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC, and at the U.S. Coast Guard, Operating and Environmental Standards Division, 2100 Second Street SW., Washington, DC, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part and the sections affected are as follows:

International Maritime Organization (IMO)

4 Albert Embankment, London, SE1 7SR, England.

STCW—International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995 (STCW Convention), and Seafarer's Training, Certification and Watchkeeping Code (STCW Code)—10.103; 10.205; 10.304; 10.603; 10.901; 10.903; 10.1005.

4. In § 10.103, the following new definitions are added in alphabetical order to read as follows:

§ 10.103 Definitions of terms used in this part.

Approved means approved by the Coast Guard in accordance with § 10.302.

* * * * *

Coast Guard-accepted means that the Coast Guard has officially acknowledged in writing that the material or process at issue meets the applicable requirements; that the Coast Guard has issued an official policy statement listing or describing the material or process as meeting the applicable requirements; or that an entity acting on behalf of the Coast Guard under a Memorandum of Agreement has determined that the material or process meets the applicable requirements.

* * * * *

Designated examiner means a person who has been trained or instructed in techniques of training or assessment and is otherwise qualified to evaluate whether a candidate for a license, document, or endorsement has achieved the level of competence required to hold the license, document, or endorsement. This person may be designated by the Coast Guard or by a Coast Guard-approved or accepted program of training or assessment. A faculty member employed or instructing in a navigation or engineering course at the U.S. Merchant Marine Academy or at a State maritime academy operated in accordance with regulations in 46 CFR part 310 is qualified to serve as a designated examiner in his or her area(s) of specialization without individual evaluation by the Coast Guard.

* * * * *

Practical demonstration means the performance of an activity under the direct observation of a designated examiner for the purpose of establishing that the performer is sufficiently proficient in a practical skill to meet a specified standard of competence or other objective criterion.

Qualified instructor means a person who has been trained or instructed in instructional techniques and is otherwise qualified to provide required training to candidates for licenses, documents, and endorsements. A faculty member employed at a State maritime academy or the U.S. Merchant Marine Academy operated in accordance with 46 CFR part 310 and instructing in a navigation or engineering course is qualified to serve as a qualified instructor in his or her area(s) of specialization without individual evaluation by the Coast Guard.

* * * * *

Standard of competence means the level of proficiency to be achieved for the proper performance of duties on board vessels in accordance with national and international criteria.

STCW means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995.

STCW Code means the Seafarer's Training, Certification and Watchkeeping Code.

STCW endorsement means a certificate or endorsement issued in accordance with STCW. An STCW endorsement issued by the Officer in Charge, Marine Inspection (OCMI), will be valid only when accompanied by the appropriate U.S. license or document; and, if the license or document is revoked, then the associated STCW endorsement is no longer valid for any purpose. References to STCW placed on a U.S. license or merchant mariner's document will suffice as STCW endorsements for the mariner serving on a vessel operating exclusively on a domestic voyage (i.e., to and from U.S. ports or places subject to U.S. jurisdiction).

* * * * *

5. In § 10.107, paragraph (b)(3) is added to read as follows:

§ 10.107 Paperwork approval.

* * * * *

(b) * * *

(3) OMB 2115–0624—46 CFR 10.304 and 10.309.

6. In § 10.201, paragraph (a) is revised to read as follows:

§ 10.201 Eligibility for licenses and certificates of registry, general.

(a) Each applicant shall establish to the satisfaction of the OCMI that he or she possesses all of the qualifications necessary (such as age, experience, character references and recommendations, physical health or competence and test for dangerous drugs, citizenship, approved training, passage of a professional examination, as appropriate, and, when required by this part, a practical demonstration of skills) before the OCMI will issue a license or certificate of registry.

* * * * *

7. In § 10.202, the heading is revised and paragraphs (j), (k), and (l) are added to read as follows:

§ 10.202 Issuance of licenses, certificates of registry, and STCW certificates or endorsements.

* * * * *

(j) When an original license is issued, renewed, upgraded, or otherwise modified, the OCMI will determine whether the holder of the license needs to hold an STCW certificate or endorsement for service on a seagoing vessel and then, if the holder is qualified, will issue the appropriate certificate or endorsement. The OCMI will also issue an STCW certificate or endorsement at other times, if circumstances so require and if the holder of the license is qualified to hold the certificate or endorsement.

(k) Notwithstanding §§ 10.205 (k), (l), (m), (n), and (o), 10.304, and 10.901, each mariner found qualified to hold any of the following licenses will also be entitled to hold an STCW certificate

or endorsement corresponding to the service or other limitations on the license, because the vessels concerned are not subject to further obligation under STCW, on account of their special operating conditions as small vessels engaged in domestic voyages:

(1) Master's, mate's, or engineer's license for service on small passenger vessels that are subject to subchapter T or K of title 46, Code of Federal Regulations (CFR), and that operate beyond the boundary line.

(2) Master's, mate's, or engineer's license for service on seagoing vessels of less than 200 gross register tons (GRT), other than passenger vessels subject to subchapter H of title 36, CFR.

(l) Neither any person serving on any of the following vessels, nor any owner or operator of any of these vessels, need meet the requirements of subpart J, because the vessels are exempt from application of STCW:

(1) Uninspected passenger vessels as defined in 46 U.S.C. 201(42).

(2) Fishing vessels as defined in 46 U.S.C. 2101(11)(a).

(3) Fishing vessels used as fish-tender vessels as defined in 46 U.S.C. 2101(11)(c).

(4) Barges as defined in 46 U.S.C. 2101(2), including non-self-propelled mobile offshore-drilling units.

(5) Vessels operating exclusively on the Great Lakes or the inland waters of the U.S. in the straits of Juan de Fuca inside passage.

8. In § 10.205, the heading is revised, and paragraphs (l), (m), (n), (o), and (p) are added to read as follows:

§ 10.205 Requirements for original licenses, certificates of registry, and STCW certificates and endorsements.

* * * * *

(l) *Basic safety training or instruction.* (1) After January 31, 1997, except as provided in § 10.202, an STCW certificate or endorsement valid for any period on or after February 1, 2002, will be issued only when the candidate provides evidence of having achieved or, if training has been completed, having maintained the minimum standards of competence for the following 4 areas of basic safety within the previous 5 years upon assessment of a practical demonstration of skills and abilities:

(1) Personal survival techniques as set out in table A–VI/1–1 of the STCW Code.

(2) Fire prevention and fire-fighting as set out in table A–VI/1–2 of the STCW Code.

(3) Elementary first aid as set out in table A–VI/1–3 of the STCW Code.

(4) Personal safety and social responsibilities as set out in table A–VI/1–4 of the STCW Code.

(m) *Competence in the use of Automatic Radar-Plotting Aids (ARPA).* (1) Subject to paragraph (m)(2) of this section, and except as otherwise provided in § 10.202, each candidate for an STCW certificate or endorsement as master or mate, to be valid on or after February 1, 2002, for service on vessels in ocean or near-coastal service, shall present a certificate of completion from an approved course or from accepted training on an ARPA simulator. The course or training must be sufficient to establish that the applicant is competent to maintain safe navigation through the proper use of ARPA, by correctly interpreting and analyzing the information obtained from that device and taking into account both the limitations of the equipment and the prevailing circumstances and conditions. The simulator used in the course or training must meet or exceed the performance standards established under STCW Regulation I/12 of the 1995 Amendments.

(2) Training and assessment in the use of ARPA are not required for mariners serving exclusively on vessels not fitted with ARPA. However, when any mariner so serving has not completed it, his or her STCW certificate or endorsement will be endorsed to indicate this limitation.

(n) *Certificate for operator of radio in the Global Maritime Distress and Safety System (GMDSS).* (1) Subject to paragraph (n)(2) of this section, and except as otherwise provided by § 10.202, each candidate for an STCW certificate or endorsement as master or mate, to be valid on or after February 1, 2002, for service in vessels in ocean or near-coastal service, shall present—

(i) A certificate for operator of radio in the GMDSS issued by the Federal Communication Commission (FCC); and

(ii) A certificate of completion from a Coast Guard-approved or accepted course for operator of radio in the GMDSS or from another approved program of training and assessment covering the same areas of competence. The course or program must be sufficient to establish that the applicant is competent to perform radio duties on a vessel participating in the GMDSS and meets the standard of competence under STCW Regulation IV/2.

(2) Paragraph (m) of this section does not apply to a candidate intending to serve only as a pilot, or intending to serve only on vessels not required to comply with the provisions of the GMDSS in Chapter IV of the Convention for the Safety of Life at Sea, 1974, as amended (SOLAS).

(3) Each candidate presenting a certificate described in paragraph (n)(1) of this section may have his or her STCW certificate suitably endorsed with his or her GMDSS qualification.

(o) *Procedures for bridge team work.* Except as otherwise provided by § 10.202, each candidate for an STCW certificate or endorsement as master or mate, to be valid on or after February 1, 2002, for service on vessels in ocean or near-coastal service, shall present sufficient documentary proof that he or she understands and can effectively apply procedures for bridge team work as an essential aspect of maintaining a safe navigational watch, taking into account the principles of bridge-resource management enumerated in Section B–VIII/2 of the STCW Code.

(p) *Practical demonstration of skills.* Each candidate for an original license shall successfully complete any practical demonstrations required under this part and appropriate to the particular license concerned, to prove that he or she is sufficiently proficient in skills required under subpart I of this part. The OCMI must be satisfied as to the authenticity and acceptability of all evidence that each candidate has successfully completed the demonstrations required under this part in the presence of a designated examiner. The OCMI will place in the file of each candidate a written or electronic record of the skills required, the results of the practical demonstrations, and the identification of the designated examiner in whose presence the requirements were fulfilled.

9. In § 10.207, the heading of the section, the heading for paragraph (c), and paragraph (c)(1) are revised to read as follows:

§ 10.207 Requirements for raises of grades of licenses.

* * * * *

(c) *Age, experience, training, and assessment.* (1) Each applicant for a raise of grade of license shall establish that he or she possesses the age, experience, and training necessary, and has been examined and otherwise assessed as may be required by this part to establish competence to hold the particular license requested, before he or she is entitled to a raise in grade of license.

* * * * *

10. In § 10.209, the heading is revised, and paragraph (k) is added to read as follows:

§ 10.209 Requirements for renewal of licenses, certificates of registry, and STCW certificates and endorsements.

* * * * *

(k) Except as otherwise provided by § 10.202, each candidate for a renewal of an STCW certificate or endorsement as master, mate, operator, or engineer, to be valid on or after February 1, 2002, for service on any vessel in ocean or near-coastal service, shall meet the applicable requirements of paragraphs (k), (l), (m), and (n) in § 10.205 and shall meet the requirements of Section A–VI/2, paragraph 1 to 4 of the STCW Code.

11. In § 10.304, the heading is revised and paragraphs (e), (f), (g), and (h) are added to read as follows:

§ 10.304 Substitution of training for required service, and use of training-record books.

* * * * *

(e) Except as provided in § 10.202, when a candidate both applies for an STCW certificate or endorsement as an officer in charge of a navigational watch, on the basis of training or sea service commencing on or after August 1, 1998, and uses completion of approved training to substitute for required service, then not less than 1 year of the remaining service must be part of approved training that meets the appropriate requirements of Chapter II of STCW and the requirements of subpart C of this part. The training of a candidate must be documented in a Coast Guard-accepted training-record book.

(f) Except as provided in § 10.202, each candidate who applies for an STCW certificate or endorsement as an officer in charge of an engineering watch or as a designated duty engineer on the basis of training or sea service commencing on or after August 1, 1998, for service on seagoing vessels, shall complete onboard training as part of approved training that meets the appropriate requirements of Chapter III of STCW and the requirements of subpart C of this part. The training must be documented in a Coast Guard-accepted training-record book.

(g) The training-record book referred to in paragraphs (e) and (f) of this section must contain at least the following:

(1) The identity of the candidate.

(2) The tasks to be performed or the skills to be demonstrated, with reference to the standards of competence set forth in the tables of the appropriate sections in part A of the STCW Code.

(3) The criteria to be used in determining that the tasks or skills have been performed properly, again with reference to the standards of competence set forth in the tables of the appropriate sections in part A of the STCW Code.

(4) A place for a qualified instructor to indicate by his or her initials that the candidate has received training in the proper performance of the task or skill.

(5) A place for a designated examiner to indicate by his or her initials that the candidate has successfully completed a practical demonstration and has proved competent in the task or skill under the criteria, when assessment of competence is to be documented in the record books.

(6) The identity of each qualified instructor, including any Coast Guard license or document held, and the instructor's signature.

(7) The identity of each designated examiner, when any assessment of competence is recorded, including any Coast Guard license or document held, and the examiner's signature confirming that his or her initials certify that he or she has witnessed the practical demonstration of a particular task or skill by the candidate.

(h) The training-record book referred to in paragraphs (e) and (f) of this section may be maintained electronically, if the electronic record meets Coast Guard-accepted standards for accuracy, integrity, and availability.

12. Section 10.309 is added to subpart C to read as follows:

§ 10.309 Coast Guard-accepted training other than approved courses.

(a) When the training and assessment of competence required by this part are not subject to Coast Guard approval under § 10.302, but are used to qualify to hold an STCW certificate or endorsement for service on or after February 1, 2002, such training and assessment must meet the following requirements:

(1) The training and assessment must have written, clearly defined objectives that emphasize specific knowledge, skills, and abilities, and that include criteria to be used in establishing a student's successful achievement of the training objectives.

(2) The training must be set out in a written syllabus that conforms to a Coast Guard-accepted outline for such training and includes—

(i) The sequence of subjects to be covered;

(ii) The number of hours to be devoted to instruction in relevant areas of knowledge;

(iii) The identity and professional qualifications of the instructor(s) to be conducting the training or providing instruction;

(iv) The identification of other media or facilities to be used in conducting training; and

(v) Measurements at appropriate intervals of each candidate's progress toward acquisition of the specific knowledge, skills, and abilities stated in the training objectives.

(3) Except as provided in paragraph (a)(4) of this section, documentary evidence must be readily available to establish that all instructors—

(i) Have experience, training, or instruction in effective instructional techniques;

(ii) Are qualified in the task for which the training is being conducted; and

(iii) Hold the level of license, endorsement, or other professional credential required of those who would apply on board a vessel the relevant level of knowledge, skills, and abilities described in the training objectives.

(4) Neither a specialist in a particular field of nonmaritime education, such as mathematics or first aid, nor a person with at least 3 years of service as a member of the Armed Forces of the United States, specializing in the field in which he or she is to conduct training, need hold a maritime license or document to conduct training in that field.

(5) A simulator may be used in training if—

(i) The simulator meets applicable performance standards;

(ii) The instructor has gained practical operational experience on the particular type of simulator being used; and

(iii) The instructor has received appropriate guidance in instructional techniques involving the use of simulators.

(6) Essential equipment and instructional materials must afford all students adequate opportunity to participate in exercises and acquire practice in performing required skills.

(7) A process for routinely assessing the effectiveness of the instructors, including the use of confidential evaluations by students, is in place.

(8) Documentary evidence is readily available to establish that any evaluation of whether a student is competent in accordance with standards, methods, and criteria set out in part A of the STCW Code is conducted by a designated examiner who has experience, training, or instruction in assessment techniques.

(9) Records of the student's performance are maintained for at least 1 year by the offeror of the training and assessment.

(10) To ensure that the training is meeting its objectives, and the requirements of paragraphs (a)(1)

through (9) of this section, the offeror must either—

(i) Be regulated as a maritime academy or marine academy pursuant to 46 CFR part 310; or

(ii) Monitor the training in accordance with a Coast Guard-accepted QSS, which must include the following features:

(A) The training must be provisionally certified, on the basis of an initial independent evaluation conducted under a Coast Guard-accepted QSS, as being capable of meeting its objective.

(B) The training must be periodically monitored in accordance with the schedule stipulated under the Coast Guard-accepted QSS.

(C) Each person conducting the initial evaluation or the subsequent periodic monitoring of the training shall be knowledgeable about the subjects being evaluated or monitored and about the national and international requirements that apply to the training, and shall not himself or herself be involved in the training and assessment of students.

(D) Each person evaluating or monitoring the training shall have access to all appropriate documents and facilities, and shall have opportunities both to observe all appropriate activities and to conduct confidential interviews when necessary.

(E) Arrangements must be such as to ensure that no person evaluating or monitoring the training is penalized or rewarded, directly or indirectly, by the sponsor of the training for making any particular observations or for reaching any particular conclusions.

(11) Each person conducting the initial evaluation under paragraph (a)(10)(ii)(A) of this section or the periodic monitoring of the training under paragraph (a)(10)(ii)(B) of this section shall communicate his or her conclusions to the Director, National Maritime Center, NMC–4B, 4200 Wilson Boulevard, suite 510, Arlington, VA 22203–1804, within 1 month of the completion of the evaluation or the monitoring.

(12) Each offeror of the training shall let the Coast Guard or someone authorized by the Coast Guard observe the records of a student's performance and records otherwise relating to paragraphs (a)(1) through (10) of this section.

(b) The Coast Guard will maintain a list of training each of whose offerors submits a certificate, initially not less than 45 calendar days before offering training under this section, and annually thereafter, signed by the offeror or its authorized representatives, stating that the training fully complies with requirements of this section, and identifying the Coast Guard-accepted QSS being used for independent monitoring. Training programs on this list will offer the training necessary for licenses and STCW endorsements under this part. The Coast Guard will update this list periodically and make it available to members of the public on request.

(c) If the Coast Guard determines, on the basis of observations or conclusions either of its own or of someone authorized by it to monitor the training, that particular training does not satisfy one or more of the conditions described in paragraph (a) of this section—

(1) The Coast Guard will so notify the offeror of the training by letter, enclosing a report of the observations and conclusions;

(2) The offeror may, within a period specified in the notice, either appeal the observations or conclusions to the Commandant (G–MOC) or bring the training into compliance; and

(3) If the appeal is denied—or the deficiency is not corrected in the allotted time, or within any additional period judged by the Coast Guard to be appropriate, considering progress toward compliance—the Coast Guard will remove the training from the list maintained under paragraph (b) of this section until it can verify full compliance; and it may deny applications for licenses for STCW endorsement based in whole or in part on training not on the list, until additional training or assessment is documented.

13. In subpart D, the heading is revised to read as follows:

Subpart D—Professional Requirements for Deck Officers' Licenses

14. Section 10.491 is added to subpart D to read as follows:

§ 10.491 Licenses for service on offshore supply vessels.

Each license for service on offshore supply vessels (OSVs) authorizes service on OSVs as defined in 46 U.S.C. 2101(19) and as interpreted under 46 U.S.C. 14104(b), subject to any restrictions placed on the license.

15. Section 10.493 is added to subpart D to read as follows:

§ 10.493 Master (OSV).

(a) Except as provided by paragraph (b) of this section, to qualify for a license as Master (OSV), an applicant shall present evidence that he or she meets the appropriate requirements of STCW Regulation II/2.

(b) The OCMI may exempt an applicant from meeting any requirement under STCW Regulation II/2 that the OCMI determines to be inappropriate or unnecessary for service on an OSV, or that the applicant meets under the equivalency provisions of Article IX of STCW.

16. Section 10.495 is added to subpart D to read as follows:

§ 10.495 Chief Mate (OSV)

(a) Except as provided by paragraph (b) of this section, to qualify for a license as Chief Mate (OSV), an applicant shall present evidence that he or she meets the appropriate requirements of STCW Regulation II/2.

(b) The OCMI may exempt an applicant from meeting any requirement under STCW Regulation II/2 that the OCMI determines to be inappropriate or unnecessary for service on an OSV, or that the applicant meets under the equivalency provisions of Article IX of STCW.

17. Section 10.497 is added to subpart D to read as follows:

§ 10.497 Mate (OSV)

(a) Except as provided by paragraph (b) of this section, to qualify for a license as Mate (OSV), an applicant shall present evidence that he or she meets the appropriate requirements of STCW Regulation II/1.

(b) The OCMI may exempt an applicant from meeting any requirement under STCW Regulation II/1 that the OCMI determines to be inappropriate or unnecessary for service on an OSV, or that the applicant meets under the equivalency provisions of Article IX of STCW.

18. Section 10.551 is added to subpart E to read as follows:

§ 10.551 Licenses for service on offshore supply vessels.

Each license for service on OSVs as Chief Engineer (OSV) or Engineer authorizes service on OSVs as defined in 46 U.S.C. 2101(19) and as interpreted under 46 U.S.C. 14104(b), subject to any restrictions placed on the license.

19. Section 10.553 is added to subpart E to read as follows:

§ 10.553 Chief Engineer (OSV).

(a) Except as provided by paragraph (b) of this section, to qualify for a license as Chief engineer (OSV), an applicant shall present evidence that he or she meets the appropriate requirements of STCW Regulation III/2.

(b) The OCMI may exempt an applicant from meeting any requirement under STCW Regulation III/2 that the OCMI determines to be inappropriate or unnecessary for service on an OSV, or that the applicant meets under the equivalency provisions of Article IX of STCW.

20. Section 10.555 is added to subpart E to read as follows:

§ 10.555 Engineer (OSV).

(a) Except as provided by paragraph (b) of this section, to qualify for a license as Engineer (OSV), an applicant shall present evidence that he or she meets the appropriate requirements of STCW Regulation III/1.

(b) The OCMI may exempt an applicant from meeting any requirement under STCW Regulation III/1 that the OCMI determines to be inappropriate or unnecessary for service on an OSV, or that the applicant meets under the equivalency provisions of Article IX of STCW.

21. Section 10.601 is revised to read as follows:

§ 10.601 Applicability.

This subpart provides for the licensing of radio officers for employment on vessels, and for the issue of STCW certificates or endorsements for those qualified to serve as radio operators on vessels subject to the provisions on the Global Maritime Distress and Safety System (GMDSS) of Chapter IV of SOLAS.

22. Section 10.603, the heading is revised, and paragraphs (d) and (e) are added to read as follows:

§ 10.603 Requirements for radio officers' licenses, and STCW certificates or endorsements for GMDSS radio operators.

* * * * *

(d) Each applicant who furnishes evidence that he or she meets the standard of competence set out in STCW Regulation IV/2, including the competence to transmit and receive information using subsystems of GMDSS, to fulfill the functional requirements of GMDSS, and to provide radio services in emergencies is entitled to hold an STCW certificate suitably endorsed for performing duties associated with GMDSS.

(e) Evidence required by paragraph (d) of this section must include a certificate—

(1) For operator of radio in the GMDSS issued by the Federal Communications Commission (FCC); and

(2) Of completion from a Coast Guard-approved course for operator of radio in the GMDSS, or other approved programs of training and assessment covering the same areas of competence.

23. The heading of subpart I is revised to read as follows:

Subpart I—Subjects of License Examinations and Practical Demonstrations of Competence

24. In § 10.901, paragraphs (c) and (d) are added to read as follows:

§ 10.901 General provisions.

* * * * *

(c) Except as provided in §§ 10.202 and 10.209, each applicant for an STCW certificate or endorsement, to be valid for service on or after February 1, 2002, in the following capacities on vessels that operate beyond the Boundary Line shall also furnish sufficient documentary evidence that he or she has made a practical demonstration(s) of competence as set out under the appropriate STCW Regulations:

(1) *Deck Department.* (i) Officer in charge of the navigational watch on a seagoing vessel of 500 gross tons (GT) or more.

(ii) Officer in charge of the navigational watch on a seagoing vessel of less than 500 GT not engaged on a near-coastal voyage.

(iii) Officer in charge of the navigational watch on a seagoing vessel of less than 500 GT engaged on a near-coastal voyage.

(iv) Master and chief mate on a seagoing vessel of 3,000 GT or more.

(v) Master and chief mate on a seagoing vessel of between 500 and 3,000 GT.

(vi) Master on a seagoing vessel of less than 500 GT not engaged on a near-coastal voyage.

(vii) Master on a seagoing vessel of less than 500 gross tons engaged on a near-coastal voyage.

(2) *Engine Department.* (i) Officer in charge of the engineering watch in a manned engine-room on a seagoing vessel.

(ii) Designated duty engineer in a periodically unmanned engine-room on a seagoing vessel.

(iii) Chief engineer officer of a seagoing vessel driven by main propulsion machinery of 3,000 kW [4,000 hp] of propulsion power or more.

(iv) Second engineer officer of a seagoing vessel driven by main propulsion machinery of 3,000 kW [4,000 hp] of propulsion power or more.

(v) Chief engineer officer of a seagoing vessel driven by main propulsion machinery of between 750 kW [1,000 hp] and 3,000 kW [4,000 hp] of propulsion power or more.

(vi) Second engineer officer of a seagoing vessel driven by main propulsion machinery of between 750 kW [1,000 hp] and 3,000 kW [4,000 hp] of propulsion power or more.

(d) Simulators used in assessment of competence under paragraph (c) of this section must meet the appropriate performance standards set out in Section A–I/12 of the STCW Code. However, simulators installed or brought into use before February 1, 2002, need not meet them so far as they fulfill the objectives of the assessment of competence or demonstration of proficiency.

25. Section 10.903 is amended by adding new paragraphs (c) and (d) to read as follows:

§ 10.903 Licenses requiring examinations and practical demonstrations.

* * * * *

(c) Each candidate for any of the following licenses, who commences Coast Guard approved or accepted training or approved seagoing service on or after August 1, 1998, or who applies for the license on or after February 1, 2002, shall meet the requirements of the appropriate regulations and standards of competence in STCW and in part A of the STCW Code, as indicated in table 903–1:

(1) Master, oceans and near coastal, any gross tons.

(2) Chief mate, oceans and near coastal, any gross tons.

(3) Master, oceans and near coastal, 500 to 1600 gross tons.

(4) Second mate, oceans and near coastal, any gross tons.

(5) Third mate, oceans and near coastal, any gross tons.

(6) Mate, oceans and near coastal, 500 to 1600 gross tons.

(7) Operator, uninspected towing vessel of over 200 gross tons, oceans (domestic trade) and near coastal.

(8) Master (OSV).

(9) Chief mate (OSV).

(10) Mate (OSV).

(11) Chief engineer, unlimited.

(12) 1st Assistant engineer, unlimited.

(13) 2nd Assistant engineer, unlimited.

(14) 3rd Assistant engineer, unlimited.

(15) Chief engineer, limited—oceans.

(16) Chief engineer, limited—near coastal.

(17) Chief engineer (OSV).

(18) Engineer (OSV).

TABLE 10.903–1

STCW Reg.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18
II/1	....	....	....	X	X	X	....	....	....	X	....	....	....	....	....	....	....	....
II/2, p. 1 & 2	X	X	....	....	....	....	....	X	X	....	....	....	....	....	....	....	....	....
II/2, p. 3 & 4	....	....	X	....	....	....	....	....	....	....	....	....	....	....	....	....	....	....
II/3	....	....	....	....	....	....	X	....	....	....	....	....	....	....	....	....	....	....
III/1	....	....	....	....	....	....	....	....	....	....	....	....	X	X	....	....	....	X
III/2	....	....	....	....	....	....	....	....	....	....	X	X	....	....	....	....	X	....
III/3	....	....	....	....	....	....	....	....	....	....	....	....	....	....	X	X	....	....

(d) After July 31, 1998, any candidate for a license listed in paragraph (c) of this section, who meets the requirements of the appropriate regulations and standards of competence in STCW and part A of the STCW code as indicated in table 10.903–1, need not comply with § 10.910, or, 10.950, of this part.

26. Subpart J, consisting of §§ 10.1001 through 10.1005, is added to read as follows:

Subpart J—Ro-Ro Passenger Ships

Sec.
10.1001 Purpose of regulations.
10.1003 Definition.
10.1005 General requirements for license-holders.

Subpart J—Ro-Ro Passenger Ships

§ 10.1001 Purpose of regulations.

The purpose of the regulations in this subpart is to establish requirements for officers serving on roll-on/roll-off (Ro-Ro) passenger ships.

§ 10.1003 Definition.

Roll-on/roll-off (Ro-Ro) passenger ship means a passenger ship with Ro-Ro cargo spaces or special-category spaces as defined in the Convention for the Safety of Life at Sea, 1974, as amended (SOLAS), to which a SOLAS certificate is issued.

§ 10.1005 General requirement for license-holders.

To serve on a Ro-Ro passenger ship after January 31, 1997, a person licensed as master, chief mate, licensed mate, chief engineer, or licensed engineer shall meet the appropriate requirements of STCW Regulation V/2 and Section A–V/2 of the STCW Code and shall hold documentary evidence to show his or her meeting these requirements.

PART 12—CERTIFICATION OF SEAMEN

1. The authority citation for part 12 continues to read as follows:

Authority: 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110; 46 U.S.C. 7301, 7302, 7503, 7505, 7701; 49 CFR 1.46.

2. Section 12.01–1 is revised to read as follows:

§ 12.01–1 Purposes of regulations.

(a) The purposes of the regulations in this part are to provide—

(1) A comprehensive and adequate means of determining the identity or the qualifications an applicant must possess to be eligible for certification to serve on merchant vessels of the United States; and

(2) A means of determining that an applicant is competent to serve as a ''rating forming part of a navigational watch'' or a ''rating forming part of an engine-room watch'', or is otherwise ''designated to perform duties in a periodically unmanned engine-room'', on a seagoing ship, in accordance with the provisions of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (STCW), and to receive the certificate or endorsement required by STCW.

(b) The regulations in subpart 12.03 of this part prescribe the requirements applicable to all training and assessment associated with meeting the standards of competence established by STCW.

3. Section 12.01–3 is added to read as follows:

§ 12.01–3 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the **Federal Register** and must ensure that the material is available to the public. All approved material is available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC, and at the U.S. Coast Guard, Operating and Environmental Standards Division, 2100 Second Street SW., Washington, DC, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part and the sections affected are as follows:

International Maritime Organization (IMD)

Albert Embankment, London, SE1 7SR, England

STCW—International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995 (STCW Convention), and Seafarer's Training, Certification and Watchkeeping Code (STCW Code)—12.01–1; 12.01–6; 12.02–7; 12.02–11; 12.05–3; 12.05–7; 12.05–11; 12.10–3; 12.10–5; 12.10–7; 12.10–9; 12.10–11; 12.15–3; 12.15–7; 12.25–45; 12.30–5.

4. Section 12.01–6 is amended by adding in alphabetical order the following new definitions to read as follows:

§ 12.01–6 Definitions of terms used in this part.

Approved means approved by the Coast Guard in accordance with 46 CFR 10.302.

Coast Guard-accepted means that the Coast Guard has officially acknowledged in writing that the material or process at issue meets the applicable requirements; that the Coast Guard has issued an official policy statement listing or describing the material or process as meeting the applicable requirements; or that an entity acting on behalf of the Coast Guard under a Memorandum of Agreement has determined that the material or process meets the applicable requirements.

* * * * *

Designated examiner means a person who has been trained or instructed in techniques of training or assessment and is otherwise qualified to evaluate whether a candidate for a license, document, or endorsement has achieved the level of competence required to hold the license, document, or endorsement. This person may be designated by the Coast Guard, or by a Coast Guard-approved or accepted program of training or assessment. A faculty member employed at a State maritime

academy or the U.S. Merchant Marine Academy operated in accordance with regulations in 46 CFR part 310 and instructing in a navigation or engineering course is qualified to serve as a designated examiner in his or her area(s) of specialization without individual evaluation by the Coast Guard.

* * * * *

Practical demonstration means the performance of an activity under the direct observation of a designated examiner for the purpose of establishing that the performer is sufficiently proficient in a practical skill to meet a specified standard of competence or other objective criterion.

Qualified instructor means a person who has been trained or instructed in instructional techniques and is otherwise qualified to provide required training to candidates for licenses, documents, and endorsements. A faculty member employed or at a State maritime academy or the U.S. Merchant Marine Academy operated in accordance with 46 CFR part 310 and instructing in a navigation or engineering course is qualified to serve as a qualified instructor in his or her area(s) of specialization without individual evaluation by the Coast Guard.

* * * * *

Standard of competence means the level of proficiency to be achieved for the proper performance of duties on board vessels in accordance with national and international criteria.

STCW means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995.

STCW Code means the Seafarer's Training, Certification and Watchkeeping Code.

STCW endorsement means a certificate or endorsement issued in accordance with STCW. An STCW endorsement issued by the Officer in Charge, Marine Inspection (OCMI), will be valid only when accompanied by the appropriate U.S. license or document; and, if the license or document is revoked, then the associated STCW endorsement will no longer be valid for any purpose. References to STCW placed on a U.S. license or merchant mariner's document will suffice as STCW endorsements for the mariner serving on a vessel operating exclusively on a domestic voyage (i.e., to and from U.S. ports or places subject to U.S. jurisdiction).

5. Section 12.01–9 is added to read as follows:

§ 12.01–9 Paperwork approval.

(a) This section lists the control numbers assigned by the Office of Management and Budget under the Paperwork Reduction Act of 1980 (Pub. L. 96–511) for the reporting and record keeping requirements in this part.

(b) The following control numbers have been assigned to the sections indicated:

(1) OMB 2115–0624—46 CFR 12.02–17 and 12.03–1.

6. In § 12.02–7, paragraphs (d), (e), and (f) are added to read as follows:

§ 12.02–7 When documents are required.

* * * * *

(d) After January 31, 1997, each person serving as a rating forming part of a navigational watch on a seagoing ship of 500 gross tons or more shall hold an STCW endorsement certifying him or her as qualified to perform the navigational function at the support level, in accordance with STCW.

(e) After January 31, 2002, each person serving as a rating forming part of a watch in a manned engine-room or designated to perform duties in a periodically unmanned engine-room, on a seagoing ship driven by main propulsion machinery of 750 kW [1,000 hp] of propulsion power or more, shall hold an STCW endorsement certifying him or her as qualified to perform the marine-engineering function at the support level, in accordance with STCW.

(f) Notwithstanding any other rule in this part, no unlicensed person serving on any of the following vessels needs hold an STCW endorsement, either because he or she is exempt from application of the STCW, or because the vessels are not subject to further obligation under STCW, on account of their special operating conditions as small vessels engaged in domestic voyages:

(1) Small passenger vessels subject to subchapter T or K of title 46, CFR.

(2) Vessels of less than 200 GRT (other than passenger vessels subject to subchapter H of title 46, CFR).

(3) Uninspected passenger vessels as defined in 46 U.S.C. 2101(42).

(4) Fishing vessels as defined in 46 U.S.C. 2101(11)(a).

(5) Fishing vessels used as fish-tender vessels as defined in 46 U.S.C. 2101(11)(c).

(6) Barges as defined in 46 U.S.C. 2101(2), including non-self-propelled mobile offshore-drilling units.

(7) Vessels operating exclusively on the Great Lakes.

7. In § 12.02–11, the heading is revised, and paragraphs (h) and (i) are added to read as follows:

§ 12.02–11 General provisions respecting merchant mariners' documents.

* * * * *

(h) When a merchant mariner's document is issued, renewed, or endorsed, the Officer in Charge, Marine Inspection, will determine whether the holder of the document is required to hold an STCW endorsement for service on a seagoing vessel, and then, if the holder is qualified, the Officer in Charge, Marine Inspection will issue the appropriate endorsement. The Officer in Charge, Marine Inspection will also issue an STCW endorsement at other times, if circumstances so require and if the holder of the document is qualified to hold the endorsement. The Officer in Charge, Marine Inspection will issue an STCW endorsement for the following ratings:

(1) A rating forming part of a navigational watch on a seagoing ship of 500 GT or more if the holder of the document is qualified in accordance with STCW Regulation II/4 and Section A–II/4 of the STCW Code, to perform the navigational function at the support level.

(2) A rating forming part of a watch in a manned engine-room, or designated to perform duties in a periodically unmanned engine-room, on a seagoing ship driven by main propulsion machinery of 750 kW [1,000 hp] of propulsion power or more, if the holder is qualified in accordance with STCW Regulation III/4 and Section A–III/4 of the STCW Code, to perform the marine-engineering function at the support level.

(i) At the request of the holder of the document, the Officer in Charge, Marine Inspection may add an endorsement to indicate that a qualified holder has received basic safety-training or instruction required under Chapter VI of STCW.

8. In § 12.02–17, paragraph (e) is added to read as follows:

§ 12.02–17 Rules for the preparation and issuance of documents.

* * * * *

(e) After July 31, 1998, an applicant for a merchant mariner's document who will be serving on a seagoing vessel of 200 GRT or more shall provide a document issued by a qualified medical practitioner attesting the applicant's medical fitness to perform the functions for which the document is issued.

* * * * *

9. Subpart 12.03, consisting of § 12.03–1, is added to read as follows:

Subpart 12.03—Approved and Accepted Training

Subpart 12.03—Approved and Accepted Training

§ 12.03–1 Coast Guard-accepted training other than approved courses.

(a) When the training and assessment of competence required by part 10 of this chapter or by this part 12 are not subject to approval under § 10.302 of this chapter, but are used to qualify to hold an STCW certificate or endorsement for service on or after February 1, 2002, the training and assessment must meet the following requirements:

(1) The training and assessment must have written, clearly defined objectives that emphasize specific knowledge, skills, and abilities, and that include criteria to be used in establishing a student's successful achievement of the training objectives.

(2) The training must be set out in a written syllabus that conforms to a Coast Guard-accepted outline for such training and includes—

(i) The sequence of subjects to be covered;

(ii) The number of hours to be devoted to instruction in relevant areas of knowledge;

(iii) The identity and professional qualifications of the instructor(s) to be conducting the training or providing instruction;

(iv) The identity of other media or facilities to be used in conducting the training; and

(v) Measurements at appropriate intervals of each candidate's progress toward acquisition of the specific knowledge, skills, and abilities stated in the training objectives.

(3) Except as provided in paragraph (a)(4) of this section, documentary evidence must be readily available to establish that all instructors—

(i) Have experience, training, or instruction in effective instructional techniques;

(ii) Are qualified in the task for which the training is being conducted; and

(iii) Hold the level of license, endorsement, or other professional credential required of those who would apply, on board a vessel, the relevant level of knowledge, skills, and abilities described in the training objectives.

(4) Neither a specialist in a particular field of non-maritime education, such as mathematics or first aid, nor a person with at least 3 years of service as a member of the Armed Forces of the United States, specializing in a particular field, need hold a maritime license or document to conduct training in that field.

(5) A simulator may be used in training if—

(i) The simulator meets applicable performance standards;

(ii) The instructor has gained practical operational experience on the particular type of simulator being used; and

(iii) The instructor has received appropriate guidance in instructional techniques involving the use of simulators.

(6) Essential equipment and instructional materials must afford each student adequate opportunity to participate in exercises and acquire practice in performing required skills.

(7) A process for routinely assessing the effectiveness of the instructors, including the use of confidential evaluations by students, is in place.

(8) Documentary evidence is readily available to establish that any evaluation of whether a student is competent in accordance with standards, methods, and criteria set out in part A of the STCW Code is conducted by a designated examiner who has experience, training, or instruction in assessment techniques.

(9) Records of the student's performance are maintained for at least 1 year by the offeror of the training and assessment.

(10) To ensure that the training is meeting its objectives, and the requirements of paragraphs (a) (1) through (9) of this section, its offeror must either—

(i) Be regulated as a maritime academy or marine academy pursuant to 46 CFR part 310; or

(ii) Monitor it in accordance with a Coast Guard-accepted QSS, which must include the following features:

(A) The training must be provisionally certified, on the basis of an initial independent evaluation conducted under a Coast Guard-accepted QSS, as being capable of meeting its stated objective.

(B) The training must be periodically monitored in accordance with the schedule stipulated under the Coast Guard-accepted quality-standards system.

(C) Each person conducting the initial evaluation or the subsequent periodic monitoring of the training shall be knowledgeable about the subjects being evaluated or monitored and about the national and international requirements that apply to the training, and shall not himself or herself be involved in the training and assessment of students.

(D) Each person evaluating or monitoring the training shall enjoy convenient access to all appropriate documents and facilities, and opportunities both to observe all appropriate activities and to conduct confidential interviews when necessary.

(E) Arrangements must be such as to ensure that no person evaluating or monitoring the training is penalized or rewarded, directly or indirectly, by the sponsor of the training for making any particular observations or for reaching any particular conclusions.

(11) Each person conducting the initial evaluation under paragraph (a)(10)(ii)(A) of this section or the periodic monitoring of the training under paragraph (a)(10)(ii)(B) of this section shall communicate his or her conclusions to the Director, National Maritime Center, NMC–4B, 4200 Wilson Boulevard, suite 510, Arlington, VA 22203–1804, within 1 month of the completion or the evaluation of the monitoring.

(12) Each offeror of the training shall let the Coast Guard or someone authorized by the Coast Guard observe the records of a student's performance and records otherwise relating to paragraphs (a) (1) through (10) of this section.

(b) The Coast Guard will maintain a list of training each of whose offerors submits a certificate, initially not less than 45 calendar days before offering training under this section, and annually thereafter, signed by the offeror or its authorized representative, stating that the training fully complies with requirements of this section, and identifying the Coast Guard-accepted QSS being used for independent monitoring. Training on this list will offer the training necessary for licenses and STCW endorsements under this part. The Coast Guard will update this list periodically and make it available to members of the public on request.

(c) If the Coast Guard determines, on the basis of observations or conclusions either of its own or of someone authorized by it to monitor the training, that particular training does not satisfy one or more of the conditions described in paragraph (a) of this section—

(1) The Coast Guard will so notify the offeror of the training by letter, enclosing a report of the observations and conclusions;

(2) The offeror may, within a period specified in the notice, either appeal the observations or conclusions to the Commandant (G–MS) or bring the training into compliance; and

(3) If the appeal is denied—or the deficiency is not corrected in the allotted time, or within any additional

period judged by the Coast Guard to be appropriate, considering progress towards compliance—the Coast Guard will remove the training from the list maintained under paragraph (b) of this section until it can verify full compliance; and it may deny applications for licenses for STCW endorsement based in whole or in part on training not on the list, until additional training or assessment is documented.

10. In § 12.05–3, the introductory text is redesignated as new paragraph (a); old paragraph (a), (b), (c), (d), and (e) are redesignated as paragraphs (a) (1) through (5), respectively; and new paragraphs (b) and (c) are added to read as follows:

§ 12.05–3 General requirments.

* * * * *

(b) An STCW endorsement valid for any period on or after February 1, 2002, will be issued or renewed only when the candidate for certification as an able seaman also produces satisfactory evidence, on the basis of assessment of a practical demonstration of skills and abilities, of having achieved or maintained within the previous 5 years the minimum standards of competence for the following 4 areas of basic safety:

(1) Personal survival techniques as set out in table A–VI/1–1 of the STCW Code.

(2) Fire prevention and fire-fighting as set out in table A–VI/1–2 of the STCW Code.

(3) Elementary first aid as set out in table A–VI/1–3 of the STCW Code.

(4) Personal safety and social responsibilities as set out in table A–VI/1–4 of the STCW Code.

(c) An STCW endorsement valid for any period on or after February 1, 2002, will be issued or renewed only when the candidate for certification as able seamen meets the requirements of STCW Regulation II/4 and of Section A–II/44 of the STCW Code, if the candidate will be serving as a rating forming part of the navigational watch on a seagoing ship of 500 GT or more.

11. In § 12.05–7, paragraph (a)(5) is added before the note to read as follows:

§ 12.05–7 Service or training requirements.

(a) * * *

(5) After July 31, 1998, to receive an STCW endorsement for service as a ''rating forming part of a navigational watch'' on a seagoing ship of 500 GT or more, the applicant's seagoing service must include training and experience associated with navigational watchkeeping and involve the performance of duties carried out under the direct supervision of the master, the officer in charge of the navigational watch, or a qualified rating forming part of a navigational watch. The training and experience must be sufficient to establish that the candidate has achieved the standard of competence prescribed in Table A–II/44 of the STCW Code, in accordance with the methods of demonstrating competence and the criteria for evaluating competence specified in that table.

* * * * *

12. In § 12.05–11, the heading and paragraph (a) are revised to read as follows:

§ 12.05–11 General provisions respecting merchant mariner's document endorsed for service as able seamen.

(a) The holder of a merchant mariner's document endorsed for the rating of able seamen may serve in any unlicensed rating in the deck department without obtaining an additional endorsement; *provided,* however, that the holder shall hold the appropriate STCW endorsement when serving in as a ''rating forming part of a navigational watch'' on a seagoing ship of 500 GT or more.

* * * * *

13. In § 12.10–3, the heading and paragraph (a)(6) are revised, and paragraph (c) is added, to read as follows:

§ 12.10–3 General requirements.

(a) * * *

(6) Successful completion of a training course, approved by the Director, National Maritime Center, such course to include a minimum of 30 hours' actual lifeboat training; *provided,* however, that the applicant produces satisfactory evidence of having served a minimum of 6 months at sea board ocean or coastwise vessels.

* * * * *

(c) An applicant shall be 18 years old to be certified as proficient in survival craft under STCW Regulation VI/2.

14. Section 12.10–5 is amended by adding new paragraph (d) to read as follows:

§ 12.10–5 Examination and demonstration of ability.

* * * * *

(d) After July 31, 1998, each applicant for a lifeboatman's certificate endorsed for proficiency in survival craft and rescue boats shall be not less than 18 years old and shall produce satisfactory evidence that he or she meets the requirements of STCW Regulation VI/2, paragraph 1, and the appropriate provisions of Section A–VI/2 of the STCW Code,

15. Section 12.10–7 is revised to read as follows:

§ 12.10–7 General provisions respecting merchant mariner's document enforced as lifeboatman.

A merchant mariner's document endorsed as able seaman is the equivalent of a certificate as lifeboatman or of an endorsement as lifeboatman and will be accepted as either of these wherever either is required by law: *provided,* however, that, when the holder documented as an able seaman has to be certificated as either proficient in survival craft rescue boats or proficient in fast rescue boats, he or she shall hold an STCW endorsement.

16. Section 12.10–9 is added to read as follows:

Subpart 12.10–9 Certificates of proficiency in fast rescue boats

(a) After July 31, 1998, each person engaged or employed as a lifeboatman proficient in fast rescue boats shall hold either a certificate of proficiency in these boats or a merchant mariner's document endorsed for proficiency in them.

(b) to be eligible for either a certificate of proficiency in fast rescue boats or a merchant mariner's document endorsed for proficiency in them, an applicant shall—

(1) Be qualified as a lifeboatman with proficiency in survival craft and fast rescue boats under this subpart; and

(2) Furnish satisfactory proof that he or she has met the requirements for training and competence of STCW Regulation, VI/2, paragraph 2, and the appropriate requirements of Section A–VI/2 of the STCW Code.

17. Subpart 12.13, consisting of 12.13–1 through 12.13–3, is added to read as follows:

Subpart 12.13—Persons Designated to Provide Medical Care on Board Ship

Sec.

Subpart 12.13—Persons Designated to Provide Medical Care on Board Ship

§ 12.13–1 Documentary evidence required.

After July 31, 1998, each person designated to provide medical first aid on board ship, or to take charge of medical care on board ship, shall hold documentary evidence attesting that the person has attended a course of training in medical first aid or medical care, as appropriate.

§ 12.13–3 Basis of documentary evidence.

The Officer in Charge, Marine Inspection will issue such documentary

evidence to the person, or endorse his or her license or document, on being satisfied that the training required under section 12.13–1 of this section establishes that he or she meets the standards of competence set out in STCW Regulation VI/4 and Section A–VI/4 of the STCW Code.

18. In § 12.15–3, paragraphs (d) and (e) are added to read as follows:

§ 12.15–3 General requirements.

* * * * *

(d) After July 31, 1998, an STCW endorsement valid for any period on or after February 1, 2002, will be issued or renewed only when the candidate for certification as a qualified member of the engine department also produces satisfactory evidence, on the basis of assessment of a practical demonstration of skills and abilities, of having achieved or maintained within the previous 5 years the minimum standards of competence for the following 4 areas of basis safety:

(1) Personal survival techniques as set out in Table A–VI/1–1 of the STCW Code.

(2) Fire prevention and fire-fighting as set out in Table A–VI/1–2 of the STCW Code.

(3) Elementary first aid as set out in Table A–VI/1–3 of the STCW Code.

(4) Personal safety and social responsibilities as set out in Table A–VI/1–4 of the STCW Code.

(e) After July 31, 1998 an STCW endorsement that is valid for any period on or after February 1, 2002, will be issued or renewed only when the candidate for certification as a qualified member of the engine department meets the standards of competence set out in STCW Regulation III/4 and Section A–III/4 of the STCW Code, if the candidate will be serving as a rating forming part of a watch in a manned engine-room, or designated to perform duties in a periodically unmanned engine-room, on a seagoing ship driven by main propulsion machinery of 750 kW [1,000 hp] propulsion power or more.

19. In § 12.15–7, paragraph (c) is added to read as follows:

§ 12.15–7 Service or training requirements.

* * * * *

(c) To qualify to receive an STCW endorsement for service as a ''rating forming part of a watch in a manned engine-room or designated to perform duties in a periodically unmanned engine-room'' on a seagoing vessel drive by main propulsion machinery 750 kW [1,000 hp] propulsion power or more, an applicant shall provide seagoing service that includes training and experience associated with engine-room watchkeeping and involves the performance of duties carried out under the direct supervision of a qualified engineer officer or a member of a qualified rating. The training must establish that the applicant has achieved the standard of competence prescribed in Table A–III/4 of the STCW Code, in accordance with the methods of demonstrating competence and the criteria for evaluating competence specified in that table.

20. Section 12.25–45 is added to read as follows:

§ 12.25–45 GMDSS At-sea Maintainer.

An applicant is eligible to have his or her STCW certificate or endorsement include a statement of qualification as GMDSS At-sea Maintainer if he or she holds sufficient evidence of having completed a training program that covers at least the scope and content of training outlined in Section B–IV/2 of the STCW Code for training in maintenance of GMDSS installations on board vessels.

21. Subpart 12.30, consisting of §§ 12.30–1 through 12.30–5, is added to read as follows;

Subpart 12.30—Ro-Ro Passenger Ships

Sec.

Subpart 12.30—Ro-Ro Passenger Ships

§ 12.30–1 Purpose of regulations.

§ 12.30–3 Definitions.

The purpose of the regulations in this subpart is to establish requirements for certification of seamen serving on roll-on/roll-off (Ro–Ro) passenger ships.

§ 12.30–3 Definitions.

Roll-on/Roll-off (Ro-Ro) passenger ship means a passenger ship with Ro-Ro cargo spaces or special-category spaces as defined in the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS), to which ship a SOLAS Certificate is issued.

MMD means merchant mariner's document.

§ 12.30–5 General requirements.

To serve on a Ro-Ro passenger ship after January 31, 1997, a person holding an MMD and performing duties toward safety, cargo-handling, or care for passengers shall meet the appropriate requirements of STCW Regulation V/2 and of Section A–V/2 of the STCW Code, and hold documentary evidence to show his or her meeting these requirements.

PART 15—MANNING REQUIREMENTS

1. The authority citation for part 15 is revised to read as follows:

Authority: 46 U.S.C. 2101, 2103, 3306, 3703, 8101, 8102, 8104, 8105, 8301, 8304, 8502, 8503, 8701, 8702, 8901, 8902, 8903, 8904, 8905(b), 9102; 49 CFR 1.45 and 1.46.

2. Section 15.102 is added to read as follows:

§ 15.102 Paperwork approval.

(a) This section lists the control numbers assigned by the Office of Management and Budget under the Paper Reduction Act of 1980 (Pub. L. 96–511) for the reporting and recordkeeping requirements in this part.

(b) The following control numbers have been assigned to the sections indicated:

(1) OMB 2115–0624—46 CFR 15.1107, and 15.111.

3. Section 15.103 is amended by adding new paragraphs (d) through (g) to read as follows:

§ 15.103 General.

* * * * *

(d) The regulations in subpart J of this part apply to seagoing vessels subject to the International Convention on Standards of Training, Certification and watchkeeping for Seafarers as amended in 1995 (STCW).

(e) Neither any person serving on any of the following vessels, nor any owner or operator of any of these vessels, need meet the requirements of subpart J, because the vessels are exempt from application of STCW:

(1) Uninspected passenger vessels as defined in 46 U.S.C. 2101(42).

(2) Fishing vessels as defined in 46 U.S.C. 2101(11)(a).

(3) Fishing vessels used as fish-tender vessels as defined in 46 U.S.C. 2101(11)(c).

(4) Barges as defined in 46 U.S.C. 2101(2), including non-self-propelled mobile offshore-drilling units.

(5) Vessels operating exclusively on the Great Lakes.

(f) Personnel serving on the following vessels, and the owners and operators of these vessels, are in compliance with subpart J and are not subject to further obligation for the purposes of STCW, on account of the vessels' special operating conditions as small vessels engaged in domestic voyages:

(1) Small passenger vessels subject to subchapter T or K of title 46, CFR.

(2) Vessels of less than 200 GRT (other than passenger vessels subject to subchapter H of title 46 CFR).

(g) Licensed personnel serving on vessels identified in paragraphs (e)(5), (f)(1), and (f)(2) of this section will be

issued, without additional proof of qualification, an appropriate STCW certificate or endorsement when the Officer in Charge, Marine Inspection determines that such an endorsement is necessary to enable the vessel to engage in an international voyage. The STCW certificate or endorsement will be expressly limited to service on the vessel or the class of vessels and will not establish qualification for any other purpose.

4. Section 15.105 is added to subpart A to read as follows:

§ 15.105 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the **Federal Register** and must ensure that the material is available to the public. All approved material is available for inspection at the Office of the Federal Register, 800 North Capitol Street NW., Suite 700, Washington, DC, and at the U.S. Coast Guard, Operating and Environmental Standards Division, 2100 Second Street SW., Washington, DC, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part and the sections affected are as follows:

International Maritime Organization (IMO)

4 Albert Embankment, London, SE1 7SR, England

STCW—The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995, (STCW Convention), and Seafarer's Training, Certification and Watchkeeping Code (STCW Code)—15.103; 15.1101; 15.1103; 15.1105; 15.1109.

5. In § 15.301, the periods at the ends of paragraphs (b) (7) and (10) are removed, a semicolon is added in each place, the word ''and'' is added after the semicolon after paragraph (b)(10), and paragraph (b)(11) is added; and paragraph (c)(7) is added to read as follows:

§ 15.301 Definitions of terms used in this part.

* * * * *

(b) * * *

(11) GMDSS radio operator.

(c) * * *

(7) GMDSS At-sea Maintainer.

6. Subpart J, consisting of §§ 15.1101 through 15.1111, is added to read as follows:

Subpart J—Vessels Subject to Requirements of STCW

Sec.

Subpart J—Vessels Subject to Requirements of STCW

§ 15.1101 General.

(a) *Definitions.* For purposes of this subpart, the term—

(1) *STCW* means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995;

(2) *STCW Code* means the Seafarer's Training, Certification and Watchkeeping Code;

(3) *Seagoing vessel* means a self-propelled vessel in commercial service that operates beyond the Boundary Line established by 46 CFR part 7. It does not include a vessel that navigates exclusively on inland waters;

(4) *Rest* means a period of time during which the person concerned is off duty, is not performing work (which includes administrative tasks such as chart corrections or preparation of port-entry documents), and is allowed to sleep without being interrupted; and

(5) *Overriding operational conditions* means circumstances in which essential shipboard work cannot be delayed for safety or environmental reasons, or could not reasonably have been anticipated at the commencement of the voyage.

(b) Except as otherwise provided in § 15.1103(d), the regulations in this subpart apply to seagoing vessels subject to STCW.

(c) A vessel that has on board a valid Safety Management Certificate and a copy of a Document of Compliance issued for that vessel in accordance with 46 U.S.C. 3205 is presumed in compliance with the regulations in this subpart.

§ 15.1103 Employment and service within restrictions of license, document, and STCW endorsement.

(a) On board a seagoing vessel operating beyond the Boundary Line, no person may employ or engage any person to serve, and no person may serve, in a position requiring a person to hold an STCW endorsement, including master, chief mate, chief engineer, second engineer, officer of the navigational or engineering watch, or radio operator, unless the person serving holds an appropriate, valid STCW certificate or endorsement issued in accordance with part 10 or 12 of this chapter.

(b) On board a seagoing vessel of 500 GT or more, no person may employ or engage any person to serve, and no person may serve, as a rating forming part of the navigational watch, except for training, unless the person serving holds an appropriate, valid STCW certificate or endorsement issued in accordance with part 12 of this chapter.

(c) After January 31, 2002, on board a seagoing vessel driven by main propulsion machinery of 750 kW [1,000 hp] propulsion power or more, no person may employ or engage any person to serve, and no person may serve, in a rating forming part of a watch in a manned engine-room, nor may any person be designated to perform duties in a periodically unmanned engine-room, except for training or for the performance of duties of an unskilled nature, unless the person serving holds an appropriate, valid STCW certificate or endorsement issued in accordance with part 12 of this chapter.

(d) After January 31, 1997, no person may either be engaged or employed to serve on board a roll-on/roll-off (Ro-Ro) passenger ship to which a certificate signifying compliance with the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS), has been issued, or perform duties on board such a ship, unless he or she holds documentary evidence to show he or she meets the requirements of § 10.1005 or § 12.30–5 of this chapter, whichever is appropriate to the service or the duties.

(e) After January 31, 2002, on board a seagoing vessel required to comply with provisions of the Global Maritime Distress and Safety System (GMDSS) in Chapter IV of SOLAS, no person may employ or engage any person to serve, and no person may serve, as the master, chief mate, or officer of the navigational watch, unless the person serving holds the appropriate certificate for operator of radio in GMDSS.

(f) After January 31, 1999, on board a seagoing vessel required to comply with provisions of the GMDSS in Chapter IV of SOLAS, no person may employ or engage any person to serve, and no person may serve, as the person designated to perform at-sea maintenance of GMDSS installations, when such designation is used to meet the maintenance requirements of

SOLAS Regulation IV/15, which allows for capability of at-sea electronic maintenance to ensure that radio equipment is available for radio communication, unless the person serving holds documentary evidence that he or she is competent to maintain GMDSS equipment.

(g) After January 31, 2002, on board a seagoing vessel fitted with an Automatic Radar-Plotting Aid (ARPA), no person may employ or engage any person to serve, and no person may serve, as the master, chief mate, or officer of the navigational watch, unless the person serving has been trained in the use of ARPA in accordance with § 10.205 or § 10.209 of this chapter.

§ 15.1105 Familiarization and basic safety-training.

(a) After January 31, 1997, on board a seagoing vessel, no person may assign any person to perform shipboard duties, and no person may perform those duties, unless the person performing them has received—

(1) Training in personal survival techniques as set out in the standard of competence under STCW Regulation VI/1; or

(2) Sufficient familiarization training or instruction that he or she—

(i) Can communicate with other persons on board about elementary safety matters and understand informational symbols, signs, and alarm signals concerning safety;

(ii) Knows what to do if a person falls overboard; if fire or smoke is detected; or if the firm alarm or abandon-ship alarm sounds;

(iii) Can identify stations for muster and embarkation, and emergency-escape routes;

(iv) Can locate and don life-jackets;

(v) Can raise the alarm and knows the use of portable fire extinguishers;

(vi) Can take immediate action upon encountering an accident or other medical emergency before seeking further medical assistance on board; and

(vii) Can close and open the fire doors, weather-tight doors, and watertight doors fitted in the vessel other than those for hull openings.

(b) After January 31, 1997, on board a seagoing vessel, no person may assign a shipboard duty or responsibility to any person who is serving in a position that must be filled as part of the required crew complement, and no person may perform any such duty or responsibility, unless he or she is familiar with it and with all vessel's arrangements, installations, equipment, procedures, and characteristics relevant to his or her routine or emergency duties or responsibilities, in accordance with STCW Regulation I/14.

(c) After January 31, 1997, on board a seagoing vessel, no person may assign a shipboard duty or responsibility to any person who is serving in a position that must be filled as part of the required crew complement or who is assigned a responsibility on the muster list, and no person may perform any such duty or responsibility, unless the person performing it can produce evidence of having—

(1) Received appropriate approved basic safety training or instruction as set out in the standards of competence under STCW Regulation VI/1, with respect to personal survival techniques, fire prevention and fire-fighting, elementary first aid, and personal safety and social responsibilities; and

(2) Achieved or, if training has been completed, maintained competence within the last 5 years, in accordance with STCW regulation VI/1.

(d) Subject to training requirements that may apply for issue or renewal of a license or document under part 10 or 12 of this chapter, a person who is serving on a seagoing vessel immediately before February 1, 1997, and has not received training or instruction in basic safety training, may continue to serve until February 1, 2002, without receiving such training or instruction, if he or she can produce evidence of having participated in well-organized drills and other structured exercises or in on-board safety-training programs during which his or her performance was evaluated and weaknesses were brought to his or her attention.

(e) Fish-processing vessels in compliance with the provisions of 46 CFR part 28 on instructions, drills, and safety orientation are deemed to be in compliance with the requirements of this section on familiarization and basic safety-training.

§ 15.1107 Maintenance of merchant mariners' records by owner or operator.

Each owner or operator of a U.S.-documented seagoing vessel shall ensure that procedures are in place, in respect of each merchant mariner holding a license or merchant mariner's document and serving on any such vessel, to ensure that the following information is maintained throughout his or her service, and is readily accessible to those in management responsible for the safety of the vessel and for the prevention of marine pollution:

(a) Medical fitness (such as results of a recent evaluation by a medical professional certifying that the mariner is physically able to perform the tasks and duties normally associated with a particular shipboard position or does not have an apparent medical condition that disqualifies him or her from the requirements of a particular shipboard position).

(b) Experience and training relevant to assigned shipboard duties (i.e., record of training completed, and of relevant on-the-job experience acquired).

(c) Competency in assigned shipboard duties (evidenced by copies of current licenses, documents, or endorsements that the mariner holds, as well as by a record of the most recent basic safety assessment and by instances where ship-specific familiarization has been achieved and maintained).

§ 15.1109 Watches.

Each master of a vessel that operates beyond the Boundary Line shall ensure observance of the principles concerning watchkeeping set out in STCW Regulation VIII/2 and section A–VIII/2 of the STCW Code.

§ 15.1111 Work hours and rest periods.

(a) After January 31, 1997, each person assigned duty as officer in charge of a navigational or engineering watch, or duty as a rating forming part of a navigational or engineering watch, on board any vessel that operates beyond the Boundary Line shall receive a minimum of 10 hours of rest in any 24-hour period.

(b) The hours of rest required under paragraph (a) of this section may be divided into no more than two periods, of which one must be at least 6 hours in length.

(c) The requirements of paragraphs (a) and (b) of this section need not be maintained in the case of an emergency or drill or in other overriding operational conditions.

(d) The minimum period of 10 hours of rest required under paragraph (a) of this section may be reduced to not less than 6 consecutive hours as long as—

(1) No reduction extends beyond 2 days; and

(2) Not less than 70 hours of rest are provided each 7-day period.

(e) The minimum period of rest required under paragraph (a) of this section may not be devoted to watchkeeping or other duties.

(f) Watchkeeping personnel remain subject to the work-hour limits in 46 U.S.C. 8104 and to the conditions when crew members may be required to work.

(g) The Master shall post watch schedules where they are easily accessible. They must cover each affected member of the crew and must take into account the rest requirements of this section as well as port rotations and changes in the vessel's itinerary.

Dated: June 12, 1997.

Robert E. Kramek,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 97–16109 Filed 6–25–97; 8:45 am]

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Thursday
June 26, 1997

Part III

Department of Transportation

Federal Railroad Administration

49 CFR Part 220

Railroad Communications; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 220

[Docket No. RSOR–12; Notice No. 4]

RIN 2130–AB19

Railroad Communications

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: In June 1996, FRA convened a working group comprised of rail industry and labor representatives to recommend revisions to FRA's radio standards and procedures (49 CFR part 220). The working group examined extensive data and debated how to make the regulations more flexible, thereby improving compliance, and whether to mandate radios and other forms of wireless communications to convey emergency and need to know information.

After studying these issues, the working group proposed to require wireless communications devices, including radios, for specified classifications of railroad operations and roadway workers. This part would therefore be retitled to reflect its proposed coverage of other means of wireless communications such as cellular telephones and data radio terminals. These proposed amendments, which are based upon both FRA and working group recommendations, would accommodate changing technologies, while continuing to ensure sound safety practices.

DATES: (1) Written comments must be received no later than August 25, 1997. Comments received after that date will be considered to the extent possible without incurring additional expense or delay. Requests for formal extension of the comment period must be made by August 11, 1997.

(2) Requests for a public hearing must be made by July 28, 1997. Public hearings are generally held to provide interested parties an opportunity for oral presentations of data, views, or arguments concerning the proposed standards. Any person interested in requesting a hearing should contact Ms. Renee Bridgers, Docket Clerk, at (202) 632–3198.

ADDRESSES: Written comments should be submitted to Ms. Renee Bridgers, Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Persons wishing notification that their comments have been received should submit a stamped, self-addressed postcard with their comments. The Docket clerk will indicate on the postcard the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination, both before and after the comment period closes, during regular business hours in Room 7051 at 1120 Vermont Avenue, N.W., Washington, D.C. 20005. All hand deliveries should be made to the Vermont Avenue address.

FOR FURTHER INFORMATION CONTACT: Gene Cox, Operating Practices Specialist, Office of Safety, FRA, 400 Seventh Street S.W., Washington, D.C. 20590 (telephone: 202–632–3504); Dennis Yachechak, Operating Practices Specialist, Office of Safety, FRA, 400 Seventh Street S.W., Washington, D.C. 20590 (telephone: 202–632–3378); or Patricia V. Sun, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street S.W., Washington, D.C. 20590 (telephone: 202–632–3183).

SUPPLEMENTARY INFORMATION:

FRA's 1994 Report to Congress

In 1992, in section 11 of the Rail Safety Enforcement and Review Act (RSERA), Pub. L. No. 102–365, 106 Stat. 972, Congress required the Secretary of Transportation to conduct an inquiry into the Department's railroad radio standards and procedures (49 CFR part 220). As part of its inquiry, FRA conducted a field investigation of current voice communications technology and practice, held three Roundtable discussions on advanced train control technologies, published a notice of special safety inquiry (59 FR 11847; March 11, 1994), conducted a public hearing on voice radio communications, contracted with the Department of Commerce's Institute for Telecommunications Sciences for a technical evaluation of advanced train control systems, and consulted with other agencies within DOT and with staff of the Federal Communications Commission (FCC).

After completing its inquiry, FRA concluded that railroad radio communications were generally good and had steadily improved since FRA's last major study of the area in 1987. Several issues arose, however. Compliance with the standards and procedures in part 220 was poor, possibly due to the inflexibility of FRA's regulations. Employees continued to report problems with radio equipment.

In July 1994, therefore, FRA published its Report to Congress on Railroad Communications and Train Control (Report). At page xi of the Report, based on the findings of its inquiry, FRA committed to—

- Revising the Radio Standards and Procedures to make the regulations more flexible to promote improved compliance.
- Propose, as part of that rulemaking, including in the revised rule requirements that railroads provide suitable communication links between trains and dispatchers, and between locomotive engineers and ground employees, and that back-up systems be established for safety critical functions.
- Propose as a part of that rulemaking that each lead locomotive be equipped with an operative radio or suitable alternate communication equipment.
- Work with a major railroad and its employees to implement transmission of movement authorities by digital data railroad, in lieu of voice radio communications.

In the Report, FRA found that radio related problems could be divided into two types: hardware concerns (problems involving technology application) and human interface concerns (problems involving the proper utilization of that technology in accordance with FRA regulations and railroad rules). Among the significant problems reported in some dispatchers offices were the following:

Hardware Concerns

- ''Bleed-over'' from neighboring dispatcher districts, as well as from automatic wayside detectors that overrode dispatching frequencies and interrupted radio transmissions with trains.
- Two or more incompatible communications systems in use in the same dispatcher's office.
- Lack of a dedicated emergency channel at some locations. Some communications systems lacked the capability to prioritize incoming calls into regular versus emergency calls.
- Inoperative radios, despite a considerable improvement in the reliability of locomotive onboard radios.
- Unusual atmospheric or terrain conditions, rather than equipment malfunctions, which disrupted even upgraded communications systems, including mobile and cellular telephone systems.

Human Interface Concerns

- Radio frequency congestion caused by nonessential transmissions and use of other than assigned frequencies.
- Train dispatcher and field employee failure to comply with required radio standards and

procedures, including failure to transmit train orders properly, failure to transmit and repeat on-track authorities properly, failure to identify stations properly, and failure to self-identify properly.

• Under-utilization of available frequencies often created interference with radio transmissions. Yardmasters and terminal switching crews used channels intended for road train use. Channels intended exclusively for communication to dispatchers were particularly misused: road crews would use dispatching channels while adding or removing cars from their trains; maintenance of way workers would use dispatching channels to communicate with each other, even though separate channels were available for this purpose; and supervisors, administrative personnel, clerks, and even railroad taxi drivers would use dispatching channels for purposes unrelated to the safety of railroad operations.

The Railroad Safety Advisory Committee

Also in 1994, FRA established its first formal regulatory negotiation committee to address roadway worker safety. This committee successfully reached consensus conclusions and recommended a NPRM to the Administrator, persuading FRA that a more consensual approach to rulemaking would likely yield more effective, and more widely accepted, rules. Additionally, President Clinton's March 1995 Presidential Memorandum titled ''Regulatory Reinvention Initiative'' directed agencies to expand their efforts to promote consensual rulemaking. FRA therefore decided to move to a collaborative process by creating a Railroad Safety Advisory Committee (RSAC or the Committee).

RSAC is comprised of 48 representatives from 27 member organizations, including railroads, labor groups, equipment manufacturers, state government groups, public associations, and two associate non-voting representatives from Canada and Mexico. The Administrator's representative (the Associate Administrator for Safety or that person's delegate) is the Chairperson of the Committee. RSAC's purpose is to provide recommendations and advice to the Administrator on development of FRA's railroad safety regulatory program, including issuance of new regulations, review and revision of existing regulations, and identification of non-regulatory alternatives for improvement of railroad safety.

FRA has tasked RSAC with safety issues to address, among them railroad communications. To address specific tasks, RSAC formed standing or temporary subcommittees, or working groups, comprised of knowledgeable persons from the organizations represented on RSAC. The composition of each working group was approved by the full committee. The Railroad Communications Working Group (Working Group or Group) was comprised of representatives from the following organizations:

American Public Transit Association (APTA)
The American Short Line Railroad Association (ASLRA)
Association of American Railroads (AAR)
Brotherhood of Locomotive Engineers (BLE)
Brotherhood of Locomotive Engineers, American Train Dispatchers Department (ATDD)
Brotherhood of Maintenance of Way Employees (BMWE)
Brotherhood of Railroad Signalmen (BRS)
Burlington Northern Santa Fe (BNSF)
Canadian Pacific Rail System (CP)
Consolidated Rail Corporation (Conrail)
CSX Transportation, Inc. (CSX)
Federal Railroad Administration (FRA)
International Brotherhood of Electrical Workers (IBEW)
National Railroad Passenger Corporation (Amtrak)
Norfolk Southern Corporation (NS)
Railway Progress Institute (RPI)
Transportation Communications International Union (TCU)
United Transportation Union (UTU)

In its Task Statement (Task No. 96–3) to the Working Group, RSAC charged the Group to report back on the following issues:

1. All matters relating to revision of the existing standards, including data required for regulatory analysis;

2. Communications needs in support of train operations;

3. Communications needs in support of switching operations; and

4. The role of communications capability in emergency preparedness, including passenger service.

The Working Group's goal was to produce a preamble and proposed rule text recommending revisions to the Radio Standards and Procedures contained in 49 CFR Part 220, that are warranted by appropriate data and analysis. The Group's recommendations would then be sent to RSAC for review. FRA would in turn utilize the consensus recommendations of RSAC as the basis for proposed and final agency action whenever possible, consistent with applicable law and Presidential guidance. The Group could also recommend specific safety policies and procedures that the group considered relevant but inappropriate for regulatory action.

To accomplish this goal, the Working Group held ten meetings, all of which were open to the public. Summary minutes were taken, and have been placed in a docket available for inspection upon request. FRA worked in concert with the Group to develop this NPRM.

After considerable debate, the Working Group agreed to recommend that Part 220 be amended as follows. First, more communications equipment would be required on trains operated by large railroads than on those operated by small railroads. Large railroads, defined as those with 400,000 or more annual employee work hours, would be required to equip each train with a working radio in each occupied controlling locomotive and with some means of redundant working wireless communications. For small railroads, each train's communication equipment requirements would be determined by a variety of factors, including whether the train transports passengers, hauls hazardous materials, engages in joint operations with large railroads, or operates above specified speeds.

Second, for roadway workers, the working group also recommended that communication equipment requirements vary according to the size of the railroad. Large railroads would be required to equip maintenance of way equipment operating without locomotive assistance with a working radio; if multiple units are traveling together, only one of the units needs to be equipped but the operators of each unit would have communications capability with each other. Each employee designated by the employing railroad to provide on-track safety for a roadway work gang or gangs, and each lone worker would maintain immediate access to a working radio. Each maintenance of way work gang would also have to be provided intra-gang communications capability. Small railroads, in most cases, would have to provide each designated employee in charge, and each lone worker, with immediate access to working wireless communications, unless the railroad did not operate in excess of 25 miles per hour. The foregoing communication requirements would not apply to roadway work locations that are inaccessible to trains.

Third, this part would also be retitled to reflect its proposed coverage of other means of wireless communications such as cellular telephones and data radio terminals with keypads, that comply with the proposed communications redundancy requirements. The Working Group also recommended additional smaller changes, which are detailed in the section-by-section analysis portion of this NPRM.

At a meeting on March 24, 1997, RSAC voted to recommend that the Administrator issue this document as a proposed Federal regulation and continue the rulemaking procedures necessary to adopt its principles in a final rule. At the conclusion of the comment period on this proposal, FRA will work with the Working Group in developing a final rule.

The section-by-section analysis discusses all of the proposed amendments to part 220.

Scope

As part of its charter, the Group considered whether to include other types of radios currently in use in railroad operations such as data radios, digital radios and ''packet radios'' (cellular phone packet data) in part 220. The Group decided, however, that it was premature to expand application of this rule to new technologies, such as positive train control and data transmission systems, that are still undergoing research, development, and testing. Automatic train control, which is the subject of ongoing program development, will not be addressed in this rulemaking.

As proposed, part 220 would not only include procedures for voice radios (radios that utilize dedicated frequency channels for voice communications), but would also, for the first time, mandate when working radios are required to be used. FRA also proposes to expand the rule to cover non-radio means of wireless communications, such as cellular telephones and data terminals with keypads, since the Working Group decided to require such equipment as either the primary or the secondary means of communication for most types of railroad operations. The proposed rule (with the exceptions of §§ 220.37 and 220.38, discussed in the section-by-section analysis) does not contain procedures for non-radio wireless communications, however. FRA is still considering this issue, and asks for comment on whether such procedures are needed, and what they should contain.

All of these proposals are discussed in more detail below.

Proposed Effective Dates

It is currently contemplated that the final rule would be effective 120 days after publication, except for §§ 220.9 and 220.11. Sections 220.9 and 220.11 would be effective July 1, 1998 for each railroad:

(1) Providing commuter service in a metropolitan or suburban area;

(2) Providing intercity passenger service; or

(3) That has 400,000 or more annual employee work hours in 1997.

Sections 220.9 and 220.11 would be effective July 1, 1999 for each railroad that has fewer than 400,000 annual employee work hours in 1997.

Impact on Small Railroads

On June 27, 1996, the Small Business Regulatory Enforcement Act of 1996 (SBREFA) (Pub. L. 104–121), went into effect. The SBREFA requires an administrative agency, when conducting a rulemaking, to focus particular attention on the rule's potential economic impacts on small entities.

The Small Business Administration (SBA) defines ''small entity'' by industry in regulations issued pursuant to 15 U.S.C. § 632. In 13 CFR §§ 121.401–407 and § 121.601, the SBA defines a small entity as any ''railroad, line-hauling operation'' with 1,500 or fewer employees, and any ''railroad switching and terminal establishments'' with 500 or fewer employees. Temporary, full- and part-time workers are included as employees, as are employees of independent contractors in certain circumstances (see 13 CFR § 121.404 for the full list of defining criteria). The total number of employees is calculated by averaging the number of temporary, full- and part-time workers used over the preceding 12-month period.

According to SBA guidance, FRA can use a different definition of small entity for purposes of the SBREFA, so long as FRA consults with the SBA, notifies the public in its proposed rules and proposed regulatory flexibility analyses that it is not using the SBA number system, and requests comments on the definitions it uses. FRA must also provide this notification whenever, in a proposed or final rule, it certifies that the rule will have no significant impact on small entities. To delineate between small and large railroads, for purposes of this rulemaking, FRA proposes to adopt the reporting cut-off used in 49 CFR parts 217 and 219 (Railroad Operating Rules and Control of Alcohol and Drug Use, respectively) of 400,000 annual employee work hours (as determined in 1997, the year before implementation). Thus, small railroads would be those with fewer than 400,000 annual employee work hours; large railroads would be those with 400,000 or more annual employee work hours. FRA anticipates that the proposed cut-off of 400,000 annual employee work hours would cover all Class I and II railroads. ASLRA, who represents the interests of small railroads on the Working Group, agrees with FRA's proposed definition of small railroads for purposes of this rule.

Recognizing that smaller railroads have unique concerns, FRA proposes different communication equipment standards and a longer implementation period for small railroads. FRA's purpose is to allow small railroads more flexibility without compromising safety. Throughout this preamble, the rationale for FRA's proposed treatment of small railroads will be discussed in detail.

The timetable for implementation would, of course, be determined by the date of issuance of the final rule. As target dates, however, FRA proposes to allow all railroads four months after final rule publication to implement the new streamlined procedures, since the proposed amendments should not require extensive investment or retraining. FRA would phase-in implementation of radio/wireless equipment purchase, however, to allow for railroad budget cycles and the need to place orders. Small railroads would be allowed an extra year to prepare for the required capital investment.

Thus, under FRA's proposal, the final rule would be effective 120 days after publication, except for §§ 220.9 and 220.11. Sections 220.9 and 220.11 would be effective July 1, 1998 for railroads providing commuter service in a metropolitan or suburban area, railroads providing intercity passenger service (as used here and in § 220.21, this phrase allows for the expansion of passenger service by providers other than Amtrak), and railroads with 400,000 or more annual employee work hours in 1997. Sections 220.9 and 220.11 would be effective July 1, 1999 for railroads with fewer than 400,000 annual employee work hours in 1997. Carriers should not wait until the final rule becomes effective to begin preparations for implementation of the new requirements, however.

FRA invites comment on the classification system it has chosen as well as on these target implementation dates.

Communications Equipment Requirements for Trains

Railroads With 400,000 or More Annual Employee Work Hours

For large railroads, FRA proposes to mandate working radios as the primary means of communication for train crews, with some form of redundant wireless communications capability. Reliable, high-quality radio communications help ensure that movement authorities are clearly understood, that emergency assistance can be quickly requested in the event of

an accident, and that emergency and security warnings can be transmitted.

Moreover, large railroads already rely heavily on radios because of the decrease in standard train crew size. Formerly, when crews consisted of up to five employees (the engineer, conductor, head brakeman, rear brakeman, and fireman), hand/lantern signals were used for intra-crew communications. Now, the standard road train crew is commonly composed of an engineer and conductor. While the use of radios has led to greater operating efficiency, today's smaller crews rely more heavily on voice radio for the conduct of switching operations.

Crews also need to have immediate communications capability to handle obstructions, derailments, injuries, and other unanticipated events. The withdrawal of train order operators and other communications media from the rights of way, together with the reductions in train crew size and lengthening of crew districts, makes radio the primary means of emergency communication.

Based on a recent AAR survey, large railroads already provide most of their lead locomotives with all-channel radios that allow communications between trains and the dispatching center. Most railroads also already have policies that require the train's radio to be operational at the time of departure.

The Group therefore recommended to require that the controlling locomotive in a train be equipped with a working radio upon departure from a terminal. The controlling locomotive must be equipped with a working radio only when the locomotive is occupied by an assigned train crew and the train is involved in railroad operations. Clearly, if a locomotive is unoccupied, there is no one who needs to communicate from it.

To address the possibility that a radio may fail en route, the Working Group recommended that each train also have a form of working wireless communications upon departure from a terminal. If the radio in the controlling locomotive should fail en route, a standby radio, a radio on another locomotive in the consist (e.g., a push-pull passenger train), or another form of wireless communication will be available as a backup until the primary radio can be either repaired or replaced. To ensure that a required communication device is working, the device must be tested prior to the commencement of a work assignment, a removed from service if it is found not be functioning as intended. The Working Group decided that wireless communications must be able to reach the railroad's control center or an emergency responder, since their purpose is mainly emergency notification.

Railroads With Fewer Than 400,000 Annual Employee Work Hours

Small railroads usually operate short trains, over short distances, at slow speeds. They are often located in industrial parks or other clearly defined areas where train crews are able to maintain constant visual contact during railroad operations. For many of these railroads (unlike larger ones), equipping train crews with a working radio and some means of redundancy would entail not just a capital investment in equipment, but also the hiring of dispatchers and the building of base units. Many small railroads already use cellular telephones, not radios, as their primary means of communication.

When operating passenger trains, however, small railroads face the same heightened safety considerations as larger ones. For example, if a derailment or other emergency occurred, it is crucial that the crew and dispatcher be able to communicate with each other. Therefore, small railroads would also be required to equip their passenger trains with a working radio on each occupied controlling locomotive, and some form of communications redundancy.

For freight trains, requirements would be determined by two factors: whether the train operates at greater than 25 miles per hour, and whether the train engages in joint operations on the tracks of a large railroad. The varying requirements for freight trains operated by small railroads will be discussed in more detail in the analysis of § 220.9.

Communications Equipment Requirements for Roadway Workers

On December 16, 1996, FRA published a final rule on Roadway Worker Safety (61 FR 65959). That rule was the product of a negotiated rulemaking involving several of the same parties participating in the Working Group. The Roadway Worker Safety rule will bring about significant improvements in the protection afforded workers conducting duties on or adjacent to live track. That rule makes careful distinctions in the type of protection that must be afforded under a variety of common circumstances, and responsibility is placed jointly on railroad supervision and workers to ensure that proper protection is requested and afforded. The Working Group noted that provision of good communications capability could encourage compliance with these requirements while facilitating provision of the required protection. This factor, plus the ability of roadway workers to quickly apprise the control center or approaching trains of unsafe conditions along the right of way, at a highway-rail crossing, or in a train inspected for dragging equipment and other problems as it ''rolled by'' a work site, led the Working Group to recommend the communication requirements contained in this proposal.

Railroads With 400,000 or More Annual Employee Work Hours

The draft language in § 220.11 requires railroads to determine who should have access to a working radio by employee function. After considerable debate, the Working Group concluded that two categories of roadway workers, the Designated Employee in Charge (as defined in Subpart C of 49 CFR part 214, Railroad Workplace Safety) of a roadway work group, and the lone worker, must maintain immediate access to working radio. The term ''maintain immediate access'' is discussed below in the section dealing with communication requirements for roadway workers of railroad with fewer than 400,000 annual employee work hours.

A designated Employee in Charge and a lone worker have analogous communications need. In each case, the employee must be qualified on the physical characteristics of his or her assigned territory, and in each case, the employee is responsible for providing protection, with the difference that the Designated Employee in Charge is responsible for an entire roadway gang, while the lone worker is responsible only for him or herself. (Not every roadway worker who works alone is considered a lone worker, however. Under § 214.7 of FRA's regulations on Roadway Workplace Safety, a lone worker is defined as an individual roadway worker who is not being afforded on-track safety by another roadway worker, who is not a member of a roadway work gang, and who is not engaged in a common task with another roadway worker.)

Maintenance of way equipment traveling as a train between work locations would also have to be equipped with at least one working radio. Thus, when several maintenance of way units move in tandem, at least one of the units would have the capacity to communicate with the control center in the event of an emergency. If several maintenance of way units are physically separated, only one unit would have to be equipped with a working radio, provided that all of the units are under the control of the same employee. The

operators of each additional piece of maintenance of way equipment would be required to have wireless communications capability with each other.

Large railroads would also have to provide each maintenance of way gang with intra-gang wireless communications capability upon the gang's arrival at the work site to enable gang workers to communicate movement authorities and other need to know information to each other.

Railroads With Fewer Than 400,000 Annual Employee Work Hours

In the case of small railroads, the Designated Employee in Charge (as defined in subpart C of 49 CFR part 214, Railroad Workplace Safety) of a roadway work group, and the lone worker, must maintain either immediate access to a working radio or working wireless communications. FRA would allow small railroads an alternative to providing immediate access to a working radio, since railroads operate at a lower volume, often over single track, in limited territories, where the greater broadcast capability of a radio is unnecessary. In these circumstances, employees usually know where each other is located.

By ''maintain immediate access,'' FRA intends that the radio or wireless communication equipment be either on the employee's person, or for the radio, sufficiently close to the employee to allow the employee to make a transmission and receive radio transmissions. As a rule of reason, this means that a required communications device must be both supplied by the railroad and used by the employee. To maintain immediate access, the employee must stay within easy hearing distance of the communications device so that he or she can continue to monitor transmissions. For example, a signal maintainer climbing a signal tower could maintain immediate access by carrying a portable radio, or by staying within easy hearing distance of the radio speaker mounted on his or her vehicle.

There are three exceptions, however, where FRA believes that the risk presented by slow, infrequent trains would be so minimal that no means of communication would be required. No communication equipment would be required if a small railroad does not operate trains in excess of 25 miles per hour. For all railroads, both large and small, no communication equipment would be required if the work location of the roadway work gang or lone worker is physically inaccessible to trains, or has no through or adjacent traffic when roadway workers are present.

Non-radio Wireless Communications Procedures

As mentioned above, due to time restrictions, the Group did not fully debate the issue of whether to propose procedures for the use of non-radio wireless communications that would parallel the radio procedures in Subpart B of this part. Instead, the Group decided to reserve the scope of this issue for the final rule. FRA asks for comment on whether such procedures are necessary (e.g., is ordinary telephone etiquette sufficient for cellular telephones), and on the following questions posed by the Group.

If FRA decides to adopt non-radio wireless procedures, should they be incorporated into part 220 or implemented in a separate rule? With non-radio wireless communications, do the same opportunities for misunderstanding exist as with radio? How would FRA enforce non-radio wireless procedures (e.g., ''over and out'' with cellular telephones) since usually only one party to the conversation can be overheard? Should radio procedures apply to the transmission of mandatory directives by wireless communications? Should there be wireless communications procedures to handle en route failure? Some railroads already address non-radio wireless procedures in their operating rules.

Reframing of Radio Frequencies

The Federal Communications Commission (FCC) regulates the radio frequencies used by the railroad industry. FRA will continue to monitor FCC actions dealing with the bandwidth of channels utilized by railroads, and many propose modifications to this part to reflect FCC decisions.

Emergency Order No. 20

On February 22, 1996, FRA issued Emergency Order (EO) No. 20, notice no. 1 (61 FR 6876), which required commuter and intercity passenger railroads to develop interim safety plans and improved operating rules designed to ensure the safety of passengers in the leading car of a train. In EO No. 20, notice no. 2, published on March 5, 1996 (61 FR 8703), FRA modified the signal calling provision in notice no. 1. Essentially, during specified types of push-pull and multiple unit operations, designated crew members must orally communicate wayside signal aspects to the crew in the controlling locomotive. Notice no. 2 also states that ''[i]f necessary due to a radio equipment failure, alternative means shall be established by the operating crew (e.g., via intercom, cellular telephone etc.) to accomplish this procedure.''

While the crew communication requirements in EO No. 20 affect and are affected by this NPRM's proposed revisions to part 220, FRA will not address this issue here. Instead, FRA will discuss crew communications in its second NPRM on passenger equipment standards, which is anticipated to be issued in 1998.

Section by Section Analysis

Subpart A—General

Section 220.1 Scope

As explained earlier in this preamble, FRA proposes to expand the scope of this part to allow for newer forms of technology that are already in use. For this reason, FRA proposes to change the phrase ''radio communications'' to ''wireless communications'' and to add the definitions of ''working radio'' and ''working wireless communications'' to this part.

Section 220.2 Preemptive Effect

FRA proposes to add a preemption section, which would parallel the preemption language in 49 U.S.C. § 20166.

Section 220.3 Application

This section would remain unchanged.

Section 220.5 Definitions

Throughout the rule, FRA proposes to substitute ''locomotive'' for ''engine'' wherever that term appears. The term ''locomotive'' is more encompassing, since it also include cab cars and MU units.

The following is an explanation of each definition that FRA proposes to add or amend.

Control center. In the past, most railroads issued instructions from numerous dispatching offices distributed throughout their territory. Today, radio communications and other advanced technologies have enabled most railroads to centralize management of their operations in fewer locations. By control center, FRA means the locations from which a railroad issues instructions governing its operations.

Employee. The Rail Safety Enforcement and Review Act (RSERA) (1992) clarified that FRA's safety jurisdiction extends to all entities, including contractors and their employees, that may violate the railroad safety laws. The amended definition of employee would include, besides contractors and their employees, and

individuals authorized by railroads who use radios, or any other form of wireless communications in connection with railroad operations.

Joint operations. This term refers to operations by a small railroad on the tracks of a large railroad (one with 400,000 or more annual employee work hours). Under § 220.9, a train operated by a small railroad that would otherwise be exempt from meeting the communication equipment standards would be required to have either a working radio or working wireless communications when engaged in certain types of joint operations. The proposed definition allows an exclusion for interchange operations.

Lone worker. For consistency, FRA proposes to incorporate this definition from its recently published final rule on Roadway Worker Protection [61 FR 65959, December 16, 1996].

Mandatory directive. Throughout part 220, FRA proposes to replace the term ''train order'' with ''mandatory directive.'' A mandatory directive carries the same authority as the traditional train order, but also includes speed restrictions and other types of movement authority such as direct train control authorities and track warrants.

Railroad operation. The proposed definition would substitute ''locomotive'' for ''engine'' to be consistent with the terminology in the remainder of the rule, and would make an editorial change from ''single'' to ''singly.''

Roadway worker. For consistency, FRA would also incorporate this definition from the recently published final rule on Roadway Worker Protection.

Train. Under this definition, any railroad operation subject to the air brake testing requirements of 49 CFR part 232 would be considered a train for purposes of this rule. In proposing this definition, the Working Group sought to exclude switching operations, and the assembly or disassembly of rail cars within a railroad yard, both of which do not require an air test. However, the definition does include transfer trains, particularly long-distance yard-to-yard movements.

Working radio. By working radio, FRA means one with an adequate power source, free of mechanical malfunctions, that can both transmit and receive communications to and from the railroad's control center from any location within the rail system (through repeater stations, if necessary). In the case of joint operations on another railroad, the radio must also be able to reach the control center of the host railroad.

A radio satisfies this definition even if *temporary* fluctuations or interference from weather or terrain occur. (It should be noted, however, that under § 220.45 of this part, any communications which are not fully understood or completed may not be acted upon and must be treated as if not sent). Railroads must maintain the communications capability to broadcast over every territory on which they operate, however.

Some members of the Working Group have suggested that railroads be permitted to define coverage limits that exclude certain territories, such as lightly used branch lines in areas uniformly affected by extreme topography, where the cost of placing repeater stations might be significant in relation to the benefits afforded. FRA recognizes that this issue deserves further consideration and requests comment regarding whether the final rule should contain language permitting exclusions to ''coverage.'' If so, under what specific conditions might this be appropriate? FRA also notes that railroads may petition for waivers of these proposed requirements in accordance with the procedures contained in 49 CFR part 211 (FRA's Rules of practice); however, FRA would prefer for this issue to be resolved within the text of the final rule.

Working wireless communications. As discussed above, FRA proposes to require communications redundancy to compensate for failed radio communications due to interference, equipment failure, transmission difficulties and other problems which will occur even with the most advanced equipment.

Section 220.7 Penalty

As explained above, the RSERA expanded coverage of FRA's regulations to include contractors and their employees. FRA proposes to amend this section to make clear that this part applies not only to railroads but also to any other entity that may violate this part, including independent contractors who provide goods and services to railroads and the employees of such contractors. In other words, any person who is authorized by a railroad to use its wireless communications facilities must comply with part 220 procedures, regardless of whether the person has a direct employment relationship with the railroad.

FRA would also amend this section to raise the minimum penalty for violations of this part from $250 to $500, as already required by the RSERA.

Section 220.9 Requirements for Trains

Paragraph (a)

As discussed above in the section analyzing FRA's proposed communications equipment requirements for trains, large railroads would be required to equip all trains with a working radio in the controlling locomotive and with a back-up means of wireless communications. This requirement would apply to both freight and passenger operations.

Paragraph (b)

As discussed above, small railroads would have to meet the same heightened communication equipment standards as large railroads when operating passenger trains. Thus *all* passenger trains, regardless of the size of the operating railroad, would have to be equipped with both a working radio in the controlling locomotive and with redundant working wireless communication equipment.

For freight trains, the communication requirements are determined by two factors: train operating speed, and extent of joint operations. If a freight train operates at greater than 25 miles per hour, or engages in joint operations on track where the maximum authorized speed for freight trains is greater than 25 miles per hour, the train must be equipped with a working radio in the controlling locomotive. Similarly, a freight train engaged in joint operations on track in proximity to track where the maximum authorized speed for passenger trains is greater than 40 miles per hour must also be equipped with a working radio in the controlling locomotive. The proposed cutoff in subparagraph (b)(2)(B), ''within 30 feet measured between track center lines of another track,'' is one of the criteria used to determine the extent of FRA's jurisdiction over tourist and historic railroads.

In the conditions described above, FRA would require the crew of the freight train to have a working radio to enable them to communicate with the host railroad's control center and the other trains on the host railroad. For example, if a freight train went into emergency or a hazardous materials release occurred, the crew of the freight train could broadcast a warning to the crew of a nearby passenger train, in addition to the control center.

A train that engaged in joint operations on track where the maximum authorized speed for freight trains is 25 miles per hour or less would be required to have working wireless communications, but not a working radio in the controlling locomotive.

Finally, a train that did not transport passengers or engage in joint operations, would also be required to have working wireless communications if it transported hazardous materials. *No* communication equipment would be required for a train that did not transport passengers or hazardous material, and did not engage in joint operations or operate at greater than 25 miles per hour.

Section 220.11 Requirements for Roadway Workers

Paragraph (a)

As discussed above, a small railroad would not need to provide communications equipment if its trains do not operate in excess of 25 miles per hour. In addition, in the section analyzing FRA's proposed communications equipment requirements for roadway workers, large railroads would have to provide a working radio to maintenance of way equipment moving to or from a work location, or between multiple work locations on the same day. The radio would enable the roadway work gang to contact the control center when traveling. A unit of equipment traveling alone would also need to be radio equipped.

Paragraph (b)

As discussed above, large railroads would have to provide each Designated Employee in Charge, and each lone worker, with immediate access to a working radio. Small railroads would have the option of providing immediate access to either a working radio or working wireless communications.

Paragraph (c)

As discussed above, a railroad, regardless of size, would not be required to provide communication equipment whenever the work location of the roadway work gang or lone worker is physically inaccessible to trains, or has no through or adjacent traffic when roadway workers are present.

Section 220.13 Reporting Emergencies

In this new section, FRA seeks to emphasize that an employee's first priority, in the event of an emergency, is to notify the railroad using the quickest means of communications available. An employee should notify the proper authorities before undertaking other forms of emergency response, such as medical treatment or evacuation, to ensure that properly trained and equipped personnel respond to the scene as quickly as possible. In reporting emergencies, the employee is to follow the procedures in § 220.47 of this part when using a radio, or the procedures specified in the railroad's time table, or timetable special instructions when using another means of wireless communications. Operating rules, timetables, and timetable special instructions are required to be filed under § 217.7 of 49 CFR part 217 (Railroad Operating Rules).

Because this section includes language originally in § 220.47(a), which also covers emergency procedures, § 220.47 would now only include the requirement that an initial radio transmission begin with the word ''emergency'' repeated 3 times.

Subpart B—Radio and Wireless Communication Procedures

FRA proposes to retitle Subpart B to make clear that the definition for working wireless communications, like that for working radio, requires that communications equipment be tested and in working condition before a work assignment commences. The title to this Subpart would be changed to reflect that wireless communication equipment is covered by §§ 220.37 and 220.38; section titles in this Subpart that apply only to radio operations have accordingly also been retitled to reflect that fact.

Section 220.21 Railroad Operating Rules; Radio Communications: Recordkeeping

FRA proposes to delete the implementation dates from this section since these references are no longer necessary.

Paragraph (b)

The proposed changes to paragraph (b) are strictly editorial. In paragraph (b)(1), as explained above in the discussion on effective dates, the phrase ''each railroad providing intercity rail service'' allows for future expansion of passenger service by providers other than Amtrak.

Paragraph (c)

This paragraph makes clear that FRA would retain the carrier classifications (Class I, II, and III railroads) originally created by the former Interstate Commerce Commission (ICC). The Department's Surface Transportation Board, which succeeded the ICC, has not changed these classifications.

Section 220.23 Publication of Radio Information

The proposed changes are all editorial.

Section 220.25 Instruction and Operational Testing of Employees

Other than one editorial amendment (from ''[e]ach employee who is authorized * * *'' to [e]ach employee who a railroad authorizes * * *''), the only proposed change in this section is the addition of paragraph (c).

Paragraph (c)

This paragraph would require each railroad to conduct testing on the procedures in this part in accordance with the written program of operational tests and inspections required to be filed under § 217.9 (Railroad Operating Rules, 49 CFR Part 217). Railroads would have to test employees on radio procedures in conjunction with the already required periodic operating rules tests.

Section 220.27 Identification

Paragraph (a)

FRA proposes to delete paragraph (a)(3), which required an employee (usually the dispatcher) to identify the location of the wayside, base, or yard station from which the employee is broadcasting. This requirement is now superfluous for those railroads that use central or regional dispatching, with a single station for each dispatching system. Where this is the case, each dispatching station has a unique designation, so that stating that designation would be sufficient identification. FRA hopes that streamlining the identification requirements will help to reduce radio congestion. If a station does not have a unique designation, both the station's name and location should continue to be stated.

The other proposed change would merely combine paragraphs (a)(2) and (a)(3) into one paragraph.

Paragraph (b)

As explained above, FRA proposes to substitute ''locomotive'' for ''engine'' wherever it appears in the rule. FRA would also delete ''pakset'' and ''caboose'' since these are no longer widely used terms.

Section 220.29 Statement of Letters and Numbers in Radio Communications

This section would be retitled to limit its applicability to radio communications.

Paragraph (b)

FRA proposes to delete the word ''precision'' as unnecessary, and to make other editorial changes such as suggesting a station name as an example of what must be spelled for clarity.

Paragraph (c)

This paragraph would be amended to provide that a decimal point could also be indicated by the use of the words ''dot'', or ''point,'' in addition to ''decimal''.

Section 220.31 Initiating a Radio Transmission

This section would be retitled to limit its applicability to radio communications.

The only proposed changes to the section itself would be to make it gender-neutral, by substituting ''the employee'' for ''he'' or ''his.'' Similar changes have been made throughout the proposed rule text.

At one Working Group meeting, it was noted that the current regulation differs from practice in other industries because it requires the caller to identify him or herself before identifying the intended receiver. In the aviation industry, for example, the reverse order is followed, with the caller first identifying who he or she seeks to contact, and then identifying him or herself. The Group debated whether adopting this reverse order of identification could reduce dispatcher fatigue and requests for repeats by allowing dispatchers to listen specifically for transmissions that are addressed to the control center. The Group elected to make no changes; FRA invites comment on whether reversing the current identification order would improve the quality of railroad communications.

Section 220.33 Receiving a Radio Transmission

This section would be retitled to limit its applicability to radio communications.

Paragraph (a)

The only proposed change would clarify that an employee need not monitor the radio when other immediate duties intervene, but must resume monitoring once those circumstances are over.

Paragraphs (b) and (c)

FRA would delete paragraph (b) since it would be made redundant by proposed paragraph (a). Current paragraph (c) would be redesignated as paragraph (b).

Unless required by a railroad's operating rules, FRA does not propose to require a railroad employee to copy the following instructions when in signaled territory: permission to pass a stop signal, occupy main track in CTC territory or to move with the current of traffic, make a reverse movement within the limits of the same block, and permission for foul time. This is because the instructions are advisory in nature, and that, in these instances the train either already possesses authority to occupy the main track by signal indication, or the operating rules themselves convey this authority. Similarly, information such as trespassers or debris on track ahead usually involve imminent conditions that may change by the time the next train passes by, and are also advisory in nature. While these short-term instructions must be repeated, they need not be copied since they will soon be acted upon. In contrast, in non-signaled territory, occupancy of, or fouling a main track typically requires some form of initial movement authority from the train dispatcher or control operator, and, therefore, must be in writing.

On the other hand, copying is necessary when an order will be acted upon later, or is of a long-term nature. In such instances, FRA believes that an employee must have a written reference to avoid the risk that the employee may later rely on a faulty recollection of the instruction.

Paragraph (b)(1)

FRA would continue to allow communications involving yard switching operations to be transmitted without having to be repeated back to the transmitting party. Switching that involves occupying or potentially fouling main track may present different kinds of risks than switching in a yard environment. Yard channels are more subject to overcrowding because of their volume of operations.

Some members of the Working Group would prefer to omit the requirement to repeat communications in all circumstances where switching is being performed. FRA requests further comment on this issue and will ensure full reconsideration in the Working Group prior to publication of a final rule.

Section 220.35 Ending a Radio Transmission

This section would be retitled to limit its applicability to radio communications.

In its 1994 Report, FRA noted that this section has been widely disregarded, and expressed doubts about whether continuing to enforce this section would be the best use of agency resources. For this reason, at one of the Working Group meetings, FRA suggested making ''over and out'' a recommended practice instead of a required one. In FRA's experience, when railroads rigidly enforce ''over and out'', superfluous conversations disappear and radio discipline improves. Nevertheless, this section remains the least complied with in part 220, and there is potential individual liability for both railroad officers and employees who fail to comply with this requirement.

As the Working Group deliberations closed, there was disagreement regarding the appropriate treatment of this provision. FRA has retained the existing provision in the rule text as proposed in this NPRM with the expectation that the matter can be resolved in the Working Group at the final rule stage.

FRA seeks comment on this issue. Should FRA enforce this section against individuals? Would agency resources be better spent ensuring that the proper parties act on a transmission? If so, how could this be done? Are there alternate, equally effective ways to indicate the end of a transmission? Is this procedure necessary when the dispatcher has achieved a one-to-one identification with a particular employee? If retained, should this requirement be enforced in terminals?

Section 220.37 Testing Radio and Wireless Communication Equipment

As discussed above, this section would be retitled and expanded in scope to cover testing of all the communication equipment required by §§ 220.9 and 220.11.

Paragraph (a)

By substituting ''as soon as practicable'' for ''at least once during each tour of duty,'' FRA proposes to require the engineer and conductor to perform a voice test at the start of their tour. Currently, this section allows a crew to perform a voice test at any point during their trip. Revising this section would prevent the crew from delaying the test, e.g., not performing a voice test until right before the first time the crew uses the radio. A crew should not wait until they are several hours into their trip before checking to see whether the radio works properly or whether it needs to be replaced.

FRA would also delete the phrase ''outside yard limits'' to ensure that a voice test is conducted even when a train does not leave yard limits, and the phrase ''where the train is made up'' to make clear that at each intermediate crew change point, the new crew must perform a voice test at the start of their tour.

Paragraphs (b) and (c)

Existing paragraphs (b) and (c) would be deleted, since these requirements

would be covered in proposed § 220.38, discussed below. A new paragraph (b) would be added requiring that the test of a radio shall consist of voice transmissions with another radio. The employee receiving the transmission shall advise the employee conducting the test of the clarity of the transmission.

FRA has not specified the testing procedures that must be followed for other forms of wireless communications. FRA seeks comments on whether the rule should specify such testing procedures and, if so, what these procedures should contain.

Section 220.38 Communication Equipment Failure

This section is new and covers the equipment failure of all the communication equipment required by §§ 220.9 and 220.11.

Paragraph (a)

In the current rule, only § 220.41, which merely requires that the employee notify the proper authorities, addresses the issue of radio failure. In addition to notification, this proposed section would also require that inoperative radios and other mandatory wireless communication equipment be removed from service as soon as they are discovered.

Paragraph (b)

If a radio fails en route, the controlling locomotive could proceed until the earlier of, the next calendar day inspection or the nearest repair point where the equipment could be repaired or replaced. The movements allowed for radio repair in paragraph (b) mirror those found in 49 CFR § 229.9(b), which specifies the movements allowed for repair of non-complying locomotives. Members of the working group asked that comment be requested regarding flexibility for designation of repair points. For instance, in order to encourage aggressive action to replace failed radios, should the rule expressly provide that placement of one or more radios on locomotives at a particular location does not constitute that location as a ''repair point''?

Section 220.39 Continuous Radio Monitoring

This section would be retitled to limit its applicability to radio communications. The intent of the other proposed changes is strictly editorial. This section would continue to be written in terms of the radio, not the employee, to make clear that it requires the radio to be constantly monitored, but does not require every employee to monitor. Only the employee who is custodian of the radio would be responsible for ensuring monitoring.

Section 220.41 Notification on Failure of Radio

Proposed § 220.38, discussed above, which also addresses radio and equipment failures, would make this section redundant. FRA would therefore remove and reserve this section.

Section 220.43 Radio Communications Consistent With Federal Regulations and Railroad Operating Rules

This section would be retitled to limit its applicability to radio communications, and amended to make an editorial change (''must'' to ''shall''). As reworded, this section would make explicit what had previously been implicit, by requiring a radio communication to comply with this part and with FCC regulations, in addition to the railroad's operating rules.

Section 220.45 Radio Communications Shall be Complete

This section would be retitled to limit its applicability to radio communications, but would otherwise remain unchanged.

Section 220.47 Emergency Radio Transmissions

This section would also be retitled to limit its applicability to radio communications. As mentioned above in the discussion on proposed § 220.13, § 220.13(a) would include the language originally in § 220.47(a). FRA would retain the requirement that an initial transmission begin with ''emergency'' repeated 3 times, however (subsequent transmissions do not have to begin this way). In this section, FRA therefore proposes to delete paragraph (a). Additionally, FRA would change the word ''transmission'' to ''communication,'' to emphasize that the emergency frequency or channel must be kept clear for the duration of the *two-way* conversation between the reporting employee and the emergency responder.

Section 220.49 Radio Communication Used in Shoving, Backing or Pushing Movements

This section would be retitled to limit its applicability to radio communications. In the title of this section, the term ''shoving'' would be substituted for ''switching.'' The proposed title would make clear that this section applies to back-up moves only. The term ''switching'' is irrelevant, since this section also applies when road trains make back-up moves.

The phrase ''in lieu of hands signals'' would be deleted to emphasize that this section applies *whenever* a radio is used. FRA also proposes to substitute ''continual'' for ''continuous,'' since the former implies a succession of occurrences that are very close together, with only small breaks between them; while the latter implies an unbroken succession of occurrences. This editorial change would clarify that employees are not required to converse ceaselessly when using radio communication to make a shoving, backing or pushing movement.

Section 220.51 Radio Communications and Signal Indications

This section would be retitled to limit its applicability to radio communications. In paragraph (b), FRA proposes to delete the phrase ''in automatic block territory'' to emphasize that the prohibition against conveying signal indications applies to all types of territory.

Section 220.61 Transmission of Mandatory Directives

In this section, FRA proposes to substitute ''mandatory directive'' for ''train order'' wherever that term appeared. Also, instead of breaking this section out into a separate subpart (Subpart C), FRA would integrate this section, which addresses the transmission of mandatory directives by radio, into Subpart B, which covers all radio procedures. Subpart C would thus be reserved for non-radio wireless procedures, if FRA decides to adopt them.

Other than the changes discussed below, all other proposed amendments are intended strictly to modernize and streamline this section.

Paragraph (5)(i)

By inserting the word ''each'' and removing the word ''both,'' FRA intends to clarify that it is *not* sufficient for the engineer and conductor to share a copy of the mandatory directive, even if they have both read it. This section requires, and has *always* required (contrary to some railroad interpretations), the conductor and the engineer to have their own individual copies. Both, in turn, are then responsible for ensuring that all members of the crew responsible for operation of the train read and understand the directive before it is acted upon. Personnel on passenger and commuter trains who are not directly involved in the operation of a train, such as lounge care attendants and ticket takers, are not required to read and understand each mandatory directive.

The Working Group recommended, and the proposed rule provides, that mandatory directives that have been fulfilled or canceled be marked with an ''X'' or in accordance with the railroad's operating rules. Compliance with this requirement will ensure that employees do not later become confused as to which mandatory directives are applicable at any point in time.

For both train crews (paragraph 5(i)) and roadway gangs (paragraph 5(ii)), FRA suggested that the Working Group consider whether to require each employee responsible for executing a mandatory directive to retain a copy of that directive until the end of their work assignment. After investigating a 1996 fatal head-on collision at Smithfield, West Virginia, FRA issued a Safety Bulletin (61 FR 64191) advising that railroads require train crews to retain copies of mandatory directives for seven work days after the completion of the work assignment. This is already the practice on NORAC (the Northeast Operating Rules Advisory Committee) member railroads. Retention of mandatory directives for the duration of the work assignment would also enable both railroads and FRA to enforce compliance with the copying requirement. Moreover, since copies of mandatory directives are already being generated, retention for the duration of the assignment would not impose any additional paperwork burden on the industry.

The Working Group did not have time to explore the retention issue fully, however. FRA has therefore not required in the proposed rule that any employee retain a mandatory directive beyond the time it has been fulfilled or canceled. FRA solicits comment on the value of retention. Could retention of copies of mandatory directives lead to employee confusion as to which directives were outstanding and which still needed to be acted upon, or would the requirement to mark fulfilled directives ensure that employees acted upon the correct directive? This issue will be revisited thoroughly by the Working Group in its consideration of the final rule.

Paragraph (5)(ii)

For roadway gangs, FRA proposes to require that the mandatory directive be ''acknowledged,'' instead of ''read and understood,'' by those employees who need to know. Often, the employee in charge is the only member of the roadway gang who has been qualified on the physical characteristics of the area assigned to the gang. At the beginning of the assignment, the designated employee in charge should provide a detailed job briefing notifying the other roadway workers of the gang's movement limitations, authorities, and other relevant information. Mandatory directives which have been fulfilled or canceled would be marked with an X or in accordance with the railroad's operating rules. Commenters are requested to address whether the mandatory directives should be retained until the end of their work assignment (see discussion under paragraph (5)(i), above).

Regulatory Impact

Executive Order 12866 and DOT Regulatory Policies and Procedures

This rule has been evaluated in accordance with existing policies and procedures. It is believed that the rule will be determined to be non-significant under both Executive Order 12866 and DOT policies and procedures (44 FR 11034; February 26, 1979). FRA has prepared and placed in the docket a regulatory analysis addressing the economic impact of the proposed rule. Document inspection and copying facilities are available at 1120 Vermont Avenue, 7th Floor, Washington, D.C. Photocopies may also be obtained by submitting a written request to the FRA Docket Clerk at Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, DC 20590.

As part of the regulatory impact analysis FRA has assessed quantitative measurements of costs and benefits expected from the adoption of the proposed rule. Over a twenty year period, the Net Present Value (NPV) of the estimated quantifiable societal benefits is $102.8 million, and the NPV of the estimated costs is $39.9 million.

The major costs anticipated from adopting this proposed rule include: the installation of radios for locomotives; the purchase of cellular telephones or other form of wireless communication for locomotives of smaller railroads operating trains in situations with decreased risk; usage fees for cellular telephones; the installation of radios in some maintenance-of-way equipment; the purchase of additional portable radios for roadway work groups and lone-workers; training on radio procedures; maintenance for locomotive and portable radios; and replacement cellular telephones.

The major benefits anticipated from adopting this proposed rule include: reduction of injuries and fatalities of roadway workers; reduced trespasser fatalities; reduction of railroad worker injury severity from a quicker emergency response; reduced grade crossing accidents; and reduced railroad accidents that were caused by the improper usage of radios.

Additionally, FRA anticipates other qualitative benefits accruing from this proposed rule which are not factored into the quantified analysis. These include increased efficiency within the industry, and a reduction in hazardous material spills.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires a review of final rules to assess their impact on small entities. FRA's assessment of small entity impact can be found in Appendix B of the NPRM's Regulatory Impact Analysis, located in the docket.

After consultation with the Office of Advocacy of the SBA, FRA will use the delineation of less than 400,000 annual employee hours as being representative of small entities. This grouping is one that FRA has used in the past (in 49 CFR parts 217 and 219) to alleviate reporting requirements. Typically, FRA uses the Surface Transportation Board's (STB) revenue-based classification of Class III railroads as being representative of small entities. Many Class III railroads have fewer than 400,000 annual employee hours. Using 400,000 annual employee hours as the line between small and non-small entities provides advantages over the Class III distinction. FRA already maintains a database containing information on which railroads fall below this line. Additionally, this delineation does not provide the same automatic exemption as the Class III distinction does for switching and terminal railroads. By using this grouping for small railroads, FRA is capturing most small entities that would be defined by the SBA as small businesses.

FRA certifies that this rule is expected to have a significant economic impact on a number of small entities. There are no small government jurisdictions affected by this regulation. Approximately 450 small entities will be impacted. However, the actual burden on most of these railroads will vary because of their different operating characteristics.

Entities that are not subject to this rule include railroads that do not operate on the ''general railroad system of transportation'' due to FRA's current exercise of its jurisdiction (*See* 49 CFR part 209, Appendix A). FRA's jurisdictional approach greatly reduces the number of tourist, scenic, historic, and excursion railroads that are subject to this rule and its associated burdens. FRA estimates that approximately 180 small entities will be exempted from the

proposed requirements of this regulation since they do not operate on the general system of transportation.

The communication requirements pertaining to locomotives, as set forth in § 220.9 of this rule have been designed to minimize the impact on small railroads. While large railroads are required to have a working radio and wireless communication redundancy in every train, small railroads are only required to comply with this standard for trains used to transport passengers. A radio is required on a freight train operated by a small railroad only when the train operates at greater than 25 miles per hour or engages in joint operations on a large railroad where either the maximum authorized speed for freight trains exceeds 25 miles per hour on the track being used, or the track being used is adjacent to and within 30 feet of another track on which the maximum speed for passenger trains exceeds 40 miles per hour. Any form of wireless communication device can be used on a freight train operated by a small railroad when the train is engaged in joint operations with a large railroad and the maximum authorized speed on the track being used is 25 miles per hour or less.

In addition, a wireless communications device is required when a freight train of a small railroad transports hazardous material that is required to be placarded under 49 CFR part 172 and does not otherwise fit into one of the above mentioned categories requiring other types of communications equipment. The flexibility afforded to small railroads with these alternatives will lessen the costs imposed on these railroads.

The communications requirements pertaining to roadway workers, as set forth in § 220.11 of this rule, have been designed to minimize the impact on small railroads. The subsection (a) requirement of equipping maintenance of way equipment with communications capability upon arriving at a work site, does not apply to small railroads. Under subsection (b), large railroads must provide each employee designated by the employer to provide on-track safety for a roadway work group and each lone worker with immediate access to a working radio. However, small railroads can provide such employees with immediate access to working wireless communications. Small railroads may also be able to avoid any of the communication equipping requirements of § 220.11 if they meet the exceptions set forth in subsection (c).

Most small railroads will have a low enough volume and train frequency not to be impacted by the requirements of § 220.11, since paragraph (c) exempts small railroads that meet certain specified conditions. To qualify for an exemption from § 220.11, a small railroad may not operate a large volume of traffic over a branch line. Generally, the ability of a railroad to perform track-related maintenance on track(s) that are taken out of service is inversely related to the volume and frequency of trains on its branch lines.

Environmental Impact

FRA has evaluated these proposed regulations in accordance with its procedures for ensuring full consideration of the potential environmental impacts of FRA actions, as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and related directives. These proposed regulations meet the criteria that establish this as a non-major action for environmental purposes.

Appendix

FRA plans to revise Appendix C to part 220—Schedule of Civil Penalties in the final rule. Because such penalty schedules are statements of policy, notice and comment are not required prior to their issuance. See 5 U.S.C. 553(b)(3)(A). Nevertheless, interested parties are welcome to submit their views on what penalties may be appropriate.

Federalism Implications

This proposed rule has been analyzed according to the principles of Executive Order 12612 (''Federalism''). It has been determined that these proposed amendments to Part 220 do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The fundamental policy decision providing that Federal regulations should govern aspects of service provided by municipal and public benefit corporations (or agencies) of State governments is embodied in the statute quoted above. FRA has made every effort to provide reasonable flexibility to State-level decision making and has included commuter authorities as full partners in development of this proposed rule.

Paperwork Reduction Act

The proposed rule contains some new information collection requirements. The information collection requirements currently in 49 CFR part 220 were approved by the Office of Management and Budget (OMB) under OMB approval numbers 2130–0035 and 2130–0524 and are marked with an ''*'' below. These information collection requirements plus any new information collection requirements resulting from this rulemaking proceeding will be submitted to OMB for approval under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.* at the final rule stage. The sections that contain the current and proposed new information collection requirements are listed below. All estimates include the time for reviewing instructions; searching existing data sources; gathering or maintaining the needed data; and reviewing the information.

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden cost
220.13—Reporting emergencies.	680 railroads	N/A	Usual and Customary Practice under Common Law.	N/A	N/A
*220.21—Railroad operating rules; radio communication; recordkeeping.	680 railroads	N/A	Approved by OMB under 2130–0035. Requirement will not impose any new burden.	N/A	N/A
220.23—Publication of radio information.	680 railroads	N/A	Usual and Customary Procedure.	N/A	N/A
*220.25—Instruction and operational testing of employees.	N/A	N/A	Approved by OMB under 2130–0035.	N/A	N/A
—Instruction	680 railroads	Additional 15,000 employees trained.	30 minutes	Annual burden will increase by 7,500 hours to include training for roadway workers.	$187,500

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden cost
—Periodic operational testing—new requirement.	680 railroads	Additional 33,333 tests.	15 minutes	Increase of 8,333 hours annually.	$208,325
220.27—Identification	N/A	N/A	Usual and Customary Procedure.	N/A	N/A
220.31—Initiating a radio transmission—identification.	N/A	N/A	Usual and Customary Procedure.	N/A	N/A
220.33—Receiving a radio transmission—acknowledgement.	N/A	N/A	Usual and Customary Procedure.	N/A	N/A
220.35—Ending a radio transmission.	N/A	N/A	Usual and Customary Procedure.	N/A	N/A
220.37—Testing radio and wireless communication equipment.	680 railroads	780,000 tests	30 seconds	6,500 hours	$162,500
220.38—Communication equipment failure—notification.	N/A	N/A	Usual and Customary Procedure.	N/A	N/A
220.47—Emergency radio transmission.	N/A	N/A	Usual and Customary Procedure.	N/A	N/A
220.61—Transmission of mandatory directives:					
*—Copying and repeating of mandatory directive.	N/A	N/A	Approved by OMB under 2130–0524.	N/A	N/A
—Train crews—marking with an X mandatory directives fulfilled or canceled.	680 railroads	52,000 X's	15 seconds	217 hours	$5,425
—On track equipment—marking with an X mandatory directives fulfilled or canceled.	680 railroads	39,000 X's	15 seconds	163 hours	$4,075

Pursuant to 44 U.S.C. 3506(c)(2)(B), FRA solicits comments on the quality, utility, and clarity of the information to be collected; and on whether these information collection requirements are necessary for the proper performance of the function of FRA, including whether the information has practical utility; whether FRA's estimates of the burden of the information collection requirements are accurate; and whether the burden of collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology, may be minimized.

Organizations and individuals desiring to submit comments on these information collection requirements should direct them to Gloria Swanson Eutsler, Federal Railroad Administration, RRS–211, 400 7th Street, S.W., Washington, D.C. 20590, or contact Mrs. Eutsler at (202) 632–3318. The final rule will address any public comments received on the information collection requirements contained in this proposal.

FRA cannot impose a penalty on persons for violating information collection requirements which do not display a current OMB control number, if required. FRA intends to obtain current OMB control numbers for any information collection requirements resulting from this rulemaking action prior to the effective date of a final rule. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**.

List of Subjects in 49 CFR Part 220

Communications, Railroads.

Accordingly, for the reasons stated in the preamble, FRA proposes to revise 49 CFR part 220 to read as follows:

PART 220—RAILROAD COMMUNICATIONS

Subpart A—General

Subpart A—General

Subpart B—Radio and Wireless Communication Procedures

Authority: 49 U.S.C. 20103, 21301, 21304, 21311 (1994); and 49 CFR 1.49(m).

Subpart A—General

§ 220.1 Scope.

This part prescribes minimum requirements governing the use of wireless communications in connection with railroad operations. So long as these minimum requirements are met,

railroads may adopt additional or more stringent requirements.

§ 220.2 Preemptive effect.

Under 49 U.S.C. 20106 (formerly section 205 of the Federal Railroad Safety Act of 1970, 45 U.S.C. 434), issuance of these regulations preempts any State law, rule, regulation, order, or standard covering the same subject matter, except a provision directed at an essentially local safety hazard that is not incompatible with this part and that does not unreasonably burden interstate commerce.

§ 220.3 Application.

(a) Except as provided in paragraph (b) of this section, this part applies to railroads that operate trains or other rolling equipment on standard gage track which is part of the general railroad system of transportation.

(b) This part does not apply to:

(1) A railroad that operates only on track inside an installation which is not part of the general railroad system of transportation; or

(2) Rapid transit operations in an urban area that are not connected with the general railroad system of transportation.

§ 220.5 Definitions.

As used in this part, the term:

Control center means the locations on a railroad from which the railroad issues instructions governing railroad operations.

Division headquarters means the location designated by the railroad where a high-level operating manager (e.g., a superintendent, division manager, or equivalent), who has jurisdiction over a portion of the railroad, has an office.

Employee means an individual who is engaged or compensated by a railroad or by a contractor to a railroad, who is authorized by a railroad to use its wireless communications in connection with railroad operations.

Joint operations means rail operations conducted by more than one railroad on the track of a railroad subject to the requirements of § 220.9(a), except as necessary for the purpose of interchange.

Lone worker means an individual roadway worker who is not being afforded on-track safety by another roadway worker, who is not a member of a roadway work gang, and who is not engaged in a common task with another roadway worker.

Mandatory directive means any movement authority or speed restriction that affects a railroad operation.

Railroad operation means any activity which affects the movement of a train, locomotive, on-track equipment, or track motor car, singly or in combination with other equipment, on the track of a railroad.

Roadway worker means any employee of a railroad, or of a contractor to a railroad, whose duties include inspection, construction, maintenance or repair of railroad track, bridges, roadway, signal and communication systems, electric traction systems, roadway facilities or roadway maintenance machinery on or near track or with the potential of fouling a track, and flagmen and watchmen/lookouts.

System headquarters means the location designated by the railroad as the general office for the railroad system.

Train means one or more locomotives coupled with or without cars, requiring an air brake test in accordance with 49 CFR part 232, except during switching operations or where the operation is that of classifying and assembling rail cars within a railroad yard for the purpose of making or breaking up trains.

Working radio means a radio that can communicate with the control center of the railroad (through repeater stations, if necessary to reach the center) from any location within the rail system, with the exception of limited segments of territory where topography or transient weather conditions temporarily prevent effective communication. In the case of joint operations on another railroad, the radio must be able to reach the control center of the host railroad.

Working wireless communications means the capability to communicate with either a control center or an emergency responder of the railroad through such means as radio, portable radio, cellular telephone, or other means of two-way communication, from any location within the rail system, with the exception of limited segments of territory where topography or transient weather conditions temporarily prevent effective communication. In the case of joint operations on another railroad, the working wireless communication must be able to reach the control center of the host railroad.

§ 220.7 Penalty.

Any person (including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor) who violates any requirement of this part or causes the violation of any such requirement is subject to a civil penalty of at least $500 and not more than $10,000 per violation, except that: Penalties may be assessed against individuals only for willful violations; where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury, or has caused death or injury, a penalty not to exceed $20,000 per violation may be assessed; and the standard of liability for a railroad will vary depending upon the requirement involved. Each day a violation continues shall constitute a separate offense. (See appendix C to this part for a statement of agency civil penalty policy).

§ 220.9 Requirements for trains.

(a) Except as provided for in paragraph (b) of this section, each occupied controlling locomotive in a train shall have a working radio, and each train shall also have communications redundancy. For purposes of this section, ''communications redundancy'' means a working radio on another locomotive in the consist or other means of working wireless communications.

(b) The following requirements apply to a railroad that has fewer than 400,000 annual employee work hours:

(1) Any train that transports passengers shall be equipped with a working radio in the controlling locomotive and with redundant working wireless communications capability in the same manner as provided in paragraph (a) of this section.

(2) Any train that operates at greater than 25 miles per hour; or engages in joint operations on track where the maximum authorized speed for freight trains exceeds 25 miles per hour; or engages in joint operations on a track that is adjacent to and within 30 feet measured between track center lines of another track on which the maximum authorized speed for passenger trains exceeds 40 miles per hour, shall be equipped with a working radio in the controlling locomotive.

(3) Any train that engages in joint operations, where the maximum authorized speed of the track is 25 miles per hour or less, shall be equipped with working wireless communications in the controlling locomotive.

(4) Any train not described in paragraph (b) of this section that transports hazardous material required to be placarded under the provisions of part 172 of this title shall be equipped with working wireless communications in the controlling locomotive.

§ 220.11 Requirements for roadway workers.

(a) The following requirements apply to a railroad that has 400,000 or more annual employee work hours:

(1) Maintenance of way equipment operating without locomotive assistance between work locations shall have a working radio on at least one such unit in each multiple piece of maintenance of way equipment traveling together under the same movement authority. The operators of each additional piece of maintenance of way equipment shall have communications capability with each other.

(2) Each maintenance of way work gang shall have intra-gang communications capability upon arriving at a work site.

(b) Each employee designated by the employer to provide on-track safety for a roadway work gang or gangs, and each lone worker, shall maintain immediate access to a working radio, except that a railroad with fewer than 400,000 annual employee work hours can provide immediate access to working wireless communications as an alternative to a working radio.

(c) This section does not apply to:

(1) Railroads which have fewer than 400,000 annual employee work hours, and which do not operate trains in excess of 25 miles per hour; or

(2) Railroad operations where the work location of the roadway work gang or lone worker:

(i) is physically inaccessible to trains; or

(ii) has no through or adjacent rail traffic during the period when roadway workers will be present.

§ 220.13 Reporting emergencies.

(a) Employees shall immediately report by the quickest means available derailments, collisions, storms, wash-outs, fires, obstructions to tracks, and other hazardous conditions which could result in death or injury, damage to property or serious disruption of railroad operations.

(b) In reporting emergencies, employees shall follow:

(1) The procedures of § 220.47 of this part when using a radio; or

(2) The procedures specified for reporting emergencies in the railroad's timetables or timetable special instructions, when using another means of wireless communications.

(c) Employees shall describe as completely as possible the nature, degree and location of the hazard.

Subpart B—Radio and Wireless Communication Procedures

§ 220.21 Railroad operating rules; radio communications; recordkeeping.

(a) The operating rules of each railroad with respect to radio communications shall conform with the requirements of this part.

(b) Thirty days before commencing to use radio communications in connection with railroad operations each railroad shall retain one copy of its current operating rules with respect to radio communications at the locations prescribed in paragraphs (b)(1) and (b)(2) of this section. Each amendment to these operating rules shall be filed at such locations within 30 days after it is issued. These records shall be made available to representatives of the Federal Railroad Administration for inspection and photocopying during normal business hours.

(1) Each Class I railroad, each Class II railroad, each railroad providing intercity rail passenger service, and each railroad providing commuter service in a metropolitan or suburban area shall retain such rules at each of its division headquarters and at its system headquarters; and

(2) Each Class III railroad and any other railroad subject to this part but not subject to paragraph (b)(1) of this section shall retain such rules at the system headquarters of the railroad.

(c) For purposes of this section, the terms Class I railroad, Class II railroad, and Class III railroad have the meaning given these terms in 49 CFR Part 1201.

§ 220.23 Publication of radio information.

Each railroad shall designate its territory where radio base stations are installed, where wayside stations may be contacted, and designate the appropriate radio channels used by these stations in connection with railroad operations by publishing them in a timetable or special instruction. The publication shall indicate the periods during which base and wayside radio stations are operational.

§ 220.25 Instruction and operational testing of employees.

Each employee who a railroad authorizes to use a radio in connection with a railroad operation shall be:

(a) Provided with a copy of the railroad's operating rules governing the use of radio communication in a railroad operation;

(b) Instructed in the proper use of radio communication as part of the program of instruction prescribed in § 217.11 of this chapter; and

(c) Periodically tested under the operational testing requirements in § 217.9 of this chapter.

§ 220.27 Identification.

(a) Except as provided in paragraph (c) of this section, the identification of each wayside, base or yard station shall include at least the following minimum elements, stated in the order listed:

(1) Name of railroad. An abbreviated name or initial letters of the railroad may be used where the name or initials are in general usage and are understood in the railroad industry; and

(2) Name and location of office or other unique designation.

(b) Except as provided in paragraph (c) of this section, the identification of each mobile station shall consist of the following elements, stated in the order listed:

(1) Name of railroad. An abbreviated name or initial letters of the railroad may be used where the name or initial letters are in general usage and are understood in the railroad industry;

(2) Train name (number), if one has been assigned, or other appropriate unit designation; and

(3) When necessary, the word ''locomotive'', ''motorcar'', or other unique identifier which indicates to the listener the precise mobile transmitting station.

(c) If positive identification is achieved in connection with switching, classification, and similar operations wholly within a yard, fixed and mobile units may use short identification after the initial transmission and acknowledgement consistent with applicable Federal Communications Commission regulations governing ''Station Identification''.

§ 220.29 Statment of letters and numbers in radio communications.

(a) If necessary for clarity, a phonetic alphabet shall be used to pronounce any letter used as an initial, except initial letters of railroads. See appendix A of this part for the recommended phonetic alphabet.

(b) A word which needs to be spelled for clarity, such as a station name, shall first be pronounced, and then spelled. If necessary, the word shall be spelled again, using a phonetic alphabet.

(c) Numbers shall be spoken by digit, except that exact multiples of hundreds and thousands may be stated as such. A decimal point shall be indicated by the word ''decimal,'' ''dot,'' or ''point''. (See appendix B to this part, for a recommended guide to the pronunciation of numbers.)

§ 220.31 Initiating a radio transmission.

Before transmitting by radio, an employee shall:

(a) Listen to ensure that the channel on which the employee intends to transmit is not already in use;

(b) Identify the employee's station in accordance with the requirements of § 220.27; and

(c) Verify that the employee has made radio contact with the person or station with whom the employee intends to communicate by listening for an acknowledgment. If the station acknowledging the employee's transmission fails to identify itself properly, the employee shall require a proper identification before proceeding with the transmission.

§ 220.33 Receiving a radio transmission.

(a) Upon receiving a radio call, an employee shall promptly acknowledge the call, identifying the employee's station in accordance with the requirements of § 220.27 and stand by to receive. An employee need not attend the radio during the time that this would interfere with other immediate duties relating to the safety of railroad operations.

(b) An employee who receives a transmission shall repeat it to the transmitting party unless the communication:

(1) Relates to yard switching operations;

(2) Is a recorded message from an automatic alarm device; or

(3) Is general in nature and does not contain any information, instruction or advice which could affect the safety of a railroad operation.

§ 220.35 Ending a radio transmission.

(a) At the close of each transmission to which a response is expected, the transmitting employee shall say ''over'' to indicate to the receiving employee that the transmission is ended.

(b) At the close of each transmission to which no response is expected, the transmitting employee shall state the employee's identification followed by the word ''out'' to indicate to the receiving employee that the exchange of transmissions is complete.

§ 220.37 Testing radio and wireless communication equipment.

(a) Each radio and redundant wireless communication equipment used under §§ 220.9 and 220.11 shall be tested as soon as practicable to ensure that the equipment functions as intended prior to the commencement of the work assignment.

(b) The test of a radio shall consist of an exchange of voice transmissions with another radio. The employee receiving the transmission shall advice the employee conducting the test of the clarity of the transmission.

§ 220.38 Communication equipment failure.

(a) Any radio or wireless communication device found not to be functioning as intended when tested pursuant to § 220.37 shall be removed from service and the dispatcher or other employee designated by the railroad shall be so notified as soon as practicable.

(b) If a radio fails on the controlling locomotive en route, the train may continue until the earlier of—

(1) The next calendar day inspection, or

(2) The nearest forward point where the radio can be repaired or replaced.

§ 220.39 Continuous radio monitoring.

Each radio used in a railroad operation shall be turned on to the appropriate channel as designated in § 220.23 and adjusted to receive communications.

§ 220.41 [Reserved]

§ 220.43 Radio communications consistent with Federal regulations and railroad operating rules.

Radio communication shall not be used in connection with a railroad operation in a manner which conflicts with the requirements of this part, Federal Communication Commission regulations or the railroad's operating rules. The use of citizen band radios for railroad operating purposes is prohibited.

§ 220.45 Radio communication shall be complete.

Any radio communication which is not fully understood or completed in accordance with the requirements of this part and the operating rules of the railroad, shall not be acted upon and shall be treated as though not sent.

§ 220.47 Emergency radio transmissions.

An initial emergency radio transmission shall be preceded by the word ''emergency,'' repeated three times. An emergency transmission shall have priority over all other transmissions and the frequency or channel shall be kept clear of non-emergency traffic for the duration of the emergency communication.

§ 220.49 Radio communication used in shoving, backing or pushing movements.

When radio communication is used in connection with the shoving, backing or pushing of a train, locomotive, car, or on-track equipment, the employee directing the movement shall give complete instructions or keep in continual radio contact with the employee receiving the instructions. The distance of the movement shall be specified, and the movement shall stop in one-half the remaining distance unless additional instructions are received. If the instructions are not understood or continual radio contact is not maintained, the movement shall be stopped immediately and may not be resumed until the misunderstanding has been resolved, radio contact has been restored, or communication has been achieved by hand signals or other procedures in accordance with the operating rules of the railroad.

§ 220.51 Radio communications and signal indications.

(a) No information may be given by radio to a train or engine crew about the position or aspect displayed by a fixed signal. However, radio may be used by a train crew member to communicate information about the position or aspect displayed by a fixed signal to other members of the same crew.

(b) Except as provided in the railroad's operating rules, radio communication shall not be used to convey instructions which would have the effect of overriding the indication of a fixed signal.

§ 220.61 Transmission of mandatory directives.

(a) Each mandatory directive may be transmitted by radio only when authorized by the railroad's operating rules. The directive shall be transmitted in accordance with the railroad's operating rules and the requirements of this part.

(b) The procedure for transmission of a mandatory directive by radio is as follows:

(1) The train dispatcher or operator shall call the addressees of the mandatory directive and state the intention to transmit the mandatory directive.

(2) Before the mandatory directive is transmitted, the employee to receive and copy shall state the employee's name, identification, location, and readiness to receive and copy. An employee operating the controls of moving equipment shall not receive and copy mandatory directives. A mandatory directive shall not be transmitted to employees on moving equipment, if such directive cannot be received and copied without impairing safe operation of the equipment.

(3) A mandatory directive shall be copied in writing by the receiving

employee in the format prescribed in the railroad's operating rules.

(4) After the mandatory directive has been received and copied, it shall be immediately repeated in its entirety. After verifying the accuracy of the repeated mandatory directive, the train dispatcher or operator shall then state the time and name of the employee designated by the railroad who is authorized to issue mandatory directives. An employee copying a mandatory directive shall then acknowledge by repeating the time and name of the employee so designated by the railroad.

(5)(i) For train crews, before a mandatory directive is acted upon, the conductor and engineer shall each have a written copy of the mandatory directive and make certain that the mandatory directive is read and understood by all members of the crew who are responsible for the operation of the train. Mandatory directives which have been fulfilled or canceled shall be marked with an ''X'' or in accordance with the railroad's operating rules.

(ii) For on-track equipment, before a mandatory directive is acted upon, the employee in charge of the on-track equipment shall have a written copy of the mandatory directive and make certain that the mandatory directive is acknowledged by all employees who are responsible for executing that mandatory directive. Mandatory directives which have been fulfilled or canceled shall be marked with an ''X'' or in accordance with the railroad's operating rules.

(6) A mandatory directive which has not been completed or which does not comply with the requirements of the railroad's operating rules and this part, may not be acted upon and shall be treated as though not sent. Information contained in a mandatory directive may not be acted upon by persons other than those to whom the mandatory directive is addressed.

Appendix A to Part 220—Recommended Phonetic Alphabet

A—ALFA
B—BRAVO
C—CHARLIE
D—DELTA
E—ECHO
F—FOXTROT
G—GOLF
H—HOTEL
I—INDIA
J—JULIET
K—KILO
L—LIMA
M—MIKE
N—NOVEMBER
O—OSCAR
P—PAPA
Q—QUEBEC
R—ROMEO
S—SIERRA
T—TANGO
U—UNIFORM
V—VICTOR
W—WHISKEY
X—XRAY
Y—YANKEE
Z—ZULU

The letters ''ZULU'' should be written as ''Z'' to distinguish it from the numeral ''2''.

Appendix B to Part 220—Recommended Pronunciation of Numerals

To distinguish numbers from similar sounding words, the word ''figures'' should be used preceding such numbers. Numbers should be pronounced as follows:

Number	Spoken
0	0
1	WUN
2	TOO
3	THUH-REE-
4	FO-WER
5	FI-YIV
6	SIX
7	SEVEN
8	ATE
9	NINER

(The figure ZERO should be written as ''O'' to distinguish it from the letter ''O''. The figure ONE should be underlined to distinguish it from the letter ''I''. When railroad rules require that numbers be spelled, these principles do not apply.)

The following examples illustrate the recommended pronunciation of numerals:

Number	Spoken
44	FO—WER FO-WER
500	FI-YIV HUNDRED
1000	WUN THOUSAND
1600	WUN SIX THOUSAND
14899	WUN FO-WER ATE NINER NINER
20.3	TOO ZERO DECIMAL THUH-REE

APPENDIX C TO PART 220—SCHEDULE OF CIVIL PENALTIES [1]

Section		Violation	Willful violation
220.21	Railroad operating rules; radio communications:		
(a)		$5,000	$7,500
(b)		2,500	5,000
220.23	Publication of radio information	2,500	5,000
220.25	Instruction of employees	5,000	7,500
220.27	Identification	1,000	2,000
220.29	Statement of letters and numbers	1,000	2,000
220.31	Initiating a transmission	1,000	2,000
220.33	Receiving a transmission	1,000	2,000
220.35	Ending a transmission	1,000	2,000
220.37	Voice test	5,000	7,500
220.39	Continuous monitoring	2,500	5,000
220.41	Notification on failure of train radio	2,500	5,000
220.43	Communication consistent with the rules	2,500	5,000
220.45	Complete communications	2,500	5,000
220.47	Emergencies	2,500	5,000
220.49	Switching, backing or pushing	5,000	7,500
220.51	Signal indications	5,000	7,500
220.61	Transmission of train orders by radio	5,000	7,500

[1] A penalty may be assessed against and only for a willful violation. The Administrator reserves the right to assess a penalty of up to $20,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A.

Issued in Washington, DC on June 11, 1997.

Jolene M. Molitoris,

Federal Railroad Administrator.

[FR Doc. 97–15818 Filed 6–25–97; 8:45 am]

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federal register

Thursday
June 26, 1997

Part IV

Department of Housing and Urban Development

NOFA for Fair Housing Initiatives Program; FY 1997 Competitive Solicitation; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4193–N–01]

NOFA for Fair Housing Initiatives Program; FY 1997 Competitive Solicitation

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of Funding Availability (NOFA).

SUMMARY: This NOFA announces the availability of $15,000,000 of 1997 Fiscal Year (FY) funding for the Fair Housing Initiatives Program (FHIP). This program assists projects and activities designed to enforce and enhance compliance with the Fair Housing Act and substantially equivalent State and local fair housing laws. HUD will fund projects undertaken through the Private Enforcement Initiative (PEI), Education and Outreach Initiative (EOI) and the Fair Housing Organizations Initiative (FHOI). For this funding round, $1,350,000 is reserved from the Fair Housing Organizations Initiative for organizations that assist persons with disabilities to build the capacity of such organizations to undertake fair housing enforcement activities. Additionally, $500,000 is reserved from the Education and Outreach Initiative's Regional, local and community-based component for projects that propose to address community tensions that arise as people expand their housing choices, and $150,000 is reserved under the EOI national component for a fair housing site on the Internet.

In the body of this document is information concerning the principal objectives of the NOFA, eligibility, available amounts, selection criteria, how to apply for funding, how selections will be made, and a checklist of application submission requirements.

DATES: An application kit for funding under this Notice will be available following publication of the NOFA. The actual application due date will be specified in the application kit. Applicants submitting an application under the PEI will be given at least 50 days from today's date, until August 15, 1997, to submit their applications. Applicants submitting applications under the EOI and the FHOI will be given at least 60 days from today's date, until August 25, 1997, to submit their applications. Applications will be accepted if they are received on or before the application due date, or are received within 7 days after the application due date, but with a U.S. postmark or receipt from a private commercial delivery service (such as, Federal Express or DHL) that is dated on or before the application due date.

ADDRESSES: To obtain a copy of the application kit, please write the Fair Housing Information Clearinghouse, P.O. Box 9146, McLean, VA 22102, or call the toll free number 1–800–343–3442 (voice) or 1–800–290–1617 (TTY). Also please contact this number if information concerning this NOFA is needed in an accessible format.

FOR FURTHER INFORMATION CONTACT: Aztec Jacobs, Office of Fair Housing Initiatives and Voluntary Programs, Room 5234, 451 Seventh Street, S.W., Washington, D.C. 20410–2000; telephone number (202) 708–0800 (this is not a toll free number). Persons who use a text telephone (TTY) may call 1–800–290–1617.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this NOFA have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2529–0033. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Promoting Comprehensive Approaches to Housing and Community Development

HUD is interested in promoting comprehensive, coordinated approaches to housing and community development. Economic development, community development, public housing revitalization, homeownership, assisted housing for special needs populations, supportive services, and welfare-to-work initiatives can work better if linked at the local level. Toward this end, the Department in recent years has developed the Consolidated Planning process designed to help communities undertake such approaches.

In this spirit, it may be helpful for applicants under this NOFA to be aware of other related HUD NOFAs that have recently been published or are expected to be published in this fiscal year. By reviewing these NOFAs with respect to their program purposes and the eligibility of applicants and activities, applicants may be able to relate the activities proposed for funding under this NOFA to the recent and upcoming NOFAs and to the community's Consolidated Plan.

With respect to fair housing, a related NOFA that the Department expects to publish in the **Federal Register** in the next few weeks is the NOFA for the Fair Housing Services Center in East Texas.

To foster comprehensive, coordinated approaches by communities, the Department intends for the remainder of FY 1997 to continue to alert applicants of HUD's NOFA activity. In addition, a complete schedule of NOFAs to be published during the fiscal year and those already published appears under the HUD Homepage on the Internet, which can be accessed at http://www.hud.gov.html. Additional steps to better coordinate HUD's NOFAs are being considered for FY 1998.

To help in obtaining a copy of your community's Consolidated Plan, please contact the community development office of your municipal government.

I. Substantive Description and Purpose

(a) Authority

Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3601–19 (Fair Housing Act), charges the Secretary of Housing and Urban Development with responsibility to accept and investigate complaints alleging discrimination based on race, color, religion, sex, handicap, familial status or national origin in the sale, rental, or financing of most housing. In addition, the Fair Housing Act directs the Secretary to coordinate action with State and local agencies administering fair housing laws and to cooperate with, and render technical assistance to, public or private entities carrying out programs to prevent and eliminate discriminatory housing practices.

Section 561 of the Housing and Community Development Act of 1987, 42 U.S.C. 3616 note, established the Fair Housing Initiatives Program (FHIP) to strengthen the Department's enforcement of the Fair Housing Act and to further fair housing. Implementing regulations are found at 24 CFR part 125.

Three general categories of activities were established at 24 CFR part 125 for FHIP funding under section 561 of the Housing and Community Development Act of 1987: the Administrative Enforcement Initiative, the Education and Outreach Initiative, and the Private Enforcement Initiative. Section 905 of the Housing and Community Development Act of 1992 (HCDA 1992) (Pub. L. 102–550, approved October 28, 1992), amended section 561 by adding specific eligible applicants and activities to the Education and Outreach

and Private Enforcement Initiatives, as well as an entirely new Fair Housing Organizations Initiative. More significantly, section 905 established FHIP as a permanent program. The final rule implementing these statutory amendments was published on November 27, 1995 (60 FR 58446).

(b) Purpose

This program assists projects and activities designed to enforce and enhance compliance with the Fair Housing Act and substantially equivalent State and local fair housing laws.

(c) Objectives

(1) One of the objectives of this funding round is to provide for a wide geographic distribution of awards for fair housing enforcement and education services throughout the country, including underserved areas.

(2) Through the PEI and FHOI components of this NOFA, the Department will fund full service and broad-based fair housing enforcement projects that address protected classes under the Fair Housing Act (except for the set-aside in the FHOI component described in Section I(f)(3)(i)(D) and in the following section). Enforcement projects must include more than one type of activity. Fair housing services are enforcement activities which consist of: complaint intake; testing; evaluation of testing results; investigation, including: property searches, document reviews, witness interviews; conciliation; enforcement of meritorious claims through litigation or referral to administrative enforcement agencies; and dissemination of information about fair housing laws. These enforcement activities may be conducted on a community, local, regional or national level. Furthermore, to be funded, projects must be broad-based. Broad-based means not limited to a single fair housing issue (such as insurance, mortgage lending or advertising), but rather covering more than one issue related to discrimination in the provision of housing covered under the Fair Housing Act. Proposals under the Education and Outreach Initiative, however, may focus on a single issue that addresses protected classes under the Fair Housing Act.

(3) The Fair Housing Act was amended in 1988 to prohibit housing discrimination on the basis of disability. This amendment also required the provision of reasonable accommodations, where necessary, to permit a person with a disability to have the full enjoyment of their housing. Moreover, it required certain newly constructed multi-family housing to comply with accessibility guidelines published in the **Federal Register**. Although eight years have passed since the enactment of these amendments, it appears that in many areas of the country, much of the covered newly constructed housing still may fail to comply with the Fair Housing Act requirements and many housing providers still discriminate against persons with disabilities and refuse to provide reasonable accommodations for them. For this funding round, the Department seeks to develop the capacity of organizations that assist persons with disabilities to undertake fair housing enforcement activities. This will enable such organizations to develop the capability to become full-service fair housing enforcement organizations and thereby provide greater assistance to clients (including representing clients from other protected classes who are also disabled) in the enforcement of their Fair Housing rights.

(4) During the last four years, the Department has moved aggressively to expand housing choice. Through these efforts, tens of thousands of units of segregated, obsolete public housing are being demolished. Residents of these units frequently face community opposition and prejudice as they attempt to use housing certificates or vouchers to move to non-segregated decent housing in other neighborhoods. Similarly, public housing agencies and non-profit housing providers which seek to develop scattered site public housing or small group homes for persons with disabilities in areas outside of the inner city also are subject to community resistance. In response to these problems, the Department seeks to encourage local fair housing organizations, community groups, and local governmental agencies to engage in grassroots efforts to resolve community tensions that arise as people expand their housing choices. The objective is to bring together fair housing organizations with civic leaders, religious and community officials, and others to work out solutions to local problems.

(d) Definitions

The definitions that apply to this NOFA are as follows:

Qualified fair housing enforcement organization (QFHO–E) means any organization, whether or not it is solely engaged in fair housing enforcement activities, that—

(1) Is organized as a private, tax-exempt, nonprofit, charitable organization;

(2) Has at least 2 years experience in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims; and

(3) Is engaged in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims at the time of application for FHIP assistance. For the purpose of meeting the 2-year qualification period for these activities it is not necessary that the activities were conducted simultaneously, as long as each activity was conducted for 2 years. It is also not necessary for the activities to have been conducted for 2 consecutive or continuous years. An organization may aggregate its experience in each activity over the 3 year period preceding its application to meet the 2-year qualification period requirement.

Fair housing enforcement organization (FHO-E) means any organization that—

(1) Is organized as a private, tax-exempt, nonprofit, charitable organization;

(2) Is currently engaged in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims; and

(3) Upon the receipt of FHIP funds will continue to be engaged in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims.

Meritorious claims means enforcement activities by an organization that resulted in lawsuits, consent decrees, legal settlements, HUD and/or substantially equivalent agency (under 24 CFR 115.6) conciliations and organization-initiated settlements with the outcome of monetary awards for compensatory and/or punitive damages to plaintiffs or complaining parties, or other affirmative relief, including the provision of housing. Applicants should note that the definition of ''meritorious claims'' is only relevant as a part of the definition of QFHO-E and FHO-E, and does not impose a limit on the kinds of activities that may be funded under FHIP.

(e) Allocation Amounts

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, (approved September 26, 1996, Pub. L. 104–204), (97 App. Act) appropriated $15 million for activities pursuant to section 561, the Fair Housing Initiatives Program. This amount is being made available on a competitive basis to eligible organizations that submit timely

applications and are selected in response to this NOFA. The funding selections will be made on the basis of criteria for eligibility, factors for award, completeness of budget information, and any other factors described in this NOFA.

The full cost of FY 1997 multi-year awards under the Private Enforcement Initiative will be funded from FY 97 funds. Recipients of FHIP grant awards under the Private Enforcement Initiative (PEI) based upon applications submitted under the FY 1996 FHIP NOFA, RFA–96–1 (FR–4047, published May 24, 1996, 61 FR 26362), and recipients of PEI FHIP grant awards based upon applications submitted under the FY 1995 FHIP NOFA, RFA–95–1 (FR–3878, published April 11, 1995, 60 FR 18444), may not apply in the FY 1997 competition for multi-year Private Enforcement Initiative awards.

The Department retains the right to shift funds among the FHIP Initiatives listed below, within statutorily prescribed limitations. The amounts included in this NOFA are subject to change based on fund availability. The amount of FY 1997 funding available for the FHIP is divided among three Initiatives as follows:

(1) Education and Outreach Initiative (EOI)

The amount of $1,800,000 in FY 1997 funds is being used for the EOI for 18 month projects.

(i) *National component.* (A) General. Of the FY 1997 EOI total of $1,800,000, $300,000 is made available under this NOFA for national EOI projects, with an award cap of $150,000.

(B) Fair Housing web site projects. Of the $300,000 available under the EOI national component, the Department is reserving $150,000 for applications that will develop and/or administer a web site on the Internet as a means of providing fair housing education and guidance to the public. Applications submitted for these special projects will be rated separately. If insufficient acceptable applications are received, remaining funds will be added to the $300,000 available for national education and outreach projects under section I.(e)(1)(i)(A) of this NOFA above.

(ii) *Regional, local, and community-based component.* The amount of $1,500,000 in FY 1997 funds is made available under this NOFA for regional, local, and community-based projects.

(A) General. A total of $1,000,000 is available, with an award cap of $100,000, for projects that support regional, local and community-based education and outreach efforts.

(B) Projects to address community tensions. A total of $500,000 from the EOI regional, local, and community-based component will be reserved to fund up to five regional, local, and community-based education projects that will address community tensions that arise as people protected under the Fair Housing Act seek to expand their housing choices. The maximum amount awarded to any applicant will be $100,000. Applications submitted for these special projects will be rated separately. If insufficient acceptable applications are received, remaining funds will be added to the $1,000,000 available for regional, local, and community-based education and outreach projects under section I.(e)(1)(ii)(A) of this NOFA, above.

(2) Private Enforcement Initiative (PEI).

Funds for the PEI are made available under this NOFA in the amount of $10.5 million for 24 month projects, with an award cap of $350,000. Recipients of multi-year PEI awards based upon applications submitted under RFA 96–1 and RFA 95–1 may not apply for multi-year PEI funds made available under this NOFA.

(3) Fair Housing Organizations Initiative (FHOI).

The amount of $2,700,000 is made available under this NOFA for the FHOI for 18 month projects, to be used for the continued development of fair housing enforcement organizations, with an award cap of $200,000.

(i) *Organizations serving persons with disabilities.* The Department is reserving $1,350,000 of the $2,700,000 under the FHOI to develop the capacity of organizations that assist persons with disabilities to undertake fair housing enforcement activities, thus enabling such organizations to become full-service fair housing enforcement organizations.

(f) Eligibility

Eligible activities, eligible applicants, and additional requirements under each Initiative are listed below. All activities and materials funded by FHIP must be reasonably accessible to persons with disabilities.

(1) Education and Outreach Initiative (EOI)

(i) *Eligible applicants.* The following organizations are eligible to receive funding under the Education and Outreach Initiative:

(A) State or local governments;

(B) Qualified fair housing enforcement organizations (QFHO-Es);

(C) Fair housing enforcement organizations (FHO-Es)

(D) Public or private non-profit organizations or institutions and other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices; and

(E) Fair Housing Assistance Program (FHAP) Agencies—State and local agencies funded by the Fair Housing Assistance Program (FHAP).

(ii) *Eligible activities.* (A) In general. Each application for Education and Outreach Initiative funding must identify if it proposes a national or a regional, local, or community-based project. In addition, Fair Housing web site projects under the national component, and projects to address community tensions under the regional, local, or community-based component, must be identified. Funding is permitted for reasonable, necessary, and justified production or development of new materials (brochures, public service announcements, videos) for dissemination to the general public. Applicants proposing to develop new materials should demonstrate in their application that they have checked with a local, regional or national clearinghouse for similar or duplicative materials and explain the reason existing materials are not applicable to their area or targeted population(s). The kinds of activities that may be funded through this Initiative may include (but are not limited to) the following:

(*1*) Activities that support the Fair Housing planning requirement of State and local governments subject to the Consolidated Plan (24 CFR part 91). These activities include conducting an analysis of impediments to fair housing choice and undertaking actions to eliminate the identified impediments.

(*2*) Providing fair housing counseling services, including the subjects of pre- and post-purchase counseling (mortgage lending, and brokerage services) and/or rental housing counseling;

(*3*) Providing educational materials, seminars and working sessions for schools, civic associations, neighborhood organizations, and other groups to support community-based education and outreach efforts;

(*4*) Bringing housing industry and civic or fair housing groups together to identify discriminatory housing practices and to determine how to correct them;

(*5*) Providing technical assistance to support compliance with the Fair Housing Act's accessible design and construction requirements and the Fair Housing Accessibility Guidelines;

(*6*) Conducting outreach and providing information on fair housing through printed and electronic media;

(*7*) Developing or implementing Fair Housing Month activities; and

(*8*) Informing persons with disabilities, and/or their support organizations and service providers, housing providers, and the general public on the rights of persons with disabilities under the Fair Housing Act and on the location or availability of accessible housing or the reasonable accommodations, reasonable modifications, or the accessible design and construction provisions of the Act.

(B) National programs. (*1*) Activities eligible to be funded as national programs shall be designed to provide a centralized, coordinated effort for the development and dissemination of fair housing media products or educational materials that may appropriately be used on a nationwide basis. All activities listed in paragraph I.(f)(1)(ii)(A) above are eligible as national projects. As stated at I.(e)(1)(i)(B) of this NOFA, above, $150,000 of the $300,000 available under the EOI national component is set aside for Fair Housing web site projects.

(*2*) National program applications will receive a preference of up to ten additional points if they:

(*i*) Demonstrate cooperation with real estate industry organizations (up to five points); and/or

(*ii*) Provide for the dissemination of educational information and technical assistance to support compliance with the housing adaptability and accessibility guidelines contained in the Fair Housing Amendments Act of 1988 (up to five points).

(C) Regional, local and community-based programs.

(*1*) Activities eligible to be funded as regional, local and community-based programs include any of the activities, to be implemented on a regional, local or community-based level, listed in paragraph I.(f)(1)(ii)(A) above, of this NOFA. As stated at I.(e)(1)(ii)(B) of this NOFA, above, $500,000 of the $1,000,000 available under the EOI regional, local, and community-based component is set aside for projects to reduce community tensions. For applications proposing projects to reduce community tensions, similar activities may be undertaken where designed to address settlement of lawsuits, implementation of regional housing counseling programs, or similar local efforts.

(*2*) For the purposes of this NOFA, activities that are ''local'' in scope are activities that are limited to a single unit of general local government, meaning a city, town, township, county, parish, village, or other general purpose political subdivision of a State. Activities that are ''regional'' in scope are activities that cover adjoining States or two or more units of general local government within a State. Activities that are ''community-based'' in scope are those which are focused on particular neighborhoods within a unit of general local government. Community-based programs include school, church and community presentations, conferences, or other educational activities.

(iii) *Additional requirements.* The following requirements are applicable to all applications under the EOI:

(A) All projects must address or have relevance to housing discrimination based on race, color, religion, sex, handicap, familial status, or national origin.

(B) Projects must be eighteen months in duration. National projects have an award cap of $150,000. Regional, local and community-based projects have an award cap of $100,000. Applications which request FHIP funding in excess of the award cap will be deemed ineligible.

(C) Projects aimed solely or primarily at research or dependent upon such data gathering, including but not limited to surveys and questionnaires, will not be eligible under this NOFA.

(D) All proposals must contain a description of how the activities or the final products of the projects can be used by other agencies and organizations and what modifications, if any, would be necessary for that purpose.

(E) Coordination of activities. Each non-governmental applicant for funding under the Education and Outreach Initiative regional, local and community-based component that is located within the jurisdiction of a State or local enforcement agency or agencies administering a fair housing law that has been certified by the Department under 24 CFR part 115 as being a substantially equivalent fair housing law must provide, with its application, documentation (such as letters between the two organizations) that it has consulted with the agency or agencies to coordinate activities to be funded under the Education and Outreach Initiative. This coordination will ensure that the activities of one group will minimize duplication and fragmentation of activities of the other. Failure to submit the documentation required by this section will be treated as a technical deficiency in accordance with section IV., below, of this NOFA.

(F) Every application must include as one of its activities a procedure for referring persons with fair housing complaints to State or local agencies administering substantially equivalent laws, private attorneys, HUD or the Department of Justice for further enforcement processing.

(2) Private Enforcement Initiative (PEI)

(i) *Eligible applicants.* Organizations that are eligible to receive FY 1997 funding assistance under the PEI are:

(A) Qualified fair housing enforcement organizations.

(B) Fair housing enforcement organizations with at least one year of experience in complaint intake, complaint investigation, testing for fair housing violations, and enforcement of meritorious claims.

(ii) *Eligible activities.* Applications are solicited for project proposals as described in this NOFA. Applications may designate up to 5% of requested funds to conduct education and outreach to promote awareness of the services provided by the project, but such promotion must be necessary for the successful implementation of the project.

(A) Project applications must include more than one type of activity, and may include, but are not limited to, the following:

(*1*) Conducting complaint intake of allegations of housing discrimination;

(*2*) Conducting testing, evaluating testing results or providing other investigative support for administrative and judicial enforcement of fair housing laws;

(*3*) Conducting investigations of individual and systemic housing discrimination for further enforcement processing by HUD or State or local agencies which administer laws that are substantially equivalent to the Fair Housing Act, or for referral to private attorneys or the Department of Justice;

(*4*) Building the capacity to investigate, through testing and other investigative methods, housing discrimination complaints covering all protected classes;

(*5*) Conducting mediations or other voluntary resolutions of allegations of fair housing discrimination;

(*6*) Providing funds for the costs and expenses of litigating fair housing cases, including expert witness fees.

(iii) *Additional requirements.* (A) Testers in testing activities funded with PEI funds must not have prior felony convictions or convictions of crimes involving fraud or perjury, and they must receive training or be experienced in testing procedures and techniques. Testers and the organizations conducting tests, and the employees and agents of these organizations may not:

(*1*) Have an economic interest in the outcome of the test, without prejudice to the right of any person or entity to

recover damages for any cognizable injury;

(*2*) Be a relative of any party in a case;

(*3*) Have had any employment or other affiliation, within one year, with the person or organization to be tested; or

(*4*) Be a licensed competitor of the person or organization to be tested in the listing, rental, sale, or financing of real estate.

(B) Multi-year projects must be for 24 months in duration, with an award cap of $350,000. Successful projects will receive incremental funding during the life of the award subject to periodic performance reviews. Applications which request FHIP funding in excess of the award cap will be deemed ineligible.

(C) Projects aimed solely or primarily at research or dependent upon such data-gathering, including but not limited to surveys and questionnaires unrelated to existing or planned fair housing enforcement programs, will not be eligible for funding under this NOFA.

(D) In accordance with 24 CFR 125.104(f), no recipient of assistance under the PEI may use any funds provided by the Department for the payment of expenses in connection with litigation against the United States.

(E) Recipients of funds under the PEI shall be required to record, in a case tracking log (or Fair Housing Enforcement Log) to be supplied by HUD, information appropriate to the funded project relating to the number of complaints of possible discrimination received; the protected basis of these complaints; the issue, test type, and number of tests utilized in the investigation of each allegation; the respondent type and testing results; the time for case processing, including administrative or judicial proceedings; the cost of testing activities and case processing; to whom the case was referred; and the resolution and type of relief sought and received. The recipient must agree to make this log available to HUD.

(F) All proposals must certify that the applicant will not solicit funds from or seek to provide fair housing educational or other services or products for compensation, directly or indirectly, to any person or organization which has been the subject of testing by the applicant during the 12 month period following the test. This requirement does not preclude settlements based on investigative findings.

(3) Fair Housing Organizations Initiative (FHOI)

Applications may be submitted for funding under the Continued Development of Existing Organizations component of the FHOI.

(i) *Eligible applicants.* Eligible applicants for funding under this component of the FHOI are:

(A) Qualified fair housing enforcement organizations;

(B) Fair housing enforcement organizations;

(C) Nonprofit groups organizing to build their capacity to provide fair housing enforcement; and

(D) Organizations serving persons with disabilities. As stated in section I.(e)(3)(i), above, under the FHOI, $1,350,000 has been set aside to increase enforcement activities for persons with disabilities. Those funds are available for two categories of applicants:

(*1*) Disability advocacy groups. Organizations that traditionally have provided for the civil rights of persons with disabilities may apply. This would include organizations such as Independent Living Centers, and cross-disability legal services groups. Because of limited resources and the wide need for appropriate protections, organizations considered for funding must be experienced in providing services to persons with a broad range of disabilities, including physical, cognitive, and psychiatric/mental disabilities. Organizations must demonstrate actual involvement of persons with disabilities throughout their activities, including on staff and board levels.

In addition, applicants for funding allocated to organizations that serve persons with disabilities must meet the following requirements;

(*i*) Be organized as a private, tax-exempt, non-profit, charitable organization;

(*ii*) Be established with a primary purpose to assist persons with disabilities in exercising or protecting their fair housing and/or other civil rights (persons with disabilities need not be the only class served by the organization and fair housing and/or civil rights protection need not be the only activity of the organization).

(*2*) Fair Housing/Disability Advocacy Joint Partnership Teams. Eligible applicants listed in section I.(f)(3)(i)(A) through (D), above, of this NOFA may submit applications which demonstrate a partnership project that involves both an established fair housing enforcement group and a disability advocacy group as defined in section I.(f)(3)(i)(D)(*1*) of this NOFA. This may be done in cases where the disability advocacy group either lacks the capacity for, or interest in, providing all aspects of enforcement activity. Joint partnerships will, depending upon the division of roles, enable the disability advocacy group to develop expertise and experience in providing enforcement activities, while sensitizing and educating the QFHO E's or FHO-E's to issues related to the provision of services to persons with disabilities. A joint partnership application would only be submitted by a single organization, but the application would demonstrate a cooperative undertaking with substantive involvement in fair housing education and enforcement by the two kinds of organizations involved in the partnership project.

The Department encourages applications under this set-aside that creatively address the need to provide fair housing services using existing resources in the most efficient and productive manner. Partnership agreements should clearly delineate the roles of each organization to develop the capacity of each organization to undertake fair housing enforcement activities with respect to rights and responsibilities for persons protected on the basis of handicap.

(ii) *Eligible activities.* Applications are solicited for project proposals as described in this NOFA. Applications may designate up to 5% of requested funds to conduct education and outreach to promote awareness of the services provided by the project, but such promotion must be necessary for the successful implementation of the project. Eligible activities for funding under this purpose of the FHOI are any activities listed as eligible under the PEI in section I.(f)(2)(ii), and any activities to increase enforcement activities for organizations serving persons with disabilities, as described in section I.(f)(3)(i)(D), above, of this NOFA and carried out as eighteen-month projects.

(iii) *Additional Requirements.* The following requirements apply to activities funded under the Continued Development of Existing Organizations purpose of the FHOI:

(A) Operating budget limitation. Funding provided under this purpose of the FHOI may not exceed more than 50 percent of the operating budget of the recipient organization for any one year. For purposes of the limitation in this paragraph, *operating budget* means the applicant's total planned budget expenditures from all sources, including the value of in-kind and monetary contributions, in the 18 months for which funding is sought.

(B) Term of grant. Projects are eighteen months in duration, with an award cap of $200,000. Applications which request FHIP funding in excess of the award cap will be deemed ineligible.

(C) Testers in testing activities funded with FHIP funds must not have prior felony convictions or convictions of crimes involving fraud or perjury, and they must receive training or be experienced in testing procedures and techniques. Testers and the organizations conducting tests, and the employees and agents of these organizations may not:

(*1*) Have an economic interest in the outcome of the test, without prejudice to the right of any person or entity to recover damages for any cognizable injury;

(*2*) Be a relative of any party in a case;

(*3*) Have had any employment or other affiliation, within one year, with the person or organization to be tested; or

(*4*) Be a licensed competitor of the person or organization to be tested in the listing, rental, sale, or financing of real estate.

(D) Projects to be aimed solely or primarily at research or dependent upon such data-gathering, including but not limited to surveys and questionnaires will not be eligible for funding under this NOFA.

(E) Each applicant under the continued development of existing organizations component of the FHOI must submit an operating budget that describes the applicant's total planned expenditures from all sources, including the value of in-kind and monetary contributions, in the 18 months for which funding is sought. This operating budget will be used for the purposes of determining the extent of the 50% funding limitation on operating expenses.

(F) All proposals for testing under the FHOI must certify that the applicant will not solicit funds from or seek to provide fair housing educational or other services or products for compensation, directly or indirectly, to any person or organization which has been the subject of testing by the applicant during a 12 month period following the test. This does not preclude settlement based on investigative findings.

(G) Recipients of funds under the FHOI shall be required to record, in a case tracking log (or Fair Housing Enforcement Log) to be supplied by HUD, information appropriate to the funded project relating to the number of complaints of discrimination received; the protected basis of these complaints; the issue, test type and number of tests utilized in the investigation of each allegation; the respondent type and testing results; the time of case processing, including administrative or judicial proceedings; the cost of testing activities and case processing; and to whom referred, resolution, and type of relief provided. The recipient must agree to make this log available to HUD.

(g) Selection Criteria/Rating Factors

(1) Selection Criteria for Rating Applications for Assistance

The following five selection criteria apply to each of the initiatives covered by this NOFA and account for 100 points available for award. In addition to the preference points indicated in section I.(f)(1)(ii)(B)(*2*) for applications under the EOI national component, all projects proposed in applications will be rated on the basis of the following criteria for selection:

(i) *Need.* (20 points) This criterion will be judged on the basis of the applicant's submissions in response to paragraphs III.(1) and III.(2) of this NOFA under the heading ''Checklist of Application Submission Requirements.'' The applicant must demonstrate that it is serving areas with significant fair housing problems. HUD will consider the extent to which the application clearly delineates a fair housing need or needs in the project area(s) that can be resolved through the proposed FHIP funded activities of the organization. The applicant must demonstrate how these needs were identified and how the activities proposed will address these needs. HUD will also consider the extent to which the applicant demonstrates a familiarity with the efforts of government agencies, fair housing organizations, community-based organizations, housing industry groups, and other entities in the community which are engaged in or have an impact on fair housing education/enforcement in the communities to be served.

(ii) *Quality of project and related activities that the applicant proposes to carry out under the grant.* (25 points) This criterion will be judged on the basis of the applicant's submissions in response to paragraph III.(3), III.(4) and III.(5) of this NOFA under the heading ''Checklist of Application Submission Requirements.'' HUD will consider:

(A) The extent to which the applicant's proposal outlines a clear and easy to understand project, that can be successfully carried out within the grant period.

(B) The extent to which the applicant explains the benefits that successful completion of the project will produce to enhance fair housing and the indicators by which these benefits are to be measured. In addition to immediate benefits, the applicant must also describe the expected long-term viability of project results.

(C) The extent to which an applicant's PEI or FHOI enforcement activities proposal furthers the objective of funding full service and broad-based fair housing enforcement projects that address protected classes under the Fair Housing Act.

(iii) *Outreach and Project Support.* (10 points) This criterion will be judged on the basis of the applicant's submission in response to paragraph III.(6) and III.(7) of this NOFA under the heading ''Checklist of Application Submission Requirements.'' This factor has two subfactors:

(A) The extent to which the application demonstrates the ability of the applicant to disseminate or utilize FHIP or existing fair housing materials in locations served by the proposed project. Applications must demonstrate how the project will promote awareness of the services provided by the project (5 points). In rating this subfactor, HUD will evaluate:

(*1*) The extent to which the proposed activities will reach persons throughout the region to be served and will identify and use existing fair housing materials; and

(*2*) The extent to which the application will promote awareness of the services provided by the proposed activities.

(B) The extent to which the application demonstrates the commitment of funds and other in-kind resources to the project (5 points). In rating this subfactor, HUD will consider:

(*1*) Estimate of the public or private resources that may be available to assist the proposed activities; and

(*2*) The extent to which resources have been firmly committed for the proposed project. This includes the reasonableness of applicant's documented efforts to secure support and the quality of applicant's plan for securing additional funds to support the activities during the period of the project.

(iv) *Management Capability.* (35 points) This criterion will be judged on the basis of the applicant's submission in response to paragraph III.(8) III.(9) and III.(10) under the heading ''Checklist of Application Submission Requirements.'' This factor has two subfactors:

(A) The extent to which the applicant demonstrates that the proposed management approach will enable the applicant to successfully carry out the

proposed activities (10 points); In rating this subfactor, HUD will consider:

(*1*) Appropriateness, completeness, clarity, and specificity of the tasks proposed in the Statement of Work to implement the project. This includes such considerations as regions to be served, clientele to be served, specific protected class focus, and type and scope of deliverables.

(*2*) Whether the budget includes necessary costs for the proposed activities and reasonableness of the costs for the proposed activities, including level of expertise proposed for various tasks.

(*3*) Extent to which the applicant demonstrates capability in handling financial resources with adequate financial control procedures and accounting procedures. In addition, considerations will include findings identified in their most recent audit, internal consistency in the application of numeric quantities, accuracy of mathematical calculations and other available information on financial management capability.

(B) The extent to which the applicant demonstrates the capacity to carry out satisfactorily the proposed activities in a timely fashion (25 points); HUD will consider:

(*1*) Experience of the applicant organization that is relevant to the proposed project.

(*2*) The applicant's management and performance under past and current FHIP or other civil rights projects. Where the applicant has managed several projects, special consideration will be given to past performances in those projects which are most relevant to the proposed project. Under this factor, HUD will consider, in particular, progress reviews and closeout assessments on current and past FHIP grants awarded to the applicant organization.

(*3*) The qualifications of the Project Director, key project staff and any sub-contractors, consultants, and subrecipients which are firmly committed to the project. If most key personnel are not identified, the applicant must demonstrate how it proposes to carry out activities in the interim while vacancies are being filled. For any significant personnel, including subcontractors, not yet hired or selected, how appropriate are the qualifications to be considered in the selection.

(*4*) The reasonableness of timelines for implementation, procedures for monitoring and assessing results and adequacy of the Statement of Work for assuring that the project is completed in a timely and effective manner.

(v) *Place-based.* The Secretary's Representative will evaluate and rate applications from their respective Regions under the selection criteria at section I.(g)(1)(i), ''Need,'' and section I.(g)(1)(ii), ''Quality of project and related activities that the applicant proposes to carry out under the grant.'' This participation by the Secretary's Representatives will take advantage of their unique knowledge of circumstances within their regions, and will promote ''place-based'' considerations in the selection of applicants. HUD will award up to 5 points under each of these selection criteria, up to a total of 10 points, on the basis of the evaluation by the Secretary's Representatives.

(2) Selection Process

The selection process is structured to achieve the objectives set forth in section I.(c) of this NOFA. Awards will generally be made in rank order, except that the additional procedures described below will be followed to make awards out of rank order to achieve this goal.

Each application for funding will be evaluated competitively. Upon receipt, the applications will be sorted into seven categories: PEI; EOI-National/Web-site; EOI-National/Other; EOI-Regional, local and community-based/reduction of community tensions; EOI-Regional,local and community-based/other; FHOI-Continued Development of Existing Organizations/Organizations Serving Persons with Disabilities; and FHOI-Continued Development of Existing Organizations/Other. Then, in each category, they will be awarded points and assigned a score based on the Selection Criteria for Rating Applications for Assistance identified in section I.(g)(1) of this NOFA. The final decision rests with the Assistant Secretary for Fair Housing and Equal Opportunity or designee. After eligible applications are evaluated against the factors for award and assigned a score, they will be organized by rank order. Awards for each category listed above will be funded in rank order until all available funds have been obligated, or until there are no acceptable applications, with the exception described in section I.(g)(2)(i), immediately below, which is designed to achieve geographic distribution of awards and to achieve full service and broad-based fair housing enforcement projects.

(i) *Achieving geographic distribution of awards.* The Assistant Secretary, or designee, will have the discretion to make awards out of rank order and fund or not fund applications in order to provide broader geographic representation in accordance with the following procedure. For the PEI funding category only, the highest ranking application from each of the ten HUD broad regions, as described in the application kit, will be funded first. Following the selection of the highest ranking application under the PEI in each region, the remaining awards under the PEI and all awards made under the other Initiatives and components within each category will be funded in rank order, except as follows: only the highest ranking application under any non-national Initiative or component for activities to be conducted in a Metropolitan Statistical Area (MSA), as defined by the Bureau of the Census, will be selected. No other application proposing activities in the same MSA under the same Initiative or component will be selected, unless there are not enough applications of sufficient quality to permit the awarding of all funds in an Initiative or component. If the selection panel determines that there are not enough applications of sufficient quality in any Initiative or component, then the next highest ranked application(s) that had previously been passed over may be funded in the same MSA.

(ii) *Achieving full service and broad based fair housing projects.* Regardless of its ranking, an application proposing enforcement activities will not be funded if it is not focused on providing full service and broad based fair housing enforcement projects that address protected classes under the Fair Housing Act.

(iii) *Tie breaking.* When there is a tie in the overall total score, the award will be made to the applicant that has the higher score under Selection Criteria (ii) of section I.(g)(1). If these applications are equal in this respect, the application that receives a total higher number of cumulative points under Selection Criteria (i) and (iv) of section I.(g)(1), above, will receive the award. If these scores are identical then the award will be made to the applicant with the lower request for FHIP funding.

(h) General Requirements for Applications

(1) Applicants Limited to a Single Award

Applicants may apply for funding for more than one project or activity under one or more Initiatives. However, applicants are limited to one award under this NOFA. If more than one eligible application is submitted by an applicant and both are within funding range, the Department will select the application which the applicant has

indicated as its preference for award should more than one application submitted be within funding range.

(2) Independence of Awards

Each project or activity proposed in an application must be independent and capable of being implemented without reliance on the selection of other applications submitted by the applicant or other applicants. However, this provision does not preclude an applicant from submitting a proposal which includes other organizations as subcontractors to the proposed project or activity.

(3) Project Starting Period

The Department has determined that all applications must propose that the project will begin no later than December 1, 1997.

(4) Page Limitation

Applicants will be limited to 10 pages of narrative responses for each of the five selection criteria (this does not include forms or documents which are required under each criterion). Furthermore, unrequested items including brochures, news articles, letters of support and other examples included in the application will not be considered in the evaluation process. Applicants that exceed the 10-page limit for each criterion will only have the first 10 pages evaluated for each criterion. Failure to provide narrative responses to criteria (i) through (iv) will result in an application being deemed as ineligible.

(i) Applicant Notification and Award Procedures

(*1*) *Notification.* No information will be available to applicants during the period of HUD evaluation, approximately 90 days, except for notification in writing or by telephone to those applicants that are determined to be ineligible or that have technical deficiencies in their applications that may be corrected. Selectees will be announced by HUD upon completion of the evaluation process, subject to final negotiations and award.

(*2*) *Negotiations.* After HUD has ranked the applications and provided notifications to applicants whose scores are within the funding range, HUD will require that applicants in this group participate in negotiations to determine the specific terms of the cooperative or grant agreement. In cases where it is not possible to conclude the necessary negotiations successfully, awards will not be made.

If an award is not made to an applicant whose application is in the initial funding threshold because of an inability to complete successful negotiations, and if funds are available to fund any applications that may have fallen outside the initial funding threshold, HUD will select the next highest ranking applicant and proceed as described in the preceding paragraph.

(*3*) *Funding Instrument.* HUD expects to award a cost reimbursable or fixed-price cooperative or grant agreement to each successful applicant. HUD reserves the right, however, to use the form of assistance agreement determined to be most appropriate after negotiation with the applicant.

(*4*) *Reduction of Requested Grant Amounts and Special Conditions.* HUD may approve an application for an amount lower than the amount requested, fund only portions of an application, withhold funds after approval, and/or require the grantee to comply with special conditions added to the grant agreement, in accordance with 24 CFR 84.14, the requirements of this NOFA, or where:

(*i*) HUD determines the amount requested for one or more eligible activities is unreasonable or unnecessary;

(*ii*) The applicant has proposed an ineligible activity in an otherwise eligible project;

(*iii*) Insufficient amounts remain in that funding round to fund the full amount requested in the application, and HUD determines that partial funding is a viable option;

(*iv*) The applicant has demonstrated an inability to manage HUD grants, particularly FHIP grants; or

(*v*) For any other reason where good cause exists.

(5) *Performance Sanctions.* A recipient failing to comply with the procedures set forth in its grant agreement will be liable for such sanctions as may be authorized by law, including repayment of improperly used funds, termination of further participation in the FHIP, and denial of further participation in programs of the Department or of any Federal agency.

II. Application Process

An application kit is required as the formal submission to apply for funding. The kit includes information on the Statement of Work and Budget for activities proposed by the applicant. An application may be obtained by writing the Fair Housing Information Clearinghouse, P.O. Box 9146, McLean, VA 22102, or by calling the toll free number 1–800–343–3442 (voice) or 1–800–290–1617 (TTY). To ensure a prompt response, it is suggested that requests for application kits be made by telephone.

Completed applications are to be submitted to: Maxine B. Cunningham, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, Room 5234, 451 Seventh Street, S.W., Washington, DC 20410.

The application due date will be specified in the application kit. Applicants submitting an application under the Private Enforcement Initiative will be given at least 50 days from today's date, until August 15, 1997, to submit their applications. Applicants submitting applications under the Education and Outreach Initiative and the Fair Housing Organizations Initiative will be given at least 60 days from today's date, until August 25, 1997, to submit their applications. Applications will be accepted if they are received on or before the application due date, or are received within 7 days after the application due date, but with a U.S. postmark or receipt from a private commercial delivery service (such as, Federal Express or DHL) that is dated on or before the application due date.

The application deadline is firm as to date. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. A transmission by facsimile machine (''FAX'') will not constitute delivery.

An applicant may apply for funding for more than one project or activity, but a separate application must be submitted for each of the following categories of funding:

(1) Private Enforcement Initiative-Multi-year projects;

(2) Education and Outreach Initiative-National/Fair Housing Web Site on the Internet;

(3) Education and Outreach Initiative-National/other projects;

(4) Education and Outreach Initiative-Regional, local and community-based/reduction of community tensions;

(5) Education and Outreach Initiative-Regional or local and community-based/other projects;

(6) Fair Housing Organizations Initiative-Continued Development of Existing Organizations/Organizations Serving Persons with Disabilities; and

(7) Fair Housing Organizations Initiative-Continued Development of Existing Organizations/Other Projects.

Although a separate application is required for each funding category, an application may propose more than one

type of eligible activity under each category. For example, distribution of a public service message and conduct of a seminar may be proposed in a single application for a national program under the EOI.

Applicants must submit all information required in the application kit and must include sufficient information to establish that the applicant and its application meet eligibility requirements as set forth above and that the application meets the selection criteria set forth in section I.(d), above, of this NOFA.

III. Checklist of Application Submission Requirements

The application kit will contain a checklist of application submission requirements to complete the application process. Each application for FHIP funding must contain the following items:

(1) A description indicating the need for FHIP funding in support of the proposed project. This must include a discussion of how these needs were identified, including reference to studies or other information and relevant demographic data relating to the nature and extent of discriminatory housing practices in the location(s) where the applicant proposes to undertake activities.

(2) A description of how the proposed activities relate to efforts by other entities in the community that are engaged in or have an impact on fair housing education/enforcement in the communities to be served.

(3) A description of the activities proposed for funding in the general location where the applicant proposes to undertake activities.

(4) A description of the fair housing benefits that successful completion of the project will produce, and the indicators by which these benefits are to be measured.

(5) A description of the degree to which the project will be of continuing use in addressing housing discrimination after funded activities have been completed;

(6) A description of the activities proposed that will disseminate or utilize FHIP or existing fair housing materials in the project area(s) served. This description must include a discussion of procedures used to promote awareness of the services provided by the proposed project;

(7) An estimate of other public or private resources that will be used to assist the proposed activities.

(8) A budget—which must include a set-aside of $3,000 for 18 month projects and $6,000 for 24 month projects to be used for travel and associated costs for training sponsored or approved by the Department—and a Statement of Work which includes a timeline for the implementation of the proposed activities, consisting of a description of the specific activities to be conducted with FHIP funds, the geographic areas to be served by the activities, any reports to be produced in connection with the activities, and a schedule for the implementation and completion of the activities.

(9) A description of the applicant's experience in formulating or carrying out programs to prevent or eliminate discriminatory housing practices or in implementing other civil rights programs, the experience and qualifications of existing personnel identified for key positions, or a description of the qualifications of new staff to be hired, and the experience of subcontractors/consultants.

(10) A description of the procedures to be used by the applicant for monitoring the progress of the proposed activities and the applicant's planned or implemented financial control procedures that will demonstrate the applicant's capability in managing financial resources.

(11) HUD Form 2880, Applicant Disclosures;

(12) A listing of any current or pending grants or contracts, or other business or financial relationships or agreements, to provide training, education, and/or self-testing services between the applicant and any entity or organization of entities involved in the sale, rental, advertising, or provision of brokerage, or lending services for housing. The listing must include the name and address of the entity or organization; a brief description of the services being performed or for which negotiations are pending; the dates for performance of the services; and the amount of the contract or grant. This listing must be updated during the grant negotiation period, at the end of the grant term, and for grants that will run for more than twelve months, at the end of each year of the multi-year project.

(13) The applicant must submit a certification and disclosure in accordance with the requirements of section 319 of the Department of the Interior Appropriations Act (Pub. L. 101–121, approved October 23, 1989), as implemented in HUD's interim final rule at 24 CFR part 87, published in the **Federal Register** on February 26, 1990 (55 FR 6736). This statute generally prohibits recipients and subrecipients of Federal contracts, grants, cooperative agreements and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. If warranted, the applicant should include the Disclosure of Lobbying Activities form (SF–LLL).

(14) Prior to award execution, successful applicants must submit a certification that they will comply with the certification requirements contained in the application kit.

(15) Each applicant applying as a qualified fair housing enforcement organization or fair housing enforcement organization must have available upon request documentation which demonstrates that the applicant meets all of the requirements of a qualified fair housing enforcement organization (QFHO–E) or fair housing enforcement organization (FHO–E), as defined under the heading *Definitions,* in section I.(d), above, of this NOFA.

IV. Corrections to Deficient Applications

Applicants will not be disqualified from being considered for funding because of technical deficiencies in their application submission, e.g., an omission of information such as regulatory/program certifications, or incomplete signatory requirements for application submission.

HUD will notify an applicant in writing of any technical deficiencies in the application. The applicant must submit corrections within 14 calendar days from the date of HUD's letter notifying the applicant of any technical deficiency.

The 14-day correction period pertains only to non-substantive, technical deficiencies or errors. Technical deficiencies relate to items that:

1. Are not necessary for HUD review under selection criteria/ranking factors; and

2. Would not improve the substantive quality of the proposal.

V. Other Matters

Prohibition Against Lobbying Activities

Applicants for funding under this NOFA are subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991, 31 U.S.C. 1352 (the Byrd Amendment), which prohibits applicants from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. Applicants are required to certify, using the certification found at Appendix A to 24 CFR part 87, that they will not, and have not, used appropriated funds for

any prohibited lobbying activities. In addition, applicants must disclose, using Standard Form LLL, ''Disclosure of Lobbying Activities,'' any funds, other than federally appropriated funds, that will be or have been used to influence federal employees, members of Congress, and congressional staff regarding specific grants or contracts.

Environmental Impact

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.19(c)(3) of the HUD regulations, the policies and procedures contained in this notice provide for assistance in promoting or enforcing fair housing and therefore, are categorically excluded from the requirements of the National Environmental Policy Act, except for extraordinary circumstances, and no FONSI is required.

Executive Order 12612, Federalism

The General Counsel has determined, as the Designated Official for HUD under section 6(a) of Executive Order 12612, Federalism, that the policies contained in this Notice will not have federalism implications and, thus, are not subject to review under the Order. The promotion of fair housing policies is a recognized goal of general benefit without direct implications on the relationship between the national government and the states or on the distribution of power and responsibilities among various levels of government.

Drug-Free Workplace Certification

The Drug-Free Workplace Act of 1988 requires grantees of Federal agencies to certify that they will provide drug-free workplaces. Thus, each applicant must certify that it will comply with drug-free workplace requirements in accordance with 24 CFR part 24, subpart F.

Accountability in the Provision of HUD Assistance

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the final rule codified at 24 CFR part 4, subpart A, published on April 1, 1996 (61 FR 1448), contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992, HUD published, at 57 FR 1942, a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

Documentation and Public Access Requirements

HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

Disclosures

HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

Section 103 HUD Reform Act

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) A telecommunications device for persons with speech and hearing impairments is available at 1–800–877–8339. For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

The program components of FHIP are described in the Catalog of Federal Domestic Assistance at 14.409, Education and Outreach Initiative; 14.410, Private Enforcement Initiative; and 14.413, Fair Housing Organizations Initiative.

Authority: 42 U.S.C. 3601–3619; 42 U.S.C. 3616 note.

Dated: June 20, 1997.

Susan M. Forward,

Deputy Assistant Secretary for Enforcement and Investigations.

[FR Doc. 97–16753 Filed 6–25–97; 8:45 am]

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federal register

Thursday
June 26, 1997

Part V

Environmental Protection Agency

40 CFR Parts 136 and 141

Guidelines Establishing Test Procedures for the Analysis of Pollutants and National Primary Drinking Water Regulations; Flexibility in Existing Test Procedures and Streamlined Proposal of New Test Procedures; Correction, Announcement of Meetings, and Extension of Comment; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 136 and 141

[FRL–5848–3]

RIN 2040–AC93

Guidelines Establishing Test Procedures for the Analysis of Pollutants and National Primary Drinking Water Regulations; Flexibility in Existing Test Procedures and Streamlined Proposal of New Test Procedures; Correction, Announcement of Meetings, and Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction, Announcement of Meetings, and Extension of Comment Period.

SUMMARY: EPA is correcting minor errors in the preamble and regulatory language of its proposed rule to streamline EPA's water methods approval program, which appeared in the **Federal Register** on March 28, 1997 (62 FR 14976).

EPA also announces two public meetings on the proposed rule and extends the comment period from March 28, 1997 to August 1, 1997.

DATES: EPA will conduct two public meetings on streamlining EPA's water methods approval programs. The first of these meetings will be held on Thursday, July 17, 1997, in Chicago, Illinois, from 9:00 a.m. to 12:30 p.m. The second of the two meetings will be held on August 1, 1997, in Dallas, Texas, from 9:00 a.m. to 1:00 p.m. Registration for the meetings will begin at 8:00 a.m. Public comments regarding the streamlining proposed rule will be accepted until August 1, 1997.

ADDRESSES: Send written comments to the Streamlining Methods Docket Clerk, Ben J. Honaker, Water Docket (MC–4101), USEPA, 401 M Street SW, Washington, DC 20460. The July 17, 1997, meeting will be held at the Hotel Inter-Continental Chicago located at 505 North Michigan Avenue, Chicago, Illinois. The August 1, 1997, meeting will be held at the Wyndham Anatole Hotel-Dallas located at 2201 Stemmons Freeway, Dallas, Texas.

FOR FURTHER INFORMATION CONTACT: Questions concerning this comment can be directed to Marion Thompson by phone at (202)260–7117 or by facsimile at (202)260–7185.

SUPPLEMENTARY INFORMATION:

Background

On March 28, 1997, EPA proposed an initiative to streamline its water methods approval program (62 FR 14976) (Streamlining Initiative). The purpose of the Streamlining Initiative is to expand method flexibility and expedite the method approval process for wastewater and drinking water methods approved at 40 Code of Federal Regulations (CFR) parts 136 and 141. This initiative would support a performance-based approach to environmental measurements under the Clean Water Act and Safe Drinking Water Act through use of quality control criteria in EPA-designated reference methods as the baseline standards of method performance. The initiative would encourage introduction of innovative technologies and involvement of stakeholders in the method development process by expediting Agency processes when external organizations develop and submit for approval new analytical methods. The goal of streamlining is to facilitate early introduction of new and innovative technologies that may reduce costs, overcome analytical difficulties, improve laboratory safety, and enhance data quality, while reducing the regulatory burden imposed by prescriptive methods.

The Streamlining Initiative was first outlined in a notice in 60 FR 47325 (September 12, 1995). Between September 1995 and July 1996, EPA held four public meetings to gather input on the Streamlining Initiative. The suggestions from these meetings were used in refining the Streamlining Initiative prior to its proposal. The Streamlining Initiative includes the following elements: standardized quality control tests in all methods, designation of reference methods that contain QC acceptance criteria for all standard QC tests, increased flexibility to modify reference methods without seeking prior EPA approval provided that the applicant demonstrates method equivalency, a tiered strategy for validating methods based on their intended use, a standard method format, suggested standard data elements for reporting, an amended process for non-EPA organizations to submit new methods for approval, and more rapid approval procedures.

Extension of Comment Period

EPA is extending the time for receipt of comments until August 1, 1997 to accommodate the two public meetings announced in this notice. Verbal comments will be accepted at these two public meetings only. All other comments must be written.

All comments received by August 1, 1997 and submitted in accordance with these instructions and the instructions in the Notice of Proposed Rulemaking will be entered into the public record and considered by EPA before promulgation of the final rule.

Corrections to Proposed Rule Tables

This document corrects three tables that appeared in the Identification of Test Procedures section of the proposed rule. Several of the values in the ''Recovery,'' ''Precision,'' ''Spiking Conc,'' ''IPR Recovery-Low,'' ''IPR Recovery-High,'' ''OPR Recovery-Low,'' ''OPR Recovery-High,'' ''MS/MSD Recovery-Low,'' ''MS/MSD Recovery-High,'' ''ML Value,'' and ''ML Calc'' columns of Table 1F that appears on page 15011 of the proposed rule are incorrect. Several of the values in the ''Recovery,'' ''Precision,'' ''Spiking Conc,'' ''IPR Recovery-Low,'' ''IPR Recovery-High,'' ''OPR Recovery-Low,'' ''OPR Recovery-High,'' ''MS/MSD Recovery-Low,'' and ''MS/MSD Recovery-High'' columns of the table titled, ''Standardized QC and QC Acceptance Criteria for Methods in 40 CFR 141.23(k)(1),'' that appears on page 15046 of the proposed rule also are incorrect. This notice provides end notes to Table 1F that appears on page 15011 of the proposed rule, and the table titled, ''Standardized QC and QC Acceptance Criteria for Methods in 40 CFR 141.23(k)(1),'' that appears on page 15046 of the proposed rule. These end notes, which were inadvertently omitted in the proposed rule, clarify the source of the quality control (QC) criteria that appear in these tables.

Entries 8 through 11 were inadvertently omitted from the version of Table 141.40(n)(11) that appears on page 15049 of the proposed rule.

Meeting Arrangements

Arrangements for the public meetings on the streamlining proposed rule are being coordinated by DynCorp, Inc. For information on registration, contact Cindy Simbanin, 300 N. Lee Street, Suite 500, Alexandria, VA 22314. Phone: 703/519–1386; facsimile: 703/684–0610.

Hotel reservations for the meeting on July 17,1997, may be made by contacting the Hotel Inter-Continental Chicago at 312/944–4100. The hotel address is 505 North Michigan Avenue, Chicago, Illinois 60611. When making reservations, specify that you are affiliated with the ''EPA PFPR Workshop'' (the EPA Pesticide Formulating, Packaging and Repackaging Workshop). Hotel reservations for the meeting on August 1, 1997, may be made by contacting the Wyndham Anatole Hotel-Dallas at 214/748–1200. The hotel address is 2201

Stemmons Freeway, Dallas, Texas 75207. Guest rates are $84.00, including tax. Reservations must be made by June 30, 1997. When making reservations, you must specify that you are affiliated with ''NELAC'' (the National Environmental Laboratory Accreditation Committee) to qualify for the quoted rate. Accommodations are limited for both meetings, so please make your reservations early.

Agenda Topics

The purpose of the public meetings in Chicago and Dallas is to present and discuss EPA's proposed approach to streamlining its water methods approval program. Each meeting will consist of a brief overview of the Streamlining Initiative, followed by comments and questions.

The following topics will be addressed at the public meetings:

- Increasing flexibility to modify approved methods to facilitate use of innovative technologies.
- Designating reference methods that contain QC acceptance criteria to support determination of method equivalency when method modifications are used.
- Tiered strategy for validating new methods and method modifications based on intended use of the method.
- Streamlining the method proposal and promulgation process in order to take advantage of emerging analytical technologies in a timely manner.

Dated: June 20, 1997.

Robert Perciasepe,

Assistant Administrator for Water.

The following corrections are made in FRL–5800–2, Guidelines Establishing Test Procedures for the Analysis of Pollutants and National Primary Drinking Water Regulations; Flexibility in Existing Test Procedures and Streamlined Proposal of New Test Procedures, which was published in the **Federal Register** on March 28, 1997 (62 FR 14976).

1. On page 15011, Table 1F is corrected to read as follows:

BILLING CODE 6560–50–P

Table IF- Standardized QC and QC Acceptance Criteria for Methods in 40 CFR Part 136, Table IB

		Data					Specifications													
										IPR			OPR		MS/MSD					
		Reference		Prec-					Spike	Recovery		Prec-	Recovery		Recovery				ML	ML
No.	Analyte	Method	Recovery	ision	Labs	Source	CAL points	CAL lin	conc	Low	High	ision	Low	High	Low	High	RPD	MDL	Value	Calc
1.	Acidity (CaCO3)	305.1	---	1.00	Multi	MCAW	2	---	---	---	---	3.6	---	---	---	---	3.6		10 mg/L	Range
						W														
2.	Alkalinity "	310.1	---	2.00	Multi	"	2	---	---	---	---	7.2	---	---	---	---	7.2		10 mg/L	310.2
	"	310.2	99.50	0.50	Single	"	2	---	100 mg/L	96.0	103.0	1.5	96.0	103.0	96.0	103.0	1.8		10 mg/L	Range
3.	Aluminum - Flame	202.1	99.13	31.60	Multi	Apx D	5	25 %	100 ug/L	35.0	163.0	64.0	29.0	169.0	29.0	169.0	64.0		15 ug/L	Data
	" - Furnace	202.2	103.69	42.74	Multi	Apx D	5	25 %	100 ug/L	18.0	190.0	86.0	9.0	198.0	9.0	198.0	86.0		20 ug/L	Range
	" - ICP	200.7	96.33	24.19	Multi	Apx C	5	25 %	100 ug/L	47.0	145.0	49.0	43.0	150.0	43.0	150.0	49.0	20 ug/L	50 ug/L	3.18 x MDL
	" - DCP	---																		
	" - Color	---																		
4.	Ammonia - distill																			
	" - Nessler	350.2	100.46	14.27	Multi	MCAW	3	10 %	2.0 mg/L	71.0	129.0	29.0	69.0	132.0	69.0	132.0	29.0		50 ug/L	Range
						W														
	" - Titr	350.2	100.46	14.27	Multi	MCAW	3	10 %	2.0 mg/L	71.0	129.0	29.0	69.0	132.0	69.0	132.0	29.0		1.0 mg/L	Range
						W														
	" - ISE	350.3	91.00	2.31	Single	MCAW	3	10 %	130 ug/L	78.0	104.0	6.9	77.0	105.0	77.0	105.0	8.4		30 ug/L	Range
						W														
	" - Phenate	350.1	103.00	1.16	Single	MCAW	1	---	0.5 mg/L	96.0	110.0	3.5	96.0	110.0	96.0	110.0	4.2		10 ug/L	Range
						W														
	" - Auto elec	---																		
5.	Antimony - Flame	204.1	96.50	1.13	Single	MCAW	1	---	10 mg/L	90.0	103.0	3.4	89.0	104.0	89.0	104.0	4.1		1.0 mg/L	Range
						W														
	Antimony - Furnace	204.2	71.20	38.17	Multi	Apx D	5	25 %	100 ug/L	d	148.0	77.0	d	156.0	d	156.0	77.0		20 ug/L	Range
	Antimony - ICP	200.7	76.00	15.44	Multi	Apx C	3	10 %	500 ug/L	45.0	107.0	31.0	42.0	110.0	42.0	110.0	31.0	8 ug/L	20 ug/L	3.18 x MDL
6.	Arsenic	206.5	Digestion - no specs																	

Table IF- Standardized QC and QC Acceptance Criteria for Methods in 40 CFR Part 136, Table IB

		Data					Specifications												
										IPR			OPR		MS/MSD				
		Reference		Prec-					Spike	Recovery		Prec-	Recovery		Recovery			ML	ML
No.	Analyte	Method	Recovery	ision	Labs	Source	CAL points	CAL lin	conc	Low	High	ision	Low	High	Low	High	RPD	MDL	Value	Calc
	" - Hydride	206.3	98.38	8.19	Single	3114 B	3	10 %	200 ug/L	54.0	142.0	24.6	49.0	148.0	49.0	148.0	30.0		2.0 ug/L	Range
	" - Furnace	206.2	98.63	15.98	Multi	Apx D	3	10 %	100 ug/L	66.0	131.0	32.0	63.0	134.0	63.0	134.0	32.0		5.0 ug/L	Range
	" - ICP	200.7	92.17	14.79	Multi	Apx C	3	10 %	100 ug/L	62.0	122.0	30.0	59.0	125.0	59.0	125.0	30.0	8 ug/L	20 ug/L	3.18 x MDL
	" - Color (SDDC)	206.4	100.00	13.80	Multi	MCAW	3	10 %	40 ug/L	72.0	128.0	28.0	69.0	131.0	69.0	131.0	28.0		10 ug/L	Method
7.	Barium - Flame	208.1	103.50	8.63	Single	MCAW	3	10 %	1 mg/L	57.0	150.0	25.9	51.0	156.0	51.0	156.0	32.0		1.0 mg/L	Range
	" - Furnace	208.2	142.14	31.10	Multi	Apx D	5	25 %	100 ug/L	79.0	205.0	63.0	73.0	211.0	73.0	211.0	63.0		10 ug/L	Range
	" - ICP	200.7	77.30	20.97	Multi	Apx C	3	10 %	100 ug/L	35.0	120.0	42.0	31.0	124.0	31.0	124.0	42.0	1 ug/L	2 ug/L	3.18 x MDL
	" - DCP	---																		
8.	Beryllium - Flame	210.1	98.33	4.27	Single	MCAW	3	10 %	50 ug/L	75.0	121.0	12.8	72.0	124.0	72.0	124.0	16.0		50 ug/L	Range
	" - Furnace	210.2	106.66	21.76	Multi	Apx D	5	25 %	100 ug/L	63.0	151.0	44.0	58.0	155.0	58.0	155.0	44.0		1.0 ug/L	Range
	" - ICP	200.7	96.34	2.31	Multi	Apx C	3	10 %	100 ug/L	91.0	101.0	4.7	91.0	102.0	91.0	102.0	4.7	0.3 ug/L	1.0 ug/L	3.18 x MDL
	" - DCP	---																		
	" - Color	---																		
9.	BOD	405.1		24.10	Multi	MCAW	---	---	100 mg/L			49.0					49.0		N/A	
10.	Boron - Color	212.3	100.00	22.80	Multi	MCAW	5	25 %	240 ug/L	54.0	146.0	46.0	49.0	151.0	49.0	151.0	46.0		100 ug/L	Range
	" - ICP	200.7	97.07	25.60	Multi	Apx C	5	25 %	100 ug/L	45.0	149.0	52.0	40.0	154.0	40.0	154.0	52.0	3 ug/L	10 ug/L	3.18 x MDL
	" - DCP	---																		
11.	Bromide	320.1	93.75	7.17	Single	MCAW	3	10 %	5 mg/L	55.0	132.0	21.5	50.0	137.0	50.0	137.0	26.0		2 mg/L	Range
12.	Cadmium - Flame	213.1	94.87	15.88	Multi	Apx D	3	10 %	100 ug/L	63.0	127.0	32.0	59.0	130.0	59.0	130.0	32.0		50 ug/L	Range

Table IF- Standardized QC and QC Acceptance Criteria for Methods in 40 CFR Part 136, Table IB

		Data					Specifications												
										IPR Recovery			OPR Recovery		MS/MSD Recovery				
No.	Analyte	Reference Method	Recovery	Precision	Labs	Source	CAL points	CAL lin	Spike conc	Low	High	Precision	Low	High	Low	High	RPD	MDL	ML Value	ML Calc
	Cadmium - Furnace	213.2	98.43	23.05	Multi	Apx D	5	25 %	100 ug/L	52.0	145.0	47.0	47.0	150.0	47.0	150.0	47.0		0.5 ug/L	Range
	Cadmium - ICP	200.7	98.56	7.59	Multi	Apx C	3	10 %	100 ug/L	83.0	114.0	16.0	81.0	116.0	81.0	116.0	16.0	1 ug/L	2 ug/L	3.18 x MDL
	Cadmium - DCP	---																		
	Cadmium - Volt	---																		
	Cadmium - Color	---																		
13.	Calcium - Flame	215.1	99.00	3.33	Single	MCAW	3	10 %	10 mg/L	81.351	116.65	10.0	79.02	118.98	79.02	118.98	12.0		200 ug/L	Range
						W														
	Calcium - ICP	200.7	89.22	22.38	Multi	Apx C	5	25 %	100 ug/L	44.0	134.0	45.0	39.0	139.0	39.0	139.0	45.0	10 ug/L	20 ug/L	3.18 x MDL
	Calcium - DCP	---																		
	Calcium - Titr	215.2	98.10	9.20	Multi	MCAW	3	10 %	100 mg/L	79.7	116.5	34.0	77.86	118.34	77.86	118.34	34.0		2 mg/L	3.18 x LDL
						W														
14.	CBOD5	---																		
15.	COD - Titr	410.1	95.30	17.76	Multi	MCAW	3	10 %	250 mg/L	59.0	131.0	36.0	56.0	135.0	56.0	135.0	36.0		50 mg/L	Method
						W														
	COD - Titr	410.2	100.30	4.15	Multi	MCAW	3	10 %	10 mg/L	92.0	109.0	8.3	91.0	110.0	91.0	110.0	8.3		5 mg/L	Range
						W														
	COD - Titr	410.3	100.00	10.00	No data	Default	3	10 %	10 mg/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0			
	COD - Spectro	410.4	100.00	10.00	No data	Default	3	10 %	10 mg/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0			
16.	Chloride - Titr/Ag	---																		
	Chloride - Titr/Hg	325.3	97.10	3.30	Multi	MCAW	3	10 %	250 mg/L	90.0	104.0	6.6	89.0	105.0	89.0	105.0	6.6		---	
						W														
	Chloride - Color	---																		

Table IF- Standardized QC and QC Acceptance Criteria for Methods in 40 CFR Part 136, Table IB

		Data					Specifications												
										IPR			OPR		MS/MSD				
		Reference		Prec-					Spike	Recovery		Prec-	Recovery		Recovery			ML	ML
No.	Analyte	Method	Recovery	ision	Labs	Source	CAL points	CAL lin	conc	Low	High	ision	Low	High	Low	High	RPD	MDL	Value	Calc
	Chloride - Auto	325.1	100.50	3.00	Single	MCAW	3	10 %	10 mg/L	84.0	117.0	9.0	82.0	119.0	82.0	119.0	11.0		1 mg/L	Range
						W														
	Chloride - Auto	325.2	100.00	10.00	No data	Default	3	10 %	10 mg/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		1 mg/L	Range
17.	Chlorine - Ampere	330.1	91.20	12.50	Multi	MCAW	3	10 %	250 mg/L	66.0	117.0	25.0	63.0	119.0	63.0	119.0	25.0		---	
						W														
	Chlorine - Iodo	330.3	81.50	32.40	Multi	MCAW	5	25 %	1.0 mg/L	16.0	147.0	65.0	10.0	153.0	10.0	153.0	65.0		0.1 mg/L	Method
						W														
	Chlorine - Back titr	330.2	98.80	4.30	Single	MCAW	3	10 %	1.0 mg/L	76.0	122.0	12.9	73.0	125.0	73.0	125.0	16.0		---	
						W														
	Chlorine - DPD-FAS	330.4	91.90	19.20	Multi	MCAW	3	10 %	1.0 mg/L	53.0	131.0	39.0	49.0	135.0	49.0	135.0	39.0		0.1 mg/L	Method
						W														
	Chlorine - Spectro	330.5	84.40	27.60	Multi	MCAW	5	25 %	1.0 mg/L	29.0	140.0	56.0	23.0	146.0	23.0	146.0	56.0		0.2 mg/L	Method
						W														
	Chlorine - Electrode	---																		
18.	Chromium VI - AA	218.4	98.49	6.96	Multi	MCAW	3	10 %	100 ug/L	84.0	113.0	14.0	83.0	114.0	83.0	114.0	14.0		10 ug/L	Range
						W														
	Chromium VI - Color	---																		
19.	Chromium - Flame	218.1	101.54	17.36	Multi	Apx D	3	10 %	100 ug/L	66.0	137.0	35.0	63.0	140.0	63.0	140.0	35.0		15 ug/L	Data
	Chromium - Chelate	218.3	100.00	10.00	No data	Default	3	10 %	100 ug/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		1 ug/L	Method

Table IF- Standardized QC and QC Acceptance Criteria for Methods in 40 CFR Part 136, Table IB

		Data					Specifications												
										IPR			OPR		MS/MSD				
		Reference		Prec-					Spike	Recovery		Prec-	Recovery		Recovery				ML	ML
No.	Analyte	Method	Recovery	ision	Labs	Source	CAL points	CAL lin	conc	Low	High	ision	Low	High	Low	High	RPD	MDL	Value	Calc
	Chromium - Furnace	218.2	91.43	17.69	Multi	Apx D	3	10 %	100 ug/L	56.0	127.0	36.0	52.0	131.0	52.0	131.0	36.0		5 ug/L	Range
	Chromium - ICP	200.7	98.54	9.39	Multi	Apx C	3	10 %	100 ug/L	79.0	118.0	19.0	77.0	120.0	77.0	120.0	19.0	4 ug/L	10 ug/L	3.18 x MDL
	Chromium - DCP	---																		
	Chromium - Color	---																		
20.	Cobalt - Flame	219.1	98.00	1.00	Single	MCAW	3	10 %	1.0 mg/L	92.0	104.0	3.0	92.0	104.0	92.0	104.0	3.6		500 ug/L	Range
	Cobalt - Furnace	219.2	89.38	22.27	Multi	Apx D	5	25 %	100 ug/L	44.0	134.0	45.0	40.0	139.0	40.0	139.0	45.0		5 ug/L	Range
	Cobalt - ICP	200.7	87.59	8.16	Multi	Apx C	3	10 %	100 ug/L	71.0	104.0	17.0	69.0	106.0	69.0	106.0	17.0	2 ug/L	5 ug/L	3.18 x MDL
	Cobalt - DCP	---																		
21.	Color - ADMI	110.1	100.00	10.00	No data	Default	1	---	100 C.U.	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		25 C.U.	Range
	Color - Pt/Co	110.2	100.00	10.00	No data	Default	3	---	100 C.U.	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		---	No data
	Color - Spectro	110.3	100.00	10.00	No data	Default	3	---	100 C.U.	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0			
22.	Copper - Flame	220.1	99.79	17.00	Multi	MCAW	3	10 %	100 ug/L	65.0	134.0	34.0	62.0	138.0	62.0	138.0	34.0		100 ug/L	Method
	Copper - Furnace	220.2	92.54	27.29	Multi	Apx D	5	25 %	100 ug/L	37.0	148.0	55.0	32.0	153.0	32.0	153.0	55.0		5 ug/L	Range
	Copper - ICP	200.7	95.82	7.07	Multi	Apx C	3	10 %	100 ug/L	81.0	110.0	15.0	80.0	112.0	80.0	112.0	15.0	3 ug/L	10 ug/L	3.18 x MDL
	Copper - DCP	---																		
	Copper - Color/Neo	---																		
	Copper - Color/Bicin	---																		

Table IF- Standardized QC and QC Acceptance Criteria for Methods in 40 CFR Part 136, Table IB

		Data					Specifications												
										IPR Recovery			OPR Recovery			MS/MSD Recovery					
No.	Analyte	Reference Method	Recovery	Precision	Labs	Source	CAL points	CAL lin	Spike conc	Low	High	Precision	Low	High	Precision	Low	High	RPD	MDL	ML Value	ML Calc
23.	Cyanide - Distill	---																			
	Cyanide - Titr	---																			
	Cyanide - Spectro	335.2	85.00	11.07	Single	MCAW	3	10 %	250 ug/L	26.0	144.0	33.2	18.0	152.0	18.0	152.0	40.0		60 ug/L	Data	
						W															
	Cyanide - Auto	335.3	100.00	10.00	No data	Default	3	10 %	100 ug/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		5 ug/L	Range	
24.	CATC - Titr	335.1	100.00	10.00	No data	Default	3	10 %	100 ug/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0				
	CATC - Spectro	335.1	100.00	10.00	No data	Default	3	10 %	100 ug/L	47.0	153.0	30.0	40.0	160.0	40.0	140.0	36.0				
25.	Fluoride - Distill	---																			
	Fluoride - Elec/man	340.2	98.82	3.53	Multi	MCAW	3	10 %	1.0 mg/L	91.0	106.0	7.1	91.0	107.0	91.0	107.0	7.1		100 ug/L	Range	
						W															
	Fluoride - Elec/auto	---																			
	Fluoride - SPADNS	340.1	97.59	10.72	Multi	MCAW	3	10 %	1.0 mg/L	76.0	120.0	22.0	74.0	122.0	74.0	122.0	22.0		100 ug/L	Range	
						W															
	Fluoride - Auto	340.3	89.00	12.00	Single	MCAW	3	10 %	150 ug/L	25.0	153.0	36.0	17.0	161.0	17.0	161.0	44.0		50 ug/L	Range	
						W															
26.	Gold - Flame	231.1	100.00	10.00	No data	Default	3	10 %	1.0 mg/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		500 ug/L	Range	
	Gold - Furnace	231.2	100.00	10.00	No data	Default	3	10 %	100 ug/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		5 ug/L	Range	
	Gold - DCP	---																			

Table IF- Standardized QC and QC Acceptance Criteria for Methods in 40 CFR Part 136, Table IB

		Data					Specifications												
										IPR			OPR		MS/MSD				
		Reference		Prec-					Spike	Recovery		Prec-	Recovery		Recovery			ML	ML
No.	Analyte	Method	Recovery	ision	Labs	Source	CAL points	CAL lin	conc	Low	High	ision	Low	High	Low	High	RPD	MDL	Value	Calc
27.	Hardness - Color/auto	130.1	89.00	7.89	Single	MCAW	3	10 %	50 mg/L	47.0	131.0	23.7	41.0	137.0	41.0	137.0	29.0		10 mg/L	Range
	Hardness - Titr/EDTA	130.2	99.81	4.87	Multi	MCAW	3	10 %	100 mg/L	90.0	110.0	19.0	89.0	111.0	89.0	111.0	19.0		30 mg/L	Data
28.	pH - Electrode	150.1	N/A	1.30	Multi	MCAW	2	—	N/A			2.6					2.6		N/A	
	pH - Auto	—																		
29.	Iridium - Flame	235.1	100.00	10.00	No data	Default	3	10 %	100 mg/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		20 mg/L	Range
	Iridium - Furnace	235.2	100.00	10.00	No data	Default	3	10 %	200 ug/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		100 ug/L	Range
30.	Iron - Flame	236.1	99.62	6.24	Multi	Apx D	3	10 %	800 ug/L	87.0	113.0	34.0	85.0	114.0	85.0	114.0	34.0		300 ug/L	Range
	Iron - Furnace	236.2	144.71	36.03	Multi	Apx D	5	25 %	100 ug/L	72.0	217.0	73.0	65.0	224.0	65.0	224.0	73.0		5 ug/L	Range
	Iron - ICP	200.7	99.44	10.16	Multi	Apx C	3	10 %	500 ug/L	79.0	120.0	37.0	77.0	122.0	77.0	122.0	37.0	30 ug/L	100 ug/L	3.18 x MDL
	Iron - DCP	—																		
	Iron - Color	—																		
31.	TKN - Digest	351.3	101.03	25.76	Multi	MCAW	5	25 %	2 mg/L	49.0	153.0	52.0	44.0	158.0	44.0	158.0	52.0		50 ug/L	Range
	TKN - Titr	351.3	101.03	25.76	Multi	MCAW	5	25 %	2 mg/L	49.0	153.0	52.0	44.0	158.0	44.0	158.0	52.0		50 ug/L	Range
	TKN - Nessler	351.3	101.03	25.76	Multi	MCAW	5	25 %	2 mg/L	49.0	153.0	52.0	44.0	158.0	44.0	158.0	52.0		50 ug/L	Range

Table IF- Standardized QC and QC Acceptance Criteria for Methods in 40 CFR Part 136, Table IB

		Data					Specifications												
										IPR Recovery			OPR Recovery			MS/MSD Recovery			
No.	Analyte	Reference Method	Recovery	Precision	Labs	Source	CAL points	CAL lin	Spike conc	Low	High	Precision	Low	High	Low	High	RPD	MDL	ML Value	ML Calc
	TKN - Electrode	351.3	101.03	25.76	Multi	MCAW	5	25 %	2 mg/L	49.0	153.0	52.0	44.0	158.0	44.0	158.0	52.0		50 ug/L	Range
	TKN - Phenate	351.1	71.70	27.98	Multi	MCAW	5	25 %	2 mg/L	15.0	128.0	56.0	10.0	134.0	10.0	134.0	56.0		50 ug/L	Range
	TKN - Block/color	351.2	99.00	8.82	Single	MCAW	3	10 %	2 mg/L	52.0	146.0	26.5	46.0	152.0	46.0	152.0	32.0		100 ug/L	Range
	TKN - Potentio	351.4	100.00	10.00	No data	Default	3	10 %	200 ug/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		30 ug/L	Range
32.	Lead - Flame	239.1	109.90	36.70	Multi	Apx D	5	25 %	100 ug/L	36.0	184.0	74.0	29.0	191.0	29.0	191.0	74.0		40 ug/L	Data
	Lead - Furnace	239.2	93.80	22.75	Multi	Apx D	5	25 %	100 ug/L	48.0	140.0	46.0	43.0	144.0	43.0	144.0	46.0		5 ug/L	Range
	Lead - ICP	200.7	94.79	12.58	Multi	Apx C	3	10 %	100 ug/L	69.0	120.0	26.0	67.0	123.0	67.0	123.0	26.0	10 ug/L	20 ug/L	3.18 x MDL
	Lead - DCP	---																		
	Lead - Volt	---																		
	Lead - Color	---																		
33.	Magnesium - Flame	242.1	97.90	29.81	Multi	MCAW	5	25 %	100 ug/L	38.0	158.0	60.0	32.0	164.0	32.0	164.0	60.0		20 ug/L	Range
	Magnesium - ICP	200.7	97.71	17.67	Multi	Apx C	3	10 %	100 ug/L	62.0	134.0	36.0	58.0	137.0	58.0	137.0	36.0	20 ug/L	50 ug/L	3.18 x MDL
	Magnesium - DCP	---																		
	Magnesium - Grav	---																		
34.	Manganese - Flame	243.1	95.43	13.15	Multi	Apx D	3	25 %	100 ug/L	69.0	122.0	27.0	66.0	125.0	66.0	125.0	27.0		100 ug/L	Range
	Manganese - Furnace	243.2	106.20	21.05	Multi	Apx D	5	25 %	100 ug/L	64.0	149.0	43.0	59.0	153.0	59.0	153.0	43.0		1 ug/L	Range
	Manganese - ICP	200.7	94.30	4.12	Multi	Apx C	3	10 %	100 ug/L	86.0	103.0	8.3	85.0	104.0	85.0	104.0	8.3	1 ug/L	2 ug/L	3.18 x MDL
	Manganese - DCP	---																		

Table IF- Standardized QC and QC Acceptance Criteria for Methods in 40 CFR Part 136, Table IB

		Data					Specifications												
										IPR			OPR		MS/MSD				
		Reference		Prec-					Spike	Recovery		Prec-	Recovery		Recovery			ML	ML
No.	Analyte	Method	Recovery	ision	Labs	Source	CAL points	CAL lin	conc	Low	High	ision	Low	High	Low	High	RPD	MDL	Value	Calc
	Manganese - Persulf	---																		
	Manganese - Perioda	---																		
35.	Mercury - CV/Man	245.1	92.90	29.40	Multi	MCAW	5	25 %	4 ug/L	34.0	152.0	59.0	28.0	158.0	28.0	158.0	59.0		0.2 ug/L	DL
	Mercury - CV/Auto	245.2	102.00	2.00	Single	MCAW	3	10 %	10 ug/L	91.4	112.6	6.0	90	114	90	114	7.2		0.2 ug/L	DL
36.	Molybdenum - Flame	246.1	97.00	2.33	Single	MCAW	3	10 %	300 ug/L	84.0	110.0	7.0	83.0	111.0	83.0	111.0	8.4		300 ug/L	Data
	Molybdenum - Furnace	246.2	100.00	10.00	No data	Default	3	10 %	10 ug/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		3 ug/L	Range
	Molybdenum - ICP	200.7	96.92	7.78	Multi	Apx C	3	10 %	100 ug/L	81.0	113.0	16.0	79.0	115.0	79.0	115.0	16.0	4 ug/L	10 ug/L	3.18 x MDL
	Molybdenum - DCP	---																		
37.	Nickel - Flame	249.1	96.67	2.00	Single	MCAW	3	10 %	1 ug/L	86.0	108.0	6.0	84.0	109.0	84.0	109.0	7.2		0.2 ug/L	Data
	Nickel - Furnace	249.2	90.37	26.65	Multi	Apx D	5	25 %	100 ug/L	37.0	144.0	54.0	31.0	149.0	31.0	149.0	54.0		5 ug/L	Range
	Nickel - ICP	200.7	95.48	10.44	Multi	Apx C	3	10 %	100 ug/L	74.0	117.0	21.0	72.0	119.0	72.0	119.0	21.0	5 ug/L	20 ug/L	3.18 x MDL
	Nickel - DCP	---																		
	Nickel - Color	---																		
38.	Nitrate	352.1	104.12	22.69	Multi	MCAW	5	25 %	1 mg/L	58.0	150.0	46.0	54.0	155.0	54.0	155.0	46.0		0.1 mg/L	Range

Table IF- Standardized QC and QC Acceptance Criteria for Methods in 40 CFR Part 136, Table IB

		Data					Specifications												
										IPR			OPR		MS/MSD				
No.	Analyte	Reference Method	Recovery	Precision	Labs	Source	CAL points	CAL lin	Spike conc	Recovery Low	Recovery High	Precision	Recovery Low	Recovery High	Recovery Low	Recovery High	RPD	MDL	ML Value	ML Calc
39.	NO2-NO3 - Cd/Man	353.3	100.00	12.50	Single	MCAW	3	10 %	40 ug/L	33.0	167.0	37.5	25.0	175.0	25.0	175.0	45.0		10 ug/L	Range
	NO2-NO3 - Cd/Auto	353.2	105.75	4.14	Single	MCAW	3	10 %	290 ug/L	83.0	128.0	12.4	80.0	131.0	81.0	131.0	15.0		50 ug/L	Range
	NO2-NO3 - Cd/Hydra	353.1	99.00	5.13	Single	MCAW	3	10 %	400 ug/L	71.0	127.0	15.4	68.0	130.0	68.0	130.0	19.0		10 ug/L	Range
40.	Nitrite - Spec/Man	354.1	100.00	10.00	No data	Default	3	10 %	100 ug/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		10 ug/L	Range
	Nitrite - Spec/Auto	---																		
41.	Oil & Grease	413.1	93.00	6.43	Single	MCAW	1	10 %	15 mg/L	58.0	128.0	19.3	54.0	132.0	54.0	132.0	24.0		5 mg/L	Range
42.	TOC	415.1	101.01	7.78	Multi	MCAW	3	10 %	100 mg/L	85.0	117.0	16.0	83.0	119.0	83.0	119.0	16.0		1 mg/L	Method
43.	Organic nitrogen	---																		
44.	O-phosphate - Auto	365.1	87.20	22.00	Multi	MCAW	5	25 %	300 ug/L	43.0	132.0	45.0	38.0	136.0	38.0	136.0	45.0		10 ug/L	Range
	O-phosphate - Man 1	365.2	97.25	5.37	Multi	MCAW	3	10 %	300 ug/L	86.0	108.0	11.0	85.0	110.0	85.0	110.0	11.0		10 ug/L	Range
	O-phosphate - Man 2	365.3	100.00	10.00	No data	Default	3	10 %	100 ug/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		10 ug/L	Range
45.	Osmium - Flame	252.1	100.00	10.00	No data	Default	3	10 %	5 mg/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		1 mg/L	Method

Table IF- Standardized QC and QC Acceptance Criteria for Methods in 40 CFR Part 136, Table IB

		Data					Specifications												
										IPR			OPR		MS/MSD				
No.	Analyte	Reference Method	Recovery	Precision	Labs	Source	CAL points	CAL lin	Spike conc	Recovery Low	Recovery High	Precision	Recovery Low	Recovery High	Recovery Low	Recovery High	RPD	MDL	ML Value	ML Calc
	Osmium - Furnace	252.2	100.00	10.00	No data	Default	3	10 %	250 ug/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		50 ug/L	Range
46.	DO - Winkler	360.2	100.00	1.00	Single	MCAW	3	10 %	1 mg/L	94.7	105.3	3.0	94	106	94	106	3.6		50 ug/L	Range
	DO - Electrode	360.1	100.00	1.00	Single	MCAW	3	10 %	1 mg/L	94.7	105.3	3.0	94	106	94	106	3.6		50 ug/L	Range
47.	Palladium - Flame	253.1	100.00	10.00	No data	Default	3	10 %	1 mg/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		500 ug/L	Range
	Palladium - Furnace	253.2	100.00	10.00	No data	Default	3	10 %	100 ug/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		20 ug/L	Range
	Palladium - DCP	---																		
48.	Phenol - Color/Man	420.1	100.00	10.31	Multi	MCAW	3	10 %	300 ug/L	79.0	121.0	21.0	77.0	123.0	77.0	123.0	21.0		5 ug/L	Method
	Phenol - Color/Auto	420.2	98.00	1.12	Single	MCAW	3	10 %	1 mg/L	92.0	104.0	3.4	92.0	105.0	92.0	105.0	4.1		2 ug/L	Range
49.	Phosphorus - GC	---																		
50.	Phosphorus - Asc/Man	365.2	103.09	30.00	Multi	MCAW	5	25 %	300 ug/L	43.0	164.0	60.0	37.0	170.0	37.0	170.0	60.0		10 ug/L	Range
	Phosphorus - Asc/Man	365.3	99.00	22.00	Multi	MCAW	5	25 %	300 ug/L	55.0	143.0	44.0	50.0	148.0	50.0	148.0	44.0		10 ug/L	Range
	Phosphorus - Asc/Auto	365.1	87.20	22.00	Multi	MCAW	5	25 %	300 ug/L	43.0	132.0	45.0	38.0	136.0	38.0	136.0	45.0		10 ug/L	Range

Table IF- Standardized QC and QC Acceptance Criteria for Methods in 40 CFR Part 136, Table IB

		Data					Specifications												
										IPR			OPR		MS/MSD				
No.	Analyte	Reference Method	Recovery	Precision	Labs	Source	CAL points	CAL lin	Spike conc	Recovery Low	Recovery High	Precision	Recovery Low	Recovery High	Recovery Low	Recovery High	RPD	MDL	ML Value	ML Calc
	Phosphorus - Block	365.4	98.00	3.00	Single	MCAW	3	10 %	2 mg/L	82.0	114.0	9.0	80.0	116.0	80.0	116.0	11.0		10 ug/L	Range
						W														
51.	Platinum - Flame	255.1	100.00	10.00	No	Default	3	10 %	10 mg/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		5 mg/L	Range
					data															
	Platinum - Furnace	255.2	100.00	10.00	No	Default	3	10 %	100 ug/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		100 ug/L	Range
					data															
	Platinum - DCP	---																		
52.	Potassium - Flame	258.1	103.00	12.50	Single	MCAW	3	10 %	2 mg/L	36.0	170.0	37.5	28.0	178.0	28.0	178.0	45.0		100 ug/L	Range
						W														
	Potassium - ICP	200.7	83.05	17.12	Multi	Apx C	3	10 %	1 mg/L	48.0	118.0	35.0	45.0	121.0	45.0	121.0	35.0	300 ug/L	1 mg/L	3.18 x MDL
	Potassium - FPD	---																		
	Potassium - Color	---																		
53.	Total Solids	160.3	100.00	10.00	No	Default	1	---	100 mg/L	47.0	153.0	30.0	6040	146.0	40.0	160.0	36.0		10 mg/L	Range
					data															
54.	TDS	160.1	100.00	10.00	No	Default	1	---	100 mg/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		10 mg/L	Range
					data															
55.	TSS	160.2	100.00	10.00	No	Default	1	---	100 mg/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		4 mg/L	Range
					data															
56.	Settleable Solids	160.5	100.00	10.00	No	Default	1	---	5 mL/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		0.2 mL/L	Method
					data															
57.	Volatile Residue	160.4	100.00	6.47	Multi	MCAW	3	10 %	50 mg/L	87.0	113.0	13.0	85.0	115.0	85.0	115.0	13.0		10 mg/L	Range
						W														

Table IF- Standardized QC and QC Acceptance Criteria for Methods in 40 CFR Part 136, Table IB

		Data					Specifications												
										IPR			OPR		MS/MSD				
		Reference		Prec-					Spike	Recovery		Prec-	Recovery		Recovery				ML	ML
No.	Analyte	Method	Recovery	ision	Labs	Source	CAL points	CAL lin	conc	Low	High	ision	Low	High	Low	High	RPD	MDL	Value	Calc
58.	Rhodium - Flame	265.1	100.00	10.00	No data	Default	3	10 %	1 mg/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		1 mg/L	Range
	Rhodium - Furnace	265.2	100.00	10.00	No data	Default	3	10 %	100 ug/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		20 ug/L	Range
59.	Ruthenium - Flame	267.1	100.00	10.00	No data	Default	3	10 %	1 mg/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		1 mg/L	Range
	Ruthenium - Furnace	267.2	100.00	10.00	No data	Default	3	10 %	100 ug/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		100 ug/L	Range
60.	Selenium - Furnace	270.2	96.12	16.72	Multi	Apx D	3	10 %	100 ug/L	62.0	130.0	34.0	59.0	133.0	59.0	133.0	34.0		5 ug/L	Range
	Selenium - ICP	200.7	91.13	26.35	Multi	Apx C	5	25 %	1 mg/L	38.0	144.0	53.0	33.0	150.0	33.0	150.0	53.0	20 ug/L	50 ug/L	3.18 x MDL
	Selenium - Hydride	---																		
61.	Silica - Color/Man	370.1	85.70	7.80	Multi	MCAW	3	10 %	5 mg/L	70.0	102.0	16.0	68.0	103.0	68.0	103.0	16.0		2 mg/L	Range
	Silica - Color/Auto	---				W														
	Silica - ICP	200.7	53.86	45.38	Multi	Apx C	5	25 %	1 mg/L	d	145.0	91.0	d	154.0	d	154.0	91.0	20 ug/L	50 ug/L	3.18 x MDL
62.	Silver - Flame	272.1	89.40	17.60	Multi	MCAW	3	10 %	500 ug/L	54.0	125.0	36.0	50.0	129.0	50.0	129.0	36.0		100 ug/L	Range
	Silver - Furnace	272.2	94.88	18.20	Multi	W Apx D	3	10 %	100 ug/L	58.0	132.0	37.0	54.0	135.0	54.0	135.0	37.0		1 ug/L	Range
	Silver - ICP	200.7	49.73	47.50	Multi	Apx C	5	25 %	100 ug/L	d	145.0	95.0	d	155.0	d	155.0	95.0	2 ug/L	5 ug/L	3.18 x MDL
	Silver - DCP	---																		
63.	Sodium - Flame	273.1	100.00	1.54	Multi	MCAW	3	10 %	5 mg/L	96.0	104.0	3.1	96.0	104.0	96.0	104.0	3.1		30 ug/L	Range
	Sodium - ICP	200.7	99.77	24.27	Multi	W Apx C	5	25 %	1 mg/L	51.0	[1]	9.0	46.0	154.0	46.0	154.0	49.0	30 ug/L	100 ug/L	3.18 x MDL
	Sodium - DCP	---																		

Table IF- Standardized QC and QC Acceptance Criteria for Methods in 40 CFR Part 136, Table IB

		Data					Specifications												
										IPR			OPR		MS/MSD				
		Reference		Prec-					Spike	Recovery		Prec-	Recovery		Recovery				ML	ML
No.	Analyte	Method	Recovery	ision	Labs	Source	CAL points	CAL lin	conc	Low	High	ision	Low	High	Low	High	RPD	MDL	Value	Calc
	Sodium - FPD	---																		
64.	Specific conductance	120.1	97.98	7.55	Multi	MCAW	3	10 %	5 mg/L	82.0	114.0	16.0	81.0	115.0	81.0	115.0	16.0		No data	
65.	Sulfate - Color/Auto	375.1	99.00	1.80	Single	MCAW	3	10 %	100 mg/L	89.0	109.0	5.4	88.0	110.0	88.0	110.0	6.5		10 mg/L	Range
	Sulfate - Grav	375.3	102.00	1.45	Single	MCAW	3	10 %	100 mg/L	94.0	110.0	4.4	93.0	111.0	93.0	111.0	5.3		10 ug/L	Range
	Sulfate - Turbid	375.4	96.99	7.15	Multi	MCAW	3	10 %	100 mg/L	82.0	112.0	15.0	81.0	113.0	81.0	113.0	15.0		1 mg/L	DL
66.	Sulfide - Turbid	376.1	100.00	10.00	No data	Default	3	10 %	10 mg/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		1 mg/L	DL
	Sulfide - Color	376.2	100.00	10.00	No data	MCAW	3	10 %	10 mg/L	64.0	136.0	36.0	60.0	140.0	60.0	140.0	36.0		No data	
67.	Sulfite - Turbid	377.1	100.00	10.00	No data	Default	3	10 %	10 mg/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		3 mg/L	DL
68.	Surfactants	425.1	101.36	9.13	Multi	MCAW	3	10 %	3 mg/L	83.0	120.0	19.0	81.0	122.0	81.0	122.0	19.0		25 ug/L	Range
69.	Temperature	170.1	---	---															N/A	
70.	Thallium - Flame	279.1	100.00	3.00	Single	MCAW	3	10 %	600 ug/L	84.1	115.9	9.0	82	118	82	118	11.0		600 ug/L	Data
	Thallium - Furnace	279.2	87.10	11.79	Multi	Apx D	5	25 %	100 ug/L	63.0	111.0	24.0	61.0	114.0	61.0	114.0	24.0		5 ug/L	Range
	Thallium - ICP	200.7	82.90	28.34	Multi	Apx C	5	25 %	1 mg/L	26.0	140.0	57.0	20.0	146.0	20.0	146.0	57.0	20 ug/L	50 ug/L	3.18 x MDL

Table IF- Standardized QC and QC Acceptance Criteria for Methods in 40 CFR Part 136, Table IB

		Data					Specifications												
										IPR			OPR		MS/MSD				
No.	Analyte	Reference Method	Recovery	Precision	Labs	Source	CAL points	CAL lin	Spike conc	Recovery Low	Recovery High	Precision	Recovery Low	Recovery High	Recovery Low	Recovery High	RPD	MDL	ML Value	ML Calc
71.	Tin - Flame	282.1	96.00	6.25	Single	MCAW	3	10 %	4 mg/L	62.0	130.0	18.8	58.0	134.0	58.0	134.0	23.0		10 mg/L	Range
	Tin - Furnace	282.2	100.00	10.00	No data	W Default	3	10 %	10 mg/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		20 ug/L	Range
	Tin - ICP	200.7	100.00	10.00	No data	Default	3	10 %	100 ug/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0	7 ug/L	20 ug/L	3.18 x MDL
72.	Titanium - Flame	283.1	97.00	3.50	Single	MCAW	3	10 %	2 mg/L	78.0	116.0	10.5	76.0	118.0	76.0	118.0	13.0		2 mg/L	Data
	Titanium - Furnace	283.2	100.00	10.00	No data	W Default	3	10 %	100 ug/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		50 ug/L	Range
	Titanium - ICP	200.7	100.00	10.00	No data	Default	3	10 %	100 ug/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		1 ug/L	Range
73.	Turbidity	180.1	100.00	2.31	Single	MCAW	3	10 %	25 NTU	87.0	113.0	6.9	86.0	114.0	86.0	114.0	8.4		0.05 NTU	Est
74.	Vanadium - Flame	286.1	100.00	5.00	Single	W MCAW	3	10 %	2 mg/L	73.5	126.5	15.0	70	130	70	130	18.0		2 mg/L	Range
	Vanadium - Furnace	286.2	85.11	32.80	Multi	W Apx D	5	25 %	100 ug/L	19.0	151.0	66.0	12.0	158.0	12.0	158.0	66.0		10 ug/L	Range
	Vanadium - ICP	200.7	94.15	7.88	Multi	Apx C	3	10 %	100 ug/L	78.0	110.0	16.0	76.0	112.0	76.0	112.0	16.0	3 ug/L	10 ug/L	3.18 x MDL
	Vanadium - DCP	---																		
	Vanadium - Color	---																		
75.	Zinc - Flame	289.1	99.93	18.60	Multi	Apx D	3	10 %	100 mg/L	62.0	138.0	38.0	59.0	141.0	59.0	141.0	38.0		50 ug/L	Range
	Zinc - Furnace	289.2	168.59	67.06	Multi	Apx D	7	25 %	100 ug/L	34.0	303.0	135.0	21.0	317.0	21.0	317.0	140.0		0.2 ug/L	Range

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Table IF- Standardized QC and QC Acceptance Criteria for Methods in 40 CFR Part 136, Table IB

		Data					Specifications												
										IPR			OPR		MS/MSD				
		Reference		Prec-					Spike	Recovery		Prec-	Recovery		Recovery				ML	ML
No.	Analyte	Method	Recovery	ision	Labs	Source	CAL points	CAL lin	conc	Low	High	ision	Low	High	Low	High	RPD	MDL	Value	Calc
	Zinc - ICP	200.7	93.26	12.89	Multi	Apx C	5	25 %	100 ug/L	67.0	120.0	26.0	64.0	122.0	64.0	122.0	26.0	2 ug/L	5 ug/L	3.18 x MDL
	Zinc - DCP	---																		
	Zinc - Color/Dithiz	---																		
	Zinc - Color/Zincon	---																		

Table 1F Note:

The QC acceptance criteria given in Table 1F were developed from data published in the following sources. For Method 200.7, promulgated at 40 CFR Part 136, Appendix C, QC acceptance criteria were developed using the regression equations at the end of the method. The concentration given in the Spike Conc column is the concentration at which the QC acceptance criteria were calculated. For calculating the precision criterion, the overall standard deviation (S) was used (not the single-analyst standard deviation (SR)). For the remaining 200-series metals methods, QC acceptance criteria were developed from the regression equations in 40 CFR Part 136, Appendix D, where available; otherwise, from performance data published at the end of each method in Methods for Chemical Analysis of Water and Wastes (MCAWW; EPA 600/4–79–020; NTIS PB–123677). For methods other than Method 200.7 and the 200-series metals methods, data published at the end of each method in MCAWW were used, if available; otherwise default QC acceptance criteria, as described below, were used.

The databases used to develop regression equations for Method 200.7 and the 200-series metals methods were not readily available. Therefore, QC acceptance criteria were calculated using the procedures given in the Streamlining Guide. Where interlaboratory data were available, these data were used and the QC limits were calculated as follows:

IPR lower recovery limit = average − 2 × interlab sd
IPR upper recovery limit = average + 2 × interlab sd
IPR precision limit = 2 × sd
OPR and MS/MSD lower limit = average recovery − 2.2 × interlab sd
OPR and MS/MSD upper limit = average recovery + 2.2 × interlab sd

Where interlaboratory data were not available but single-laboratory data were available, the single-laboratory data were used and the QC limits were calculated as follows:

IPR lower recovery limit = average − 5.3 × interlab sd
IPR upper recovery limit = average + 5.3 × interlab sd
IPR precision limit = 3.0 × sd
OPR/MS/MSD lower recovery limit = average − 6.0 × interlab sd
OPR/MS/MSD upper recovery limit = average + 6.0 × interlab sd

The multipliers include interlaboratory/single laboratory allowances and are explained in the Streamlining Guide.

Where neither interlaboratory nor single-laboratory data were available, default values of 100 percent recovery and 10 percent RSD were used and the QC limits were calculated assuming single laboratory data. This resulted in the following default values:

IPR lower recovery limit: 47%
IPR upper recovery limit: 153%
IPR precision limit: 30% RSD
OPR/MS/MSD lower recovery limit: 40%
OPR/MS/MSD upper recovery limit: 160%

Minimum levels were set to the level listed in the method (ML, low end of the range, sensitivity, or other level, as noted) or, if an MDL was available, were calculated by multiplying the MDL by 3.18 and rounding to the number nearest to 1, 2, or 5 × 10n, where n is an integer.

2. On page 15046, the table titled, ''Standardized QC and QC Acceptance Criteria for Methods in 40 CFR 141.23(k)(1)'' is corrected to read as follows:

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Standardized QC and QC Acceptance Criteria for Methods in 40 CFR 141.23(k)(1)

		Data					Specifications												
		Reference		Prec-			CAL		MCL	Spike	IPR Recovery		Prec-	OPR Recovery		MS/MSD Recovery			ML	ML
No.	Analyte	Method	Recovery	ision	Labs	Source	Points	Lin	(ug/L)	conc	Low	High	ision	Low	High	Low	High	RPD	MDL	Value	Calc
1.	Alkalinity - Titr/Man	---																			
	Alkalinity - Titr/Auto	---																			
2.	Antimony - Furnace	---							6.0												
	Antimony - Hydride	---							6.0												
	Antimony - ICP/MS	200.8	98.8	8.067	Multi	Tbl 12	3	10 %	6.0	6 ug/L	82.0	115.0	17.0	81 0	117.0	81.0	117.0	17.0	0.4 ug/L	1 ug/L	3.18 x MDL
	Antimony - STGFAA	200.9	95.4	2.8	Single	Tbl IE	3	10 %	6.0	20 ug/L	80.56	110.2	8.4	78.6	112.2	78.6	112.2	11.0	0.8 ug/L	2 ug/L	3.18 x MDL
3.	Arsenic - Furnace	---							50												
	Arsenic - Hydride	---							50												
	Arsenic - ICP	200.7	98.27	13.59	Multi	Apx C	3	10 %	50	200 ug/L	71.0	126.0	28.0	68.0	129.0	68.0	129.0	28.0	53 ug/L	200 ug/L	3.18 x MDL
	Arsenic - ICP/MS	200.8	100.44	6.9	Multi	Tbl 12	3	10 %	50	50 ug/L	86.0	115.0	14.0	85.0	116.0	85.0	116.0	14.0	1.4 ug/L	5 ug/L	3.18 x MDL
	Arsenic - STGFAA	200.9	88.4	10	Single	Tbl IE	3	10 %	50	10 ug/L	35.0	142.0	30.0	28.0	149.0	28.0	149.0	36.0	0.5 ug/L	2 ug/L	3.18 x MDL
4.	Asbestos - TEM	100.1							7 MFL												
	Asbestos - TEM	100.2							7 MFL												
5.	Barium - Flame	---							2000												
	Barium - Furnace	---							2000												
	Barium - ICP	200.7	76.88	18.47	Multi	Apx C	3	10 %	2000	1 mg/L	39.0	114.0	37.0	36.0	118.0	36.0	118.0	37.0	2 ug/L	5 ug/L	3.18 x MDL
	Barium - ICP/MS	200.8	96.31	4.55	Multi	Tbl 12	3	10 %	2000	1 mg/L	87.0	106.0	9.1	86.0	107.0	86.0	107.0	9.1	0.8 ug/L	2.0 ug/L	3.18 x MDL
6.	Beryllium - Flame	---							4.0												
	Beryllium - ICP	200.7	97.54	25.11	Multi	Apx C	3	10 %	4.0	4 ug/L	47.0	148.0	51.0	42.0	153.0	42.0	153.0	51.0	0.3 ug/L	1 ug/L	3.18 x MDL
	Beryllium - ICP/MS	200.8	110.50	12.70	Multi	Tbl 12	3	10 %	4.0	4 ug/L	85.0	136.0	26.0	82.0	139.0	82.0	139.0	26.0	0.3 ug/L	1 ug/L	3.18 x MDL
	Beryllium - STGFAA	200.9	106	9.4	Single	Tbl IE	3	10 %	4.0	2.5 ug/L	56.0	156.0	28.2	49.0	163.0	49.0	163.0	34.0	0.02 ug/L	0.05 ug/L	3.18 x MDL

Standardized QC and QC Acceptance Criteria for Methods in 40 CFR 141.23(k)(1)

		Data					Specifications												
		Reference		Prec-			CAL		MCL	Spike	IPR Recovery		Prec-	OPR Recovery		MS/MSD Recovery			ML	ML
No.	Analyte	Method	Recovery	ision	Labs	Source	Points	Lin	(ug/L)	conc	Low	High	ision	Low	High	Low	High	RPD	MDL	Value	Calc
7.	Cadmium - Furnace	---							5.0												
	Cadmium - ICP	200.7	100.07	8.15	Multi	Apx C	3	10 %	5.0	50 ug/L	83.0	117.0	17.0	82.0	118.0	82.0	118.0	17.0	4 ug/L	10 ug/L	3.18 x MDL
	Cadmium - ICP/MS	200.8	100.5	16.1	Multi	Tbl 12	3	10 %	5.0	5 ug/L	68.0	133.0	33.0	65.0	136.0	65.0	136.0	33.0	0.5 ug/L	2 ug/L	3.18 x MDL
	Cadmium - STGFAA	200.9	105.2	6.3	Single	Tbl IE	3	10 %	5.0	0.5 ug/L	71.0	139.0	18.9	67.0	143.0	67.0	143.0	23.0	0.05 ug/L	0.2 ug/L	3.18 x MDL
8.	Calcium - Flame	---							---												
	Calcium - ICP	200.7	89.22	22.38	Multi	Apx C	3	10 %	---	100 ug/L	44.0	134.0	45.0	39.0	139.0	39.0	139.0	45.0	10 ug/L	20 ug/L	3.18 x MDL
	Calcium - Titr	---							---												
9.	Chromium - Furnace	---							100												
	Chromium - ICP	200.7	98.54	9.39	Multi	Apx C	3	10 %	100	100 ug/L	79.0	118.0	19.0	77.0	120.0	77.0	120.0	19.0	7 ug/L	20 ug/L	3.18 x MDL
	Chromium - ICP/MS	200.8	100.45	3.69	Multi	Tbl 12	3	10 %	100	100 ug/L	93.0	108.0	7.4	92.0	109.0	92.0	109.0	7.4	0.9 ug/L	2 ug/L	3.18 x MDL
	Chromium - STGFAA	200.9	105.7	3.1	Single	Tbl IE	3	10 %	100	2.5 ug/L	89.0	123.0	9.3	87.0	125.0	87.0	125.0	12.0	0.1 ug/L	0.2 ug/L	3.18 x MDL
10.	Conductivity	---																			
11.	Copper - Flame	---							1000												
	Copper - Furnace	---							1000												
	Copper - ICP	200.7	92.94	4.71	Multi	Apx C	3	10 %	1000	1 mg/L	83.0	103.0	9.5	82.0	104.0	82.0	104.0	9.5	6 ug/L	20 ug/L	3.18 x MDL
	Copper - ICP/MS	200.8	97.56	6.39	Multi	Tbl 12	3	10 %	1000	1 mg/L	84.0	111.0	13.0	83.0	112.0	83.0	112.0	13.0	0.09 ug/L	0.2 ug/L	3.18 x MDL
	Copper - STGFAA	200.9	111.5	10	Single	Tbl IE	3	10 %	1000	10 ug/L	58.0	165.0	30.0	51.0	172.0	51.0	172.0	36.0	0.7 ug/L	2 ug/L	3.18 x MDL
12.	Cyanide - CATC	---							200												
	Cyanide - Spectro/Man	---							200												
	Cyanide - Spectro/Auto	335.4	100	10	No data	Default	3	10 %	200	200 ug/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0		5 ug/L	Range

Standardized QC and QC Acceptance Criteria for Methods in 40 CFR 141.23(k)(1)

		Data					Specifications													
		Reference		Prec-			CAL		MCL	Spike	IPR Recovery		Prec-	OPR Recovery		MS/MSD Recovery			ML	ML
No.	Analyte	Method	Recovery	ision	Labs	Source	Points	Lin	(ug/L)	conc	Low	High	ision	Low	High	Low	High	RPD	MDL	Value	Calc
	Cyanide - ISE	---							200												
13.	Fluoride - Elec/man	---							2000												
	Fluoride - Elec/auto	---							2000												
	Fluoride - SPADNS	---							2000												
	Fluoride - Auto/Aliz	---							2000												
	Fluoride - IC	300.0	87.7	5	Single	MCAWW	3	10 %	2000	2 mg/L	61.0	115.0	15.0	57.0	118.0	57.0	118.0	18.0	5 ug/L	20 ug/L	3.18 x MDL
14.	pH - Electrode	150.1	---	---					6.5-8.5												
	pH - Auto	150.2	---	---					6.5-8.5												
15.	Lead - Furnace	---							---												
	Lead - ICP/MS	200.8	100.20	12.10	Multi	Tbl 12	3	10 %	---	10 ug/L	76.0	125.0	25.0	73.0	127.0	73.0	127.0	25.0	0.6 ug/L	2 ug/L	3.18 x MDL
	Lead - STGFAA	200.9	101.80	4.00	Single	Tbl IE	3	10 %	---	10 ug/L	80.0	123.0	12.0	77.0	126.0	77.0	126.0	15.0	0.7 ug/L	2 ug/L	3.18 x MDL
16.	Mercury - CV/Man	245.1	100.34	43.82	Multi	MCAWW	3	10 %	2.0	2 ug/L	12.0	188.0	88.0	3.0	197.0	3.0	197.0	88.0		0.2 ug/L	Range
	Mercury - CV/Auto	245.2	102	4.5	Single	MCAWW	3	10 %	2.0	2 ug/L	78.0	126.0	13.5	75.0	129.0	75.0	129.0	17.0		0.2 ug/L	Range
	Mercury - ICP/MS	200.8	100	10	No data	Default	3	10 %	2.0	2 ug/L	47.0	153.0	30.0	40.0	160.0	40.0	160.0	36.0	No data		
17.	Nickel - Flame	---							100												
	Nickel - Furnace	---							100												
	Nickel - ICP	200.7	95.48	10.44	Multi	Apx C	3	10 %	100	100 ug/L	74.0	117.0	21.0	72.0	119.0	72.0	119.0	21.0	15 ug/L	50 ug/L	3.18 x MDL
	Nickel - ICP/MS	200.8	95.11	5.16	Multi	Tbl 12	3	10 %	100	100 ug/L	84.0	106.0	11.0	83.0	107.0	83.0	107.0	11.0	0.5 ug/L	2 ug/L	3.18 x MDL
	Nickel - STGFAA	200.9	103.8	4.3	Single	Tbl IE	3	10 %	100	20 ug/L	81.0	127.0	12.9	78.0	130.0	78.0	130.0	16.0	0.6 ug/L	2 ug/L	3.18 x MDL
18.	Nitrate - IC	300.0	100.7	5	Single	MCAWW	3	10 %	10000	10 mg/L	74.0	128.0	15.0	70.0	131.0	70.0	131.0	18.0	13 ug/L	50 ug/L	3.18 x MDL

Standardized QC and QC Acceptance Criteria for Methods in 40 CFR 141.23(k)(1)

		Data					Specifications													
		Reference		Prec-			CAL		MCL	Spike	IPR Recovery		Prec-	OPR Recovery		MS/MSD Recovery			ML	ML
No.	Analyte	Method	Recovery	ision	Labs	Source	Points	Lin	(ug/L)	conc	Low	High	ision	Low	High	Low	High	RPD	MDL	Value	Calc
	Nitrate - Cd/Auto	353.2	97.31	7.10	Multi	MCAWW	3	10 %	10000	2.5 mg/L	83.0	112.0	15.0	81.0	113.0	81.0	113.0	15.0		50 ug/L	Range
	Nitrate - ISE	---							10000												
19.	Nitrite - IC	300.0	97.7	5	Single	MCAWW	3	10 %	1000	100 ug/L	71.0	125.0	15.0	67.0	128.0	67.0	128.0	18.0	4 ug/L	10 ug/L	3.18 x MDL
	Nitrite - Cd/Auto	353.2	97.31	7.10	Multi	MCAWW	3	10 %	1000	2.5 mg/L	83.0	112.0	15.0	81.0	113.0	81.0	113.0	15.0		50 ug/L	Range
	Nitrite - Spec/Auto	---							1000												
	Nitrite - Spec/Auto	---							1000												
20.	O-phosphate - IC	300.0	100.4	3.8	Single	MCAWW	3	10 %	---	500 ug/L	80.0	121.0	11.4	77.0	124.0	77.0	124.0	14.0	61 ug/L	200 ug/L	3.18 x MDL
	O-phosphate - Asc/Auto	365.1	87.2	22	Multi	MCAWW	3	10 %	---	300 ug/L	43.0	132.0	45.0	38.0	136.0	38.0	136.0	44.0		10 ug/L	Range
	O-phosphate - Asc/Sing	---							---												
	O-phosphate - Phos/Mo	---							---												
	O-phosphate - Auto/seg	---							---												
	O-phosphate - Auto/Dis	---							---												
21.	Selenium - Furnace	---							50												
	Selenium - Hydride	---							50												
	Selenium - ICP/MS	200.8	102.48	9.8	Multi	Tbl 12	3	10 %	50	50 ug/L	82.0	123.0	20.0	80.0	125.0	80.0	125.0	20.0	7.9 ug/L	20 ug/L	3.18 x MDL
	Selenium - STGFAA	200.9	88.9	10	Single	Tbl IE	3	10 %	50	25 ug/L	35.0	142.0	30.0	28.0	149.0	28.0	149.0	36.0	0.6 ug/L	2 ug/L	3.18 x MDL

Standardized QC and QC Acceptance Criteria for Methods in 40 CFR 141.23(k)(1)

		Data					Specifications													
		Reference		Prec-			CAL		MCL	Spike	IPR Recovery		Prec-	OPR Recovery		MS/MSD Recovery			ML	ML
No.	Analyte	Method	Recovery	ision	Labs	Source	Points	Lin	(ug/L)	conc	Low	High	ision	Low	High	Low	High	RPD	MDL	Value	Calc
22.	Silica - ICP	200.7	53.86	45.38	Multi	Apx C	5	25 %	---	1 mg/L	d	145.0	91.0	d	154.0	d	154.0	91.0	58 ug/L	200 ug/L	3.18 x MDL
	Silica - Color	---							---												
	Silica - Color/Mo Blue	---							---												
	Silica - Molybdosil	---							---												
	Silica - Heteropoly	---							---												
	Silica - Auto/Mo react	---							---												
23.	Sodium - Flame	---							---												
	Sodium - ICP	200.7	99.77	24.27	Multi	Apx C	5	25 %	---	1 mg/L	51.0	149.0	49.0	46.0	154.0	46.0	154.0	49.0	29 ug/L	100 ug/L	3.18 x MDL
24.	Temperature	---																			
25.	Thallium - ICP/MS	200.8	101.5	14.5	Multi	Tbl 12	3	10 %	2.0	2 ug/L	72.0	131.0	29.0	69.0	134.0	69.0	134.0	29.0	0.3 ug/L	1 ug/L	3.18 x MDL
	Thallium - STGFAA	200.9	95.4	2.8	Single	Tbl IE	3	10 %	2.0	20 ug/L	80.0	111.0	8.4	78.0	113.0	78.0	113.0	11.0	0.7 ug/L	2 ug/L	3.18 x MDL

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Note to Table "Standardized QC and QC Acceptance Criteria for Methods in 40 CFR 141.23(k)(1)"

The QC acceptance criteria given in this table were developed from data published in the following sources. For Method 200.7, incorporated by reference into 40 CFR 141.23(k)(1), QC acceptance criteria were developed using the regression equations in Table 9 at the end of the method and published in Table 4 of Method 200.7 at 40 CFR 136, Appendix C. The concentration given in the Spike Conc column is the concentration at which the QC acceptance criteria were calculated. For calculating the precision criterion, the overall standard deviation (S) was used (not the single-analyst standard deviation (SR)). For the remaining 200-series metals methods, QC acceptance criteria were developed from data in a table either at the end of the method, as referenced in the table, or from performance data published at the end of each method in Methods for Chemical Analysis of Water and Wastes (MCAWW; EPA 600/4–79–020; NTIS PB–123677). For methods other than Method 200.7 and the 200-series metals methods, data published at the end of each method were used, if available; otherwise default QC acceptance criteria, as described below, were used.

The databases used to develop regression equations for Method 200.7 and the 200-series metals methods were not readily available. Therefore, QC acceptance criteria were calculated using the procedures given in the Streamlining Guide. Where interlaboratory data were available, these data were used and the QC limits were calculated as follows:

IPR lower recovery limit = average $-2 \times$ interlab sd
IPR upper recovery limit = average $+ 2 \times$ interlab sd
IPR precision limit = $2 \times$ sd
OPR and MS/MSD lower limit = average recovery $-2.2 \times$ interlab sd
OPR and MS/MSD upper limit = average recovery $+ 2.2 \times$ interlab sd

Where interlaboratory data were not available but single-laboratory data were available, the single-laboratory data were used and the QC limits were calculated as follows:

IPR lower recovery limit = average $-6.0 \times$ interlab sd
IPR upper recovery limit = average $+ 6.0 \times$ interlab sd
IPR precision limit = $3.0 \times$ sd
OPR/MS/MSD lower recovery limit = average $-6.0 \times$ interlab sd
OPR/MS/MSD upper recovery limit = average $+ 6.0 \times$ interlab sd

The multipliers include interlaboratory/single-laboratory allowances and are explained in the Streamlining Guide.

Where neither interlaboratory nor single-laboratory data were available, default values of 100 percent recovery and either 5 or 10 percent RSD were used and the QC limits were calculated assuming single laboratory data. This resulted in the following default values:

IPR lower recovery limit: 47%
IPR upper recovery limit: 153%
IPR precision limit: 30% RSD
OPR/MS/MSD lower recovery limit: 40%
OPR/MS/MSD upper recovery limit: 160%

Minimum levels were set by setting the ML to the low end of the range listed in the method or, if an MDL was available, by multiplying the MDL by 3.18 and rounding to the number nearest to 1, 2, or 5×10^n, where n is an integer.

3. On page 15049, Table 141.40(n)(11) is corrected to read as follows:

TABLE 141.40(N)(11)

Parameter/ Methodology	Reference method	Other approved methods		
		EPA	Standard methods 18th ed.[1]	Other
1. aldicarb				
HPLC/Fl	531.1		6610	.....
2. aldicarb sulfone				
HPLC/Fl	531.1		6610	.....
3. aldicarb sulfoxide				
HPLC/Fl	531.1		6610	.....
4. aldrin				
GC/ECD	508.1	505, 508	.....	.....
GC/MS	525.2		.....	.....
5. butachlor				
GC/MS	525.2		.....	.....
GC/NPD	507		.....	.....
6. carbaryl				
HPLC/Fl	531.1		6610	.....
7. dicamba				
GC/ECD	515.2	515.1	.....	.....
HPLC	555		.....	.....
8. dieldrin				
GC/ECD	508.1	505, 508	.....	.....
HPLC	525.2		.....	.....
9. 3-hydroxycarbofuran				
HPLC/Fl	531.1		6610	.....
10. methomyl				
HPLC/Fl	531.1		6610	.....
11. metolachlor				
GC/ECD	508.1		.....	.....
GC/MS	525.2		.....	.....
GC/NPD	507		.....	.....
12. metribuzin				
GC/ECD	508.1		.....	.....
GC/MS	525.2		.....	.....
GC/NPD	507		.....	.....
13. propachlor				
GC/ECD	508.1	508	.....	.....
GC/MS	525.2		.....	.....

Note: The following acronyms are used in this table:
ECD Electron Capture Detector
Fl Fluorescence

GC Gas Chromatography
GC/MS Gas Chromatography/Mass Spectrometry
HPLC High Performance Liquid Chromatography
NPD Nitrogen Phosphorous Detector
UV Ultraviolet Detector

[FR Doc. 97–16735 Filed 6–25–97; 8:45 am]
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federal register

Thursday
June 26, 1997

Part VI

Environmental Protection Agency

40 CFR Part 300

National Oil and Hazardous Substances Pollution Contingency Plan; Involuntary Acquisition of Property by the Government; Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5847–9]

National Oil and Hazardous Substances Pollution Contingency Plan; Involuntary Acquisition of Property by the Government

AGENCY: Environmental Protection Agency.

ACTION: Notice of congressional reinstatement of regulations.

SUMMARY: On September 30, 1996, the Asset Conservation, Lender Liability, and Deposit Insurance Protection Act (''Asset Conservation Act'' or ''Act''), 110 Stat. 3009–462 (1996), reinstated regulations pertaining to liability under the Comprehensive Environmental Response, Compensation, and Liability Act, (CERCLA), for the involuntary acquisition of property by governmental entities. The regulations were codified at 40 CFR 300.1105 in 1992, but were subsequently vacated by the U.S. Court of Appeals for the District of Columbia.

EFFECTIVE DATE: September 30, 1996.

FOR FURTHER INFORMATION CONTACT: Laura Bulatao, Office of Site Remediation Enforcement, U.S. Environmental Protection Agency, 401 M St., SW (mail code 2273–A), Washington, DC 20460 (202–564–6028).

SUPPLEMENTARY INFORMATION: In 1992, EPA issued its ''Final Rule on Lender Liability Under CERCLA'' (''CERCLA Lender Liability Rule'' or ''Rule''), 57 FR 18344 (April 29, 1992). In addition to addressing lender liability, the rule clarified the language of Section 101(20)(D) of CERCLA, 42 U.S.C. 9601(20)(D), which provides an exemption from the definition of ''owner or operator'' for certain government entities that involuntarily acquire property, and Section 101(35)(A) of CERCLA, 42 U.S.C. 9601(35)(A), which pertains to the ''third-party'' defense potentially available to government entities that involuntarily acquire property. The Rule was codified at 40 CFR 300.1100 and 300.1105.

In 1994, the U.S. Court of Appeals for the District of Columbia Circuit vacated the rule. *Kelley* v. *EPA*, 15 F.3d 1100 (D.C. Cir. 1994), reh'g denied, 25 F.3d 1088 (D.C. Cir. 1994), cert. denied, *American Bankers Ass'n* v. *Kelley*, 115 S. Ct. 900 (1995). Consequently, in 1995, EPA removed the Rule from the Code of Federal Regulations. ''Final Rule on Removal of Legally Obsolete Rules,'' 60 FR 33912, 33913 (June 29, 1995).

In 1996, Section 2504 of the Asset Conservation Act reinstated, effective September 30, 1996, the portion of the rule that addresses involuntary acquisitions by government entities. Additionally, Section 2504 of the Act provides that any reference in the now reinstated portion of the rule (40 CFR 300.1105) to the remaining portion of the vacated rule (40 CFR 300.1100) shall be deemed to be a reference to CERCLA's secured creditor exemption as amended by the Asset Conservation Act. See 42 U.S.C. 9601(20) (E)–(G).

This document also corrects a typographical error in the Rule as published on April 29, 1992. In 40 CFR 300.1105(a)(1), the word ''virtue'' appeared incorrectly as ''virture.''

List of Subjects in 40 CFR Part 300

Environmental protection, Hazardous substances, Intergovernmental relations, Superfund.

Dated: June 19, 1997.

Steven A. Herman,

Assistant Administrator, Office of Enforcement and Compliance Assurance.

For the reasons set forth in the preamble, 40 CFR part 300 is amended as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

2. By adding subpart L to read as follows:

Subpart L—National Oil and Hazardous Substances Pollution Contingency Plan; Involuntary Acquisition of Property by the Government

Sec.

Subpart L—National Oil and Hazardous Substances Pollution Contingency Plan; Involuntary Acquisition of Property by the Government

§ 300.1105 Involuntary acquisition of property by the government.

(a) Governmental ownership or control of property by involuntary acquisitions or involuntary transfers within the meaning of CERCLA section 101(20)(D) or section 101(35)(A)(ii) includes, but is not limited to:

(1) Acquisitions by or transfers to the government in its capacity as a sovereign, including transfers or acquisitions pursuant to abandonment proceedings, or as the result of tax delinquency, or escheat, or other circumstances in which the government involuntarily obtains ownership or control of property by virtue of its function as sovereign;

(2) Acquisitions by or transfers to a government entity or its agent (including governmental lending and credit institutions, loan guarantors, loan insurers, and financial regulatory entities which acquire security interests or properties of failed private lending or depository institutions) acting as a conservator or receiver pursuant to a clear and direct statutory mandate or regulatory authority;

(3) Acquisitions or transfers of assets through foreclosure and its equivalents (as defined in 40 CFR 300.1100(d)(1)) or other means by a Federal, state, or local government entity in the course of administering a governmental loan or loan guarantee or loan insurance program; and

(4) Acquisitions by or transfers to a government entity pursuant to seizure or forfeiture authority.

(b) Nothing in this section or in CERCLA section 101(20)(D) or section 101(35)(A)(ii) affects the applicability of 40 CFR 300.1100 to any security interest, property, or asset acquired pursuant to an involuntary acquisition or transfer, as described in this section.

Note to paragraphs (a)(3) and (b) of this section: Reference to 40 CFR 300.1100 is a reference to the provisions regarding secured creditors in CERCLA sections 101(20)(E)–(G), 42 U.S.C. 9601(20)(E)–(G). *See* Section 2504(a) of the Asset Conservation, Lender Liability, and Deposit Insurance Protection Act, Public Law, 104–208, 110 Stat. 3009–462, 3009–468 (1996).

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June 26, 1997

Part VII

Department of Labor

Pension and Welfare Benefits Administration

29 CFR Chapter XXV

Department of Health and Human Services

Health Care Financing Administration

45 CFR Subtitle A, Subchapter B

Mental Health Parity and Newborns' and Mothers' Health Protection; Proposed Rule

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

29 CFR Chapter XXV

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

45 CFR Subtitle A, Subchapter B

Mental Health Parity and Newborns' and Mothers' Health Protection

AGENCIES: Pension and Welfare Benefits Administration, Department of Labor; and Health Care Financing Administration, Department of Health and Human Services.

ACTION: Solicitation of comments.

SUMMARY: This document is a request for comments regarding issues under the Mental Health Parity Act of 1996 (MHPA) and the Newborns' and Mothers' Health Protection Act of 1996 (NMHPA). The Department of Labor and the Department of Health and Human Services (collectively, the Departments) have received comments from the public on a number of issues arising under both MHPA and NMHPA. Further comments from the public are welcome.

DATES: The Departments have requested that comments be submitted on or before July 28, 1997.

ADDRESSES: Written comments should be submitted with a signed original and 2 copies to the Pension Welfare Benefits Administration (PWBA) at the address specified below. PWBA will provide copies to the Department of Health and Human Services for its consideration. All comments will be available for public inspection and copying in their entirety. Comments should be sent to: Office of Regulations and Interpretations, Pension and Welfare Benefits Administration, Room N–5669, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210, Attn: MHPA/NMHPA Solicitation of Comments.

All comments received will be available for public inspection at the Public Disclosure Room, Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Ave., NW., Washington, DC 20210. Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department of Health and Human Services offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone (202) 690–7890).

FOR FURTHER INFORMATION CONTACT: Amy Scheingold, Department of Labor, Pension and Welfare Benefits Administration, at 202–219–4377 (not a toll-free number); or Therese Klitenic, Health Care Financing Administration, at 410–786–5942 for inquiries regarding MHPA, or Suzanne Long, Health Care Financing Administration, at 410–786–0970 for inquiries regarding NMHPA (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Mental Health Parity Act of 1996

The Mental Health Parity Act of 1996 (MHPA or the Act) was enacted on September 26, 1996 (Pub. L. 104–204). MHPA amended the Public Health Service Act (PHSA) and the Employee Retirement Income Security Act of 1974, as amended, (ERISA) to provide for parity in the application of limits on certain mental health benefits with limits on medical and surgical benefits. Health coverage is regulated in part by the federal government, under the PHSA and ERISA, and other federal provisions including the Internal Revenue Code (Code), and in part by the States.

MHPA provisions are set forth in Title XXVII of the PHSA and Part 7 of Subtitle B of Title I of ERISA. These provisions are not currently contained in the Code. However, the Conference Report states Congress's intention to make conforming changes to the Code as soon as possible in order to implement these provisions under the Code. MHPA provisions are intended to provide parity of mental health benefits with medical and surgical benefits under a group health plan in the application of aggregate dollar lifetime limits and annual dollar limits. A plan providing both medical and surgical benefits and mental health benefits may not impose an aggregate lifetime expenditure limit or annual expenditure limit (as dollars) on mental health benefits if it does not impose such a limit on substantially all of the medical and surgical benefits.

If a group health plan does impose an aggregate lifetime limit or annual limit on medical and surgical benefits, the plan cannot impose any such limit on mental health benefits that is less than that on the medical and surgical benefits. In the case of a plan that has different aggregate lifetime limits, or annual limits, on different categories of medical and surgical benefits, the Departments shall establish rules to calculate an average aggregate lifetime limit, or annual limit, for mental health benefits that is computed taking into account the weighted average of the limits applicable to the different categories.

MHPA does not require a plan or coverage to provide any mental health benefits. Further, MHPA provides that nothing in the Act shall be construed as affecting the terms or conditions (including cost sharing, limits on numbers of visits or days of coverage, and requirements relating to medical necessity) relating to the amount, duration or scope of mental health benefits under such plans or coverage, except as specifically provided regarding parity in the imposition of aggregate lifetime limits and annual limits for mental health benefits. MHPA requirements do not apply to benefits for substance abuse or chemical dependency.

MHPA also provides two exemptions from its parity requirements. The first exemption is for small employers (defined as an employer who employed an average of at least 2 but not more than 50 employees on business days during the preceding calendar year and who employs at least 2 employees on the first day of the plan year). The second exemption is for group health plans if the application of these provisions results in an increase in the cost under the plan or coverage of at least one percent.

MHPA provisions are effective for plan years beginning on or after January 1, 1998. The Act includes a sunset provision under which MHPA requirements do not apply to benefits for services furnished on or after September 30, 2001. Accordingly, the Departments are working actively to develop and promulgate the necessary regulations prior to the effective date of the MHPA provisions.

Newborns' and Mothers' Health Protection Act of 1996

The Newborns' and Mothers' Health Protection Act of 1996 (NMHPA) was enacted on September 26, 1996 (Pub. L. 104–204). NMHPA amended the PHSA and ERISA to provide protection for mothers and their newborn children with regard to the length of hospital stays following the birth of a child. NMHPA applies to health coverage offered in the large and small group markets, and the individual market.

NMHPA provisions are set forth in Title XXVII of the PHSA and Part 7 of Subtitle B of Title I of ERISA. NMHPA provisions are not currently contained in the Code. These provisions include new rules relating to the minimum time period a mother and a newborn child can spend in the hospital in connection

with the birth of a child. Under NMHPA, group health plans, insurance companies, and health maintenance organizations (HMOs) offering health coverage for hospital stays in connection with the birth of a child must provide health coverage for a minimum period of time. For example, NMHPA provides that coverage for a hospital stay following a normal vaginal delivery generally may not be limited to less than 48 hours for each the mother and the newborn child. Health coverage for a hospital stay in connection with childbirth following a caesarean section generally may not be limited to less than 96 hours for the mother and the newborn child.

NMHPA's requirements only apply to group health plans, insurance companies, and HMOs that choose to provide insurance coverage for a hospital stay in connection with childbirth. NMHPA does not require such entities to provide coverage for hospital stays in connection with the birth of a child. In addition, NMHPA does not prevent a group health plan, insurance company, or HMO from imposing deductibles, coinsurance, or other cost-sharing measures for health benefits relating to hospital stays in connection with childbirth as long as such cost-sharing measures are not greater than those imposed on any preceding portion of a hospital stay.

NMHPA prohibits certain compensation arrangements. Specifically, NMHPA prohibits a group health plan, insurance company, or HMO from providing monetary payments or rebates to mothers to encourage such mothers to accept less than the minimum protections under the law; prohibits penalizing or otherwise reducing or limiting the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with the law; and prohibits providing incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with the law.

The requirements under NMHPA apply to plans and issuers in the group market for plan years beginning on or after January 1, 1998. For issuers in the individual market, the requirements apply with respect to health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after January 1, 1998. Accordingly, the Departments are working actively to develop and promulgate the necessary regulations prior to the effective date of the NMHPA provisions.

Economic Analysis/Paperwork Reduction Act Information/Regulatory Flexibility Act Information

Analysis under Executive Order 12866 requires that the Departments quantify the costs and benefits of the proposed regulations and the alternatives considered using the guidance provided by the Office of Management and Budget (OMB). These costs and benefits are not limited to the Federal government, but pertain to the nation as a whole.

The Departments' analysis under the Regulatory Flexibility Act will need to include, among other things, an estimate of the number of small entities subject to the regulations (for this purpose, plans, employers, and issuers and, in some contexts small governmental entities), the expense of the reporting and other compliance requirements (including the expense of using professional expertise), and a description of regulatory alternatives that minimize impact on small entities yet achieve the regulatory purpose.

Paperwork Reduction Act analysis requires that the Departments estimate how many ''respondents'' will be required to comply with the ''collection of information'' aspects of the regulations and how much time and cost will be incurred as a result. A collection of information includes record-keeping, reporting to governmental agencies, and third-party disclosures, such as the certification process.

The Departments are requesting comments that may contribute to the impact analysis that will be performed pursuant to the above mentioned requirements.

Comments

Comments have been received from the public on a number of issues arising under MHPA and NMHPA. The purpose of this announcement is to advise the public that further comments are welcome. In order to assist interested parties in responding, this solicitation of comments describes specific areas in which the Departments are particularly interested. The Departments, however, also request comments and suggestions concerning any area or issue pertinent to the assessment and development of regulatory guidance regarding MHPA and NMHPA. Comments should reference the appropriate question number to aid the Departments in analyzing submissions.

Specific Areas With Respect to MHPA in Which the Departments Are Interested Include the Following

Group health plans are exempt from the provisions of MHPA if the application of its provisions results in an increase in the cost under the plan or coverage of at least one percent.

With respect to this exemption:

1(a) Should the exemption be contingent on formal application and agency approval or some other less formal process such as record keeping and third party disclosure?

1(b) Whether the exemption process is formal or informal, what documentation should be required to support an exemption from MHPA and how should such documentation be subject to independent verification?

1(c) If the exemption process is not contingent on formal application and agency approval, what additional consumer protections should be developed as part of implementing the statute?

2(a) Should the exemption be available based on costs which are prospective, retrospective, or both?

2(b) If prospective, how should the costs be estimated?

2(c) If retrospective, how should costs be measured?

2(d) Should the added costs be calculated from the baseline of no mental health care coverage or current practice, where some coverage is offered but falls short of parity?

3 Should the exemption determinations be made on an annual basis?

In the case of a plan that has different aggregate lifetime limits, or annual limits, on different categories of medical and surgical benefits, MHPA requires the Departments to establish rules to calculate an average aggregate lifetime limit or annual limit for mental health benefits that is computed taking into account the weighted average of such limit applicable to the different categories. With regard to these provisions:

4 How should the weighted average of the limits applicable to the different categories of medical and surgical benefits be computed?

Specific Areas With Respect to NMHPA in Which the Departments Are Interested Include the Following

5 What compensation arrangements should be identified as inappropriate under NMHPA? Please provide specific examples of such arrangements.

6 What issues or concerns should be taken into consideration for establishing how to measure 48 and 96 hours (e.g., when should the 48 or 96 hours begin)?

7 What issues or concerns should be taken into consideration in defining ''attending provider''?

8 What type of benefits should be considered ''in connection with a childbirth''?

Specific Areas with Respect to the Departments' Responsibilities and Analysis Under Executive Order 12866, Paperwork Reduction Act, and Regulatory Flexibility Act in Which the Departments Are Interested Include:

9 What amendments are plans likely to make in response to MHPA and NMHPA, including any amendments designed to offset compliance costs?

10(a) What will be the costs and benefits of compliance with the NMHPA and the MHPA?

10(b) How should these costs and benefits be defined?

10(c) How will these costs and benefits vary with size and other characteristics of plans?

10(d) Would differences in these costs and benefits by plan size or other characteristics suggest additional regulatory flexibility?

11 To what extent are there already voluntary policies in the industry, and/or State or local mandates in place that meet or exceed the NMHPA and MHPA mandates?

12(a) What is the prevalence of mental health benefits among large and small plans?

12(b) Are these benefits typically provided separately from other health benefits?

12(c) Are mental health benefits self-insured and/or administered through third party administrators to a greater or lesser extent than other benefits?

13 What proportion of sponsors of mental health benefits will be eligible for the one percent cost exemption? What types of plans are most likely to be eligible?

14 How would costs and benefits of MHPA and NMHPA vary with alternative policies (including alternative interpretations of the MHPA one percent cost exemption)? What are the implications for access to mental health, maternity, or other categories of health insurance?

15 As a measure of benefits, how many people may enjoy greater access to medically appropriate treatment by providing more equitable annual or lifetime limits for mental health coverage?

All submitted comments will be made part of the record of the preceding referred to herein and will be available for public inspection.

Signed at Washington, DC, this 23rd day of June 1997.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration, Department of Labor.

Bruce Vladeck,

Administrator, Health Care Financing Administration, Department of Health and Human Services.

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Federal Register

Thursday
June 26, 1997

Part VIII

The President

Executive Order 13051—Internal Revenue Service Management Board

Federal Register
Vol. 62, No. 123
Thursday, June 26, 1997

Presidential Documents

Title 3—

The President

Executive Order 13051 of June 24, 1997

Internal Revenue Service Management Board

By the authority vested in me as President by the Constitution and the laws of the United States of America, including 31 U.S.C. 301 and 26 U.S.C. 7801(a), and in order to establish a permanent oversight board to assist the Secretary of the Treasury (''Secretary'') in ensuring effective management of the Internal Revenue Service, it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is hereby established within the Department of the Treasury the Internal Revenue Service Management Board (''Board'').

(b) The Board shall consist of:

(1) the Deputy Secretary of the Treasury, who shall serve as Chair of the Board;

(2) the Assistant Secretary of the Treasury (Management) and the Chief Financial Officer, who shall serve as Vice Chairs;

(3) the Assistant Secretary of the Treasury (Tax Policy);

(4) the Under Secretary of the Treasury (Enforcement);

(5) the Deputy Assistant Secretary of the Treasury (Departmental Finance and Management);

(6) the Deputy Assistant Secretary of the Treasury (Information Systems)/Chief Information Officer;

(7) the Assistant Secretary of the Treasury (Legislative Affairs and Public Liaison);

(8) the General Counsel for the Department of the Treasury;

(9) the Director, Office of Security, Department of the Treasury;

(10) the Senior Procurement Executive for the Department of the Treasury;

(11) the Commissioner of Internal Revenue;

(12) the Deputy Commissioner of Internal Revenue;

(13) the Associate Commissioner of Internal Revenue for Modernization/Chief Information Officer of the Internal Revenue Service;

(14) the Deputy Director for Management, Office of Management and Budget;

(15) the Administrator for Federal Procurement Policy, Office of Management and Budget;

(16) a representative of the Office of the Vice President designated by the Vice President;

(17) a representative of the Office of Management and Budget designated by the Director of such office;

(18) a representative of the Office of Personnel Management designated by the Director of such office;

(19) representatives of such other Government agencies as may be determined from time to time by the Secretary of the Treasury, designated by the head of such agency; and

(20) such other officers or employees of the Department of the Treasury as may be designated by the Secretary.

(c) A member of the Board described in paragraphs (16) through (20) of subsection (b) may be removed by the official who designated such member.

(d) The Board may seek the views, consistent with 18 U.S.C. 205, of Internal Revenue Service employee representatives on matters considered by the Board under section 3 of this order.

Sec. 2. *Structure.* There shall be an Executive Committee of the full Board, the members of which shall be appointed by the Secretary.

Sec. 3. *Functions.* (a) The Board shall directly support the Secretary's oversight of the management and operation of the Internal Revenue Service. This includes:

(1) working through the Deputy Secretary, assisting the Secretary on the full range of high-level management issues and concerns affecting the Internal Revenue Service, particularly those that have a significant impact on operations, modernization, and customer service.

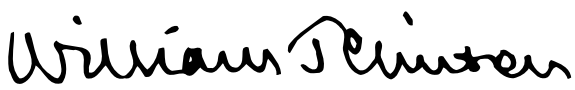
(2) acting through the Executive Committee, serving as the primary review for strategic decisions concerning modernization of the Internal Revenue Service, including modernization direction, strategy, significant reorganization plans, performance metrics, budgetary issues, major capital investments, and compensation of personnel.

(b) The Board shall meet at least monthly and shall prescribe such bylaws or procedures as the Board deems appropriate.

(c) The Board shall prepare semiannual reports to the President and to the Congress, which shall be transmitted by the Secretary of the Treasury.

Sec. 4. *Administration.* To the extent permitted by law and subject to the availability of appropriations, the Secretary shall provide the Board administrative services, facilities, staff, and such other financial support services as may be necessary for the performance of its functions under this order.

Sec. 5. *Judicial Review.* This order is intended only to improve the internal management of the Internal Revenue Service and is not intended, and shall not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or its employees.



THE WHITE HOUSE,
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Reader Aids

Federal Register

Vol. 62, No. 123

Thursday, June 26, 1997

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids — **202–523–5227**

Laws

For additional information — **523–5227**

Presidential Documents

Executive orders and proclamations — **523–5227**

The United States Government Manual — **523–5227**

Other Services

Electronic and on-line services (voice) — **523–4534**

Privacy Act Compilation — **523–3187**

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FEDERAL REGISTER PAGES AND DATES, JUNE

29649–30228 2
30229–30426 3
30427–30738 4
30739–30978 5
30979–31314 6
31315–31506 9
31507–31700 10
31701–32020 11
32021–32194 12
32195–32470 13
32471–32682 16
32683–32988 17
32989–33338 18
33339–33536 19
33537–33732 20
33733–33970 23
33971–34156 24
34157–34384 25
34385–34610 26

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

7007 30415
7008 30427
7009 31699
7010 32983

Executive Orders:

June 8, 1866 (Revoked in part by PLO 7265) 32367
April 13, 1912 (Revoked in part by PLO 7268) 33104
3406 (Revoked in part by PLO 7269) 33103
5449 (See PLO 7263) 31450
5947 (See PLO 7263) 31450
12552 (Revoked by EO 13048) 32467
12637 (Revoked by EO 13048) 32467
12816 (Revoked by EO 13048) 32467
13048 32467
13049 33471
13050 32987

Administrative Orders:

Presidential Determinations:

No. 97–24 of May 23, 1997 30737
No. 97–25 of May 29, 1997 31313
No. 97–26 of May 30, 1997 32015
No. 97–27 of June 3, 1997 32017
No. 97–28 of June 3, 1997 32019
No. 97–29 of June 13, 1997 34157

5 CFR

Ch. XXXV 32859
330 ..... 31315, 34385
900 33971
1603 33968
1640 35154
1651 32426
1690 32473
2634 33972
2641 31866
3801 31866

Proposed Rules:

338 30778
581 31763
582 31763
733 34017

7 CFR

1 33977
80 29649
272 29652
275 29652
301 ..... 30739, 33537
330 29662
340 29662
351 29662
372 29662
401 ..... 33733, 33737
457 ..... 33539, 33733, 33737
723 30229
735 33539
736 33539
737 33539
738 33539
739 33539
740 33539
741 33539
742 ..... 33339, 33539
743 33539
800 ..... 31701, 34342
911 30429
944 30429
979 30979
985 31704
989 32473
1414 33982
1415 33982
1416 33982
1434 33982
1437 33982
1439 33982
1464 30229
1468 33982
1477 33982
1479 33982
1489 33982
1703 32434
1753 32476
1775 33462
1777 33462
1778 33462
1780 33462
1781 33462
1786 32477
1901 33462
1940 33462
1942 33462
1951 33462
1956 33462
4284 33462

Proposed Rules:

46 33574
400 33575
401 ..... 32544, 33763
457 ..... 32544, 33763
500 33376
911 30467
918 30468
927 32548
944 30467
1205 31012
1753 32552

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT JUNE 26, 1997

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Administrative regulations:

Social security account numbers and employer identification numbers; collection and storage; published 5-27-97

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Magnuson Act provisions

Technical amendment and correction; published 6-26-97

Northeastern United States fisheries—

Atlantic mackerel, squid and butterfish; published 5-27-97

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Maryland; correction; published 6-26-97

Toxic substances:

Significant new uses—

Aliphatic polyisocyanates, etc.; withdrawn; published 6-26-97

Butanamide, 2,2'-[3'dichloro[1,1'-biphenyl]-4,4'-diyl)bisazobis N-2,3-dihydro-2-oxo-1H-benximdazol-5-yl)-3-oxo; withdrawn; published 6-26-97

Substituted phenol; published 6-26-97

TRANSPORTATION DEPARTMENT

Federal Highway Administration

State highway safety programs; uniform procedures; published 6-26-97

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

State highway safety programs; uniform procedures; published 6-26-97

TRANSPORTATION DEPARTMENT

Research and Special Programs Administration

Hazardous materials:

Hazardous materials transportation—

Informal guidance and interpretive assistance; availability; correction; published 6-26-97

Pipeline safety:

Liquefied natural gas regulations; miscellaneous amendments; published 2-25-97

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Fresh Irish Potato Diversion Program; 1996 Crop; comments due by 7-2-97; published 6-2-97

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, domestic:

Pink bollworm; comments due by 7-1-97; published 5-2-97

AGRICULTURE DEPARTMENT

Food and Consumer Service

Child nutrition programs:

Child and adult care food program—

Child Nutrition and WIC Reauthorization Act of 1989, et al.; implementation; comments due by 6-30-97; published 5-1-97

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Bering Sea and Aleutian Islands and Gulf of Alaska groundfish; comments due by 7-1-97; published 3-31-97

Pacific halibut and red king crab; comments due by 6-30-97; published 6-9-97

Caribbean, Gulf, and South Atlantic fisheries—

Gulf of Mexico shrimp; comments due by 6-30-97; published 4-29-97

Northeastern United States fisheries—

Atlantic bluefish fishery, etc.; comments due by 6-30-97; published 5-29-97

West Coast States and Western Pacific fisheries—

Nontrawl sablefish; comments due by 7-3-97; published 6-3-97

Pacific Coast groundfish; comments due by 7-1-97; published 6-16-97

CONSUMER PRODUCT SAFETY COMMISSION

Privacy Act; implementation; comments due by 7-2-97; published 6-2-97

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Specialty metals; agreements with qualifying countries; comments due by 6-30-97; published 5-1-97

ENERGY DEPARTMENT

Occupational radiation protection:

Guides and technical standards; availability; comments due by 6-30-97; published 6-4-97

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Natural gas companies (Natural Gas Act):

Research, development, and demonstrated funding; comments due by 6-30-97; published 5-7-97

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:

Pharmaceuticals production; comments due by 7-2-97; published 5-21-97

Air quality implementation plans; approval and promulgation; various States:

District of Columbia; comments due by 7-2-97; published 6-2-97

Indiana; comments due by 7-3-97; published 6-3-97

Pennsylvania; comments due by 7-3-97; published 6-3-97

Tennessee; comments due by 6-30-97; published 5-30-97

Texas; comments due by 6-30-97; published 5-30-97

Air quality planning purposes; designation of areas:

Texas; comments due by 7-3-97; published 6-3-97

Clean Air Act:

Federal and State operating permits programs; streamlining; comments due by 7-3-97; published 6-3-97

Hazardous waste program authorizations:

Missouri; comments due by 6-30-97; published 5-30-97

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Clomazone; comments due by 7-1-97; published 5-2-97

Paraquat; comments due by 7-1-97; published 5-2-97

Toxic substances:

Significant new uses—

2-propenoic acid, 7-oxabicyclo[4.1.0]hept-3ylmethyl ester, etc.; comments due by 7-2-97; published 6-2-97

Acrylates (generic); comments due by 7-2-97; published 6-2-97

Testing requirements—

Biphenyl, etc.; comments due by 6-30-97; published 3-28-97

Water pollution control:

Ocean dumping; site designations—

Mud Dump Site, NJ and NY; comments due by 6-30-97; published 5-13-97

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

West Virginia; comments due by 6-30-97; published 5-14-97

FEDERAL LABOR RELATIONS AUTHORITY

Unfair labor practice proceedings; miscellaneous and general requirements; comments due by 6-30-97; published 5-23-97

FEDERAL RESERVE SYSTEM

Truth in Lending (Regulation Z):

Disclosures to consumers; improvement; comments due by 6-30-97; published 4-2-97

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species: