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NORTHEAST DAIRY COMPACT COMMISSION

7 CFR Part 1381

Handler Petition Procedure; Interim Procedural Rule

AGENCY: Northeast Dairy Compact Commission.

ACTION: Interim procedural rule.

SUMMARY: This interim procedural rule implements section 16(b) of the Northeast Interstate Dairy Compact by establishing the procedures by which a milk handler subject to a Compact Over-order price regulation, or other regulatory action of the Northeast Dairy Compact Commission, may petition the Commission for administrative relief.

DATES: Effective date: July 1, 1997.

Comments on this interim procedural rule may be filed with the Commission by July 30, 1997.

ADDRESSES: Northeast Dairy Compact Commission, 43 State Street, P.O. Box 1058, Montpelier, VT 05601.

FOR FURTHER INFORMATION CONTACT: Daniel Smith, Executive Director, Northeast Dairy Compact Commission at the above address or by telephone at (802) 229–1941, or by facsimile at (802) 229–2028.

SUPPLEMENTARY INFORMATION:

I. Background

The Northeast Dairy Compact Commission (the ''Commission'') was established under authority of the Northeast Interstate Dairy Compact (''Compact''). The Compact was enacted into law by each of the six participating New England states as follows: Connecticut—Pub. L. 93–320; Maine—Pub. L. 89–437, as amended, Pub. L. 93–274; Massachusetts—Pub. L. 93–370; New Hampshire—Pub. L. 93–336; Rhode Island—Pub. L. 93–106; Vermont—Pub. L. 89–95, as amended, 93–57. In accordance with Article I, Section 10 of the United States Constitution, Congress consented to the Compact in Pub. L. 104–127 (FAIR ACT), Section 147, codified at 7 U.S.C. 7256. Subsequently, the United States Secretary of Agriculture, pursuant to 7 U.S.C. 7256(1), authorized implementation of the Compact.

Pursuant to its authority under Article V, Section 11 of the Compact, the Commission conducted an informal rulemaking proceeding to decide whether to adopt a Compact Over-order price regulation. See 62 FR 23032 (Apr. 28, 1997) (proposed rule). The Commission subsequently adopted a Compact Over-order price regulation, effective July 1, 1997. See 62 FR 29626 (May 30, 1997). Pursuant to Sections 12 and 13 of the Compact, the Commission conducted a producer referendum, which was approved. See 62 FR 29646 (May 30, 1997).

Article VI, section 16(b) of the Compact establishes the right of a milk handler to petition the Commission for administrative relief from operation of any regulatory order of the Commission. It provides that:

> [a]ny handler subject to an order may file a written petition with the commission stating that any such order or any provision of any such order or any obligation imposed in connection therewith is not in accordance with law and praying for a modification thereof or to be exempted therefrom. He shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations made by the commission. After such hearing, the commission shall make a ruling upon the prayer of such petition, which shall be final, if in accordance with law.

Compact, Art. VI, section 16(b).

Accordingly, this interim procedural rule establishes the Commission's regulations for the conduct of such petition proceedings.

List of Subjects in 7 CFR Part 1381

Milk.

For the reasons set forth in the preamble, the Commission adds a new part 1381 to 7 CFR chapter XIII to read as follows:

PART 1381—RULES OF PRACTICE GOVERNING PROCEEDINGS ON PETITIONS TO MODIFY OR TO BE EXEMPTED FROM COMPACT OVER-ORDER PRICE REGULATIONS.

Sec.
1381.1 Definitions.
1381.2 Institution of proceedings.
1381.3 Contents of petition.
1381.4 Conduct of proceedings.
1381.5 Judicial appeal; escrow

Authority: U.S.C. 7256.

§ 1381.1 Definitions.

As used in this part, the terms defined in Article II, section 2 of the Compact shall apply with equal force and effect. In addition, unless the context otherwise requires:

(a) *Administrative assessment* shall include the assessment imposed upon Handlers under 7 CFR 1308.1 for their pro rata share of the expense of administering a Compact pricing regulation, as announced each month by the Federal Order #1 Market Administrator and authorized under 7 U.S.C. 7256.

(b) *Chair* shall mean the Chair of the Northeast Dairy Compact Commission.

(c) *Handler* shall mean any person subject to a Compact Over-order price regulation or administrative assessment, or to whom a Compact Over-order price or administrative assessment is sought to be made applicable.

(d) *Compact Over-order price regulation* shall mean the prices regulated under the provisions of 7 CFR parts 1300, 1301, 1303–1307, as announced each month by the Federal Order #1 Market Administrator and authorized under 7 U.S.C. 7256.

(e) *Order* shall include a Compact Over-order price regulation.

§ 1381.2 Institution of Proceedings.

Any handler desiring to complain that any order, Compact over-order price, or administrative assessment, or any provision of such order or assessment, or any obligation imposed in connection therewith is not in accordance with law shall file with the Commission a petition in writing, along with 5 copies of the same.

§ 1381.3 Contents of petition.

A petition shall contain:

(a) The correct name, address, and principal place of business of the petitioner. If petitioner is a corporation, such fact shall be stated, together with

the name of the State of incorporation, the date of incorporation, and the names, addresses, and respective positions, held by its officers; if an unincorporated association, the names and addresses of its officers, and the respective positions held by them; if a partnership, the name and address of each partner.

(b) Reference to the specific terms or provisions of the regulation, order, or notice of administrative assessment, or the interpretation or application thereof, which are complained of.

(c) A full statement of the facts (avoiding a mere repetition of detailed evidence) upon which the petition is based, setting forth clearly and concisely the nature of the petitioner's business and the manner in which petitioner claims to be affected by the terms or provisions of the regulation, order or administrative assessment, or the interpretation or applications thereof, which are complained of.

(d) A statement of the grounds on which the terms or provisions of the regulation, order, or administrative assessment or the interpretation or application thereof, which are complained of are challenged as not being in accordance with law.

(e) Any prayer for specific relief which the petitioner desires the Commission to grant;

(f) An affidavit by the petitioner, or if the petitioner, or if the petitioner is not an individual by an officer of the petitioner having knowledge of the facts stated in the petition, verifying the petition and stating that it is filed in good faith and not for the purposes of the delay. The affidavit may include a request for an oral hearing on the petition. Such request shall set forth specific grounds demonstrating the need for such a hearing.

(g) Any additional affidavit evidence supporting the petition.

(h) Petitioner's prayer for relief must include either payment of all sums due, or a request that payments due or payable during the pendency of the administrative appeal (or longer, see § 1381.5(b)), be placed in an escrow account established by the Commission. If a request for escrow is made, petitioner may make payment into a Commission escrow account established while the Commission rules upon its request in accordance with § 1381.4(b)(5). Any petitioner who refuses to make payment during this period shall be liable for payment of interest on such withheld funds, at the federal statutory rate set forth in 28 U.S.C. 1961, plus such additional penalties as are appropriate under Article VI, section 17 of the Compact.

§ 1381.4 Conduct of proceedings.

(a) *Appointment of Commission hearing panel.* Upon receipt of a petition, the Chair shall appoint from one to three Commission members who shall consider the petition. For panels greater than one member, the Chair shall designate a chief hearing officer. The Commission panel chosen by the Chair shall consist of Commission members who are not members of the state delegation in which the Handler is incorporated or has its principal place of business, who have no pecuniary interest in the outcome, and who are otherwise fair and impartial.

(b) *Preliminary matters.* The panel shall meet within 15 days of their appointment to determine whether to:

(1) Limit the taking of evidence to affidavits, and thereby make their decision solely on the basis of the record before them without an oral hearing. In making this determination, the panel shall consider:

(i) The nature of the petition before them;

(ii) The nature of any facts in dispute that may necessitate an oral hearing; and

(iii) Whether the petitioner will be unduly prejudiced by limiting the taking of evidence to affidavits without benefit of an oral hearing.

(2) Require the production by affidavit or additional information, documents, reports, answers, records, accounts, papers or other data and documentary evidence necessary to the proper resolution of the matter.

(3) Compel the production of documentary evidence by subpoena throughout all signatory states pursuant to section 16(a) of the Compact.

(4) Consolidate two or more petitions pertaining to the same order or issue and the evidence relied upon under such consolidated proceeding may be embodied in a single decision.

(5) Grant or deny petitioner's request for the establishment of an escrow account, if such request has been made. The panel shall deny such a request only if it has otherwise ensured adequate protection to the handler with respect to the payments of sums due and challenged in the petition.

(c) The panel shall promptly notify petitioner by certified mail of the results of its deliberations under paragraphs (a) and (b) of this section. The panel's notice shall include a concise statement of the basis for its decisions under those paragraphs. The notice shall include a time and place for an oral hearing, if any, and the deadline for the submission of any additional information required by the panel. The notice shall also set forth the date by which the panel will issue its proposed findings of fact, conclusions and decision, as computed under paragraph (g) of this section. If a request has been made for the establishment of an escrow account and such request has been granted, the notice shall also include a procedure for the making of escrow payments. If such request is denied, any payments made and held in escrow may be released for disbursement by the Commission.

(d) The panel may take official notice of such matters as are judicially noticed by the courts of the United States and of any other matter of technical, scientific or commercial fact of established character: *Provided,* That interested parties shall be given adequate notice of matters so noticed and shall be given adequate opportunity to show that such facts are inaccurate or are erroneously noticed.

(e) The panel shall:

(1) Exclude, insofar as practicable, evidence which is immaterial, irrelevant or unduly repetitious: *Provided,* That interested parties shall be given adequate notice of such exclusion and an opportunity to show that such evidence has been erroneously excluded.

(2) Not discuss ex parte the merits of the proceeding with any person who is or who has been connected in any manner with the proceeding.

(f) Oral Hearing.

(1) Any oral hearing shall be conducted at a time and place determined by the panel.

(2) Testimony presented at the hearing shall be:

(i) Upon oath or affirmation administered by the panel and subject to reasonable cross examination; and

(ii) Reported verbatim.

(3) As part of the hearing, the panel may require the appearance of any witness, or the production of additional information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary to the proper resolution of the matter.

(4) If appropriate, the panel shall compel the appearance of witnesses, the giving of testimony or the production of documentary evidence by subpoena throughout all signatory states pursuant to section 16(a) of the Compact.

(5) The panel shall exclude evidence which is immaterial, irrelevant, or unduly repetitious.

(6) The panel shall rule on offers of proof and otherwise reasonably regulate the course of the hearing.

(g) Proposed findings of fact, conclusions and decision.

(1) Within 45 days of the panel's appointment, or, in the event an oral hearing is held, within 60 days, the panel shall issue proposed findings of fact, conclusions and a decision based upon the evidence in the record. The proposed findings, conclusions and decision shall be served upon the petitioner by certified mail.

(2) Petitioner may submit a response to the panel's proposed findings of fact, conclusions and decision, along with supporting reasons. Such response shall be received by the Commission within 20 days of petitioner's receipt of the panel's proposed findings, conclusions and decision.

(3) The panel may modify, alter or amend its proposed findings, conclusions and decision in accordance with petitioner's response, as it deems appropriate.

(h) Final ruling by the Commission.

(1) Unless the panel so notifies the Commission of the need for an extension of time, at its first regularly scheduled meeting following the deadline for the receipt of petitioner's response to the panel's proposed findings, conclusions and decision, the Commission shall make a final ruling upon the petition. The Commission's determination shall be based upon the panel's final or modified proposed findings, conclusions and decision. The Commission shall also consider the petitioner's response to the panel's original proposed findings, conclusion and decision. The record shall also be available for review by the Commission.

(2) The Commission's final ruling shall be served by certified mail upon the petitioner and be filed in the Commission offices, and be made available for public inspection and copying in accordance with the bylaws.

(3) Any commissioner shall (on either the Commissioner's own motion or on motion of the petitioner) disqualify himself or herself from consideration of the Commission's final ruling on the panel's decision if that commissioner's impartiality might reasonably be questioned.

§ 1381.5 Judicial appeal; escrow.

(a) As set forth in section 16(c) of the Compact, as approved by 7 U.S.C. 7256, the district courts of the United States, in any district in which a handler is an inhabitant or has his principal place of business, have jurisdiction to review a final ruling of the Commission made pursuant to § 1381.4(h), provided that a complaint is filed within thirty days from the date of the entry of that final ruling.

(b) A petitioner who has been granted the establishment of an escrow account as part of the administrative proceeding and who has timely appealed may request that its payments be placed into escrow pending the appeal. Upon such a request, the Commission shall hold the money in escrow until the date that a timely judicial complaint is filed plus a period of ten days. The Commission may also, for good cause shown, continue to hold the money placed in escrow pending the ultimate resolution of any appeal, or for such other period as the Commission may establish.

Daniel Smith,

Executive Director.

[FR Doc. 97–16674 Filed 6–27–97; 8:45 am]

BILLING CODE 1650–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket No. EE–RM–220–IF]

RIN: 1904–AA61

Energy Conservation Program for Consumer Products; Fluorescent and Incandescent Lamp Test Procedures

AGENCY: Office of Energy Efficiency and Renewable Energy, DOE.

ACTION: Final rule; delay of effective date.

SUMMARY: This notice delays the effective date of the Final Rule for the Energy Conservation Program for Consumer Products; Fluorescent and Incandescent Lamp Test Procedures, published May 29, 1997 (62 FR 29222).

DATES: The effective date of the final rule published at 62 FR 29222 is delayed from June 30, 1997 to October 18, 1997. The incorporation by reference of certain publications listed in the regulations and approved by the Director of the Federal Register as of June 30, 1997 has been conformed to the same date.

FOR FURTHER INFORMATION CONTACT: Mr. Terrence L. Logee, 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, (202) 586–1689, 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, (202) 586–9507.

SUPPLEMENTARY INFORMATION:

I. Discussion

Part B of Title III of the Energy Policy and Conservation Act, as amended (EPCA or the Act), establishes the Energy Conservation Program for Consumer Products Other Than Automobiles.[1] The consumer and commercial products currently subject to this program (covered products) include fluorescent and incandescent reflector lamps, the subjects of today's notice.

Today's notice delays the effective date for the Final Rule (62 FR 29222, May 29, 1997) from June 30, 1997 to October 18, 1997 (180 days from the date of issue, April 21, 1997) and the incorporation by reference of certain publications listed in the regulations and approved by the Director of the Federal Register as of June 30, 1997 has been conformed to the same date. The statute states that effective 180 days after a test procedure is amended no manufacturer, distributor, retailer, or private labeler may make any representation in writing (including labels) or in advertising with respect to energy efficiency, energy used or the cost of energy consumed unless the product is tested with the revised test procedure and the representation fairly discloses the results of such testing. Section 323(c)(2), 42 U.S.C. 6291(c)(2). The Final Rule published on May 29, 1997, is an amendment to the Interim Final Rule, and it includes test procedures for some lamps which were not subject to testing under the Interim Final Rule. Therefore, the delay of the effective date from June 30, 1997 to October 18, 1997, will allow manufacturers adequate time to change advertising and make new labels that correctly state the energy used by these lamps.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Fluorescent and incandescent lamps.

Issued in Washington, DC, on July 25, 1997.

Joseph J. Romm,

Acting Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 97–17025 Filed 6–27–97; 8:45 am]

BILLING CODE 6450–01–P

[1] Part B of Title III of EPCA, as amended, is referred to in this Final Rule as the ''Act'', and provisions of the Act are referred to either as ''Section _____ of the Act'' or as ''Section _____.'' Part B of Title III is codified at 42 U.S.C. 6291–6309.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–29–AD; Amendment 39–10061; AD 97–14–04]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes two existing airworthiness directives (AD), applicable to certain Boeing Model 737 series airplanes, that currently require tests of the main rudder power control unit (PCU) to detect excessive internal leakage of hydraulic fluid, stalling, or reversal, and to verify proper operation of the PCU; and replacement of the PCU with a unit having a different part number, if necessary. This amendment adds requirements for replacement of the PCU and the vernier control rod bolts with newly designed units. This amendment also adds a requirement for leak tests of the PCU, and replacement of the PCU with a serviceable or newly designed unit, if necessary. This amendment is prompted by reports of fracturing of the vernier control rod bolts as a result of the shank of the bolt running into the threads on the nutplate during installation of the rod. The actions specified by this AD are intended to prevent such fracturing, which could result in uncommanded movements of the rudder, and consequent reduced controllability of the airplane.

DATES: Effective August 4, 1997.

The incorporation by reference of Boeing Alert Service Bulletin 737–27A1202, evision 1, dated December 6, 1996, as listed in the regulations, is approved by the Director of the Federal Register as of August 4, 1997.

The incorporation by reference of Boeing Service Letter 737–SL–27–8–B, dated July 13, 1993, as listed in the regulations, was approved previously by the Director of the Federal Register as of March 3, 1994 (59 FR 4570, February 1, 1994).

The incorporation by reference of Boeing Alert Service Bulletin 737–27A1202, dated November 1, 1996, as listed in the regulations, was approved previously by the Director of the Federal Register as of November 27, 1996 (61 FR 59317, November 22, 1996).

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

FOR FURTHER INFORMATION CONTACT: Kenneth W. Frey, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227–2673; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding both AD 94–01–07, amendment 39–8789 (59 FR 4570, February 1, 1994), and AD 96–23–51, amendment 39–9818 (61 FR 59317, November 22, 1996), was published in the **Federal Register** on March 14, 1997 (62 FR 12126). Both of the existing AD's are applicable to various Boeing Model 737 series airplanes.

The NPRM proposed to continue to require tests of the main rudder power control unit (PCU) to detect excessive internal leakage of hydraulic fluid, stalling, or reversal, and to verify proper operation of the PCU; and replacement of the PCU with a unit having a different part number, if necessary. The NPRM also proposed to require replacement of the PCU and vernier control rod bolts with newly designed units; epetitive leak tests of the PCU; and replacement of the PCU with a serviceable or newly designed unit, if necessary.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

One commenter supports the proposed rule.

Request to Extend the Comment Period of the Proposal

Several commenters request an extension of the public comment period for the proposed AD. These commenters state that such an extension will enable operators to better understand the issues surrounding the proposed actions and to review recent material presented by Boeing and comments submitted by the National Transportation Safety Board (NTSB) in response to Rules Docket No. 96–NM–266–AD.

The FAA does not concur. The FAA has considered the degree of urgency associated with addressing the identified unsafe condition of the rudder PCU, and the amount of time that has already elapsed since issuance of the original proposed rule. In light of these items, the FAA has determined that further delay of this final rule is not appropriate.

Request to Delay Issuance of Final Rule

One commenter requests that the FAA delay issuance of the final rule until Boeing can release the service bulletins containing procedures for replacement of the main rudder PCU and vernier control rod bolts with newly designed units. The commenter states that neither Boeing nor its suppliers have completed engineering the proposed design changes; therefore, the commenter is unable to provide meaningful or technically relevant comments regarding the actions specified in the proposed AD.

The FAA does not concur with the commenter's request. In light of the critical nature of the addressed unsafe condition, the FAA does not consider that delaying this action until after release of Boeing's planned service bulletins is warranted. Furthermore, the FAA disagrees with the commenter's assertion that it is unable to submit meaningful comments on this AD until Boeing's design changes are completed. On the contrary, the proposed AD provided extensive information on the nature of the unsafe condition, the proposed corrective actions, and the proposed compliance times for those actions. The only information not provided (because it was not available) was reference to a specific service document providing details on specific methods for accomplishing the proposed actions.

The FAA considers that this proposed AD has complied fully with the requirements of the Administrative Procedure Act to provide the public with a reasonable opportunity to comment by including in the proposal ''either the terms or substance of the proposed rule or a description of the subjects and issues involved.''

Request to Reference Latest Boeing Service Bulletin

One commenter requests that paragraph (c) of the proposed rule be revised to reference Revision 1 of Boeing Alert Service Bulletin 737–27A1020, dated December 6, 1996, and Revision 2 of that alert service bulletin (which has not been released yet). The commenter states that the terminating action for the requirements of paragraph

(c) of the proposed AD will be included in Revision 2 of the alert service bulletin.

The FAA concurs partially. Regarding Revision 2 of the service bulletin, the FAA does not reference service bulletins that have not yet been released in an AD. Office of the Federal Register (OFR) regulations require that either the service document contents be published as part of the actual AD language; or that the service document be submitted for approval by the OFR as ''referenced'' material, in which case it may be only referred to in the text of an AD. An AD may only refer to a service document that was submitted and approved by the OFR for ''incorporation by reference.'' In order for operators to use later revisions of a referenced document (issued after the publication of an AD), either the AD must be revised to reference the specific later revisions, or operators must request the approval of the use of them as an alternative method of compliance under the provisions of paragraph (i) of this AD.

Since issuance of the NPRM, the FAA has reviewed and approved Boeing Alert Service Bulletin 737–27A1202, Revision 1, dated December 6, 1996, as an alternative method of compliance for the requirements of paragraph (c) of the AD. The FAA has revised paragraph (c) of this final rule to include Revision 1 of the alert service bulletin as an additional source of service information.

Requests to Revise the Compliance Time for New Requirements

Several commenters request a revision to the proposed compliance time of 2 years for accomplishment of the new requirements of this proposed AD:

One commenter requests that the new requirements proposed by the AD be accomplished by December 31, 1997. The commenter states that the NTSB and FAA have known about the problems with the rudder PCU since 1986 or earlier. The commenter asserts that further delays will only increase the possibility of another catastrophic accident.

Two commenters request that the compliance time for accomplishing the proposed replacement of the main rudder PCU and the vernier control rod bolts be extended from the proposed 2 years. One of these commenters requests a compliance time of 3 years. The other commenter requests a compliance time of 5 years. One of these commenters states that if the functional test of the main rudder PCU [as required by paragraph (e) of the proposed AD] requires the phase lag test of the yaw damper system to be performed, it will be forced to send all PCU's to Parker Hannifin for modification and testing. The same commenter suggests that Parker Hannifin does not have the capability to manufacture the replacement parts within the proposed compliance time. The other commenter points out that Parker Hannifin will be especially hard pressed to manufacture the required parts within the proposed compliance time.

One commenter questions, due to past difficulties with vendors and parts availability, whether the 2-year compliance time of the subject replacement of the proposed AD is feasible.

The FAA does not concur with any of the commenters' requests. In response to the commenter that states the FAA has known about the problems associated with the main rudder PCU since 1986 or earlier, the FAA finds this statement to be incorrect. The FAA learned of the design deficiencies in the main rudder PCU servo valve and control rod bolts in the last quarter of 1996. The FAA has determined that Parker Hannifin has the capability to manufacture the replacement parts for all affected airplanes within the proposed compliance time. In addition, the FAA finds that a compliance time of less than 2 years would significantly increase the possibility of new design or manufacturing errors. Further, the FAA points out that once Boeing has developed the design changes for the main rudder PCU servo valve and control rod bolts, time will be necessary to test the new design changes to ensure those changes meet certification requirements for FAA approval.

In developing an appropriate compliance time for the required replacements, the FAA considered not only the degree of urgency associated with addressing the unsafe condition, but the availability of required parts and the practical aspect of accomplishing the replacements within an interval of time that parallels normal scheduled maintenance for the majority of affected operators. In consideration of all of these factors, the FAA has determined that 2 years represents an appropriate interval of time allowable wherein the replacements can be accomplished during scheduled maintenance intervals for the majority of affected operators, and an acceptable level of safety can be maintained.

Request to Revise Part Numbers of PCU's

One commenter requests that part numbers (P/N) 65–44861–( ) and 65C37052–( ) of the PCU identified in paragraph (d)(1) of the proposal be revised to include P/N's 65–44861–10 and 65C36052–10, respectively. The commenter states that –10 P/N's were addressed in Notice of Status Change 737–27–1185 NSC1, dated May 27, 1993, which was incorporated into Boeing Service Bulletin 737–27–1185, Revision 1, dated April 14, 1994.

The FAA does not concur. The symbol ''( )'' at the end of the subject P/N's indicates any dash number. Therefore, P/N's 65–44861–10 and 65C36052–10 are affected by the requirements of paragraph (d)(1) of the final rule.

Request to Add a New Requirement

One commenter states that the vernier control rod must be replaced or reworked at the same time the bolts are replaced in order to replace the two nutplates. The commenter notes that this action is not included in the proposed AD. From this comment, the FAA infers that the commenter is requesting that paragraph (d)(2) of the proposed AD be revised to include a requirement to replace or rework the vernier control rod.

The FAA does not concur. The FAA acknowledges that replacing the two nutplates could correct the bolt design deficiency; however, such a design change has not been submitted to the FAA for approval. However, under the provisions of paragraph (i) of the final rule, the FAA may consider requests for approval of an alternative method of compliance if sufficient data are submitted to substantiate that such a design change would provide an acceptable level of safety.

Request to Revise Reference to Vernier Control Rod Bolt

One commenter requests that reference to a vernier control rod ''bolt'' (singular) be changed to ''bolts'' (plural) throughout the proposal. The commenter states that there are two bolts—one on each end of the rod. The FAA concurs with this suggestion and has revised the final rule accordingly.

Request to Incorporate the Leak Test Into the Maintenance Program

One commenter requests that the leak test required by paragraph (e) of the proposed AD be incorporated into each operator's FAA-approved maintenance program as terminating action for the requirements of that paragraph.

The FAA concurs. The FAA finds that revising the FAA-approved maintenance program to require an FAA-approved leak test may be accomplished as an optional terminating action for the repetitive leak test requirements of paragraph (e) of the final rule. Therefore, the FAA has added a new

paragraph (f) to this final rule to provide for this option.

Request to Extend Repetitive Interval for Leak Test

One commenter requests that the repetitive intervals for the leak test [specified in paragraphs (e)(1) and (e)(2) of the proposed AD] be extended from the proposed 6,000 flight hours to 6,400 flight hours. The commenter states that such an extension will coincide with the interval of the ''2C'' maintenance check for Boeing Model 737–300, –400, and –500 series airplanes.

The FAA concurs. The FAA's intent was that the specified intervals coincide with the ''2C'' maintenance check. Accordingly, the FAA has revised paragraphs (e)(1) and (e)(2) of the final rule to specify this revised repetitive interval.

Request To Accept Previously Approved Alternative Methods of Compliance

One commenter states that the leak test specified in Boeing Service Letter 737–SL–27–91 was considered acceptable as an alternative method of compliance (AMOC) in accordance with AD 94–01–07. The commenter questions whether the FAA will continue to accept that AMOC, or whether it will be necessary to apply for approval of a new AMOC.

The FAA has not approved a leak test as an AMOC for the requirements of this AD. However, the FAA may consider requests for approval of the subject leak test as an AMOC if sufficient data are submitted to substantiate that such a test would provide an acceptable level of safety.

Request to Add a Requirement for the Control Rod and Its Bolts

One commenter requests that an identical requirement to that of paragraph (f) of the proposed AD [designated as paragraph (g) in the final rule] be included in the final rule for the control rod and its bolts.

The FAA concurs. The FAA inadvertently omitted such a requirement for the control rod and its bolts from the proposal. The FAA's intent was to include a requirement that states, ''Once a newly designed vernier control rod bolt specified in paragraph (d)(2) of this AD is installed on an airplane, no operator shall install on that airplane any bolt other than such a newly designed bolt.'' Therefore, the FAA has added a new paragraph (h) to the final rule to include such a requirement.

This new paragraph (h) simply states the effect of Section 39.3 of part 39 of the Federal Aviation Regulations (14 CFR 39.3), which provides, ''No person may operate a product to which an airworthiness directive applies except in accordance with the requirements of that airworthiness directive.'' Thus, once an operator has complied with paragraph (d)(2) of this AD, it is required to continue to operate in compliance with that paragraph. As a result, this new paragraph (h) does not impose an additional burden on any operator.

FAA's Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 2,900 Boeing Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,350 airplanes of U.S. registry will be affected by this AD.

The tests that are currently required by AD 94–01–07 take approximately 8 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required tests on U.S. operators is estimated to be $648,000, or $480 per airplane, per test.

The replacement that is currently required by AD 94–01–07 takes approximately 20 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be supplied by the manufacturer at no cost to operators. Based on these figures, the cost impact of the currently required replacement on U.S. operators is estimated to be $1,620,000, or $1,200 per airplane.

The tests that are currently required by AD 96–23–51 take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required tests on U.S. operators is estimated to be $162,000, or $120 per airplane, per test.

The replacement of the PCU that is required by this AD action takes approximately 9 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be supplied by the manufacturer at no cost to operators. Based on these figures, the cost impact of the required replacement of the PCU on U.S. operators is estimated to be $729,000, or $540 per airplane.

The replacement of the vernier control rod bolts that is required by this AD action takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will be supplied by the manufacturer at no cost to operators. Based on these figures, the cost impact of the required replacement of the vernier control rod bolts on U.S. operators is estimated to be $81,000, or $60 per airplane.

The leak tests that are required in this AD action take approximately 8 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required leak test on U.S. operators is estimated to be $648,000, or $480 per airplane, per leak test.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the

Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendments 39–8789 (59 FR 4570, February 1, 1994) and 39–9818 (61 FR 59317, November 22, 1996), and by adding a new airworthiness directive (AD), amendment 39–10061, to read as follows:

97–14–04 Boeing: Amendment 39–10061. Docket 97–NM–29–AD. Supersedes AD 94–01–07, Amendment 39–8789, and AD 96–23–51, Amendment 39–9818.

Applicability: All Model 737–100, –200, –300, –400, and –500 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent uncommanded movements of the rudder, and consequent reduced controllability of the airplane, accomplish the following:

Restatement of Requirements of AD 94–01–07

(a) Within 750 flight hours after March 3, 1994 (the effective date of AD 94–01–07, amendment 39–8789), perform a test of the main rudder PCU, part number 65–44861–2/–3/–4/–5/–6/–7/–8/–9, to detect internal leakage of hydraulic fluid, in accordance with Boeing Service Letter 737–SL–27–82–B, dated July 13, 1993.

(1) If no discrepancy, as described in paragraph 3.B. of the Service Letter, is detected, repeat the test at intervals not to exceed 750 flight hours.

(2) If any discrepancy, as described in paragraph 3.B. of the Service Letter, is detected during any check, prior to further flight, accomplish either paragraph (a)(2)(i) or (a)(2)(ii) of this AD:

(i) Replace the main rudder PCU with a serviceable PCU in accordance with the Model 737 Overhaul Manual. After such replacement, repeat the test at intervals not to exceed 750 flight hours.

(ii) Replace the main rudder PCU with a new main rudder PCU having part number 65–44861–11 or 65C37052–2/–3/–4/–5/–6/–7/–8/–9, in accordance with Boeing Service Bulletin 737–27–1185, dated April 15, 1993. Such replacement constitutes terminating action for the tests required by paragraph (a) of this AD.

(b) Replacement of the main rudder PCU, part number 65–44861–( ), with a new main rudder PCU having part number 65–44861–11 or 65C37052–2/–3/–4/–5/–6/–7/–8/–9, in accordance with Boeing Service Bulletin 737–27–1185, dated April 15, 1993, constitutes terminating action for the tests required by paragraph (a) of this AD.

Restatement of Requirements of AD 96–23–51

(c) Within 10 days after November 27, 1996 (the effective date of AD 96–23–51, amendment 39–9818), perform a test to verify proper operation of the rudder PCU, in accordance with Boeing Alert Service Bulletin 737–27A1202, dated November 1, 1996, or Revision 1, dated December 6, 1996.

(1) If the rudder PCU operates properly, repeat the test thereafter at intervals not to exceed 250 flight hours.

(2) If the rudder PCU operates improperly, prior to further flight, replace the rudder PCU with a new rudder PCU, in accordance with the alert service bulletin. Repeat the test thereafter at intervals not to exceed 250 flight hours.

New Requirements of This AD

(d) Within 2 years after the effective date of this AD, accomplish paragraphs (d)(1) and (d)(2) of this AD in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Accomplishment of these actions terminates the requirements of paragraphs (a), (b), and (c) of this AD.

(1) Replace any main rudder PCU having Boeing part number (P/N) 65–44861–() or P/N 65C37052–() with a new main rudder PCU that has been approved by the Manager, Seattle ACO.

(2) Replace the vernier control rod bolts having Boeing P/N 69–27229–() with new bolts that have been approved by the Manager, Seattle ACO.

(e) Perform a leak test of the main rudder PCU in accordance with a method approved by the Manager, Seattle ACO, at the applicable times specified in paragraph (e)(1) or (e)(2) of this AD. If any discrepancy is found, prior to further flight, replace the PCU with a serviceable or newly designed unit in accordance with a method approved by the Manager, Seattle ACO.

Note 2: If the PCU is replaced in accordance with the requirements of paragraph (e) prior to accomplishing the replacement required by paragraph (d) of this AD, ''serviceable'' includes the newly designed PCU referenced in paragraph (d)(1) of this AD and PCU's having part number 65–44861–11 and 65C37052–2, –3, –4, –5, –6, –7, –8, and –9. However, after the PCU has been replaced in accordance with paragraph (d)(1) of this AD, ''serviceable'' is limited to the newly designed PCU's referenced in that paragraph.

(1) For airplanes on which the replacement specified in paragraph (a)(2)(ii), (b), or (c)(2) of this AD has been accomplished prior to the effective date of this AD: Within 4,000 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 6,400 flight hours.

(2) For airplanes other than those identified in paragraph (e)(1) of this AD: Within 6,400 flight hours after accomplishment of the replacement required by paragraph (d)(1) of this AD, and thereafter at intervals not to exceed 6,400 flight hours.

(f) Revision of the FAA-approved maintenance program to require an FAA-approved leak test constitutes terminating action for the repetitive leak test requirements of paragraph (e) of this AD.

(g) Once a newly designed PCU specified in paragraph (d)(1) of this AD is installed on an airplane, no operator shall install on that airplane any PCU other than such a newly designed unit.

(h) Once a newly designed vernier control rod bolt specified in paragraph (d)(2) of this AD is installed on an airplane, no operator shall install on that airplane any bolt other than such a newly designed bolt.

(i) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

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

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

(k) The actions shall be done in accordance with Boeing Service Letter 737–SL–27–82–B, dated July 13, 1993; Boeing Alert Service Bulletin 737–27A1202, dated November 1, 1996; and Boeing Alert Service Bulletin 737–27A1202, Revision 1, dated December 6, 1996. The incorporation by reference of Boeing Service Letter 737–SL–27–82–B, dated July 13, 1993, as listed in the regulations, was approved previously by the Director of the Federal Register as of March 3, 1994 (59 FR 4570, February 1, 1994). The incorporation by reference of Boeing Alert Service 737–27A1202, dated November 1, 1996, as listed in the regulations, was approved previously by the Director of the Federal Register as of November 27, 1996 (61 FR 59317, November 22, 1996). The incorporation by reference of Boeing Alert Service Bulletin 737–27A1202, Revision 1, dated December 6, 1996, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may

be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(l) This amendment becomes effective on August 4, 1997.

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

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–16852 Filed 6–27–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–182–AD; Amendment 39–10059; AD 97–14–02]

RIN 2120–AA64

Airworthiness Directives; Airbus Industrie Model A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A300–600 series airplanes, that requires repetitive eddy current inspections to detect cracks of the outer skin of the fuselage at certain frames, and repair or reinforcement of the structure at the frames, if necessary. This amendment also requires eventual reinforcement of the structure at certain frames, which, when accomplished, terminates the repetitive inspections. This amendment is prompted by a report indicating that fatigue cracks were found in the area of certain frames. The actions specified by this AD are intended to prevent such fatigue cracking, which could reduce the structural integrity of the airframe and result in rapid decompression of the airplane.

DATES: Effective August 4, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 4, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Industrie Model A300–600 series airplanes was published in the **Federal Register** on March 26, 1997 (62 FR 14361). That action proposed to require repetitive eddy current inspections to detect cracks of the outer skin of the fuselage at frames 28A and 30A above stringer 30; and repair or reinforcement of the structure of the frames, if necessary. Additionally, that action proposed to require eventual reinforcement of the structure at frames 28 and 29, and frames 30 and 31, between stringers 29 and 30, which, when accomplished, terminates the repetitive inspections.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supports the proposed rule.

The FAA has revised paragraph (a)(2) of this AD by adding the phrase ''prior to further flight'' to clarify the compliance time for the repair or reinforcement of any cracking found. This phrase was omitted inadvertently from the proposed rule.

The FAA also has removed NOTE 1 of the proposal, which excluded certain airplanes from the applicability of this AD. The FAA considers it unnecessary to include this information in the final rule.

Conclusion

After careful review of the available data, including the changes noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 34 Airbus Industrie Model A300–600 series airplanes of U.S. registry will be affected by this AD.

The eddy current inspection that is required by this AD will take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required inspection on U.S. operators is estimated to be $2,040, or $60 per airplane, per inspection cycle.

The reinforcement that is required by this AD will take approximately 93 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $7,200 per airplane. Based on these figures, the cost impact of the required modification on U.S. operators is estimated to be $434,520, or $12,780 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation

Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–14–02 Airbus Industrie: Amendment 39–10059. Docket 96–NM–182–AD.

Applicability: Model A300–600 series airplanes on which Airbus Modification 8683 was not accomplished during production, or on which Airbus Modification 8684 has not been installed; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the fuselage outer skin at frames 28A and 30A, which could reduce the structural integrity of the airframe and result in rapid decompression of the airplane, accomplish the following:

(a) Prior to the accumulation of 14,100 total flight cycles, or within 12 months after the effective date of the AD, whichever occurs later, conduct an eddy current inspection to detect cracking of the fuselage outer skin at frames 28A and 30A above stringer 30, in accordance with Airbus Service Bulletin A300–53–6045, dated March 21, 1995, as revised by Change Notice No. O.A., dated June 1, 1995.

(1) If no cracking is found, repeat the inspection thereafter at intervals not to exceed 4,500 flight cycles.

(2) If any cracking is found that is within the limits specified in the service bulletin, prior to further flight, repair in accordance with paragraph 2.D. of the Accomplishment Instructions of Airbus Service Bulletin A300–53–6045, dated March 21, 1995, as revised by Change Notice No. O.A., dated June 1, 1995; or reinforce the structure at frames 28 and 29, and at frames 30 and 31, between stringers 29 and 30, in accordance with Airbus Service Bulletin A300–53–6037, dated March 21, 1995.

(i) If the repair is accomplished: After the repair, repeat the eddy current inspection thereafter at intervals not to exceed 4,500 flight cycles.

(ii) If the reinforcement is accomplished: Such reinforcement constitutes terminating action for the repetitive inspections required by this AD.

(3) If any cracking is found that is outside the limits specified in the service bulletin, prior to further flight, reinforce the structure at frames 28 and 29, and at frames 30 and 31, between stringers 29 and 30, in accordance with Airbus Service Bulletin A300–53–6037, dated March 21, 1995. Such reinforcement constitutes terminating action for the repetitive inspections required by this AD.

(b) Within 5 years after the effective date of this AD, reinforce the structure at frames 28 and 29, and at frames 30 and 31, between stringers 29 and 30, in accordance with Airbus Service Bulletin A300–53–6037, dated March 21, 1995. Such reinforcement constitutes terminating action for the repetitive inspections required by this AD.

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

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

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

(e) The actions shall be done in accordance with Airbus Service Bulletin A300–53–6045, dated March 21, 1995, as revised by Change Notice No. O.A., dated June 1, 1995; and Airbus Service Bulletin A300–53–6037, dated March 21, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on August 4, 1997.

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

S.R. Miller,

Acting Manager,

Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–16854 Filed 6–27–97; 8:45 am]

BILLING CODE 4910–13–U

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

RIN 0960–AE72

Administrative Review Process; Prehearing Proceedings and Decisions by Attorney Advisors; Extension of Effective Date

AGENCY: Social Security Administration.

ACTION: Final rules.

SUMMARY: These final rules extend the effective date of the regulations that authorize attorney advisors in our Office of Hearings and Appeals (OHA) to conduct certain prehearing proceedings and, where the documentary record developed as a result of these proceedings warrants, to issue decisions that are wholly favorable to the parties to the hearing in claims for Social Security or Supplemental Security Income (SSI) benefits based on disability. We are extending the effective date of these regulations for a twelve month period that begins June 30, 1997, when the provisions would otherwise cease to be effective, and continues through June 30, 1998.

EFFECTIVE DATE: These rules are effective June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Harry J. Short, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–6243 for information about these rules. For information on eligibility or claiming benefits, call our national toll-free number, 1–800–772–1213.

SUPPLEMENTARY INFORMATION: On June 30, 1995, in an action undertaken to reduce the record numbers of requests for an administrative law judge (ALJ) hearing pending in our OHA hearing offices, we published final rules in the **Federal Register** (60 FR 34126) that authorize OHA's attorney advisors to conduct certain prehearing proceedings and, if a decision that is wholly favorable to the parties to the hearing may be issued at the completion of these proceedings, to issue such a decision. These regulations, which are codified at 20 CFR §§ 404.942 and 416.1442, included a provision stating that the rules would no longer be effective on June 30, 1997, unless they were extended by the Commissioner of Social Security by publication of a final rule in the **Federal Register**.

In Fiscal Year (FY) 1996, SSA achieved the largest reduction ever recorded in the number of cases pending at the ALJ hearing level, reducing the number pending at the end

of FY 1995, 547,690, to 503,481 by the end of FY 1996. Use of OHA attorney advisors to conduct certain prehearing proceedings and issue wholly favorable decisions where warranted helped us to achieve those results. Use of the attorney advisors in these capacities also enabled SSA to manage greatly increased numbers of hearing requests in a more timely manner than would have been possible had the attorney advisors not been so used. These results were achieved notwithstanding a decrease in the overall rate at which we allow claims for benefits when an individual requests a hearing before an ALJ (from 64.7% in FY 1995, the year in which we initiated the use of attorney advisors in these capacities, to 58.9% in FY 1996).

We initiated the attorney advisor program as a short term measure to reduce the number of cases pending in our hearing offices prior to implementation of the improvements in the disability claims process, including the use of an adjudication officer in cases in which a request for a hearing is filed, as set forth in the Plan for a New Disability Claim Process approved by former Commissioner of Social Security Shirley S. Chater in 1994. We began testing use of adjudication officers in 1995 under final rules published in the **Federal Register** on September 30, 1995 (60 FR 47469).

To preserve our existing capacity to manage the large numbers of new requests for ALJ hearings we continue to receive and the large number of cases still pending in our hearing offices, we have decided that we should extend the effective date of these rules through June 30, 1998. Therefore, we are publishing these final rules to revise the sunset provision in §§ 404.942(g) and 416.1442(g) to provide that the provisions authorizing prehearing proceedings and decisions by the attorney advisors will no longer be effective on July 1, 1998, unless the provisions are extended by the Commissioner of Social Security by publication of a final rule in the **Federal Register**.

Regulatory Procedures

Pursuant to section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5), as amended by section 102 of Public Law 103–296, SSA follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the notice and public comment procedures in this case. Good cause exists because these rules only extend the date on which the regulatory provisions concerning prehearing proceedings and decisions by attorney advisors will no longer be effective. These rules make no substantive change to those provisions. The current regulations expressly provide that the provisions may be extended. Therefore, opportunity for prior public comment is unnecessary, and we are issuing these regulations as final rules.

In addition, we find good cause for dispensing with the 30-day delay in the effective date of a substantive rule, provided for by 5 U.S.C. 553(d). As explained above, we are not making any substantive changes in the provisions on prehearing proceedings and decisions by attorney advisors. However, without a timely extension of the expiration date for these provisions, we will lack regulatory authority beginning June 30, 1997, to have OHA attorney advisors conduct certain prehearing proceedings and issue fully favorable decisions, when appropriate under the rules. In order to provide for an uninterrupted continuance of that authority for the additional period we believe appropriate, and to ensure that we retain the ability to appropriately manage the hearing process, we find that it is in the public interest to make these rules effective upon publication.

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these rules do not meet the criteria for a significant regulatory action under Executive Order 128666. Thus, the rules are not subject to OMB review.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only individuals. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Paperwork Reduction Act

These regulations impose no reporting/recordkeeping requirements necessitating clearance by OMB.

Catalog of Federal Domestic Assistance

(Catalog of Federal Domestic Assistance Program Nos. 93.802, Social Security-Disability Insurance; 93.807, Supplemental Security Income.)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI), Reporting and recordkeeping requirements.

Dated: June 23, 1997.

John J. Callahan,

Acting Commissioner of Social Security.

For the reasons set out in the preamble, subpart J of part 404 and subpart N of part 416 of chapter III of title 20 of the Code of Federal Regulations are amended as set forth below.

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

1. The authority citation for subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 205(a), (b), (d)–(h), and (j), 221, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 405(a), (b), (d)–(h), and (j), 421, 425, and 902(a)(5)); 31 U.S.C. 3720A; sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note).

2. Section 404.942 is amended by revising paragraph (g), to read as follows:

§ 404.942 Prehearing proceedings and decisions by attorney advisors.

* * * * *

(g) *Sunset provision.* The provisions of this section will no longer be effective on July 1, 1998, unless they are extended by the Commissioner of Social Security by publication of a final rule in the **Federal Register**.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

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

Authority: Sec. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b).

2. Section 416.1442 is amended by revising paragraph (g), to read as follows:

§ 416.1442 Prehearing proceedings and decisions by attorney advisors.

* * * * *

(g) *Sunset provision.* The provisions of this section will no longer be effective on July 1, 1998, unless they are extended by the Commissioner of Social Security by publication of a final rule in the **Federal Register**.

[FR Doc. 97–16962 Filed 6–27–97; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, 522, 524, 529, and 558

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the change of sponsor for 52 approved new animal drug applications (NADA's) from Fermenta Animal Health Co. to Boehringer Ingelheim Animal Health, Inc.

EFFECTIVE DATE: June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas J. McKay, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0213.

SUPPLEMENTARY INFORMATION: Fermenta Animal Health Co., 10150 North Executive Hills Blvd., Kansas City, MO 64153, has informed FDA that it has transferred the ownership of, and all rights and interests in, the following approved NADA's to Boehringer Ingelheim Animal Health, Inc., 2621 North Belt Hwy., St. Joseph, MO 65406:

NADA No.	Product Name
011–531	DIZAN Tablets
011–674	DIZAN Soluble Powder
012–469	DIZAN Suspension
031–512	ATGARD® V (dichlorvos)/Swine Wormer (V-3)
033–803	TASK® (dichlorvos) Dog Anthelmintic
035–918	EQUIGARD® (dichlorvos) Equine Anthelmintic/Horse Wormer
038–200	OXY WS™ (oxytetracycline HCl soluble powder)
039–077	CSP™ Premixes
040–848	ATGARD® V (dichlorvos)/Swine Wormer
043–606	ATGARD® V (dichlorvos)/Swine Wormer (V-22)
045–143	OXYJECT® (5% oxytetracycline HCl)
048–237	EQUIGEL® (dichlorvos) Equine Anthelmintic
048–271	TASK® (dichlorvos) Tabs Anthelmintic for Cats & Puppies
049–032	ATGARD® C (dichlorvos) Production Efficiency Improver
065–178	FERMYCIN™ (Chlortetracycline) Soluble
065–486	CTC Bisulfate Soluble
065–491	MEDICHOL® (Chloramphenicol) Tablets
065–496	Tetracycline HCl Soluble Powder
092–837	Nemacide® (DECC) Oral Syrup
097–452	OXYJECT® 100 (10% oxytetracycline HCl)
098–569	Medacide (SDM) 10% Injection
106–772	Iron Hydrogenated Dextran Injection, 100 mg
108–963	MEDAMYCIN® (OTC–HCl) Injection, 50 mg & 100 mg
109–305	Oxytocin Injection
117–531	Acepromazine Maleate Injection, (dogs) 10 mg
117–532	Acepromazine Maleate Tablets, 10 & 25 mg
117–689	NEUROSYN™ (primidone) Tablets
125–797	Nitrofurazone Dressing
126–236	Nitrofurazone Soluble Powder
126–676	D & T Worm Capsules
127–034	DISAL® (furosemide) 5% Injection (horses only)
127–627	NEMIACIDE® (DECC) Tablets
128–069	NEMIACIDE® (DECC) Chewable Tablets
129–034	DISAL® (furosemide) Tablets, 12.5 & 50 mg
131–538	DISAL® (furosemide) 5% Injection (dogs/horses)
132–028	ANESTATAL™ (Sodium Thiamylal for Injection)
134–644	DENAGARD® (tiamulin) Soluble Antibiotic
134–708	Iron Dextran Injection, 200 mg/mL
135–771	Methylprednisolone Tablets
136–212	Methylprednisolone Acetate Sterile Suspension
137–310	Gentamicin Injection, 50 mg/mL
137–694	Triamicinolone Acetonide Tablets
138–869	Triamicinolone Acetonide Sterile Suspension
138–955	Tylosin Injection, 50 & 200 mg/mL
139–472	DENAGARD® (tiamulin) Premixes
140–270	Sulfamethazine SR Boluses
140–442	Xylazine HCl Injection (100 mg base/mL)
140–916	DENAGARD® (tiamulin) Liquid Concentrate
141–011	DENAGARD® 10 + CTC Premixes
200–023	Gentamicin Sulfate Solution, 100 mg/mL
200–029	Ketamine Hydrochloride Injection, 100 mg/mL Ketamine Base
200–165	SMD Sulfadimethoxine 12.5% Oral Solution

The agency is amending 21 CFR parts 510, 520, 522, 524, 529, and 558 to reflect the change of sponsor. The agency is amending § 510.600(c)(1) and (c)(2) to remove the sponsor name for Fermenta Animal Health Co. because the firm no longer is the holder of any approved NADA's.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Parts 520, 522, 524, and 529

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510, 520, 522, 524, 529, and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entry for ''Fermenta Animal Health Co.'' and in the table in paragraph (c)(2) by removing the entry for ''054273''.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b) .

§ 520.23 [Amended]

4. Section 520.23 *Acepromazine maleate tablets* is amended in paragraph (a)(2) by removing ''054273'' and adding in its place ''000010''.

§ 520.390a [Amended]

5. Section 520.390a *Chloramphenicol tablets* is amended in paragraph (a)(2) by removing ''054273'' and adding in its place ''000010''.

§ 520.445b [Amended]

6. Section 520.445b *Chlortetracycline powder (chlortetracycline hydrochloride or chlortetracycline bisulfate)* is amended in paragraph (b) by removing ''054273'' and adding in its place ''000010''.

§ 520.580 [Amended]

7. Section 520.580 *Dichlorophene and toluene capsules* is amended in paragraph (b)(2) by removing ''011716, 038782, and 054273'' and adding in its place ''000010, 011716, and 038782''.

§ 520.600 [Amended]

8. Section 520.600 *Dichlorvos* is amended in paragraph (c) by removing ''054273'' and adding in its place ''000010''.

§ 520.622a [Amended]

9. Section 520.622a *Diethylcarbamazine citrate tablets* is amended in paragraph (a)(6) by removing ''054273'' and adding in its place ''000010''.

§ 520.622b [Amended]

10. Section 520.622b *Diethylcarbamazine citrate syrup* is amended in paragraph (c)(2) by removing ''054273'' and adding in its place ''000010''.

§ 520.622c [Amended]

11. Section 520.622c *Diethylcarbamazine citrate chewable tablets* is amended in paragraph (a)(6) by removing ''054273'' and adding in its place ''000010''.

§ 520.763a [Amended]

12. Section 520.763a *Dithiazanine iodide tablets* is amended in paragraph (c) by removing ''054273'' and adding in its place ''000010''.

§ 520.763b [Amended]

13. Section 520.763b *Dithiazanine iodide powder* is amended in paragraph (c) by removing ''054273'' and adding in its place ''000010''.

§ 520.763c [Amended]

14. Section 520.763c *Dithiazanine iodide and piperazine citrate suspension* is amended in paragraph (b) by removing ''054273'' and adding in its place ''000010''.

§ 520.1010a [Amended]

15. Section 520.1010a *Furosemide tablets or boluses* is amended in paragraph (b) by removing ''054273'' and adding in its place ''000010''.

§ 520.1408 [Amended]

16. Section 520.1408 *Methylprednisolone tablets* is amended in paragraph (b) by removing ''054273'' and adding in its place ''000010''.

§ 520.1660d [Amended]

17. Section 520.1660d *Oxytetracycline hydrochloride soluble powder* is amended in paragraphs (b)(3), (e)(1)(ii)(A)(*3*), (e)(1)(ii)(B)(*3*), and (e)(1)(ii)(C)(*3*) by removing ''054273'' and adding in its place ''000010''.

§ 520.1900 [Amended]

18. Section 520.1900 *Primidone tablets* is amended in paragraph (b) by removing ''054273'' and adding in its place ''000010''.

§ 520.2220a [Amended]

19. Section 520.2220a *Sulfadimethoxine oral solution and soluble powder* is amended in paragraph (b) by removing ''000069, 054273, and 057561'' and adding in its place ''000010, 000069, and 057561''.

§ 520.2260b [Amended]

20. Section 520.2260b *Sulfamethazine sustained-release boluses* is amended in paragraphs (f)(1) and (h)(1) by removing ''054273'' and adding in its place ''000010''.

§ 520.2345d [Amended]

21. Section 520.2345d *Tetracycline hydrochloride soluble powder* is amended in paragraphs (a)(1), (d)(1)(iii), and (d)(2)(iii) by removing ''054273'' and adding in its place ''000010''.

§ 520.2455 [Amended]

22. Section 520.2455 *Tiamulin soluble powder* is amended in paragraph (b) by removing ''054273'' and adding in its place ''000010''.

§ 520.2456 [Amended]

23. Section 520.2456 *Tiamulin liquid concentrate* is amended in paragraph (b) by removing ''054273'' and adding in its place ''000010''.

§ 520.2481 [Amended]

24. Section 520.2481 *Triamcinolone acetonide tablets* is amended in paragraph (b) by removing ''053501 and 054273'' and adding in its place ''000010 and 053501''.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

25. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 522.23 [Amended]

26. Section 522.23 *Acepromazine maleate injection* is amended in paragraph (c) by removing ''054273'' and adding in its place ''000010''.

§ 522.1010 [Amended]

27. Section 522.1010 *Furosemide injection* is amended in paragraph (b) by removing ''054273'' and adding in its place ''000010''.

§ 522.1044 [Amended]

28. Section 522.1044 *Gentamicin sulfate injection* is amended in paragraph (b)(3) by removing ''054273'' and adding in its place ''000010''.

§ 522.1182 [Amended]

29. Section 522.1182 *Iron dextran complex injection* is amended in paragraph (b)(2)(i) by removing ''054273'' and adding in its place ''000010''.

§ 522.1183 [Amended]

30. Section 522.1183 *Iron hydrogenated dextran injection* is amended in paragraph (e)(1) by removing ''017287, 050604, and 054273'' and adding in its place ''000010, 017287, and 050604''.

§ 522.1222a [Amended]

31. Section 522.1222a *Ketamine hydrochloride injection* is amended in paragraph (c) by removing ''000856, 045984, 054273, and 059130'' and adding in its place ''000010, 000856, 045984, and 059130''.

§ 522.1410 [Amended]

32. Section 522.1410 *Sterile methylprednisolone acetate suspension* is amended in paragraph (b) by removing ''054273'' and adding in its place ''000010''.

§ 522.1662a [Amended]

33. Section 522.1662a *Oxytetracycline hydrochloride injection* is amended in paragraphs (a)(2), (g)(2), and (h)(2) by removing ''054273'' and adding in its place ''000010''.

§ 522.1680 [Amended]

34. Section 522.1680 *Oxytocin injection* is amended in paragraph (b) by removing ''054273,''and numerically adding ''000010,''.

§ 522.2220 [Amended]

35. Section 522.2220 *Sulfadimethoxine injection* is amended in paragraph (c)(2) by removing ''054273'' and adding in its place ''000010''.

§ 522.2424 [Amended]

36. Section 522.2424 *Sodium thiamylal for injection* is amended in

paragraph (b) by removing '', 000856, and 054273'' and adding in its place ''and 000856''.

§ 522.2483 [Amended]

37. Section 522.2483 *Sterile triamcinolone acetonide suspension* is amended in paragraph (b) by removing ''054273'' and adding in its place ''000010''.

§ 522.2640a [Amended]

38. Section 522.2640a *Tylosin injection* is amended in paragraph (b)(2) by removing ''054273'' and adding in its place ''000010''.

§ 522.2662 [Amended]

39. Section 522.2662 *Xylazine hydrochloride injection* is amended in paragraph (b) by removing ''054273'' and adding in its place ''000010''.

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

40. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 524.1580b [Amended]

41. Section 524.1580b *Nitrofurazone ointment* is amended in paragraph (b) by removing ''000857, 000864, 000069, 050749, 023851, 051259, and 054273'' and adding in its place ''000010, 000857, 000864, 000069, 050749, 023851, and 051259''.

§ 524.1580c [Amended]

42. Section 524.1580c *Nitrofurazone soluble powder* is amended in paragraph (b) by removing ''000069, 050749, and 054273'' and adding in its place ''000010, 000069, and 050749''.

PART 529—CERTAIN OTHER DOSAGE FORM NEW ANIMAL DRUGS

43. The authority citation for 21 CFR part 529 continues to read as follows:

Authority: Secs. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

§ 529.1044a [Amended]

44. Section 529.1044a *Gentamicin sulfate intrauterine solution* is amended in paragraph (b) by removing ''054273'' and adding in its place ''000010''.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

45. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.155 [Amended]

46. Section 558.155 *Chlortetracycline, sulfathiazole, penicillin* is amended in paragraphs (a)(1) and (a)(2) by removing ''054273'' and adding in its place ''000010''.

§ 558.205 [Amended]

47. Section 558.205 *Dichlorvos* is amended in paragraph (a) by removing ''054273'' and adding in its place ''000010''.

§ 558.600 [Amended]

48. Section 558.600 *Tiamulin* is amended in paragraph (a) by removing ''054273'' and adding in its place ''000010''.

Dated: June 9, 1997.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 97–16967 Filed 6–27–97; 8:45 am]

BILLING CODE 4160–01–F

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

25 CFR Part 700

Protection of Archaeological Resources

AGENCY: Office of Navajo and Hopi Indian Relocation.

ACTION: Final rule.

SUMMARY: This final rule establishes procedures for implementing provisions of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470–aa–11) for the lands which are administered by the O.N.H.I.R. which have been acquired pursuant to Pub. L. 96–305 (25 U.S.C. 640–d(h). The rule is necessary and its intended effect is to allow the Federal Land Manager to protect archaeological resources on lands being developed for resettlement purposes.

EFFECTIVE DATE: June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Paul Tessler (Legal Counsel), Office of Navajo and Hopi Indian Relocation at 520–779–8953.

SUPPLEMENTARY INFORMATION: On July 8, 1996, the O.N.H.I.R. published its Interim Final Rule with comment period for establishing procedures for implementing provisions of the Archaeological Resources Protection Act of 1979, (16 U.S.C. 470–aa–11) for lands which are administered by the O.N.H.I.R. The O.N.H.I.R. received written comments on the Interim Final Rule from the President of the Navajo National and the Historic Preservation Department of the Navajo Nation. In reviewing the comments received, the O.N.H.I.R. considered both comments to be those of the Navajo Nation. The O.N.H.I.R. has considered all comments received and responds to these comments as stated below:

Section 700.805(a)(3)(i). Comment was received that this section should be changed to include shrines and offering sites. This comment was not accepted because this section is considered to already include shrines and offering sites

Section 700.805(a)(5). Comment was received that this section should be amended to include a provision that requires notification of the Navajo Nation and an opportunity to object, before the Federal Lands Manager makes a determination allowing materials to be excluded from protection. This section was amended to require that the Federal Land Manager consult with the Navajo Nation to obtain concurrence before making a determination allowing material remains to be excluded from protection. Comment was also received that this section specifies that material remains otherwise meeting the definition of archaeological resources can be determined not be archaeological resources ''under special circumstances.'' The comment further indicated that these special circumstances are not delineated in the regulation. This comment was adopted by adding § 700.841, *Determination of Loss or Absence of Archaeological Interest.*

Section 805(e). Comment was received that the definition of ''New Lands'' and ''public lands'' are inconsistent. This comment was adopted and in all instances the ''New Lands'' have been defined consistently. The O.N.H.I.R. also made it clear that the consent of the Navajo is required for all permits.

Section 700.815. Comment was received, without citing a specific section, suggesting that the Navajo Nation should be informed of all requests for permits and be allowed to deny these permits. This comment was already covered in § 700.815(a)(5) which requires the consent of the Navajo Nation prior to issuance of a permit.

Section 700.827(a). Comment was received, without citing a specific section, from the Navajo Nation that the regulations should require all archaeological resources removed from the New Lands be properly stored and safe guarded and that such resources be returned to the Navajo Nation upon request, once the Navajo Nation has established its own museum or

repository. This comment is already covered by § 700.827, and an agreement for curation with the Museum of Northern Arizona under which the Navajo Nation can ask for return of the archaeological resources.

Section 700.829(7). Comment was received that this section be changed to include the Navajo Nation as a potential ''affected person'' and be afforded appropriate administrative recourse if for example, the O.N.H.I.R. issued a permit without written tribal consent or denied a permit to non-tribal entities supported by the Navajo Nation. This comment was adopted. Section 700.821 to spell the appeal process. Additionally, since permits cannot be issued without the written consent of the Navajo Nation, it is not possible for O.N.H.I.R. to issue permits without such consent.

Comment was also received suggesting that this section was also inconsistent with the provisions of the Native American Graves Protection and Repatriation Act (the NAGPRA, Pub. L. 101–601, Nov. 16, 1990). This comment was adopted to ensure the reinterment of human remains in accordance with the Native American Graves Protection and Repatriation Act.

Section 700.835. Comment was received from the Navajo Nation that this section should be deleted because it allows for governors of the states of Arizona and New Mexico to request information about archaeological sites on the New Lands because the New Lands are part of the Navajo Nation. The comment further states that if either state wants to receive information about archaeological sites on tribal lands, they should ask the Navajo Nation. This section was changed to require the concurrence of the Navajo Nation before making information available when the governor of any state has submitted a written request for information concerning archaeological resources within the requesting governor's state.

Preamble

The primary author of this document is Paul Tessler, Legal Counsel, Office of Navajo and Hopi Indian Relocation, Flagstaff, Arizona.

It has been determined that this final rule is not a major rule as that term is defined in Executive Order 12291, because it will have as limited economic impact on a small number of people and does not require regulatory analysis. It has been determined that the final rule will not have a significant impact on a substantial number of small entities within the meaning of Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

This rule does not constitute a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969.

This rule does not contain information collection requirements which require approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in CFR Part 700

Administrative practice and procedure, Conflict of Interest, Freedom of Information, Grant program—Indians, Indian claims, Privacy, Protection of Archaeological Resources, Real property acquisition, Relocation Assistance and New Lands Administration.

Accordingly, 25 CFR Part 700 is amended as follows:

PART 700—[AMENDED]

1. Authority citation for part 700 continues to read as follows:

Authority: Pub. L. 99–590; Pub. L. 93–531; 88 Stat. 1712, as amended by Pub. L. 96–305, 94 Stat. 929; Pub. L. 100–666, 102 Stat. 3929 (25 U.S.C. 640d).

2. By revising Subpart R, Protection of Archaeological Resources, to read as follows:

Subpart R—Protection of Archaeological Resources

700.801 Purpose.
700.803 Authority.
700.805 Definitions.
700.807 Prohibited Acts.
700.809 Permit requirements and exceptions.
700.811 Application for permits and information collection.
700.813 Notification of Indian Tribes of possible harm to, or destruction of, sites on the New Lands having religious or cultural importance.
700.815 Issuance of permits.
700.817 Terms and conditions of permits.
700.819 Suspension and revocation of permits.
700.821 Appeals relating to permits.
700.823 Permit reviews and disputes.
700.825 Relationship to section 106 of the National Historic Preservation Act.
700.827 Custody of Archaeological resources.
700.829 Determination of archaeological or commercial value and cost of restoration and repair.
700.831 Assessment of civil penalties.
700.833 Civil penalty amounts.
700.835 Other penalties and rewards.
700.837 Confidentiality of archaeological resource information.
700.839 Report.
700.841 Determination of loss or absence of archaeological interest.
700.843 Permitting procedures for Navajo nation Lands.

Supbart R—Protection of Archaeological Resources

§ 700.801 Purpose

(a) The regulations in this subpart implement provisions of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa–11) by establishing the uniform definitions, standards, and procedures to be followed by the O.N.H.I.R. New Lands Manager in providing protection for archaeological resources, located on the New Lands. The regulations enable Federal land managers to protect archaeological resources, taking into consideration provisions of the American Indian Religious Freedom Act (92 Stat. 469; 43 U.S.C. 1996), through permits authorizing excavation and/or removal of archaeological resources, through civil penalties for unauthorized excavation and/or removal, through provisions for the preservation of archaeological resource collections and data, and through provisions for ensuring confidentiality of information about archaeological resources.

(b) The regulations in this part do not impose any new restrictions on activities permitted under other laws, authorities, and regulations relating to mining, mineral leasing, reclamation, and other multiple uses of the public lands.

§ 700.803 Authority.

The regulations in this part are promulgated pursuant to section 10(b) of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470ii). Section 10(b) of the Act (16 U.S.C. 470ii) provides that each Federal land manager shall promulgate such rules and regulations, consistent with the uniform rules and regulations in this part, as may be necessary for carrying out the purposes of the Act.

§ 700.805 Definitions.

As used for purposes of this part:

(a) *Act* means the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470–aa–11).

(b) *Archaeological resource* means any material remains of human life or activities which are at least 100 years of age, and which are of archaeological interest.

(1) *Of archaeological interest* means capable of providing scientific or humanistic understandings of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques such as controlled observation, contextual measurement, controlled collection, analysis, interpretation and explanation.

(2) *Material remains* means physical evidence of human habitation, occupation, use, or activity, including the site, location or context in which such evidence is situated.

(3) The following classes of material remains (and illustrative examples), if they are at least 100 years of age, are of archaeological interest and shall be considered archaeological resources unless determined otherwise pursuant to paragraph (a)(4) or (a)(5) of this section.

(i) Surface or subsurface structures, shelters, facilities, or features (including, but not limited to, domestic structures, storage structures, cooking structures, ceremonial structures, artificial mounds, earthworks, fortifications, canals, reservoirs, horticultural/agricultural gardens or fields, bedrock mortars, or grinding surfaces, rock alignments, cairns, trails, borrow pits, cooking pits, refuse pits, burial pits, or graves, hearths, kilns, post molds, wall trenches, middens);

(ii) Surface or subsurface artifact concentrations or scatters;

(iii) Whole or fragmentary tools, implements, containers, weapons, and weapon projectiles, clothing, and ornaments (including, but not limited to pottery and other ceramics, cordage, basketry and other weaving, bottles and other glasseware, bone, ivory, shell, metal, wood, hide, feathers, pigments, and flaked ground or pecked stone);

(iv) By products, waste products, or debris resulting from manufacture or use of human-made or natural materials;

(v) Organic waste (including, but not limited to vegetal and animal remains, coprolites);

(vi) Human remains (including, but not limited to, bone, teeth, mummified flesh, burials, cremations);

(vii) Rock carvings, rock paintings, intaglios, and other works of artistic or symbolic representation;

(viii) Rockshelters and caves or portions thereof containing any of the above material remains described in this paragraph (a);

(ix) All portions of shipwrecks (including, but not limited to, armaments, apparel, tackle, cargo);

(x) Any portion or piece of any material remains described in this paragraph (a).

(4) The following material remains shall not be considered of archaeological interest, and shall not be considered to be archaeological resources for purposes of the Act and this part, unless found in a direct physical relationship with archaeological resources as defined in this section:

(i) Paleontological remains;

(ii) Coins, bullets, and unworked minerals and rocks.

(5) The Federal Land Manager may determine that certain material remains, in specified areas under the Federal Land Manager's jurisdiction and under specified circumstances, are not or are no longer of archaeological interest and are not to be considered archaeological resources under this part. Any determination made pursuant to this paragraph (a)(5) shall be documented. Such determination shall in no way affect the Federal Land Manager's obligations under other applicable laws or regulations. Prior to making a determination that material remains are not or are no longer archaeological resources, the Federal Land Manager shall consult with the Navajo Nation to obtain their concurrences.

(c) *Arrowhead* means any projectile point which appears to have been designed for use with an arrow.

(d) *Commissioner* means the Commissioner of the Office of Navajo and Hopi Indian Relocation. Reference to approval of other action by the Commissioner will also include approval or other action by another Federal Officer under delegated authority from the Commissioner.

(e) *Federal Land Manager* means: With respect to the New Lands, the Commissioner of Navajo and Hopi Indian Relocation, having primary management authority over such lands, including persons to whom such management authority has been officially delegated.

(f) *Indian tribe* or *Tribe* means the Navajo Nation.

(g) *New Lands* means the land acquired for the use of relocatees under the authority of Pub. L. 96–305, 25 U.S.C., 640(d)–10. These lands include the 250,000 acres of land acquired by the Navajo and Hopi Indian Relocation Commission and added to the Navajo Reservation, 150,000 acres of private lands previously owned by the Navajo Nation in fee and taken in trust by the United States pursuant to 25 U.S.C. 640d–10 and up to 35,000 acres of land in the State of New Mexico to be acquired and added to the Navajo Reservation.

(h) *Office* means the Office of Navajo and Hopi Indian Relocation.

(i) *Person* means an individual, corporation, partnership, trust, institution, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the United States, or of any Indian tribe, or of any State or political subdivision thereof.

(j) *State* means any of the fifty states, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(k) *Tribe* means the Navajo Nation.

§ 700.807 Prohibited Acts.

(a) No person may excavate, remove, damage or otherwise alter or deface any archaeological resource located on the New Lands unless such activity is pursuant to a permit issued under § 700.815 or exempted by § 700.809(b) of this part.

(b) No person may sell, purchase, exchange, transport, or receive any archaeological resource, if such resource was excavated or removed in violation of:

(1) The prohibitions contained in paragraph (a) of this section; or

(2) Any provision, rule, regulation, ordinance, or permit in effect under any other provision of Federal law.

§ 700.809 Permit requirements and exceptions.

(a) Any person proposing to excavate and/or remove archaeological resources from the New Lands, and to carry out activities associated with such excavation and/or removal, shall apply to the Federal Land Manager for a permit for the proposed work, and shall not begin the proposed work until a permit has been issued. The Federal Land Manager may issue a permit to any qualified person, subject to appropriate terms and conditions, provided that the person applying for a permit meets conditions in § 700.815(a) of this part.

(b) Exceptions:

(1) No permit shall be required under this part for any person conducting activities on the New Lands under other permits leases, licenses, or entitlements for use, when those activities are exclusively for purposes other than the excavation and/or removal of archaeological resources, even though those activities might incidentally result in the disturbance of archaeological resources. General earth-moving excavation conducted under a permit or other authorization shall not be construed to mean excavation and/or removal as used in this part. This exception does not, however, affect the Federal Land Manager's responsibility to comply with other authorities which protect archaeological resources prior to approving permits, leases, licenses or entitlements for use; any excavation and/or removal of archaeological resources required for compliance with those authorities shall be conducted in accordance with the permit requirements of this part.

(2) No permit shall be required under this part for any person collecting for

private purposes any rock, coin, bullet, or mineral which is not an archaeological resource as defined in this part, provided that such collecting does not result in disturbance of any archaeological resource.

(3) No permit shall be required under this part or under section 3 of the Act of June 8, 1906 (16 U.S.C. 432), for the excavation or removal by the Navajo Nation or member thereof of any archaeological resource located on the New Lands, except that in the absence of tribal law regulating the excavation or removal of archaeological resources, an individual tribal member shall be required to obtain a permit under this part;

(4) No permit shall be required under this part for any person to carry out any archaeological activity authorized by a permit issued under section 3 of the Act of June 8, 1906 (16 U.S.C. 432), before the enactment of the Archaeological Resources Protection Act of 1979. Such permit shall remain in effect according to its terms and conditions until expiration.

(5) No permit shall be required under section 3 of the Act of June 8, 1906 (16 U.S.C. 432) for any archaeological work for which a permit is issued under this part.

(c) Persons carrying out official agency duties under the Federal Land Manager's direction, associated with the management of archaeological resources, need not follow the permit application procedures of § 700.811. However, the Federal Land Manager shall insure that provisions of §§ 700.815 and 700.817 have been met by other documented means and that any official duties which might result in harm to or destruction of any Indian tribal religious or cultural site, as determined by the Federal Land Manager, have been the subject of consideration.

(d) Upon the written request of the Governor of any State, on behalf of the State or its educational institutions, the Federal Land Manager with the concurrence of the Navajo Nation, shall issue a permit, subject to the provisions of §§ 700.809(b)(5), 700.815(a) (3), (4), (5), (6), and (7), 700.817, 700.819, 700.823, 700.825(a), to such Governor or to such designee as the Governor deems qualified to carry out the intent of the Act, for purposes of conducting archaeological research, excavating, and/or removing archaeological resources, and safeguarding and preserving any materials and data collected in a university, museum, or other scientific or educational institution approved by the Federal Land Manager.

(e) Under other statutory, regulatory, or administrative authorities governing the use of the New Lands, authorizations may be required for activities which do not require a permit under this part. Any person wishing to conduct on the New Lands any activity related to but believed to fall outside the scope of this part should consult with the Federal Land Manager, for the purpose of determining whether any authorization is required, prior to beginning such activities.

§ 700.811 Application for permits and information collection.

(a) Any person may apply to the appropriate Federal Land Manager for a permit to excavate and/or remove archaeological resources from the New Lands and to carry out activities associated with such excavation and/or removal.

(b) Each application for a permit shall include:

(1) The nature and extent of the work proposed, including how and why it is proposed to be conducted, proposed time of performance, location maps, and proposed outlet for public written dissemination of the results.

(2) The name and address of the individual(s) proposed to be responsible for conducting the work, institutional affiliation, if any, and evidence of education, training and experience in accord with the minimal qualifications listed in § 700.815(a).

(3) The name and address of the individual(s), if different from the individual(s) named in paragraph (b)(2) of this section, proposed to be responsible for carrying out the terms and conditions of the permit.

(4) Evidence of the applicant's ability to initiate, conduct and complete the proposed work, including evidence of logistical support and laboratory facilities.

(5) Where the application is for the excavation and/or removal of archaeological resources on the New Lands, the name of the university, museum, or other scientific or educational institution in which the applicant proposes to store copies of records, data, photographs, and other documents derived from the proposed work, and all collections in the event the Indian owners do not wish to take custody or otherwise dispose of the archaeological resources. Applicants shall submit written certification, signed by an authorized official of the institution, of willingness to assume curatorial responsibility for the collections, if applicable, and/or the records, data, photographs, and other documents derived from the proposed work.

(c) The Federal Land Manager may require additional information, pertinent to land management responsibilities, to be included in the application for permit and shall so inform the applicant.

(d) Paperwork Reduction Act. The purpose of the information collection under § 700.811 is to meet statutory and administrative requirements in the public interest. The information will be used to assist Federal land managers in determining that applicants for permits are qualified, that the work proposed would further archaeological knowledge, that archaeological resources and associated records and data will be properly preserved, and that the permitted activity would not conflict with the management of the New Lands involved. Response to the information requirement is necessary in order for an applicant to obtain a benefit.

§ 700.813 Notification to Indian tribes of possible harm to, or destruction of, sites on public lands having religious or cultural importance.

(a) If the issuance of a permit under this part may result in harm to, or destruction of, any Indian tribal religious or cultural site on public lands, as determined by the Federal land manager, at least 30 days before issuing such permit the Federal land manager shall notify any Indian tribe which may consider the site as having religious or cultural importance. Such notice shall not be deemed a disclosure to the public for purposes of section 9 of the Act.

(1) Notice by the Federal land manager to any Indian tribe shall be sent to the chief executive officer or other designated official of the tribe. Indian tribes are encouraged to designate a tribal official to be the focal point for any notification and discussion between the tribe and the Federal land manager.

(2) The Federal land manager may provide notice to any other Native American group that is known by the Federal land manager to consider sites potentially affected as being of religious or cultural importance.

(3) Upon request during the 30-day period, the Federal land manager may meet with official representatives of any Indian tribe or group to discuss their interests, including ways to avoid or mitigate potential harm or destruction such as excluding sites from the permit area. Any mitigation measures which are adopted shall be incorporated into the terms and conditions of the permit under § 700.817.

(4) When the Federal land manager determines that a permit applied for under this part must be issued immediately because of an imminent threat or loss or destruction of an archaeological resource, the Federal land manager shall so notify the appropriate tribe.

(b)(1) In order to identify sites of religious or cultural importance, the Federal land manager shall seek to identify all Indian tribes having aboriginal or historic ties to the lands under the Federal land manager's jurisdiction and seek to determine, from the chief executive officer or other designated official of any such tribe, the location and nature of specific sites of religious or cultural importance so that such information may be on file for land management purposes. Information on sites eligible for or included in the National Register of Historic Places may be withheld from public disclosure pursuant to section 304 of the Act of October 15, 1966, as amended (16 U.S.C. 470w–3).

(2) If the Federal Land Manager becomes aware of a Native American group that is not an Indian tribe as defined in this part but has aboriginal or historic ties to public lands under the Federal land manager's jurisdiction, the Federal land manager may seek to communicate with official representatives of that group to obtain information on sites they may consider to be of religious or cultural importance.

(3) The Federal land manager may enter into agreement with any Indian tribe or other Native American group for determining locations for which such tribe or group wishes to receive notice under this section.

§ 700.815 Issuance of permits.

(a) The Federal land manager may issue a permit, for a specified period of time appropriate to the work to be conducted, upon determining that:

(1) The applicant is appropriately qualified, as evidenced by training, education, and/or experience, and possesses demonstrable competence in archaeological theory and methods, and in collecting, handling, analyzing, evaluating, and reporting archaeological data, relative to the type and scope of the work proposed, and also meets the following minimum qualifications:

(i) A graduate degree in anthropology or archaeology, or equivalent training and experience;

(ii) The demonstrated ability to plan, equip, staff, organize, and supervise activity of the type and scope proposed;

(iii) The demonstrated ability to carry research to completion, as evidenced by timely completion of theses, research reports, or similar documents;

(iv) Completion of at least 16 months of professional experience and/or specialized training in archaeological field, laboratory, or library research, administration, or management, including at least 4 months experience and/or specialized training in the kind of activity the individual proposes to conduct under authority of the permit; and

(v) Applicants proposing to engage in historical archaeology should have at least one year of experience in research concerning archaelogoical resources of the historic period. Applicants proposing to engage in prehistoric archaeology should have had at least one year of experience in research concerning archaeological resources of the prehistoric period.

(2) The proposed work is to be undertaken for the purpose of furthering archaeological knowledge in the public interest, which may include but need not be limited to, scientific or scholarly research, and preservation of archaeological data;

(3) The proposed work, including time, scope, location, and purpose, is not inconsistent with any management plan or established policy, objectives, or requirements applicable to the management of the New Lands;

(4) Where the proposed work consists of archaeological survey and/or data recovery undertaken in accordance with other approved uses of the New Lands, and the proposed work has been agreed to in writing by the Federal Land Manager, pursuant to section 106 of the National Historic Preservation Act (16 U.S.C. 470f), paragraphs (a)(2) and (a)(3) of this section shall be deemed satisfied by the prior approval.

(5) Written consent has been obtained, for work proposed on the New Lands, from the Indian land owner and the Navajo Nation which is the Indian Tribe having jurisdiction.

(6) Evidence is submitted to the Federal Land Manager that any university, museum, or other scientific or educational institution proposed in the application as the repository possesses adequate curatorial capability for safeguarding and preserving the archaeological resources and all associated records; and

(7) The applicant has certified that, not later than 90 days after the date the final report is submitted to the Federal Land Manger, the following will be delivered to the appropriate official of the approved university, museum, or other scientific or educational institution, which shall be named in the permit;

(i) All artifacts, samples, collections, and copies of records, data, photographs, and other documents resulting from work conducted under the requested permit.

(b) When the area of the proposed work would cross jurisdictional boundaries, so that permit applications must be submitted to more than one Federal land manager, the Federal land managers shall coordinate the review and evaluation of applications and the issuance of permits.

§ 700.817 Terms and conditions of permits.

(a) In all permits issued, the Federal Land Manager shall specify:

(1) The nature and extent of work allowed and required under the permit, including the time, duration, scope, location and purpose of the work;

(2) The name of the individual(s) responsible for conducting the work and, if different, the name of the individual(s) responsible for carrying out the terms and conditions of the permit;

(3) The name of any university, museum, or other scientific or educational institution in which any collected materials and data shall be deposited; and

(4) Reporting requirements.

(b) The Federal Land Manager may specify such terms and conditions as deemed necessary, consistent with this part, to protect public safety and other values and/or resources, to secure work areas to safeguard other legitimate land uses, and to limit activities incidental to work authorized under a permit.

(c) The Federal Land Manager shall include in permits issued for archaeological work on the New Lands such terms and conditions as may be requested by the Indian landowner and the Navajo Nation.

(d) Initiation of work or other activities under the authority of a permit signifies the permittee's acceptance of the terms and conditions of the permit.

(e) The permittee shall not be released from requirements of a permit until all outstanding obligations have been satisfied, whether or not the term of the permit has expired.

(f) The permittee may request that the Federal Land Manager extend or modify a permit.

(g) The permittee's performance under any permit issued for a period greater than 1 year shall be subject to review by the Federal Land Manager, at least annually.

§ 700.819 Suspension and Revocation of Permits.

(a) *Suspension or revocation for cause.* (1) The Federal Land Manager

may suspend a permit issued pursuant to this part upon determining that the permittee has failed to meet any of the terms and conditions of the permit or has violated any prohibition of the Act or § 700.807. The Federal Land Manager shall provide written notice to the permittee of suspension, the cause thereof, and the requirements which must be met before the suspension will be removed.

(2) The Federal Land Manager may revoke a permit upon assessment of a civil penalty under § 700.831 upon the permittee's conviction under section 6 of the Act, or upon determining that the permittee has failed after notice under this section to correct the situation which led to suspension of the permit.

(b) *Suspension or revocation for management purposes.* The Federal Land Manager may suspend or revoke a permit without liability to the United States, its agents, or employees when continuation of work under the permit would be in conflict with management requirements not in effect when the permit was issued. The Federal Land Manager shall provide written notice to the permittee stating the nature of and basis for the suspension or revocation.

§ 700.821 Appeals relating to permits.

Any affected person may appeal permit issuance, denial of permit issuance, suspension, revocation, and terms and conditions of a permit through existing administrative appeal procedures, or through procedures which may be established by the Federal Land Manager pursuant to section 10(b) of the Act and this part.

§ 700.823 Permit reviews and disputes.

(a) Any affected person disputing the decision of the Federal Land Manager with respect to the issuance or denial of a permit, the inclusion of specific terms and conditions in a permit, or the modification, suspension, or revocation or a permit may request the Federal Land Manager to review the disputed decision and may request a conference to discuss the decision and its basis.

(b) Any disputant unsatisfied with the higher level review, and desiring to appeal the decision, pursuant to § 700.821 of this part, should consult with the Federal Land Manager regarding the existence of published appeal procedures. In the absence of published appeal procedures, the review by the head of the Office will constitute the final decision.

(c) Any affected person may request a review by the Department of Interior Consulting Archaeologist of any professional issues involved in a permitting decision, such as professional qualifications, research design, or other professional archaeological matters. The Departmental Consulting Archaeologist shall make a final professional recommendation to the head of the Office. The head of the Office will consider the recommendation, but may reject it, in whole or in part, for good cause. This request should be in writing and should state the reasons for the request.

§ 700.825 Relationship to section 106 of the National Historic Preservation Act.

Issuance of a permit in accordance with the Act and this part does not constitute an undertaking requiring compliance with section 106 of the Act of October 15, 1996 (16 U.S.C. 470f). However, the mere issuance of such a permit does not excuse the Federal Land Manager from compliance with section 106 where otherwise required.

§ 700.827 Custody of Archaeological resources.

(a) Archaeological resources excavated or removed from the New Lands remain the property of the Navajo Nation.

(b) [Reserved]

§ 700.829 Determination of archaeological or commercial value and cost of restoration and repair.

(a) *Archaeological value.* For purposes of this part, the archaeological value of any archaeological resource involved in a violation of the prohibitions in § 700.807 of this part or conditions of a permit issued pursuant to this part shall be the value of the information associated with the archaeological resource. This value shall be appraised in terms of the costs of the retrieval of the scientific information which would have been obtained prior to the violation. These costs may include, but need not be limited to, the cost of preparing a research design, conducting filed work, carrying out laboratory analysis, and preparing reports as would be necessary to realize the information potential.

(b) *Commercial value.* For purposes of this part, the commercial value of any archaeological resource involved in a violation of the prohibitions in § 700.807 of this part or conditions of a permit issued pursuant to this part shall be for its fair market value. Where the violation has resulted in damage to the archaeological resource, the fair market value should be determined using the condition of the archaeological resource prior to the violation to the extent that its prior condition can be ascertained.

(c) *Cost of restoration and repair.* For purposes of this part, the cost of restoration and repair of archaeological resources damages as a result of a violation or prohibitions or conditions pursuant to this part, shall be the sum of the costs already incurred for emergency restoration or repair work, plus those costs projected to be necessary to complete restoration and repair, which may include, but need not be limited to, the costs of the following.

(1) Reconstruction of the archaeological resource;

(2) Stabilization of the archaeological resource;

(3) Ground contour reconstruction and surface stabilization;

(4) Research necessary to carry out reconstruction or stabilization;

(5) Physical barriers or other protective devices, necessitated by the disturbance of the archaeological resource, to protect it from further disturbance;

(6) Examination and analysis of the archaeological resource including recording remaining archaeological information, where necessitated by disturbance, in order to salvage remaining values which cannot be otherwise conserved;

(7) Reinterment of human remains in accordance with Pub. L. 101–601, the Native American Grave Protection and Repatriation Act.

(8) Preparation of reports relating to any of the above activities.

§ 700.831 Assessment of civil penalties.

(a) The Federal Land Manager may assess a civil penalty against any person who has violated any prohibition contained in § 700.807 or who has violated any term or condition included in a permit issued in accordance with the Act and this part.

(b) *Notice of violation.* The Federal Land Manager shall serve a notice of violation upon any person believed to be subject to a civil penalty, either in person or by registered or certified mail (return receipt requested). The Federal Land Manager shall include in the notice:

(1) A concise statement of the facts believed to show a violation;

(2) A specific reference to the provision(s) of this part or to a permit issued pursuant to this part allegedly violated;

(3) The amount of penalty proposed to be assessed, including any initial proposal to mitigate or remit where appropriate, or a statement that notice of the proposed penalty amount will be served after the damages associated with the alleged violation have been ascertained;

(4) Notification of the right to file a petition for relief pursuant to paragraph

(d) of this section, or to await the Federal Land Manager's notice of assessment, and to request a hearing in accordance with paragraph (g) of this section. The notice shall also inform the person of the right to seek judicial review of any final administrative decision assessing a civil penalty.

(c) The person served with a notice of violation shall have 45 calendar days from the date of its service (or the date of service of a proposed penalty amount, if later) in which to respond. During this time the person may:

(1) Seek informal discussions with the Federal Land Manager;

(2) File a petition for relief in accordance with paragraph (d) of this section;

(3) Take no action and await the Federal Land Manger's notice of assessment;

(4) Accept in writing or by payment the proposed penalty, or any mitigation or remission offered in the notice. Acceptance of the proposed penalty or mitigation or remission shall be deemed a waiver of the notice of assessment and of the right to request a hearing under paragraph (g) of this section.

(d) *Petition for relief.* The person served with a notice of violation may request that no penalty be assessed or that the amount be reduced, by filing a petition for relief with the Federal Land Manager within 45 calendar days of the date of service of the notice of violation (or of a proposed penalty amount, if later.) The petition shall be in writing and signed by the person served with the notice of violation. If the person is a corporation, the petition must be signed by an officer authorized to sign such documents. The petition shall set forth in full the legal or factual basis for the requested relief.

(e) *Assessment of penalty.* (1) The Federal Land Manager shall assess a civil penalty upon expiration of the period for filing a petition for relief, upon completion of review of any petition filed, or upon completion or informal discussions, whichever is later.

(2) The Federal Land Manager shall take into consideration all available information, including information provided pursuant to paragraphs (c) and (d) of this section or furnished upon further request by the Federal Land Manager.

(3) If the facts warrant a conclusion that no violation has occurred, the Federal Land Manager shall so notify the person served with a notice of violation, and no penalty shall be assessed.

(4) Where the facts warrant a conclusion that a violation has occurred, the Federal Land Manager shall determine a penalty amount in accordance with § 700.831.

(f) *Notice of assessment.* The Federal Land Manager shall notify the person served with a notice of violation of the penalty amount assessed by serving a written notice of assessment, either in person or by registered or certified mail (return receipt requested). The Federal Land Manager shall include the following in the notice of assessment.

(1) The facts and conclusions from which it was determined that a violation did occur;

(2) The basis in § 700.831 for determining the penalty amount assessed and/or any offer to mitigate or remit the penalty; and

(3) Notification of the right to request a hearing, including the procedures to be followed, and to seek judicial review of any final administrative decision assessing a civil penalty.

(g) *Hearings.* (1) Except where the right to request a hearing is deemed to have been waived as provided in paragraph (c)(4) of this section, the person served with a notice of assessment may file a written request for a hearing with the adjudicatory body specified in the notice. The person shall enclose with the request for hearing a copy of the notice of assessment, and shall deliver the request, as specified in the notice of assessment, personally or by registered or certified mail (return receipt requested).

(2) Failure to deliver a written request for a hearing within 45 days of the date of service of the notice of assessment shall be deemed a waiver of the right to a hearing.

(3) Any hearing conducted pursuant to this section shall be held in accordance with 5 U.S.C. 554. In any such hearing, the amount of civil penalty assessed shall be determined in accordance with this part, and shall not be limited by the amount assessed by the Federal Land Manager under paragraph (f) of this section of any offer of mitigation or remission made by the Federal Land Manager.

(h) *Final administrative decision.* (1) Where the person served with a notice of violation has accepted the penalty pursuant to paragraph (c)(4) of this section, the notice of violation shall constitute the final administrative decision;

(2) Where the person served with a notice of assessment has not filed a timely request for a hearing pursuant to paragraph (g)(1) of this section, the notice of assessment shall constitute the final administrative decision;

(3) Where the person served with a notice of assessment has filed a timely request for hearing pursuant to paragraph (g)(1) of this section, the decision resulting from the hearing or any applicable administrative appeal therefrom shall constitute the final administrative decision.

(i) *Payment of penalty.* (1) The person assessed a civil penalty shall have 45 calendar days from the date of issuance of the final administrative decision in which to make full payment of the penalty assessed, unless a timely request for appeal has been filed with a U.S. District Court, as provided in section 7(b)(1) of the Act.

(2) Upon failure to pay the penalty, the Federal Land Manager may request the Attorney General to institute a civil action to collect the penalty in a U.S. District Court for any district in which the person assessed a civil penalty is found, resides, or transacts business. Where the Federal Land Manager is not represented by the Attorney General, a civil action may be initiated directly by the Federal Land Manager.

(j) *Other remedies not waived.* Assessment of a penalty under this section shall not be deemed a waiver of the right to pursue other available legal or administrative remedies.

§ 700.833 Civil penalty amounts.

(a) *Maximum amount of penalty.* (1) Where the person being assessed a civil penalty has not committed any previous violation of any prohibition in § 700.807 or of any term or condition included in a permit issued pursuant to this part, the maximum amount of the penalty shall be the full cost of restoration and repair of archaeological resources damaged plus the commercial value of archaeological resources destroyed or not recovered.

(2) Where the person being assessed a civil penalty has committed any previous violation of any prohibition in § 700.807 or of any term or condition included in a permit issued pursuant to this part, the maximum amount of the penalty shall be double the cost of restoration and repair plus double the commercial value of archaeological resources destroyed or not recovered.

(3) Violations limited to the removal of arrowheads located on the surface of the ground shall not be subject to the penalties prescribed in this section.

(b) *Determination of penalty amount, mitigation, and remission.* The Federal Land Manager may assess a penalty amount less than the maximum amount of penalty and may offer to mitigate or remit the penalty.

(1) Determination of penalty amount and/or a proposal to mitigate or remit the penalty may be based upon any of the following factors.

(i) Agreement by the person being assessed a civil penalty to return to the Federal Land Manager and ultimately to the Navajo Nation archaeological resources removed from the New Lands.

(ii) Agreement by the person being assessed a civil penalty to assist the Federal Land Manager in activity to preserve, restore, or otherwise contribute to the protection and study of archaeological resources on the New Lands.

(iii) Agreement by the person being assessed a civil penalty to provide information which will assist in the detection, prevention, or prosecution of violations of the Act or this part;

(iv) Demonstration of hardship or inability to pay, provided that this factor shall only be considered when the person being assessed a civil penalty has not been found to have previously violated the regulations in this part;

(v) Determination that the person being assessed a civil penalty did not willfully commit the violation.

(vi) Determination that the proposed penalty would constitute excessive punishment under the circumstances.

(vii) Determination of other mitigating circumstances appropriate to consideration in reaching a fair and expeditious assessment.

(2) The Federal Land Manager shall consult with and consider the interests of the Navajo Nation prior to proposing to mitigate or remit the penalty.

§ 700.835 Other penalties and rewards.

(a) Section 6 of the Act contains criminal prohibitions and provisions for criminal penalties. Section 8(b) of the Act provides that archaeological resources, vehicles, or equipment involved in a violation may be subject to forfeiture.

(b) Section 8(a) of the Act provides for rewards to be made to persons who furnish information which leads to conviction for a criminal violation or to assessment of a civil penalty. The Federal Land Manager may certify to the Secretary of the Treasury that a person is eligible to receive payment. Officers and employees of Federal, State, or tribal government who furnish information or render services in the performance of their official duties, and persons who have provided information under § 700.833(b)(1)(iii) shall not be certified eligible to receive payment of rewards.

(c) All civil penalty monies and any item forfeited under the provisions of this section shall be transferred to the Navajo Nation.

§ 700.837 Confidentiality of archaeological resource information.

The Federal Land Manager shall not make available to the public under subchapter II of chapter 5 of title 5 of the United States Code or any other provisions of law, information concerning the nature and location of any archaeological resource, with the following exceptions:

(a) The Federal Land Manager may make information available, provided that the disclosure will further the purposes of the Act and this part, or the Act of June 27, 1960, as amended (16 U.S.C. 469–469c) without risking harm to the archaeological resource or to the site in which it is located.

(b) With the concurrence of the Navajo Nation, the Federal Land Manager shall make information available, when the Governor of any State has submitted to the Federal Land Manager a written request for information concerning the archaeological resources within the requesting Governor's state; provided that the request includes:

(1) The specific archaeological resource or area about which information is sought.

(2) The purpose for which the information is sought; and

(3) The Governor's written commitment to adequately protect the confidentiality of the information.

§ 700.839 Report.

Each Federal Land Manager, when requested by the Secretary of the Interior, shall submit such information as is necessary to enable the Secretary to comply with section 13 of the Act.

§ 700.841 Determination of loss or absence of archaeological interest.

(a) Under certain circumstances, a Federal land manager may determine, pursuant to § 700.805(a)(5) of this part, that certain material remains are not or are no longer of archaeological interest, and therefore not to be considered archaeological resources under this part.

(b) The Federal land manager may make such a determination if he/she finds that the material remains are not capable of providing scientific or humanistic understandings of past human behavior, cultural adaptation, and related topics.

(c) Prior to making a determination that material remains are not or are no longer archaeological resources, the Federal land manager shall ensure that the following procedures are completed.

(1) A professional archaeological evaluation of material remains and similar materials within the area under consideration shall be completed, consistent with the Secretary of Interior's Standards and Guidelines for Archaeology and Historic Preservation and with the 36 CFR Parts 60, 63, and 65.

(2) The principal Office archaeologist or, in the absence of a principal Office archaeologist, the Office Consulting Archaeologist, shall establish whether the material remains under consideration contribute to scientific or humanistic understandings of past human behavior, cultural adaption and related topics. The principal Office archaeologist or the Office Consulting Archaeologist, as appropriate, shall make a recommendation to the Federal land manager concerning these material remains.

(d) The Federal land manager shall make the determination based upon the facts established by and the recommendation of the principal Office archaeologist or the Office Consulting Archaeologist, as appropriate, and shall fully document the basis therefor, including consultation with Indian tribes for determinations regarding sites of religious or cultural importance.

(e) The Federal land manger shall make public notice of the determination and its limitations, including any permitting requirements, for activities associated with the materials determined not to be archaeological resources for the purposes of this part.

(f) Any interested individual may request in writing that the Office Consulting Archaeologist review any final determination by the Federal land manager that certain remains are not, or are no longer, archaeological resources. Two (2) copies of the request should be sent to the Office Consulting Archaeologist, care of Land Use Manager, Office of Navajo and Hopi Indian Relocation, PO Box KK, Flagstaff, AZ 86002, and should document why the requestor disagrees with the determination of the Federal land manger. The Office Consulting Archaeologist shall review the request, and, if appropriate, shall review the Federal land manager's determination and its supporting documentation. Based upon this review, the Departmental Consulting Archaeologist shall prepare a final professional recommendation, and shall transmit the recommendation and the basis therefor to the head of the bureau for further consideration within 60 days of the receipt of the request.

(g) Any determination made pursuant to this section shall in no way affect the Federal land manager's obligation under other applicable laws or regulations.

§ 700.843 Permitting procedures for Navajo Nation Lands.

(a) Pursuant to the Act and this Subpart, the written consent of the Navajo Nation is required. Written consent shall consist of a Navajo Nation permit issued in accordance with the Navajo Nation Code or a resolution of the Navajo Nation Council or delegated committee of that Council.

(b) When Indian tribal lands are involved in an application for a permit or a request for extension or modification of a permit, the consent of the Indian tribal government must be obtained. For Indian allotted lands outside reservation boundaries, consent from only the individual landowner is needed. When multiple-owner allotted lands are involved, consent by more than 50 percent of the ownership interest is sufficient. For Indian allotted lands within reservation boundaries, consent must be obtained from the Navajo Nation and the individual landowner(s).

(c) The applicant should consult with the Office concerning procedures for obtaining consent from the appropriate Indian tribal authorities and submit the permit application to the Office. The Office shall ensure that consultation with the Navajo Nation or individual Indian landowner regarding terms and conditions of the permit occurs prior to detailed evaluation of the application. Permits shall include terms and conditions requested by the Navajo Nation or Indian landowner pursuant to § 700.817 of this part.

(d) The issuance of a permit under this part does not remove the requirement for any other permit by Indian tribal law.

Dated: June 23, 1997.

Christopher J. Bavasi,

Executive Director, Office of Navajo and Hopi Indian Relocation.

[FR Doc. 97–16857 Filed 6–27–97; 8:45 am]

BILLING CODE 7560–01–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

RIN 1219–AA11

Safety Standards for Underground Coal Mine Ventilation

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Final rule; conforming rule to Court's order.

SUMMARY: MSHA published safety standards for the ventilation of underground coal mines on March 11, 1996, which became effective on June 10, 1996. The National Mining Association (NMA) and the United Mine Workers of America (UMWA) challenged the rule. On June 17, 1997, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) issued an order granting the petition for review relating to the 8-hour interval requirement for preshift examinations pursuant to 30 CFR 75.360(a)(1) (1996). The Court further denied the petition for review on all other issues and upheld the Agency's rulemaking. This document provides notice of, and effectuates, the Court's order.

DATES: Effective June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, phone 703/235–1910; fax 703/235–5551.

SUPPLEMENTARY INFORMATION: On May 15, 1992, MSHA published a final rule (57 FR 20868) revising its safety standards for ventilation of underground coal mines. The American Mining Congress and the National Coal Association [predecessors to NMA] and the UMWA challenged the 1992 rule in the D.C. Circuit. The D.C. Circuit stayed the application of 30 CFR 75.321(a) (oxygen in bleeder entries), and MSHA voluntarily stayed 30 CFR 75.313 (main mine fan stoppage with persons underground) and 75.344(a)(1) (compressors located in noncombustible structure or area). The remaining provisions became effective on November 16, 1992, or as otherwise provided in the rule.

MSHA agreed to further review the 1992 rule and to propose revisions. With the consent of the parties, the D.C. Circuit stayed the proceedings pending the Agency's review. On May 19, 1994, MSHA published a proposed rule (59 FR 26536) revising certain provisions of the 1992 rule.

On March 11, 1996, MSHA published a final rule (61 FR 9764). On June 7, 1996, the D.C. Circuit issued an order staying the application of 30 CFR 75.313(d)(2) (stopping of withdrawal of persons upon fan restart) and 75.321(a)(2) (oxygen in bleeder entries). All other requirements of the final rule, including the remaining provisions of 75.313 (main mine fan stoppage with persons underground) and 75.344(a)(1) (compressor enclosed or continuously attended), became effective on June 10, 1996, or as otherwise provided in the rule.

On June 17, 1997, the United States Court of Appeals for the District of Columbia Circuit, in *National Mining Association* v. *Mine Safety and Health Administration and Secretary of Labor (MSHA),* D.C. Cir. No. 92–1288 and consolidated cases, issued an order granting the petition for review on NMA's challenge to § 75.360 relating to preshift examinations.

Section 75.360(a)(1) states:

> Except as provided in paragraph (a)(2) of this section, a certified person designated by the operator shall make a preshift examination within 3 hours preceding the beginning of any 8-hour interval during which any person is scheduled to work or travel underground. The operator shall establish the 8-hour intervals of time subject to the required preshift examinations. No person other than certified examiners may enter or remain in any underground area unless a preshift examination has been completed for the established 8-hour period.

Section 75.360(a) of the previous rule stated:

> Within 3 hours preceding the beginning of any shift and before anyone on the oncoming shift, other than certified persons conducting examinations required by this subpart, enters any underground area of the mine, a certified person designated by the operator shall make a preshift examination.

The operative difference between the two provisions was the substitution of the phrase ''8-hour interval [or] period'' in § 75.360(a)(1) (1996) for the phrase ''beginning of any shift'' in previous § 75.360(a). In compliance with the Court's order, paragraph (a) of previous § 75.360, with minor modifications, is now in effect as new paragraph (a)(1).

List of Subjects in 30 CFR Part 75

Mine safety and health, Underground coal mines, Ventilation.

Dated: June 19, 1997.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

Accordingly, part 75, subchapter O, chapter I, title 30 of the Code of Federal Regulations is amended as follows:

PART 75—[AMENDED]

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

Authority: 30 U.S.C. 811.

2. Section 75.360, paragraph (a)(1), is revised to read as follows:

§ 75.360 Preshift examination.

(a)(1) Except as provided in paragraph (a)(2) of this section, a certified person designated by the operator shall make a preshift examination within 3 hours preceding the beginning of any shift during which any person is scheduled to work or travel underground. No person other than certified examiners

may enter or remain in any underground area unless a preshift examination has been completed for the shift.

* * * * *

[FR Doc. 97–16963 Filed 6–27–97; 8:45 am]
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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD 6010.8–R]

RIN 0720–AA32

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Program for Persons with Disabilities; Basic Program

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule simplifies the administration of benefits under the CHAMPUS Program for the Handicapped (PFTH) and changes the name of this benefit to Program for Persons with Disabilities (PFPWD); adds occupational therapists in independent practice to the list of authorized individual professional providers; provides criteria for cost-sharing certain procedures when data is transferred electronically from the patient's home to a medical practitioner; defines and limits plans recognized as supplemental insurance under CHAMPUS; and adopts the Federal Claims Collection Act and the Federal Claims Collection Standards by reference.

DATES: This rule is effective October 28, 1997, except § 199.11(g)(1) which is effective November 15, 1990.

ADDRESSES: Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Program Development Branch, Aurora, CO 80045–6900.

FOR FURTHER INFORMATION CONTACT: Michael Kottyan, telephone (303) 361–1120.

SUPPLEMENTARY INFORMATION: The CHAMPUS supplements the availability of health care resources for Military Health Services System (MHSS) beneficiaries. The MHSS consists of military hospitals and the CHAMPUS. CHAMPUS consists of basic general medical and surgical benefits, and non-medical benefits through the Program for Persons with Disabilities (PFPWD).

A summary of written comments received, the CHAMPUS response, and the amendments being made by this final rule follow.

I. Program for Persons With Disabilities (PFPWD)

On June 10, 1991, a proposed rule was published in the **Federal Register** (56 FR 26635) regarding administrative revisions to the CHAMPUS Program for the Handicapped (PFTH), which included renaming these benefits the Program for Persons with Disabilities (PFPWD).

By law, PFPWD benefits are limited to spouses or children with diagnosed moderate or severe mental retardation, or serious physical disability, who have an active duty Uniformed Service Member sponsor, or who are determined to be an abused dependent of certain former Members. Unlike the basic benefit, the PFPWD applies a fixed, pay-grade based cost-share amount regardless of the amount of expense allowable as a benefit (basic benefit beneficiary cost-share is a percentage of the allowed amount), has no annual deductible amount, includes certain necessary services and items that are not medical in nature, and has a $1,000 per month benefit limit for most beneficiaries.

A distinctive aspect of the PFPWD is the statutory requirement that ties eligibility for benefits to the use of public facilities to the extent that such facilities are available and adequate to meet a specific disability related need.

CHAMPUS PFPWD benefits do not alter the obligations which Section 504 of the Rehabilitation Act, as amended, and the Americans with Disabilities Act, as amended, places upon CHAMPUS providers, nor are CHAMPUS benefits a substitute for special education and related services associated with a free appropriate public education which the Individuals with Disabilities Education Act, as amended, makes available.

Comment: Two comments noted that this rule should use the type of language currently preferred by the disability community. The terms ''handicap'' and ''the handicapped'' are no longer acceptable. The preferred forms are ''disability'' and ''persons with disabilities.''

Response: We have renamed the Program for the Handicapped (PFTH) the Program for Persons with Disabilities (PFPWD). This name change recognizes that the term ''handicapped'' presumes an unavoidable consequence of illness or injury that unnecessarily discounts the capabilities of every CHAMPUS beneficiary with a disability. Editorial changes throughout the final rule are responsive to current terminology preferences.

Comment: The statement that PFPWD beneficiaries reside, with few exceptions, within Military Treatment Facility catchment areas, and that the proposed change will facilitate beneficiary access to needed services and items is not true for the other three Uniformed Services and could adversely affect the Coast Guard, the Public Health Service, and the National Oceanic and Atmospheric Administration.

Response: We are aware that MHSS beneficiaries with sponsors in these Uniformed Services are not usually within a military hospital's catchment area. PFPWD eligibility determination, benefit authorization, and related support, will continue to be available through the network of regional CHAMPUS contractors.

Comment: A PFPWD qualifying condition is required to be certified again at least every 36 months. For certain conditions (i.e. severe mental retardation, cerebral palsy with paralysis, muscular dystrophy, missing essential body parts, etc.) there will never be a change in PFPWD clinical eligibility. A list of conditions which do not require frequent certification should be used.

Response: We have removed the 36 month review requirement. Rather than a list, reviews will now be based upon the prognosis for a change in the qualifying condition.

Comment: One comment recommended extending PFPWD benefits to retired members because, in many cases, beneficiaries will never lose their dependence on the sponsor. Special needs beneficiaries may force sponsors to remain on active duty longer than they desire merely to remain eligible for PFPWD.

Response: The limitation of PFPWD benefits to dependents of active duty uniformed service members is a requirement of the law that authorizes PFPWD benefits.

Comment: Two comments noted that the provisions for transportation should allow movement from one State to another when necessary to obtain care.

Response: We have clarified the transportation exclusion to assure that transportation between any of the United States, and certain other areas defined as a state by the Regulation, is not excluded.

Comment: The current edition of the Diagnostic and Statistical Manual of Mental Disorders is the Third Edition, Revised; Down Syndrome is generally preferred to Down's Syndrome; the phrase ''. . . are eligible for payment under a State plan for medical assistance under Title XIX of the Social Security Act (Medicaid) . . .'' should be used throughout when referring to Medicaid benefits; and Medicaid

Intermediate Care Facilities are now termed Medicaid Nursing Facilities.

Response: We will specify the most current edition of the Diagnostic and Statistical Manual of Mental Disorders in administrative instruction. All other technical changes have been incorporated into this final rule.

Comment: The proposed changes appear to place the active duty sponsor at a higher financial risk under the PFPWD than those active duty sponsors using basic benefits. There is presently a $1,000 catastrophic cap for basic benefits and the governments would then assume a payment obligation of the cost-share over that cap. Any additional cost for care under the PFPWD beyond the $1,000/month benefit limit remains the responsibility of the active duty sponsor.

Response: The catastrophic loss protection provision of law does not allow PFPWD cost-share amounts, or amounts in excess of the $1,000/month PFPWD benefit limit paid by a beneficiary, to be counted toward the catastrophic loss active duty family threshold of $1,000/fiscal year. Only basic benefit deductible and cost-share amounts can be applied to this threshold. PFPWD beneficiaries obtain most of their medical care as a basic benefit. These changes to the PFPWD provide the active duty sponsor with more control over financial risk by allowing a choice between PFPWD or basic benefits where no choice previously existed. PFPWD allowable services and items which are excluded as basic benefits include institutional care for protective custody or training, training, special education, nonmedical equipment, transportation, and certain prosthetic devices. A key consideration when a choice between PFPWD or basic benefits is available is catastrophic loss protection. We have addressed the issue of informed choice between basic and PFPWD benefits in two ways. First, we will provide written guidance and training for Health Benefits Advisors at Military Treatment Facilities regarding the beneficiary cost-share liability implications of using PFPWD benefits, rather than basic benefits, whenever such a choice exists. Second, we have added a provision to this final rule that will assure that a family that finds they inadvertently have a liability for PFPWD benefits, that would otherwise not have existed after activation of the basic benefit catastrophic loss protection, will have a way to request relief.

Comment: The proposed rule would define rehabilitation as ''the restoration of physical functioning lost due to illness or injury.'' By focusing narrowly on physical functioning, we fear that this definition would serve to limit the range of services available to address the rehabilitation needs of the physically handicapped. Rehabilitation restores not only the physical functioning of an individual, but also the individual's physiological, social, vocational, educational, and economic adjustment to the handicap. The proposed rule lists categories of services available under the PFPWD benefit and addresses some nonphysical aspects of rehabilitation, such as training and special education. We are encouraged that CHAMPUS does not intend to limit rehabilitation services to those related strictly to physical functioning. However this list does not explicitly mention services related to the individual's psychosocial needs. We suggest a clearer and more explicit treatment of the scope of rehabilitative services available under the PFPWD. Fist we recommend defining rehabilitation as the restoration of physical, psychological, social, vocational, and educational functioning lost due to illness or injury. Second, we would add explicit recognition of the broad range of rehabilitative services that may be necessary to restore or improve functioning for the physically handicapped.

Response: We agree that physical rehabilitation is but one facet of restoring an individual's ability to function. We have rewritten this definition to accommodate the extensive scope of providers and processes which pursue restorative outcomes for a growing range of dysfunctions. The revised definition focuses upon functional limitation reduction as the critical outcome produced by rehabilitative processes. The widest scope of individual need, with allowance for the dynamic nature of the rehabilitative process, is subsumed within this definition. Rather than simply restating well established elements of rehabilitative focus and treatment at the regulatory level, we have chosen to create an outcome standard for these benefits which allows maximum flexibility for identifying services and items that confirm, arrest, or reduce disabling effects of a qualifying condition. This approach allows responsiveness to the success of traditional, evolving, and emerging rehabilitative and habilitative resources in providing functional gains to CHAMPUS beneficiaries.

Comment: The ''in whole or in part'' phrase should be deleted from the definition of public facility adequacy. This phrase suggests the possibility that care could be fragmented among several providers, a result we do not believe CHAMPUS intended. For example, a public facility may be funded only to provide for a specific number of physical therapy sessions per week, but based on the medical opinion of the practitioner, the patient requires more frequent services. Under the proposed definition the individual's needs could be met ''in part'' by this facility, so it would be considered adequate and the individual would be required to use it. The additional services, beyond what the public facility can provide, would have to be obtained from another provider or paid for out-of-pocket.

Response: We have deleted this phrase and have rewritten the provision to avoid such conflicts.

Comment: Although we support the changes being proposed, we have concern that the CHAMPUS program itself, for which changes are not being proposed, is also in need of revision. We would encourage you to propose recommendations to change the basic CHAMPUS legislation so that children with less severe disabilities would also be eligible for services, and that the $1,000 per month limitation on services be expanded.

Response: The $1,000/month PFPWD benefit limit and related eligibility criteria are provisions of law. Beneficiaries with less than serious disability have access to basic benefits which provide a wide range of medical and allied health services. Long-term use of the entire $1,000/month PFPWD is rare. Such maximum benefit use is predominantly associated with declining use of long term residential care.

Comment: Although some limitations are statutory, it appears that it would be possible to revise the proposed regulation so that persons with disabilities have access to CHAMPUS benefits more in line with the intent of Section 504 of the Rehabilitation Act (29 U.S.C. 794). This law is implemented within the Department of Defense by DoD Directive 1020.1, ''Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of Defense,'' dated March 31, 1982. It seems unfair that the proposed regulation requires persons with disabilities to make choices about benefits that could result in their losing money. In some situations, beneficiaries could be forced to trade one type of benefit for another. In other situations, they could lose benefits because of an ill-advised choice. By contrast, benefits are straightforward for beneficiaries who are not disabled and therefore have no need for the special program. CHAMPUS beneficiaries, whether they are disabled or not, should receive the

maximum benefits to which they are entitled in any particular situation. Proposed language states in effect, that the wrong decision about benefits is irreversible. This language should be deleted and replaced with provisions that make CHAMPUS staff responsible for assuring that beneficiaries with disabilities receive all the benefits for which they are eligible.

Response: Assisting beneficiaries make prudent health care choices is a responsibility shared by many Military Health Services System (MHSS) entities. CHAMPUS will provide Policy Manual guidance and CHAMPUS Handbook and pamphlet information to assist beneficiaries to determine the best election of benefits in a given family's situation. Ongoing public information efforts can be responsive to demonstrated beneficiary understanding of the choices among MHSS benefit options. We have also provided administrative means to minimize any adverse economic effect upon the beneficiary or family of PFPWD use because of basic benefit catastrophic loss protection.

Comment: The definition of the term serious physical handicap imposes a ''substantial productive activity'' limitation on persons who have qualifying disabilities. Does this mean that a dependent teenager who uses a wheelchair and has a part-time job would not be covered? It would be preferable to use a functional definition, such as the one in DoD Directive 1020.1, instead of linking the definition to productivity.

Response: Employability has never been a PFPWD eligibility criterion. However, we have rewritten the definition of ''Serious Physical Handicap'' (as ''Serious Physical Disabilities'') and added complementary definitions for ''Major Life Activity'' and ''Handicap'' to focus upon the underlying loss of function rather than the productivity of the beneficiary.

Comment: Proposed language suggests that services that should be provided for pupils with disabilities through public schools, or through DoD operated schools, are to be funded through this CHAMPUS cost-sharing program. There should be clarification of the relationship of this program to requirements under DoD Directive 1342.16, ''Provision of Free Public Education for Eligible Dependent Children pursuant to section 6, Pub. L. 81–874, as amended.''

Response: CHAMPUS will treat DoD Directive 1342.16 schools the same as any other local educational agency within the state in which the DoD school is located. The Individuals with Disabilities Education Act requires persons with disabilities be provided a free public education. Accordingly, special education services that are within the State Plan required by the Act, and are a part of a beneficiary's Individual Educational Plan, are excluded as a PFPWD benefit. Such exclusion is because of the Act's requirements upon public schools, and because CHAMPUS statutory authority requires that to qualify for PFPWD benefits, public facilities, such as public schools, must be used to the extent available and adequate. Because CHAMPUS benefits have legally imposed beneficiary cost-share requirements (and benefit amount limits for PFPWD benefits) the Act's requirement that the student or parents not be charged for such services cannot be met.

Comment: This regulation should include a statement that all CHAMPUS services are provided in accordance with DoD Directive 1020.1 [Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of Defense]. Complaints under Section 504 [of the rehabilitation Act] indicate the need for special attention to certain requirements. For example, there would be specific references to telecommunication devices and certified sign language interpreters for persons who are deaf, as well as special signs and readers for persons who are blind and architectural accessibility and personal assistants for individuals with other types of disabilities.

Response: We have made explicit in this final rule that the services of an interpreter, reader, or personal assistant is an allowable PFPWD benefit when the service is not an adjunct to receipt of a PFPWD allowable service or item. PFPWD cost-share of these types of services for beneficiaries with serious disabilities does not relieve CHAMPUS providers of their obligation to provide CHAMPUS beneficiaries with disabilities equal access, to include the provision of communication resources and architectural accessibility.

Overview of PFTH/PFPWD Changes

Editorial changes have been made throughout this final rule, including the addition and reorganization of material for clarity. The following provides an overview of the changes to those sections in this final rule pertaining to the PFPWD. Substantial changes between the proposed and final documents are noted.

Section 199.2, Definitions

The proposed definitions for rehabilitation and habilitation have been rewritten to focus upon the reduction of inability to function rather than upon the underlying cause of the disability. We have rewritten the definition of ''serious physical disability'' for clarity and have added supporting definitions for ''handicap'' and ''major life activity.'' We have moved the definitions for ''public facility availability'' and ''public facility adequacy'' from § 199.5 to § 199.2. Other definitions are unchanged.

Section 199.5(a), General

The name Program for the Handicapped (PFTH) has been changed to Program for Persons with Disabilities (PFPWD).

We have shortened the proposed statement of purpose to focus upon reducing disabling effects.

We have allowed the beneficiary the choice of using PFPWD or basic benefits whenever possible. This changes the PFTH policy that resulted in loss of access to basic benefits for outpatient services directly related to the disability.

We have continued to exclude the use of basic benefits to cover otherwise allowable PFPWD benefit cost which is not payable because the monthly PFPWD benefit limit has been reached. The law authorizing PFPWD benefits prohibits the government from paying, in any month, an amount which exceeds the maximum allowable PFPWD benefit; consequently, basic benefits cannot be used to pay for any PFPWD benefit residual expense once the PFPWD monthly benefit limit is reached.

We have added a provision for readjudication of claims when the PFPWD created a cost-share liability for services or items which would not otherwise have been incurred due to basic benefit catastrophic loss protection.

We have separated the determination of PFPWD eligibility from the adjudication of benefit requests. PFTH eligibility previously had to be established each time a benefit was requested. This change will significantly reduce the paperwork required for a beneficiary to access PFPWD benefits.

We have continued to require information about how a requested benefit will contribute to confirming, arresting, or reducing the disabling effects of a qualifying condition.

We have removed the absolute requirement for PFPWD benefit preauthorization by allowing those services or items requiring

preauthorization to be specified in administrative policy. Preauthorization serves to safeguard the beneficiary from benefit denials.

We have limited the maximum length of a benefit authorization to six months.

We have provided for retrospective waiver of a required preauthorization on a case-by-case basis.

We have rewritten public facility use requirements to promote continuity of care.

We have allowed the Commander of a Military Treatment Facility to certify the lack of public facility availability or adequacy.

We have provided for benefit approval when a public official refuses to provide a public facility use certification so as not to disadvantage a beneficiary due to circumstances beyond the beneficiary's control.

We have provided that repair or maintenance for owned equipment does not require public facility use certification. This type of service is rarely available through a public facility and timely access to such services is usually critical to the beneficiary with a disability.

We have provided that more than one item of the same type of equipment for the same beneficiary may not be authorized concurrently.

We have eliminated the requirement that public facility availability be determined for both the beneficiary's domicile and the sponsor's domicile when beneficiary and sponsor are separated following a Service Member's permanent change of duty station.

We have removed the absolute 36 month review cycle for qualifying conditions in recognition that certain conditions will not change over time.

We have added a provision to assure that no beneficiary receiving PFPWD benefits loses eligibility solely as an unintended consequence of these administrative changes.

Section 199.5(b), Eligibility

We have added certain abused dependents as a new PFPWD eligibility category as required by law.

We have explicitly accommodated latent qualifying conditions which cannot usually be definitively diagnosed in infancy, but for which early clinical intervention is considered appropriate to minimize disabling effects.

We have removed the detailed criteria and discussion of mental retardation in favor of the diagnostic criteria in the ''Diagnostic and Statistical Manual of Mental Disorders'' published by the American Psychiatric Association. The Third edition, Revised, will apply immediately, and newer additions will apply as they are published.

We have removed the examples of conditions that may cause serious physical disability. This material was only informational. Such screening criteria can be more responsive to changing technology and standards of care when issued as administrative guidance.

We have removed the provision that extended PFTH benefits beyond the date of eligibility for benefits.

Section 199.5(c), Benefits

Statutory benefit categories have been defined and types of derived benefits have been described.

A standard of necessity has been established to permit services and items to be allowed which are not explicit in this rule (derived PFPWD benefits).

Section 199.5(d), Exclusions

We have excluded inpatient acute care as it is fully available as a basic benefit and such care is likely to usually exceed the $1,000/month PFPWD benefit limit.

We have excluded structural alterations to buildings as a type of service outside the scope of authorized benefits.

We have excluded homemaker, sitter, or companion services as custodial care.

We have defined certain adjunct services as benefits because they are directly related to the efficiency and purpose of the PFPWD, and are consistent with Department of Defense Directive 1020.1 regarding ''Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of Defense.''

We have excluded dental care and orthodontic treatment since dental care is not included in the statutory authority for PFPWD benefits.

We have excluded nondomestic travel for care and treatment. Active duty dependents officially residing with an active duty Service Member outside of the United States are the responsibility of the Sponsor's Military Command which will provide medical evacuation to the United States for medical treatment when necessary.

We have excluded the cost differential for deluxe accommodations for allowable travel when not necessary to the safety of the beneficiary.

We have rewritten and shortened transportation related exclusions to improve clarity.

We have excluded payment for services or items when the beneficiary has no legal obligation to pay.

We have excluded services or items furnished by a public facility.

CHAMPUS benefits are, by law, last pay to other health care benefits for which the beneficiary is eligible (Medicaid excepted).

We have excluded study, grant, or research programs as services or items not rendered in accordance with accepted standards as investigational or experimental in nature.

We have excluded services or items provided by immediate family or household to minimize conflict of interest.

We have excluded court ordered care, unless such care would otherwise be a PFPWD benefit.

We have excluded excursions as beyond the scope of the PFPWD travel benefit.

We have excluded therapeutic absences.

We have clarified that drugs and medicines must meet basic benefit criteria.

We have added an exclusion of medical devices which are not approved for commercial distribution by the U.S. Food and Drug Administration.

Section 199.5(e), Cost-share Liability

Minor editorial changes were made for improved clarity.

Section 199.5(f), Benefit Payment

We have added this paragraph to consolidate payment related requirements that were scattered throughout the proposed rule.

Section 199.6(e), Providers

We have established PFPWD-unique providers as a separate class of CHAMPUS providers due to the extra medical nature of PFPWD-unique benefits.

We have added a provision that allows exclusion or suspension of a provider of PFPWD services or items due to a pattern of discrimination on the basis of disability.

Section 199.7(f), Preauthorization

We have removed the detailed documentation requirements for PFPWD claims as this level of detail is more flexibly addressed in administrative guidance.

Section 199.8(d), Special Considerations

We have established that Medicaid (services and items eligible for payment under a State plan for medical assistance under Title XIX of the Social Security Act) is not to be considered a public facility resource in PFPWD adjudication. Medicaid is not considered to be ''other insurance'' for CHAMPUS coordination of benefits.

II. Occupational Therapists

On March 8, 1995, a proposed rule was published in the **Federal Register** (60 FR 12717) regarding several issues including the addition of occupational therapists in independent practice to the list of authorized individual professional providers recognized by CHAMPUS. This will allow qualified self-employed occupational therapists to be authorized for direct CHAMPUS payment for allowable services.

We received four comments regarding this proposed change.

One comment from a national association voiced strong support for the proposal and recommended that this change be implemented retroactively. Unless there is a statutorily-established effective date or some compelling reason for making a change retroactive, we do not normally implement benefit changes retroactively. We do not believe any such compelling reason exists for this change.

One comment from another national association suggested that CHAMPUS modify its reimbursement policy to include coverage for the services of physical therapy assistants who are employed by independently authorized physical therapists. We will look into this possibility, but such a change would require publication of a proposed rule. Therefore, we are not including it in this final rule.

Two comments were received from occupational therapy providers who strongly supported this change.

III. Procedures Involving the Electronic Transfer of Data

On September 24, 1991, a proposed rule was published in the **Federal Register** (56 FR 48134) regarding criteria for allowing clinical procedures and consultations involving transtelephonic monitoring and electronic data transfer.

No written comments were received during the public comment period.

The CHAMPUS Basic Program excludes payment for ''services or advice rendered by telephone or other telephonic device, including remote monitoring, except for transtelephonic monitoring of cardiac pacemakers''. This exclusion promotes the quality of care standard that a substantive service of a diagnostic or treatment nature requires a face-to-face contact between provider and patient. Transtelephonic monitoring exception for cardiac pacemakers, added in 1984 [49 FR 35934], recognized that remote monitoring can be an efficient alternative to certain outpatient visits to a physician's office or hospital. Coverage of a procedure subsequent to the promulgation of this final rule requires that both clinical and fiscal advantages be demonstrated compared to the procedure without the electronic data transfer element.

IV. Supplemental Insurance

On June 12, 1991, a proposed rule was published in the **Federal Register** (56 FR 26946) regarding CHAMPUS-supplemental insurance plans.

In compliance with applicable statutory provisions (10 U.S.C. 1079 (j)(1) and 10 U.S.C. 1086 (d)) on double coverage CHAMPUS pays benefits only after all other health plans have made payment, with the exception of Medicaid and certain insurance policies that are specifically designed to supplement CHAMPUS benefits. This means that if a CHAMPUS beneficiary has another health plan, the other plan must pay whatever it covers before CHAMPUS will make any type of payment. The CHAMPUS beneficiary may have coverage through an employer, an association, or a private insurer. This also includes any coverage for which students may qualify through school health plans. In most circumstances, after the CHAMPUS beneficiary's other plan has paid its maximum benefits, then CHAMPUS will pay for covered services up to the amount it would have paid, had there been no other health benefits plan involved.

This provision will assist CHAMPUS beneficiaries, providers, and other third-party payers by clarifying what is recognized as a supplemental insurance plan.

The regulation previously provided that coverage specifically designed to supplement CHAMPUS benefits was not considered a double coverage plan. This provision lacked the specificity needed in light of attempts by some insurance plans to achieve second pay status by merely defining themselves as supplementary plans even though their coverage may not be limited to CHAMPUS beneficiaries.

To qualify as supplemental insurance, such insurance must meet the definition and criteria under supplemental insurance plan in § 199.2(b).

One comment suggested removal of criterion iii from the definition of Supplemental Insurance Plan assuming that it would limit the extent of supplemental insurance which CHAMPUS beneficiaries may purchase. Criterion iii was retained since it is *not* a limitation on the amount of insurance which CHAMPUS beneficiaries may purchase. It merely defines the purpose of supplemental insurance; which is to pay for services not covered by CHAMPUS.

Some comments suggested that criterion v defeated the purpose of supplemental insurance because it was interpreted to mean that the supplemental insurance could not pay the deductible and cost-share on behalf of the subscribers. That was not the intent of criterion v, but in the interest of clarifying its intent, the wording was revised to state that the supplemental insurance coverage cannot result in lower deductibles and cost-shares than those imposed by law. The supplemental insurance may pay the legally imposed deductibles and cost-shares on behalf of the subscribers, but cannot impose arbitrarily lower amounts nor can it waive the deductibles or cost-shares.

Other comments suggested adding a statement to criterion iii, to the effect that supplemental insurance may also provide coverage for costs in excess of the CHAMPUS allowable charges. That suggestion was accepted and the wording was added under criterion iii.

A Health Maintenance Organization (HMO) suggested adding wording that would permit the HMO to offer supplementary insurance through one of its affiliates since the HMO is not an indemnity insurance plan. We have added wording that will accept supplemental insurance plans offered by HMOs.

V. Federal Claims Collection Act

On September 24, 1991, a proposed rule was published in the **Federal Register** (56 FR 48135) regarding CHAMPUS use of the Federal Claims Collection Act and the Federal Claims Collection Standards and former spouse eligibility. The former spouse portion of the proposed rule is not being published as a final rule at this time and will be included in a future complete update of the eligibility section of the CHAMPUS regulation (§ 199.3). No written comments were received during the public comment period.

The amendment of both the Federal Claims Collection Act, 31 U.S.C. 3711(a)(2) and the Federal Claims Collection Standards, 4 CFR 103.1 and 104.1, allows Federal Agencies to compromise, suspend, or terminate collection actions on claims when the amount, exclusive of interest costs, does not exceed $100,000. This rule adopts, by reference, the language of the Federal Claims Collection Act and Federal Claims Collection Standards so that future amendments to the Act and the Regulation will not necessitate corresponding amendments to DoD 6010.8–R.

This rule will reduce the number of claims which must be referred to the Department of Justice, facilitate more timely resolution of CHAMPUS claims, diminish the size of the backlog of claims which, under the old system, only the Department of Justice was authorized to review, and enhance the timeliness of reviews.

VI. Regulatory Procedures

Executive Order 12866 requires that a comprehensive regulatory impact analysis be performed on any economically significant regulatory action, defined as one which would result in an annual effect of $100 million or more on the national economy or which would have other substantial impacts. This is not an economically significant regulatory action under the provisions of Executive Order 12866 for the following reasons:

The PFPWD annual government cost has not exceeded $9 million.

We expect the inclusion of qualified self-employed occupational therapists as CHAMPUS-authorized individual professional providers will result in no additional costs. Occupational therapist services are currently available when billed through other sources.

The telephone services exclusion modification is not expected to increase the volume (or cost) of covered procedures relative to the volume anticipated to have been acceptably performed in a different manner in the absence of this change.

The addition of a definition for qualifying CHAMPUS-supplement insurance plans only provides CHAMPUS beneficiaries with criteria for identification of plans which CHAMPUS will treat as second-pay insurance plans.

The CHAMPUS adoption of Federal Claims Collection Act and the Federal Claims Collection Standards is only a linkage to existing Federal law and regulation.

The Regulatory Flexibility Act (RFA) requires that each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities. We certify that this final rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act for the following reasons:

The PFPWD simplification of the administrative structure does not alter the CHAMPUS pricing methods for PFPWD services or items nor the scope of providers of PFPWD covered services or items.

The inclusion of qualified self-employed occupational therapists as authorized individual professional providers will not significantly affect the provision of services by these individuals.

The telephonic services exclusion modification does not add or remove requirements for providers of services to CHAMPUS beneficiaries or substantially alter the scope of services which providers have found to be covered by the CHAMPUS.

The CHAMPUS-supplement insurance definition only provides CHAMPUS beneficiaries with criteria for identification of plans which CHAMPUS will treat as second-pay insurance plans.

The CHAMPUS adoption of Federal Claims Collection Act and the Federal Claims Collection Standards is only a linkage to existing Federal law and regulation. OMB has reviewed this rule as a significant rulemaking pursuant to EO12866.

List of Subjects in 32 CFR Part 199

Administrative practice and procedure, Claims, Fraud, Health care, Health insurance, Individuals with disabilities, Military personnel.

Accordingly, 32 CFR part 199 is amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. chapter 55.

2. Section 199.2(b) is amended by removing the definitions for ''Management plan'', ''Mental retardation'', ''Physical handicap'', ''Program for the handicapped (PFTH)'', and ''Special tutoring'', and by revising the last sentence of the note following the definition of ''Domiciliary care'', and by adding definitions for ''Durable equipment'', ''Habilitation'', ''Handicap'', ''Major life activity'', ''Not-for-profit entity'', ''Occupational therapist'', ''Program for Persons with Disabilities (PFPWD)'', ''Public facility'', ''Public facility adequacy'', ''Public facility availability'', ''Rehabilitation'', ''Serious physical disability'', ''State,'' and ''Supplemental insurance plan'' in alphabetical order to read as follows:

§ 199.2 Definitions.

* * * * *

(b) * * *

Domiciliary care. * * *

Note: * * * Domiciliary care is not covered under either the CHAMPUS Basic Program or the Program for Persons with Disabilities (PFPWD).

* * * * *

Durable equipment. A device or apparatus which does not qualify as Durable Medical Equipment (as defined in this section), and which is essential to the efficient arrest or reduction of functional loss resulting from a qualifying condition as provided by § 199.5.

* * * * *

Habilitation. The provision of functional capacity, absent from birth due to congenital anomaly or developmental disorder, which facilitates performance of an activity in the manner, or within the range considered normal, for a human being.

* * * * *

Handicap. For the purposes of this part, the term ''handicap'' is synonymous with the term ''disability.''

* * * * *

Major life activity. Breathing, cognition, hearing, seeing, and age appropriate ability essential to bathing, dressing, eating, grooming, speaking, stair use, toilet use, transferring, and walking.

* * * * *

Not-for-profit entity. An organization or institution owned and operated by one or more nonprofit corporations or associations formed pursuant to applicable state laws, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

Occupational therapist. A person who is trained specially in the skills and techniques of occupational therapy (that is, the use of purposeful activity with individuals who are limited by physical injury of illness, psychosocial dysfunction, developmental or learning disabilities, poverty and cultural differences, or the aging process in order to maximize independence, prevent disability, and maintain health) and who is licensed to administer occupational therapy treatments prescribed by a physician.

* * * * *

Program for Persons with Disabilities PFPWD). The CHAMPUS benefits described in § 199.5.

* * * * *

Public facility. A public authority or entity legally constituted within a State (as defined in this section) to administer, control or perform a service function for public health, education or human services programs in a city, county, or township, special district, or other political subdivision, or such combination of political subdivisions or

special districts or counties as are recognized as an administrative agency for a State's public health, education or human services programs, or any other public institution or agency having administrative control and direction of a publicly funded health, education or human services program.

Public facility adequacy. An available public facility shall be considered adequate when the Director, OCHAMPUS, or designee, determines that the quality, quantity, and frequency of an available service or item otherwise allowable as a CHAMPUS benefit is sufficient to meet the beneficiary's specific disability related need in a timely manner.

Public facility availability. A public facility shall be considered available when the public facility usually and customarily provides the requested service or item to individuals with the same or similar disability related need as the otherwise equally qualified CHAMPUS beneficiary.

* * * * *

Rehabilitation. The reduction of an acquired loss of ability to perform an activity in the manner, or within the range considered normal, for a human being.

* * * * *

Serious physical disability. Any physiological disorder or condition or anatomical loss affecting one or more body systems which has lasted, or with reasonable certainty is expected to last, for a minimum period of 12 contiguous months, and which precludes the person with the disorder, condition or anatomical loss from unaided performance of at least one Major Life Activity as defined in this section.

* * * * *

State. For purposes of this part, any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and each territory and possession of the United States.

* * * * *

Supplemental insurance plan. A health insurance policy or other health benefit plan offered by a private entity to a CHAMPUS beneficiary, that primarily is designed, advertised, marketed, or otherwise held out as providing payment for expenses incurred for services and items that are not reimbursed under CHAMPUS due to program limitations, or beneficiary liabilities imposed by law. CHAMPUS recognizes two types of supplemental plans, general indemnity plans, and those offered through a direct service health maintenance organization (HMO).

(1) An indemnity supplemental insurance plan must meet all of the following criteria:

(i) It provides insurance coverage, regulated by state insurance agencies, which is available only to beneficiaries of CHAMPUS.

(ii) It is premium based and all premiums relate only to the CHAMPUS supplemental coverage.

(iii) Its benefits for all covered CHAMPUS beneficiaries are predominantly limited to non-covered services, to the deductible and cost-shared portions of the pre-determined allowable charges, and/or to amounts exceeding the allowable charges for covered services.

(iv) It provides insurance reimbursement by making payment directly to the CHAMPUS beneficiary or to the participating provider.

(v) It does not operate in a manner which results in lower deductibles or cost-shares than those imposed by law, or that waives the legally imposed deductibles or cost-shares.

(2) A supplemental insurance plan offered by a Health Maintenance Organization (HMO) must meet all of the following criteria:

(i) The HMO must be authorized and must operate under relevant provisions of state law.

(ii) The HMO supplemental plan must be premium based and all premiums must relate only to CHAMPUS supplemental coverage.

(iii) The HMO's benefits, above those which are directly reimbursed by CHAMPUS, must be limited predominantly to services not covered by CHAMPUS and CHAMPUS deductible and cost-share amounts.

(iv) The HMO must provide services directly to CHAMPUS beneficiaries through its affiliated providers who, in turn, are reimbursed by CHAMPUS.

(v) The HMO's premium structure must be designed so that no overall reduction in the amount of the beneficiary deductibles or cost-shares will result.

* * * * *

3. Section 199.3 is amended by revising paragraphs (a), (c)(2)(i)(D), the note under paragraph (c)(2)(ii), the note under paragraph (c)(2)(iii), and the last sentence and note of paragraph (c)(2)(vi) to read as follows:

§ 199.3 Eligibility.

(a) *General.* This section sets forth those persons who, by the provisions of 10 U.S.C., Chapter 55, and the NATO Status of Forces Agreement, are eligible for CHAMPUS benefits. For additional statements concerning the special requirements of the Program for Persons with Disabilities (PFPWD), refer to § 199.5. A determination that a person is eligible does not entitle such a person automatically to CHAMPUS payments. Other sections of this part set forth additional requirements that must be met before any CHAMPUS benefits may be extended. Additionally, the use of CHAMPUS may be denied if a Uniformed Services medical facility capable of providing the needed care is available.

* * * * *

(c) * * *

(2) * * *

(i) * * *

(D) For benefits under the PFPWD, January 1, 1967.

(ii) * * *

Note: Retirees and their dependents are not eligible for benefits of the PFPWD.

(iii) * * *

Note: These classes do not have eligibility for benefits of the PFPWD.

* * * * *

(vi) * * * For benefits under the PFPWD, dependents of an active duty member only, January 1, 1969.

Note. Retirees or their dependents do not have eligibility for benefits of the PFPWD.

* * * * *

4. Section 199.4 is amended by revising paragraphs (b)(8)(iii), (b)(9)(iv), (c)(3)(x), (g)(52) and (g)(73) to read as follows:

§ 199.4 Basic program benefits.

* * * * *

(b) * * *

(8) * * *

(iii) RTC day limits do not apply to services provided under the Program for Persons with Disabilities (§ 199.5) or services provided as partial hospitalization care.

(9) * * *

(iv) Acute care day limits do not apply to services provided under the Program for Persons with Disabilities (§ 199.5) or services provided as partial hospitalization care.

* * * * *

(c) * * *

(3) * * *

(x) *Physical and occupational therapy.* Assessment and treatment services of a CHAMPUS-authorized physical or occupational therapist may be cost-shared when:

(A) The services are prescribed and monitored by a physician;

(B) The purpose of the prescription is to reduce the disabling effects of an illness, injury, or neuromuscular disorder; and

(C) The prescribed treatment increases, stabilizes, or slows the deterioration of the beneficiary's ability to perform specified purposeful activity in the manner, or within the range considered normal, for a human being.

* * * * *

(g) * * *

(52) *Telephone services.* Services or advice rendered by telephone are excluded, except that a diagnostic or monitoring procedure which incorporates electronic transmission of data or remote detection and measurement of a condition, activity, or function (biotelemetry) is not excluded when:

(i) The procedure without electronic transmission of data or biotelemetry is otherwise an explicit or derived benefit of this section; and

(ii) The addition of electronic transmission of data or biotelemetry to the procedure is found by the Director, CHAMPUS, or designee, to be medically necessary and appropriate medical care which usually improves the efficiency of the management of a clinical condition in defined circumstances; and

(iii) That each data transmission or biotelemetry device incorporated into a procedure that is otherwise an explicit or derived benefit of this section, has been classified by the U.S. Food and Drug Administration, either separately or as a part of a system, for use consistent with the defined circumstances in paragraph (g)(52)(ii) of this section.

* * * * *

(73) *Economic interest in connection with mental health admissions.* Inpatient mental health services (including both acute care and RTC services) are excluded for care received when a patient is referred to a provider of such services by a physician (or other health care professional with authority to admit) who has an economic interest in the facility to which the patient is referred, unless a waiver is granted. Requests for waiver shall be considered under the same procedure and based on the same criteria as used for obtaining preadmission authorization (or continued stay authorization for emergency admissions), with the only additional requirement being that the economic interest be disclosed as part of the request. The same reconsideration and appeals procedures that apply to day limit waivers shall also apply to decisions regarding requested waivers of the economic interest exclusion. However, a provider may appeal a reconsidered determination that an economic relationship constitutes an economic interest within the scope of the exclusion to the same extent that a provider may appeal determinations under § 199.15(i)(3). This exclusion does not apply to services under the Program for Persons with Disabilities (§ 199.5) or provided as partial hospital care. If a situation arises where a decision is made to exclude CHAMPUS payment solely on the basis of the provider's economic interest, the normal CHAMPUS appeals process will be available.

* * * * *

5. Section 199.5 is revised to read as follows:

§ 199.5 Program for Persons with Disabilities (PFPWD).

(a) *General.* This PFPWD provides financial assistance for certain CHAMPUS beneficiaries who are moderately or severely mentally retarded, or seriously physically disabled. The PFPWD is not intended to be a stand alone benefit.

(1) *Purpose.* The primary purpose of the PFPWD is to assist in reducing the disabling effects of a PFPWD qualifying condition.

(2) *Benefit source election.* A PFPWD beneficiary (or sponsor or guardian acting on behalf of the beneficiary) may elect to use the provisions of either this section, or the provisions of § 199.4, for a specific service or item which is allowable by both sections.

(i) *Election limitation.* No amount for authorized, or otherwise allowed, PFPWD services or items remaining after the maximum PFPWD benefit dollar amount has been reached in a given month may be cost-shared through the provisions of § 199.4.

(ii) *Election change.* A beneficiary (or sponsor or guardian acting on behalf of the beneficiary) shall have the right to request the Director, OCHAMPUS, or designee, to allow PFPWD cost-shared services or items otherwise allowable as a benefit of § 199.4, and which were rendered after the catastrophic loss protection provision applicable to § 199.4 was in effect for a given PFPWD beneficiary's sponsor, to be readjudicated according to the provisions of § 199.4. The Director, OCHAMPUS, or designee, shall allow readjudication when the sponsor's family's CHAMPUS benefit year cost-share liability would be reduced by such readjudication. Such requests are subject to the claims filing deadline provisions of § 199.7. The determination regarding readjudication is conclusive and may not be appealed.

(3) *Application required.* A beneficiary shall establish PFPWD eligibility as a prerequisite to authorization or payment of any PFPWD benefits. Subsequent review of the PFPWD qualifying condition to confirm continued eligibility shall be made in accordance with the prognosis for a change in severity such that the condition would not likely continue to be a PFPWD qualifying condition.

(4) *Benefit authorization.* To establish whether a requested service or item is a PFPWD benefit, the beneficiary (or sponsor or guardian acting on the behalf of the beneficiary) shall provide such information about how the requested benefit will contribute to confirming, arresting, or reducing the disabling effects of the qualifying condition as the Director, OCHAMPUS, or designee, determines necessary for benefit adjudication.

(i) *Written authorization.* The Director, OCHAMPUS, or designee, may require written authorization for any PFPWD category or type of service or item as a prerequisite for adjudication of related claims.

(ii) *Format.* An authorization issued by the Director, OCHAMPUS, or designee, shall specify, such description, dates, amounts, requirements, limitations or information as necessary for exact identification of approved benefits and efficient adjudication of resulting claims.

(iii) *Valid period.* An authorization for a particular PFPWD service or item shall not exceed six consecutive months.

(iv) *Authorization waiver.* The Director, OCHAMPUS, or designee, shall waive the requirement for a written CHAMPUS authorization for rendered PFPWD services or items that, except for the absence of the written CHAMPUS authorization, would be allowable as a PFPWD benefit.

(v) *Public facility use.* A PFPWD beneficiary residing within a State, as defined in § 199.2, must demonstrate that a public facility, as defined in § 199.2, funds, except funds administered under a State plan for medical assistance under Title XIX of the Social Security Act (Medicaid) is not available or adequate, as defined in § 199.2, to meet the qualifying condition related need.

(A) Equipment repair or maintenance for beneficiary owned equipment shall be considered not available when the equipment is a type allowable as a benefit.

(B) A beneficiary shall not be required to change the provider of public facility funded therapy when public facility funding is depleted during that beneficiary's course of therapy and when such a change is determined by the Director, OCHAMPUS, or designee, to be clinically contraindicated. When contraindicated, other public facilities

for the therapy shall not be considered adequate for the beneficiary.

(5) *Public facility use certification.* Written certification, in accord with information requirements, formats, and procedures established by the Director, OCHAMPUS, or designee that requested PFPWD services or items cannot be obtained from public facilities because the services or items are not available, or if available, are not adequate, is a prerequisite for PFPWD benefit payment.

(i) A Military Treatment Facility (MTF) Commander, or designee, may make such certification for a beneficiary residing within a defined geographic area.

(ii) An administrator of a public facility, or designee, may make such certification for a beneficiary residing within the service area of that public facility.

(iii) The domicile of the beneficiary shall be the basis for the determination of public facility availability when the sponsor and beneficiary are separately domiciled due to the sponsor's move to a new permanent duty station or due to legal custody requirements.

(iv) The Director, OCHAMPUS, or designee, may determine, on a case-by-case basis, that apparent public facility availability for a requested type of service or item can not be substantiated for a specific beneficiary's request for PFPWD benefits and is not available.

(A) A case-specific determination shall be shall be based upon a written statement by the beneficiary (or sponsor or guardian acting on behalf of the beneficiary) which details the circumstances wherein a specific individual representing a specific public facility refused to provide a public facility use certification, and such other information as the Director, OCHAMPUS, or designee determines to be material to the determination.

(B) A case-specific determination of public facility availability by the Director, OCHAMPUS, or designee, is conclusive, and is not appealable.

(6) *Equipment.* (i) An item of equipment shall not be authorized when such authorization would allow concurrent PFPWD cost-sharing of more than one item of the same type of equipment for the same beneficiary.

(ii) Reasonable repairs and maintenance shall be allowable for any beneficiary owned equipment otherwise allowable by this section.

(7) *Implementing instructions.* The Director, OCHAMPUS, or designee shall issue policies, instructions, procedures, guidelines, standards, and criteria necessary to assure the quality and efficiency of services and items furnished as a PFPWD benefit and to otherwise accomplish the purpose of the PFPWD.

(i) *Other requirements.* All provisions of this part, except the provisions of § 199.4, apply to the PFPWD unless otherwise provided by this section.

(ii) *Continuity of eligibility.* A CHAMPUS beneficiary who has an outstanding Program for the Handicapped (PFTH) benefit authorization during the 30 calendar day period immediately prior to the effective date of the Program for Persons with Disabilities (PFPWD) shall be deemed to have a PFPWD qualifying condition for the duration of the period during which the beneficiary is otherwise eligible for PFPWD and the beneficiary continues to meet the applicable PFTH qualifying condition criteria.

(b) *Eligibility*—(1) *Spouse or child.* PFPWD benefits are limited to a CHAMPUS eligible child or spouse, but not a former spouse, except as provided in paragraph (b)(1)(ii) of this section, of:

(i) *Active duty sponsor.* An active duty member of one of the Uniformed Services as determined in accordance with the provisions of § 199.3; or

(ii) *Former member sponsor.* After November 13, 1986, a former member of a Uniformed Service, when the qualifying condition is the result of, or has been exacerbated by, an injury or illness resulting from physical or emotional abuse; or

(iii) *Deceased sponsor.* A CHAMPUS beneficiary who is receiving PFPWD benefits at the time of the death of the sponsoring active duty Uniformed Service member remains eligible for PFPWD benefits through midnight of the beneficiary's twenty-first birthday when the sponsor died after January 1, 1997, and the sponsor was, at the time of death, eligible for receipt of hostile-fire pay or died as a result of disease or injury incurred while eligible for such pay.

(2) *Loss of PFPWD eligibility.* Eligibility for PFPWD benefits ceases as of 12.:01 a.m. of the day following the day that:

(i) The sponsor ceases to be an active duty member for any reason other than death; or

(ii) Eligibility based upon the abused dependent provisions of paragraph (b)(1) of this section expires; or

(iii) Eligibility based upon the deceased sponsor provisions of paragraph (b)(1) of this section expires; or

(iv) The Director, OCHAMPUS, or designee, determines that the beneficiary no longer has a qualifying condition.

(3) *Qualifying condition*—(i) *Mental retardation.* A diagnosis of moderate or severe mental retardation made in accordance with the criteria of the current edition of the ''Diagnostic and Statistical Manual of Mental Disorders'' published by the American Psychiatric Association is a PFPWD qualifying condition.

(ii)*Serious physical disability.* A serious physical disability as defined in § 199.2, is a PFPWD qualifying condition.

(iii) *Infant/toddler.* For CHAMPUS beneficiaries under the age of three years with a diagnosed neuromuscular developmental condition or Down syndrome, or other condition that can to a reasonable medical probability be expected to precede a diagnosis of moderate or severe mental retardation or be characterized as a serious physical disability before the age of seven, the Director, OCHAMPUS, or designee, shall establish criteria for PFPWD eligibility in lieu of the requirements of paragraph (b)(3)(i) or paragraph (b)(3)(ii) of this section.

(iv) *Multiple disabilities.* The cumulative disabling effect shall be used in the adjudication of a qualifying condition determination when an applicant has two or more disabilities involving separate body systems.

(c) *Benefit.* Items or services which the Director, OCHAMPUS, or designee, has determined to be intrinsic to the following benefit categories and has determined to be capable of confirming, arresting, or reducing the severity of the disabling effects of a qualifying condition, generally or in a specific case, and which are not otherwise excluded by this PFPWD, may be allowed.

(1) *Diagnostic procedures* to establish a qualifying condition diagnosis or to measure the extent of functional loss.

(2) *Treatment* through the use of such medical, habilitative, or rehabilitative methods, techniques, therapies and equipment which otherwise meet the requirements of this PFPWD. Treatment includes, but is not limited to, prosthetic devices, orthopedic braces, and orthopedic appliances. Otherwise allowable treatment may be rendered in-home, or as inpatient or outpatient care as appropriate.

(3) *Training* when required to allow the use of an assistive technology device or to acquire skills which are expected to assist the beneficiary to reduce the disabling effects of a qualifying condition and for parents (or guardian) and siblings of a PFPWD beneficiary when required as an integral part of the management of the qualifying condition.

(4) *Special education instruction,* other than training specifically designed to accommodate the disabling effects of a qualifying condition.

(5) *Institutional care* within a State, as defined in § 199.2, when the severity of the qualifying condition requires protective custody or training in a residential environment.

(6) *Transportation* when required to convey the PFPWD beneficiary to or from a facility or institution to receive otherwise allowable services or items. Transportation for a medical attendant may be approved when medically necessary for the safe transport of the PFPWD eligible beneficiary.

(7) *Adjunct services*—(i) *Assistive services.* Services of a qualified interpreter or translator for PFPWD beneficiaries who are deaf, readers for PFPWD beneficiaries who are blind, and personal assistants for PFPWD beneficiaries with other types of qualifying conditions, when such services are not directly related to the rendering or delivery of service or item otherwise an allowable PFPWD benefit.

(ii) *Equipment adaptation.* The allowable equipment purchase shall encompass such services and structural modification to the equipment as necessary to make the equipment serviceable for a particular disability.

(iii) *Equipment maintenance.* Reasonable repairs and maintenance for that portion of the useful life of beneficiary owned equipment that is concurrent with the beneficiary's PFPWD eligibility.

(d) *Exclusions*—(1) *Inpatient acute care* for medical or surgical treatment of an acute illness, or of an acute exacerbation of the qualifying condition, is excluded.

(2) *Structural alterations* to living space and permanent fixtures attached thereto, including alterations necessary to accommodate installation of equipment, or to facilitate entrance or exit, are excluded.

(3) *Homemaker, sitter, or companion services,* except as institutional care of adjunct services, which predominantly provide assistance with daily living activities or accomplish household chores or provide companionship or provide supervision or observation, or any combination of these functions, are excluded.

(4) *Dental care or orthodontic treatment* is excluded.

(5) *Nondomestic travel* which originates or terminates outside of a State, as defined in § 199.2, is excluded.

(6) *Deluxe travel accommodation* price differential between the price for a type of accommodation which provides services or features which exceed the requirements of the beneficiary's condition for safe transport and the price for a type of accommodation without those deluxe features, is excluded.

(7) *Equipment.* Exclusions for durable medical equipment at § 199.4(d)(3)(ii)(D) apply to all PFPWD allowable equipment.

(8) *Medical devices.* Prosthetic devices and medical equipment which do not meet the benefit requirements of § 199.4 are excluded.

(9) *No obligation to pay.* Services or items for which the beneficiary or sponsor has no legal obligation to pay, or for which no charge would be made if the beneficiary was not eligible for the CHAMPUS, are excluded.

(10) *Public facility or Federal government.* Services or items paid for, or eligible for payment, directly or indirectly by a Public Facility, as defined in § 199.2, or by the Federal government, other than the Department of Defense, are excluded, except when such services or items are eligible for payment under a State plan for medical assistance under Title XIX of the Social Security Act (Medicaid).

(11) *Study, grant, or research programs.* Services and items provided as a part of a scientific clinical study, grant, or research program are excluded.

(12) *Unproven drugs, devices, and medical treatments or procedures.* Services and items whose safety and efficacy have not been established as described in § 199.4 are unproven and cannot be cost-shared by CHAMPUS.

(13) *Immediate family or household.* Services or items provided or prescribed by a member of the beneficiary's immediate family, or a person living in the beneficiary's or sponsor's household, are excluded.

(14) *Court or agency ordered care.* Services or items ordered by a court or other government agency that are not otherwise a legitimate PFPWD benefit are excluded.

(15) *Excursions.* Additional or special charges for excursions, other than otherwise allowable transportation, are excluded even though part of a program offered by an approved provider.

(16) *Drugs and medicines.* Drugs and medicines which do not meet the benefit requirements of § 199.4 are excluded.

(17) *Therapeutic absences.* Therapeutic absences from an inpatient facility are excluded.

(e) *Cost-share liability*—(1) *No deductible.* PFPWD benefits are not subject to a deductible amount.

(2) *Sponsor/beneficiary cost-share liability.* The total sponsor cost-share for allowed PFPWD benefits in a given month may not exceed the amount for the sponsor's pay grade as specified below, regardless of the number of dependents of that same sponsor receiving PFPWD benefits in a given month:

Member's pay grade	Monthly share
E–1 through E–5	$25
E–6	30
E–7 and O–1	35
E–8 and O–2	40
E–9, W–1, W–2, and O–3	45
W–3, W–4, and O–4	50
O–5	65
O–6	75
O–7	100
O–8	150
O–9	200
O–10	250

(3) *Government cost-share liability: member who sponsors one PFPWD beneficiary.* The government share of the cost of any PFPWD benefit provided in a given month to a beneficiary who is the sponsor's only PFPWD eligible dependent may not exceed $1,000 in a given month, after application of allowable payment methodology.

(4) *Government cost-share liability: member who sponsors two or more PFPWD beneficiaries.* The government share of the cost of any PFPWD benefits provided in a given month, after October 1, 1966, to a beneficiary who is one of two or more PFPWD eligible dependents of the same sponsor shall be determined as follows:

(i) *Maximum benefit limit determination.* The $1,000 maximum monthly government PFPWD benefit amount shall apply to the beneficiary incurring the least amount of allowable PFPWD expense in a given month, after application of allowable payment methodology. When two or more PFPWD eligible beneficiaries have exactly the same amount of allowable PFPWD expense in a given month, and that amount is determined to be the least amount for the sponsor's family group, the $1,000 maximum monthly benefit in that month shall apply to only one of the PFPWD eligible beneficiaries in the family group.

(ii) *Maximum benefit limit exception.* For all other PFPWD dependents of the same sponsor with allowable PFPWD expense in a given month, the $1,000 maximum monthly benefit does not apply, and the government shall cost-share the entire amount for otherwise allowable services or items received in that month.

(f) *Benefit payment*—(1) *Equipment.* The allowable amount for equipment shall be calculated in the same manner

as durable medical equipment allowable through § 199.4.

(2) *Transportation.* The allowable amount for transportation is limited to the actual cost of the standard published fare plus any standard surcharge made to accommodate any person with a similar disability or to the actual cost of specialized medical transportation when nonspecialized transport cannot accommodate the beneficiary's disability related needs, or when specialized transport is more economical than nonspecialized transport. When transport is by private vehicle, the allowable amount is limited to the Federal government employee mileage reimbursement rate in effect on the trip date.

(3) *Proration of equipment expense.* The PFPWD beneficiary (or sponsor or guardian acting on the beneficiary's behalf) may, only at the time of the request for authorization of equipment, specify that the allowable cost of the equipment be prorated. Equipment expense proration permits the allowable cost of an item of PFPWD authorized equipment to be apportioned so that no portion of the allowable cost exceeds the monthly benefit limit and allows each apportioned amount to be separately authorized as a benefit during subsequent contiguous months.

(i) *Maximum period.* The maximum number of contiguous months during which a prorated amount may be authorized for cost-share shall be the lesser of:

(A) The number of months calculated by dividing the initial allowable cost for the item of equipment by $1,000 and doubling the resulting quotient; or

(B) The number of months of useful equipment life for the requesting beneficiary, as determined by the Director, OCHAMPUS, or designee.

(ii) *Cost-share.* A cost-share is applicable in any month in which a prorated amount is authorized, subject to the cost-share provisions for a sponsor with two or more PFPWD eligible beneficiaries.

(iii) *Termination.* Prorated payments shall be terminated as of the first day of the month following the death of a beneficiary or as of the effective date of a beneficiary's loss of PFPWD eligibility for any other reason.

(4) *For-profit institutional care provider.* Institutional care provided by a for-profit entity may be allowed only when the care for a specific PFPWD beneficiary:

(i) Is contracted for by a public facility, as defined in § 199.2, as a part of a publicly funded long-term inpatient care program; and

(ii) Is provided based upon the PFPWD beneficiary's being eligible for the publicly funded program which has contracted for the care; and

(iii) Is authorized by the public facility as a part of a publicly funded program; and

(iv) Would cause a cost-share liability in the absence of CHAMPUS eligibility; and

(v) Produces a PFPWD beneficiary cost-share liability that does not exceed the maximum charge by the provider to the public facility for the contracted level of care.

(g) *Implementing instructions.* The Director, OCHAMPUS, or a designee, shall issue CHAMPUS policies, instructions, procedures, guidelines, standards, and criteria as may be necessary to implement the intent of this section.

6. Section 199.6 is amended by removing and reserving paragraphs (a)(4) and (b)(4)(x)(B)(*2*), revising paragraph (c)(3)(iii)(I)(*3*), redesignating paragraphs (e) and (f) as paragraphs (f) and (g) and by adding a new paragraph (e) to read as follows:

§ 199.6 Authorized providers.

(a) * * *

(4) [Reserved]

* * * * *

(b) * * *

(4) * * *

(x) * * *

(B) * * *

(*2*) [Reserved]

* * * * *

(c) * * *

(3) * * *

(iii) * * *

(I) * * *

(*3*) Licensed registered physical therapists and occupational therapists.

* * * * *

(e) *Program for Persons with Disabilities Providers.*—(1) *General.* (i) Services and items cost-shared through § 199.5 must be rendered by a CHAMPUS-authorized provider.

(ii) A Program for the Handicapped (PFTH) provider with CHAMPUS-authorized status on the effective date for the Program for Persons with Disabilities (PFPWD) shall be deemed to be a CHAMPUS-authorized PFPWD provider until all outstanding PFTH benefit authorizations for services or items being rendered by the provider expire.

(2) *PFPWD provider categories.*—(i) *PFPWD inpatient care provider.* A provider of residential institutional care which is otherwise a PFPWD benefit shall be:

(A) A not-for-profit entity or a public facility, as defined in § 199.2; and

(B) Located within a State, as defined in § 199.2; and

(C) Be certified as eligible for Medicaid payment in accordance with a State plan for medical assistance under Title XIX of the Social Security Act (Medicaid) as a Medicaid Nursing Facility, or Intermediate Care Facility for the Mentally Retarded, or be a CHAMPUS-authorized Institutional Provider as defined in paragraph (b) of this section, or be approved by a State educational agency as a training institution.

(ii) *PFPWD outpatient care provider.* A provider of PFPWD outpatient, ambulatory, or in-home services shall be:

(A) A CHAMPUS-authorized provider of services as defined in this section; or

(B) An individual, corporation, foundation, or public entity that predominantly renders services of a type uniquely allowable as a PFPWD benefit and not otherwise allowable as a benefit of § 199.4, that meets all applicable licensing or other regulatory requirements that are extant in the state, county, municipality, or other political jurisdiction in which the PFPWD service is rendered.

(iii) *PFPWD vendor.* A provider of an allowable PFPWD item, supply, equipment, orthotic, or device shall be deemed to be a CHAMPUS-authorized vendor for the provision of the specific item, supply, equipment, orthotic, or device when the vendor supplies such information as the Director, OCHAMPUS, or designee, determines necessary to adjudicate a specific claim.

(3) *PFPWD provider exclusion or suspension.* A provider of PFPWD services or items may be excluded or suspended for a pattern of discrimination on the basis of disability. Such exclusion or suspension shall be accomplished according to the provisions of § 199.9.

* * * * *

7. Section 199.7 is amended by revising paragraphs (a)(2), (b)(2)(xii) and (f)(2), removing paragraph (f)(3), redesignating paragraph (f)(4) as paragraph (f)(3), and adding a new paragraph (f)(4) to read as follows:

§ 199.7 Claims submission, review, and payment.

(a) * * *

(2) *Claim required.* No benefit may be extended under the Basic Program or Program for Persons with Disabilities (PFPWD) without the submission of a complete and properly executed appropriate claim form.

* * * * *

(b) * * *

(2) * * *

(xii) *Other authorized providers*. For items from other authorized providers (such as medical supplies), an explanation as to the medical need must be attached to the appropriate claim form. For purchases of durable equipment under the PFPWD, it is necessary also to attach a copy of the preauthorization.

* * * * *

(f) * * *

(2) *Treatment plan*. Each preauthorization request shall be accompanied by a proposed medical treatment plan (for inpatient stays under the Basic Program) which shall include generally a diagnosis; a detailed summary of complete history and physical; a detailed statement of the problem; the proposed treatment modality, including anticipated length of time the proposed modality will be required; any available test results; consultant's reports; and the prognosis. When the preauthorization request involves transfer from a hospital to another inpatient facility, medical records related to the inpatient stay also must be provided.

* * * * *

(4) *Advance payment prohibited*. No CHAMPUS payment shall be made for otherwise authorized services or items not yet rendered or delivered to the beneficiary.

* * * * *

8. Section 199.8 is amended by revising paragraphs (b)(3)(ii) and (d)(4) to read as follows:

§ 199.8 Double coverage.

* * * * *

(b) * * *

(3) * * *

(ii) Coverage specifically designed to supplement CHAMPUS benefits (a health insurance policy or other health benefit plan that meets the definition and criteria under supplemental insurance plan as set forth in § 199.2(b));

* * * * *

(d) * * *

(4) *Program for persons with disabilities (PFPWD).* A PFPWD eligible beneficiary (or sponsor or guardian acting on behalf of the beneficiary) does not have the option of waiving the full use of public facilities which are determined by the Director, OCHAMPUS, or designee, to be available and adequate to meet a disability related need for which a PFPWD benefit was requested. Benefits eligible for payment under a State plan for medical assistance under Title XIX of the Social Security Act (Medicaid) are never considered to be available in the adjudication of PFPWD benefits.

* * * * *

9. Section 199.11 is amended by revising paragraph (g)(1) to read as follows:

§ 199.11 Overpayments recovery.

* * * * *

(g) * * *

(1) *Basic considerations.* Federal claims against the debtor and in favor of the United States arising out of the administration of the CHAMPUS may be compromised or collection action taken thereon may be suspended or terminated in compliance with the Federal Claims Collection Act, 31 U.S.C. 3711(a)(2) as implemented by the Federal Claims Collection Standards, 4 CFR parts 101 through 105.

* * * * *

10. Section 199.20 is amended by revising paragraph (p)(2)(i) to read as follows:

§ 199.20 Continued Health Care Benefit Program (CHCBP).

* * * * *

(p) * * *

(2) * * *

(i) The Program for Persons with Disabilities under § 199.5;

* * * * *

Appendix A to Part 199—[Amended]

11. Appendix A to Part 199 is amended by revising ''PFTH—Program for the Handicapped'' to read ''PFPWD—Program for Persons with Disabilities''.

Dated: June 24, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–17001 Filed 6–27–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD08–97–018]

RIN 2115–AE84

Amendment to Regulated Navigation Area Regulations; Lower Mississippi River

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: On March 18, 1997, the Coast Guard established a temporary regulated navigation area affecting the operation of downbound tows in the Lower Mississippi River from mile 437 at Vicksburg, MS to mile 88 above Head of Passes. These regulations were subsequently amended on March 21, March 28, April 4, April 15 and April 19. The amendments added additional operating requirements for vessels of 1,600 gross tons or greater, increased the operating limitations on tank barges and ships carrying hazardous chemicals and gasses, and extended the RNA to the boundary of the territorial sea at the approaches to Southwest Pass. On April 15, in response to moderating river conditions, the regulations were relaxed to permit tows of up to 30 barges to operate when being pushed by two boats of 9,000 brake horsepower or greater.

On April 20, the towboat and barge limitations and the chemical and gas ship operating restrictions expired. The regulations affecting self-propelled vessels of 1,600 gross tons or greater were extended until July 1, 1997.

In the interest of navigation safety in the narrow confines of the Lower Mississippi River, the Coast Guard is extending the regulations affecting self-propelled vessels of 1,600 gross tons or greater until October 31, 1997. This action is being taken in order to keep the deep-draft regulations in effect pending issuance of a notice of proposed rulemaking that will seek public comment on making the regulations permanent.

The regulated navigation area is needed to protect vessels, bridges, shore-side facilities and the public from a safety hazard created by deep-draft vessel operations along the Lower Mississippi River. Self-propelled vessels of 1,600 or more gross tons are prohibited from operating in this area unless they are in compliance with this regulation.

EFFECTIVE DATES: This amended regulation is effective from 12 p.m. on July 1, 1997 and terminates at 12 p.m. on October 31, 1997.

FOR FURTHER INFORMATION CONTACT: CDR Harvey R. Dexter, Marine Safety Division, USCG Eighth District at New Orleans, LA (504) 589–4860.

SUPPLEMENTARY INFORMATION:

Background and Purpose

On March 18, 1997 (62 FR 14637, March 22, 1997), the Coast Guard established a temporary regulated navigation area affecting the operation of downbound tows in the Lower Mississippi River from mile 437 at Vicksburg, MS to mile 88 above Head of Passes. On March 21, 1997 (62 FR 15398, April 4, 1997), the Coast Guard amended the temporary regulated navigation area by extending the

southern limit of the regulated navigation area to the boundary of the territorial sea at the approaches to Southwest Pass and included operating requirements affecting the operation of self-propelled vessels of 1,600 gross tons or greater. Increasing high water conditions caused the Coast Guard to amend this regulation for a second time on March 28, 1997 to establish additional safety measures applicable to U.S. flagged and foreign-flagged vessels authorized to carry cargoes listed under Title 46, Code of Federal Regulations Part 151 (chemical barges) and Parts 153–154 (chemical and gas ships).

Although Mississippi River floodwater levels had receded somewhat by April 4, river current remained at a record high level at that time. The loss of control of a tow as it entered the Mississippi River from the Port Allen lock and several near misses involving tows longer than 600 feet exiting locks into the Mississippi River evidenced the need to further limit the length of tows. It was determined that, by limiting the maximum length of tows during the critical period when they were entering or exiting locks along the Mississippi River to or from the relatively still water of a lock forebay, towboats would be able to exercise greater control of the tow during that critical period. Therefore, on April 4, 1997 the district commander amended this regulation to prohibit tows in excess of 600 feet from entering or exiting lock forebays. This amendment also clarified the horsepower restrictions in the earlier regulation to make it clear that the horsepower rating of escort tugs cannot be counted in establishing the number of barges that may be included in a tow. The Coast Guard also extended the effective date of the regulation to April 20, 1997, because the high water conditions were expected to last longer than originally contemplated.

Due to the Lower Mississippi River returning to normal levels on or about April 20, 1997, tow boat and barge limitations and chemical and gas ship operating restrictions expired on April 20, 1997. Due to the hazard created by deep-draft vessel operations on the Lower Mississippi River during the periods of high water in late Spring and early Summer, the operating restrictions on vessels of 1,600 gross tons or greater were extended until July 1, 1997.

Based on problems experienced by deep-draft vessels operating on the Lower Mississippi River, the district commander has deemed it necessary to continue the requirements of the RNA for vessels of 1,600 gross tons or greater until October 31, 1997. This action is being taken in order to keep the deep-draft regulations in effect pending issuance of a notice of proposed rulemaking that will seek public comment on making the regulations permanent.

During 1995 and 1996 a total of 86 self-propelled vessels of 1,600 gross tons or greater experienced casualties involving loss of power, loss of steering or engine irregularities during the months of April through June. Serious consequences may result from such casualties. Engine failure was the probable cause of the recent M/V BRIGHT FIELD allision that caused millions of dollars of property damage and posed grave threats of death and personal injury to persons in the vicinity of the allision.

The regulations left in place by the district commander are intended to enhance the safety of navigation on the river and protect shoreside facilities by causing masters and engineers to take measures that will minimize the risk of steering casualties and engine failure and irregularities. They also place the ship in a manning status and operating condition that will allow the vessel to take prompt and appropriate emergency action should a casualty occur thereby reducing the likelihood of a cascading series of allisions and collisions following a casualty. Communications from river pilots operating within the RNA have established the necessity and viability of these regulations and the necessity for their continuation during a period of traditionally high casualty rates. As a result of the operating restrictions, pilots have seen improvements in vessels' readiness to respond to steering casualties and main propulsion irregularities and failures.

This rule requires that all self-propelled vessels to which 33 Code of Federal Regulations § 164 applies, shall comply with the following:

(a) Masters shall review the requirements of 33 CFR § 164.25 pertaining to ''Tests Before Entering or Getting Underway.''

(b) The engine room shall be manned at all times when underway in the RNA.

(c) Prior to entering the RNA or getting underway within the RNA, the master of each vessel shall report to the ship's agent that the regulations at 33 CFR 164.25 have been reviewed, are understood, and the vessel is in compliance with the regulation.

(d) As part of the master's report, the chief engineer shall also certify that the following additional operating conditions will be satisfied so long as the vessel is underway within the RNA:

1. If the vessel has an automated main propulsion plant, it will be operated in manual mode and will be prepared to answer maneuvering commands immediately.

2. The vessel shall immediately provide maximum ahead or astern power when so ordered by the bridge.

3. The main propulsion plant shall, in all respects, be ready for operations in the RNA including the main propulsion air start systems, fuel systems, lube oil systems, cooling systems, and automation systems.

4. The master shall also certify that the gyrocompass is properly operating and calibrated.

In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after Federal Register publication. Publication of notice of proposed rulemaking and delay of effective date would be contrary to public interest because immediate action is necessary to ensure self-propelled vessels are capable of operating safely on the river and prevent allisions with bridges and shore-side structures, and colliding with other vessels, causing danger to the public.

Regulatory Evaluation

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

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule, if adopted, will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. Small entities in this case would not include a significant number of companies operating vessels of 1,600 gross tons or greater due to the nature and cost of operating vessels of this size. The

operating and manning requirements established by this regulation are those of a prudent mariner and impose little or no additional financial burden on the vessel. Similarly, vessels routinely communicate with their agents prior to getting underway or entering port. Therefore, the costs associated with requirement to include a certification that the vessel is in compliance with 33 CFR 164.25 and certain other safety related requirements are insignificant. This rule is deemed to *not* have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism Implications

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

Environmental Assessment

The Coast Guard considered the environmental impact of this proposal and concluded that under paragraph 2.B.2.(g)(5) of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, navigation (waters), Reporting and recordkeeping requirements, Safety measures, and Waterways.

Final Regulations

For the reasons set out in the preamble the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 46 CFR 1.46.

2. In section 165.T08–001, paragraph (c) is revised to read as follows:

§ 165.T08–001. Regulated Navigation Area; Lower Mississippi River.

* * * * *

(c) Effective dates: This section is effective at 12 p.m. on July 1, 1997 and terminates at 12 p.m. on October 31, 1997.

Dated: June 24, 1997.

Timothy W. Josiah,

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

[FR Doc. 97–17070 Filed 6–27–97; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 9

[OPPTS–00191; FRL–5724–3]

Technical Amendments to OMB Control Numbers

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is amending the table of OMB control numbers. The Office of Management Budget (OMB) issues control numbers under the Paperwork Reduction Act for regulations with information collection requirements. This technical amendment includes any new approvals and removes any termination of approvals published in the **Federal Register** since July 1, 1996, or any expired approvals.

DATES: This rule is effective July 1, 1997.

FOR FURTHER INFORMATION CONTACT: Susan H. Hazen, Director, Environmental Assistance Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Telephone and e-mail address: 202–554–1404, TDD: 202–554–0551; e-mail: tsca-hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This document consolidates the OMB control numbers for various regulations issued under the Toxic Substances Control Act (15 U.S.C. 2601) published in the **Federal Register** since July 1, 1996. Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and the OMB approval process, information collection requests included in this technical amendment were previously subject to public notice and comment prior to approval and receipt of an OMB control number. Therefore, EPA finds that there is ''good cause'' under the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) not to issue a proposed rule for this technical amendment.

List of Subjects in 40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

Dated: June 19, 1997.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR chapter I is amended as follows:

PART 9—[AMENDED]

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j-–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. In § 9.1, the table is amended as follows:

a. By adding the following entries in ascending section number order under the heading indicated to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB control No.
Significant New Uses of Chemical Substances	
721.267	2070–0012
721.336	2070–0012
721.484	2070–0012
721.646	2070–0012
721.785	2070–0012
721.1737	2070–0012
721.1738	2070–0012
721.2095	2070–0012
721.2097	2070–0012
721.2527	2070–0012
721.3063	2070–0012

40 CFR citation	OMB control No.
* * * * *	
721.3628	2070–0012
* * * * *	
721.4484	2070–0012
* * * * *	
721.4494	2070–0012
721.4497	2070–0012
* * * * *	
721.4587	2070–0012
* * * * *	
721.4663	2070–0012
721.4668	2070–0012
* * * * *	
721.4685	2070–0012
* * * * *	
721.5276	2070-0012
* * * * *	
721.5545	2070–0012
* * * * *	
721.5930	2070–0012
* * * * *	
721.6097	2070–0012
* * * * *	
721.8673	2070–0012
* * * * *	
721.9495	2070–0012
* * * * *	
721.9507	2070–0012
* * * * *	
721.9680	2070–0012
* * * * *	
721.9970	2070–0012
* * * * *	
Lead-Based Paint Poisioning Prevention in Certain Residential Structures	
* * * * *	
Part 745, subpart L	2070–0155
Part 745, subpart Q	2070–0155
* * * * *	
Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibition	
* * * * *	
761.93	2070–0149
* * * * *	

b. By removing the following entries:
721.979.....2070–0012.
721.1907.....2070–0012.
721.2980.....2070–0012.
721.4525.....2070–0012.
721.5867.....2070–0012.

[FR Doc. 97–17030 Filed 6–27–97; 8:45 am]
BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NJ28–2–170, FRL–5850–2]

Approval and Promulgation of Implementation Plans; New Jersey 15 Percent Rate of Progress Plan and Phase I and II Ozone Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action on a State Implementation Plan (SIP) revision submitted by New Jersey which is intended to meet several Clean Air Act requirements. EPA is approving revisions to the 1990 base year ozone emission inventory; the 1996 and 1999 ozone projection emission inventories; photochemical assessment monitoring stations network; demonstration that emissions from growth in vehicle miles traveled will not increase motor vehicle emissions and, therefore, offsetting measures are not necessary; modeling efforts completed to date; transportation conformity budgets; and enforceable commitments.

EPA is also giving conditional interim approval to New Jersey's 15 Percent Rate of Progress Plan and the 9 Percent Reasonable Further Progress Plan. The intended effect of this action is to approve programs required by the Clean Air Act which will result in emission reductions that will help achieve attainment of the national ambient air quality standard (NAAQS) for ozone.

EFFECTIVE DATE: This rule will be effective July 30, 1997.

ADDRESSES: Copies of the New Jersey submittals and EPA's Technical Support Document are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch, 295 Broadway, 25th Floor, New York, New York 10007–1866

New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Quality Planning, 401 East State Street, CN418, Trenton, New Jersey 08625

FOR FURTHER INFORMATION CONTACT: Paul R. Truchan, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4249.

SUPPLEMENTARY INFORMATION:

I. Background

On April 30, 1997 (62 FR 23410), EPA proposed approval of New Jersey's State Implementation Plan (SIP) submittals of December 31, 1996 and February 25, 1997 for the following Clean Air Act (CAA) requirements: revisions to the 1990 base year ozone emission inventory; the 1996 and 1999 ozone projection emission inventories; photochemical assessment monitoring stations network; demonstration that emissions from growth in vehicle miles traveled will not increase motor vehicle emissions and, therefore, offsetting measures are not necessary; modeling efforts completed to date; transportation conformity budgets; and enforceable commitments. EPA also proposed conditional interim approval of New Jersey's 15 Percent Rate of Progress (ROP) Plan and the 9 Percent Reasonable Further Progress (RFP) Plan.

The December and February SIP submittals address the requirements for the two severe ozone nonattainment areas in New Jersey—the New York, Northern New Jersey, Long Island Area, and the Philadelphia, Wilmington, Trenton Area. For the purposes of this action, these areas will be referred to as, respectively, the Northern New Jersey ozone nonattainment area (NAA) and the Trenton NAA. New Jersey's two SIP submittals revised the previously submitted 15 Percent ROP Plan dated November 15, 1993.

A detailed discussion of the SIP revisions and EPA's rationale for either approving or conditionally approving them is contained in the April 30, 1997 proposal and will not be restated here. The reader is referred to the proposal for more details.

II. State Commitment

EPA proposed to condition its approval of New Jersey's 15 Percent ROP and 9 Percent RFP Plans because the emission reductions from the enhanced inspection and maintenance (I/M) program were calculated with modeling performed before EPA issued final guidance on how to estimate emissions. In a letter dated May 29, 1997, New Jersey committed to perform the remodeling necessary to estimate the

emissions reductions that will result from the enhanced I/M program as implemented within 12 months from the effective date of today's rulemaking.

As part of the remodeling of the enhanced I/M program, New Jersey must demonstrate that the 15 percent and 9 percent emission reductions are still being achieved in the Northern New Jersey and Trenton nonattainment areas as required by sections 182(b)(1) and 182(c)(2)(B) of the CAA and in accordance with EPA's policies and guidance.

Therefore, EPA is accepting New Jersey's commitment and EPA's approval is conditioned upon the State completing the remodeling. Once the State satisfactorily fulfills this condition, EPA will take rulemaking action to convert the conditional interim approval to an interim approval. Should the State fail to fulfill the remodeling condition by July 30, 1998, this conditional interim approval will convert to a disapproval pursuant to section 110(k)(4) of the CAA. In that event, EPA would issue a letter notifying the State that the condition has not been met, and that the approval has converted to a disapproval.

III. Public Comments

In response to EPA's proposed action on this New Jersey SIP revision, no comments were received.

IV. Conditional Interim Approval

New Jersey's 15 Percent ROP and 9 Percent RFP Plans contain adopted control measures with the exception of the enhanced I/M program which had been given a conditional interim approval by EPA on May 14, 1997 (62 FR 26401) pursuant to the National Highway System Designation Act (NHSDA) and section 110 of the CAA. The enhanced I/M program approval was granted on an interim basis for a period of 18 months, in order for New Jersey to perform an evaluation of emission reduction credits, under the authority of section 348 of the NHSDA. A full approval of New Jersey's final enhanced I/M SIP revision, which will include the State's program evaluation and final adopted State regulations, is still necessary under sections 110, 182, 184 and 187 of the CAA. After EPA's review of the State's enhanced I/M program evaluation and final regulations, EPA will take appropriate rulemaking action. If the State's program evaluation demonstrates a shortfall, the State must find additional emission reductions.

Since New Jersey's 15 Percent ROP and 9 Percent RFP Plans are dependent on the emission reductions from the enhanced I/M program, EPA can only grant an interim approval to the 15 Percent ROP and 9 Percent RFP Plans until the State evaluates the effectiveness of the enhanced I/M program and EPA takes action on the results of this evaluation. Therefore, this approval is being granted on an interim basis for a period of 18 months following the effective date of the May 14, 1997 conditional interim approval of the enhanced I/M rulemaking. At the end of this period, the interim approval of the emission credits will expire and the credits will be adjusted according to the results of the evaluation. At that time, EPA will take action regarding the efficacy of the State's SIP under the authority of sections 110 and 182 of the CAA.

V. Conclusion

EPA has evaluated these submittals for consistency with the CAA and Agency regulations and policy. EPA is approving New Jersey's: revisions to the 1990 base year ozone emission inventory; the 1996 and 1999 ozone projection emission inventories; photochemical assessment monitoring stations network; demonstration that emissions from growth in vehicle miles traveled will not increase motor vehicle emissions and, therefore, offsetting measures are not necessary; modeling efforts completed to date; transportation conformity budget; and enforceable commitments.

EPA is granting conditional interim approval of New Jersey's 15 Percent ROP Plan and 9 Percent RFP Plan as a revision to the New Jersey SIP. EPA is approving the credits on an interim basis, pending verification of New Jersey's enhanced I/M program's performance, pursuant to section 348 of the NHSDA. The interim approval of the 15 Percent ROP and 9 Percent RFP plans will expire on December 14, 1998, 18 months from the effective date of EPA's final conditional interim rulemaking of New Jersey's I/M program which was published in the **Federal Register** on May 14, 1997 (62 FR 26401). The interim approval will be replaced by appropriate EPA action based on the evaluation EPA receives from New Jersey concerning the enhanced I/M program's performance.

This rulemaking action is a conditional interim approval that will convert to interim approval when New Jersey has completed the remodeling condition of this rulemaking. If the condition is not met within 12 months from the effective date of today's rulemaking, this rulemaking will convert to a disapproval. EPA would notify New Jersey by letter that the condition has not been met and that the conditional interim approval of the 15 Percent ROP and 9 Percent RFP Plans has converted to a disapproval. In addition, the reader should note that there is a condition on the conditional interim approval of New Jersey's enhanced I/M program which if not met, will affect EPA's action on the 15 Percent ROP and 9 Percent RFP Plans conditional interim approval. If EPA disapproves the New Jersey's enhanced I/M program, EPA's conditional interim approval of the 15 Percent ROP and 9 Percent RFP Plans will also convert to a disapproval.

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

VI. Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

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

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal

inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

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

If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing State requirements applicable to small entities. Federal disapproval of the State submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new federal requirement.

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 annual 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 annual 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. 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. 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 29, 1997. Filing a petition for reconsideration by the Administrator of this final rule to conditionally approve the New Jersey 15 Percent ROP and 9 Percent RFP Plans of the SIP, on an interim basis, 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) of the Administrative Procedure Act).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 18, 1997.

William J. Muszynski,

Deputy Regional Administrator, Region II.

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 FF—New Jersey

2. Section 52.1580 is amended by redesignating paragraphs (a) through (c) as paragraphs (a)(1) through (a)(3); by adding a paragraph heading before newly designated paragraph (a)(1); and adding new paragraph (b) to read as follows:

§ 52.1580 Conditional approval.

(a) *Enhanced Inspection and Maintenance.* (1) * * *

* * * * *

(b) 1*5 Percent and 9 Percent Ozone Plans.* New Jersey's December 31, 1996 and February 25, 1997 submittals for the 15 Percent Rate of Progress Plan (15 Percent Plan) and 9 Percent Reasonable Further Progress Plan (9 Percent Plan) for the Northern New Jersey (New York, Northern New Jersey, Long Island Area) nonattainment area and the Trenton (Philadelphia, Wilmington, Trenton Area) nonattainment area, is conditionally approved for an interim period as referenced in paragraph (a) of this section. The conditions for approvability are as follows:

(1) New Jersey must remodel by July 30, 1998 to determine affirmatively the creditable reductions from the enhanced inspection and maintenance (I/M) program as used in the 15 Percent and 9 Percent Plans. This remodeling must be in accordance with EPA guidance documents: ''Date by which States Need to Achieve all the Reductions Needed for the 15 Percent Plan from I/M and Guidance for Recalculation,'' note from John Seitz and Margo Oge, dated August 13, 1996, and ''Modeling 15 Percent VOC Reductions from I/M in 1999—Supplemental Guidance'', memorandum from Gay MacGregor and Sally Shaver, dated December 23, 1996. Should the State fail to fulfill the remodeling condition by July 30, 1998, this conditional interim approval will convert to a disapproval pursuant to section 110(k)(4) of the Clean Air Act.

(2) New Jersey must demonstrate by December 14, 1998 that 15 percent and 9 percent emission reductions are still achievable in the Northern New Jersey and Trenton nonattainment areas as required by sections 182(b)(1) and 182(c)(2)(B) of the Clean Air Act and in accordance with EPA's policies and guidance.

3. Section 52.1582 is amended by adding a sentence to the end of paragraph (d)(1), and adding new

paragraphs (d)(3) through (d)(7) to read as follows:

§ 52.1582 Control strategy and regulations: Ozone (volatile organic substances) and carbon monoxide.

* * * * *

(d)(1) * * * Revisions to the 1990 base year emission inventory dated December 31, 1996 for the New York/Northern New Jersey/Long Island and Philadelphia/Wilmington/Trenton nonattainment areas of New Jersey have been approved.

* * * * *

(3) The 1996 and 1999 ozone projection year emission inventories included in New Jersey's December 31, 1996 State Implementation Plan revision for the New York/Northern New Jersey/Long Island and Philadelphia/Wilmington/Trenton nonattainment areas have been approved.

(4) The conformity emission budgets for the three metropolitan planning organizations and McGuire Air Force Base included in New Jersey's December 31, 1996 State Implementation Plan revision have been approved.

(5) The photochemical assessment monitoring stations network included in New Jersey's December 31, 1996 State Implementation Plan revision for the New York/Northern New Jersey/Long Island and Philadelphia/Wilmington/Trenton nonattainment areas has been approved.

(6) The demonstration that emissions from growth in vehicle miles traveled will not increase motor vehicle emissions and, therefore, offsetting measures are not necessary which was included in New Jersey's December 31, 1996 State Implementation Plan revision for the New York/Northern New Jersey/Long Island and Philadelphia/Wilmington/Trenton nonattainment areas has been approved.

(7) The enforceable commitments to: participate in the consultative process to address regional transport; adopt additional control measures as necessary to attain the ozone standard, meet rate of progress requirements, and eliminate significant contribution to nonattainment downwind; identify any reductions that are needed from upwind areas for the area to meet the ozone standard; and implement the Ozone Transport Commission NOx Memorandum of Understanding included in New Jersey's December 31, 1996 State Implementation Plan revision for the New York/Northern New Jersey/Long Island and Philadelphia/Wilmington/Trenton nonattainment areas have been approved.

[FR Doc. 97–17058 Filed 6–28–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 766 and 799

[OPPTS–40030; FRL–5728–5]

Technical Amendments to Test Rules and Enforceable Testing Consent Agreements/Testing Consent Orders

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA has approved by letter certain modifications to test standards and schedules for chemical testing programs under section 4 of the Toxic Substances Control Act (TSCA). These modifications, requested by test sponsors, will be incorporated in the respective test rules or enforceable testing consent agreements/testing consent orders. Because these modifications do not significantly alter the scope of a test or significantly change the schedule for its completion, EPA approved these requests without seeking public notice and comment. EPA annually publishes a rule describing all of the modifications granted by letter for the previous year.

DATES: This rule is effective June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Office (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, Internet address: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA published a rule in the **Federal Register** of September 1, 1989 (54 FR 36311) amending procedures in 40 CFR part 790 for modifying test standards and schedules for test rules and enforceable testing consent agreements/testing consent orders under section 4 of TSCA.

The amended procedures allow EPA to approve requested modifications which do not alter the scope of a test or significantly change the schedule for its completion. These modifications are approved by letter without public notice and comment. The rule also requires immediate placement of these letters in the public record and publication of these modifications in the **Federal Register.** This rule includes modifications approved from January 1, 1996, through December 31, 1996. For a detailed description of the rationale for these modifications and for the correspondence relating to specific chemical test modifications, refer to the public record for the appropriate chemical substance or to the public record for this rulemaking (OPPTS–40030).

I. Discussion of Modifications

Each chemical substance discussed in this rule is identified by a specific CAS number and docket control number. The following table lists all chemical-specific modifications approved from January 1, 1996, through December 31, 1996.

MODIFICATIONS TO TEST STANDARDS AND ENFORCEABLE TESTING CONSENT AGREEMENTS/TESTING CONSENT ORDERS
(January 1, 1996, Through December 31, 1996)

Chemical name/CAS No.	CFR Cite	Test	Modifications	Docket control No.
Final rules:				
Drinking Water Contaminants:				
1,1,2,2-Tetrachloroethane/CAS No. 79–34–5	799.5075	14-day oral subacute testing	5	40030/42111C
Polyhalogenated Dibenzo-para-Dioxins/Dibenzofurans (Dioxins/Furans):				
Chloranil (2,3,5,6-tetrachloro-2,5-cyclohexadiene-1,4-dione/CAS No. 118–75–2	Part 766	Analytical testing	5	40030/40028/83002M
Enforceable Testing Agreements/Orders:				
Alkyl Glycidyl Ethers (AGEs):				
Alkyl Glycidyl Ether (AGE C12–C13)/CAS No.120547–52–6	799.5000	90-day subchronic dermal toxicity study	5	40030/42185
		Neurotoxicity:		
		Dermal subchronic functional observational battery.	5	
		Dermal subchronic motor activity	5	
		Dermal subchronic neuropathology	5	
		Dermal subchronic electrophysiology	5	
		Developmental toxicity study	5	
		Genetic toxicity studies:		
		Micronucleus assay	5	
		Gene mutation in stomatic cells in culture	5	
		Reveise mutation assay	5	
		Change in required purity of test substance	2	
Cyclohexane/CAS No. 110–82–7	799.5000	90-day subchronic inhalation toxicity test in rats	5	40030/42094C
		Developmental toxicity test standard in rats	9	
		Developmental toxicity studies in rats and rabbits.	5	
Tertiary Amyl Methyl Ether (TAME), CAS No. 994–05–8	799.5000	Pharmacokinetics study	5	40030/42180
		90-day subchronic study	5	
		Neurotoxicity screen	5	
		Reproductive inhalation study	5,11	
		Developmental toxicity study	5	

Modifications:
1. Modify sampling schedule.
2. Change test substance (form/purity).
3. Change non-critical test procedure or condition.
4. Add satellite group for further testing.
5. Extend test or protocol deadline, delete test initiation date.
6. Clarify and/or add specific guideline requirement.
7. Alter specific guideline requirement approved for certain test(s).
8. Correct CAS No.
9. Amend test standard.
10. Neurotoxicity endpoint rule.
11. Revise protocol.

Note: Only modifications under numbers 2, 5, 9, and 11 in the above table were approved in 1996.

II. Public Record

EPA has established a public record for this rulemaking under docket control number OPPTS–40030. The record is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays, in the TSCA Nonconfidential Information Center, Environmental Protection Agency, Rm. NE B-607, 401 M St., SW., Washington, DC 20460. Requests for documents should be sent in writing to: Fax: (202) 260–5069 or e-mail: oppt.ncic@epamail.gov.

III. Regulatory Assessment Requirements

A. Waiver of Notice of Proposed Rulemaking and Delay of Effective Date

Because the test rule schedule modifications codified in this rule have no substantive effect on any person, EPA finds that public notice and comment are unnecessary. Thus, this rule may be promulgated without prior opportunity for public notice and comment pursuant to the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)), and may be made effective upon publication in the **Federal Register**, without a 30-day delay, pursuant to 5 U.S.C. 553(d)(3).

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), it has been determined that this action is not ''significant'' pursuant to the terms of this Executive Order because the modifications to the subject testing actions do not impose any additional requirements on the public. This action is therefore not subject to review by the Office of Management and Budget (OMB).

C. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities because the modifications referenced in this rule do not alter the scope of any test required under a test rule or significantly change the reporting schedule for any test rule.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments and the private sector, and to seek input from State, local, and tribal governments on certain regulatory actions. EPA has determined that this action does not contain a Federal mandate that may

result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. No costs are imposed by this rulemaking since these test rule modifications only make non-significant changes to the reporting schedules for test rules. Therefore, this action is not subject to the requirements of section 202 and 205 of UMRA. The requirements of sections 203 and 204 of UMRA which relate to regulatory requirements that might significantly or uniquely affect small governments and to regulatory proposals that contain a significant Federal intergovernmental mandate, respectively, also do not apply to this rule because the rule affects only the private sector, i.e., those companies that test chemicals.

E. Paperwork Reduction Act

The information collection requirements associated with this rule have been approved by OMB under the provisions of the Paperwork Reduction Act, 44 U.S.C. 350l *et seq.*, and have been assigned OMB control number 2070–0033 (EPA ICR No. 1139). EPA has determined that this rule does not change existing recordkeeping or reporting requirements nor does it impose any additional recordkeeping or reporting requirements on the public.

F. 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 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 the rule in this **Federal Register.** This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Parts 766 and 799

Environmental protection, Chemicals, Exports, Hazardous substances, Reporting and recordkeeping requirements.

Dated: June 25, 1997.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR chapter I is amended as follows:

PART 766—[AMENDED]

1. In part 766:

a. The authority citation for part 766 continues to read as follows:

Authority: 15 U.S.C. 2603 and 2607.

b. In § 766.35, by adding an entry in numerical order by ''CAS No.'' to the table in paragraph (b)(4)(i) to read as follows:

§ 766.35 Reporting requirements.

* * * * *

(b) * * *

(4) * * *

(i) * * *

CAS No.	Submitter	Chemical name	Due date	Effective Date
		* * * * * * *		
118–75–2	Rhone-Poulenc Inc.	2,3,5,6-tetrachloro-2,5-cyclohexadiene-1,4-dione	July 5, 1996.	June 30, 1997
		* * * * * * *		

* * * * *

PART 799—[AMENDED]

2. In part 799:

a. The authority citation for part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

b. In § 799.5075, by revising paragraphs (c)(1)(ii)(A) and (d) to read as follows:

* * * * *

§ 799.5075 Drinking water contaminants subject to testing.

* * * * *

(c) * * *

(1) * * *

(ii) * * *

(A) Each subacute test shall be completed and the final report submitted to EPA within 12 months of the date specified in paragraph (d)(1) of this section, except for 1,1,2,2-tetrachloroethane. The subacute testing for 1,1,2,2-tetrachloroethane shall be completed and the final report submitted to EPA by February 15, 1996.

* * * * *

(d) *Effective date.* (1) This section is effective on December 27, 1993, except for paragraphs (a)(1), (a)(2), (c)(1)(i)(A), (c)(1)(ii)(A), (c)(1)(ii)(B), (c)(2)(i)(A), and (c)(2)(ii)(A). The effective date for paragraphs (a)(2), (c)(1)(ii)(B), and (c)(2)(ii)(A) is September 29, 1995. The effective date for paragraphs (a)(1), (c)(1)(i)(A), and (c)(2)(i)(A) is February 27, 1996. The effective date for paragraph (c)(1)(ii)(A) is June 30, 1997.

(2) The guidelines and other test methods cited in this section are referenced as they exist on the effective date of the final rule.

[FR Doc. 97–17175 Filed 6–27–97; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 111

[CGD 97–030]

Use of MIL–C–915 Cable on Merchant Vessels

AGENCY: Coast Guard, DOT.

ACTION: Notice of policy; request for comments.

SUMMARY: The Coast Guard received several requests that cable meeting the specifications of MIL–C–915 be allowed in the alteration, modification, conversion, or construction of merchant vessels. This document solicits public comments on this issue. In addition, it announces a policy providing a means for requesting the use of the cable until this matter is resolved.

DATES: *Effective:* June 30, 1997. Submit comments on or before August 29, 1997.

ADDRESSES: You may mail comments to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 97–030),

U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or deliver them to room 3406 at the same address between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–267–1477.

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

FOR FURTHER INFORMATION CONTACT: Ms. Laura Hamman, Project Manager, Office of Design and Engineering Standards (G–MSE), 202–267–2206.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to comment on this document. Persons submitting comments should include their names and addresses, identify this notice (CGD 97–030), and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½×11 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 its policy in view of the comments.

Discussion

The Coast Guard has received comments questioning its policy prohibition the use of cable constructed to the specifications of MIL–C–915 (Cable and Board for Shipboard Use (including Amendment 2)) (MIL–C–915 cable) for alterations, modifications, conversions, and new construction of merchant vessels. That policy is set out in a note following paragraph (a) of 46 CFR 111.60–1. Paragraph (a) was amended by the final rule published in the **Federal Register** on May 1, 1997 (62 FR 23908). The note to paragraph (a) was added by an interim rule published in the **Federal Register** on June 4, 1996 (61 FR 28280) and remained unchanged in the final rule. Section 111.60–1(a) and its note now read as follows:

§ 111.60–1 Cable construction and testing.

(a) Each marine shipboard cable must meet all the construction and identification requirements of either IEEE Std 45, IEC 92–3, MIL–C–24640A, or MIL–C–24643A and the respective flammability tests contained therein and be of copper stranded type.

Note to paragraph (a): MIL–C–915 cable is acceptable only for repairs and replacements in kind. MIL–C–915 cable is no longer acceptable for alterations, modifications, conversions, or new construction. (See § 110.01–3 of this chapter).

* * * * *

The note to paragraph (a) limits the use of MIL–C–915 cable to repairs and replacements in kind and prohibits its use for alterations, modifications, conversions, and new construction.

The requests stated that MIL–C–915 cable meets the requirements of Institute of Electrical and Electronic Engineers (IEEE) Std 45 (Recommended Practice for Electric Installations on Shipboard, 1983), as listed in paragraph (a). Therefore, the cable should be allowed for all uses, including alterations, modifications, conversions, and new construction.

The Coast Guard limited the use of the cable based on a decision by the Naval Sea Systems Command (NAVSEA) to restrict the use of the cable on Navy vessels. However, NAVSEA's decision was not based on a question of whether or not the cable meets IEEE Std 45 and whether or not it is suitable for use on merchant vessels.

The Coast Guard is soliciting comments on the use of MIL–C–915 cable.

Policy

In light of the fact that MIL–C–915 cable meets the requirements of IEEE Std 45, the Coast Guard will accept requests to use MIL–C–915 cable in alterations, modifications, conversions, and new construction under the equivalency provision in 46 CFR 110.20–1. This policy will remain in effect until this matter is resolved and notice of the action taken is published in the **Federal Register**. If the Coast Guard determines that the note to § 111.60–1(a) should be removed or amended, a rulemaking will be initiated to allow the public an opportunity to comment on that determination.

Dated: June 19, 1997.

Howard L. Hime,

Acting Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 97–16525 Filed 6–27–97; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[DA 97–1280]

Spread Spectrum Frequency Hopping Regulations Request

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action will permit Amtech's waiver request to be treated as a ''permit-but-disclose'' proceeding subject to the ''permit-but-disclose'' requirements under § 1.1206(b) of the rules.

EFFECTIVE DATE: June 20, 1997.

FOR FURTHER INFORMATION CONTACT: Anthony Serafini at (202) 418–2456.

SUPPLEMENTARY INFORMATION:

Released: June 20, 1997

Office of Engineering and Technology Declares Amtech Systems Corporation Waiver Request of Part 15 Spread Spectrum Frequency Hopping Regulations A ''Permit-But-Disclose'' Proceeding for Ex Parte Purposes

On April 3, 1996, Amtech Systems Corporation filed a Request for Waiver to provide for authorization of a modulated backscatter tag reader under the part 15 Spread Spectrum Frequency Hopping Regulations. We issued a public notice inviting comments from interested parties.[1] Eight parties responded in support of Amtech's request. One party opposed the request. On June 13, 1997, Amtech filed a letter seeking to have its pending waiver request treated on a ''permit-but-disclose'' basis for purpose of the Commission's *ex parte* rules.

In the course of examining the filings in this proceeding, OET has concluded that the public interest would be served by modifying the applicable *ex parte* procedures in this case to permit a fuller exchange on the complex issues under consideration in this proceeding. Therefore, in accordance with § 1.1200(a) of the Commission's Rules, 47 CFR § 1.1200(a), as revised, this proceeding will be treated, for *ex parte* purposes, as a ''permit-but-disclose'' proceeding and subject to the ''permit-but-disclose'' requirements under § 1.1206(b) of the rules, 47 CFR § 1.1206(b), as revised.[2]

[1] See Public Notice released April 19, 1996, DA 96–609.

[2] See Amendment of 47 CFR § 1.1200 *et seq.* Concerning Ex Parte Presentations in Commission Proceedings, Report and Order in GC Docket No. 95–21, 62 FR 15852 (April 3, 1997).

Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 CFR § 1.1206(b)(2), as revised. Other rules pertaining to oral and written presentations are set forth in § 1.1206(b) as well.

For further information concerning this proceeding contact Anthony Serafini at (202) 418–2456, Policy and Rules Division, Office of Engineering and Technology.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–16961 Filed 6–27–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway traffic Safety Administration

49 CFR Part 571

Federal Motor Vechicle Safety Standards

CFR Correction

In title 49 of the Code of Federal Regulations, parts 400 to 999, revised as of October 1, 1996, on page 193, in § 571.105, paragraph S7.1 should be removed and the following paragraph reinstated.

§ 571.105 Standard No. 105; Hydraulic brake systems.

* * * * *

S7.1 *Brake warming.* If the initial brake temperature for the first stop in a test procedure (other than S7.7 and S7.16) has not been reached, heat the brakes to the initial brake temperature by making not more than 10 snubs from not more than 40 to 10 mph, at a deceleration not greater than 10 fpsps.

* * * * *

[FR Doc. 55503 Filed 6–25–97; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 970401075–7141–02; I.D. 121296A]

RIN 0648–AJ69

Atlantic Tuna Fisheries; Annual Quotas

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

ACTION: Final rule.

SUMMARY: NMFS amends the regulations governing the Atlantic tuna fisheries to set Atlantic bluefin tuna (ABT) fishing category quotas for the 1997 fishing year. The regulatory amendments are necessary to implement the 1996 recommendation of the International Commission for the Conservation of Atlantic Tunas (ICCAT) regarding fishing quotas for bluefin tuna, as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives.

DATES: The rule is effective June 25, 1997.

ADDRESSES: Copies of supporting documents, including an Environmental Assessment-Regulatory Impact Review (EA/RIR), are available from, Rebecca Lent, Chief, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3282.

FOR FURTHER INFORMATION CONTACT: John Kelly, 301–713–2347, or Mark Murray-Brown, 508–281–9260.

SUPPLEMENTARY INFORMATION: The Atlantic tuna fisheries are managed under the authority of the ATCA. ATCA authorizes the Secretary of Commerce (Secretary) to issue regulations as may be necessary to carry out the recommendations of ICCAT. The authority to issue regulations has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA).

At its 1996 meeting, ICCAT recommended that the Contracting Parties whose vessels have been actively fishing for bluefin in the western Atlantic institute a scientific monitoring quota of 2,354 mt each year for 1997 and 1998. When allocating the U.S. share of 1344.4 mt for 1997, NMFS takes into consideration the contribution of each fishing category to catch-per-unit-effort (CPUE) indices for the purposes of stock assessment. However, NMFS also considers the effect of allocations on the traditional user groups and takes into account recent trends in fishing fleet activity.

Background information about the need for revisions to Atlantic tunas fishery regulations was provided in the preamble to the proposed rule (62 FR 19296, April 21, 1997) and is not repeated here. These regulatory changes will improve NMFS' ability to implement the ICCAT recommendations and further the management objectives for the Atlantic tuna fisheries.

Relation to Proposed Consolidation

The regulatory amendments contained in this final rule were originally written to be consistent with a proposed rule consolidating all regulations pertaining to Atlantic highly migratory species under 50 CFR part 630 (61 FR 57361, November 6, 1996). A final rule consolidating the regulations has not yet been issued. Thus, for the Atlantic tunas regulations contained in this final rule to be effective prior to the consolidation, they must be written to conform with existing text at 50 CFR part 285. The regulatory amendments contained in this final rule will eventually be incorporated into the final consolidated regulations at 50 CFR part 630. Copies of the proposed consolidation rule may be obtained by writing (see **ADDRESSES**) or calling the contact person (see FOR FURTHER INFORMATION CONTACT).

Fishing Category Quotas

No changes have been made to the proposed quotas. The ABT fishing category quotas for the 1997 fishing year are as follows: General category—633 mt; Harpoon Boat category—53 mt; Purse Seine category—250 mt; Angling category—265 mt; Incidental category—110 mt; and Reserve—33 mt.

The Angling category quota is subdivided as follows: No more than 6 mt may be large medium or giant ABT and no more than 108 mt may be school ABT. The quota for school ABT is further subdivided as 51 mt for the southern area and 57 mt for the northern area. The 151 mt of large school/small medium ABT is further subdivided as 71 mt for the southern area and 80 mt for the northern area.

The Incidental category quota is subdivided as follows: 86 mt to longline vessels operating south of 34° N. lat.; 23 mt to longline vessels operating north of 34° N. lat.; and 1 mt to fishermen using traps, fixed gear, and purse seines in the non-tuna fisheries. Although this final rule establishes a 1997 quota of 1 mt for the Incidental Other category, a catch of

1.46 mt in this category resulted in a closure effective January 17, 1997 (62 FR 3490, January 23, 1997). This final rule does not alter that quota and the closure for the Incidental Other category remains in effect until December 31, 1997.

Comments and Responses

Comment: Many fishery participants supported the increased allocation to the Angling and General categories based on increased participation rates and the usefulness of scientific data obtained. Other comments requested that the number of permit holders rather than past quota levels be the basis for reallocation of the Reserve.

Response: NMFS agrees that participation in the General and Angling categories has increased in recent years and has resulted in early closures for these categories. Because of the reliance on the large fish and small fish CPUE indices for stock assessment, the General and Angling category fisheries should be kept open as long as possible to achieve high survey sampling rates over the widest possible geographic area. Also, NMFS, in response to recommendations from the National Research Council, has increased scientific sampling, working with outside organizations in conducting genetic studies, microconstituent analysis, sexual maturity determination, tagging studies, and age and growth studies. For these reasons, NMFS has reallocated the 145 mt that had been in the 1995 Reserve to the Angling and General categories. A total reserve of 33 mt will allow NMFS to transfer tonnage to keep fisheries open for the longest period possible to maximize scientific data collection. The criteria for such inseason transfers are stipulated in the regulations and are not changed by this rule.

Comment: Many commenters expressed concern that an increase of Angling category quota would increase the take of small fish, thus increasing fishing mortality. Others commented that NMFS should not ''reward'' the Angling category participants, who have exceeded their quota in the last 2 years, with an increase in quota.

Response: As recommended by ICCAT, NMFS regulations limit the take of school size ABT to 8 percent by weight of the total domestic quota. Therefore, the amount of school size fish available is not directly related to the Angling category allocation. The Angling category is the only source of small fish CPUE data for stock assessment. In addition, the recreational fishery is of significant socioeconomic importance.

Comment: NMFS received hundreds of form letters requesting that the Purse Seine category quota be reduced to 125 mt in order to provide greater opportunities for the thousands of fishermen in the Angling and General categories, to provide improved scientific monitoring of ABT, to protect the businesses that support the Angling and General categories, and to provide the greatest economic benefit to the American public. NMFS received several similar comments from fishermen requesting that NMFS reduce the Purse Seine category quota to more ''fairly and equitably'' allocate the 1997 quota. Others added that the handgear sector of the fishery provides broader scientific data over a greater geographic area than the Purse Seine sector and that it was the recreational community that initiated the archival tagging program this year.

Response: NMFS has decided that reallocation issues warrant further consideration by the Atlantic Tunas Advisory Panel (AP) to be created as required under the Magnuson-Stevens Fishery Conservation and Management Act. The AP, required by law to be of balanced representation, would consider comments submitted under these proposed specifications and will discuss reallocation schemes and provide additional opportunities for public comment. For this reason, NMFS intends to use the AP for further discussion and recommendations to the agency, and makes no immediate change to the Purse Seine category quota.

Comment: Several Purse Seine industry members requested that NMFS reallocate some of the available quota for 1997 to the Purse Seine category, in light of the 51 mt reduction in 1995. NMFS received comments that the Purse Seine fishery contributed to the establishment of the historical U.S. share of the western Atlantic quota (52 percent), and that in the 1960's and 1970's, purse seiners tagged thousands of juvenile fish for scientific monitoring.

Response: The 1992 allocations were established based on historical share of the U.S. catch for the preceding 10 years. In 1995, 51 mt were transferred out of the Purse Seine category quota in order to provide further data for scientific monitoring. As mentioned above, NMFS intends to use the AP for further consideration of ABT allocation schemes.

Comment: NMFS received comments that the Reserve should be allocated to fishing categories at the beginning of the fishing season.

Response: This year, NMFS greatly reduced the amount held in the Reserve, given existing and recently implemented quota monitoring measures for the commercial and recreational categories, respectively. NMFS maintains, however, that a base amount of quota should be reserved until later in the season, should any inseason adjustments be necessary to ensure that the 1997 quota set by ICCAT is not exceeded.

Comment: NMFS received comments from recreational interests that there is a history of rod and reel fishing back to the early 1900s for the New York Bight area and south and that allocations should be based on real history and scientific monitoring standards.

Response: The 1992 baseline quotas were established to reflect recent trends in catch and effort as evidenced from 1983 to 1990. In establishing quotas, NMFS has endeavored to balance historical allocation with the requirements to reduce the catch of small fish, rebuild the western ABT stock, and obtain the most useful scientific information from the fish that are harvested.

Comment: Several commenters requested that NMFS allocate a late-season (November-December) General category set-aside to North Carolina in order to provide commercial and charterboat fishermen in that area access to the fishery at a time when no other scientific data are collected and to eliminate conflict between General and Angling categories.

Response: In 1991, at the request of North Carolina fishermen, NMFS requested comment on a change in the General category season commencement date (56 FR 20183, May 2, 1991). The fishermen contended that they were precluded from an opportunity to fish for and retain giant ABT because the season begins after giant ABT migrate from the area. These fishermen argued that their low level of catch would not result in early harvest of the General category quota, which had not been fully harvested for several years. NMFS responded that opening the ABT fishery to non-traditional areas would be contrary to sound conservation and management, unless the action were counter-weighted by an equivalent reduction in another sector (e.g., allowing the harvest of giant ABT instead of small ABT) (57 FR 371, January 6, 1992).

Since that time, fishing conditions have changed markedly and the General category quota has been fully utilized. In fact, the quota has become so restrictive relative to fishery participation that effort controls have been established. Also, in the last few years, winter catch rates off North Carolina have risen dramatically. While

increased Angling category participation in the winter fishery has provided additional collection of scientific information, NMFS continues to be concerned that high catch rates in the General category would cause a significant shift in the fishery to a non-traditional area.

Comment: Several Harpoon category members requested a proportional share of the proposed allocation of quota from the Reserve. These commenters disagree that harpoon catch data have not been incorporated into any useful index of abundance and add that harpooners have contributed to the NMFS tagging program since 1977.

Response: NMFS agrees that data collected from the Harpoon category participants are useful, e.g., bluefin biological sampling and tagging. However, because catch rates are strongly influenced by weather and sea conditions, and because many harpooners use spotter aircraft to assist in the location of fish, it is difficult to standardize CPUE from the harpoon fishery. Although Harpoon fishery data could potentially be incorporated into an index of abundance, given the difficulties in standardization of effort, such an index would be less reliable than the existing rod and reel based index which covers a larger number of years, fishing areas, and size classes.

Comment: Some comments were received requesting additional Incidental category quota in order to minimize dead discards, as recommended by ICCAT. One commercial organization suggested allocating a portion of the Reserve to the Incidental category to develop a biological database that will provide useful information. Others opposed any increase, stating that additional Incidental quota encourages a directed fishery for ABT rather than reducing discards.

Response: The Incidental category has not filled its quota in the past several years; the constraint to date has been the target catch requirements rather than the actual quota. NMFS is analyzing logbook and observer data in order to consider possible regulatory amendments, if found to be consistent with ICCAT recommendations, to modify target catch requirements for landing ABT by longline, or to make other adjustments in order to minimize dead discards.

Classification

This rule is published under the authority of ATCA, 16 U.S.C. 971 *et seq.* The AA has determined that the regulations in this final rule are necessary to implement the ICCAT recommendation and are necessary for management of the Atlantic tuna fisheries.

NMFS prepared an EA for this final rule with a finding of no significant impact on the human environment. In addition, an RIR was prepared with a finding of no significant impact. The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The fishing category allocations, as established by this final rule, are measures that will not have a significant economic impact on a substantial number of businesses. Therefore, no Regulatory Flexibility Analysis was prepared.

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

NMFS has determined that there is good cause to waive the 30-day delay in the effective date normally required by 5 U.S.C. 553(d). This rule imposes no requirements with which a fisherman would have to come into compliance. It merely establishes quotas for the fishing season. As such, it is unnecessary to delay the effective date of the quotas. NMFS will rapidly communicate these rule changes to fishing interests through the FAX network and NOAA weather radio.

List of Subjects in 50 CFR Part 285

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

Dated: June 24, 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 § 285.22, paragraphs (a)(1), (c), (d), and the heading and first sentence of paragraph (f) are revised to read as follows:

§ 285.22 Quotas.

* * * * *

(a) *General.* (1) The total annual amount of large medium and giant Atlantic bluefin tuna that may be caught, retained, possessed or landed in the regulatory area by vessels permitted in the General category under § 285.21(b) is 541 mt.

* * * * *

(c) *Purse Seine.* The total amount of large medium and giant Atlantic bluefin tuna that may be caught, retained, possessed, or landed in the regulatory area by vessels permitted in the Purse Seine category under § 285.21(b) is 250 mt.

(d) *Angling.* The total annual amount of Atlantic bluefin tuna that may be caught, retained, possessed, or landed in the regulatory area by anglers is 265 mt. No more than 6 mt of this quota may be large medium or giant bluefin tuna quota and no more than 108 mt of this quota may be school Atlantic bluefin tuna. The size class subquotas for Atlantic bluefin tuna are further subdivided as follows:

(1) 51 mt of school, 71 mt of large school or small medium, and 4 mt of large medium or giant Atlantic bluefin tuna may be caught, retained, possessed, or landed south of 38°47' N. lat.

(2) 57 mt of school, 80 mt of large school or small medium, and 2 mt of large medium or giant Atlantic bluefin tuna may be caught, retained, possessed, or landed north of 38°47' N. lat.

* * * * *

(f) *Reserve.* The total amount of Atlantic bluefin tuna that will be held in reserve for inseason adjustments and fishery independent research is 33 mt.

* * *

* * * * *

[FR Doc. 97–16964 Filed 6–25–97; 9:18 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 970619143–7143–01; I.D. 061097A]

RIN 0648–AC68

Fisheries of the Exclusive Economic Zone Off Alaska; Define Fishing Trip in Groundfish Fisheries

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations that interpret and make clarifying changes consistent with that interpretation to the term ''fishing trip'' for purposes of

monitoring directed fishing closures in the fisheries of the exclusive economic zone off Alaska. This action is necessary to respond to recent confusion about this definition and how it relates to determinations of maximum retainable bycatch amounts of species that are closed to directed fishing.

DATES: June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, 907–586–7228.

SUPPLEMENTARY INFORMATION: In 1990, NMFS issued regulations that defined ''directed fishing'' in the domestic groundfish fisheries and established standards governing maximum allowable retainable bycatch of species closed to directed fishing (55 FR 9887, March 16, 1990). These regulations authorized retention of amounts of species closed to directed fishing relative to other species retained in either the subareas of the Bering Sea and Aleutian Islands management area (BSAI) or Gulf of Alaska (GOA) regulatory areas/districts. Directed fishing closures also were implemented for other management areas, such as the BSAI prohibited species bycatch limitation zones, upon the attainment of fishery specific prohibited species bycatch allowances. The reason for establishing these areas for purposes of calculating allowable retention amounts of species closed to directed fishing, rather than individual Federal statistical areas, was that groundfish total allowable catch amounts or fishery specific prohibited species bycatch allowances were, and continue to be, specified for management areas that are comprised of more than one statistical area.

For purposes of making determinations and calculations to monitor directed fishing closures, the 1990 regulations defined a ''trip'' as being the period of time ''from the commencement or continuation of fishing [for any groundfish species] after the effective date of a notice [closing a BSAI subarea or GOA regulatory area or district to directed fishing for a species] until any offload or transfer of any fish or fish product from that vessel or until the vessel left the [BSAI subarea or GOA regulatory area or district] where fishing activity commenced, whichever occurs first.''

For purposes of monitoring allowable retention amounts of species closed to directed fishing, under this definition a new trip for a vessel fishing in a management area is initiated upon the effective date of any directed fishing closure applicable to that area. A closure that was not applicable to the area in which a vessel was fishing would not initiate a new trip. For example, a closure of the Bering Sea subarea pollock fishery would not initiate a new trip for a vessel fishing for groundfish in the Aleutian Islands subarea. Similarly, a closure of the Western Aleutian Islands District to directed fishing for Atka mackerel would initiate a new trip only for vessels fishing in this district and not elsewhere in the BSAI. However, a closure of the BSAI yellowfin sole fishery would initiate a new trip for all vessels fishing for groundfish in the BSAI, including a vessel fishing for Atka mackerel in the Western Aleutian Islands District.

Under the original definition, an individual trip ended when a vessel moved from one management area to another where a different directed fishing closure existed. Thus a vessel could make several trips before returning to port, and the catch during each trip could be monitored separately using groundfish logbooks. A new trip would not be initiated if a vessel moved between Federal statistical areas as long as a different directed fishing prohibition(s) did not apply to those areas.

In 1996, NMFS issued a regulatory amendment that attempted to consolidate several different definitions of the term ''fishing trip'' that had been developed and issued since 1990 for different management purposes (61 FR 5608, February 13, 1996). In this process, the definition of ''fishing trip'' for purposes of monitoring maximum retainable bycatch amounts associated with directed fishing closures was revised erroneously. A technical amendment was published in the **Federal Register** on January 15, 1997 (62 FR 2043), that attempted to correct this error. Unfortunately, confusion still exists about which vessel activities initiate a new trip for purposes of determining maximum retainable bycatch amounts.

Recently, NMFS Enforcement interpreted the existing regulatory language to mean that a new fishing trip is initiated each time a vessel moves from one Federal statistical area to another, regardless of whether a different directed fishing prohibition applies between the two statistical areas. While this interpretation is justifiable given the existing regulatory text, it is not consistent with the intent of the original 1990 definition of ''fishing trip'' and potentially limits the allowable amounts of a bycatch species that may be retained on board a vessel in a manner contrary to the original intent of the regulation.

Accordingly, NMFS hereby revises the definition of ''fishing trip'' at § 679.2 to clarify that a new fishing trip is not initiated for a vessel within a weekly reporting period upon the effective date(s) of a directed fishing closure(s) that is not applicable to the area where the vessel is fishing. NMFS also clarifies that a new fishing trip is initiated when a vessel moves from one statistical area to another only if a different directed fishing prohibition applies. This initiation of a new fishing trip applies to any vessel, regardless of the gear type used by a vessel or the fishery the vessel is used to participate in. The other activities that initiate a new trip for purposes of monitoring directed fishing closures are not changed. These activities are the offload or transfer of all fish or fish product from a vessel and the end of a weekly reporting period, whichever comes first. These clarifications are intended to make the definition more consistently reflect the original intent.

Classification

As explained above, this rule interprets and makes clarifying changes consistent that interpretation of the definition of the term fishing trip for purposes of monitoring maximum allowable bycatch amounts of a groundfish species closed to directed fishing. Until very recently, the fishing industry has been operating under an interpretation of this definition that is consistent with this rule. To give prior notice and opportunity for public comment or to delay the rule's effective date for 30 days would be contrary to public interest and encumber the fishing industry with unnecessary costs and foregone harvest. Further, for an interpretive rule under 5 U.S.C.(b)(A) and (d)(2), neither prior notice and opportunity for public comment nor delay in effective date is required.

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

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

List of Subjects in 50 CFR Part 679

Fisheries, Reporting and recordkeeping requirements.

Dated: June 25, 1997.

David L. Evans,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679–-FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 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 definition of ''Fishing trip'' is revised to read as follows:

§ 679.2 Definitions.

* * * * *

Fishing trip means:

With respect to monitoring compliance with groundfish directed fishing closures, an operator of a vessel is engaged in a fishing trip from the time the harvesting, receiving, or processing of groundfish is begun or resumed in an area after the effective date of a notification prohibiting directed fishing in the same area under § 679.20 or § 679.21 until:

(1) The offload or transfer of all fish or fish product from that vessel;

(2) The vessel enters or leaves an area where a different directed fishing prohibition applies; or

(3) The end of a weekly reporting period, whichever comes first.

* * * * *

[FR Doc. 97–17046 Filed 6–27–97; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 125
Monday, June 30, 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.

FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Part 1404

Expedited Arbitration

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Proposed rule.

SUMMARY: This proposed addition to the arbitration regulations is intended to create a new service known as ''expedited arbitration.'' This service will provide a streamlined arbitration process for non-precedential and non-complex grievance arbitration cases while encouraging the parties to select new arbitrators in order to enhance their career development. This new service is the result of specific recommendations of the Arbitration Focus Group convened by FMCS on March 27, 1997.

DATES: Comments must be received on or before August 4, 1997.

ADDRESSES: Written comments should be submitted to Peter L. Regner, Director of Program Services, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427. All comments will be available for inspection during work hours at the above address.

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

Executive Order 12291

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

Regulatory Flexibility Act Certification

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

List of Subjects in 29 CFR Part 1404

Administrative practice and procedure, Labor management relations.

The Federal Mediation and Conciliation Service proposes to amend 29 CFR part 1404 to read as follows:

1. The authority citation for Part 1404 continues to read as follows:

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

2. By adding Subpart D to read as follows:

Subpart D—Expedited Arbitration

Sec.
1404.17 Policy.
1404.18 Procedures for Requesting Expedited Panels.
1404.19 Arbitration Process.
1404.20 Arbitrator Eligibility.
1404.21 Proper Use of Expedited Arbitration.

Subpart D—Expedited Arbitration

§ 1404.17 Policy.

In an effort to reduce the time and expense of some grievance arbitrations, FMCS is offering expedited procedures that may be appropriate in certain non-precedential cases or those that do not involve complex issues. Expedited Arbitration is intended to be a mutually agreed upon process whereby arbitrator appointments, hearings and awards are acted upon quickly by the parties, FMCS, and the arbitrators. The process is streamlined by mandating short deadlines and eliminating requirements for transcripts, briefs and lengthy opinions.

§ 1404.18 Procedures for Requesting Expedited Panels.

(a) With the exception of the specific changes noted in this subpart, all FMCS rules and regulations governing its arbitration services shall apply to Expedited Arbitration.

(b) Upon receipt of a joint Request for Arbitration Panel (Form R–43) indicating that expedited services are desired by both parties, the AOAS will refer a panel of arbitrators.

(c) A panel of arbitrators submitted by the OAS in expedited cases shall be valid for up to 30 days. Only one panel will be submitted per case. If the parties are unable to mutually agree upon an arbitrator or if prioritized selections are not received from both parties within the 30 days, the OAS will make a direct appointment of an arbitrator not on the original panel.

(d) If the parties mutually select an arbitrator, but the arbitrator is not available, the OAS will make a direct appointment of another arbitrator not listed on the original panel.

§ 1404.19 Arbitration Process.

(a) Once notified of the expedited case appointment by the OAS, the arbitrator must contact the parties within seven (7) calendar days.

(b) The parties and the arbitrator must attempt to schedule a hearing within 30 days of the appointment date.

(c) Absent mutual agreement, all hearings will be concluded within one day. No transcripts of the proceedings will be made and the filing of briefs will not be allowed.

(d) All awards must be completed within seven (7) working days after the hearing. These awards are expected to be brief, concise, and not require extensive written opinion or research time.

§ 1404.20 Arbitrator eligibility.

In an effort to increase exposure of new arbitrators, only those arbitrators who have been listed on the Roster of Arbitrators for a period of five years or less will be deemed automatically eligible for the Expedited Arbitration process. However, parties may jointly request a larger pool of arbitrators or a direct appointment of any arbitrator of their choice who is listed on the Roster.

§ 1404.21 Proper Use of Expedited Arbitration.

(a) FMCS reserves the right to cease honoring requests for Expedited

Arbitration if a pattern of misuse of this process becomes apparent. Misuse may be indicated by the parties' frequent delaying of the process or referral of inappropriate cases.

(b) Arbitrators who exhibit a pattern of unavailability for appointments or who are repeatedly unable to schedule hearings or render awards within established deadlines will, after written warning, be considered ineligible for appointment for this service.

John Calhoun Wells,

Director.

[FR Doc. 97–16999 Filed 6–27–97; 8:45 am]

BILLING CODE 6732–01–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

RIN 1219–AB00

Safety Standards for Roof Bolts in Metal and Nonmetal Mines and Underground Coal Mines

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Proposed rule; extension of comment period.

SUMMARY: MSHA is extending the comment period regarding the Agency's proposed rule for roof and rock bolts at metal and nonmetal mines and underground coal mines which was published in the **Federal Register** on April 28, 1997.

DATES: Comments must be received on or before July 14, 1997.

ADDRESSES: Comments on the proposed rule may be transmitted by electronic mail, fax, or mail. Comments by electronic mail must be clearly identified as such and sent to this e-mail address: psilvey@msha.gov. Comments by fax must be clearly identified as such and sent to: MSHA, Office of Standards, Regulations, and Variances, 703–235–5551. Send mail comments to: MSHA, Office of Standards, Regulations, and Variances, Room 631, 4015 Wilson Boulevard, Arlington, VA 22203–1984.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, MSHA, phone 703–235–1910.

SUPPLEMENTARY INFORMATION: On April 28, 1997, MSHA published in the **Federal Register** (62 FR 22998) a proposed rule to revise the Agency's existing safety standards for roof and rock bolts at metal and nonmetal mines and underground coal mines by updating the reference to the American Society for Testing and Materials (ASTM) standard for roof and rock bolts and accessories. The comment period was scheduled to close on June 27, 1997. The Agency received a request from the mining community to extend the period for public comment.

MSHA has evaluated the request and is extending the comment period to July 14, 1997. The Agency believes that this extension will provide sufficient time for all interested parties to review and comment on the proposal. All interested parties are encouraged to submit comments on or prior to July 14, 1997.

Dated: June 25, 1997.

J. Davitt McAteer,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 97–17040 Filed 6–25–97; 3:06 pm]

BILLING CODE 4510–43–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 69

[FRL–5850–5]

Special Exemptions From Requirements of the Clean Air Act for the Territory of Guam

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

ACTION: Notice of proposed rulemaking.

SUMMARY: On February 11, 1997, the Governor of Guam submitted a petition (''Petition'') to the Administrator of EPA seeking a waiver of certain Clean Air Act (''CAA'') requirements which apply to two baseload diesel electric generators to be located at the Piti Power Plant on Guam. The Petition was submitted pursuant to section 325(a) of the CAA. The waiver will help to ease a serious and ongoing energy emergency on Guam. Based upon the information in the Petition, EPA is proposing to grant the waiver requested.

The waiver allows two 45 megawatt baseload slow speed diesel electric generators and associated waste heat recovery boilers with a steam generator to be constructed, but not operated, at the Piti Power Plant prior to the receipt of a final Prevention of Significant Deterioration permit. Comments on this proposed rulemaking action may be made to the EPA as described below.

DATES: Comments on this proposed rulemaking action must be received on or before July 30, 1997.

ADDRESSES: *Comments may be mailed to:* Norman Lovelace, Chief, Insular Area Program, Cross Media Division (CMD–5), U.S. Environmental Protection Agency, Region IX 75 Hawthorne Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Norman Lovelace, Chief, Insular Area Program, Cross Media Division (CMD–5), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105. Telephone: (415) 744–1599.

SUPPLEMENTARY INFORMATION:

Background

Via a letter dated February 11, 1997, Governor Gutierrez of Guam submitted a petition (''Petition'') to the Administrator of EPA. The Petition seeks a waiver of certain Clean Air Act (''CAA'') requirements for the construction of two 45 megawatt baseload slow speed diesel electric generators and associated waste heat recovery boilers with a steam generator. These units will be part of the Piti Power Plant. The units will be designated as Piti Units No. 8 and No. 9.

The waiver application seeks to allow construction of Piti Units No. 8 and No. 9 prior to receipt of a Prevention of Significant Deterioration (''PSD'') permit. Neither of these Piti Units will operate prior to receipt of a final PSD permit.

Guam has experienced a longstanding shortage of electrical energy, repeatedly leading to rotating blackouts in areas of the Island. The background to this energy shortage is described in a previous waiver proceeding before EPA in 1993. 50 FR 15579, 15580. The Petition describes how the 1993 energy shortage has continued despite a substantial capital development program by the Guam Power Authority (''GPA''). The energy shortage was created originally because of very rapid growth in energy demand due to increased residential electrical consumption and a boom in tourism. The Petition describes how energy shortfalls are now exacerbated as a result of substantial facility outages caused by equipment failures and a continued growth in demand.

As EPA noted in the 1993 waiver proceeding, Guam is an isolated island. 58 FR 13580. GPA currently generates all commercial electric power used on the Island. Unlike power authorities on the mainland United States, GPA does not have the option of purchasing power from outside the Island. Guam is, and must remain, self sufficient with regard to electric power generation.

The Petition states that Guam's electric power shortfall has continued because of facility outages caused by

planned and unplanned maintenance requirements. The longstanding nature of the electric power shortage has required GPA to use its existing facilities at peak capacity for several years. GPA has also deferred planned maintenance, when safety considerations have allowed, to permit units to remain in service. Because of the length of time which has elapsed since the beginning of the emergency, the result is now substantially reduced reliability of GPA's electric generating units.

The Petition also describes how Guam's Legislature and Guam's Governor have actively become involved to find a solution to the continued energy crisis. In June 1996, the Legislature enacted special procurement legislation to allow the rapid purchase of new generating equipment. In response to the recommendation of a blue ribbon task force, the Governor issued an executive order in August 1996, directing GPA to oversee the repair of existing units, the construction of new units, and the operation of electric generating facilities by independent power producers. Piti Units No. 8 and No. 9 are a part of this effort, and will provide electricity to be distributed by GPA.

The construction and operation of additional, reliable baseload generating units will enable GPA to satisfy electrical demand with an appropriate margin of safety, while at the same time allowing for planned maintenance outages of generating units. Once sufficient baseload capacity exists and can be operated, unplanned blackouts on the Island will be ended. Piti Units No. 8 and No. 9, which are to provide electric power under contract to GPA, are such baseload units. Construction of the units prior to the issuance of PSD permits will allow the units to become available in a much more expeditious time frame. It is anticipated that final PSD permits can and will be issued prior to completion of construction of Piti Units No. 8 and No. 9.

Section 325(a) of the CAA allows a waiver of certain CAA requirements, based upon local factors, only if the waiver will not cause exceedences of any primary national ambient air quality standard (''NAAQS'') or violations of the hazardous air pollutant provisions of the CAA. The hazardous air pollutant provisions of the CAA are not affected by the Petition. The 1993 waiver proceeding and a subsequent 1995 waiver proceeding included air quality analyses, utilizing computer modeling, which demonstrated that all NAAQS would be protected. Data submitted to the EPA pursuant to the prior waiver proceedings indicates that all NAAQS continue to be adequately protected.

The Petition currently before the EPA is limited to the construction of Piti Units No. 8 and No. 9 prior to the issuance of PSD permits, and hence will not result in the increase of any air contaminant. Prior to the issuance of any PSD permit, the PSD permitting process will require, among other things, assurances that operation of Piti Units No. 8 and No. 9 will not lead to exceedences of any NAAQS.

The Cabras and Piti Power Plants operate under an intermittent control strategy which utilizes fuel switching. This intermittent control strategy is described in an EPA document entitled the ''Cabras Area ICS.'' This strategy, which was modified pursuant to the 1995 waiver proceeding, has required the use of fuel oil with a maximum sulfur content of 1.19 percent when winds blow in an onshore direction, and the use of fuel oil with a maximum sulfur content of 2.00 percent when winds blow in an offshore direction. If EPA issues the waiver requested in the Petition in a final rulemaking action, the Cabras Area ICS will be modified to require fuel switching at Piti Units No. 8 and No. 9 when operation of those units is commenced.

Guam Environmental Protection Agency has received and reviewed a copy of the Petition. It supports this proposed rulemaking and the issuance of a waiver.

Regulatory Analysis

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 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.

This proposed rule applies only to two large sources of air emissions used to generate electrical power on Guam. These sources of electrical power will be constructed by an independent power producer which is not a small entity. Therefore, EPA certifies that this rulemaking will not have an impact on small entities.

This action has been classified as a Table 3 action for signature by the Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

List of Subjects in 40 CFR Part 69

Environmental protection, Air pollution control.

Dated: June 24, 1997.

Carol Browner,

Administrator.

Part 69 of chapter I, title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 69—[AMENDED]

1. The authority citation for part 69 continues to read as follows:

Authority: Section 325, Clean Air Act, as amended (42 U.S.C. 7625–1)

2. Section 69.11 is amended by adding paragraph (d) to read as follows:

§ 69.11 New exemptions.

* * * * *

(d) Pursuant to Section 325(a) of the CAA and a petition submitted by the Governor of Guam on February 11, 1997 (''1997 Petition''), the Administrator of EPA conditionally exempts Piti Power Plant Units No. 8 and No. 9 from certain CAA requirements.

(1) A waiver of the requirement to obtain a PSD permit prior to construction is granted for the electric generating units identified in the 1997 Petition as Piti Units No. 8 and No. 9 (two 45 megawatt baseload diesel electric generators and associated waste heat recovery boilers with a steam generator), with the following conditions:

(i) Piti Units No. 8 and No. 9 shall not operate until final PSD permits are received for these units;

(ii) Piti Units No. 8 and No. 9 shall not operate until they comply with all requirements of their PSD permits, including, if necessary, retrofitting with BACT;

(iii) If either Piti Units No. 8 or No. 9 operate either prior to the issuance of a final PSD permit or without BACT equipment, the Piti Unit(s) shall be deemed in violation of this waiver and the CAA beginning on the date of commencement of construction of the unit(s).

[FR Doc. 97–17031 Filed 6–27–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5848–7]

National Oil and Hazardous Substances Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete a portion of the Para-Chem Southern Inc., Superfund Site from the National Priorities List (NPL).

SUMMARY: The United States Environmental Protection Agency (US EPA), Region 4, announces its intent to delete a portion of the Para-Chem Southern Inc., Superfund Site from the National Priorities List (NPL), which is codified at Appendix B of 40 CFR Part 300, the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and requests public comment on this proposed action. EPA is pursuing a partial deletion for the Para-Chem Superfund Site based on a policy change intended to support economic redevelopment for Superfund sites (Reference 1). This partial deletion will be media specific for a portion of the soils delineated in the attached map (Reference 2). The groundwater within these same areas remain listed and is currently undergoing remedial action. EPA and the State of South Carolina Department of Health and Environmental Control have determined that this portion of the soils poses no significant threat to public health or the environment and therefore, CERCLA remedial measures are not appropriate.

DATES: Comments must be submitted by July 30, 1997.

ADDRESSES: Comments may be mailed to: Terry Tanner, US Environmental Protection Agency, Region 4, 61 Forsyth St., SW, Atlanta, GA, 30303.

Comprehensive information on this Site is available through the EPA Region 4 public docket, which is located at EPA's Region 4 office and is available for viewing by appointment from 9:00 am to 4:00 pm, Monday through Friday, excluding holidays. Requests for appointments or copies of the background information from the regional public docket should be directed to the EPA Region 4 docket office.

The address for the regional docket office is Mrs. Debbie Jourdan, US EPA, Region 4, 61 Forsyth St., SW, Atlanta, GA, 30303. The telephone number is 404–562–8862.

Background information from the regional public docket is also available for viewing at the Site information repository located at the Fountain Inn Branch Library, 400 North Main Street, Fountain Inn, SC, 803–862–2576.

FOR FURTHER INFORMATION CONTACT: Please contact either Terry Tanner or Cynthia Peurifoy at 1–800–435–9233.

SUPPLEMENTARY INFORMATION:

I. Introduction

This document is to announce EPA's intent to delete a portion of the Para-Chem Southern Inc. Site from the NPL. It also serves to request public comments on the deletion proposal.

EPA identifies sites that appear to present a significant risk to public health, welfare, or environment and maintains the NPL as the list of these sites. Sites on the NPL qualify for remedial responses financed by the Hazardous Substances Response Trust Fund (Fund). As described in § 300.425 (e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such actions. EPA accepts comments on the proposal to delete a site from the NPL for thirty days after publication of this document in the **Federal Register**.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with § 300.425(e) of the NCP, sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA, in consultation with the State, considers whether the site has met any of the following criteria for site deletion:

(i) Responsible or other parties have implemented all appropriate response actions required;

(ii) All appropriate response actions under CERCLA have been implemented and no further response actions are deemed necessary; or

(iii) The remedial investigation has determined that the release poses no significant threat to public health or the environment and, therefore, no remedial action is appropriate.

III. Deletion Procedures

EPA Region 4 will accept and evaluate public comments before making a final decision to delete. Comments from the local community may be the most pertinent to deletion decisions. The following procedures were used for the intended deletion of a portion of the Para-Chem Southern Inc., Site:

(1) EPA Region 4 has recommended this partial deletion and has prepared the relevant documents.

(2) The State has concurred with the decision to delete a portion of the Para-Chem Southern Inc., Site.

(3) Concurrent with this announcement, a notice has been published in the local newspaper and has been distributed to appropriate federal, state, and local officials announcing the commencement of a 30-day public comment period on the Notice of Intent to Delete.

(4) EPA has made all relevant documents available for public review at the information repository and in the Regional Office.

Partial deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for information purposes and to assist EPA management. As mentioned earlier, § 300.425(e)(30) of the NCP states that deletion of a site from the NPL does not preclude eligibility of the site for future Fund-financed response actions.

For the deletion of this site, EPA will accept and evaluate public comments on this Notice of Intent to Delete before finalizing the decision. The Agency will prepare a Responsiveness Summary to address any significant public comments received during the comment period. The deletion is finalized after the Regional Administrator places a Notice of Deletion in the **Federal Register**.

The NPL will reflect any deletions in the next publication of the final rule. Public notices and copies of the Responsiveness Summary will be made available to local residents by Region 4.

IV. Basis for Intended Para-Chem Southern Inc. Partial Deletion

The following Site summary provides the Agency's rationale for the proposed intent for partial deletion of this Site from the NPL.

The Para-Chem Southern, Inc. site (Site) is located in Greenville County, South Carolina, between Simpsonville and Fountain Inn and consists of a manufacturing plant located upon approximately 100 acres. This site is owned and operated by Para-Chem Southern, Inc. (Para-Chem) and is used to produce acrylic polymers, thickeners, latex coatings, and adhesives for a variety of consumer and industrial applications. The plant has been in operation since 1965 and currently employs approximately 150 people.

The specific areas associated with this partial delisting have been the subject of several previous investigations (Reference 2). The majority of the

investigatory and remedial actions taken within the area targeted for partial delisting was performed under a Consent Order issued by the South Carolina Department of Health and Environmental Control (Reference 3).

Four former disposal areas were identified as a result of the investigatory work performed under the South Carolina Department of Health & Environmental Control Consent Order. Because the soils targeted for partial delisting only encompass one of the former disposal areas, disposal area No. 1, the remainder of this report will focus on the activities associated with this disposal area. The three remaining disposal areas and corresponding soils will be addressed in a future Close Out Report once all activities have been completed for this site.

Operating under a Buried Drum Removal Plan (Reference 4) approved by DHEC, Para-Chem performed removal and disposal activities for former disposal area No.1 in May and June of 1987. A total of 686 tons of drums, waste, and contaminated soils were excavated, classified as a hazardous waste by characteristic, and shipped to the GSX landfill. Removal activities are presented in the Documentation for Waste Removal Report (Reference 5). On June 15, 1987, RMT submitted both analytical results for conformational soil sampling and a proposal for additional excavation of soils to SC DHEC (Reference 6). On June 18, 1987, SC DHEC granted approval of the June 15, 1987 proposal (Reference 7). The additional excavation and backfilling of the excavated area with adjacent fill was completed on June 18, 1987.

The former disposal area No. 1 was also the subject of an expanded investigation under an AOC issued by EPA. Two of the objectives for this AOC were to determine whether any additional areas within the vicinity of former disposal area No. 1 were acting as a continual source of groundwater contamination and to confirm the effectiveness of the previous waste removal efforts.

As part of the Remedial Investigation supporting EPA's AOC the disposal area No. 1 was subjected to a soil gas screening procedure for VOCs. Levels measured at these four stations did not exceed background levels. The soil gas screening results were further supported by conformational sampling using CLP methodologies. Additional subsurface soil samples (HA–6, HA–7) were taken specifically from the immediate area surrounding former disposal area No. 1 and analyzed for TCL, TAL and tetrahydrofuran. Copper and lead were detected at concentrations above background levels but did not pose a health risk. No organic contaminants were detected at any concentration above the Contract Required Detection Limits (Reference 8, pg 3–9).

On September 27, 1993, a Record of Decision (ROD) was issued for this Site. The ROD did target specific areas for soil and groundwater remediation, however, no soil remediation was required within the areas targeted for this partial deletion.

Additional sampling in support of this partial delisting petition was outlined in a letter dated May 30, 1996, titled Delisting Petition and Plan for Sampling. Sampling results were submitted in a July 19, 1996, report titled Delisting Assessment Results. With the exception of acetone in samples DA01–01A (62 ug/kg) and DA01–04 (39 ug/kg), no volatile organic compounds were present above the laboratory detection limits. The acetone concentrations present within these two samples were well below the site performance standard of 4,687,000 ug/kg (Reference 9).

The removal activities of contaminated soil within the areas targeted for partial delisting at the Para-Chem Southern Inc. are considered a permanent remedy. No additional treatment of soils within these areas will be necessary. As such no operation and maintenance activities are necessary for the soils targeted for this partial delisting. Because no hazardous substances, pollutants, or contaminants remain in the soils within the areas targeted for partial delisting, no Five Year Review will be performed on these areas.

EPA in concurrence of the State of South Carolina Department of Health & Environmental Control, has determined that all appropriate Fund-financed responses under CERCLA for the soils within the areas targeted for this partial deletion have been completed, and that no further activities by responsible parties are appropriate. Therefore, EPA proposes to delete this area from the NPL.

Dated: March 28, 1997.

A. Stanley Meiburg,

Deputy Regional Administrator, Region 4, U.S. Environmental Protection Agency.

References

1. **Federal Register** 55466, Vol. 60, No. 211, Wednesday, November 1, 1995.
2. Partial Delisting Map, RMT Inc., June 14, 1996.
3. South Carolina Department of Health & Environmental Control Consent Order 86–17–W,SW, February 21, 1986.
4. Buried Drum Removal Plan, Para-Chem Southern, RMT Inc., July 15, 1986.
5. Documentation Report for Waste Removal, Para-Chem Southern, Inc., December 1987.
6. Buried Drum Removal Project correspondence, RMT Inc., to Gil Trentanove, SC DHEC, June 15, 1987.
7. South Carolina Department of Health & Environmental Control, buried drum removal project correspondence, June 18, 1987.
8. Remedial Investigation Report for Para-Chem Southern, Inc., January 1993, page 3–9.
9. Delisting Assessment Results for Para-Chem Southern Inc. Site, correspondence from Fletcher Group to Terry Tanner, EPA, July 19, 1996.

[FR Doc. 97–16895 Filed 6–27–97; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC99

Endangered and Threatened Wildlife and Plants, Notice of Third Reopening of Public Comment Period on Proposed Rule to List 10 Plants From the Foothills of the Sierra Nevada Mountains as Threatened or Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule, notice of third reopening of comment period.

SUMMARY: The Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), provides notice of third reopening of the comment period on the proposed endangered status for *Brodiaea pallida* (Chinese Camp brodiaea), *Calyptridium pulchellum* (Mariposa pussypaws), *Lupinus citrinus* var. *deflexus* (Mariposa lupine) and *Mimulus shevockii* (Kelso Creek monkeyflower) and proposed threatened status for *Allium tuolumnense* (Rawhide Hill onion), *Carpenteria californica* (carpenteria), *Clarkia springvillensis* (Springville clarkia), *Fritillaria striata* (striped adobe lily), *Navarretia setiloba* (Piute Mountains navarretia), and *Verbena californica* (California vervain). On December 29, 1994, the comment period was reopened and extended until February 13, 1995 (59 FR 67268) to accommodate the public hearing that was requested. Due to requests for additional time, the comment period was extended until June 4, 1995 (60 FR 8342). To acquire new and updated information that may have become available in the last 2 years, the Service reopened the comment period for a

second time on February 4, 1997 (62 FR 5199). Because of the need to acquire additional information from interested parties and complete final action on these proposed listing actions, the comment period is reopened again for 60 days. All parties are invited to submit comments on this proposal.

DATES: The public comment period closes August 29, 1997 to ensure consideration by the Service.

ADDRESSES: Written comments and materials concerning this proposal should be sent directly to the Field Supervisor, Sacramento Field Office, 3310 El Camino Avenue, Suite 130, Sacramento, California 95821–6340. Comments and materials received will be available for inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ken Fuller at ADDRESSES section listed above (telephone 916/979–2710, facsimile 916/979–2723).

SUPPLEMENTARY INFORMATION:

Background

On October 4, 1994, the Service published a rule proposing endangered status for *Brodiaea pallida, Calyptridium pulchellum, Lupinus citrinus* var. *deflexus* and *Mimulus shevockii* and threatened status for *Allium tuolumnense, Carpenteria californica, Clarkia springvillensis, Fritillaria striata, Navarretia setiloba,* and *Verbena californica.* The ten plants are variously known from annual grasslands; chaparral; and Joshua tree, pinyon-juniper, blue oak, and digger pine woodlands in the foothills of the Sierra Nevada of California. These plants may be threatened by one or more of the following: agricultural land conversion, urbanization, logging, highway construction and road maintenance activities, excessive grazing, off-highway vehicle use, mining, insect predation, random natural events, and inappropriate fire management activities.

The original comment period on this proposal closed on December 5, 1994. On December 29, 1994, the comment period was reopened and extended until February 13, 1995 (59 FR 67268) to accommodate the public hearing that was requested. Due to requests for additional time, the comment period was extended until June 4, 1995 (60 FR 8342). The Service was unable to make a final listing determination on these species because of a limited budget, other endangered species assignments driven by court orders, and higher listing priorities. In addition, a moratorium on listing actions (Public Law 104–6), which took effect on April 10, 1995, stipulated that no funds could be used to make final listing determinations or critical habitat determinations. With the restoration of funding, the Service proceeded with final determinations for these species. In this regard and to acquire new and updated information that may have become available in the last 2 years, the Service reopened the comment period for a second time on February 4, 1997 (62 FR 5199). Because of the need to acquire additional information from interested parties and complete final action on these proposed listing actions, the comment period is reopened again for 60 days. The Service seeks information concerning:

(1) Biological, commercial, or other relevant data on any threat (or lack thereof) to any of these ten species, particularly *Calyptridium pulchellum, Fritillaria striata, Lupinus citrinus* var. *deflexus* and *Navarretia setiloba;* and

(2) Additional information on the size, number, location, or distribution of populations.

Written comments may now be submitted until August 29, 1997 to the Service office in the **ADDRESSES** section.

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*)

Dated: June 17, 1997.

Thomas J. Dwyer,

Acting Regional Director, Region 1.

[FR Doc. 97–16987 Filed 6–27–97; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 62, No. 125
Monday, June 30, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Crop Revenue Coverage

ACTION: Notice of availability.

SUMMARY: In accordance with section 508(h) of the Federal Crop Insurance Act (Act), the Federal Crop Insurance Corporation (FCIC) Board of Directors (Board) approves for reinsurance and subsidy the insurance of cotton, grain sorghum and spring wheat in select states and counties under the Crop Revenue Coverage (CRC) plan of insurance. This notice is intended to inform eligible producers and the private insurance industry of the availability of the CRC plan of insurance for cotton, grain sorghum, and spring wheat and their terms and conditions.

FOR FURTHER INFORMATION CONTACT: Timothy Hoffmann, Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, Missouri, 64131, telephone, (816) 926–7387.

SUPPLEMENTARY INFORMATION: Section 508(h) of the Act allows for the submission of a policy to FCIC's Board and authorizes the Board to review and, if the Board finds that the interests of producers are adequately protected and that any premiums charged to the producers are actuarially appropriate, approve the policy for reinsurance and subsidy, in accordance with section 508(e) of the Act.

In accordance with the Act, the Board approved a program of insurance known as CRC, originally submitted by American Agrisurance, a managing general agency for Redland Insurance Company.

The CRC program has been approved for reinsurance. CRC is designed to protect producers against both price and yield losses. CRC provides a harvest revenue guarantee that pays losses from the established yield coverage at a higher price if the harvest time price is higher than the spring price.

The CRC program is available for cotton, grain sorghum and spring wheat for the 1997 crop year in selected states and counties. For the 1996 crop year, the CRC program was available for corn and soybeans in all counties in Iowa and Nebraska and was expanded last fall to include wheat in Kansas, Michigan, Nebraska, South Dakota, Texas, Washington, and select counties in Montana. FCIC herewith gives notice of the availability of the CRC programs of insurance for cotton, grain sorghum and spring wheat for use by private sector insurance companies for the 1997 crop year.

Upon a written request, FCIC will provide the CRC underwriting rules, rate factors and forms for cotton, grain sorghum, and spring wheat. FCIC will also make available the terms and conditions of the CRC reinsurance agreement. Requests for such information should be sent to Timothy Hoffmann, Director, Product Development Division, Federal Crop Insurance Corporation at the above stated address.

Notice: The terms and provisions for the CRC cotton, grain sorghum and spring wheat programs of insurance are as follows.

Crop Revenue Coverage Insurance Policy

(This is a continuous policy for crop year 1997–1998. Refer to section 2)

This policy is reinsured by the Federal Crop Insurance Corporation (FCIC) under the authority of section 508(h) of the Federal Crop Insurance Act, as amended (7 U.S.C. 1508 (h)). The provisions of the policy may not be waived or varied in anyway by the crop insurance agent or any other agent or employee of the Company. In the event we cannot pay your loss, your claim will be settled in accordance with the provisions of this policy and paid by the FCIC. No state guarantee fund will be liable to pay your loss. Throughout this policy, ''you'' and ''your'' refer to the named insured shown on the accepted application and ''we'', ''us'' and ''our'' refer to the Company. Unless the context indicates otherwise, use of the plural form of a word includes the singular and use of the singular form of the word includes the plural.

Agreement to Insure: In return for the payment of the premium, and subject to all of the provisions of this policy, we agree with you to provide the insurance as stated in this policy. If a conflict exists between the Basic Provisions contained herein and the specific Crop Provisions, the Crop Provisions will control.

Basic Provisions

Terms And Conditions

1. *Definitions.* As used in this policy these terms are defined as follows:

(a) Abandon—Failure to continue providing sufficient care (For example, cultivation, irrigation, fertilization, application of chemicals, etc., consistent with good farming practices) for the insured crop to make normal progress toward harvest or maturity, or failure to harvest in a timely manner if harvest is practicable.

(b) Acreage report—A report required by section 6 of these Basic Provisions which contains, in addition to other required information, your report of your share of all acreage of an insured crop in the county whether insurable or not insurable. This report must be filed not later than the final acreage reporting date contained in the Special Provisions for the county for the insured crop.

(c) Acreage reporting date—The date (contained in the Special Provisions) by which you are required to submit your acreage reports.

(d) Another use, notice of—The written notice required when you wish to put acreage to another use (see section 14 of these Basic Provisions).

(e) Application—The form required to be completed by you and accepted by us before insurance coverage will commence. This form must be completed and filed in your agent's office not later than the sales closing date of the initial insurance year for each crop for which insurance coverage is requested. If a break in insurance coverage occurs, a new application must be filed.

(f) Approved yield—The average amount of production per acre obtained under the Actual Production History Program (7 CFR part 400, subpart G) using production records of the insured or yields assigned by FCIC. At least four crop years of yields must be averaged to obtain the approved yield.

(g) Assignment of indemnity—A transfer of policy rights, made on our

form, and effective when approved by us. It is the arrangement whereby you assign your right to an indemnity payment to any party of your choice for the crop year.

(h) CRC rate—A premium rate, as set forth in the County Actuarial Table, used to calculate the risk associated with producing a level of production.

(i) CRC low price factor—A premium factor, as set forth in the County Actuarial Table, used to calculate the risk associated with a decrease in the Harvest Price relative to the Base Price.

(j) CRC high price factor—A premium factor, as set forth in the County Actuarial Table, used to calculate the risk associated with an increase in the Harvest Price relative to the Base Price.

(k) Cancellation date—The calendar date specified in each Crop Provision on which that Crop Provision will automatically renew unless canceled in writing by either you or us.

(l) Claim for indemnity—A claim made on our form by you for damage or loss to an insured crop and submitted to us not later than 60 days after the end of the insurance period (see section 14 of these Basic Provisions).

(m) Consent—Approval in writing by us allowing you to take a specific action.

(n) Contract—A contract for insurance between you and us consisting of the accepted Application, these Basic Provisions, the Crop Provisions, the Special Provisions, the County Actuarial Table for the insured crops, and the applicable regulations as published at 7 CFR part 400.

(o) Contract change date—The calendar date by which we make any contract (policy language or program date) changes available for inspection in the agent's office (see section 4 of these Basic Provisions).

(p) County—The county or other political subdivision of a state shown on your accepted application and includes acreage in a field that extends into an adjoining county if the county boundary is not readily discernible.

(q) County actuarial table—The forms and related material for the crop year which show coverage levels, premium rates, practices, insurable acreage, and other related information regarding crop insurance in the county.

(r) Coverage—The insurance provided by this policy against an insured loss of revenue by unit as shown on your summary of coverage.

(s) Coverage begins, date—The calendar date insurance begins on the insured crop, as contained in the Crop Provisions, or the date after planting is started on the unit (see section 11 of these Basic Provisions).

(t) Crop provisions—The part of the policy that contains the specific provisions of insurance for each insured crop.

(u) Crop year—The period within which the insured crop is normally grown and designated by the calendar year in which the insured crop is normally harvested.

(v) Damage—Injury, deterioration, or loss of revenue of the insured crop due to insured or uninsured causes.

(w) Damage, notice of—A written notice required to be filed in your agent's office whenever you initially discover the insured crop has been damaged to the extent that a loss is probable (see section 14 of these Basic Provisions).

(x) Delinquent account—Any account you have with us in which premiums, or interest on those premiums is not paid by the termination date specified in the crop provisions, or any other amounts due us, such as indemnities found not to have been earned, which are not paid within 30 days of our mailing or other delivery of notification to you of the amount due.

(y) Earliest planting date—The earliest date established for planting the insured crop and qualifying for a replant payment if applicable (see Special Provisions and section 13 of these Basic Provisions).

(z) End of insurance period, date of—The date upon which your crop insurance coverage ceases for the crop year (see Crop Provisions and section 11 of these Basic Provisions).

(aa) Final guarantee—The guaranteed dollar amount per acre of the insured crop on the unit.

(bb) FSA—The Farm Service Agency of the United States Department of Agriculture or a successor agency (formerly the Agricultural Stabilization and Conservation Service).

(cc) FSA farm serial number—The number assigned to the farm by the FSA county committee.

(dd) Insured—The named person as shown on the Application accepted by us. This term does not extend to any other person having a share or interest in the crop (for example, a partnership, landlord, or any other person) unless specifically indicated on the accepted application (see definition of ''Person'' in section 1(ii) of these Basic Provisions).

(ee) Insured crop—The crop defined under these Basic Provisions and the applicable Crop Provisions as shown on the application accepted by us.

(ff) Loss, notice of—The notice required to be given by you not later than 72 hours after certain occurrences or 15 days after the end of the insurance period (see section 14 of the Basic Provisions).

(gg) MPCI—Multiple peril crop insurance program, a program of insurance offered under the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*) (Act) and implemented in 7 CFR part 400.

(hh) Negligence—The failure to use such care as a reasonably prudent and careful person would use under similar circumstances.

(ii) Person—An individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivision or agency of a State.

(jj) Policy—(see ''Contract'')

(kk) Practical to replant—Our determination, after loss or damage to the insured crop, based on factors, including, but not limited to moisture availability, condition of the field, time to crop maturity, and marketing, that replanting the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period. It will not be considered practical to replant after the end of the late planting period unless replanting is generally occurring in the area.

(ll) Premium billing date—The earliest date upon which you will be billed for insurance coverage based on your acreage report and which generally falls at or near harvest time.

(mm) Production report—A written record showing your annual production and used by us to determine your yield for insurance purposes (see section 3). The report contains previous years yield information including planted acreage and harvested production. This report must be supported by written verifiable records from a warehouseman or buyer of the insured crop or by measurement of farm stored production, or by other records of production approved by us on an individual case basis.

(nn) Reporting date—The acreage reporting date (contained in the Special Provisions) by which you are required to report all your insurable acreage in the county in which you have a share and your share at the time insurance attaches, and any acreage in which you have a share which is not insured (see section 9 of these Basic Provisions).

(oo) Representative sample—Portions of the insured crop or insured crop residue which are required to remain in the field for examination and review by our loss adjusters when making a crop appraisal if required by the crop provisions. The size of the samples are further specified in the crop provisions.

(pp) Sales closing date—The date contained in the Special Provisions which is the final date when an application may be filed. This is the last date for you to make changes in your crop insurance coverage for the crop year.

(qq) Section (for the purposes of unit structure)—A unit of measure under a rectangular survey system describing a tract of land usually one mile square and usually containing approximately 640 acres.

(rr) Share—Your percentage of interest in the insured crop as an owner, operator, or tenant at the time insurance attaches. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share at the earlier of the time of loss, or the beginning of harvest. Unless the accepted application clearly indicates that insurance is requested for a partnership or joint venture, or is intended to cover the landlord's, or tenant's share of the crop (see section 10(b)), insurance will cover only the share of the person completing the application. The share will not extend to any other person having an interest in the crop except as may otherwise be specifically allowed in this policy. We may consider any acreage or interest reported by or for your spouse, child or any member of your household to be included in your share. A lease containing provisions for *both* a minimum payment (such as a specified amount of cash , bushels, pounds, *etc.*,) *and* a crop share will be considered a crop share lease. A lease containing provisions for *either* a minimum payment *or* a crop share will be considered a cash lease.

(ss) Special provisions—The part of the policy that contains specific provisions of insurance for each insured crop that may vary by geographic area.

(tt) State—The state shown on your accepted application.

(uu) Summary of coverage—Our statement to you, by unit and specifying the insured crop based upon the information provided in your acreage report.

(vv) Tenant—A person who rents land from another person for a share of the crop or a share of the proceeds of the crop (see the definition of ''Share'' in section 1(rr) of these Basic Provisions).

(ww) Termination date—The calendar date contained in the Crop Provisions upon which your policy ceases for nonpayment of premium or any other amount due us under the policy.

(xx) Unit—All insurable acreage of the insured crop in the county on the date coverage begins for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another specific entity on a share basis.

(For example, if, in addition to the land you own, you rent land from five landlords, three on a crop share basis and two on a cash basis, you would be entitled to four units, one for each crop share lease and one for the two cash leases and the land you own). Land rented for cash, a fixed commodity payment, or a consideration other than a share in the insured crop on such land will be considered as owned by the lessee (see section 1(rr) ''Share''). Land which would otherwise be one unit may, in certain instances, be divided according to guidelines contained in the applicable crop provisions. Units will be determined when the acreage is reported but may be adjusted or combined to reflect the actual unit structure when adjusting a loss. However, no further division may be made after the acreage report date for any reason.

(yy) USDA—The United States Department of Agriculture.

2. *Life Of Policy, Cancellation, And Termination.* (a) This continuous policy will be in effect for the 1997 and 1998 crop years only. After acceptance of the application, you may not cancel this policy the initial crop year. Thereafter, the policy will continue in force for the succeeding crop year unless canceled or terminated as provided below.

(b) Either you or we may cancel this policy after the initial crop year by providing written notice to the other on or before the cancellation date shown in the Crop Provisions.

(c) All policies issued by us under the authority of the Act will terminate as of the coincidental or next termination date contained in these policies if any amount due us is not paid on or before the termination date for the crop on which the amount is due. Such unpaid debts will also make you ineligible for any crop insurance provided under the Act until payment is made. If we deduct any amount due us from an indemnity, the date of payment for the purpose of section 2(c) will be the date you sign the properly completed claim for indemnity.

(d) If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the policy will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after coverage begins for any crop year, the policy will continue in force through the crop year and terminate at the end of the insurance period and any indemnity will be paid to the person or persons determined to be beneficially entitled to the indemnity. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

(e) Your policy will terminate if no premium is earned for 3 consecutive years.

(f) The cancellation and termination dates are contained in the Crop Provisions.

(g) You are not eligible to participate in the Crop Revenue Coverage program if you are identified in the Non-standard Classification System or have elected the Catastrophic Risk Protection endorsement.

(h) If you execute a High Risk Land Exclusion Option for a Crop Revenue Coverage Policy, you may elect to insure the ''high risk land'' under a Catastrophic Risk Protection endorsement. If both policies are in force, the acreage of the crop covered under the Crop Revenue Coverage policy and the acreage covered under the Catastrophic Risk Protection endorsement will be considered as separate crops for insurance purposes including the payment of administrative fees.

3. *Coverage Level, Insurance Guarantee, Prices For Determining Indemnity.* (a) For each crop year the coverage level by which an indemnity will be determined for each unit will be that shown on your summary of coverage. The information necessary to determine those amounts will be contained in the Special Provisions or in the County Actuarial Table.

(b) You may select only one coverage level offered by us for each insured crop. By written notice to us you may change the coverage level for the following crop year not later than the sales closing date for the affected insured crop. If you do not change the coverage level for the succeeding crop year you will be assigned the same coverage level that was in effect the previous crop year.

(c) This policy is an alternative to the Multiple Peril Crop Insurance program and satisfies the requirements of section 508(b)(7) of the Act.

(d) You must report production to us for the previous crop year by the earlier of the acreage reporting date or 45 calendar days after the cancellation date. If you do not provide the required production report, we will assign a yield for the previous crop year. The yield assigned by us will not be more than 75

percent of the yield used by us to determine your coverage for the previous crop year. The production report or assigned yield will be used to compute your approved yield for the purpose of determining your coverage for the current crop year. If you have filed a claim for any crop year, the production used to determine the indemnity payment will be the production report for that year.

(e) We may revise your Final Guarantee for any farm unit, and revise any indemnity paid based on that Final Guarantee, if we find that your production report under section 3(d) above:

(1) is not supported by written verifiable records (see section 1(mm) ''Production report''); or

(2) fails to accurately report actual production.

4. *Contract Changes.* We may change the coverage available under this policy for the second year. Your crop insurance agent will have changes in policy provisions and program dates by the contract change date contained in the Crop Provisions. Your crop insurance agent will have changes in maximum amounts of insurance and premium rates 15 days before the cancellation date contained in the Crop Provisions. In addition, you will be notified, in writing, of these changes. Such notification will be made at least 30 days prior to the cancellation date of the insured crop for policy and program date changes, and 15 days prior to the cancellation date of the insured crop for changes in the maximum amounts of insurance and premium rates.

5. *Liberalization.* If we adopt any revisions which would broaden the coverage under this policy subsequent to the contract change date without additional premium, the broadened coverage will apply.

6. *Report Of Acreage.* (a) An annual acreage report must be submitted to us on our form for each insured crop in the county on or before the acreage reporting date shown in the Special Provisions. This report must include the following information, if applicable:

(1) All acreage of the crop (insurable and not insured) in which you have a share;

(2) Your share at the time coverage begins;

(3) The practice;

(4) The type; and

(5) The date the insured crop was planted.

(b) If you do not have a share in any insured crop in the county for the crop year, you must submit an acreage report so indicating.

(c) Because incorrect reporting on the acreage report may have the effect of changing your premium and any indemnity which may be due, you may not revise this report after the acreage reporting date without our consent.

(d) We may elect to determine all premiums and indemnities based on the information you submit on the acreage report or upon the factual circumstances which we determine to have actually existed.

(e) If you do not submit an acreage report by the acreage reporting date, or if you fail to report all units, we may elect to determine, by unit, the insurable crop acreage, share, type and practice or deny liability on any unit.

(f) If the information reported by you on the acreage report for a unit results in a lower premium than the actual premium determined to be due on the basis of the share, acreage, practice, type or other material information determined to actually exist, the Final Guarantee on the unit will be reduced proportionately. In the event that acreage is under-reported, all production or value from insurable acreage for the unit, whether or not reported as insurable, will be considered production or value to count in determining the indemnity.

(g) Errors in reporting units may be corrected by us to reduce our liability and to conform to applicable unit division guidelines at the time of adjusting a loss.

7. *Annual Premium.* (a) The annual premium is earned and payable at the time coverage begins. You will be billed for premium due not earlier than the billing date specified in the Special Provisions. The premium due, plus any accrued interest, will be considered delinquent if any amount due us is not paid on or before the termination date specified in the Crop Provisions.

(b) Any amount due us under this policy will be deducted from any replant payment or indemnity due you under the provisions of this policy.

(c) The annual premium amount is determined by:

(1) Multiplying the Approved Yield times the coverage level, times the Base Rate specified in the County Actuarial Table, times the Base Price as defined in the County Actuarial Table;

(2) Multiplying the approved yield times the coverage level, times the CRC Rate specified in the County Actuarial Table, times the CRC Low Price Factor specified in the County Actuarial Table;

(3) Multiplying the Approved Yield times the coverage level, times the Base Rate specified in the County Actuarial Table, times the CRC High Price Factor specified in the County Actuarial Table;

(4) Adding items (1), (2), and (3) together;

(5) Multiplying the result of item (4) above times the acres insured, times your share at the time coverage begins, and as applicable, times any Rate Map Adjustment Factor; Rate Class Option Factor and; Option Factor specified in the County Actuarial Table;

(6) Multiplying the Approved Yield times the coverage level, times the Base Rate specified in the County Actuarial Table, times the MPCI Market Price Election, times the insured acres, times your share at the time coverage begins, and as applicable, times any Rate Map Adjustment Factor; Rate Class Option Factor and; Option Factor specified in the County Actuarial Table, and times the applicable producer subsidy percentage to calculate the appropriate amount of subsidy. The producer subsidy percentage is based upon the coverage level as follows:

75%=0.235
70%=0.319
65%=0.417
60%=0.412
55%=0.503
50%=0.600

(7) Subtracting item (6) from item (5) above to determine the annual producer paid premium.

8. *Insured Crop.* (a) The insured crop will be that shown on your accepted application and as specified in the Crop Provisions and must be grown on insurable acreage.

(b) A crop which will NOT be insured will include, but will not be limited to, any crop:

(1) If the farming practices carried out are not in accordance with the farming practices for which the premium rates and Final Guarantee have been established;

(2) Of a type, class or variety established as not adapted to the area or excluded by the Special Provisions;

(3) That is a volunteer crop;

(4) That is a second crop following the same crop (insured or not insured) harvested in the same crop year unless specifically permitted by the Crop Provisions or the Special Provisions;

(5) Which is planted for the development or production of hybrid seed or for experimental purposes, unless permitted by the Crop Provisions or unless we agree, in writing, to insure such crop; or

(6) Used for wildlife protection or management.

9. *Insurable Acreage.* (a) Acreage planted to the insured crop in which you have a share is insurable unless it is acreage:

(1) On which a crop has not been planted or harvested in at least one of

the three previous crop years, unless FSA classifies such acreage as cropland;

(2) Which has been strip-mined, unless we agree in writing to insure such acreage;

(3) On which the insured crop is damaged and it is practical to replant the insured crop, but the insured crop is not replanted;

(4) Which is planted with a crop other than the insured crop, unless allowed by the Crop Provisions; or

(5) Which is otherwise restricted by the Crop Provisions or Special Provisions.

(b) If insurance is provided for an irrigated practice, you must report as irrigated only that acreage for which you have adequate facilities and water, at the time coverage begins, to carry out a good irrigation practice.

(c) If acreage is irrigated and we do not provide a premium rate for an irrigated practice, you may either report and insure the irrigated acreage as ''nonirrigated,'' or report the irrigated acreage as not insured.

(d) We may restrict the amount of acreage which we will insure to the amount allowed under any acreage limitation program established by the USDA if we notify you of that restriction prior to the sales closing date.

10. *Share Insured.* (a) You may only insure your share as defined in section 1(rr) of these Basic Provisions.

(b) You, as a landlord (or tenant), may insure your tenant's (or landlord's) share of the crop if evidence of the other party's approval of that insurance is demonstrated (Lease, Power of Attorney, etc.). The respective shares must be clearly set out on the acreage report and a copy of the other party's approval must be retained by us.

11. *Insurance Period.* Coverage begins on each unit or part of a unit, the later of: the date you submit your application, when the insured crop is planted, or on the calendar date for the beginning of the insurance period if specified in the Crop Provisions, and ends at the earliest of:

(a) Total destruction of the insured crop on the unit;

(b) Harvest of the unit;

(c) Final adjustment of a loss on a unit;

(d) The calendar date for the end of the insurance period contained in the Crop Provisions;

(e) Abandonment of the crop on the unit; or

(f) As otherwise specified in the Crop Provisions.

12. *Causes Of Loss.* The insurance provided is against only unavoidable loss of revenue directly caused by specific causes of loss contained in the Crop Provisions. All other causes of loss, including but not limited to the following, are NOT covered:

(a) Negligence, mismanagement, or wrongdoing by you, any member of your family or household, your tenants, or employees;

(b) The failure to follow recognized good farming practices for the insured crop;

(c) Water contained by any governmental, public, or private dam or reservoir project;

(d) Failure or breakdown of irrigation equipment or facilities; or

(e) Failure to carry out a good irrigation practice for the insured crop if applicable.

13. *Replanting Payment.* (a) If allowed by the Crop Provisions, a replanting payment may be made on an insured crop replanted after we have given consent and the acreage replanted is at least the lesser of 20 acres or 20 percent of the insured acreage for the unit (as determined on the final planting date).

(b) No replanting payment will be made on acreage:

(1) On which our appraisal establishes that production will exceed the level set by the Crop Provisions;

(2) Initially planted prior to the date established by the Special Provisions; or

(3) On which one replanting payment has already been allowed for the crop year.

(c) The replanting payment per acre will be your actual cost for replanting, but will not exceed the amount determined in accordance with the Crop Provisions.

(d) If the information reported by you on the acreage report results in a lower premium than the actual premium determined to be due based on the acreage, share, practice, or type determined actually to have existed, the replanting payment will be reduced proportionately.

(e) No replanting payment will be paid for replanting any crop if we determine it is not practical to replant (see section 1(kk)).

14. *Duties In The Event Of Damage Or Loss.* Your Duties:

(a) In case of damage or loss of revenue to any insured crop you must:

(1) Protect the crop from further damage by providing sufficient care;

(2) Give us notice within 72 hours of your initial discovery of damage (but not later than 15 days after the end of the insurance period);

(3) Leave representative samples intact for each field of the damaged unit as may be required by the Crop Provisions; and

(4) Give us notice of your expected revenue loss not later than 45 days after the date the Harvest Price is published.

(b) You must obtain consent from us before, and notify us after you:

(1) Destroy any of the insured crop which is not harvested;

(2) Put the insured crop to an alternative use;

(3) Put the acreage to another use; or

(4) Abandon any portion of the insured crop.

We will not give such consent if it is practical to replant the crop or until we have made an appraisal of the potential production of the crop.

(c) In addition to complying with all other notice requirements, you must submit a claim for indemnity declaring the amount of your loss not later than 60 days after the end of the insurance period. This claim must include all the information we require to settle the claim.

(d) Upon our request, you must:

(1) Provide a complete harvesting and marketing record of each insured crop by unit including separate records showing the same information for production from any acreage not insured; and

(2) Submit to examination under oath.

(e) You must establish the total production for the insured crop on the unit and that any loss of production has been directly caused by one or more of the insured causes, specified in the Crop Provisions, during the insurance period.

(f) All notices required in section 14 of these Basic Provisions that must be received by us within 72 hours may be made by telephone or in person to your crop insurance agent but must be confirmed in writing within 15 days.

Our Duties:

(a) If you have complied with all the policy provisions, we will pay your loss within 30 days after:

(1) We reach agreement with you; or

(2) The entry of a final judgment by a court of competent jurisdiction.

(b) In the event we are unable to pay your loss within 30 days, we will give you notice of our intentions within the 30 day period.

(c) We may defer the adjustment of a loss until the amount of loss can be accurately determined. We will not pay for additional damage resulting from your failure to provide sufficient care for the crop during the deferral period.

(d) We recognize and apply the MPCI loss adjustment procedures established or approved by FCIC to determine production to count.

15. *Production Included In Determining Indemnities.* (a) The total production to be counted for a unit will include all production determined in accordance with the Crop Provisions.

(b) The amount of production of any unharvested insured crop may be

determined on the basis of our field appraisals conducted after the end of the insurance period.

16. *Crops As Payment.* You must not abandon any crop to us. We will not accept any crop as compensation for payments due us.

17. *Arbitration.* If you and we fail to agree on any factual determination, disagreement will be resolved in accordance with the rules of the American Arbitration Association. Failure to agree with any factual determination made by FCIC must be resolved pursuant to 7 CFR part 11.

18. *Access To Insured Crop And Record Retention.* (a) We reserve the right to examine the insured crop as often as we reasonably require.

(b) For three years after the end of the crop year, you must retain, and provide upon our request, complete records of the harvesting, storage, shipment, sale, or other disposition of all the insured crop produced on each unit. This requirement also applies to the records used to establish the basis for the production report for each unit. You must also upon our request, provide separate records showing the same information for production from any acreage not insured. We may extend the record retention period beyond three years by notifying you of such extension in writing. Your failure to keep and maintain such records may, at our option, result in:

(1) Cancellation of the policy;

(2) Assignment of production to units by us; or

(3) A determination that no indemnity is due.

(c) Any person designated by us will, at any time during the record retention period, have access:

(1) To any records relating to this insurance at any location where such records may be found or maintained; and

(2) To the farm.

(d) By applying for insurance under the Act or by continuing insurance previously applied for, you authorize us, or any person acting for us, to obtain records relating to the insured crop from any person who may have custody of those records including, but not limited to, county FSA offices, banks, warehouses, gins, cooperatives, marketing associations, accountants, etc. You must assist us in obtaining all records which we request from third parties.

19. *Other Insurance.* (a) Other Like Insurance.

You must not obtain any other crop insurance issued under the authority of the Act on your share of the insured crop. If we determine that more than one policy on your share is intentional, you may be subject to the fraud provisions under this policy. If we determine that the violation was not intentional, the policy with the earliest date of application will be in force and all other policies will be void. Nothing in section 19(a) of these Basic Provisions prevents you from obtaining other insurance not issued under the Act.

(b) Other Insurance Against Fire.

If you have other insurance, whether valid or not, against damage to the insured crop by fire during the insurance period, we will be liable for loss for the smaller of:

(1) The amount of indemnity determined pursuant to this policy without regard to any other insurance; or

(2) The amount by which the loss is determined to exceed the indemnity paid or payable under such other insurance.

For the purpose of section 19(b)(2) of these Basic Provisions, the amount of loss will be the reduction in revenue of the insured crop on the unit involved determined pursuant to this policy.

20. *Conformity To Food Security Act.* Although your violation of a number of federal statutes, including the Act, may cause cancellation, termination, or voidance of your insurance contract, you should be aware that your policy will be canceled if you are determined to be ineligible to receive benefits under the Act, due to violation of the Controlled Substance Provision (title XVII) of the Food Security Act of 1985 (Pub. L. 99–198) and the regulations promulgated under the Act by the United States Department of Agriculture. Your insurance policy will be canceled if you are determined, by the appropriate United States Government Agency, to be in violation of these provisions. We will recover any and all monies paid to you or received by you and your premium will be refunded less a reasonable amount for expenses and handling not to exceed 20 percent of the premium paid.

21. *Amounts Due Us.* (a) Interest will accrue at the rate of 1.25 percent simple interest per calendar month, or any part thereof, on any unpaid amount due us. For the purpose of premium amounts due us, interest will start on the first day of the month following the premium billing date specified in the Special Provisions.

(b) For the purpose of any other amounts due us, such as repayment of indemnities found not to have been earned, interest will start on the date that notice is issued to you for the collection of the unearned amount. Amounts found due under section 21(b) of these Basic Provisions will not be charged interest if payment is made within 30 days of issuance of the notice by us. The amount will be considered delinquent if not paid within 30 days of the date the notice is issued by us.

(c) All amounts paid will be applied first to expenses of collection (see section 21(d) of these Basic Provisions), if any, second, to the reduction of accrued interest, and then to the principal balance.

(d) If we determine that it is necessary to contract with a collection agency or to employ an attorney to assist in collection, you agree to pay all of the expenses of collection. Those expenses will be paid before the application of any amounts to interest or principal.

22. *Legal Action Against Us.* You may not bring legal action against us unless you have complied with all of the policy provisions.

23. *Payment And Interest Limitations.* We will pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment of a court of competent jurisdiction, from and including the 61st day after the date you sign, date, and submit to us the properly completed claim on our form. Interest will be paid only if the reason for our failure to timely pay is NOT due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** semiannually on or about January 1 and July 1 of each year and may vary with each publication.

24. *Concealment, Misrepresentation Or Fraud.* This policy will be void in the event you have falsely or fraudulently concealed either the fact that you are restricted from receiving benefits under the Act or that action is pending which may restrict your eligibility to receive such benefits. We will also void this policy if you or anyone assisting you has intentionally concealed or misrepresented any material fact relating to this or any other FCIC or FCIC reinsured policy. This voidance will not affect your obligation to pay premiums or waive any of our rights under this policy, including the right to collect any amount due us. The voidance will be effective as of the time coverage began for the crop year within which such act occurred.

25. *Transfer of Coverage and Right to Indemnity.* If you transfer any part of your share during the crop year, you may transfer your coverage rights. The

transfer must be on our form and approved by us. Both you and the person to whom you transfer your interest are jointly and severally liable for the payment of the premium. The transferee has all rights and responsibilities under this policy consistent with the transferee's interest.

26. *Assignment of Indemnity.* You may assign to another party your right to an indemnity for the crop year. The assignment must be on our form and will not be effective until approved in writing by us. The assignee will have the right to submit all loss notices and forms as required by the policy.

27. *Subrogation (Recovery Of Loss From A Third Party).* Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve this right. If we pay you for your loss, your right to recovery will, at our option, belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

28. *Descriptive Headings.* The descriptive headings of the various policy provisions are formulated for convenience only and are not intended to affect the construction or meaning of any of the policy provisions.

29. *Notices.* All notices required to be given by you must be in writing and received by your crop insurance agent within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice. If the date by which you are required to submit a report or notice falls on Saturday, Sunday, or a Federal holiday, or, if your agent's office is, for any reason, not open for business on the date you are required to submit such notice or report, such notice or report must be submitted on the next business day. All notices and communications required to be sent by us to you will be mailed to the address contained in your records located with your crop insurance agent. You should advise us immediately of any change of address.

Crop Revenue Coverage

Cotton Crop Provisions

This is a risk management program. This risk management tool may be reinsured under the authority provided by section 508 (h) of the Federal Crop Insurance Act. If a conflict exists among the Crop Revenue Coverage Basic Provisions, these Cotton Crop Provisions, and the Special Provisions, the Special Provisions will control these Cotton Crop Provisions and the Basic Provisions; and these Cotton Crop Provisions will control the Basic Provisions.

1. Definitions

(a) Base price—Refer to the definition contained in the Commodity Exchange Endorsement—Cotton.

(b) Calculated revenue—The production to count multiplied by the Harvest Price.

(c) Cotton—Varieties identified as American Upland Cotton.

(d) Days—Calendar days.

(e) Final guarantee—The number of dollars guaranteed per acre determined to be the higher of the Minimum Guarantee or the Harvest Guarantee, where:

(1) Minimum guarantee—The approved yield per acre, multiplied by the Base Price, multiplied by the coverage level percentage you elect.

(2) Harvest guarantee—The approved yield per acre, multiplied by the Harvest Price, multiplied by the coverage level percentage you elect.

(f) Final planting date—The date contained in the Special Provisions for the insured crop by which the crop must initially be planted in order to be insured for the full Final Guarantee.

(g) Good farming practices—The cultural practices generally in use in the county for the insured crop to make normal progress toward maturity and produce at least the yield used to determine the Final Guarantee and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the area.

(h) Growth area—A geographic area designated by the Secretary of Agriculture for the purpose of reporting cotton prices.

(i) Harvest—The removal of the seed cotton from the open cotton boll, or the severance of the open cotton boll from the stalk by either manual or mechanical means.

(j) Harvest price—Refer to the definition contained in the Commodity Exchange Endorsement—Cotton.

(k) Interplanted—Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

(l) Irrigated practice—A method of producing a crop by which water is artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated Final Guarantee on the irrigated acreage planted to the insured crop.

(m) Late planted—Acreage planted to cotton during the late planting period.

(n) Late planting period—The period that begins the day after the final planting date for the insured crop and ends 25 days after the final planting date.

(o) Mature cotton—Cotton that can be harvested either manually or mechanically.

(p) Planted acreage—Land in which seed has been placed by a machine appropriate for the insured crop and planting method, at the correct depth, into a seedbed which has been properly prepared for the planting method and production practice. Cotton must be planted in rows to be considered planted. Planting in any other manner will be considered as a failure to follow recognized good farming practices and any loss of production will not be insured unless otherwise provided by the Special Provisions to insure such crop. The yield conversion factor normally applied to non-irrigated skip-row cotton acreage will not be used if the land between the rows of cotton is planted to any other spring planted crop.

(q) Practical to replant—In lieu of section 1 ''Practical to replant'' of the Basic Provisions, practical to replant is defined as our determination, after loss or damage to the insured crop, based on factors including, but not limited to moisture availability, condition of the field, time to crop maturity, and marketing window, that replanting the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period. It will not be considered practical to replant after the end of the late planting period unless replanting is generally occurring in the area.

(r) Prevented planting—Inability to plant the insured crop with proper equipment by the final planting date designated in the Special Provisions for the insured crop in the county or the end of the late planting period. You must have been unable to plant the insured crop due to an insured cause of loss that has prevented the majority of producers in the surrounding area from planting the same crop.

(s) Prevented planting guarantee—The Prevented Planting Guarantee for such acreage will be that percentage of the Final Guarantee for timely planted acres as set forth in section 12(d).

(t) Replanting—Performing the cultural practices necessary to replace the cotton seed, and replacing the seed in the insured acreage with the

expectation of growing a successful crop.

(u) Skip-row—A planting pattern that:

(1) Consists of alternating rows of cotton and fallow land or land planted to another crop the previous fall; and

(2) Qualifies as a skip-row planting pattern as defined by the FSA or successor agency.

(v) Timely planted—Planted on or before the final planting date designated in the Special Provisions for the insured crop in the county.

2. Unit Division

Unless limited by the Special Provisions, a unit as defined in section 1 (Definitions—Unit) of the Basic Provisions, may be divided into optional units if, for each optional unit, you meet all the conditions of this section. All optional units must be reflected on the acreage report for each crop year.

(a) You must have records, which can be independently verified, of planted acreage and production for each optional unit for at least the last crop year used to determine your Final Guarantee;

(b) You must plant the crop in a manner that results in a clear and discernable break in the planting pattern at the boundaries of each optional unit;

(c) You must have records of marketed production or measurement of stored production from each optional unit maintained in such a manner that we can verify the production from each optional unit, or the production from each optional unit must be kept separate until after loss adjustment under the policy is completed; and

(d) Each optional unit must meet one or more of the following criteria as applicable:

(1) Optional Units by Section, Section Equivalent, or FSA Farm Serial Number: Optional units may be established if each optional unit is located in a separate legally identified section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to: Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands as equivalent of sections for unit purposes. In areas which have not been surveyed using the systems identified above, or another system approved by us, or in areas where such systems exist but boundaries are not readily discernable, each optional unit must be located in a separate farm identified by a single FSA farm serial number.

(2) Optional Units on Acreage Including Both Irrigated and Non-irrigated Practices: In addition to, or instead of, establishing optional units by section, section equivalent, or FSA farm serial number, optional units may be based on irrigated acreage or non-irrigated acreage if both are located in the same section, section equivalent, or FSA farm serial number. To qualify as separate irrigated and non-irrigated optional units, the non-irrigated acreage may not continue into the irrigated acreage in the same rows or planting pattern. The irrigated acreage may not extend beyond the point at which your irrigation system can deliver the quantity of water needed to produce the yield on which your Final Guarantee is based, except the corners of a field in which a center-pivot irrigation system is used will be considered as irrigated acreage if separate acceptable records of production from the corners are not provided. If the corners of a field in which a center-pivot irrigation system is used do not qualify as a separate non-irrigated optional unit, they will be a part of the unit containing the irrigated acreage. However, non-irrigated acreage that is not a part of a field in which a center-pivot irrigation system is used may quality as a separate optional unit provided that all requirements of this section are met.

Basic units may not be divided into optional units on any basis including, but not limited to: production practice, type, variety, or planting period, other than as described above. If you do not comply fully with these provisions, we will combine all optional units which are not in compliance with these provisions into the unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions on all optional units is determined to be inadvertent, and the optional units are combined, premium paid for the purpose of electing optional units will be refunded to you.

3. Coverage Level, Insurance Guarantee, Prices for Determining Indemnity

In addition to the requirements of section 3 (Coverage Level, Insurance Guarantee, Prices for Determining Indemnity) of the Basic Provisions all the insurable acreage of each crop in the county insured as cotton under this policy will have the same coverage level election.

4. Contract Changes

The contract change date is December 31 preceding the cancellation date (see the provisions of section 4 (Contract Changes) of the Basic Provisions).

5. Cancellation and Termination Dates

In accordance with section 2(f) (Life of Policy, Cancellation, and Termination) of the Basic Provisions, the cancellation and termination dates are:

State and county	Cancellation and termination dates
Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof.	February 15.
Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; South Carolina; El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagon, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, and Cooke Counties, Texas counties lying south and east thereof to and including Terrell, Crocket, Sutton, Kimble, Gillespie, Blanco, Comal, Guadalupe, Gonzales, De Witt, Lavaca, Colorado, Wharton, and Matagorda Counties, Texas.	February 28.
All other Texas counties and all other states.	March 15.

6. Insured Crop

In accordance with section 8 (Insured Crop) of the Basic Provisions, the crop insured will be all the cotton lint, in the county for which premium rates are provided by the County Actuarial Table:

(a) In which you have a share; and

(b) That is not (unless allowed by the Special Provisions):

(1) Colored cotton lint;

(2) Planted into an established grass or legume;

(3) Interplanted with another spring planted crop;

(4) Grown on acreage from which a hay crop was harvested in the same calendar year unless the acreage is irrigated; or

(5) Grown on acreage on which a small grain crop reached the heading stage in the same calendar year unless the acreage is irrigated or adequate measures are taken to terminate the small grain crop prior to heading and less than 50 percent of the small grain plants reach the heading stage.

7. Insurable Acreage

In addition to the provisions of section 9 (Insurable Acreage) of the Basic Provisions:

(a) The acreage insured will be only the land occupied by the rows of cotton when a skip row planting pattern is utilized; and

(b) Any acreage of the insured crop damaged before the final planting date, to the extent that the remaining stand will not produce at least 90 percent of the Minimum Guarantee, must be replanted unless we agree that replanting is not practical (see section 1 ''Practical to replant'').

8. Insurance Period

(a) In lieu of section 11(b) (harvest of the unit) of the Basic Provisions, insurance will end upon the removal of the cotton from the field.

(b) In accordance with the provisions under section 11 (Insurance Period) of the Basic Provisions, the calendar date for the end of the insurance period is the date immediately following planting as follows:

(1) September 30 in Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof;

(2) January 31 in Arizona, California, New Mexico, Oklahoma, and all other Texas counties; and

(3) December 31 in all other states.

9. Causes of Loss

In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions, insurance is provided only against an unavoidable loss of revenue due to the following causes of loss which occur within the insurance period:

(a) Adverse weather conditions;

(b) Fire;

(c) Insects, but not damage due to insufficient or improper application of pest control measures;

(d) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(e) Wildlife;

(f) Earthquake;

(g) Volcanic eruption;

(h) Failure of the irrigation water supply, if applicable, due to an unavoidable cause of loss occurring within the insurance period; or

(i) A Harvest Price that is less than the Base Price.

10. Duties in the Event of Damage or Loss

(a) In addition to your duties under section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions, in the event of damage or loss:

(1) The cotton stalks must remain intact for our inspection; and

(2) If you initially discover damage to the insured crop within 15 days of harvest, or during harvest, you must leave representative samples of the unharvested crop in the field for our inspection. The samples must be at least 10 feet wide and extend the entire length of each field in the unit.

(b) The stalks must not be destroyed, and required samples must not be harvested, until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed and written notice of probable loss given to us.

11. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide records of production:

(1) For any optional unit, we will combine all optional units for which acceptable records of production were not provided; or

(2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim on any unit by:

(1) Multiplying the insured acreage by the Final Guarantee;

(2) Subtracting the Calculated Revenue from the result of section 11(b)(1); and

(3) Multiplying the result by your share.

If the result of 11(b)(3) is greater than zero, an indemnity will be paid. If the result of section 11(b)(3) is less than zero, no indemnity will be paid.

(c) The total production (in pounds) to count from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than that amount of production that when multiplied by the Harvest Price equals the Final Guarantee for the acreage:

(A) That is abandoned;

(B) Put to another use without our consent;

(C) Damaged solely by uninsured causes;

(D) For which you fail to provide records of production that are acceptable to us; or

(E) in violation of section 10;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production (mature unharvested production of white cotton may be adjusted for quality deficiencies in accordance with section 11(d)); and

(iv) You want to put to another use or you wish to abandon or no longer care for, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end if you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) We may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or you fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) All harvested production from the insurable acreage, including any mature cotton retrieved from the ground.

(d) Mature white cotton may be adjusted for quality when production has been damaged by insured causes. Such production to count will be reduced if the price quotation for cotton of like quality (price quotation ''A'') for the applicable growth area is less than 75 percent of price quotation ''B''. Price quotation ''B'' is defined as the price quotation for the applicable growth area for cotton of the color and leaf grade, staple length, and micronaire reading designated in the Special Provisions for this purpose. Price quotations ''A'' and ''B'' will be the price quotations contained in the Daily Spot Cotton Quotations published by the USDA Agricultural Marketing Service on the date the last bale from the unit is classed. If the date the last bale classed is not available, the price quotations will be determined on the date the last bale from the unit is delivered to the warehouse, as shown on the producer's account summary obtained from the gin. If eligible for adjustment, the amount of production to be counted will be determined by multiplying the number

of pounds of such production by the factor derived from dividing price quotation ''A'' by 75 percent of price quotation ''B''.

(e) Colored cotton lint will not be eligible for quality adjustment.

12. Late Planting and Prevented Planting

(a) In lieu of provisions contained in the Basic Provisions regarding acreage initially planted after the final planting date and the applicability of a late planting agreement option, insurance will be provided for acreage planted to the insured crop during the late planting period (see section 12(c)), and acreage you were prevented from planting (see section 12(d)). These coverages provide reduced guarantees. The reduced guarantees will be combined with the Final Guarantee for timely planted acreage for each unit. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for late planted acreage or prevented planting acreage exceeds the liability on such acreage, coverage for those acres will not be provided (no premium will be due and no indemnity will be paid for such acreage). (For example, assume you insure one unit in which you have a 100 percent share. The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the Final Guarantee for the unit will be computed as follows:

(1) For timely planted acreage, multiply the per acre Final Guarantee for timely planted acreage by the 50 acres planted timely;

(2) For late planted acreage, multiply the per acre Final Guarantee for timely planted acreage by 93 percent and multiply the result by the 50 acres planted late; and

(3) For prevented planting acreage, multiply the per acre Final Guarantee for timely planted acreage by:

(i) Thirty-five percent and multiply the result by the 50 acres you were prevented from planting, if the acreage is eligible for prevented planting coverage, and if the acreage is left idle for the crop year, or if a cover crop is planted not for harvest. Prevented planting compensation hereunder will not be denied because the cover crop is hayed or grazed; or

(ii) Seventeen and five tenths percent and multiply the result by the 50 acres you were prevented from planting, if the acreage is eligible for prevented planting coverage, and if you elect to plant a substitute crop for harvest after the 10th day following the final planting date for the insured crop. (This section 12(a)(3)(ii) is not applicable, and prevented planting coverage is not available hereunder, if you elected to exclude prevented planting coverage when a substitute crop is planted (see section 12(d)(1)(iii))).

The total of the three calculations will be the Final Guarantee for the unit. Your premium will be based on the result of multiplying the per acre Minimum Guarantee for timely planted acreage by the 150 acres in the unit.

(b) If you were prevented from planting, you must provide written notice to us not later than the acreage reporting date.

(c) Late Planting

(1) For cotton acreage planted after the final planting date but on or before 25 days after the final planting date, the Final Guarantee for each acre will be reduced for each day planted after the final planting date by:

(i) One percent for the first through the tenth day; and

(ii) Two percent for the eleventh through the twenty-fifth day.

(2) In addition to the requirements of section 6 (Report of Acreage) of the Basic Provisions, you must report the dates the acreage is planted within the late planting period.

(3) If planting of cotton continues after the final planting date, or you are prevented from planting during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Special Provisions; or

(ii) Five (5) days after the end of the late planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period).

(1) If you were prevented from planting cotton (see section 1 ''Coverage'') you may elect:

(i) To plant cotton during the late planting period. The Final Guarantee for such acreage will be determined in accordance with section 12(c)(1);

(ii) Not to plant this acreage to any crop except a cover crop not for harvest. You may also elect to plant the insured crop after the late planting period. In either case, the Final Guarantee for such acreage will be 35 percent of the Final Guarantee for timely planted acres. For example, if your Final Guarantee for timely planted acreage is 500 dollars per acre, your Prevented Planting Guarantee would be 175 dollars per acre (500 dollars multiplied by 0.35). If you elect to plant the insured crop after the late planting period, production to count for such acreage will be determined in accordance with sections 11(c) and (d); or

(iii) Not to plant the intended crop but plant a substitute crop for harvest, in which case:

(A) No Prevented Planting Guarantee will be provided for such acreage if the substitute crop is planted on or before the tenth day following the final planting date for the insured crop; or

(B) A Final Guarantee equal to 17.5 percent of the Final Guarantee for timely planted acres will be provided for such acreage, if the substitute crop is planted after the tenth day following the final planting date for the insured crop. (If you elected to exclude this coverage, and plant a substitute crop, no prevented planting coverage will be provided. For example, if your Final Guarantee for timely planted acreage is 500 dollars per acre, your Prevented Planting Guarantee would be 87.50 dollars per acre (500 dollars multiplied by 0.175). You may elect to exclude prevented planting coverage when a substitute crop is planted for harvest and receive a reduction in the applicable premium rate. If you wish to exclude this coverage, you must so indicate, on or before the sales closing date, on your application or on a form approved by us. Your election to exclude this coverage will remain in effect from year to year unless you notify us in writing on our form by the applicable sales closing date for the crop year for which you wish to include this coverage. All acreage of the crop insured under this policy will be subject to this exclusion.

(2) Proof may be required that you had the inputs available to plant and produce the intended crop with the expectation of at least producing the Final Guarantee.

(3) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions, the insurance period for prevented planting coverage begins:

(i) On the sales closing date contained in the Special Provisions for the insured crop in the county for the crop year the application for insurance is accepted; or

(ii) For any subsequent crop year, on the sales closing date for the insured crop in the county for the previous crop year, provided continuous coverage has been in effect since that date. For example: If you make application and purchase a cotton crop insurance policy for the 1997 crop year, prevented planting coverage will begin on the 1997 sales closing date for the cotton crop in the county. If the cotton coverage

remains in effect for the 1998 crop year (is not terminated or canceled during or after the 1997 crop year, except the policy may have been canceled to transfer the policy to a different insurance provider, if there is no lapse in coverage), prevented planting coverage for the 1998 crop year began on the 1997 sales closing date.

(4) The acreage to which prevented planting coverage applies will not exceed the total eligible acreage on all FSA farm serial numbers in which you have a share, adjusted for any reconstitution that may have occurred on or before the sales closing date. Eligible acreage for each FSA farm serial number is determined as follows:

(i) If you participate in any program administered by the USDA that limits the number of acres that may be planted for the crop year, the acreage eligible for prevented planting coverage will not exceed the total acreage permitted to be planted to the insured crop.

(ii) If you do not participate in any program administered by the USDA that limits the number of acres that may be planted, and unless we agree in writing on or before the sales closing date, eligible acreage will not exceed the greater of:

(A) The FSA base acreage for the insured crop, including acres that could be flexed from another crop, if applicable;

(B) The number of acres planted to cotton on the FSA farm serial number during the previous crop year; or

(C) One hundred percent of the simple average of the number of acres planted to cotton during the crop years that you certified to determine your yield.

(iii) Acreage intended to be planted under an irrigated practice will be limited to the number of acres for which you had adequate irrigation facilities prior to the insured cause of loss which prevented you from planting.

(iv) Prevented planting coverage will not be provided for any acreage:

(A) That does not constitute at least 20 acres or 20 percent of the acreage in the unit, whichever is less (Acreage that is less than 20 acres or 20 percent of the acreage in the unit will be presumed to have been intended to be planted to the insured crop planted in the unit, unless you can show that you had the inputs available before the final planting date to plant and produce another insured crop on the acreage);

(B) For which the County Actuarial Table does not designate a premium rate;

(C) Used for conservation purposes or intended to be left unplanted under any program administered by the USDA;

(D) On which another crop is prevented from being planted, if you have already received a prevented planting indemnity, guarantee or amount of insurance for the same acreage in the same crop year, unless you provide adequate records of acreage and production showing that the acreage has a history of double-cropping in each of the last four years;

(E) On which the insured crop is prevented from being planted, if any other crop is planted and fails, or is planted and harvested, hayed or grazed on the same acreage in the same crop year (other than a cover crop as specified in section 12(a)(3)(i), or a substitute crop allowed in section 12(a)(3)(ii) unless you provide adequate records of acreage and production showing that the acreage has a history of double-cropping in each of the last four years; or

(F) For which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes.

(v) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of cotton acres timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent share. The acreage is located in a single FSA farm serial number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of cotton on one optional unit and 40 acres of cotton on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero).

(5) In accordance with the provisions of section 6 (Report of Acreage) of the Basic Provisions, you must report by unit any insurable acreage that you were prevented from planting. This report must be submitted on or before the acreage reporting date. For the purpose of determining acreage eligible for a Prevented Planting Guarantee, the total amount of prevented planting and planted acres cannot exceed the maximum number of acres eligible for prevented planting coverage. Any acreage you report in excess of the number of acres eligible for prevented planting coverage, or that exceeds the number of eligible acres physically located in a unit, will be deleted from your acreage report.

Crop Revenue Coverage Insurance Policy

Coarse Grains Crop Provisions

This is a risk management program. This risk management tool may be reinsured under the authority provided by section 508(h) of the Federal Crop Insurance Act. If a conflict exists among the Crop Revenue Coverage Basic Provisions, these Coarse Grains Crop Provisions, and the Special Provisions, the Special Provisions will control these Coarse Grains Crop Provisions and the Basic Provisions and these Coarse Grains Crop Provisions will control the Basic Provisions.

1. Definitions

(a) Base price—Refer to the definition contained in the Commodity Exchange Endorsement—Coarse Grains.

(b) Calculated revenue—The production to count multiplied by the Harvest Price.

(c) Coarse grains—Corn, grain sorghum, and soybeans.

(d) Days—Calendar days.

(e) Final guarantee—The number of dollars guaranteed per acre determined to be the higher of the Minimum Guarantee or the Harvest Guarantee, where:

(1) Minimum Guarantee—the Approved Yield per acre multiplied by the Base Price multiplied by the coverage level percentage you elect.

(2) Harvest Guarantee—the Approved Yield per acre multiplied by the Harvest Price, multiplied by the coverage level percentage you elect.

(f) Final planting date—The date contained in the Special Provisions for the insured crop by which the crop must initially be planted in order to be insured for the full Final Guarantee.

(g) Good farming practices—Good farming practices are the cultural practices generally in use in the county for the insured crop to make normal progress toward maturity and produce at least the yield used to determine the Final Guarantee and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the area.

(h) Grain sorghum—The crop defined as sorghum under the United States Grain Standards Act.

(i) Harvest—Combining, threshing, or picking the insured crop for grain.

(j) Harvest price—Refer to the definition contained in the Commodity Exchange Endorsement—Coarse Grains.

(k) Interplanted—Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

(l) Irrigated practice—A method of producing a crop by which water is artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated Final Guarantee on the irrigated acreage planted to the insured crop.

(m) Late planted—Acreage planted to the insured crop during the late planting period.

(n) Late planting period—The period that begins the day after the final planting date for the insured crop and ends 25 days after the final planting date.

(o) Local market price—The cash grain price per bushel for U.S. No. 2 yellow corn, U.S. No. 2 grain sorghum, or U.S. No. 1 soybeans, offered by buyers in the area in which you normally market the insured crop. The local market price will reflect the maximum limits of quality deficiencies allowable for the U.S. No. 2 grade for yellow corn and grain sorghum, or U.S. No. 1 grade for soybeans. Factors not associated with grading under the Official United States Standards for Grain, including but not limited to protein and oil, will not be considered.

(p) Planted acreage—Land in which seed has been placed by a machine appropriate for the insured crop and planting method, at the correct depth, into a seedbed which has been properly prepared for the planting method and production practice. Coarse grains must initially be planted in rows to be considered planted. Corn must be planted in rows far enough apart to permit mechanical cultivation. Planting in any other manner will be considered as a failure to follow recognized good farming practices and any loss of production will not be insured unless otherwise provided by the Special Provisions.

(q) Practical to replant—In lieu of section 1(kk) of the Basic Provisions, practical to replant is defined as our determination, after loss or damage to the insured crop, based on factors including, but not limited to moisture availability, condition of the field, time to crop maturity, and marketing window, that replanting the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period. It will not be considered practical to replant after the end of the late planting period unless replanting is generally occurring in the area.

(r) Prevented planting—Inability to plant the insured crop with proper equipment by the final planting date designated in the Special Provisions for the insured crop in the county or the end of the late planting period. You must have been unable to plant the insured crop due to an insured cause of loss that has prevented the majority of producers in the surrounding area from planting the same crop.

(s) Prevented planting guarantee—The Prevented Planting Guarantee for such acreage will be that percentage of the Final Guarantee for timely planted acres as set forth in section 13(d).

(t) Replanting—Performing the cultural practices necessary to replace the seed of the same insured crop, and replacing the seed for the same crop in the insured acreage with the expectation of growing a successful crop.

(u) Silage—A product that results from severing the plant from the land and chopping it for the purpose of livestock feed.

(v) Timely planted—Planted on or before the final planting date designated in the Special Provisions for the insured crop in the county.

2. Unit Division

Unless limited by the Special Provisions, a unit as defined in section 1(xx) of the Basic Provisions, may be divided into optional units if, for each optional unit you meet all the conditions of this section. All optional units must be reflected on the acreage report for each crop year.

(a) You must have records, which can be independently verified, of planted acreage and production for each optional unit for at least the last crop year used to determine your Final Guarantee;

(b) You must plant the crop in a manner that results in a clear and discernable break in the planting pattern at the boundaries of each optional unit;

(c) You must have records of marketed production or measurement of stored production from each optional unit maintained in such a manner that we can verify the production from each optional unit or the production from each unit must be kept separate until after loss adjustment under the policy is completed; and

(d) Each optional unit must meet one or more of the following criteria as applicable:

(1) Optional Units by Section, Section Equivalent, or FSA Farm Serial Number: Optional units may be established if each optional unit is located in a separate legally identified section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to: Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands as the equivalent of sections for unit purposes. In areas which have not been surveyed using the systems identified above or another system approved by us, or in areas where such systems exist but boundaries are not readily discernable, each optional unit must be located in a separate farm identified by a single FSA farm serial number.

(2) Optional Units on Acreage Including Both Irrigated and Non-Irrigated Practices: In addition to, or instead of, establishing optional units by section, section equivalent, or FSA farm serial number, optional units may be based on irrigated acreage or non-irrigated acreage if both are located in the same section, section equivalent, or FSA farm serial number. To qualify as separate irrigated and non-irrigated optional units, the non-irrigated acreage may not continue into the irrigated acreage in the same rows or planting pattern. The irrigated acreage may not extend beyond the point at which your irrigation system can deliver the quantity of water needed to produce the yield on which your Final Guarantee is based, except the corners of a field in which a center-pivot irrigation system is used will be considered as irrigated acreage if separate acceptable records of production from the corners are not provided. If the corners of a field in which a center-pivot irrigation system is used do not qualify as a separate non-irrigated optional unit, they will be a part of the unit containing the irrigated acreage. However, non-irrigated acreage that is not a part of a field in which a center-pivot irrigation system is used may quality as a separate optional unit provided that all requirements of this section are met.

Basic units may not be divided into optional units on any basis including, but not limited to: production practice, type, variety, or planting period, other than as described above. If you do not comply fully with these provisions, we will combine all optional units which are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions on all optional units is determined to be inadvertent, and the optional units are combined, premium paid for the purpose of electing optional units will be refunded to you.

3. Coverage Level, Insurance Guarantee, Prices for Determining Indemnity

In addition to the requirements of section 3 (Coverage Level, Insurance

Guarantee, Prices for Determining Indemnity) of the Basic Provisions all the insurable acreage of each crop in the county insured as grain under this policy will have the same coverage level election.

4. Contract Changes

The contract change date is December 31 preceding the cancellation date (see the provisions of section 4 (Contract Changes) of the Basic Provisions).

5. Cancellation and Termination Dates

In accordance with section 2(f) (Life of Policy, Cancellation, and Termination) of the Basic Provisions, the cancellation and termination dates are:

State and county	Cancellation and termination dates
(a) For corn and grain sorghum:	
Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof.	January 15.
El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagan, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, Cooke Counties, Texas, and all Texas counties lying south and east thereof to and including Terrell, Crockett, Sutton, Kimble, Gillespie, Blanco, Comal, Guadalupe, Gonzales, De Witt, Lavaca, Colorado, Wharton, and Matagorda Counties, Texas.	February 15.
Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; and South Carolina.	February 28.
All other Texas counties and all other States	March 15.
(b) For soybeans:	
Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, LaSalle, and Dimmit Counties, Texas and all Texas counties lying south thereof.	February 15.
Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; and South Carolina; and El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagan, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, Cooke Counties, Texas, and all Texas counties lying south and east thereof to and including Maverick, Zavala, Frio, Atascosa, Karnes, De Witt, Lavaca, Colorado, Wharton, and Matagorda Counties, Texas.	February 28.
All other Texas counties and all other States	March 15.

6. Insured Crop.

(a) In accordance with section 8 (Insured Crop) of the Basic Provisions, the crop insured will be each coarse grain crop you elect to insure for which premium rates and prices are provided by the County Actuarial Table:

(1) In which you have a share;

(2) That is adapted to the area based on days to maturity and is compatible with agronomic and weather conditions in the area, including air seeded soybeans subject to our approval;

(3) That is not (unless allowed by the Special Provisions):

(i) Interplanted with another crop; or

(ii) Planted into an established grass or legume; and

(4) Planted for harvest as grain.

(b) For corn only, in addition to the provisions of section 6(a), the corn crop insured will be all corn that is yellow dent or white corn, including mixed yellow and white, waxy, high-lysine corn, high-oil corn blends containing mixtures of at least ninety percent high yielding yellow dent female plants with high-oil male pollinator plants, commercial varieties of high-protein hybrids, and excluding:

(1) High-amylose, high-oil except as defined in section 6(b), flint, flour, Indian, or blue corn, or a variety genetically adapted to provide forage for wildlife or any other open pollinated corn.

(2) A variety of corn adapted for silage use when the corn is reported for insurance as grain.

(c) For grain sorghum only, in addition to the provisions of section 6(a), the grain sorghum crop insured will be all of the grain sorghum in the county:

(1) That is planted for harvest as grain;

(2) That is a combine-type hybrid grain sorghum (grown from hybrid seed); and

(3) That is not a dual-purpose type of grain sorghum (a type used for both grain and forage).

(d) For soybeans only, in addition to the provisions of section 6(a), the soybean crop insured will be all of the soybeans in the county that are planted for harvest as beans.

7. Insurable Acreage

In addition to the provisions of section 9 (Insurable Acreage) of the Basic Provisions, any acreage of the insured crop damaged before the final planting date, to the extent that the remaining stand will not produce at least 90 percent of the Minimum Guarantee, must be replanted unless we agree that replanting is not practical (see section 1 ''County actuarial table'').

8. Insurance Period

In accordance with the provisions under section 11 (Insurance Period) of the Basic Provisions, the calendar date for the end of the insurance period is the date immediately following planting as follows:

(a) For corn insured as grain:	
(1) Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof..	September 30.
(2) Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Pierce, Skagit, Snohomish, Thurston, Wahkiakum, and Whatcom Counties, Washington.	October 31.
(3) All other counties and states	December 10.
(b) For grain sorghum:	
(1) Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof..	September 30.
(2) All other Texas counties and all other states	December 10.
(c) For soybeans: All states	December 10.

9. Causes of Loss

In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions insurance is provided only against an unavoidable loss of revenue due to the following causes of loss which occur within the insurance period:

(a) Adverse weather conditions;

(b) Fire;

(c) Insects, but not damage due to insufficient or improper application of pest control measures;

(d) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(e) Wildlife;

(f) Earthquake;

(g) Volcanic eruption;

(h) Failure of the irrigation water supply, if applicable, due to an unavoidable cause of loss occurring within the insurance period; or

(i) A Harvest Price that is less than the Base Price.

10. Replanting Payments

(a) In accordance with section 13 (Replanting Payment) of the Basic Provisions, replanting payments for coarse grains are allowed if the coarse grains are damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the Minimum Guarantee for the acreage and it is practical to replant (see section 1 ''Practical to replant'').

(b) The maximum amount of the replanting payment per acre will be the lesser of 20 percent of the Minimum Guarantee or the number of bushels set out herein, multiplied by the Base Price, multiplied by your insured share or the share determined under section 10(c), if applicable. The number of bushels are 8 bushels for corn grain; 7 bushels for grain sorghum; and 3 bushels for soybeans.

(c) When more than one person insures the same crop on a share basis, a replanting payment based on the total shares insured by us may be made to the insured person who incurs the total cost of replanting. Payment will be made in this manner only if an agreement exists between the insured persons which:

(1) Requires one person to incur the entire cost of replanting; or

(2) Gives the right to all replanting payments to one person.

(d) When the insured crop is replanted using a practice that is uninsurable as an original planting, the Revenue Guarantee for the unit will be reduced by the amount of the replanting payment which is attributable to your share. The premium amount will not be reduced.

11. Duties in the Event of Damage or Loss

In accordance with the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions, if you initially discover damage to any insured crop within 15 days of or during harvest, you must leave representative samples of the unharvested crop for our inspection. The samples must be at least 10 feet wide, extend the entire length of each field in the unit, and must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

12. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide records of production:

(1) For any optional unit, we will combine all optional units for which acceptable records of production were not provided; or

(2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim on any insured unit of Coarse Grains by:

(1) Multiplying the insured acreage of the crop by the Final Guarantee;

(2) Subtracting the Calculated Revenue from the result of section 12(b)(1); and

(3) Multiplying the result by your share.

If the result of 12(b)(3) is greater than zero, an indemnity will be paid. If the result of section 12(b)(3) is less than zero, no indemnity will be due.

(c) The total production in bushels to count from all insurable acreage for the crop on the unit will include:

(1) All appraised production as follows:

(i) Not less than that amount of production that when multiplied by the Harvest Price equals the Final Guarantee for the acreage:

(A) That is abandoned;

(B) Put to another use without our consent;

(C) Damaged solely by uninsured causes; or

(D) For which you fail to provide records of production that are acceptable to us;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production (mature unharvested production may be adjusted for quality deficiencies and excess moisture in accordance with section 12(d)); and

(iv) Potential production on insured acreage you want to put to another use or you wish to abandon and no longer care for, if you and we agree on the appraised amount of production. Upon such agreement the insurance period for that acreage will end if you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or you fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count.); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) All harvested production from the insurable acreage.

(d) Mature coarse grain production may be adjusted for excess moisture and quality deficiencies. If moisture adjustment is applicable it will be made prior to any adjustment for quality.

(1) Production will be reduced by 0.12 percent for each 0.1 percentage point of moisture in excess of:

(i) Fifteen percent for corn (If moisture exceeds 30 percent, production will be reduced 0.2 percent for each 0.1 percentage point above 30 percent);

(ii) Fourteen percent for grain sorghum; and

(iii) Thirteen percent for soybeans.

We may obtain samples of the production to determine the moisture content.

(2) Production will be eligible for quality adjustment if:

(i) Deficiencies in quality, in accordance with the Official United States Standards for Grain, result in:

(A) Corn not meeting the grade requirements for U.S. No. 4 (grades U.S. No. 5 or worse) because of test weight or kernel damage (excluding heat damage) or having a musty, sour, or commercially objectionable foreign odor;

(B) Grain sorghum not meeting the grade requirements for U.S. No. 4

(grades U.S. Sample grade) because of test weight or kernel damage (excluding heat damage) or having a musty, sour, or commercially objectionable foreign odor (except smut odor), or meets the special grade requirements for smutty grain sorghum; or

(C) Soybeans not meeting the grade requirements for U.S. No. 4 (grades U.S. Sample grade) because of test weight or kernel damage (excluding heat damage) or having a musty, sour, or commercially objectionable foreign odor (except garlic odor), or which meet the special grade requirements for garlicky soybeans; or

(ii) Substances or conditions are present that are identified by the Food and Drug Administration or other public health organizations of the United States as being injurious to human or animal health.

(3) Quality will be a factor in determining your loss only if:

(i) The deficiencies, substances, or conditions resulted from a cause of loss against which insurance is provided under these crop provisions;

(ii) All determinations of these deficiencies, substances, or conditions are made using samples of the production obtained by us or by a disinterested third party approved by us; and

(iii) The samples are analyzed by a grader licensed under the authority of the United States Grain Standards Act or the United States Warehouse Act with regard to deficiencies in quality, or by a laboratory approved by us with regard to substances or conditions injurious to human or animal health. (Test weight for quality adjustment purposes may be determined by our loss adjuster).

(4) Coarse grain production that is eligible for quality adjustment, as specified in sections 12(d)(2) and 12(d)(3), will be reduced by the quality adjustment factor contained in the Special Provisions.

(e) Any production harvested from plants growing in the insured crop may be counted as production of the insured crop on a weight basis.

13. Late Planting and Prevented Planting

(a) Insurance will be provided for acreage planted to the insured crop during the late planting period (see section 13(c)), and acreage you were prevented from planting (see section 13(d)). These coverages provide reduced guarantees. The reduced guarantees will be combined with the Final Guarantee for timely planted acreage for each unit. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for late planted acreage or prevented planting acreage exceeds the liability on such acreage, coverage for those acres will not be provided (no premium will be due and no indemnity will be paid for such acreage). (For example, assume you insure one unit in which you have a 100 percent share. The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the Final Guarantee for the unit will be computed as follows:

(1) For timely planted acreage, multiply the per acre Final Guarantee for timely planted acreage by the 50 acres planted timely;

(2) For late planted acreage, multiply the per acre Final Guarantee for timely planted acreage by 93 percent and multiply the result by the 50 acres planted late; and

(3) For prevented planting acreage, multiply the per acre Final Guarantee for timely planted acreage by:

(i) Fifty percent and multiply the result by the 50 acres you were prevented from planting, if the acreage is eligible for prevented planting coverage, and if the acreage is left idle for the crop year, or if a cover crop is planted not for harvest. Prevented planting compensation hereunder will not be denied because the cover crop is hayed or grazed; or

(ii) Twenty-five percent and multiply the result by the 50 acres you were prevented from planting, if the acreage is eligible for prevented planting coverage, and if you elect to plant a substitute crop for harvest after the 10th day following the final planting date for the insured crop. This subparagraph (ii) is not applicable and prevented planting coverage is not available hereunder, if you elected to exclude prevented planting coverage when a substitute crop is planted (see paragraph 13(d)(1)(iii)).

The total of the three calculations will be the Final Guarantee for the unit. Your premium will be based on the result of multiplying the per acre Minimum Guarantee for timely planted acreage by the 150 acres in the unit).

(b) If you were prevented from planting, you must provide written notice to us not later than the acreage reporting date.

(c) Late Planting

(1) For acreage planted to the insured crop after the final planting date but on or before 25 days after the final planting date, the Final Guarantee for each acre will be reduced for each day planted after the final planting date by:

(i) One percent for the first through the tenth day; and

(ii) Two percent for the eleventh through the twenty-fifth day.

(2) In addition to the requirements of section 6 (Report of Acreage) of the Basic Provisions, you must report the dates the acreage is planted within the late planting period.

(3) If planting of the insured crop continues after the final planting date, or you are prevented from planting during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Special Provisions for the insured crop; or

(ii) Five (5) days after the end of the late planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period).

(1) If you were prevented from planting the insured crop (see section 1 ''Coverage''), you may elect:

(i) To plant the insured crop during the late planting period. The Final Guarantee for such acreage will be determined in accordance with section 13(c)(1);

(ii) Not to plant this acreage to any crop except a cover crop not for harvest. You may also elect to plant the insured crop after the late planting period. In either case, the Final Guarantee for such acreage will be 50 percent of the Final Guarantee for timely planted acres. For example, if your Final Guarantee for timely planted acreage is 200 dollars per acre, your prevented planting guarantee would be 100 dollars per acre (200 dollars multiplied by 0.50). If you elect to plant the insured crop after the late planting period, production to count for such acreage will be determined in accordance with sections 12(c) through 12(e); or

(iii) Not to plant the intended crop but plant a substitute crop for harvest, in which case:

(A) No Prevented Planting Guarantee will be provided for such acreage if the substitute crop is planted on or before the tenth day following the final planting date for the insured crop; or

(B) A Final Guarantee equal to 25 percent of the Final Guarantee for timely planted acres will be provided for such acreage, if the substitute crop is planted after the tenth day following the final planting date for the insured crop. (If you elected to exclude this coverage, and plant a substitute crop, no

prevented planting coverage will be provided.) For example, if your Final Guarantee for timely planted acreage is 200 dollars per acre, your Prevented Planting Guarantee would be 50 dollars per acre (200 dollars multiplied by 0.25). You may elect to exclude prevented planting coverage when a substitute crop is planted for harvest and receive a reduction in the applicable premium rate. If you wish to exclude this coverage, you must so indicate, on or before the sales closing date, on your application or on a form approved by us. Your election to exclude this coverage will remain in effect from year to year unless you notify us in writing on our form by the applicable sales closing date for the crop year for which you wish to include this coverage. All acreage of the crop insured under this policy will be subject to this exclusion.

(2) Proof may be required that you had the inputs available to plant and produce the intended crop with the expectation of at least producing the Final Guarantee.

(3) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions, the insurance period for prevented planting coverage begins:

(i) On the sales closing date contained in the Special Provisions for the insured crop in the county for the crop year the application for insurance is accepted; or

(ii) For any subsequent crop year, on the sales closing date for the insured crop in the county for the previous crop year, provided continuous coverage has been in effect since that date. For example: If you make application and purchase insurance for corn for the 1997 crop year, prevented planting coverage will begin on the 1997 sales closing date for corn in the county. If the corn coverage remains in effect for the 1998 crop year (is not terminated or canceled during or after the 1997 crop year, except that the policy may have been cancelled to transfer the policy to a different insurance provider, if there is no lapse in coverage), prevented planting coverage for the 1998 crop year began on the 1997 sales closing date.

(4) The acreage to which prevented planting coverage applies will not exceed the total eligible acreage on all Farm Service Agency (FSA) Farm Serial Numbers in which you have a share, adjusted for any reconstitution that may have occurred on or before the sales closing date. Eligible acreage for each FSA Farm Serial Number is determined as follows:

(i) If you participate in any program administered by the United States Department of Agriculture that limits the number of acres that may be planted for the crop year, the acreage eligible for prevented planting coverage will not exceed the total acreage permitted to be planted to the insured crop.

(ii) If you do not participate in any program administered by the United States Department of Agriculture that limits the number of acres that may be planted, and unless we agree in writing on or before the sales closing date, eligible acreage will not exceed the greater of:

(A) The FSA base acreage for the insured crop, including acres that could be flexed from another crop, if applicable;

(B) The number of acres planted to the insured crop on the FSA Farm Serial Number during the previous crop year; or

(C) One hundred percent of the simple average of the number of acres planted to the insured crop during the crop years that you certified to determine your yield.

(iii) Acreage intended to be planted under an irrigated practice will be limited to the number of acres for which you had adequate irrigation facilities prior to the insured cause of loss which prevented you from planting.

(iv) Prevented planting coverage will not be provided for any acreage:

(A) That does not constitute at least 20 acres or 20 percent of the acreage in the unit, whichever is less (Acreage that is less than 20 acres or 20 percent of the acreage in the unit will be presumed to have been intended to be planted to the insured crop planted in the unit, unless you can show that you had the inputs available before the final planting date to plant and produce another insured crop on the acreage);

(B) For which the County Actuarial Table does not designate a premium rate;

(C) Used for conservation purposes or intended to be left unplanted under any program administered by the United States Department of Agriculture;

(D) On which another crop is prevented from being planted, if you have already received a prevented planting indemnity, or Final Guarantee for the same acreage in the same crop year, unless you provide adequate records of acreage and production showing that the acreage has a history of double-cropping in each of the last four years;

(E) On which the insured crop is prevented from being planted, if any other crop is planted and fails, or is planted and harvested, hayed or grazed on the same acreage in the same crop year, (other than a cover crop as specified in section 13(a)(3)(i), or a substitute crop allowed in section 13(a)(3)(ii)), unless you provide adequate records of acreage and production showing that the acreage has a history of double-cropping in each of the last four years; or

(F) For which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes.

(v) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of acres of the insured crop timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent share. The acreage is located in a single FSA farm serial number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of the insured crop on one optional unit and 40 acres of the insured crop on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e.,100 acres eligible for prevented planting coverage minus 100 acres planted equals zero).

(5) In accordance with the provisions of section 6 (Report of Acreage) of the Basic Provisions, you must report by unit any insurable acreage that you were prevented from planting. This report must be submitted on or before the acreage reporting date. For the purpose of determining acreage eligible for a Prevented Planting Guarantee, the total amount of prevented planting and planted acres cannot exceed the maximum number of acres eligible for prevented planting coverage. Any acreage you report in excess of the number of acres eligible for prevented planting coverage, or that exceeds the number of eligible acres physically located in a unit, will be deleted from your acreage report.

The terms and provisions for the 1997 CRC wheat program of insurance are as follows:

Crop Revenue Coverage Insurance Policy

(This is a continuous policy for the 1997–1998 crop years only. Refer to section 2.)

This policy is reinsured by the Federal Crop Insurance Corporation (FCIC) under the provisions of the Federal Crop Insurance Act, as amended (the Act)(7 U.S.C. 1501 et seq.). All the provisions of the policy and rights and responsibilities of the parties are specifically subject to the Act. The provisions of the policy may not be waived or varied in any way by the crop insurance agent or any other agent or employee of the Company. In the event

we cannot pay your loss, your claim will be settled in accordance with the provisions of this policy and paid by the FCIC. No state guarantee fund will be liable to pay your loss. Throughout this policy, ''you'' and ''your'' refer to the named insured shown on the accepted application and ''we'', ''us'' and ''our'' refer to the Company. Unless the context indicates otherwise, use of the plural form of a word includes the singular and use of the singular form of the word includes the plural.

Agreement To Insure: In return for the payment of the premium, and subject to all of the provisions of this policy, we agree with you to provide the insurance as stated in this policy. If a conflict exists between the Basic Provisions contained herein and the specific Crop Provisions, the Crop Provisions will control.

Basic Provisions

Terms and Conditions

1. *Definitions.* As used in this policy these terms are defined as follows:

(a) Abandon—Failure to continue providing sufficient care (For example, cultivation, irrigation, fertilization, application of chemicals, etc., consistent with good farming practices) for the insured crop to make normal progress toward harvest or maturity, or failure to harvest in a timely manner.

(b) Acreage report—A report required by section 6 of these basic provisions which contains, in addition to other required information, your report of your share of all acreage of an insured crop in the county whether insurable or not insurable. This report must be filed not later than the final acreage reporting date contained in the Special Provisions for the county for the insured crop.

(c) Acreage reporting date—The date (contained in the Special Provisions) by which you are required to submit your acreage reports.

(d) Another use, notice of—The written notice required when you wish to put acreage to another use (see section 14).

(e) Application—The form required to be completed by you and accepted by us before insurance coverage will commence. This form must be completed and filed in your agent's office not later than the sales closing date of the initial insurance year for each crop for which insurance coverage is requested. If a break in insurance coverage occurs, a new application must be filed.

(f) Approved yield—The average amount of production per acre obtained under the Actual Production History Program (7 CFR part 400, subpart G) using production records of the insured or yields assigned by FCIC. At least four crop years of yields must be averaged to obtain the approved yield.

(g) Assignment of indemnity—A transfer of policy rights, made on our form, and effective when approved by us. It is the arrangement whereby you assign your right to an indemnity payment to any party of your choice for the crop year.

(h) CRC revenue rate—A premium rate as set forth in the Crop Revenue Coverage (CRC) Factor Table used to calculate the risk associated with producing a level of production.

(i) CRC low price factor—A premium factor as set forth in the Crop Revenue Coverage (CRC) Factor Table used to calculate the risk associated with a decrease in the Harvest Price relative to the Base Price.

(j) CRC high price factor—A premium factor as set forth in the Crop Revenue Coverage (CRC) Factor Table used to calculate the risk associated with an increase in the Harvest Price relative to the Base Price.

(k) Cancellation date—The calendar date specified in each Crop Provision on which that Crop Provision will automatically renew unless canceled in writing by either you or us.

(l) Claim for indemnity—A claim made on our form by you for damage or loss to an insured crop and submitted to us not later than 60 days after the end of the insurance period (see section 14).

(m) Commodity exchange endorsement—An endorsement to the crop provisions that contains the specific price determination provisions of insurance for each insured crop.

(n) Consent—Approval in writing by us allowing you to take a specific action.

(o) Contract (also see Policy)—A contract for insurance between you and us consisting of the accepted Application, these Basic Provisions, the Crop Provisions, the Special Provisions, the County Actuarial Table for the insured crops, and the applicable regulations as published at 7 C.F.R. part 400.

(p) Contract change date—The calendar date by which we make any contract (policy language or program date) changes available for inspection in the agent's office (see section 4).

(q) County—The county or other political subdivision shown on your accepted application.

(r) County actuarial table—The forms and related material for the crop year which show coverage levels, premium rates, practices, insurable acreage, and other related information regarding crop insurance in the county.

(s) County actuarial table endorsement—An endorsement to the county actuarial table that modifies specific information of county actuarial table for each insured crop.

(t) Coverage—The insurance provided by this policy, against insured loss of revenue by unit as shown on your summary of coverage.

(u) Coverage begins, date—The calendar date insurance begins on the insured crop, as contained in the Crop Provisions, or the date after planting is started on the unit (see section 11).

(v) Crop provisions—The part of the policy that contains the specific provisions of insurance for each insured crop.

(w) Crop year—The period within which the insured crop is normally grown and designated by the calendar year in which the insured crop is normally harvested.

(x) Damage—Injury, deterioration, or loss of production of the insured crop due to insured or uninsured causes.

(y) Damage, notice of—A written notice required to be filed in your agent's office whenever you initially discover the insured crop has been damaged to the extent that a loss is probable (see section 14).

(z) Delinquent account—Any account you have with us in which premiums, or interest on those premiums is not paid by the termination date specified in the crop provisions, or any other amounts due us, such as indemnities found not to have been earned, which are not paid within 30 days of our mailing or other delivery of notification to you of the amount due.

(aa) Earliest planting date—The earliest date established for planting the insured crop and qualifying for a replant payment if applicable (see Special Provisions and section 13).

(bb) End of insurance period, date of—The date upon which your crop insurance coverage ceases for the crop year (see Crop Provisions and section 11).

(cc) Final guarantee—The guaranteed dollar amount per acre of the insured crop on the unit.

(dd) FSA—The Farm Service Agency of the United States Department of Agriculture (formerly the Agricultural Stabilization and Conservation Service).

(ee) FSA farm serial number—The number assigned to the farm by the FSA county committee.

(ff) Insured—The named person as shown on the Application accepted by us. This term does not extend to any other person having a share or interest in the crop (for example, a partnership, landlord, or any other person) unless specifically indicated on the accepted

application (see definition of Person section 1).

(gg) Insured crop—The crop defined under these Basic Provisions and the applicable Crop Provisions as shown on the application accepted by us.

(hh) Late planting agreement option—Available on selected crops. An amendment to the insurance policy which, when planting has been delayed, provides insurance coverage for acreage of an insured crop planted after the final planting date shown on the Special Provisions in exchange for a reduction in coverage.

(ii) Loss, notice of—The notice required to be given by you not later than 72 hours after certain occurrences or 15 days after the end of the insurance period (see section 14).

(jj) Negligence—The failure to use such care as a reasonably prudent and careful person would use under similar circumstances.

(kk) Person—An individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivision or agency of a State.

(ll) Policy—(also see Contract) The Basic Provisions for insuring a specific crop, included as part of the insurance contract.

(mm) Practical to replant—Our determination, after loss or damage to the insured crop, based upon all factors, including, but not limited to moisture availability, condition of the field, time to crop maturity, etc., on the feasibility of replanting and harvesting the insured crop. It is not practical to replant after the final planting date (for crops without an offered Late Planting Agreement Option) or after 20 days after the final planting date (for crops with an offered Late Planting Agreement Option).

(nn) Premium billing date—The earliest date upon which you will be billed for insurance coverage based on your acreage report and which generally falls at or near harvest time.

(oo) Production report—A written record showing your annual production and used by us to determine your yield for insurance purposes (see section 3). The report contains previous years yield information including planted acreage and harvested production. This report must be supported by written verifiable records from a warehouseman or buyer of the insured crop or by measurement of farm stored production, or by other records of production approved by us on an individual case basis.

(pp) Reporting date—The acreage reporting date (contained in the Special Provisions) by which you are required to report all your insurable acreage in the county in which you have a share and your share at the time insurance attaches, and any acreage in which you have a share which is not insured (see section 9).

(qq) Representative sample—Portions of the insured crop or insured crop residue which are required to remain in the field for examination and review by our loss adjusters when making a crop appraisal if required by the crop provisions. The samples are further defined in the crop provisions.

(rr) Sales closing date—The date contained in the Special Provisions which is the final date when an application may be filed. This is the last date for you to make changes in your crop insurance coverage for the crop year.

(ss) Section (for the purposes of unit structure)—A unit of measure under a rectangular survey system describing a tract of land usually one mile square and usually containing approximately 640 acres.

(tt) Share—Your percentage of interest in the insured crop as an owner, operator, or tenant at the time coverage begins. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share at the earlier of the time of loss or the beginning of harvest. Unless the accepted Application clearly indicates that insurance is requested for a partnership or joint venture, or is intended to cover the landlord's, or tenant's share of the crop (see section 10), insurance will only cover the crop share of the person completing the Application. The share will not extend to any other person having an interest in the crop except as may otherwise be specifically allowed in this policy. We may consider any acreage or interest reported by or for your spouse, child or any member of your household to be your share. Leases containing provisions for both a cash or minimum payment and a crop share will be considered a crop share lease.

(uu) Special provisions—The part of the policy that contains specific provisions of insurance for each insured crop that may vary by geographic area.

(vv) State—The state shown on your accepted application.

(ww) Summary of coverage—Our statement to you, based upon your acreage report, by unit, specifying the insured crop and the final guarantee or amount of insurance coverage provided.

(xx) Tenant—A person who rents land from another person for a share of the crop or a share of the proceeds of the crop (see the definition of ''Share'' above).

(yy) Termination date—The calendar date contained in the Crop Provisions upon which your policy ceases for nonpayment of premium or any other amount due us under the policy.

(zz) Unit—All insurable acreage of the insured crop in the county on the date coverage begins for the crop year:

(1) in which you have a 100 percent share; or

(2) which is owned by one entity and operated by another specific entity on a share basis. (For example, if, in addition to the land you own, you rent land from five landlords, three on a crop share basis and two on a cash basis, you would be entitled to four units, one for each crop share lease and one for the two cash leases and the land you own). Land rented for cash, a fixed commodity payment, or a consideration other than a share in the insured crop on such land will be considered as owned by the lessee (see ''Share'' above). Land which would otherwise be one unit may, in certain instances, be divided according to guidelines contained in the applicable crop provisions. Units will be determined when the acreage is reported but may be adjusted or combined to reflect the actual unit structure when adjusting a loss. However, no further division may be made after the acreage report date for any reason.

2. *Life of Policy, Cancellation and Termination*. (a) This continuous policy will be in effect for the 1997 and 1998 crop years only. After acceptance of the application, you may not cancel this policy the initial crop year. Thereafter, the policy will continue in force for the succeeding crop year unless canceled or terminated as provided below.

(b) Either you or we may cancel this policy after the initial crop year by providing written notice to the other on or before the cancellation date shown in the Crop Provisions.

(c) All policies issued by us under the authority of the Act will terminate as of the coincidental or next termination date contained in these policies if any amount due us is not paid on or before the termination date for the crop on which the amount is due. Such unpaid debts will also make you ineligible for any crop insurance provided under the Act until payment is made. If we deduct any amount due us from an indemnity, the date of payment for the purpose of this section (2(c)) will be the date you sign the properly completed claim for indemnity.

(d) If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the policy will terminate as of the date

of death, judicial declaration, or dissolution. If such event occurs after coverage begins for any crop year, the policy will continue in force through the crop year and terminate at the end of the insurance period and any indemnity will be paid to the person or persons determined to be beneficially entitled to the indemnity. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

(e) Your policy will terminate if no premium is earned for 3 consecutive years.

(f) The cancellation and termination dates are contained in the Crop Provisions.

(g) You are not eligible to participate in the Crop Revenue Coverage program if you are identified in the Non-standard Classification System or have elected the catastrophic risk protection policy.

(h) If you execute a High Risk Land Exclusion Option for a Crop Revenue Coverage policy, you may elect to insure the ''high risk land'' under a catastrophic risk protection policy. If both policies are in force, the acreage of the crop covered under the Crop Revenue Coverage policy and the acreage covered under the catastrophic risk protection policy will be considered as separate crops for insurance purposes including the payment of administrative fees.

3. *Coverage Level.* (a) For each crop year the coverage level by which an indemnity will be determined for each unit will be that shown on your summary of coverage. The information necessary to determine those amounts will be contained in the Special Provisions or in the County Actuarial Table.

(b) You may select only one coverage level offered by us for each insured crop. By written notice to us you may change the coverage level for the following crop year not later than the sales closing date for the affected insured crop. If you do not change the coverage level for the succeeding crop year you will be assigned the same coverage level that was in effect the previous crop year.

(c) You must elect at least the fifty (50) percent coverage to be in compliance with section 508(b)(7) of the Act , as amended, or execute a waiver of your eligibility for any emergency assistance, except emergency loans under section 371 of the Consolidated Farm and Rural Development Act.

(d) You must report production to us for the previous crop year by the earlier of the acreage reporting date or 45 days after the cancellation date. If you do not provide the required production report, we will assign a yield for the previous crop year. The yield assigned by us will not be more than 75% of the yield used by us to determine your coverage for the previous crop year. The production report or assigned yield will be used to compute your production history for the purpose of determining your coverage for the current crop year. If you have filed a claim for any crop year, the production used to determine the indemnity payment will be the production report for that year.

(e) We may revise your final guarantee for any farm unit, and revise any indemnity paid based on that final guarantee, if we find that your production report under section 3(c) above:

(1) is not supported by written verifiable records (see section 1(oo) Production Report); or

(2) fails to accurately report actual production.

4. *Contract Changes.* We may change the coverage under this policy from year to year. Your crop insurance agent will have changes in policy provisions and program dates by the contract change date contained in the Crop Provisions. Your crop insurance agent will have changes in maximum amounts of insurance and premium rates 15 days before the cancellation date contained in the Crop Provisions. In addition, you will be notified, in writing, of these changes. Such notification will be made at least 30 days prior to the cancellation date of the insured crop for policy and program date changes, and 15 days prior to the cancellation date of the insured crop for changes in the maximum amounts of insurance and premium rates.

5. *Liberalization.* If we adopt any revisions which would broaden the coverage under this policy subsequent to the contract change date without additional premium, the broadened coverage will apply.

6. *Report of Acreage.* (a) An annual acreage report must be submitted to us on our form for each insured crop in the county on or before the acreage reporting date shown in the Special Provisions. This report must include the following information, if applicable:

(1) all acreage of the crop (insurable and not insured) in which you have a share;

(2) your share at the time coverage begins;

(3) the practice;

(4) the type; and

(5) the date the insured crop was planted.

(b) If you do not have a share in any insured crop in the county for the crop year, you must submit an acreage report so indicating.

(c) Because incorrect reporting on the acreage report may have the effect of changing your premium and any indemnity which may be due, you may not revise this report after the acreage reporting date without our consent.

(d) We may elect to determine all premiums and indemnities based on the information you submit on the acreage report or upon the factual circumstances which we determine to have actually existed.

(e) If you do not submit an acreage report by the acreage reporting date, or if you fail to report all units, we may elect to determine by unit the insurable crop acreage, share, type and practice or deny liability on any unit.

(f) If the information reported by you on the acreage report for a unit results in a lower premium than the actual premium determined to be due on the basis of the share, acreage, practice, type or other material information determined to actually exist, the final guarantee or amount of insurance on the unit will be reduced proportionately. In the event that acreage is under-reported, all production or value from insurable acreage for the unit, whether or not reported as insurable, will be considered production or value to count in determining the indemnity.

(g) Errors in reporting units may be corrected by us to reduce our liability and to conform to applicable unit division guidelines at the time of adjusting a loss.

7. *Annual Premium.* (a) The annual premium is earned and payable at the time coverage begins. You will be billed for premium due not earlier than the billing date specified in the Special Provisions. The premium due, plus any accrued interest, will be considered delinquent if any amount due us is not paid on or before the termination date specified in the Crop Provisions.

(b) Any amount due us will be deducted from any replant payment or indemnity due you under the provisions of this policy.

(c) The annual premium amount is determined by:

(1) Multiplying the approved yield times the coverage level, times the base rate specified in the County Actuarial Table, times the Base Price as defined in the Crop Provisions;

(2) Multiplying the approved yield times the coverage level, times the CRC Revenue Rate specified in the CRC Factor Table, times the CRC Low Price Factor specified in the CRC Factor Table;

(3) Multiplying the approved yield times the coverage level, times the base rate specified in the County Actuarial Table, times the CRC high price factor specified in the CRC Factor Table;

(4) Adding items (1), (2), and (3) together;

(5) Multiplying the result of item (4) above times the acres insured, times your share at the time coverage begins, and as applicable, times any Rate Map Adjustment factor; Rate Class Option factor and; Option factor specified in the County Actuarial Table;

(6) Multiplying the approved yield times the coverage level, times the base rate specified in the County Actuarial Table, times the MPCI Market Price Election, times the insured acres, times your share at the time coverage begins, and as applicable, times any Rate Map Adjustment factor; Rate Class Option factor and; Option factor specified in the County Actuarial Table, and times the applicable producer subsidy percentage to calculate the appropriate amount of subsidy. The producer subsidy percentage is based upon the coverage level as follows:

75%=0.235
70%=0.319
65%=0.417
60%=0.412
55%=0.503
50%=0.600

(7) Subtracting item (6) from item (5) above to determine the annual producer paid premium.

8. *Insured Crop*. (a) The insured crop will be that shown on your accepted application and as specified in the Crop Provisions and must be grown on insurable acreage.

(b) A crop which will NOT be insured will include, but will not be limited to, any crop:

(1) if the farming practices carried out are not in accordance with the farming practices for which the premium rates and amounts of insurance have been established;

(2) initially planted after the final planting date, unless we allow and you agree in writing on our form, to a coverage reduction (this Late Planting Agreement Option is available only on selected crops);

(3) of a type, class or variety established as not adapted to the area or excluded by the Special Provisions;

(4) that is a volunteer crop;

(5) that is a second crop following the same crop (insured or not insured) harvested in the same crop year unless specifically permitted by the Crop Provisions or the Special Provisions;

(6) which is planted for the development or production of hybrid seed or for experimental purposes, unless permitted by the Crop Provisions or unless we agree, in writing, to insure such crop; or

(7) used for wildlife protection or management.

9. *Insurable Acreage*. (a) Acreage planted to the insured crop in which you have a share is insurable unless it is acreage:

(1) on which a crop has not been planted or harvested in at least one of the three previous crop years, unless FSA classifies such acreage as cropland;

(2) which has been strip-mined, unless we agree in writing to insure such acreage;

(3) on which the insured crop is damaged and it is practical to replant the insured crop, but the insured crop is not replanted;

(4) which is planted with a crop other than the insured crop, unless allowed by the Crop Provisions; or

(5) which is otherwise restricted by the Crop Provisions or Special Provisions.

(b) If insurance is provided for an irrigated practice, you must report as irrigated only that acreage for which you have adequate facilities and water, at the time coverage begins, to carry out a good irrigation practice.

(c) If acreage is irrigated and we do not provide a premium rate for an irrigated practice, you may either report and insure the irrigated acreage as ''nonirrigated,'' or report the irrigated acreage as not insured.

(d) We may restrict the amount of acreage which we will insure to the amount allowed under any acreage limitation program established by the United States Department of Agriculture (USDA) if we notify you of that restriction prior to the sales closing date.

10. *Share Insured*. (a) You may only insure your share as defined in section 1. ''Share'') above.

(b) You as a landlord (or tenant) may insure your tenant's (or landlord's) share of the crop if evidence of the other party's approval of that insurance is demonstrated (Lease, Power of Attorney, etc.). The respective shares must be clearly set out on the acreage report and a copy of the other party's approval must be retained by us.

11. *Insurance Period*. Coverage begins on each unit or part of a unit the later of the date you submit your application, when the insured crop is planted, or on the calendar date for the beginning of the insurance period if specified in the Crop Provisions, and ends at the earliest of:

(a) total destruction of the insured crop on the unit;

(b) harvest of the unit;

(c) final adjustment of a loss on a unit;

(d) the calendar date for the end of the insurance period contained in the Crop Provisions;

(e) abandonment of the crop on the unit; or

(f) as otherwise specified in the Crop Provisions.

12. *Causes of Loss*. The insurance provided is against only unavoidable loss of revenue directly caused by specific causes of loss contained in the Crop Provisions. All other causes of loss, including but not limited to the following, are NOT covered:

(a) negligence, mismanagement, or wrongdoing by you, any member of your family or household, your tenants, or employees;

(b) the failure to follow recognized good farming practices for the insured crop;

(c) water contained by any governmental, public, or private dam or reservoir project;

(d) failure or breakdown of irrigation equipment or facilities; or

(e) failure to carry out a good irrigation practice for the insured crop if applicable.

13. *Replanting Payment*. (a) If allowed by the Crop Provisions, a replanting payment may be made on an insured crop replanted after we have given consent and the acreage replanted is at least the lesser of 20 acres or 20 percent of the insured acreage for the unit (as determined on the final planting date).

(b) No replanting payment will be made on acreage:

(1) on which our appraisal establishes that production will exceed the level set by the Crop Provisions;

(2) initially planted prior to the date established by the Special Provisions; or

(3) on which one replanting payment has already been allowed for the crop year.

(c) The replanting payment per acre will be your actual cost for replanting, but will not exceed the amount determined in accordance with the Crop Provisions.

(d) If the information reported by you on the acreage report results in a lower premium than the actual premium determined to be due based on the acreage, share, practice, or type determined actually to have existed, the replanting payment will be reduced proportionately.

(e) No replanting payment will be paid for replanting any crop if we determine it is not practical to replant (see section 1(mm)).

14. *Duties in the Event of Damage or Loss*. Your Duties: (a) In case of damage to any insured crop you must:

(1) protect the crop from further damage by providing sufficient care;

(2) give us notice within 72 hours of your initial discovery of damage (but not later than 15 days after the end of the insurance period), by unit, for each insured crop; and

(3) leave representative samples intact for each field of the damaged unit as may be required by the Crop Provisions.

(b) You must obtain consent from us before, and notify us after you:

(1) destroy any of the insured crop which is not harvested;

(2) put the insured crop to an alternative use;

(3) put the acreage to another use; or

(4) abandon any portion of the insured crop.

We will not give such consent if it is practical to replant the crop or until we have made an appraisal of the potential production of the crop.

(c) In addition to complying with all other notice requirements, you must submit a claim for indemnity declaring the amount of your loss not later than 60 days after the end of the insurance period. This claim must include all the information we require to settle the claim.

(d) Upon our request, you must:

(1) provide a complete harvesting and marketing record of each insured crop by unit including separate records showing the same information for production from any acreage not insured; and

(2) submit to examination under oath.

(e) You must establish the total production or value received for the insured crop on the unit and that any loss of production or value has been directly caused by one or more of the insured causes (see Crop Provisions) during the insurance period.

(f) All notices required in section 14 that must be received by us within 72 hours may be made by telephone or in person to your crop insurance agent but must be confirmed in writing within 15 days.

Our Duties:

(a) If you have complied with all the policy provisions we will pay your loss within 30 days after:

(1) we reach agreement with you; or

(2) the entry of a final judgment by a court of competent jurisdiction.

(b) In the event we are unable to pay your loss within 30 days, we will give you notice of our intentions within the 30 day period.

(c) We may defer the adjustment of a loss until the amount of loss can be accurately determined. We will not pay for additional damage resulting from your failure to provide sufficient care for the crop during the deferral period.

(d) We recognize and apply the loss adjustment procedures established or approved by FCIC.

15. *Production Included in Determining Indemnities.* (a) The total production to be counted for a unit will include all production determined in accordance with the Crop Provisions.

(b) The amount of production of any unharvested insured crop may be determined on the basis of our field appraisals conducted after the end of the insurance period.

16. *Crops as Payment.* You must not abandon any crop to us. We will not accept any crop as compensation for payments due us.

17. *Arbitration.* If you and we fail to agree on any factual determination, disagreement will be resolved in accordance with the rules of the American Arbitration Association. Failure to agree with any factual determination made by FCIC must be resolved pursuant to 7 CFR part 11.

18. *Access to Insured Crop and Record Retention.* (a) We reserve the right to examine the insured crop as often as we reasonably require.

(b) For three years after the end of the crop year, you must retain, and provide upon our request, complete records of the harvesting, storage, shipment, sale, or other disposition of all the insured crop produced on each unit. This requirement also applies to the records used to establish the basis for the production report for each unit. You must also upon our request, provide separate records showing the same information for production from any acreage not insured. We may extend the record retention period beyond three years by notifying you of such extension in writing. Your failure to keep and maintain such records may, at our option, result in:

(1) cancellation of the policy;

(2) assignment of production to units by us; or

(3) a determination that no indemnity is due.

(c) Any person designated by us will, at any time during the record retention period, have access:

(1) to any records relating to this insurance at any location where such records may be found or maintained; and

(2) to the farm.

(d) By applying for insurance under the Act or by continuing insurance previously applied for, you authorize us, or any person acting for us, to obtain records relating to the insured crop from any person who may have custody of those records including, but not limited to, county FSA offices, banks, warehouses, gins, cooperatives, marketing associations, accountants, etc. You must assist us in obtaining all records which we request from third parties.

19. *Other Insurance.* (a) Other Like Insurance.

You must not obtain any other crop insurance issued under the authority of the Act on your share of the insured crop. If we determine that more than one policy on your share is intentional, you may be subject to the fraud provisions under this policy. If we determine that the violation was not intentional, the policy with the earliest date of application will be in force and all other policies will be void. Nothing in this section (19(a)) prevents you from obtaining other insurance not issued under the Act.

(b) Other Insurance Against Fire.

If you have other insurance, whether valid or not, against damage to the insured crop by fire during the insurance period we will be liable for loss for the smaller of:

(1) the amount of indemnity determined pursuant to this policy without regard to any other insurance; or

(2) the amount by which the loss is determined to exceed the indemnity paid or payable under such other insurance.

For the purpose of this section (19(b)(2)), the amount of loss will be the reduction in revenue of the insured crop on the unit involved determined pursuant this policy.

20. *Conformity to Food Security Act.* Although your violation of a number of federal statutes, including the Act, may cause cancellation, termination, or voidance of your insurance contract, you should be aware that your policy will be canceled if you are determined to be ineligible to receive benefits under the Act due to violation of the Controlled Substance Provision (Title XVII) of the Food Security Act of 1985 (Pub. L. 99–198), as amended, and the regulations promulgated under the Act by the USDA. Your insurance policy will be canceled if you are determined, by the appropriate USDA Agency, to be in violation of these provisions. We will recover any and all monies paid to you or received by you and your premium will be refunded.

21. *Amounts Due Us.* (a) Interest will accrue at the rate of one and one-fourth percent (1¼%) simple interest per calendar month, or any part thereof, on any unpaid amount due us. For the purpose of premium amounts due us, interest will start on the first day of the month following the premium billing date specified in the Special Provisions.

(b) For the purpose of any other amounts due us, such as repayment of indemnities found not to have been earned, interest will start on the date that notice is issued to you for the collection of the unearned amount. Amounts found due under this section (21(b)) will not be charged interest if payment is made within 30 days of issuance of the notice by us. The amount will be considered delinquent if not paid within 30 days of the date the notice is issued by us.

(c) All amounts paid will be applied first to expenses of collection (see section 21(d) below) if any, second, to the reduction of accrued interest, and then to the principal balance.

(d) If we determine that it is necessary to contract with a collection agency or to employ an attorney to assist in collection, you agree to pay all of the expenses of collection. Those expenses will be paid before the application of any amounts to interest or principal.

22. *Legal Action Against Us.* (a) You may not bring legal action against us unless you have complied with all of the policy provisions.

(b) If you do take legal action against us you must do so within 12 months of the date of denial of the claim. Suit must be brought in accordance with the provisions of 7 U.S.C. 1508(c).

(c) Your right to recover damages (compensatory, punitive, or other), attorney's fees, or other charges is limited or excluded by this contract or by Federal Regulations.

23. *Payment and Interest Limitations.* (a) Under no circumstances will we be liable for the payment of damages (compensatory, punitive, or other), attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim.

(b) We will pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment of a court of competent jurisdiction, from and including the 61st day after the date you sign, date, and submit to us the properly completed claim on our form. Interest will be paid only if the reason for our failure to timely pay is NOT due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** semiannually on or about January 1 and July 1 of each year and may vary with each publication.

24. *Concealment, Misrepresentation or Fraud.* This policy will be void in the event you have falsely or fraudulently concealed either the fact that you are restricted from receiving benefits under the Federal Crop Insurance Act or that action is pending which may restrict your eligibility to receive such benefits. We will also void this policy if you or anyone assisting you has intentionally concealed or misrepresented any material fact relating to this or any other FCIC or FCIC reinsured policy. This voidance will not affect your obligation to pay premiums or waive any of our rights under this policy, including the right to collect any amount due us. The voidance will be effective as of the time coverage began for the crop year within which such act occurred.

25. *Transfer of Coverage and Right to Indemnity.* If you transfer any part of your share during the crop year, you may transfer your coverage rights. The transfer must be on our form and approved by us. Both you and the person to whom you transfer your interest are jointly and severally liable for the payment of the premium. The transferee has all rights and responsibilities under this policy consistent with the transferee's interest.

26. *Assignment of Indemnity.* You may assign to another party your right to an indemnity for the crop year. The assignment must be on our form and will not be effective until approved in writing by us. The assignee will have the right to submit all loss notices and forms as required by the policy.

27. *Subrogation (Recovery of Loss From a Third Party).* Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve this right. If we pay you for your loss, your right to recovery will, at our option, belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

28. *Descriptive Headings.* The descriptive headings of the various policy provisions are formulated for convenience only and are not intended to affect the construction or meaning of any of the policy provisions.

29. *Notices.* All notices required to be given by you must be in writing and received by your crop insurance agent within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice. If the date by which you are required to submit a report or notice falls on Saturday, Sunday, or a Federal holiday, or, if your agent's office is, for any reason, not open for business on the date you are required to submit such notice or report, such notice or report must be submitted on the next business day. All notices and communications required to be sent by us to you will be mailed to the address contained in your records located with your crop insurance agent. You should advise us immediately of any change of address.

Crop Revenue Coverage

Wheat Provisions

This is a risk management program. This risk management tool will be insured under the authority provided by the Federal Crop Insurance Act, as amended. If a conflict exists among the Crop Revenue Coverage Policy, these Crop Provisions, and the Special Provisions, the Special Provisions will control these Crop Provisions and the Crop Revenue Coverage Policy and these Crop Provisions will control the Crop Revenue Coverage policy.

1. Definitions

(a) Adequate stand—A population of live plants per unit of acreage which will produce at least the yield used to establish your Minimum Guarantee.

(b) Average daily settlement price—see the appropriate definition contained in the Commodity Exchange Endorsement to this policy.

(c) Base price—see the appropriate definition contained in the Commodity Exchange Endorsement to this policy.

(d) Calculated revenue—the production to count multiplied by the Harvest Price.

(e) Days—calendar days.

(f) Final guarantee—The number of dollars guaranteed per acre determined as the higher of the Minimum Guarantee or the Harvest Guarantee; defined as:

(1) *Minimum Guarantee*—the approved yield per acre multiplied by the Base Price multiplied by the coverage level percentage you elect.

(2) *Harvest Guarantee*—the approved yield per acre multiplied by the Harvest Price, multiplied by the coverage level percentage you elect.

(g) Final planting date—The date contained in the Special Provisions by which the insured crop must initially be planted in order to be insured for the full final guarantee.

(h) Good farming practices—The cultural practices necessary for the insured crop to make usual and normal progress toward maturity and which can be expected to produce at least the yield used to determine the Minimum Guarantee. Good farming practices are generally those in use in the county for production of the insured crop and are recognized by the Cooperative

Extension Service as compatible with agronomic and weather conditions in the area.

(i) Harvest—Combining or threshing the insured crop for grain or cutting for hay or silage on any acreage. A crop which is swathed prior to combining is not considered harvested.

(j) Harvest price—see the appropriate definition contained in the Commodity Exchange Endorsement to this policy.

(k) Initially planted—The first occurrence of planting the insured crop on insurable acreage for the crop year.

(l) Interplanted—Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

(m) Irrigated practice—A method of producing a crop by which water is artificially applied during the growing season by appropriate systems, and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the Minimum Guarantee on the irrigated acreage planted to the insured crop.

(n) Late planted—Acreage planted during the late planting period.

(o) Late planting period—(not applicable for fall-planted wheat)—The period that begins the day after the final planting date for the insured crop and ends twenty-five (25) days after the final planting date.

(p) Latest final planting date—

(1) The final planting date for spring-planted acreage in all counties for which the Special Provisions designate a final planting date for spring-planted acreage only;

(2) The final planting date for fall-planted acreage in all counties for which the Special Provisions designate a final planting date for fall-planted acreage only; or

(3) The final planting date for spring-planted acreage in all counties for which the Special Provisions designate final planting dates for both spring-planted and fall-planted acreage.

(q) Local market price—The cash grain price per bushel for the U.S. No. 2 grade of the insured crop offered by buyers in the area in which you normally market the insured crop. The local market price will reflect the maximum limits of quality deficiencies allowable for the U.S. No. 2 grade of the insured crop. Factors not associated with grading under the Official United States Standards for Grain, including but not limited to protein, oil or moisture content, or milling quality will not be considered.

(r) Nurse crop (companion crop)—A crop planted into the same acreage as another crop, that is intended to be harvested separately, and which is planted to improve growing conditions for the crop with which it is grown.

(s) Planted acreage—Land in which seed has been placed by a machine appropriate for the insured crop and planting method, at the correct depth, into a seedbed which has been properly prepared for the planting method and production practice. Land on which seed is initially spread onto the soil surface by any method and subsequently is mechanically incorporated into the soil in a timely manner and at the proper depth will be considered planted.

(t) Practical to replant—(section 1.(''Practical to replant'') of the Crop Revenue Coverage Insurance Policy does not apply to wheat.) Our determination, after loss or damage to the insured crop, based on factors, including but not limited to moisture availability, condition of the field, time to crop maturity, etc., that a replanting of the insured crop will attain maturity in the remainder of the crop year. It will not be considered practical to replant after the end of the late planting period or the final planting date if a late planting period is not applicable except that it may be determined practical to replant after the end of the late planting period or the final planting date if such practice is generally occurring in the area (see section 7).

(u) Prevented planting—Inability to plant the insured crop with proper equipment by the latest final planting date designated in the Special Provisions for the insured crop in the county or the end of the late planting period if applicable. You must have been unable to plant the insured crop due to an insured cause of loss that has prevented the majority of producers in the surrounding area from planting the same crop.

(v) Prevented planting guarantee—The prevented planting guarantee for such acreage will be that percentage of the final guarantee for timely planted acres as set forth in section 12(d).

(w) Replanting—Performing the cultural practices necessary to replace seed for the insured crop, and replacing the seed in the insured acreage with the expectation of growing a successful crop.

(x) Swathed—Severance of the stem and grain head from the ground without removal of the seed from the head and placing into a windrow.

(y) Timely planted—Planted on or before the final planting date designated in the Special Provisions.

(z) Wheat—Wheat for grain only.

2. Unit Division

Unless limited by the Special Provisions, a unit as defined in section 1 ''Unit'' of the Crop Revenue Coverage Insurance Policy may be divided into optional units if, for each optional unit you claim, all the conditions of this section are met, or if we agree to such division in writing. Optional units must be established at the time you file your report of acreage for each crop year.

(a) You must have verifiable records of planted acreage and production for each optional unit for at least the last crop year used to determine your Minimum Guarantee.

(b) You must plant the crop in a manner which results in a clear and discernable break in the planting pattern at the boundaries of each optional unit.

(c) You must have measurements of stored production or market production from each optional unit in a manner that permits us to verify the production from the optional unit.

(d) Each optional unit must meet one or more of the following:

(1) Optional Units by Section, Section Equivalent, or FSA Farm Serial Number: Optional units may be established if each optional unit is located in a separate section. In the absence of sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to: Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands. In areas which have not been surveyed using the systems identified above or another system approved by us, and in areas where boundaries are not readily discernable, each optional unit must be located in a separate FSA Farm Serial Number.

(2) Optional Units on Acreage Including Both Irrigated and Non-Irrigated Practices: In addition to or instead of establishing optional units by section, section equivalent, or FSA Farm Serial Number, optional units may be established if each optional unit contains only irrigated acreage or only non-irrigated acreage. The irrigated acreage may not extend beyond the point at which your irrigation system can deliver the quantity of water needed to produce the yield on which your Minimum Guarantee is based. You must plant, cultivate, fertilize, or otherwise care for the irrigated acreage and the non-irrigated acreage in an appropriate manner.

(3) Optional Units by Initially Planted Winter Wheat or Initially Planted Spring Wheat: In addition to or instead of establishing optional units by section, section equivalent, or FSA Farm Serial Number as described in section 2.(d)(1) or by irrigated and non-irrigated practices as described in section

2.(d)(2), optional units may be established if each optional unit contains only initially planted winter wheat or only initially planted spring wheat. Optional units may be established in this manner only in counties having both fall and spring final planting dates as designated by the Special Provisions. Basic units may not be divided into optional units on any basis (production practice, type, variety, planting period, etc.) other than as described under this section. If you do not comply fully with these conditions, we will combine all optional units which are not established in compliance with these provisions into the basic unit from which they were formed. We may do this at any time we discover that you have failed to comply with these conditions. If failure to comply with these provisions is determined to be inadvertent, and if the optional units are combined, the premium paid for electing optional units will be refunded to you.

3. Coverage Level

In addition to the requirements of section 3 (Coverage Level) of the Crop Revenue Coverage Insurance Policy, all the insurable wheat in the county insured as grain under this policy will have the same coverage level election.

4. Contract Changes

In accordance with section 4 (Contract changes) in the Crop Revenue Coverage Insurance Policy), the contract change date is December 31 preceding the cancellation date for counties with an March 15 cancellation date and June 30 preceding the cancellation date for all other counties.

5. Cancellation and Termination Dates

The cancellation and termination dates are:

Crop, state and county	Cancellation date	Termination date
Wheat:		
All Colorado counties except Alamosa, Archuleta, Conejos, Costilla, Custer, Delta, Dolores, Eagle, Garfield, Grand, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Rio Grande, Routt, Saguache, and San Miguel Counties; all Iowa Counties except Plymouth, Cherokee, Buena Vista, Pocahontas, Humbolt, Wright, Franklin, Butler, Black Hawk, Buchanan, Delaware, and Dubuque Counties and all Iowa counties north thereof; all Wisconsin Counties except Trempealeau, Jackson, Wood, Portage, Waupaca, Outagamie, Brown, and Kewaunee Counties and all Wisconsin counties north and west thereof; and all other states except Alaska, Arizona, California, Connecticut, Idaho, Maine, Massachusetts, Minnesota, Montana, Nevada, New Hampshire, New York, North Dakota, Oregon, Rhode Island, South Dakota, Utah, Vermont, Washington, and Wyoming.	September 30	September 30.
Archuleta, Custer, Delta, Dolores, Eagle, Garfield, Grand, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Pitkin, Rio Blanco, Routt, and San Miguel Counties, Colorado; Connecticut; Idaho; Plymouth, Cherokee, Buena Vista, Pocahontas, Humboldt, Wright, Franklin, Butler, Black Hawk, Buchanan, Delaware, and Dubuque Counties, Iowa, and all Iowa counties north thereof; Massachusetts; all Montana counties except Daniels, Roosevelt, Sheridan, and Valley Counties; New York; Oregon; Rhode Island; all South Dakota counties except Harding, Perkins, Corson, Walworth, Edmonds, Faulk, Spink, Beadle, Jerauld, Aurora, Douglas, and Bon Homme Counties and all South Dakota counties north and east thereof; Washington; and all Wyoming counties except Big Horn, Fremont, Hot Springs, Park, and Washakie Counties.	September 30	November 30.
Matanuska-Susitna County, Alaska; Arizona; California; Nevada; and Utah	October 31	November 30
All Alaska Counties except Matanuska-Susitna County; Alamosa, Conejos, Costilla, Rio Grande, and Saguache Counties, Colorado; Maine; Minnesota; Daniels, Roosevelt, Sheridan, and Valley Counties, Montana; New Hampshire; North Dakota; Harding, Perkins, Corson, Walworth, Edmunds, Faulk, Spink, Beadle, Jerauld, Aurora, Douglas, and Bon Homme Counties, South Dakota, and all South Dakota counties north and east thereof; Vermont; Trempealeau, Jackson, Wood, Portage, Waupaca, Outagamie, Brown, and Kewaunee Counties, Wisconsin, and all Wisconsin counties north and west thereof; Big Horn, Fremont, Hot Springs, Park, and Washakie Counties, Wyoming.	March 15	March 15.

6. Insured Crop

(a) In accordance with section 8 (Insured Crop) of the Crop Revenue Coverage Insurance Policy, the crop insured will be wheat you elect to insure, that is grown in the county on insurable acreage, and for which premium rates are provided by the County Actuarial Table and Crop Revenue Coverage Factor Table:

(1) in which you have a share;

(2) that is planted for harvest as grain

(3) that is not:

(i) Interplanted with another crop except as allowed in section 6(a)(2);

(ii) Planted into an established grass or legume; or

(iii) Planted as a nurse crop, unless planted as a nurse crop for new forage seeding, but only if seeded at a normal rate and intended for harvest as grain.

(b) If you anticipate destroying any acreage prior to harvest you:

(1) may report all planted acreage when you report your acreage for the crop year and specify any acreage to be destroyed as uninsurable acreage. (By doing so, no coverage will be considered to have attached on the specified acreage and no premium will be due for such acreage. If you do not destroy such acreage, you will be subject to the under-reporting provisions contained in section 6(f) of the Crop Revenue Coverage Insurance Policy); or

(2) if the County Actuarial Table provides a reduced premium rate for acreage destroyed by a date designated in the Special Provisions, you may report all planted acreage as insurable when you report your acreage for the crop year. Premium will be due on all the acreage. Your premium amount will be reduced by the amount shown on the County Actuarial Table for any acreage you destroy prior to a date designated in the Special Provisions if you do not claim an indemnity on such acreage. In accordance with section 14(b) of the Crop Revenue Coverage Insurance Policy, you must obtain our consent before and give us notice after you destroy any of the insured crop so your acreage report can be revised to make you eligible for this reduction in premium.

7. Insurance Period

In lieu of the requirements under section 11 (Insurance Period) of the Crop Revenue Coverage Insurance Policy the insurance period is as follows:

(a) Insurance attaches on each unit or part thereof on the later of the date we accept your application or the date the insured crop is planted subject to the following limitations:

(1) The acreage must be planted on or before the final planting date designated in the Special Provisions for the type (winter or spring) except as allowed in section 12(c).

(2) Whenever the Special Provisions designate only a fall final planting date, any acreage of winter wheat damaged before such final planting date, to the extent that growers in the area would normally not further care for the crop, must be replanted to a winter type of the insured crop unless we agree that replanting is not practical.

(3) Whenever the Special Provisions designate both fall and spring final planting dates, winter wheat planted on or before the fall final planting date which is damaged:

(i) Before the fall planting final planting date, to the extent that growers in the area would normally not further care for the crop, must be replanted to a winter type of the insured crop unless we agree that replanting is not practical.

(ii) On or after the fall final planting date, but before the spring final planting date, to the extent that growers in the area would normally not further care for the crop, must be replanted to an appropriate variety of the insured crop unless we agree that replanting is not practical.

(4) Whenever the Special Provisions designate only a spring final planting date;

(i) Any acreage of spring wheat damaged before such final planting date, to the extent that growers in the area would normally not further care for the crop, must be replanted to a spring type of the insured crop unless we agree that replanting is not practical; and

(ii) Whenever the Special Provisions designate only a spring final planting date, any acreage of fall planted wheat is not insured unless you request such coverage and we agree in writing that the acreage has an adequate stand in the spring to produce the yield used to determine your Minimum Guarantee. Insurance will then attach to acreage having an adequate stand on the earlier of the spring final planting date or the date we agree to accept the acreage for insurance. If such fall planted acreage is not to be insured it must be recorded on the acreage report as an uninsured fall planted crop.

(b) Insurance ends on each unit at the earliest of:

(1) total destruction of the insured crop on the unit;

(2) harvest of the unit;

(3) final adjustment of a loss on the unit;

(4) September 25 following planting in Alaska, or October 31 of the calendar year in which the crop is normally harvested in all other States; or

(5) abandonment of the crop on the unit.

8. Causes of Loss

In addition to the provisions under section 12 (Causes of Loss) of the Crop Revenue Coverage Insurance Policy, any loss covered by this policy must occur within the insurance period. The specific causes of loss for wheat are:

(a) adverse weather conditions;

(b) fire;

(c) insects, but not damage allowed because of insufficient or improper application of pest control measures;

(d) plant disease, but not damage allowed because of insufficient or improper application of disease control measures;

(e) wildlife;

(f) earthquake;

(g) volcanic eruption;

(h) failure of the irrigation water supply; or

(i) Any difference between the Base Price and the Harvest Price.

9. Replanting Payments

(a) A replant payment for wheat only is allowed as follows:

(1) You comply with all requirements regarding replanting payments contained under section 13 (Replanting Payment) of the Crop Revenue Coverage Insurance Policy Basic Provisions;

(2) The wheat must be damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the Minimum Guarantee for the acreage;

(3) The acreage must have been initially planted to spring wheat in those counties with only a spring final planting date;

(4) The damage must occur after the fall final planting date in those counties where both a fall and spring final planting date are designated;

(5) Replanting must take place not later than 25 days after the spring final planting date; and

(6) The replanted wheat must be seeded at a rate that is normal for initially planted wheat (if new seed is planted at a reduced seeding rate into a partially damaged stand of wheat, the acreage will not be eligible for a replanting payment).

(b) No replanting payment will be made for acreage initially planted to winter wheat in any county for which the Special Provisions contain only a fall final planting date.

(c) In accordance with section 13.(c) of the Crop Revenue Coverage Insurance Policy, the maximum amount of the replanting payment per acre will be the lesser of twenty percent (20%) of the Minimum Guarantee or 3 bushels, times the Base Price times your share.

(d) When wheat is replanted using a practice that is uninsurable for an original planting, the liability for the unit will be reduced by the amount of the replanting payment. The premium amount will not be reduced.

10. Duties in the Event of Damage or Loss

In addition to your duties under section 14 of the Crop Revenue Coverage Insurance Policy, if you initially discover damage to any insured crop within 15 days of, or during harvest, you must leave representative samples of the unharvested crop for our inspection. The samples must be at least 10 feet wide and the entire length of each field in the unit, and must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

11. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide records of production that are acceptable to us for any:

(1) optional unit, we will combine all optional units for which acceptable records of production were not provided; or for any

(2) basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim on any insured unit of wheat by:

(1) Multiplying the insured acreage of wheat by the final guarantee;

(2) Subtracting the Calculated Revenue from the result of section 11(b)(1); and

(3) Multiplying the result by your share.

If the result of section 11(b)(3) is greater than zero, an indemnity will be paid. If the result of section 11(b)(3) is less than zero, no indemnity will be due.

(c) The total production (bushels) to count from all insurable acreage on the unit will include:

(1) all appraised production as follows:

(i) Not less than that amount of production that when multiplied by the Harvest Price equals the Final Guarantee for acreage:

(A) which is abandoned;
(B) put to another use without our consent;
(C) damaged solely by uninsured causes; or
(D) for which you fail to provide records of production that are acceptable to us;
(ii) Production lost due to uninsured causes;
(iii) Unharvested production (mature unharvested production may be adjusted for quality deficiencies and excess moisture in accordance with section 11(d));
(iv) Potential production on insured acreage you want to put to another use or you wish to abandon and no longer care for, if you and we agree on the appraised amount of production. Upon such agreement the insurance period for that acreage will end if you put the acreage to another use or abandon the crop. If:
(A) agreement on the appraised amount of production is not reached, you may elect to continue to care for the crop, or we will give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us. The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or you fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count.
(B) you elect to continue to care for the crop, we will determine the amount of production to count for the acreage using the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested.
(2) all harvested production from the insurable acreage.
(d) Mature wheat production may be adjusted for excess moisture and quality deficiencies.
(1) Production will be reduced by 12% for each .1 percentage point of moisture in excess of 13.5 percent for wheat. We may obtain samples of the production to determine the moisture content.
(2) Production will be eligible for quality adjustment if:
(i) Deficiencies in quality, in accordance with the Official United States Standards for Grain, result in wheat not meeting the grade requirements for U.S. No. 4 (grades U.S. No. 5 or worse) because of test weight, total damaged kernels (excluding heat damage), shrunken or broken kernels, or defects (excluding foreign material and heat damage), or grading garlicky, light smutty, smutty or ergoty;
(ii) Substances or conditions are present, including mycotoxins, that are identified by the Food and Drug Administration or other public health organizations of the United States as being injurious to human or animal health.
(3) Quality will be a factor in determining your loss only if:
(i) The deficiencies, substances, or conditions resulted from a cause of loss against which insurance specified in section 8;
(ii) All determinations of these deficiencies, substances, or conditions are made using samples of the production obtained by us or by a disinterested third party approved by us; and
(iii) The samples are analyzed by a grain grader licensed under the authority of the United States Grain Standards Act or the United States Warehouse Act with regard to deficiencies in quality, or by a laboratory approved by us with regard to substances or conditions injurious to human or animal health. Test weight for quality adjustment purposes may be determined by our loss adjustor.
(4) Production of wheat that is eligible for quality adjustment, as specified in sections 11(d)(2) and 11(d)(3), will be reduced by the quality adjustment factor contained in the Special Provisions.
(e) Any production harvested from plants growing in the insured crop may be counted as production of the insured crop on a weight basis.

12. Late Planting and Prevented Planting

(a) In lieu of section 8(b)(2) and section 1 ''Late planting agreement option'') of the Crop Revenue Coverage Insurance Policy, insurance will be provided for acreage planted to the insured crop during the late planting period (see section 12(c)), and acreage you were prevented from planting (see section 12(d)). These coverages provide reduced guarantees. The reduced guarantees will be combined with the final guarantee for timely planted acreage for each unit. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for late planted acreage or prevented planting acreage exceeds the liability on such acreage, coverage for those acres will not be provided (no premium will be due and no indemnity will be paid for such acreage). For example, assume you insure one unit in which you have a 100 percent share. The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres are unplanted and eligible for prevented planting coverage. To calculate the amount of any indemnity which may be due to you, the final guarantee for the unit will be computed as follows:
(1) For timely planted acreage, multiply the per acre final guarantee for timely planted acreage by the 50 acres planted timely;
(2) For late planted acreage, multiply the per acre final guarantee for timely planted acreage by 93 percent (0.93) and multiply the result by the 50 acres planted late; and
(3) For prevented planting acreage, multiply the per acre final guarantee for timely planted acreage by:
(i) Fifty percent (0.50) and multiply the result by the 50 acres you were prevented from planting, if the acreage is eligible for prevented planting coverage, and if the acreage is left idle for the crop year, or if a cover crop is planted not for harvest. Prevented planting compensation hereunder will not be denied because the cover crop is hayed or grazed; or
(ii) Twenty-five percent (0.25) and multiply the result by the 50 acres you were prevented from planting, if the acreage is eligible for prevented planting coverage, and if you elect to plant a substitute crop for harvest after the 10th day following the latest final planting date for the insured crop.
The total of the three calculations will be the final guarantee for the unit. Your premium will be based on the result of multiplying the per acre Minimum Guarantee for timely planted acreage by the 150 acres in the unit.
(b) If you were prevented from planting, you must provide written notice to us not later than the acreage reporting date.
(c) Late Planting
(1) For spring-planted wheat acreage in counties for which the Special Provisions designate a spring final planting date, the Minimum Guarantee for each acre will be reduced for each day planted after the final planting date by:
(i) One percent (.01) per day for the first through the tenth day; and
(ii) Two percent (.02) per day for the eleventh through the twenty-fifth day.
(2) In addition to the requirements of section 6 (Report of Acreage) of the Crop Revenue Coverage Insurance Policy, you

must report the dates the acreage is planted within the late planting period.

(3) If planting of the insured crop continues after the final planting date, or you are prevented from planting during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Special Provisions; or

(ii) Five (5) days after the end of the late planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period).

(1) If you were prevented from planting the insured crop (see section 1 ''Coverage begins, date''), you may elect:

(i) To plant the insured crop during the late planting period. The final guarantee for such acreage will be determined in accordance with section 12(c)(1);

(ii) Not to plant this acreage to any crop except a cover crop not for harvest. You may also elect to plant the insured crop after the late planting period. In either case, the prevented planting guarantee for such acreage will be 50 percent (50%) of the final guarantee for timely planted acres. In counties for which the Special Provisions designate a spring final planting date, the prevented planting guarantee will be based on your final guarantee for spring-planted acreage of the insured crop. For example, if your final guarantee for timely planted acreage is 120 dollars per acre, your prevented planting guarantee would be 60 dollars per acre (120 dollars multiplied by 0.50). If you elect to plant the insured crop after the late planting period, production to count for such acreage will be determined in accordance with sections 11 (c) through (e); or

(iii) Not to plant the intended crop but plant a substitute crop for harvest, in which case:

(A) No prevented planting guarantee will be provided for such acreage if the substitute crop is planted on or before the tenth day following the latest final planting date for the insured crop; or

(B) A prevented planting guarantee equal to twenty-five percent (25%) of the final guarantee for timely planted acres will be provided for such acreage, if the substitute crop is planted after the tenth day following the latest final planting date for the insured crop. If you elected to exclude this coverage, and plant a substitute crop, no prevented planting coverage will be provided. For example, if your final guarantee for timely planted acreage is 120 dollars per acre, your prevented planting guarantee would be 30 dollars per acre (120 dollars multiplied by 0.25). You may elect to exclude prevented planting coverage when a substitute crop is planted for harvest and receive a reduction in the applicable premium rate. If you wish to exclude this coverage, you must so indicate, on or before the sales closing date, on your application or on a form approved by us. Your election to exclude this coverage will remain in effect from year to year unless you notify us in writing on our form by the applicable sales closing date for the crop year for which you wish to include this coverage. All acreage of the crop insured under this policy will be subject to this exclusion.

(2) Proof may be required that you had the inputs available to plant and produce the intended crop with the expectation of at least producing the Minimum Guarantee.

(3) In addition to the provisions of section 11 (Insurance Period) of the Crop Revenue Coverage Insurance Policy, the insurance period for prevented planting coverage begins:

(i) On the sales closing date contained in the Special Provisions for the insured crop in the county for the crop year the application for insurance is accepted; or

(ii) For any subsequent crop year, on the sales closing date for the insured crop in the county for the previous crop year, provided continuous coverage has been in effect since that date. For example: If you make application and purchase insurance for wheat for the 1996 crop year, prevented planting coverage will begin on the 1996 sales closing date for the insured crop in the county. If the wheat coverage remains in effect for the 1997 crop year (is not terminated or canceled during or after the 1996 crop year, except the policy may have been canceled to transfer the policy to a different insurance provider, if there is no lapse in coverage), prevented planting coverage for the 1997 crop year began on the 1996 sales closing date.

(4) The acreage to which prevented planting coverage applies will not exceed the total eligible acreage on all FSA Farm Serial Numbers in which you have a share, adjusted for any reconstitution that may have occurred on or before the sales closing date. Eligible acreage for each FSA Farm Serial Number is determined as follows:

(i) If you participate in any program administered by the United States Department of Agriculture that limits the number of acres that may be planted for the crop year, the acreage eligible for prevented planting coverage will not exceed the total acreage permitted to be planted to the insured crop.

(ii) If you do not participate in any program administered by the United States Department of Agriculture that limits the number of acres that may be planted, and unless we agree in writing on or before the sales closing date, eligible acreage will not exceed the greater of:

(A) The FSA base acreage for the insured crop, including acres that could be flexed from another crop, if applicable;

(B) The number of acres planted to the insured crop on the FSA Farm Serial Number during the previous crop year; or

(C) One hundred percent (100%) of the simple average of the number of acres planted to the insured crop during the crop years that you certified to determine your yield.

(iii) Acreage intended to be planted under an irrigated practice will be limited to the number of acres for which you had adequate irrigation facilities prior to the insured cause of loss which prevented you from planting.

(iv) Prevented planting coverage will not be provided for any acreage:

(A) That does not constitute at least 20 acres or 20 percent (20%) of the acreage in the unit, whichever is less (Acreage that is less than 20 acres or 20 percent of the acreage in the unit will be presumed to have been intended to be planted to the insured crop planted in the unit, unless you can show that you had the inputs available before the final planting date to plant and produce another insured crop on the acreage);

(B) For which the County Actuarial Table does not designate a premium rate unless a written agreement designates such premium rate;

(C) Used for conservation purposes or intended to be left unplanted under any program administered by the United States Department of Agriculture;

(D) On which another crop is prevented from being planted, if you have already received a prevented planting indemnity, guarantee or amount of insurance for the same acreage in the same crop year, unless you provide adequate records of acreage and production showing that the acreage has a history of double-cropping in each of the last four years;

(E) On which the insured crop is prevented from being planted, if any other crop is planted and fails, or is planted and harvested, hayed or grazed on the same acreage in the same crop year, (other than a cover crop (see section 12(d)(1)(ii)) or a substitute crop (see section 12(d)(1)(ii))) unless you provide adequate records of acreage and production showing that the acreage has a history of double-cropping in each of the last four years;

(F) For which planting history or conservation plans indicate that the

acreage would have remained fallow for crop rotation purposes.

(v) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of acres of the insured crop that are timely planted and late planted, if the late planting period is applicable. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent (100%) share. The acreage is located in a single FSA Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of the insured crop on one optional unit and 40 acres of the insured crop on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero).

(5) In accordance with the provisions of section 6 (Report of Acreage) of the Crop Revenue Coverage Insurance Policy, you must report by unit any insurable acreage that you were prevented from planting. This report must be submitted on or before the acreage reporting date for spring-planted acreage of the insured crop in counties for which the Special Provisions designates a spring final planting date, or the acreage reporting date for fall-planted acreage of the insured crop in counties for which the Special Provisions designates a fall final planting date only. For the purpose of determining acreage eligible for a prevented planting guarantee, the total amount of prevented planting and planted acres cannot exceed the maximum number of acres eligible for prevented planting coverage. Any acreage you report in excess of the number of acres eligible for prevented planting coverage, or that exceeds the number of eligible acres physically located in a unit, will be deleted from your acreage report.

Signed in Washington, DC, on June 23, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–16911 Filed 6–27–97; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Intent To Prepare an Environmental Impact Statement; Finger Mountain Timber Sale(s), Sitka Ranger District, Tongass National Forest, Chatham Area, Sitka, AK

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Department of Agriculture, Forest Service will prepare an Environmental Impact Statement to disclose the environmental impacts of proposed actions within the Finger Mountain Project Area, which is located on Chichagof Island in South-east Alaska. The proposed action provides for: (1) Timber harvest and subsequent regeneration of approximately 1872 acres of forested land. This harvest would result in the production of approximately 49 million board feet of sawlog and utility timber. (2) Construction of approximately 50 miles of permanent and temporary road and reconstruction of approximately 1 mile of road. (3) Construction of one log transfer facility and use of two existing log transfer facilities. This proposed action is one alternative for meeting the purpose and need for the project.

The Forest Service is seeking information and comments from Federal, State, and local agencies, as well as individuals and organizations who may be interested in, or affected by the proposed action.

DATES: Comments concerning the scope of the analysis should be received in writing by August 15, 1997.

ADDRESSES: Send written comments to Finger Mountain Planning Team, Sitka Ranger District, 204 Siginaka Way, Sitka, AK 99835.

FOR FURTHER INFORMATION CONTACT: Lisa Winn, Team Leader, Sitka Ranger District, 204 Siginaka Way, Sitka, AK 99835, phone (907) 747–6671, fax (907) 747–4331.

SUPPLEMENTARY INFORMATION:

Background

The Environmental Impact Statement for the Finger Mountain Project will tier to the Final Environmental Impact Statement for the Tongass National Forest Land and Resource Management Plan of May 1997. The Land and Resource Management Plan provides the overall guidance (goals, objectives, management prescriptions, standards and guidelines) to achieve the desired future condition for the area in which this project is proposed.

The Finger Mountain Project Area is located about 38 air miles north of Sitka, Alaska, 24 air miles of northeast of Angoon, Alaska, and 3 air miles southwest of Tenakee Springs, Alaska on the southeastern part of Chichagof Island. The Project Area covers approximately 73,000 acres and extends from Peril Strait on the south to Tenakee Inlet on the north. In includes all of Management Area C34 and encompasses six Value Comparison Units (230, 231, 232, 233, 234, and 246) as described in the 1979 Tongass Land Management Plan. These Value Comparison Units include the watersheds of In between Creek, Saltery Bay, Crab Bay, Fog Creek, Broad Finger Creek, and Broad Creek. The Project Area is administered by the Sitka Ranger District of the Tongass National Forest, Chatham Area, Sitka, Alaska.

Purpose and Need

The Finger Mountain Project is being scheduled at this time to provide supplemental analysis for six Value Comparison Units within the 1992 Southeast Chichagof Project Area. This supplemental analysis is undertaken to meet the terms of the Settlement Agreement (filed May 16, 1996) for *Alaska Wilderness Recreation and Tourism Association* v. *Morrison,* Case No J94–033. It is intended to supplement the analysis contained in the Final Environmental Impact Statement and the Record of Decision for the Southeast Chichagof Project Area, published in September 1992.

The purpose and need for the Finger Mountain Project is: (1) To implement the direction contained in the Tongass National Forest Land and Resource Management Plan of May 1997, including goals, objectives, management prescriptions, and standards and guidelines; (2) to maintain wood production from suitable timber lands, providing a continuous supply of wood to meet society's needs; (3) to help provide a stable supply of timber from the Tongass National Forest which meets existing and potential market demand and is consistent with sound multiple use and sustained yield objectives; and (4) to help meet the desired future condition of the landscape as described by the Land and Resource Management Plan.

The Finger Mountain Project Area is expected to provide between 20 and 60 million board feet of timber to the timber industry in one or more timber sales.

Public Comment

Federal, State, and local agencies, as well as individuals and organizations

who may be interested in, or affected by, the proposed action are invited to participate in the scoping process. This process will determine the scope and significant issues to be analyzed in depth in the Environmental Impact Statement.

Following the publication of this notice, a scoping document will be mailed to interested people and organizations. The document will briefly describe the project and project area, the purpose and need for the project, the proposed action, and will invite public comment. Scoping meetings will then be held in Sitka and Tenakee Springs, Alaska. Locations and times of the scoping meetings will be announced in local newspapers and on local radio stations.

Following scoping, the Interdisciplinary Planning Team will review comments received during the scoping period to determine which issues as significant and within the scope of this project. The team will then develop a range of alternatives to address the significant issues. One of these will be the ''No Action'' alternative, in which no additional timber harvest or road construction is proposed. Other alternatives will consider various levels and locations of timber harvest in response to-issues and non-timber objectives. The team will then prepare a Draft Environmental Impact Statement which will display the alternatives and the direct, indirect, and cumulative effects of each alternative.

The Draft Environmental Impact Statement is expected to be filed with the Environmental Protection Agency after March, 1998. The comment period on the Draft Environmental Impact Statement will be 45 days from the date the Environmental Protection Agency publishes the Notice of Availability in the **Federal Register.** In addition to commenting on the proposed action and the Draft Environmental Impact Statement when it is released, agencies and other interested persons or groups are invited to write to or speak with Forest Service officials at any time during the planning process.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of Draft Environmental Impact Statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions; *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the Draft Environmental Impact Statement stage but that are not raised until after completion of the Final Environmental Impact Statement may be waived or dismissed by the courts; *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments an objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the Final Environmental Impact Statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the Draft Environmental Impact Statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the Draft Environmental Impact Statement. Comments may also address the adequacy of the Draft Environmental Impact Statement or the merits of the alternatives formulated and discussed in the document. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act, 40 CFR 1503.3, in addressing these points.

Comments received in response to this solicitation,including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR Parts 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without the name and address.

Decisions To Be Made

Gary A. Morrison, Forest Supervisor of the Chatham Area, is the Responsible Official and will decide whether or not to authorize timber harvest within the Finger Mountain Project Area. In addition, if timber harvest will occur, he will determine the following: (1) Is the design of the timber sales consistent with meeting resource protection standards and guidelines in the Land and Resource Management Plan? (2) How much timber volume is to be made available and what are the effects of the planned activities? (3) What is the location and design of the timber harvest units, log transfer facilities, and road system needed to develop the project area? (4) What mitigation and monitoring measures are required for sound resource management? (5) Is there a significant possibility of a significant restriction on subsistence uses?

The Final Environmental Impact Statement and Record of Decision is expected to be released by August, 1998. The Responsible Official will make a decision regarding this proposal after considering public comments, and the environmental consequences displayed in the Final Environmental Impact Statement, and applicable laws, regulations, and policies. The decision and supporting reason will be documented in the Record of Decision.

Dated: June 23, 1997.

Gary A. Morrison,

Forest Supervisor.

[FR Doc. 97–16985 Filed 6–27–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

California Coast Province Advisory Committee (PAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The California Coast Province Advisory Committee (PAC) will meet from 8:00 a.m. to 5:00 p.m. on July 16, 1997, at the Six Rivers National Forest Supervisor's Office Conference Room, 1330 Bayshore Drive, Eureka, California. Agenda items to be covered include: (1) Presentation on implementation of the Northwest Forest Plan; (2) Presentation on the federal wildland fire policy; (3) Presentation on the role of fuels management in forest ecology; (4) Report and recommendations from Public/Private/Tribal Partnership Opportunities Subcommittee; (5) Report and recommendations from Monitoring

Subcommittee; (6) Report and recommendations from Work on the Ground Subcommittee; (7) Report and recommendations from the PAC/SCERT coordinating committee; (8) Report and recommendations from Recreation/ Tourism Subcommittee; and (9) Open public forum. The PAC will also meet for a field trip to the Six Rivers National Forest on July 17. The field trip will begin at 8:00 a.m. at the Six Rivers National Forest Supervisor's Office and conclude at 5 p.m. All California Coast Province Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT:

Direct questions regarding this meeting to Daniel Chisholm, USDA, Forest Supervisor, Mendocino National Forest, 825 N. Humboldt Avenue, Willows, CA, 95988, (916) 934–3316 or Phebe Brown, Province Coordinator, USDA, Mendocino National Forest, 825 N. Humboldt Avenue, Willows, CA, 95988, (916) 934–3316.

Dated: June 20, 1997.

Daniel K. Chisholm,

Forest Supervisor.

[FR Doc. 97–17018 Filed 6–27–97; 8:45 am]

BILLING CODE 3410–FK–M

DEPARTMENT OF AGRICULTURE

Forest Service

Yakima Provincial Interagency Executive Committee (PIEC), Advisory Committee; Notice of Field Tour

AGENCY: Forest Service, USDA.

SUMMARY: The Yakima Provincial Advisory Committee will meet on July 9, 1997 at the Cle Elum Ranger District office, 803 W. 2nd Street, Cle Elum Washington. The Provincial Advisory Committee members will meet at the Ranger District office at 9:00 a.m., then proceed to the field tour in the Buck meadows area. The tour will end at 4:00 p.m. This field tour will focus primarily on management of dispersed recreation in riparian areas. All Yakima Province Advisory Committee meetings are open to the public. Interested citizens are welcome to attend.

FOR FURTHER INFORMATION CONTACT:

Direct questions regarding this meeting to Paul Hart, Designated Federal Official, USDA, Wenatchee National Forest, 215 Melody Lane, Wenatchee, Washington 98801, 509–662–4335.

Dated: June 23, 1997.

Sonny J. O'Neal,

Forest Supervisor, Wenatchee National Forest.

[FR Doc. 97–16986 Filed 6–27–97; 8:45 am]

BILLING CODE 3410––M

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in Minnesota and Mississippi

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: The United States Grain Standards Act, as amended (Act), provides that official agency designations will end not later than triennially and may be renewed. The designations of the Minnesota Department of Agriculture (Minnesota) and the Mississippi Department of Agriculture and Commerce (Mississippi) will end December 31, 1997, according to the Act. GIPSA is asking persons interested in providing official services in Minnesota and Mississippi to submit an application for designation.

DATES: Applications must be postmarked or sent by telecopier (FAX) on or before July 30, 1997.

ADDRESSES: Applications must be submitted to USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, 1400 Independence Avenue, S.W., Washington, DC 20250–3604. Applications may be submitted by FAX on 202–690–2755. If an application is submitted by FAX, GIPSA reserves the right to request an original application. All applications will be made available for public inspection at this address located at 1400 Independence Avenue, S.W., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION: This Action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services. GIPSA designated Minnesota, main office located in Minneapolis, Minnesota, and Mississippi, main office located in Jackson, Mississippi, to provide official inspection and Class X and Class Y weighing services under the Act on January 1, 1995.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in Section 7(f) of the Act. The designations of Minnesota and Mississippi end on December 31, 1997, according to the Act.

Pursuant to Section 7(f)(2) of the Act, the following geographic area, the entire State of Minnesota, except those export port locations within the State, is assigned to Minnesota.

Pursuant to Section 7(f)(2) of the Act, the following geographic area, the entire State of Mississippi, except those export port locations within the State, is assigned to Mississippi.

Interested persons, including Minnesota and Mississippi, are hereby given the opportunity to apply for designation to provide official services in the geographic areas specified above under the provisions of Section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Designation in the Minnesota and Mississippi areas is for the period beginning January 1, 1998, and ending December 31, 2000. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated.

AUTHORITY: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: June 19, 1997

Neil E. Porter

Director, Compliance Division

[FR Doc. 97–16908 Filed 6–27–97; 8:45 am]

BILLING CODE 3410–EN–F

ASSASSINATION RECORDS REVIEW BOARD

Formal Determinations, Releases, Assassination Records Designation, and Reconsideration

AGENCY: Assassination Records Review Board.

ACTION: Notice.

SUMMARY: The Assassination Records Review Board (Review Board) met in a closed meeting on June 10, and made

formal determinations on the release of records under the President John F. Kennedy Assassination Records Collection Act of 1992 (JFK Act). By issuing this notice, the Review Board complies with the section of the JFK Act that requires the Review Board to publish the results of its decisions on a document-by-document basis in the **Federal Register** within 14 days of the date of the decision.

FOR FURTHER INFORMATION CONTACT: T. Jeremy Gunn, General Counsel and Associate Director for Research and Analysis, Assassination Records Review Board, Second Floor, Washington, D.C. 20530, (202) 724–0088, fax (202) 724–0457.

SUPPLEMENTARY INFORMATION: This notice complies with the requirements of the President John F. Kennedy Assassination Records Collection Act of 1992, 44 U.S.C. 2107.9(c)(4)(A) (1992). On June 10, 1997, the Review Board made formal determinations on records it reviewed under the JFK Act. These determinations are listed below. The assassination records are identified by the record identification number assigned in the President John F. Kennedy Assassination Records Collection database maintained by the National Archives.

Notice of Formal Determinations

For each document, the number of postponements sustained immediately follows the record identification number, followed, where appropriate, by the date the document is scheduled to be released or re-reviewed.

HSCA Documents: Open in Full

180–10096–10078; 0; n/a
180–10147–10285; 0; n/a

NARA Documents: Open in Full

178–10004–10059; 0; n/a
178–10004–10060; 0; n/a
178–10004–10061; 0; n/a

USSS Documents: Open in Full

154–10003–10001; 0; n/a
154–10003–10016; 0; n/a
154–10003–10017; 0; n/a
154–10003–10018; 0; n/a
154–10003–10019; 0; n/a
154–10003–10020; 0; n/a
154–10003–10024; 0; n/a
154–10003–10043; 0; n/a

CIA Documents: Postponed in Part

104–10023–10100; 3; 10/2017
104–10061–10274; 3; 10/2017
104–10069–10027; 4; 10/2017
104–10069–10185; 6; 10/2017
104–10069–10190; 3; 08/2008
104–10069–10209; 2; 08/2008
104–10069–10217; 2; 10/2017
104–10069–10227; 4; 10/2017
104–10069–10260; 2; 10/2017
104–10069–10276; 8; 10/2017
104–10070–10138; 2; 10/2017
104–10071–10424; 2; 10/2017
104–10072–10043; 2; 10/2017
104–10072–10123; 27; 10/2017
104–10072–10222; 1; 10/2017
104–10072–10229; 5; 08/2008
104–10073–10077; 2; 10/2017
104–10073–10110; 5; 10/2017
104–10073–10111; 3; 10/2017
104–10073–10113; 5; 10/2017
104–10073–10115; 8; 10/2017
104–10073–10117; 1; 10/2017
104–10073–10126; 1; 10/2017
104–10073–10133; 1; 10/2017
104–10073–10142; 1; 10/2017
104–10073–10144; 1; 10/2017
104–10073–10335; 1; 10/2017
104–10073–10341; 1; 10/2017
104–10073–10342; 1; 08/2008
104–10073–10347; 25; 10/2017
104–10073–10350; 1; 10/2017
104–10073–10353; 4; 10/2017
104–10073–10355; 2; 10/2017
104–10073–10356; 1; 10/2017
104–10073–10358; 12; 10/2017
104–10073–10363; 1; 10/2017
104–10073–10365; 5; 10/2017
104–10073–10366; 1; 08/2008
104–10073–10367; 3; 10/2017
104–10073–10370; 34; 10/2017
104–10073–10371; 15; 10/2017
104–10073–10372; 6; 10/2017
104–10073–10374; 6; 10/2017
104–10073–10376; 5; 10/2017
104–10073–10382; 18; 10/2017
104–10073–10383; 13; 10/2017
104–10073–10384; 1; 10/2017
104–10073–10390; 8; 10/2017
104–10073–10393; 4; 10/2017
104–10073–10400; 2; 10/2017
104–10073–10410; 1; 08/2008
104–10073–10411; 1; 08/2008
104–10073–10413; 3; 10/2017
104–10073–10415; 1; 05/2001
104–10073–10419; 2; 10/2017
104–10073–10420; 2; 10/2017
104–10074–10040; 1; 10/2017
104–10074–10043; 4; 10/2017
104–10074–10044; 3; 10/2017
104–10074–10087; 6; 10/2017
104–10074–10094; 1; 08/2008
104–10074–10120; 3; 08/2008
104–10074–10128; 5; 08/2008
104–10074–10217; 2; 10/2017
104–10074–10218; 2; 10/2017
104–10074–10233; 2; 10/2017
104–10074–10234; 1; 10/2017
104–10074–10277; 1; 10/2017
104–10074–10296; 1; 10/2017
104–10074–10297; 3; 10/2017
104–10074–10299; 21; 10/2017
104–10074–10302; 11; 10/2017
104–10074–10413; 5; 10/2017
104–10075–10027; 6; 10/2017
104–10075–10033; 1; 10/2017
104–10075–10041; 1; 10/2017
104–10075–10042; 5; 10/2017
104–10075–10045; 2; 10/2017
104–10075–10069; 1; 10/2017
104–10075–10091; 1; 10/2017
104–10075–10097; 1; 08/2008
104–10075–10099; 1; 10/2017
104–10075–10111; 4; 10/2017
104–10075–10112; 1; 10/2017
104–10075–10113; 4; 10/2017
104–10075–10136; 2; 10/2017
104–10075–10168; 1; 10/2017
104–10075–10169; 2; 08/2008
104–10075–10172; 1; 10/2017
104–10075–10177; 1; 08/2008
104–10075–10179; 2; 08/2008
104–10079–10012; 4; 10/2017
104–10079–10016; 18; 08/2008
104–10079–10239; 7; 08/2008
104–10079–10257; 2; 10/2017
104–10079–10321; 6; 10/2017
104–10079–10364; 9; 10/2017
104–10086–10181; 1; 10/2017
104–10086–10206; 1; 05/2001
104–10092–10180; 1; 10/2017
104–10092–10202; 1; 10/2017
104–10092–10214; 10; 10/2017
104–10092–10215; 2; 10/2017
104–10092–10225; 2; 10/2017
104–10092–10228; 3; 10/2017
104–10092–10236; 1; 10/2017
104–10092–10243; 2; 08/2008
104–10092–10247; 1; 08/2008
104–10092–10248; 2; 08/2008
104–10092–10254; 1; 08/2008
104–10092–10266; 1; 10/2017
104–10092–10281; 2; 10/2017
104–10092–10282; 1; 08/2008
104–10092–10293; 3; 08/2008
104–10092–10300; 1; 10/2017
104–10092–10304; 3; 10/2017
104–10092–10310; 1; 10/2017
104–10092–10321; 3; 10/2017
104–10092–10342; 2; 10/2017
104–10092–10350; 2; 10/2017
104–10092–10356; 2; 10/2017
104–10092–10361; 11; 10/2017
104–10092–10366; 6; 10/2017
104–10092–10382; 1; 10/2017
104–10092–10388; 5; 05/2001
104–10092–10394; 4; 10/2017
104–10092–10399; 4; 10/2017
104–10092–10411; 16; 10/2017
104–10092–10423; 2; 10/2017
104–10092–10429; 28; 10/2017
104–10096–10333; 1; 10/2017
104–10102–10011; 2; 10/2017
104–10102–10013; 6; 10/2017
104–10102–10014; 6; 10/2017
104–10102–10043; 6; 08/2008
104–10102–10047; 28; 08/2008
104–10102–10050; 18; 08/2008
104–10102–10071; 2; 10/2017
104–10102–10077; 15; 10/2017
104–10102–10138; 2; 05/2001
104–10102–10139; 4; 05/2001
104–10102–10140; 1; 10/2017
104–10102–10146; 9; 10/2017
104–10102–10154; 4; 10/2017
104–10102–10157; 18; 08/2008
104–10102–10158; 9; 10/2017
104–10102–10159; 28; 08/2008
104–10102–10160; 5; 10/2017
104–10102–10161; 25; 08/2008
104–10102–10165; 6; 08/2008

HSCA Documents: Postponed in Part

180–10104–10295; 2; 10/2017
180–10110–10189; 1; 10/2017
180–10141–10238; 22; 10/2017
180–10141–10239; 21; 10/2017
180–10142–10090; 1; 10/2017
180–10142–10338; 7; 10/2017
180–10143–10112; 25; 10/2017
180–10143–10126; 8; 10/2017
180–10143–10164; 3; 10/2017
180–10143–10170; 2; 10/2017
180–10143–10176; 5; 10/2017
180–10143–10177; 8; 05/2001

180–10143–10198; 9; 10/2017
180–10143–10201; 10; 10/2017
180–10143–10217; 5; 10/2017
180–10143–10235; 1; 10/2017
180–10143–10241; 1; 10/2017
180–10143–10244; 1; 10/2017
180–10143–10275; 25; 10/2017
180–10143–10300; 1; 10/2017
180–10143–10301; 4; 10/2017
180–10143–10328; 2; 10/2017
180–10143–10329; 2; 10/2017
180–10143–10332; 25; 10/2017
180–10143–10338; 1; 10/2017
180–10143–10343; 2; 10/2017
180–10143–10356; 1; 10/2017
180–10143–10360; 3; 08/2008
180–10143–10373; 2; 10/2017
180–10143–10378; 1; 10/2017
180–10143–10383; 1; 10/2017
180–10143–10384; 2; 10/2017
180–10143–10400; 8; 10/2017
180–10143–10412; 14; 10/2017
180–10143–10414; 4; 10/2017
180–10144–10211; 13; 10/2017
180–10144–10217; 1; 05/2001
180–10144–10225; 1; 10/2017

USSS Documents: Postponed in Part

154–10003–10044; 1; 10/2017

Notice of Additional Releases:

After consultation with appropriate Federal agencies, the Review Board announces that the following House Select Committee on Assassination records are now being opened in full:

180–10065–10466; 180–10065–10467; 180–10065–10468; 180–10068–10493; 180–10071–10216; 180–10072–10082; 180–10072–10084; 180–10073–10046; 180–10073–10076; 180–10073–10083; 180–10073–10109; 180–10073–10142; 180–10073–10184; 180–10074–10056; 180–10074–10393; 180–10075–10402; 180–10076–10169; 180–10076–10251; 180–10076–10433; 180–10076–10434; 180–10076–10435; 180–10077–10045; 180–10077–10127; 180–10077–10310; 180–10078–10197; 180–10078–10268; 180–10078–10490; 180–10080–10029; 180–10080–10066; 180–10080–10070; 180–10080–10071; 180–10080–10072; 180–10080–10073; 180–10080–10074; 180–10080–10075; 180–10080–10076; 180–10080–10077; 180–10080–10078; 180–10080–10080; 180–10080–10081; 180–10080–10083; 180–10080–10084; 180–10080–10087; 180–10080–10088; 180–10080–10090; 180–10080–10092; 180–10080–10093; 180–10080–10094; 180–10080–10095; 180–10080–10096; 180–10080–10097; 180–10080–10098; 180–10080–10099; 180–10080–10100; 180–10080–10101; 180–10080–10102; 180–10080–10103; 180–10080–10104; 180–10080–10105; 180–10080–10106; 180–10080–10107; 180–10080–10108; 180–10080–10109; 180–10080–10110; 180–10080–10111; 180–10080–10112; 180–10080–10114; 180–10080–10115; 180–10080–10116; 180–10080–10117; 180–10080–10118; 180–10080–10120; 180–10080–10121; 180–10080–10122; 180–10080–10123; 180–10080–10124; 180–10080–10125; 180–10080–10126; 180–10080–10127; 180–10080–10128; 180–10080–10129; 180–10080–10130; 180–10080–10132; 180–10080–10133; 180–10080–10134; 180–10080–10135; 180–10080–10136; 180–10080–10137; 180–10080–10138; 180–10080–10139; 180–10080–10140; 180–10080–10141; 180–10080–10154; 180–10080–10155; 180–10080–10156; 180–10080–10157; 180–10080–10158; 180–10080–10159; 180–10080–10355; 180–10081–10298; 180–10081–10328; 180–10082–10164; 180–10082–10404; 180–10083–10064; 180–10083–10155; 180–10083–10224; 180–10083–10233; 180–10083–10256; 180–10084–10159; 180–10084–10470; 180–10085–10147; 180–10085–10150; 180–10085–10226; 180–10086–10434; 180–10087–10056; 180–10087–10057; 180–10087–10059; 180–10087–10060; 180–10087–10066; 180–10087–10068; 180–10087–10175; 180–10087–10438; 180–10089–10030; 180–10089–10032; 180–10089–10033; 180–10089–10065; 180–10089–10152; 180–10089–10379; 180–10089–10396; 180–10089–10412; 180–10089–10428; 180–10090–10018; 180–10090–10040; 180–10090–10041; 180–10090–10042; 180–10090–10116; 180–10090–10121; 180–10090–10129; 180–10090–10139; 180–10090–10140; 180–10091–10155; 180–10091–10174; 180–10091–10204; 180–10091–10205; 180–10091–10206; 180–10091–10207; 180–10091–10208; 180–10091–10210; 180–10091–10211; 180–10091–10212; 180–10091–10213; 180–10091–10215; 180–10091–10216; 180–10091–10217; 180–10091–10218; 180–10091–10219; 180–10091–10220; 180–10091–10421; 180–10091–10430; 180–10091–10463; 180–10093–10025; 180–10093–10160; 180–10094–10400; 180–10094–10450; 180–10098–10405; 180–10098–10434; 180–10098–10435; 180–10098–10436; 180–10098–10437; 180–10099–10388; 180–10100–10219; 180–10101–10192; 180–10101–10374; 180–10102–10086; 180–10102–10087; 180–10102–10212; 180–10102–10332; 180–10103–10463; 180–10105–10270; 180–10105–10285; 180–10105–10333; 180–10106–10111; 180–10107–10282; 180–10109–10264; 180–10110–10080; 180–10110–10081; 180–10110–10155; 180–10110–10157; 180–10110–10160; 180–10110–10162; 180–10110–10163; 180–10110–10164; 180–10110–10166; 180–10110–10167; 180–10110–10168; 180–10110–10170; 180–10110–10171; 180–10110–10172; 180–10110–10173; 180–10110–10174; 180–10110–10175; 180–10110–10176; 180–10110–10177; 180–10110–10178; 180–10110–10179; 180–10110–10180; 180–10110–10182; 180–10110–10183; 180–10110–10190; 180–10110–10191; 180–10110–10192; 180–10110–10193; 180–10110–10195; 180–10110–10196; 180–10110–10197; 180–10110–10199; 180–10110–10202; 180–10110–10203; 180–10110–10204; 180–10110–10206; 180–10110–10208; 180–10110–10209; 180–10110–10210; 180–10110–10211; 180–10110–10214; 180–10112–10288; 180–10112–10407; 180–10112–10435; 180–10113–10084; 180–10113–10085; 180–10113–10086; 180–10114–10216; 180–10117–10219; 180–10118–10042; 180–10118–10043; 180–10118–10044; 180–10118–10046; 180–10119–10092; 180–10120–10420

Notice of Corrections

On April 23–24, 1997 the Review Board made formal determinations that were published in the May 16, 1997 **Federal Register** (FR Doc. 97–12860, 62 FR 270008). For that Notice make the following corrections:

Record identification No.	Previously published	Corrected data
104–10069–10086	1; 10/2017	2; 10/2017.
104–10069–10375	10; 10/2017	11; 10/2017.
104–10071–10318	13; 10/2017	14; 10/2017.
104–10071–10375	5; 10/2017	7; 10/2017.
104–10072–10089	5; 10/2017	6; 10/2017.
104–10072–10188	9; 10/2017	10; 10/2017.
104–10072–10262	7; 10/2017	8; 10/2017.
104–10072–10288	3; 10/2017	4; 10/2017.
180–10142–10406	3; 10/2017	4; 10/2017.
180–10143–10145	18; 10/2017	21; 10/2017.

Dated: June 25, 1997.

David G. Marwell,

Executive Director.

[FR Doc. 97–16979 Filed 6–27–97; 8:45 am]

BILLING CODE 6118–01–P

DEPARTMENT OF COMMERCE

Economics and Statistics Administration

Joint Meeting of Census Advisory Committees; Meeting

AGENCY: Economics and Statistics Administration, Department of Commerce.

ACTION: Notice of public meeting.

Pursuant to the Federal Advisory Committee Act (Public Law 92–463, as amended by P.L. 94–409, P.L. 96–523, and P.L. 97–375), we are giving notice of a joint meeting of the Commerce Secretary's 2000 Census Advisory Committee (CAC), the CAC of Professional Associations, the CAC on the African American Population, the CAC on the American Indian and Alaska Native Populations, the CAC on the Asian and Pacific Islander Populations, and the CAC on the Hispanic Population. The meeting will convene on July 10, 1997, at the Doubletree Hotel, 300 Army Navy Drive, Arlington, VA 22202–9903.

The agenda will be limited to discussions about how the Census Bureau should implement wording of the race and ethnicity questions in the Census 2000 Dress Rehearsal questionnaire. The proposed wording will be based on the recommendations contained in the report of a Federal Interagency Committee that has been reviewing possible revisions to Government-wide standards for classifying race and ethnicity as outlined in Office of Management and Budget (OMB) Directive 15. These recommendations to the OMB will be documented in a **Federal Register** Notice schedule for publication in early July.

The Commerce Secretary's 2000 CAC is composed of a Chair, Vice-Chair, and up to 35 member organization, all appointed by the Secretary of Commerce. The Advisory Committee considers the goals of Census 2000 and user needs for information provided by that census and provides a perspective from the standpoint of the outside user community about how operational planning and implementation methods proposed for Census 2000 will realize those goals and satisfy those needs. The Advisory Committee considers all aspects of the conduct of the 2000 Census of Population and Housing, and makes recommendations to the Secretary of Commerce for improving that census.

The CAC of Professional Associations is composed of 36 members appointed by the Presidents of the American Economic Association, the American Statistical Association, and the Population Association of America, and the Chairman of the Board of the American Marketing Association. The Committee advises the Director, Bureau of the Census, about the full range of Census Bureau programs and activities in relation to their areas of expertise.

The CACs on the African American, American Indian and Alaska Native, Asian and Pacific Islander, and Hispanic Populations are composed of nine members each appointed by the Secretary of Commerce. The Committees provide an organized and continuing channel of communication between the communities they represent and the Bureau of the Census about efforts to reduce the differential in the totals for population groups from Census 2000 and about ways Census 2000 data can be disseminated to maximum usefulness to their communities and other users.

On Thursday, July 10, 1997, the meeting will begin at 8:45 a.m. and adjourn for the day at 3:15 p.m.

Anyone wishing additional information about this meeting, or who wishes to submit written statements or questions, may contact Maxine Anderson-Brown, Committee Liaison Officer, Department of Commerce, Bureau of the Census, Room 3039, Federal Building 3, Washington, DC 20233, telephone: 301–457–2308.

A brief period will be set aside for public comment and questions. However, individuals with extensive questions or statements for the record must submit them in writing to the Commerce Department official named above at least three working days prior to the meeting.

The meeting is physical accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Census Bureau Committee Liaison Officer on 301–457–2308, TDD 301–457–2540.

Dated: June 25, 1997.

Lee Price,

Acting Under Secretary for Economic Affairs, Economics and Statistics Administration.

[FR Doc. 97–17102 Filed 6–27–97; 8:45 am]

BILLING CODE 3510–EA–M

DEPARTMENT OF COMMERCE

Economics and Statistics Administration

Secretary's 2000 Census Advisory Committee; Meeting

AGENCY: Economics and Statistics Administration, Department of Commerce.

ACTION: Notice of public meeting.

Pursuant to the Federal Advisory Committee Act (P.L. 92–463, as amended by P.L. 94–409, P.L. 96–523, and P.L. 97–375), we are giving notice of a meeting of the Commerce Secretary's 2000 Census Advisory Committee. The meeting will convene on July 11, 1997, at the Doubletree Hotel, 300 Army Navy Drive, Arlington, Virginia 22202. The Committee will discuss its work plans for Census 2000.

The Advisory Committee is composed of a Chair, Vice-Chair, and up to 35 member organizations, all appointed by the Secretary of Commerce. The Advisory Committee will consider the goals of Census 2000 and user needs for information provided by that census and provide a perspective from the standpoint of the outside user community about how operational planning and implementation methods proposed for Census 2000 will realize those goals and satisfy those needs. The Advisory Committee shall consider all aspects of the conduct of the 2000 Census of Population and Housing and shall make recommendations for improving that census.

On Friday, July 11, 1997, the meeting will begin at 8:30 a.m. and adjourn for the day at 4:30 p.m.

Anyone wishing additional information about this meeting, or who wishes to submit written statements or questions may contact Maxine Anderson-Brown, Committee Liaison Officer, Department of Commerce, Bureau of the Census, Room 3039, Federal Building 3, Washington, DC 20233, telephone: 301–457–2308, TDD 301–457–2540.

A brief period will be set aside for public comment and questions. However, individuals with extensive questions or statements for the record must submit them in writing to the Commerce Department official named above at least three working days prior to the meeting.

The meeting is physically assessable to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Maney; here telephone number is 301–457–2308, TDD 301–457–2540.

Dated: June 25, 1997.

Lee Price,

Acting Under Secretary for Economic Affairs, Economics and Statistics Administration.

[FR Doc. 97–17101 Filed 6–27–97; 8:45 am]

BILLING CODE 3510–EA–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 52–97]

Foreign-Trade Zone 18—San Jose, California; Application For Foreign-Trade Subzone Status: Hewlett-Packard Company (Computer and Related Electronic Products); San Jose, California Area

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of San Jose, California, grantee of FTZ 18, requesting special-purpose subzone status for the manufacturing and distribution facilities (computers, printers, measurement devices, medical products and related products) of the Hewlett-Packard Company (Hewlett-Packard), located in the San Jose, California, area. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 19, 1997.

The Hewlett-Packard facilities are located at three sites totaling 53 acres (1,114,466 square feet) in the San Jose, California area: *Site 1* (30.6 acres, 581,814 sq.ft.)—located at 915 Story Road/935 McLaughlin Avenue, San Jose (Santa Clara County); *Site 2* (12.5 acres, 276,696 sq.ft.)—located at 18250 Murphy Parkway, Lathrop (San Joaquin County); *Site 3* (9.9 acres, 255,956 sq.ft.)—located at 5800 Coliseum Way, Oakland (Alameda County).

The facilities (245 employees) are used for storage, manufacture, and distribution for import and export of computers and related devices, printers, electronic test and measurement devices, electronic medical products, and related electronic products and components. A number of components are purchased from abroad (an estimated 40% of value on manufactured products), including printed circuit boards, silicon wafers, rectifiers, integrated circuits, memory modules, CD–ROM drives, disk drives, scanners, hard drives, keyboards, monitors/displays (CRT and LCD type), LEDs, speakers, microphones, belts, valves, bearings, plastic materials, industrial chemicals, sensors, filters, resistors, transducers, fuses, plugs, relays, ink cartridges, toner cartridges, switches, fasteners, cards, transformers, DC/electric motors, magnets, modems, batteries, cabinets, power supplies, cables, copper wire, power cords, optical fiber, casters, cases, labels, and packaging materials (1997 duty range: free-14.2%).

Zone procedures would exempt Hewlett-Packard from Customs duty payments on foreign components used in export production. On its domestic sales, Hewlett-Packard would be able to choose the lower duty rate that applies to the finished products (free-13.2%) for the foreign components noted above. The application indicates that the savings from zone procedures would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 29, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to September 15, 1997.

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th and Pennsylvania Avenue, N.W., Washington, D.C. 20230.

U.S. Department of Commerce Export Assistance Center, Suite 1001, 101 Park Center, San Jose, California 95113

Dated: June 20, 1997.

John J. DaPonte, Jr.,

Executive Secretary.

[FR Doc. 97–17054 Filed 6–27–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 53–97]

Foreign-Trade Zone 49—Newark/Elizabeth, New Jersey Area; Application For Foreign-Trade Subzone Status; Hewlett-Packard Company (Computer and Related Electronic Products), Bridgewater and Washington, NJ

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port Authority of New York and New Jersey, grantee of FTZ 49, requesting special-purpose subzone status for the manufacturing and distribution facilities (computers, printers, measurement devices, medical products and related products) of the Hewlett-Packard Company (Hewlett-Packard), located in Bridgewater and Washington, New Jersey. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 19, 1997.

The Hewlett-Packard facilities are located at two sites totaling 60.8 acres (570,498 square feet) in north central New Jersey: Site 1 (43.6 acres, 388,920 sq.ft.)—located at 1120 Route 22 East, Bridgewater area, Bridgewater Township (Somerset County), some 28 miles southeast of Newark; Site 2 (17.2 acres, 181,578 sq.ft.)—located at 2010 Route 57W, Washington area, Franklin Township (Warren County), some 45 miles east of Newark.

The facilities (321 employees) are used for storage, manufacture, and distribution for import and export of computers and related devices, printers, electronic test and measurement devices, electronic medical products, and related electronic products and components. A number of components are purchased from abroad (an estimated 40% of value on manufactured products), including printed circuit boards, silicon wafers, rectifiers, integrated circuits, memory modules, CD–ROM drives, disk drives, scanners, hard drives, keyboards, monitors/displays (CRT and LCD type), LEDs, speakers, microphones, belts, valves, bearings, plastic materials, industrial chemicals, sensors, filters, resistors, transducers, fuses, plugs, relays, ink cartridges, toner cartridges, switches, fasteners, cards, transformers, DC/electric motors, magnets, modems, batteries, cabinets, power supplies, cables, copper wire, power cords, optical fiber, casters, cases, labels, and

packaging materials (1997 duty range: free-14.2%).

Zone procedures would exempt Hewlett-Packard from Customs duty payments on foreign components used in export production. On its domestic sales, Hewlett-Packard would be able to choose the lower duty rate that applies to the finished products (free-13.2%) for the foreign components noted above. The application indicates that the savings from zone procedures would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 29, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to September 15, 1997.

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th and Pennsylvania Avenue, N.W. Washington, D.C. 20230

U.S. Department of Commerce Export Assistance Center, 9th Floor, 7–45 Raymond Plaza, W., Newark, New Jersey 07102

Dated: June 20, 1997.

John J. DaPonte, Jr.,

Executive Secretary.

[FR Doc. 97–17055 Filed 6–27–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 50–97]

Foreign-Trade Zone 84—Houston, Texas; Application for Foreign-Trade Subzone Status: Lyondell Petrochemical Company (Petrochemical Complex), Harris County, TX

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Houston Authority, grantee of FTZ 84, requesting special-purpose subzone status for the petrochemical complex of Lyondell Petrochemical Company (Lyondell), (subsidiary of Atlantic Richfield Company) located in Harris County, Texas. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 16, 1997.

The Lyondell petrochemical complex (2,236 acres, 700 employees) is located at 8280 Sheldon Road on the San Jacinto River (Harris County), 20 miles east of Houston. The complex consists of two olefins plants and related processing units which produce a variety of petrochemical feedstocks and motor fuel blendstocks. Petrochemical feedstocks include ethylene (3.8 billion-lb. capacity), propylene (2.2 billion-lb. capacity), butadiene (615 million-lb. capacity), benzene, toluene, xylene, methanol, ethane, propane, butylene, raw pyrolysis gasoline and natural gas. Motor fuel blendstocks include MTBE and alkylates. The petrochemical complex is integrated with the Lyondell-Citgo Refining Company, Ltd. (LCR), refinery in the Houston area, which has an application for subzone status pending with the Board (FTZ Doc. 32–97, 62 FR 24080, 5/2/97). The refinery will supply the petrochemical complex with up to 80 percent of its feedstock needs, including foreign-status gas oils, naphtha, natural gas condensate, natural gasoline and raw pyrolysis gasoline.

Zone procedures would exempt the petrochemical complex from Customs duty payments on the foreign products used in its exports. On domestic sales, the company would be able to choose the Customs duty rates that apply to certain petrochemical feedstocks (duty-free) by admitting incoming foreign inputs (e.g. gas oils, naphtha) in non-privileged foreign status. The duty rates on inputs range from 5.25c/barrel to 10.5c/barrel. Under the FTZ Act, certain merchandise in FTZ status is exempt from ad valorem inventory-type taxes. The application indicates that the savings from zone procedures would help improve the refinery's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 29, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to September 15, 1997).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce Export Assistance Center, Suite 1160, 500 Dallas, Houston, Texas 77002

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW., Washington, DC 20230

Dated: June 18, 1997.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–17052 Filed 6–27–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 51–97]

Foreign-Trade Zone 207—Richmond, VA; Application For Foreign-Trade Subzone Status: Hewlett-Packard Company (Computer and Related Electronic Products), Richmond, Virginia, Area

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Capital Region Airport Commission, grantee of FTZ 207, requesting special-purpose subzone status for the manufacturing and distribution facilities (computers, printers, measurement devices, medical products and related products) of the Hewlett-Packard Company (Hewlett-Packard), located in the Richmond, Virginia area. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on June 19, 1997.

The Hewlett-Packard facilities are located at three sites totaling 92.4 acres (1,110,270 square feet at completion) in the Richmond, Virginia area: *Site 1* (52.9 acres, 304,400 sq.ft. plus 293,820 proposed)—located at 500/600 Liberty Way, Chesterfield County, some eight miles south of Richmond; *Site 2* (9.6 acres, 142,800 sq.ft.)—5900 Eastport Boulevard, Henrico County, 2 miles southeast of Richmond; *Site 3* (30 acres, 369,250 sq.ft.)—4830 Eubank Road, Henrico County, 1 mile southeast of Richmond.

The facilities (200 employees) are used for storage, manufacture, and distribution for import and export of

computers and related devices, printers, electronic test and measurement devices, electronic medical products, and related electronic products and components. A number of components are purchased from abroad (an estimated 40% of value on manufactured products), including printed circuit boards, silicon wafers, rectifiers, integrated circuits, memory modules, CD-ROM drives, disk drives, scanners, hard drives, keyboards, monitors/displays (CRT and LCD type), LEDs, speakers, microphones, belts, valves, bearings, plastic materials, industrial chemicals, sensors, filters, resistors, transducers, fuses, plugs, relays, ink cartridges, toner cartridges, switches, fasteners, cards, transformers, DC/electric motors, magnets, modems, batteries, cabinets, power supplies, cables, copper wire, power cords, optical fiber, casters, cases, labels, and packaging materials (1997 duty range: free-14.2%).

Zone procedures would exempt Hewlett-Packard from Customs duty payments on foreign components used in export production. On its domestic sales, Hewlett-Packard would be able to choose the lower duty rate that applies to the finished products (free-13.2%) for the foreign components noted above. The application indicates that the savings from zone procedures would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is August 29, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to September 15, 1997.

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th and Pennsylvania Avenue, N.W., Washington, D.C. 20230

U.S. Department of Commerce Export Assistance Center, Suite 550, 704 East Franklin Street, Richmond, Virginia 23219

Dated: June 20, 1997.

John J. DaPonte, Jr.,

Executive Secretary.

[FR Doc. 97–17053 Filed 6–27–97; 8:45 am]

BILLING CODE 3510–DS–U

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–504]

Porcelain-on-Steel Cookware From Mexico: Notice of Amended Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Katherine Johnson or Mary Jenkins, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone, (202) 482–4929 or (202) 482–1756, respectively.

Scope of the Review

The merchandise covered by this review is porcelain-on-steel cookware, including tea kettles that do not have self-contained electric heating elements. All of the foregoing are constructed of steel and are enameled or glazed with vitreous glasses. This merchandise is currently classifiable under *Harmonized Tariff Schedule of the United States* (HTSUS) subheading 7323.94.00. Kitchenware currently entering under HTSUS subheading 7323.94.00.30 is not subject to the order. Although the HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this proceeding is dispositive.

Amendment of Final Results

On May 12, 1997, the Department of Commerce (the Department) published the final results of the administrative review of the antidumping duty order on porcelain-on-steel cookware from Mexico (62 FR 25908). This review covered Cinsa, S.A. de C.V. (Cinsa) the exporter of the subject merchandise to the United States. The period of review (POR) is December 1, 1993, through November 30, 1994.

On May 13, 1997, counsel for petitioner, General Housewares Corporation, filed an allegation of ministerial errors with regard to the final results in this review. We also received allegation of ministerial errors from counsel for respondent on May 16, 1997. On May 20, 1997, respondent submitted comments regarding petitioner's allegation of ministerial errors and on May 23, 1997, petitioner submitted comments regarding respondent's allegation of clerical errors (*see* May 28, 1997, memorandum to Louis Apple for a detailed description of petitioner's and respondent's allegations and the Department's responses). All submissions from both parties were filed in a timely manner.

Petitioner's Allegations

Petitioner alleged that:

1. The Department added an incorrect amount for profit in the constructed value (CV) calculation.

DOC Response

We agree that, in the calculation program for CINSA, we inadvertently transposed the sequence of commands to calculate the profit amount to be added to CV. We have corrected the ministerial error for the amended final results.

2. The final results computer program performed separate cost tests for first- and second-quality merchandise of each model.

DOC Response

Petitioner has raised a methodological issue rather than a ministerial issue in reference to its cost test allegation. The record indicated that second quality POS cookware is normally sold as a physically different product group in a different channel of trade from first quality cookware. Accordingly, we concluded that combining first quality and second quality sales for cost comparisons would not accurately reflect Cinsa's selling practices for such merchandise. Since our calculation methodology properly reflects our intention, we have not made any changes for these final results.

Respondent's Allegations

Respondent alleged that:

1. The Department improperly limited its calculation of CV profit earned from above-cost home market sales, rather than all home market sales of the subject merchandise.

DOC Response

In accordance with section 353.28(d) of the Department's regulations, we have considered the programming for the calculation of profit an unintentional ministerial error and have made a correction for the amended final results. *In the* Notice of Amended Final Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipe and Tube from

Turkey, 62 FR 16547 (April 7, 1997), the case cited by petitioner in objecting to such a change, the Department's intention was to limit the application of a change in policy. In the instant case, however, the Department's calculation of profit for CV was unintentionally based on a methodology called for in the new definition of ''ordinary course of trade'' found at 771(15) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) using only above-cost sales, rather than the pre-URAA methodology which applies to this proceeding.

2. The Department improperly used ''neutral'' best information available (BIA) in calculating a margin for Cinsa's sales of heavy gauge (HG) cookware in lieu of using ENASA's home market sales of HG cookware.

DOC Response

Respondent's argument does not reflect a ministerial error. As stated in the notice, we did not collapse Cinsa and ENASA for purposes of this review. During the relevant POR, Cinsa purchased HG cookware from ENASA; Cinsa then resold that cookware to customers in the United States. Only ENASA sold HG cookware in the home market. Because the record contains no information on home market sales by Cinsa of HG cookware to which Cinsa's sales of HG cookware to the United States could be compared, and because an adverse selection of BIA was not warranted under these circumstances, the Department used ''neutral'' BIA for calculating margins for Cinsa's U.S. sales of HG cookware.

3. The Department incorrectly articulated the basis for not initiating the cost investigation for ENASA.

DOC Position

Respondent's argument does not reflect a ministerial error within the meaning of section 735(e) of the Tariff Act of 1930, as amended. The Department's position, as reflected in the *Final Determination,* accurately reflects our rationale for not requesting cost data for Cinsa's sales of HG merchandise produced by ENASA.

Amended Final Results of Review

As a result of our review, we have determined that the following margins exist:

Manufacturer/exporter	Review period	Margin (percent)
Cinsa	12/1/93–11/30/94	6.86

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service. Furthermore, the following deposit requirements will be effective, upon publication of this notice of amended final results of review for all shipments of porcelain-on-steel cookware from Mexico entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate for the firm as stated above; (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 29.52 percent for porcelain-on-steel cookware from Mexico, the all others rate established in the LTFV investigation.

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: June 19, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–17050 Filed 6–27–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–501]

Notice of Initiation of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipe and Tube From Turkey

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) has received a request to conduct an administrative review of the antidumping duty order on certain welded carbon steel pipe and tube from Turkey. This order has a May anniversary date. In accordance with the Department's regulations, we are initiating this administrative review. The review period is from May 1, 1996, through April 30, 1997.

EFFECTIVE DATE: June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Brian C. Smith or Kris Campbell, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–1766 or (202) 482–3813, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 19, 1997, the Department published in the **Federal Register** a list of antidumping and countervailing duty cases with May order anniversary dates for which we had received timely requests for review. In addition, during May 1997, we received a timely request from the U.S. petitioners to initiate an administrative review of the antidumping duty order on certain steel pipe and tube from Turkey. This case was inadvertently omitted from the June 19, 1997, initiation notice. In accordance with sections 19 C.F.R. 353.22(c) and 355.22(c), we are initiating an administrative review of the antidumping duty order on certain welded carbon steel pipe and tube from Turkey. The Department is not initiating an administrative review of any exporters and/or producers who were not named in the review request

because such exporters and/or producers were not specified as required under section 353.22(a) (19 CFR 353.22(a)). We intend to issue the final results of this review not later than May 31, 1998.

If requested within 30 days of the date of publication of this notice, the Department will determine whether antidumping duties have been absorbed by an exporter or producer subject to this review if the subject merchandise is sold in the United States through an importer which is affiliated with such exporter or producer.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 C.F.R. 353.34(b) and 355.34(b).

This initiation and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 353.22(c)(1) and 355.22(c)(1).

Dated: June 24, 1997.

Richard W. Moreland,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 97–17051 Filed 6–27–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Quarterly Update to Annual Listing of Foreign Government Subsidies on Articles of Cheese Subject to an In-Quota Rate of Duty

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Publication of quarterly update to annual listing of foreign government subsidies on articles of cheese subject to an in-quota rate of duty.

SUMMARY: The Department of Commerce (the Department), in consultation with the Secretary of Agriculture, has prepared its quarterly update to the annual list of foreign government subsidies on articles of cheese subject to an in-quota rate of duty during the period January 1, 1997 through March 31, 1997. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: July 1, 1997.

FOR FURTHER INFORMATION CONTACT: Russell Morris or Maria MacKay, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., N.W., Washington, D.C. 20230, telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 (as amended) (the Act) requires the Department to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of cheese subject to an in-quota rate of duty, as defined in section 702(g)(b)(4) of the Act, and to publish an annual list and quarterly updates of the type and amount of those subsidies. We hereby provide the Department's quarterly update of subsidies on cheeses that were imported during the period January 1, 1997 through March 31, 1997.

The Department has developed, in consultation with the Secretary of Agriculture, information on subsidies (as defined in section 702 (g)(b)(2) of the Act) being provided either directly or indirectly by foreign governments on articles of cheese subject to an in-quota rate of duty. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amounts of each subsidy for which information is currently available.

The Department will incorporate additional programs which are found to constitute subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of cheese subject to an in-quota rate of duty to submit such information in writing to the Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

This determination and notice are in accordance with section 702(a) of the Act.

Dated: June 20, 1997.

Jeffrey P. Bialos,

Acting Assistant Secretary for Import Administration.

APPENDIX—SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY

Country	Program(s)	Gross [1] subsidy	Net [2] subsidy
Austria	European Union Restitution Payments	$0.26	$0.26
Belgium	EU Restitution Payments	0.00	0.00
Canada	Export Assistance on Certain Types of Cheese	0.26	0.26
Denmark	EU Restitution Payments	0.20	0.20
Finland	EU Restitution Payments	0.35	0.35
France	EU Restitution Payments	0.20	0.20
Germany	EU Restitution Payments	0.26	0.26
Greece	EU Restitution Payments	0.00	0.00
Ireland	EU Restitution Payments	0.09	0.09
Italy	EU Restitution Payments	0.04	0.04
Luxembourg	EU Restitution Payments	0.00	0.00
Netherlands	EU Restitution Payments	0.11	0.11
Norway	Indirect (Milk) Subsidy	0.42	0.42
	Consumer Subsidy	0.19	0.19
Total		0.61	0.61
Portugal	EU Restitution Payments	0.12	0.12
Spain	EU Restitution Payments	0.13	0.13
Switzerland	Deficiency Payments	0.32	0.32

APPENDIX—SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY—Continued

Country	Program(s)	Gross [1] subsidy	Net [2] subsidy
U.K.	EU Restitution Payments	0.05	0.05

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 97–17057 Filed 6–27–97; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Determination Not To Revoke Countervailing Duty Orders

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of determination not to revoke countervailing duty orders.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its determination not to revoke the countervailing duty orders listed below.

EFFECTIVE DATE: June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Russell Morris or Maria MacKay, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On April 1, 1997, the Department published in the **Federal Register** (62 FR 15463) its intent to revoke the following countervailing duty orders:

COUNTERVAILING DUTY ORDERS

Norway	Atlantic Salmon (C–403–802)	04/12/91 56 FR 14921
Peru	Pompon Chrysanthemums (C–333–601)	04/23/87 52 FR 13491

Under 19 C.F.R. 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no domestic interested party (as defined in § 355.2(i)(3), (i)(4), (i)(5), and (i)(6) of the regulations) objects to revocation or no interested party requests an administrative review by the last day of the 5th anniversary month.

Within the specified time frame, we received objections from domestic interested parties to our intent to revoke these countervailing duty orders. Therefore, because the requirements of 19 C.F.R. 335.25(d)(4)(iii) have not been met, we will not revoke these orders.

This determination is in accordance with 19 C.F.R. 355.25(d)(4).

Dated: June 20, 1997.

Jeffrey P. Bialos,

Principal Deputy Assistant Secretary for Import Administration.

[FR Doc. 97–17056 Filed 6–27–97; 8:45 am]
BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061697C]

Marine Mammals; (PHF#s 801–1365 and 782–1384)

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

ACTION: Receipt of applications.

SUMMARY: Notice is hereby given that the following applicants have applied in due form for a permit to take marine mammals for purposes of scientific research: Dr. William A. Kuperman, Director, Marine Physical Laboratory, Scripps Institution of Oceanography, University of California, San Diego, CA 92152 (Co-investigators: Dr. Gerald L. D'Spain and Mr. Aaron Thode); and Alaska Fisheries Science Center, National Marine Mammal Laboratory, 7600 Sand Point Way NE, BIN C15700, Seattle, WA 98115–0070 (Principal Investigator: Dr. Howard Braham, Co-Investigators: Dr. Robert DeLong, Patrick J. Gearin, Merrill E. Gosho, David E. Withrow, and Herbert R. Sanborn).

DATES: Written or telefaxed comments must be received on or before July 30, 1997.

ADDRESSES: The applications and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

PHF# 801–1365 (Dr. Kuperman) - Southwest Region, NMFS, 501 West Ocean Blvd., Long Beach, CA 908023–4213 (310/980–4001).

PHF# 782–1384 (Dr. Braham, NMML) - Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Seattle, WA 98115–0070 (206/526–6150).

Written comments or requests for a public hearing on these applications should be mailed to the Chief, Permits and Documentation Division, F/PR1, 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.

Comments may also be submitted by facsimile at (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by email or other electronic media. 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 permits are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the

Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR 222.23).

Dr. Kuperman (PHF# 801–1365) requests a permit to conduct acoustic research to determine its effect on a variety of marine mammal species. The specific purposes are to: localize and track marine mammals in three dimensions (azimuth, range and depth) by listening to their natural call behavior; evaluate the effect of low frequency manmade noise on baleen whales; estimate the actual source signature emitted by the animals themselves; use the vocalizations as loud sources of opportunity to determine properties of the ocean environment; and investigate the use of underwater acoustic recordings in marine mammal census studies. These activities will occur in California waters.

Dr. Braham (PHF# 782–1384) requests authorization to take gray whales (*Eschrichtius robustus*), over a 5-year period, in the following manner: biopsy sample up to 100; radio tag up to 100; tag with short-term visual tags up to 150. Additionally, inadvertently harass up to up to 50 animals annually. The objectives are to determine: seasonal distribution in Washington State waters; habitat utilization in the Strait of Juan de Fuca and the northern Washington coast; duration of their stay in Washington and the timing of their departure for the southbound migration; and the level of organochlorine pollutants in whales.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: June 23, 1997.

Art Jeffers,

Acting Chief, Permits and Documentation Division, Office of Protected Resource, National Marine Fisheries Service.

[FR Doc. 97–16958 Filed 6-27-97; 8:45 am]

BILLING CODE 3510–22–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Collection: Comment Request

June 25, 1997.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS) , as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. § 3508(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed. Currently, the Corporation for National and Community Service is soliciting comments concerning its proposed revision of its Voucher and Payment Request Form. Copies of the form can be obtained by contacting the office listed below in the address section of this notice.

DATES: Written comments must be submitted to the office listed in the addresses section on or before August 24, 1997.

The Corporation for National and Community Service is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Send comments to Levon Buller, National Service Trust, Corporation for National and Community Service, Mail Stop 7200, 1201 New York Ave., N.W., Washington, D.C., 20525.

FOR FURTHER INFORMATION CONTACT: Levon Buller, (202) 606–5000, ext. 383.

SUPPLEMENTARY INFORMATION:

I. Background

After AmeriCorps participants complete periods of national service, they receive ''education awards'' that can be used to pay against qualified student loans or pay for post secondary educational expenses. This award is an amount of money set aside in their ''account'' in the National Service Trust Fund. They have seven years in which to draw against any unused balance.

The Voucher and Payment Request Form is the document that an AmeriCorps participant uses to authorize and request that a payment be made from his or her account. The form serves three purposes: (1) the AmeriCorps participant uses it to request that a specific payment be made from the participant's account, (2) the school or loan company uses it to indicate the amount for which the individual is eligible, and (3) the school or loan company and participant use it to certify that the payment meets various legislative requirements. When the Corporation receives a voucher, it is processed and a payment is issued by the U.S. Treasury to the loan holder or school on behalf of the participant.

The form was designed and has been in use since the summer of 1994. During that time, CNCS has learned, through experience, the strengths and weaknesses of the form. The revisions are being proposed to rectify the weaknesses.

II. Current Action

The purposes of the revisions are to (1) eliminate unnecessary responses contained in the original form, (2) clarify instructions for completing the form, (3) simplify technical language on the original form, and (4) put onto one document space for signatures and the statements for which the signatories indicate affirmation. Regarding this last point, the current form refers those who complete the form to certain statements contained in a separate document. It is assumed that, by signing the form, the signatories are verifying agreement with those statements. On the proposed revised form, the statements and the signatures will be on one document. This will clearly bind the statements to the affirming signatures.

The Corporation for National and Community Service seeks to continue using this particular form, albeit in a revised version, to request and authorize payments from an AmeriCorps participant's account. The current Voucher and Payment Request Form is due to expire July 31, 1997. CNCS has asked for a 60-day extension to use the

existing form until a revised form is approved.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Voucher and Payment Request Form.

OMB Number: 3045–0014.

Agency Number: N/A.

Affected Public: AmeriCorps participants and the loan holders or schools to which they wish to make payments.

Total Respondents: 35,000 annually.

Frequency: Average of once per year.

Average Time Per Response: Two minutes (¼ minute for AmeriCorps participants and 1 ¾ minute for school/loan holder).

Estimated Total Burden Hours: 1,167 hours.

Total Burden Cost (capital/startup): N/A.

Total Burden Cost (operating/maintenance): N/A.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 25, 1997.

David Spevacek,

Director, Financial Operations.

[FR Doc. 97–16991 Filed 6–27–97; 8:45 am]

BILLING CODE 6050–28–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Submission for OMB Review; Comment Request

June 25, 1997.

The Corporation for National and Community Service (CNCS) , has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, (44 U.S.C. Chapter 35). Copies of these individual ICRs, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Alice Burke (202) 606–5000, Extension 225. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 565–2799 between the hours of 8:30 AM and 5:00 PM Eastern time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Corporation for National and Community Service, Office of Management and Budget, Room 10235, Washington, D.C., 20503. (202) 395-7316, within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;

Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

AGENCY: Corporation for National and Community Service.

Title: VISTA Alumni Locator Card

OMB Number: 3100–0134.

Frequency: One time.

Affected Public: Individuals and households.

Number of Respondents: 6,000.

Estimated Time Per Respondent: 2 minutes.

Total Burden Hours: 200 hrs.

Total Annualized capital/startup costs: $300.00

Total Annual Cost: $4,500.00

Description: The Corporation for National and Community Service proposes to send out AmeriCorps*VISTA Locator Cards to former AmeriCorps*VISTA members' home addresses. The card will be used by Corporation personnel and VISTA groups (only with explicit written permission of the respondent). The purpose of the card is to enhance communications between the Corporation and former VISTA members to provide them with information on Corporation activities and to assist in volunteer recruitment activities.

Dated: June 23, 1997.

Diana B. London Date,

*Director, AmeriCorps*VISTA.*

[FR Doc. 97–16992 Filed 6–27–97; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Task Force on Defense Reform

AGENCY: Department of Defense, Task Force on Defense Reform.

ACTION: Notice.

SUMMARY: The Task Force on Defense Reform will meet in closed sessions on July 1, 3, 8, 10, 15, 17, 22, 24, 29, and 31, 1997.

The task force was recently established to make recommendations to the Secretary of Defense and Deputy Secretary of Defense on alternatives for organizational reforms, reductions in management overhead, and streamlined business practices in the Department of Defense (DoD), with emphasis on the Office of the Secretary of Defense, the Defense Agencies and the DoD Field Activities, and the Military Departments.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended, 5 U.S.C., Appendix II, it has been determined that matters affecting national security, as covered by 5 U.S.C. 552b(c)(1)(1988), will be presented throughout the meetings, and that, ccordingly, these meetings will be closed to the public.

This notice is less than the customary 15 days for the meetings on July 1 and 3, 1997, since it is critical that the task force meet as soon as possible to meet the priority objectives of the Secretary of Defense and to ensure that findings and recommendations are cognizant of and coordinated with the Quadrennial Defense Review process and the proceedings of the National Defense Panel.

Dated: June 24, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–17000 Filed 6–27–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, DoD.

ACTION: Notice to add a system of records.

SUMMARY: The Office of the Secretary proposes to add a system of records notice to its existing inventory of record

systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended. The system is identified as DFMP 26, entitled Vietnamese Commando Compensation Files.

DATES: This proposed action will be effective without further notice on July 30, 1997, unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to OSD Privacy Act Coordinator, Records Section, Directives and Records Division, Washington Headquarter Services, Correspondence and Directives, 1155 Defense Pentagon, Washington, DC 20301–1155.

FOR FURTHER INFORMATION CONTACT: Mr. David Bosworth at (703) 695–0970 or DSN 225–0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on June 10, 1997, to the House Committee on Government Reform and Oversight, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: June 25, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DFMP 26

SYSTEM NAME:

Vietnamese Commando Compensation Files.

SYSTEM LOCATION:

Commission on Compensation, Office of the Secretary of Defense, 4000 Defense Pentagon, Washington, DC 20301–4000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are former Vietnamese operatives who either (1) participated in OPLAN 34A (or its predecessor) and were captured and incarcerated by the Democratic Republic of Vietnam (DRG) as a result of such participation, or (2) participated in OPLAN 35, were captured and incarcerated by North Vietnam forces as a result of such participation in Laos or along Lao-Vietnamese border, remained in capativity after 1973 (or died in captivity), and have not previously received payment from the United States for the period spent in capativity, provided that neither claimant has served in the Peoples Army of Vietnam or provided active assistance to the Government of the DRG during the period 1958 through 1975; the surviving spouse of a deceased claimant; the surviving children (including natural and adopted) of the deceased claimant if there is no surviving spouse.

CATEGORIES OF RECORDS IN THE SYSTEM:

System (including documentation) is comprised of (1) names (including aliases, former names, or other names used); (2) current address; (3) current telephone number(s); (4) United States Social Security Number, (if any), United States Immigration and Naturalization Service (INS) Identification or similar number(s), (if any), and any equivalent social security or identification number(s), (if any), issued to applicant by the Democratic Republic of Vietnam, the Republic of Vietnam, or the current government of Vietnam; (5) date of birth; (6) place of birth; (7) distinguishing marks (fingerprints, scars, etc.); (8) family identification, including (a) parents; (b) spouse; (c) children; (d) brothers; (e) sisters; (f) others; (9) team name; (10) place of insertion; (11) date of launch; (12) dates of captivity; (13) name, address, and telephone number of counsel or attorney (if any); and (14) required sworn declaration of veracity of above, including denial of service with or collaboration with North Vietnam.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub.L. 104–201, Section 657, Payments to certain persons captured and interned by North Vietnam.

PURPOSE(S):

To be used by officials of the Vietnamese Commandos Compensation Commission to (1) verify the identity of claimants; (2) ensure the claim has been submitted in a timely manner (on or before October 1, 1998); (3) adjudicate the claim; (4) establish verified list of claimants for disbursing agency and facilitate cash payments to claimants; (5) provide a check list for attorney's fees limitation (as specified in the law); (6) establish a check list of paid claimants to preclude future claims or judicial review; and (7) prepare future reports to the Congress.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Department of Justice, Litigation Division, in connection with litigation concerning *Au Dong Quy et al./Lost Commandos vs. United States* for the purpose of representing the Department of Defense in pending or potential litigation to which the record is pertinent.

To the Central Intelligence Agency and the Immigration and Naturalization Service for the purpose of checking and verifying claim information.

The 'Blanket Routine Uses' set forth at the beginning of OSD's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy files are maintained in file folders; computer files are stored on magnetic tape and disk.

RETRIEVABILITY:

Records are retrieved by name, date and place of birth, and/or Social Security Number if assigned and voluntarily furnished.

SAFEGUARDS:

Files are maintained under the direct control of office personnel in the Commission on Compensation during duty hours. Office is locked and alarmed during non-duty hours. Computer access requires logon and password and computer media is stored in a controlled area.

RETENTION AND DISPOSAL:

Records will be maintained until all requirements of Pub.L. 104-201 are met and until a records disposition is obtained from the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Commission on Compensation, Office of the Secretary of Defense, 4000 Defense Pentagon, Washington, DC 20301–4000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commission on Compensation, Office of

the Secretary of Defense, 4000 Defense Pentagon, Washington, DC 20301–4000.

Requesters should provide full name and any former names used and date and place of birth. If a requester has a Social Security Number and desires to furnish it, he or she may do so but failure to provide it will not result in the request not being processed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Commission on Compensation, Office of the Secretary of Defense, 4000 Defense Pentagon, Washington, DC 20301–4000.

Requesters should provide full name and any former names used and date and place of birth. If a requester has a Social Security Number and desires to furnish it, he or she may do so but failure to provide it will not result in the request not being processed.

CONTESTING RECORDS PROCEDURES:

The OSD's rules for accessing records, for contesting contents and appealing initial agency determinations are contained in OSD Administrative Instruction No. 81; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is received from claimants, their survivors, their attorneys and other authorized representatives; third party individuals; the Department of Defense; and Government intelligence agencies; the Immigration and Naturalization Service; and from the National Archives and Records Administration.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Information specifically authorized to be classified under E.O. 12958, as implemented by DoD 5200.1–R, may be exempt pursuant to 5 U.S.C. 552a(k)(1).

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b) (1), (2), and (3), (c) and (e) and published in 32 CFR part 311. For additional information contact the system manager.

[FR Doc. 97–17002 Filed 6–27–97; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; System of Records

AGENCY: Defense Logistics Agency, DOD.

ACTION: Amend a system of records.

SUMMARY: The Defense Logistics Agency proposes to amend an existing system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on July 30, 1997, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Defense Logistics Agency, DLA-CAAV, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 767–6183.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the Federal Register and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: June 25, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S200.40 DLA–M

SYSTEM NAME:

Morale, Welfare, and Recreation (MWR) Records *(58 FR 10862, February 22, 1993).*

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with 'S400.10 CA'.

* * * * *

SYSTEM NAME:

Delete entry and replace with 'Social, Athletic, and Recreation Center Membership and Use Records.'

SYSTEM LOCATION:

Delete entry and replace with 'Defense Logistics Agency Primary Level Field Activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Individuals who use or apply for membership in DLA-managed social, athletic, and recreation facilities, messes, and clubs. It includes military members, civilian employees, contractor employees, and families and guests of authorized users.'

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Membership applications; arts, crafts, and sports class registration forms; health workout programs and assessments; liability agreements between activity and participants; check cashing applications and approval records; and facility or equipment reservation applications. The system contains applicant or user name, rank or grade, social security number, membership or employee badge number, spouse and dependent names, birth dates, home address and telephone numbers, bank and credit card account numbers, and dates and times of facility use.'

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '5 U.S.C. 301, Departmental Regulations; 5 U.S.C. 302, Agency powers, Delegation of authority; 5 U.S.C. 7901, Health Service Programs; 10 U.S.C. 133, Organization and powers, Under Secretary of Defense for Acquisition and Technology; E.O. 9397 (SSN); and DoD Directive 1010.10, Heath Promotion.'

PURPOSE(S):

Delete entry and replace with 'To determine eligibility for membership and use; to bill members for dues and charges; to determine eligibility for check cashing privileges; to register applicants for classes; to notify users of future events or cancellations in cases of emergency; to process advance reservations for facility use; to provide membership and facility use data to management; and to develop individual fitness programs for users. The records may also be used to terminate membership or facility use for nonpayment of dues or noncompliance with rules.'

* * * * *

RETRIEVABILITY:

Delete entry and replace with 'Retrieved by name, Social Security Number, or membership or employee badge number.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Records are destroyed after three years

or when obsolete, superseded, or no longer needed.'

* * * * *

S400.10 CA

SYSTEM NAME:

Social, Athletic, and Recreation Center Membership and Use Records.

SYSTEM LOCATION:

Defense Logistics Agency Primary Level Field Activities. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who use or apply for membership in DLA-managed social, athletic, and recreation facilities, messes, and clubs. It includes military members, civilian employees, contractor employees, and families and guests of authorized users.

CATEGORIES OF RECORDS IN THE SYSTEM:

Membership applications; arts, crafts, and sports class registration forms; health workout programs and assessments; liability agreements between activity and participants; check cashing applications and approval records; and facility or equipment reservation applications. The system contains applicant or user name, rank or grade, social security number, membership or employee badge number, spouse and dependent names, birth dates, home address and telephone numbers, bank and credit card account numbers, and dates and times of facility use.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental regulations; 5 U.S.C. 302, Agency powers, Delegation of authority; 5 U.S.C. 7901, Health Service Programs; 10 U.S.C. 133, Organization and powers, Under Secretary of Defense for Acquisition and Technology; E.O. 9397 (SSN); and DoD Directive 1010.10, Heath Promotion.

PURPOSE(S):

To determine eligibility for membership and use; to bill members for dues and charges; to determine eligibility for check cashing privileges; to register applicants for classes; to notify users of future events or cancellations in cases of emergency; to process advance reservations for facility use; to provide membership and facility use data to management; and to develop individual fitness programs for users. The records may also be used to terminate membership or facility use for nonpayment of dues or noncompliance with rules.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of DLA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS:

STORAGE:

Records are stored in paper and computerized form.

RETRIEVABILITY:

Retrieved by name, Social Security Number, or membership or employee badge number.

SAFEGUARDS:

Records are maintained in areas accessible only to DLA personnel who must access the records to perform their official duties. The computer files are password protected with access restricted to authorized users.

RETENTION AND DISPOSAL:

Records are destroyed after three years or when obsolete, superseded, or no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Corporate Administration, Headquarters, Defense Logistics Agency, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221, and the Commanders of the Defense Logistics Agency (DLA) Primary Level Field Activities (PLFAs). Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Privacy Act Officer, HQ DLA-CAAV, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221, or the Privacy Act Officer of the particular DLA PLFA involved. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Privacy Act Officer, HQ DLA-CAAV, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221, or the Privacy Act Officer of the particular DLA PLFA involved. Official mailing addresses are published as an appendix to DLA's compilation of systems of records notices.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records and for contesting contents and appealing initial agency determinations are published in DLA Regulation 5400.21; 32 CFR part 323; or may be obtained from the Privacy Act Officer.

RECORD SOURCE CATEGORIES:

Information is provided by the record subject or the record subject's sponsor.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 97–17003 Filed 6–27–97; 8:45 am]
BILLING CODE 5000–04–F

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Inventions of Licensing; Government Owned Inventions

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are available for licensing by the Department of the Navy. Requests for copies of the patent and patent application cited should be directed to the Office of Naval Research, ONR 00CC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660 and must include the patent or patent application serial number.

FOR FURTHER INFORMATION CONTACT: Mr. R. J. Erickson, Staff Patent Attorney, Office of Naval Research, ONR 00CC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660, telephone (703) 696–4001.

U.S. Patent No. 5,572,230 entitled ''Fluid Sampler Utilizing Optical Near-Field Imaging'' patented November 5, 1996. Patent Application Ser No. 08/670,909 entitled ''A New, Non-Thermal Process for Annealing of Crystalline Materials'' filed June 26, 1996.

Dated June 18, 1997.

M.D. Sutton,

LT, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 97–17045 Filed 6–27–97; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Naval Research Advisory Committee will meet on July 14 through 18, and July 21 through 25, 1997. The meeting will be held at the Naval Command, Control and Ocean Surveillance Center, Research, Development, Test and Evaluation Division, San Diego, California. The session on July 14 will commence at 8:30 a.m. and terminate at 5:00 p.m.; the sessions on July 15 through July 18, and July 21 through 24, will commence at 8:00 a.m. and terminate at 11:30 a.m. All sessions of these meetings will be closed to the public.

The purpose of these meetings is to discuss basic and advanced research and technology. All sessions of the meetings will be devoted to briefings, discussions and technical examination of information related to science and technology opportunities that have the potential for major impact on engineering and operational flexibility over the lifetime of new Navy ship classes now under construction; and science and technology opportunities and current technologies associated with Department of the Navy logistics initiatives in order to resupply forward-deployed Small Unit Operations, with minimum footprint and exposure time, and maintain communications for a specified period. These briefings and discussions will contain classified and proprietary information that is specifically authorized under criteria established by Executive Order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive Order. The classified, proprietary, and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting.

Accordingly, the Secretary of the Navy has determined in writing that the pubic interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c) (1) and (4) of title 5, United States Code.

FOR FURTHER INFORMATION CONCERNING THIS MEETING CONTACT: Ms. Diane Mason-Muir, Office of Naval Research, Naval Research Advisory Committee, 800 North Quincy Street, Arlington, VA 22217–5660, telephone number (703) 696–6769.

Dated: June 18, 1997.

Michael D. Sutton,

LT, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 97–17044 Filed 6–27–97; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DOD.

ACTION: Alter a record system.

SUMMARY: The Department of the Navy proposes to alter a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The alteration will be effective on July 30, 1997, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (N09B30), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed altered system report, as required by 5 U.S.C. 552a(r) of the Privacy Act was submitted on June 9, 1997, to the House Committee on Government Reform and Oversight, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996, (61 FR 6427, February 20, 1996).

Dated: June 16, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N05521–1

SYSTEM NAME:

Access Control System *(March 2, 1994, 59 FR 9972).*

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with 'N05512–2'.

SYSTEM NAME:

Add to beginning of entry 'Badge and'.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Individuals considered or seeking consideration for access to space under the control of the Department of the Navy (DON) and any visitor (military, civilian, or contractor) requiring access to a controlled facility.'

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add to entry 'OPNAVINST 5530.14B, DON Physical Security and Loss Prevention.'

PURPOSE(S):

Delete entry and replace with 'To maintain all aspects of proper access control; to issue badges; replace lost badges; to retrieve passes upon separation; to maintain visitor statistics; and collect information to adjudicate access.'

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete paragraph 2 and replace with 'To designated contractors, Federal agencies, and foreign governments for the purpose of granting Navy officials access to their facility.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Badges and passes are destroyed three months after return to issuing office. Records of issuance are destroyed six months after new accountability system is established or one year after final disposition of each issuance record is entered in retention log or similar record, whichever is earlier. Visit request records are destroyed two years after final entry or two years after date of document, whichever is later.'

* * * * *

N05521–2

SYSTEM NAME:

Badge and Access Control System.

SYSTEM LOCATION:

Organizational elements of the Department of the Navy. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals considered or seeking consideration for access to space under the control of the Department of the Navy (DON) and any visitor (military, civilian, or contractor) requiring access to a controlled facility.

CATEGORIES OF RECORDS IN THE SYSTEM:

Visit requests for permission to transact commercial business, visitor clearance data for individuals to visit a naval base/activity/contractor facility; barring lists and letters of exclusion, and badge/pass issuance records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; OPNAVINST 5530.14B, DON Physical Security and Loss Prevention; and E.O. 9397 (SSN).

PURPOSE(S):

To maintain all aspects of proper access control; to issue badges; replace lost badges; to retrieve passes upon separation; to maintain visitor statistics; and collect information to adjudicate access.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To designated contractors, Federal agencies and foreign governments for the purpose of granting Navy officials access to their facility.

The 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, card files, magnetic tape, personal computers, and electronic badging system.

RETRIEVABILITY:

Name, Social Security Number, Case number, organization, and company name.

SAFEGUARDS:

Access is provided on a need-to-know basis only. Manual records are maintained in file cabinets under the control of authorized personnel during working hours. The office space in which the file cabinets are located is locked outside of official working hours. Computer terminals are located in supervised areas. Access is controlled by password or other user code system.

RETENTION AND DISPOSAL:

Badges and passes are destroyed three months after return to issuing office. Records of issuance are destroyed six months after new accountability system is established or one year after final disposition of each issuance record is entered in retention log or similar record, whichever is earlier. Visit request records are destroyed two years after final entry or two years after date of document, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official for Security Badges: Chief of Naval Operations (N09N), Building 111, Washington Navy Yard, 901 M Street SE, Washington, DC 20388–5384.

Record Holder: Commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

Individual should provide full name and Social Security Number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commanding officer of the activity in question. Official mailing addresses are published as an appendix to the Navy's compilation of systems of records notices.

Individual should provide full name and Social Security Number.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Visit requests; individual; records of the activity; investigators; witnesses; contractors; companies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 97–16254 Filed 6–27–97; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF EDUCATION

Notice of proposed information collection requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by July 18, 1997. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before August 29, 1997.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer: Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 7th & D Streets, S.W., Room 5624, Regional Office Building 3, Washington, D.C. 20202–4651. Written comments regarding the regular clearance and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronic mailed to the internet

address #FIRB@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 3506 (c)(2)(A) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Group, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: June 24, 1997.

Gloria Parker,

Director, Information Resources Management Group.

Office of Postsecondary Education

Type of Review: Emergency.

Title: Application for Strengthening Historically Black Colleges and Universities Program.

Abstract: The information is required of institutions of higher education designated as Historically Black Colleges and Universities and Qualified Graduate Programs, Title III, Part B of the Higher Education Act of 1965, as amended. This information will be used in the evaluation process to determine whether proposed activities are consistent with legislated activities and to determine dollar share of Congressional appropriation.

Additional Information: This grant program is authorized for institutions, higher education to improve financial management and strengthen the academic programs of institutions.

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 115.

Burden Hours: 2,106.

[FR Doc. 97–17024 Filed 6–27–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Postsecondary Education; William D. Ford Federal Direct Loan Program

AGENCY: Department of Education.

ACTION: Notice of interest rates for the William D. Ford Federal Direct Loan Program for the period July 1, 1997, through June 30, 1998.

SUMMARY: The Assistant Secretary for Postsecondary Education announces the interest rates for variable rate loans made under the William D. Ford Federal Direct Loan (Direct Loan) Program for the period July 1, 1997, through June 30, 1998.

FOR FURTHER INFORMATION CONTACT: Barbara F. Grayson, Program Specialist, William D. Ford Federal Direct Loan Program, Policy Development Division, Office of Postsecondary Education, U.S. Department of Education, Room 3045, ROB–3, 600 Independence Avenue, SW, Washington, DC 20202–5400. Telephone: (202) 708–8242. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The formulas for determining the interest rates for Direct Loan Program loans are provided under section 455 of the Higher Education Act of 1965, as amended (the Act) (20 U.S.C. 1087e), and as codified in 34 CFR 685.202(a) and 685.215(g). Section 455(b) of the Act provides that a variable interest rate applies to loans made under the Direct Loan Program and disbursed on or after July 1, 1994. The variable rate is determined annually and applies for each 12-month period beginning July 1 and ending June 30. For Federal Direct Stafford/Ford (Direct Subsidized) and Federal Direct Unsubsidized Stafford/Ford (Direct Unsubsidized) Loans, and Federal Direct Subsidized and Federal Direct Unsubsidized Consolidation Loans, the interest rate may not exceed 8.25 percent. For Federal Direct PLUS and Federal Direct PLUS Consolidation Loans, the interest rate may not exceed 9 percent.

Interest Rates for Direct Subsidized, Direct Unsubsidized, Direct Subsidized Consolidation, and Direct Unsubsidized Consolidation Loans

Loans first disbursed prior to July 1, 1995. Pursuant to section 455(b)(1) of the Act, the Assistant Secretary has determined the interest rate for the period July 1, 1997, through June 30, 1998, to be 8.25 percent.

Loans first disbursed on or after July 1, 1995. (a) During the in-school, grace, and deferment periods. Pursuant to section 455(b)(2) of the Act, the Assistant Secretary has determined the interest rate for the period July 1, 1997, through June 30, 1998, to be 7.66 percent.

(b) During all other periods. Pursuant to section 455(b)(1) of the Act, the Assistant Secretary has determined the interest rate for the period July 1, 1997, through June 30, 1998, to be 8.25 percent.

Interest Rates for Direct PLUS and Direct PLUS Consolidation Loans

Pursuant to section 455(b)(4) of the Act, the Assistant Secretary has determined the interest rate for the period July 1, 1997, through June 30, 1998, to be 8.98 percent. (20 U.S.C. 1087e)

Dated: June 13, 1997.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 97–17061 Filed 6–27–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[FE Docket No. 97–37–NG]

Office of Fossil Energy; Coastal Gas Marketing Company; Order Granting Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Coastal Gas Marketing Company (CGM) a ten-year authorization to import from Canada up to 49 MMcf per day of natural gas beginning on November 1, 1998. This natural gas will be purchased from five Canadian producers and may be imported near St. Clair, Michigan, or at alternative border points where transportation facilities are accessible by CGM.

This order is available for inspection and copying in the Office of Natural Gas & Petroleum Import and Export Activities Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0350, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C. June 24, 1997.

Wayne E. Peters,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import and Export Activities, Office of Fossil Energy.

[FR Doc. 97–17021 Filed 6–27–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy

[FE Docket Nos.95–27–NG , 89–88–NG, 90–100–NG, 97–24–NG, and 97–39–NG]

Koch Energy Trading, Inc., KCS Energy Marketing, Inc., Aquila Energy Marketing Corporation, Aquila Energy Marketing Corporation, and Usgen Power Service; Orders Granting, Transferring and Vacating Blanket Authorizations To Import and/or Export Natural Gas

[FE Docket Nos.95–27–NG , 89–88–NG, 90–100–NG, 97–24–NG, and 97–39–NG]

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of orders.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued Orders authorizing, transferring and/or vacating various imports and/or exports of natural gas. These Orders are summarized in the attached appendix.

These Orders are available for inspection and copying in the Office of Natural Gas & Petroleum Import and Export Activities, Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 586–9478. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on June 24, 1997.

Wayne E. Peters,

Manager, Natural Gas Regulation, Office of Natural Gas & Petroleum Import and Export Activities, Office of Fossil Energy.

APPENDIX—BLANKET IMPORT/EXPORT AUTHORIZATIONS GRANTED

[DOE/FE Authority]

Order No.	Date issued	Importer/Exporter FE Docket No.	Two-year maximum		Comments
			Import volume	Export volume	
1047–A	05/06/97	Koch Energy Trading, Inc. (Formerly Koch Gas Services Company) 95–27–NG.	.....	.....	Name change.
427–B	05/09/97	KCS Energy Marketing, Inc. 89–88–NG	.....	.....	Vacated.
474–B	05/09/97	Aquila Energy Marketing Corporation 90–100–NG	.....	.....	Vacated.
1273	05/09/97	Aquila Energy Marketing Corporation 97–24–NG	.....	200 Bcf	Export to Canada.
				200 Bcf	Export to Mexico.
1274	05/22/97	USGen Power Service 97–39–NG	146 Bcf		Import/export combined total from and to Canada.

[FR Doc. 97–17019 Filed 6–27–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Arms Control and Nonproliferation; Proposed Subsequent Arrangement

AGENCY: U.S. Department of Energy.

ACTION: Subsequent arrangement.

SUMMARY: Pursuant to Article VIII.C of the Agreement for Cooperation Concerning Civil Uses of Atomic Energy, signed April 4, 1972, as amended, The American Institute in Taiwan (AIT) and the Taipei Economic and Cultural Representative Office (TECRO) hereby jointly determine that the provisions in Article XI of that Agreement may be effectively applied in respect of the plan proposed by TECRO in October 1996, as modified by a letter of February 27, 1997, for the alteration in form or content of irradiated fuel elements at the hot laboratory of the Institute of Nuclear Energy Research, Lungtan, Taiwan. The facility is hereby found acceptable to both parties pursuant to Article VIII(C) of the Agreement for the sole purpose of alteration in form or content of irradiated fuel elements for the period ending December 31, 2005.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: June 23, 1997.

For the Department of Energy.

Cherie P. Fitzgerald,

Director, International Policy and Analysis Division, Office of Arms Control and Nonproliferation.

[FR Doc. 97–17020 Filed 6–27–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Energy Information Administration, DOE.

ACTION: Agency information collection activities: Proposed collection; comment request.

SUMMARY: The Energy Information Administration (EIA) is soliciting comments concerning the proposed extension of Form FE–781R, ''Annual Report of International Electrical Export/Import Data.''

DATES: Written comments must be submitted on or before August 29, 1997. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below of your intention to do so as soon as possible.

ADDRESSES: Send comments to Steven Mintz, Office of Coal and Power Imports and Exports, FE–27, Forrestal Building, U.S. Department of Energy, Washington, DC 20585 (Phone 202–586–9506; e-mail address—steven.mintz@hq.doe.gov, and FAX (202–586–6050)).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Steven Mintz at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. No. 93–275) and the Department of Energy Organization Act (Pub. L. No. 95–91), the Energy Information Administration (EIA) is obliged to carry out a central, comprehensive, and unified energy data and information program. As part of this program, EIA collects, evaluates, assembles, analyzes, and disseminates data and information related to energy resource reserves, production, demand, and technology, and related economic and statistical information relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs.

The EIA, as part of its continuing effort to reduce paperwork and respondent burden (required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13)), conducts a presurvey consultation program to provide the general public and other Federal agencies with an opportunity to comment on proposed and/or continuing reporting forms. This program helps to: prepare data requests in the desired format, minimize reporting burden, develop clearly understandable reporting forms, and assess the impact of collection requirements on respondents. Also, EIA will later seek approval by the Office of Management and Budget (OMB) for the collections under Section 3507(h) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13, Title 44, U.S.C. Chapter 35).

The Office of Coal and Power Imports and Exports (Fossil Energy) will monitor the levels of electricity imports and exports and issue summary tabulations in a staff Annual Report. The Office will also provide monthly tabulations of these data for use in the Energy Information Administration's Monthly Energy Review and Annual Energy Review. This information will be kept in the public docket files and will be available for public inspection and copying.

II. Current Actions

A clearance package will be submitted to the Office of Management and Budget requesting approval of a three-year extension with no change of the currently-approved collection.

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in item II. The following guidelines are provided to assist in the preparation of responses.

General Issues

A. Is the proposed collection of information necessary for the proper performance of the functions of the agency? Does the information have practical utility. Practical utility is defined as the actual usefulness of information to or for an agency, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What enhancements can EIA make to the quality, utility, and clarity of the information to be collected?

As a Potential Respondent

A. Are the instructions and definitions clear and sufficient? If not, which instructions require clarification?

B. Can data be submitted by the due date?

C. Public reporting burden for this collection is estimated to average 10 hours per response. Burden includes the total time, effort, or financial resources expended to generate, maintain, retain, or disclose or provide the information.

Please comment on (1) the accuracy of our estimate and (2) how the agency could minimize the burden of the collection of information, including the use of information technology.

D. EIA estimates that respondents will incur no additional costs for reporting other than the hours required to complete the collection. What is the estimated: (1) total dollar amount annualized for capital and start-up costs, and (2) recurring annual costs of operation and maintenance, and purchase of services associated with this data collection?

E. Do you know of any other Federal, State, or local agency that collects similar data? If you do, specify the agency, the data element(s), and the methods of collection.

As a Potential User

A. Can you use data at the levels of detail indicated on the form?

B. For what purpose would you use the data? Be specific.

C. Are there alternate sources of data and do you use them? If so, what are their deficiencies and/or strengths?

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form. They also will become a matter of public record.

Statutory Authority: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, D.C. June 24, 1997.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 97–17017 Filed 6–27–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–595–000]

ANR Pipeline Company; Notice of Request Under Blanket Authorization

June 24, 1997.

Take notice that on June 19, 1997, ANR Pipeline Company (Applicant), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP97–595–000 for approval under Sections 157.205 and 157.212 of the Commission's Regulations to construct and operate, a delivery point in order to provide service to Wisconsin Public Service Company (WPSC) under Applicant's blanket certificate issued in Docket No. CP88–532–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

The delivery point will consist of a tap, an electronic measurement system, a 2-inch turbine meter, and a 2-inch positive displacement meter. The estimated cost is $190,700, for which Applicant will be reimbursed by WPSC. Applicant states that the volumes delivered will be within the certificated entitlements of WPSC.

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 on the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16974 Filed 6–27–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR97–12–000]

Cranberry Pipeline Corporation; Notice of Petition for Rate Approval

June 24, 1997.

Take notice that on June 17, 1997, Cranberry Pipeline Corporation—Pennsylvania Operations (Cranberry), filed a petition for rate approval, pursuant to Section 284.123(b)(2) of the Commission's Regulations, requesting that the Commission approve as fair and equitable a rate of 67.81 cents per Mcf for Section 311 transportation services performed on Cranberry's Pennsylvania system.

Cranberry states that it is an intrastate pipeline within the meaning of Section 2(16) of the NGPA and its owns and operates discrete pipeline facilities within States of West Virginia and Pennsylvania. Cranberry states that its West Virginia and Pennsylvania systems are completely separate and rate approvals for those systems have traditionally been determined in completely separate proceedings. The proposed cost of service and resulting unit rate are based on actual costs incurred for the 12 month period ended March 31, 1997, on Cranberry's integrated system. The proposed cost of service is $5,723,318 based on a rate of return 10.86% and total O&M and A&G expenses of $2,138,315. The test period throughput was 8,440,479 Mcf resulting in the unit rate of $0.6781 per Mcf. Cranberry proposes an effective date on or after June 17, 1997.

Pursuant to Section 284.123(b)(2)(ii), if the Commission does not act within 150 days of the filing date, the rate will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150-day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

Any person desiring to participate in this rate proceeding must file a motion to intervene in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedures. All motions must be filed with the Secretary of the Commission on or before July 15, 1997. The petition for rate approval is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16973 Filed 6–27–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–590–000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization

June 24, 1997.

Take notice that on June 18, 1997, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP97–590–000 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 install and operate a new delivery point to accommodate natural gas deliveries to Mid-America Pipeline Company (Mapco) for delivery to the proposed MAPCO Delivery Point, located in Monona County, Iowa, under Northern's blanket certificate issued in Docket No. CP82–401–000 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.

Northern states that it requests authority to install and operate the proposed delivery point to accommodate natural gas deliveries to Mapco under Northern's currently effective throughput service agreement. Northern asserts that Mapco has requested the proposed delivery point to provide fuel for its plant. The estimated volumes proposed to be delivered to Mapco at the MAPCO Delivery Point are 645 MMBtu on a peak day and 76,608 MMBtu on an annual basis. Northern has stated that the estimated cost to install the delivery point is $69,500. It is stated that Mapco will reimburse Northern $36,903 of the costs of the proposed delivery point.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor,

the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16975 Filed 6–27–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–599–000]

PanEnergy Field Services, Inc.; Notice of Petition for Declaratory Order

June 24, 1997.

On June 20, 1997, PanEnergy Field Services, Inc. (Field Services), 370 Seventeenth Street, Suite 900, Denver, CO 80202, filed in the above docket, a petition for a declaratory order under Rule 207 of the Commission's Rules of Practice and Procedure, wherein Field Services seeks a declaratory order from the Commission finding that neither Field Services' proposed acquisition, ownership and operation of certain natural gas gathering facilities currently owned by Texas Eastern Transmission Corporation (Texas Eastern), nor any of Field Services' facilities or services related thereto will subject Field Services or any portion of its facilities, services or rates to the jurisdiction of the Commission under the Natural Gas Act.

The gathering facilities to be sold by Texas Eastern and purchased by Field Services consist of the Pointe Au Chien pipeline (Line 40–E) (the Facilities) as more fully set forth in the petition which is on file with the FERC and open to public inspection.

The Commission authorized abandonment of the Facilities in an order issued October 30, 1995 in Docket No. CP95–661–000 and 001 (by sale from Texas Eastern to Texaco Pipeline, Inc. (Texaco). Texaco subsequently terminated the applicable purchase and sale agreement. On June 13, 1997, Texas Eastern filed to amend the abandonment authorization to substitute Field Services as the purchaser of the Facilities in lieu of Texaco. No wells are currently connected to the Facilities. Field Services states that it anticipates tying-in production to the Facilities thereby utilizing these assets and promoting competition for gathering services in the producing area. This, it states, will increase the volume of natural gas available for delivery into the intrastate and interstate pipeline grids.

Any person desiring to be heard or to make any protest with reference to said petition should on or before July 15, 1997, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this petition if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the petition is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Field Services to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16978 Filed 6–27–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP95–661–002]

Texas Eastern Transmission Corporation; Notice of Application

June 24, 1997.

Take notice that on June 13, 1997 Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in Docket No. CP95–661–002 an abbreviated application pursuant to Section 7(b) of the Natural Gas Act to amend its existing authorization to abandon by sale, its Line 40–E facility in Lafourche and Terrebonne Parishes, Louisiana. Texas Eastern requests the Commission amend its Order Granting Abandonment issued October 30, 1995 so as to replace Texaco Pipeline Inc. (Texas) with PanEnergy Field Services, Inc. (Field Services), an affiliate, as the purchaser of Line 40–E.

Texas Eastern states that pursuant to the terms and conditions of the Purchase and Sale Agreement between Texas Eastern and Texaco, Texaco notified Texas Eastern on March 21, 1997, that it was exercising its right under the Purchase and Sale Agreement to terminate such agreement. Subsequently, Texas Eastern has entered into a Purchase and Sale Agreement (''Agreement'') with Field Services pursuant to which Texas Eastern will sell, and Field Services will purchase, Line 40–E. Texas Eastern states the Agreement is substantially in the form of the agreement between Texas Eastern and Texaco. The price to be paid by Filed Services for Line 40–E, i.e., net book value at the date of closing, is a negotiated price. The option granted to Texaco to acquire 13 acres of land at Texas Eastern's Larose Compressor Station location in Louisiana (''Option'') has been eliminated. Except for the Option, Texas Eastern further states that the Agreement provides for the sale of the exact same facilities as authorized in the Commission's October 30, 1995 order. The net book value of Line 40–E at the proposed closing date of October 1, 1997 will be $3,023,062.

Texas Eastern also requests that the Commission issue the declaratory order petitioned for by Field Services in its filing with the Commission on June 20, 1997 in Docket No. CP97–599–000.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 15, 1997, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a

motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Texas Eastern to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16977 Filed 6–27–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–584–000]

Williams Natural Gas Company; Notice of Request Under Blanket Authorization

June 24, 1997.

Take notice that on June 16, 1997, Williams Natural Gas Company (Williams), Post Office Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP97–584–000 a request pursuant to Sections 157.205, 157.212(a), and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212(a), and 157.216(b)) for authorization to relocate and replace the Burlington town border meeting setting and appurtenant facilities, located in Alfalfa County, Oklahoma. Williams makes such request under its blanket certificate issued in Docket No. CP82–479–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Specifically, Williams is seeking authorization to abandon, by reclaim, the unreliable Burlington town border meter setting and appurtenant facilities which are located on a railroad right-of-way. It is indicated that the railroad is slated to be abandoned and that after such abandonment, the right-of-way will be returned to the landowners. Williams is also proposing in this proceeding to install a new size-for-size meter setting and appurtenant facilities at an existing location in Alfalfa County, to replace the facilities proposed to be abandoned in this proceeding.

It is indicated that the most recent annual volume through the Burlington town border setting was 12,100 Dt, with a peak day volume of 105 Dt. Williams states that it does not expect the volume to change as a result of the proposal in this proceeding. Indications are that the Town of Burlington support Williams intent.

Williams estimates the cost to replace and relocate the Burlington meter setting at $43,818, and the cost to reclaim the old facilities at approximately $2,683.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission's file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16976 Filed 6–27–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG97–70–000, et al.]

Dighton Power Associates Limited Partnership, et al. Electric Rate and Corporate Regulation Filings

June 20, 1997.

Take notice that the following filings have been made with the Commission:

1. Dighton Power Associates Limited Partnership

[Docket No. EG97–70–000]

On June 12, 1997, Dighton Power Associates Limited Partnership (Dighton) c/o Dennis J. Duffy, Esq., Partridge, Snow & Hahn, 180 South Main Street, Providence, Rhode Island 02903, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Dighton will own and operate an approximately 170 MW electric generation facility located in Dighton, Massachusetts, producing electricity for sale exclusively at wholesale.

Comment date: July 11, 1997, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Northern States Power Company (Wisconsin Company)

[Docket No. ER97–1003–000]

Take notice that on May 13, 1997, Northern States Power Company (NSP) tendered its Amendment No. 1 in the above referenced docket.

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Illinois Power Company

[Docket No. ER97–1827–000]

Take notice that on May 28, 1997, Illinois Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Northeast Energy Services, Inc.

[Docket No. ER97–2570–000]

Take notice that on June 10, 1997, Northeast Energy Services Inc., tendered for filing an amendment in the above-referenced docket.

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Central Maine Power Company

[Docket No. ER97–3181–000]

Take notice that on June 4, 1997, Central Maine Power Company (CMP), tendered for filing a service agreement for Non-Firm Point-to-Point Transmission service entered into with Aquila Power Corporation. Service will be provided pursuant to CMP's Open Access Transmission Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 3, as supplemented.

Comment date: July 3, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Carolina Power & Light Company

[Docket No. ER97–3250–000]

Take notice that Carolina Power & Light Company (CP&L), on June 6, 1997, tendered for filing (1) the Amended and Restated Power Coordination Agreement Between Carolina Power & Light Company and North Carolina Eastern Municipal Power Agency Applicable to the Peaking Project New Resource dated January 1, 1994 and amended and restated as of July 25, 1996 (Peaking Project PCA), and (2) a related Power Coordination Agreement Applicable to the Peaking Capacity New Resource dated March 1, 1996 (Peaking Resource Agreement). CP&L requests that the agreements become effective sixty (60) days from the date of filing.

Copies of the filing were served upon North Carolina Eastern Municipal Power Agency (Power Agency), the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: July 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–17016 Filed 6–27–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3199–000, et al.]

Ohio Edison Company, et al. Electric Rate and Corporate Regulation Filings

June 23, 1997.

Take notice that the following filings have been made with the Commission:

1. Ohio Edison Company, Pennsylvania Power Company

[Docket No. ER97–3199–000]

Take notice that on June 4, 1997, Ohio Edison Company tendered for filing on behalf of itself and Pennsylvania Power Company, Service Agreements for Non-Firm Point-to-Point Transmission Service with the companies listed below and Ohio Edison Company pursuant to Ohio Edison's Open Access Tariff. These Service Agreements will enable the parties to obtain Non-Firm Point-to-Point Transmission Service in accordance with the terms of the Tariff.

Company

Detroit Edison Company
Federal Energy Sales, Inc.
PECO Energy Company

Comment date: July 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Southern Indiana Gas and Electric Company

[Docket No. ER97–3201–000]

Take notice that on June 4, 1997, Southern Indiana Gas and Electric Company (''SIGECO''), tendered for filing four (4) service agreements for market based rate power sales under its Market Based Rate Tariff with the following entities:

1. Delhi Energy Services, Inc.
2. Midcon Power Services Corp.
3. Ohio Edison Systems
4. Western Power Services, Inc.

Copies of the filing were served upon each of the parties to the service agreements.

Comment date: July 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Appalachian Power Company

[Docket No. ER97–3202–000]

Take notice that on June 4, 1997, Appalachian Power Company (APCo), tendered for filing with the Commission proposed modifications to its Rate Schedule FPC No. 23. The modifications are designed to provide off-peak excess demand, surplus power and back-up service to Kingsport Power Company (KgPCo).

APCo proposes an effective date of August 1, 1997, and states that copies of its filing were served on KgPCo and the Tennessee Regulatory Authority.

Comment date: July 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. New York State Electric & Gas Corporation

[Docket No. ER97–3203–000]

Take notice that on June 4, 1997, New York State Electric & Gas Corporation (''NYSEG''), tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR Part 35, service agreements under which NYSEG will provide capacity and/or energy to:

- Connecticut Municipal Electric Energy Cooperative;
- Alabama Power Company, Georgia Power Company, Gulf Power Company and Southern Company Services, Inc., collectively known as Southern Companies;
- Engelhard Power Marketing, Inc.;
- Virginia Electric and Power Company;
- Old Dominion Electric Cooperative;

(collectively, the ''Purchasers'') in accordance with NYSEG's market-based power sales tariff.

NYSEG has requested waiver of the notice requirements so that the service agreements become effective as of June 5, 1997.

NYSEG served copies of the filing upon the Purchasers and the New York State Public Service Commission.

Comment date: July 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Southern Indiana Gas and Electric Company

[Docket No. ER97–3204–000]

Take notice that on June 4, 1997, Southern Indiana Gas and Electric Company (''SIGECO''), tendered for filing two (2) service agreements for non-firm transmission service under Part II of its Transmission Services Tariff with the following entities:

1. Midcon Power Services Corp.
2. Ohio Edison System

Copies of the filing were served upon each of the parties to the service agreements.

Comment date: July 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. UtiliCorp United Inc.

[Docket No. ER97–3205–000]

Take notice that on June 4, 1997, UtiliCorp United Inc. (''UtiliCorp''), tendered for filing, on behalf of its WestPlains operating division, Amendatory Agreement No. 1 to the Municipal Interconnection Contract between WestPlains Energy, a Division of UtiliCorp United Inc. and City of Beloit, Kansas. The Amendatory Agreement provides for the construction by the City of Beloit of a new 115 kV interconnection between the parties.

UtiliCorp requests waiver of the Commission's regulations to permit the Amendatory Agreement to become effective on June 5, 1997.

Comment date: July 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Delmarva Power & Light Company

[Docket No. ER97–3206–000]

Take notice that on June 4, 1997, Delmarva Power & Light Company, tendered for filing executed umbrella service agreements with Citizens Power Sales, Commonwealth Edison Company, Eastern Power Distribution, Inc., North American Energy Conservation, Inc. and Pennsylvania Power & Light Company under Delmarva's market rate sales tariff, FERC Electric Tariff, Original Volume No. 14, filed by Delmarva in Docket No. ER96–2571–000. Delmarva requests that the Commission make these agreements effective as of their respective execution dates.

Comment date: July 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Wisconsin Power and Light Company

[Docket No. ER97–3207–000]

Take notice that on June 4, 1997, Wisconsin Power and Light Company (WP&L), tendered for filing Form of Service Agreements for Firm and Non-Firm Point-To-Point Transmission Service. The Form of Service Agreements have been signed by Delhi Energy Services, Inc. Delhi Energy Services, Inc. has previously signed an earlier version of WP&L's transmission tariffs.

WP&L requests an effective date of July 9, 1996, and accordingly seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: July 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Maine Public Service Company

[Docket No. ER97–3208–000]

Take notice that on June 4, 1997, Maine Public Service Company (Maine Public) filed an executed Service Agreement with Entergy Power Marketing Corporation.

Comment date: July 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Kentucky Utilities Company

[Docket No. ER97–3209–000]

Take notice that on June 4, 1997, Kentucky Utilities Company (KU), tendered for filing several executed contracts with its wholesale customers under which the customers are to receive the benefit of power made available to them from the South Eastern Power Administration.

Comment date: July 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Florida Power Corporation

[Docket No. ER97–3210–000]

Take notice that on June 5, 1997, Florida Power Corporation (FPC), tendered for filing a contract for the provision of interchange service between itself and Aquila Power Corporation (Aquila). The contract provides for service under Schedule J, Negotiated Interchange Service, FERC Electric Rate Schedule No. 1, and OS, Opportunity Sales. FPC requests Commission waiver of the 60-day notice requirement in order to allow the contract to become effective as a rate schedule on June 6, 1997.

Comment date: July 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. New England Power Pool

[Docket No. ER97–3211–000]

Take notice that on June 5, 1997, the New England Power Pool Executive Committee filed a signature page to the NEPOOL Agreement dated September 1, 1971, as amended, signed by New Energy Ventures—New England (''New Energy Ventures''). The New England Power Pool Agreement, as amended, has been designated NEPOOL FPC No. 2.

The Executive Committee states that acceptance of the signature page would permit New Energy Ventures to join the over 100 Participants that already participate in the Pool. NEPOOL further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make New Energy Ventures a Participant in the Pool. NEPOOL requests an effective date on or before July 1, 1997, or as soon as possible thereafter for commencement of participation in the Pool by New Energy Ventures.

Comment date: July 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Niagara Mohawk Power Corporation

[Docket No. ER97–3212–000]

Take notice that on June 5, 1997, Niagara Mohawk Power Corporation (''NMPC''), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and Coral Power L.L.C. This Transmission Service Agreement specifies that Coral Power, L.L.C. has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and Coral Power, L.L.C. to enter into separately scheduled transactions under which NMPC will provide transmission service for Coral Power, L.L.C. as the parties may mutually agree.

NMPC requests an effective date of June 2, 1997. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and Coral Power, L.L.C.

Comment date: July 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Pennsylvania-New Jersey-Maryland Interconnection Restructuring

[Docket No. ER97–3273–000]

Take notice that on June 9, 1997, PECO Energy Company (''PECO Energy''), the Coalition for Competitive Energy Markets (''CCEM''), Schuylkill Energy Resources (''SER'') and NJPIRG Citizens Lobby filed the following documents as part of a plan for the restructuring of the PJM Interconnection in accordance with Order No. 888:

1. Letter of Transmittal
2. Transition Plan
3. Retail Access Accommodation Supplement
4. Summary of Pro Forma Tariff
5. Proposed Revisions to the PJM Interconnection, L.L.C. Agreement and Redlined version
6. Transmission Control Agreement
7. Maintenance Agreement
8. ISO Tariff and Redline version
9. Energy Services Agreement
10. PJM Operating Agreement
11. Interim Installed Capacity Agreement

Copies of the filing were served on the regulatory commissions of Delaware, the District of Columbia, Maryland, New Jersey, Pennsylvania, and Virginia.

Comment date: July 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in

determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–17015 Filed 6–27–97; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5849–9]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Notification of Episodic Releases of Oil and Hazardous Substances, OMB Control Number 2050–0046, expiring 6/30/97. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 30, 1997.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1049.08.

SUPPLEMENTARY INFORMATION:

Title: Notification of Episodic Releases of Oil and Hazardous Substances, (OMB Control Number: 2050–0046; EPA ICR No. 1049.08) expiring 6/30/97. This ICR requests an extension of a currently approved collection.

Abstract: This ICR addresses the reporting and recordkeeping activities required to comply with the release notification requirements for hazardous substances and oil specified in section 103(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, and section 311 of the Clean Water Act (CWA). These reporting requirements are codified at 40 CFR parts 110, 117, and 302, and require the person in charge of a facility or vessel to immediately notify the National Response Center (NRC) of hazardous substance releases into the environment and oil discharges into U.S. waters. The regulated community is expected to:

Gather necessary release data, such as the time, quantity, and source of the release;

Brief the facility manager;

Consult with the environmental compliance expert;

Report the release to the NRC using a toll-free telephone number, a facsimile number, or a telex number; and

Keep a log of release data such as the time, date, and circumstances of the release.

(This information is expected, but not required under the regulation).

There are no recordkeeping requirements specified under CERCLA section 103(a), CWA section 311, or their implementing regulations. The person in charge of the facility or vessel, however, may elect to maintain a log detailing the time, date, and circumstances associated with the reported release. The purpose of maintaining a log of reported releases is to track correspondence with response authorities and to document compliance with release notification requirements under CERCLA and CWA. Because the respondent will probably perform this activity, burden and cost estimates associated with recordkeeping are included in this ICR.

None of the information to be gathered for this collection is believed to be confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on February 26, 1997 (62 *FR* 8722). No comments were received.

Burden Statement:

The annual public reporting and recordkeeping burden for this collection of information is estimated to average 4.1 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Facilities or vessels which accidently release hazardous substances.

Estimated Number of Respondents: 29,204.

Frequency of Response: One-time telephone call to the NRC in the event of an episodic release.

Estimated Total Annual Hour Burden: 119,737 hours.

Estimated Total Annualized Cost Burden: 0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1049.08 and OMB Control No. 2050–0046 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: June 23, 1997.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 97–17034 Filed 6–27–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5850–7]

Draft Carcinogenic Effects of Benzene: An Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of peer-review workshop and public comment period.

SUMMARY: This notice announces a peer-review workshop and a public review and comment period sponsored by the U.S. Environmental Protection Agency's (EPA) National Center for Environmental Assessment (NCEA) of

the Office of Research and Development to review an external review draft document titled, Carcinogenic Effects of Benzene: An Update (EPA/600/P–97/001A). EPA will consider comments and recommendations from the workshop and the public comment period in document revisions.

DATES: The workshop will be held on Wednesday, July 16, 1997, from 8:30 a.m. to 4:30 p.m. The 60-day public review and comment period begins today and ends August 29, 1997.

ADDRESSES: The workshop will be held at the Hyatt Regency on Capitol Hill, 400 New Jersey Avenue, N.W., Washington, D.C. Eastern Research Group, Inc. (ERG), an EPA contractor, is providing logistical support for the workshop. To attend the workshop, register by July 11 by calling ERG's registration line at 617–674–7374, or send a fax to 617–674–2906. Space is limited, and reservations will be accepted on a first-come-first-served basis. There will be a limited time for comments from the public during the afternoon. Please let ERG know if you wish to make a brief statement not to exceed five minutes.

The document is available on the Internet at http://www.epa.gov/ncea. A limited number of paper copies are available from the Center for Environmental Research Information, National Risk Management Research Laboratory, U.S. Environmental Protection Agency, 26 W. Martin Luther King Drive, Cincinnati, OH 45268; telephone: 513–569–7562; fax: 513–569–7566. If you are requesting a paper copy, please provide your name, mailing address, and the document title and number, Carcinogenic Effects of Benzene: An Update (EPA/600/P–97/001A). Copies also are available for inspection at EPA libraries. The EPA Headquarters Library is located at 401 M Street, S.W., Washington, D.C.; the library is open Monday through Friday between 8:00 a.m. and 5:00 p.m., except for Federal holidays. Copies of the document are not available from ERG.

Comments may be mailed or delivered to the Technical Information Staff (8623), NCEA–W/OSG, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 (telephone: 202–260–7345). Comments should be in writing and must be postmarked by the end of the comment period. Please submit one unbound original with pages numbered consecutively, and three copies. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies. Electronic comments may be sent to benzene.new@epamail.epa.gov.

Please note that all technical comments received in response to this notice will be placed in a public record. For that reason, commenters should not submit personal information (such as medical data or home address), Confidential Business Information, or information protected by copyright. Due to limited resources, acknowledgments will not be sent.

FOR FURTHER INFORMATION CONTACT: David Bayliss, National Center for Environmental Assessment/Washington Office (8623), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Telephone: 202–260–5726; fax: 202–260–8719; e-mail: benzene.new@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This draft document is the result of a request from the Office of Mobile Sources, Office of Air and Radiation, for an update of the 1985 document titled, Interim Quantitative Cancer Unit Risk Estimates Due to Inhalation of Benzene. The draft report updates the scientific basis for selecting a cancer unit risk of benzene. Information on the toxicity, metabolism, epidemiology, and genotoxicity are considered together in the evaluation of the cancer unit risk estimate for the probability of developing cancer from low-dose exposure to benzene. After the workshop, EPA will consider the peer-panel and public comments before preparing a final report for the Office of Mobile Sources.

Dated: June 23, 1997.

Richard Hardesty,

Acting Director, National Center for Environmental Assessment.

[FR Doc. 97–17036 Filed 6–27–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5850–9]

Proposed CERCLA Administrative Agreement; Commercial Decal, Inc. Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Agency's May 24, 1995, ''Guidance on Agreements with Prospective Purchasers of Contaminated Property,'' notice is hereby given of a proposed prospective purchaser agreement (''agreement'') with the City of Mount Vernon, New York (''City'') concerning the parcel of real property which includes the Commercial Decal, Inc. Superfund Site in Mount Vernon, Westchester County, New York (the ''property''). Under the agreement, the City will pay $283,050.45 to the Hazardous Substances Superfund in exchange for a covenant not to sue pursuant to sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a), and in settlement of competing bankruptcy claims of the City and the Agency against the property. Following the effectiveness of this agreement, the City intends to make a bid for the property at a bankruptcy auction presently scheduled to be held in U.S. Bankruptcy Court on July 17, 1997. For fourteen (14) days following the date of publication of this notice, the Agency will receive written comments relating to the agreement. The Agency will consider all comments received and may modify or withdraw its consent to the agreement if comments received disclose facts or considerations which indicate that the agreement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, Region II, Office of Regional Counsel, New York/Caribbean Superfund Branch, 290 Broadway, 17th Floor, New York, NY 10007–1866.

DATES: Comments must be submitted on or before July 14, 1997.

ADDRESSES: The proposed agreement and additional background information relating to the settlement are available for public inspection at the U.S. Environmental Protection Agency, Region II, Office of Regional Counsel, New York/Caribbean Superfund Branch, 290 Broadway, 17th Floor, New York, NY 10007–1866. A copy of the proposed agreement may be obtained from the individual listed below. Comments should reference the Commercial Decal, Inc. Superfund Site, Mount Vernon, New York and EPA Index No. II–CERCLA–97–0205, and should be addressed to the individual listed below.

FOR FURTHER INFORMATION CONTACT: Carl P. Garvey, Assistant Regional Counsel, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 290 Broadway, 17th Floor, New York, NY 10007–1866, Telephone: (212) 637–3181.

Dated: June 24, 1997.

William J. Muszynski,

Acting Regional Administrator.

[FR Doc. 97–17037 Filed 6–27–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5850–8]

Proposed Administrative Settlement Under the Comprehensive Environmental Response, Compensation, and Liability Act; Saco Municipal Landfill Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement agreement and request for public comment.

SUMMARY: The U.S. Environmental Protection Agency (EPA) and the Maine Department of Environmental Protection are proposing a settlement to address claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9601 *et seq.* A public notice is being published to inform the public of the settlement and provide opportunity to comment. The settlement would require implementation of a non-time-critical removal action and would resolve the liability under CERCLA of the City of Saco and 11 generators of hazardous waste disposed of at the Saco Municipal Landfill for past costs incurred by EPA in connection with remedial investigations, enforcement and access actions, and Site oversight.

DATES: Comments must be provided on or before July 30, 1997.

ADDRESSES: Comments should be addressed to Mary Jane O'Donnell, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Mailcode HBT, Boston, Massachusetts 02203, and should refer to: Proposed Administrative Agreement under 122 (h) of the Comprehensive Environmental Response, Compensation and Liability Act; RE: Saco Municipal Landfill Superfund Site.

FOR FURTHER INFORMATION CONTACT: Mary Jane O'Donnell, U.S. Environmental Protection Agency, JFK Federal Building, Mailcode HBT, Boston, Massachusetts 02203, (617) 573–5780.

SUPPLEMENTARY INFORMATION: In accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9601 *et seq.*, notice is hereby given of an Administrative Order on Consent to implement a non-time-critical removal action and a proposed administrative settlement under 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act. The settlement was approved by EPA, Region I and the Department of Justice subject to review by the public pursuant to this notice.

The City of Saco and 11 generators have committed to participating in the settlement. Under the proposed settlements, the City of Saco will implement a non-time critical removal action at the Saco Municipal Landfill Superfund Site in Saco, Maine. This work will include the design, construction, operation and long-term maintenance and monitoring of the effectiveness of the landfill cap. This agreement also requires the excavation of contaminated sediments from an area close to the landfill and consolidation of the excavated sediments with waste material in the landfill. The work is expected to cost approximately $6 million. The City will also pay EPA costs if the agency takes over the work; pay EPA's enforcement and access costs; and pay EPA's oversight costs in excess of $400,000. The remaining eleven settling parties will pay approximately $1 million to the City to help pay for the work. The City has completed the design of the landfill cap and will start construction soon. The settling parties, including the City of Saco, are released from their liability for past costs of roughly $1.5 million.

This settlement embraces the orphan share reform, which is one of Administrator Carol Browner's Administrative Reforms for the Superfund program. As authorized by this reform, this settlement releases the settling parties from the obligation to pay past costs up to 25% of the costs of the cleanup.

EPA is entering into this agreement under the authority of CERCLA section 101 *et seq.*, which provides EPA with authority to consider, compromise, and settle a claim under sections 106 and 107 of CERCLA for costs incurred by the United States if the claim has not been referred to the U.S. Department of Justice for further action. EPA will receive written comments relating to this settlement for thirty (30) days from the date of publication of this document.

A copy of the proposed administrative settlement may be obtained in person or by mail from Diane Nye, U.S. Environmental Protection Agency, JFK Federal Building, Mailcode SES, Boston, Massachusetts 02203, (617) 565–3658.

EPA's response to any comments received will be available for public inspection with the Docket Clerk, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Mailcode RCG, Boston, Massachusetts 02203 (U.S. EPA Docket No. CERCLA–I–97–).

Dated: June 19, 1997.

John DeVillars,

Regional Administrator.

[FR Doc. 97–17039 Filed 6–27–97; 8:45 am]

BILLING CODE 6560–50–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 a currently approved collection.
Title: Mutual-To-Stock Conversions of State Savings Banks.
Form Number: None.
OMB Number: 3064–0117.

Annual Burden

Estimated annual number of respondents: 25.

Estimated time per response: 50 hours.

Average annual burden hours: 1,250 hours.

Expiration Date of OMB Clearance: June 30, 1997.
OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503.
FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429.
Comments: Comments on this collection of information are welcome and should be submitted on or before July 30, 1997 to both the OMB review 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: The FDIC is the primary federal regulator of

insured state chartered savings banks that are not members of the Federal Reserve System (''State Savings Banks''). In cases where a state savings bank proposes to convert from mutual to stock form of ownership, the FDIC's regulation 12 CFR § 303.15 and § 333.4 require the state savings bank to file with the FDIC a notice of intent to convert to stock form and provide copies of documents filed with state and federal banking and/or securities regulators in connection with the proposed conversion.

Dated: June 25, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 97–17028 Filed 6–27–97; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (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 a currently approved collection.

Title: Application Pursuant to Section 19 of the Federal Deposit Insurance Act.

Form Number: FDIC 6710/07.

OMB Number: 3064–0018.

Annual Burden: Annual number of respondents: 80

Hours to respond to an application: 16

Annual burden hours: 1,280

Expiration Date of OMB Clearance: July 31, 1997.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503.

FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, Room F–400, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 10429.

Comments: Comments on this collection of information are welcome and should be submitted on or before [July 30, 1997] to both the OMB reviewer and the FDIC contact listed above.

ADDRESSES: Inforamtion 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 19 of the Federal Deposit Insurance Act (12 U.S.C. § 1829) requires the FDIC's consent prior to any participation in the affairs of an insured depository institution by a person who has been convicted of crimes involving dishonesty or breach of trust. To obtain that consent, an insured depository institution must submit an application to the FDIC for approval on Form FDIC 6710/07.

Dated June 25, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 97–17047 Filed 6–27–97; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCIES: Board of Governors of the Federal Reserve System (Board); and 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: On December 30, 1996, the Board and the FDIC (the ''agencies'') requested public comment for 60 days on proposed revisions to the Foreign Branch Report of Condition (Foreign Branch Report), which is currently an approved collection of information (61 FR 68814–68817). After reviewing the comments received, the Federal Financial Institutions Examination Council (FFIEC), of which the agencies are members, decided to study further the agencies' needs for information on the foreign branches of U.S. banks for supervisory and other public policy purposes. Thus, the FFIEC and the agencies are not proceeding with most of the proposed changes to the Foreign Branch Report. The only change that will be implemented at this time is a revision to conform the reporting instructions with generally accepted accounting principles (GAAP).

In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid Office of Management and Budget (OMB) control number. Comments are invited on: a. whether the following proposed revised collection of information is necessary for the proper performance of the agencies' functions, including whether the information has practical utility; b. the accuracy of the agencies' estimates of the burden of the information collection as it is proposed to be revised, including the validity of the methodology and assumptions used; c. ways to enhance the quality, utility, and clarity of the information to be collected; d. ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and e. estimates of capital or startup costs and costs of operations, maintenance, and purchase of services to provide information.

DATES: Comments must be submitted on or before July 30, 1997.

ADDRESSES: Comments, which should refer to the OMB control number, should be addressed to the OMB desk officer for the agencies: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503. Comments may also be addressed to either of the agencies. All comments, which should refer to the OMB control number(s), will be shared among the agencies.

Board: Written comments should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M–P–500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

FDIC: Written comments should be addressed to the Office of the Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m. (Fax number: (202) 898–3838; Internet address: comments@fdic.gov). Comments may be inspected and photocopied in the FDIC Public Information Center, room 100, 801 17th Street, N.W., Washington, D.C. 20429, between 9:00 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: A copy of the Paperwork Reduction Act Submission (OMB 83–I), supporting statement, and other documents that have been submitted to OMB for review and approval may be requested from the agency clearance officers, whose names appear below.

Board: Mary M. McLaughlin, Chief, Financial Reports (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551. For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Diane Jenkins (202–452–3544), Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FDIC: Steven F. Hanft, FDIC Clearance Officer, (202) 898–3907, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: Request for OMB approval to extend for three years, with revision, the following currently approved collection of information:

Title: Foreign Branch Report of Condition.

Form Number: FFIEC 030.

Frequency of Response: Annually, and quarterly for significant branches.

Affected Public: Business or other for profit.

For Board

OMB Number: 7100–0071.

Estimated Number of Respondents: 100 annual respondents; 33 quarterly respondents.

Estimated Time per Response: 3 burden hours.

Estimated Total Annual Burden: 696 burden hours.

For FDIC

OMB Number: 3064–0011.

Estimated Number of Respondents: 41 annual respondents; 1 quarterly respondent.

Estimated Time per Response: 3.25 burden hours.

Estimated Total Annual Burden: 146.25 burden hours.

General Description of Report: This information collection is mandatory: 12 U.S.C. 321, 324, and 602 (Board); and 12 U.S.C. 1828 (FDIC). This information collection is given confidential treatment (5 U.S.C. 552 (b)(8)). Small businesses (that is, small banks) are not affected.

Abstract: This report contains information on assets, liabilities, and off-balance-sheet items for foreign branches of insured U.S. commercial banks and is required for regulatory and supervisory purposes. The information is used to analyze the foreign operations of U.S. commercial banks. All foreign branches of U.S. banks, regardless of charter type, file this report with the appropriate Federal Reserve District Bank. The Federal Reserve collects this information on behalf of the U.S. bank's primary federal bank regulatory agency.

Current Actions: Revisions initially proposed for the Foreign Branch Report of Condition consisted of: the addition of a small number of new items to enhance the agencies' ability to monitor asset quality and the use of off-balance-sheet instruments, revisions to conform the reporting instructions to GAAP, revisions to conform the reporting of securities to three GAAP reporting categories, and revisions to the criteria used to determine whether a respondent files this report on a quarterly basis. After reviewing the comments received, the FFIEC has decided not to implement most of the proposed changes to the Foreign Branch report and, instead, to study further the agencies' needs for information on the foreign branches of U.S. banks for supervisory and other public policy purposes. The only change that will be implemented at this time is a revision to conform the reporting instructions with GAAP for consistency with the March 31, 1997, changes to the Reports of Condition and Income (FFIEC 031–034, Call Report, OMB No. 7100–0036 for Board, and 3064–0052 for FDIC).

Type of Review: Revision.

On December 30, 1996, the agencies jointly published a notice in the **Federal Register** (61 FR 68814–68817) soliciting comments for 60 days on proposed revisions to the currently approved information collection. The notice described the specific changes that the agencies, with the approval of the FFIEC, were proposing to implement as of June 30, 1997.

In response to this notice, the agencies collectively received two comment letters: one from an accounting organization and one from a large commercial bank. Both the accounting organization and the large commercial bank generally supported the agencies' efforts to produce greater consistency between the information collected in regulatory reports and general-purpose financial statements. The accounting organization supported the proposal to adopt generally accepted accounting principles, which included conforming the reporting of securities with the Financial Accounting Standards Board's Statement of Financial Accounting Standards No. 115, *Accounting for Certain Investments in Debt and Equity Securities* (FASB 115).

Also, the bank indicated that specific references to the line items in the Call Report would be helpful in clarifying reporting requirements. As of March 1997, the Call Report instructions were revised to eliminate instructions that differed from GAAP. Thus the Foreign Branch Report's instructions will conform to GAAP, including FASB 115, by reference to the FFIEC 031 instructions. Several other Call Report references will be incorporated into the FFIEC 030 instructions.

The bank expressed concerns over the proposed addition of new items to enhance the agencies' ability to monitor asset quality and the use of off-balance-sheet instruments at the branch level. The bank stated that it is more practical to monitor potential asset quality problems and off-balance-sheet risk exposures at the consolidated bank level since risks are managed in this manner by most major institutions. The agencies have decided to study further the most appropriate method for monitoring asset quality and off-balance-sheet risk exposure at the foreign branch level. Thus, the agencies are not adding these proposed new items at this time.

In the proposal, the agencies' estimate reflected an average of 3.9 burden hours for each branch or group of branches required to complete the Foreign Branch Report of Condition. The bank mentioned that it considers the estimated 3.9 burden hours for the proposed revised Foreign Branch Report to be significantly understated and recommended that the reporting burden should be measured by the number of foreign branches a respondent has. However, since the agencies' only revision to the Foreign Branch Report of Condition will be to conform the instructions to GAAP for consistency with the Call Report, each agency's

burden estimate will remain at its current level.

The bank also mentioned the possibility of extending the due date to 60 days after quarter-end, obtaining a menu driven software package, and transmitting the data electronically. The agencies have decided to retain the current due date of 45 days after quarter-end, but will consider whether to offer electronic reporting in the future.

After considering the comments received on the proposal and further banking agency staff discussions about the content of the Foreign Branch Report of Condition, the FFIEC and the agencies decided not to proceed with the addition of the new items, the revision of other items, and the revised criteria for quarterly reporting, as had been proposed. Instead, the agencies will study further their needs for information on the foreign branches of U.S. banks for supervisory and other public policy purposes. Should this study lead to recommended changes to the information that the agencies collect in the Foreign Branch Report of Condition, including some or all of those that the agencies proposed on December 30, 1996, the agencies will request public comment for 60 days on such proposed revisions in accordance with the Paperwork Reduction Act of 1995. The only change to the Foreign Branch Report of Condition that the agencies are implementing at this time is a revision to conform the reporting instructions with GAAP.

Board of Governors of the Federal Reserve System, June 24, 1997.

William W. Wiles,

Secretary of the Board.

Dated at Washington, D.C., this 23rd day of June, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 97–16981 Filed 6–27–97; 8:45 am]

BILLING CODE 6210–01–P, 6714–01–P

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 15, 1997.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Estrin Associates, L.L.C. and Estrin Family Limited Partnership, Bethesda, Maryland; to acquire an additional 11.06 percent, for a total of 13.52 percent, of the voting shares of GrandBanc, Inc. (formerly FWB Bancorporation), Rockville, Maryland, and thereby indirectly acquire GrandBank (formerly FWB Bank), Rockville, Maryland.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. John D. Porter, Jr., Mount Hope, Kansas; to retain a total of 32.92 percent, and Nancy L. Hill, Burrton, Kansas, to retain a total of 32.13 percent, of the voting shares of Mount Hope Bancshares, Inc., Mount Hope, Kansas, and thereby indirectly retain First National Bank of Mount Hope, Mount Hope, Kansas.

Board of Governors of the Federal Reserve System, June 25, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–17026 Filed 6–27–97; 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 24, 1997.

A. Federal Reserve Bank of Cleveland (Jeffrey Hirsch, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Provident Financial Group, Inc., Cincinati, Ohio, and FGBI Acquisition Corp., Cincinnati, Ohio; to merge with Florida Gulfcoast Bancorp, Inc., Sarasota, Florida, and thereby indirectly acquire Enterprise National Bank of Sarasota, Sarasota, Florida.

Board of Governors of the Federal Reserve System, June 24, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–16970 Filed 6-27-97; 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 14, 1997.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Anteilsverwaltung-Zentralsparkasse and Bank of Austria Aktiengesellschaft, both of Vienna, Austria; to acquire Creditanstalt-Bankverein, Vienna, Austria, and thereby indirectly acquire CA Trade Finance Services, Inc., Greenwich, Connecticut, and thereby engage in export trade and lease finance activities, pursuant to §§ 225.28(b)(1) and (2) of the Board's Regulation Y; CA Tradeco, Inc., Greenwich, Connecticut, and thereby engage in community development activities, pursuant to § 225.28(b)(12) of the Board's Regulation Y; Creditanstalt-A.W.T. Trade Finance Company, New York, New York, and thereby engage in export trade finance activities, pursuant to §§ 225.28(b)(1) and (2); Creditanstalt Corporate Finance, Inc., Greenwich, Connecticut, and thereby engage in corporate finance and commercial lending activities, pursuant to §§ 225.28(b)(1) and (2) of the Board's Regulation Y; Creditanstalt Equipment Leasing, Inc., Greenwich, Connecticut; and thereby engage in full payment lease financing, pursuant to § 225.28(b)(3) of the Board's Regulation Y; Creditanstalt International Advisers, Inc., New York, New York, and thereby engage in securities brokerage, private placement and riskless principal activities, provides merger-acquisition, corporate finance and investment advice and research, pursuant to §§ 225.28(b)(6) and (b)(7) of the Board's Regulation Y; *See 76 Fed. Res. Bull. 761 (1990), 77 Fed. Res. Bull. 183 (1991) and 80 Fed. Res. Bull. 828 (1994)*; Creditanstalt International Asset Management, Inc., New York, New York, and thereby engage in providing investment management and economic research, pursuant to § 225.28(b)(6) of the Board's Regulation Y; and Creditanstalt Municipal Leasing Company, Limited Partnership, Greenwich, Connecticut, and thereby engage in full payout municipal leasing, pursuant to § 225.28(b)(3) of the Board's Regulation Y.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Middleburg Bancorp, Inc., Middleburg, Kentucky; to acquire Lincoln Federal Savings Bank, Liberty, Kentucky, and thereby engage in the operation of a federal savings bank, pursuant to § 225.28(b)(4) of the Board's Regulation Y. Comments on this notice must be received by July 24, 1997.

Board of Governors of the Federal Reserve System, June 24, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–16969 Filed 6-27-97; 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 25, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Pioneer Bancshares, Inc., Chattanooga, Tennessee; to engage *de novo* through its subsidiary, Pioneer Bank, F.S.B., Chattanooga, Tennessee, in operating a savings association, pursuant to § 225.28(b)(4) of the Board's Regulation Y. The proposed activity will be conducted throughout Georgia and Tennessee.

Board of Governors of the Federal Reserve System, June 25, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–17027 Filed 6–27–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvement Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 6–9–97 AND 6–20–97

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN No.	Date terminated
Cascade Communications, Corp., Ascend Communications, Inc., Ascend Communications, Inc	97–1904	06/09/97
Ascend Communications, Inc., Cascade Communications Corp., Cascade Communications Corp	97–1905	06/09/97
Fenner plc, Scandura Holdings, Inc., Scandura Holdings, Inc	97–2203	06/09/97
Berwind Group Partners, William E. Poole, III, Fypon, Incorporated	97–2217	06/09/97
Daimler-Benz AG (a German company), Ford Motor Company, Ford Heavy Truck Business	97–1310	06/10/97

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 6–9–97 AND 6–20–97—Continued

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN No.	Date terminated
Allied Waste Industries Inc., USA Waste Services, Inc., Ellis-Scott, Inc.: Modern Sanitation, Inc: Sanifill	97–1810	06/10/97
Mr. & Mrs. J.D. Lawrence, First Reserve Fund VI, Limited Partnership, Phoenix Drilling Services, Inc	97–2238	06/10/97
Golder, Thoma, Cressey, Rauner Fund V, L.P, James DeArkland, Payphone Services, Inc.; SCPPC, Inc.; Star Network Corp	97–2248	06/10/97
Media/Communications Partners II, Limited Partnership, Barry B. Lewis, Triad Investment Minnesota, Inc	97–2253	06/10/97
Presbyterian Health Services Corp, Carolina Medicorp, Inc, Carolina Medicorp, Inc	97–2268	06/10/97
Sisters of St. Joseph of Orange, Lubbock Methodist Hospital System, Lubbock Methodist Hospital System	97–2297	06/10/97
E. Marlin Jones Living Trust, Original Knaub's Delicious Cakes, Inc. Original Knaub's Delicious Cakes, Inc	97–2299	06/10/97
Paul G. Allen, Barry Diller, HSN Inc	97–2309	06/10/97
Barry Diller, Ticketmaster Group, Inc., Ticketmaster Group, Inc	97–2317	06/10/97
Baan Company N.V., Aurum Software, Inc., Aurum Software, Inc	97–2318	06/10/97
General Electric Company, Genesis Direct, L.P., Genesis Direct, Inc	97–2320	06/10/97
Tyco International Ltd./ADT Limited, Inbrand Corporation, Inbrand Corporation	97–2327	06/10/97
Allied Waste Industries, Inc., Browning-Ferris Industries, Inc., Browning-Ferris Industries of South Atlantic, Inc.; Bro	97–2334	06/10/97
MDU Resources Group, Inc., Adelaide Brighton, Ltd. (an Australian Company), Hawaii Cement (a Hawaii Partnership)	97–2363	06/10/97
The Robert Rosenkranz Trust, Robert Blanton, Jr., Foods Service Supplies, Inc	97–2312	06/11/97
Vencor, Inc., Transitional Hospitals Corp., Transitional Hospitals Corp	97–2078	06/12/97
Novellus Systems, Inc., Varian Associates, Inc., Thin Film Systems Business	97–2186	06/12/97
Gildo Masso Gonzalez and Carmen G. Aponte Buxo-Spouses, Kmart Corporation, Builders Square, Inc	97–2216	06/12/97
Freemont General Corporation, Xerox Corporation, Industrial Indemnity, Inc	97–2249	06/12/97
Household International, Inc. Transamerica Corporation, Transamerica Financial Services Holding Company	97–2286	06/12/97
Compagnie Laitiere Europeenne, Philip Morris Companies, Inc., Kraft Foods, Inc. and Churny Company, Inc	97–2325	06/12/97
Cross-Continent Auto Retailers, Inc., The Chaisson Family Trust—R501, JRJ Investments, Inc	97–2085	06/13/97
Elkin McCallum, Collins & Aikman Corporation, Collins & Aikman Products, Co.; Ack-Ti-Lining, Inc	97–2230	06/13/97
Chattem Inc., Ms. Tina Sohn, Sunsource International, Inc. and Mindbody, Inc	97–2288	06/13/97
Mr. Thomas M. Clarke and Linda M. Clarke, Don G. Angell, Meadowbrook Partnerships	97–2301	06/13/97
Thomas M. Clarke and Linda M. Clarke, Daniel D. Mosca, Meadowbrook Partnerships	97–2302	06/13/97
The Beacon Group III—Focus Value Fund, LP., Doctors Health System, Inc., Doctors Health System, Inc	97–2315	06/13/97
Avanti Holdings, Inc., Gerald L. and Carol A. Deetz, Budget Oil Co	97–2330	06/13/97
Pinkerton's Inc., Sensormatic Electronics Corporation, Enterprise Accounts Division	97–2354	06/13/97
DLJ Merchant Banking Partners II, L.P., Tyler Capital Fund, L.P., Duane Reade Holding Corp	97–2355	06/13/97
G&K Services, Inc., National Service Industries, Inc. (DEA), National Service Industries, Inc. (GA)	97–2356	06/13/97
Caledonia Investments plc, Offshore Logistics, Inc., Offshore Logistics, Inc	97–2357	06/13/97
Enron Corp., Kenetech Corporation, Enron/CNF Power Construction L.P. & Enron/CNF Equipment	97–2358	06/13/97
Hugo E. Pimienta, Circle Investors, Inc., Circle Investors, Inc	97–2365	06/13/97
Robert Skandalaris, James Bronce Henderson, III, Utilase, Inc	97–2367	06/13/97
Kirtland Capital Partners II, L.P., RPM, Inc., Tremco Incorporated	97–2368	06/13/97
American Capital Access Holdings, L.L.C., Financial Security Assurance Holdings Ltd., Financial Security Assurance of Maryland, Inc	97–2370	06/13/97
Heilig-Meyers Company, Steven M. Lytell, Mattress Discounters Corporation	97–2375	06/13/97
Heilig-Meyers Company, Warren S. Teitelbaum, Mattress Discounters Corporation and T.J.B., Inc	97–2376	06/13/97
Steven M. Lytell, Heilig-Meyers Company, Heilig-Meyers Company	97–2377	06/13/97
SEMCO Energy, Inc., Stewart N. Kniff, Sub-Surface Construction Company	97–2378	06/13/97
James A. Patterson, BC Sugar Refinery, Limited, BC Sugar Refinery, Limited	97–2385	06/13/97
MSX International, Inc., Ford Motor Company, Geometric Results, Inc	97–2387	06/13/97
Mrs. Marianne Lemmerz (a German person), Hayes Wheels Internationals, Inc., Hayes Wheels International, Inc	97–2390	06/13/97
JMB Realty Corporation, Liberty House, Inc., Liberty House, Inc	97–2406	06/13/97
Johnson & Johnson, Biopsys Medical, Inc., Biopsys Medical, Inc	97–2432	06/13/97
FirstAmerica Automotive, Inc., Thomas A. Price, Transcar Leasing, Inc.; Cziska-Price, Inc.; Serramonte	97–2433	06/13/97
National Computer Systems, Inc., The McGraw-Hill Companies, Inc., McGraw-Hill/London House; McGraw-Hill School Systems	97–1782	06/14/97
Carmike Cinemas, Inc., First International Theaters, First International Theaters	97–2255	06/16/97
Mercy Medical Center, Inc., Cardinal William H. Keeler, Stella Maris Operating Corporation; The Cardinal Shehan	97–2292	06/16/97
Conmed Corporation, C.R. Bard, Inc., Davol Inc	97–2311	06/16/97
Bruce J. Leven, Browning-Ferris Industries, Inc., Browning-Ferris Industries of Washington, Inc	97–2335	06/16/97
BellSouth Corporation, American Telecasting, Inc., American Telecasting of Central Florida, Inc	97–2343	06/16/97
Carso Global Telecom S.A. de C.V., Prodigy, Inc., Prodigy, Inc	97–2346	06/16/97
Golder, Thoma, Cressey, Rauner Fund V, L.P., Users Incorporated, Users Incorporated	97–2399	06/16/97
MBNA Corporation, First Oak Brook Bancshares, Inc., Oak Brook Bank/Assets	97–2402	06/16/07
MBNA Corporation, Republic Bancorp, Inc., Republic Bank & Trust Company	97–2403	06/16/97
National-Oilwell, Inc., Dreco Energy Services Ltd., Dreco Energy Services Ltd	97–2332	06/17/97
Westrn Micro Technology, Inc., Harvey E. Najim, Star Management Services, Inc	97–2388	06/17/97
Koch Industries, Inc., Atlantic Richfield Company, Atlantic Richfield Company	97–2383	06/18/97
Ameritech Corporation, Masada Security Holdings, Inc., Masada Security, Inc.; Alarms by HRD, Inc.; Kristynik S	97–2408	06/18/97
Golder, Thoma, Cressey, Rauner Fund V, L.P., Joseph B. Swinbank, Sprint Industrial Services, Inc	97–2409	06/18/97
Golder, Thoma, Cressey, Rauner Fund V, L.P., Donald L. Poarch, Sprint Industrial Services, Inc	97–2410	06/18/97

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 6–9–97 AND 6–20–97—Continued

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN No.	Date terminated
Mahendra Parekh, Continental Aktiengesellschaft, DynaGen, Inc	97–0147	06/19/97
Carlyle-Genesis, Inc., William W. McDonald, Lake Cablevision, Inc	97–2267	06/19/97
Moore Corporation Limited, United Ad Label Co., Inc., United Ad Label Co., Inc	97–2269	06/19/97
PhyMatrix Corp., Clinical Studies, Ltd., Clinical Studies, Ltd	97–2322	06/20/97
John V. Holten, PepsiCo, Inc. PFS, an unincorporated division	97–2372	06/20/97
LSI Industries, Inc., Dennis J. Grady, Grady, McCauley Incorporated	97–2379	06/20/97
LSI Industries, Inc., David W. McCauley, Grady, McCauley, Incorporated	97–2380	06/20/97
Berkshire Hathaway, Inc., Star Furniture Company, Star Furniture Company	97–2391	06/20/97
Golder, Thoma, Cressey, Rauner Fund V, L.P., John L. Hurley, Associated Bureaus, Inc	97–2404	06/20/97
Paul M. Montrone, Trident Equity Investments, Inc., Peridot Holdings, Inc	97–2413	06/20/97
Paging Network, Inc., Geotek Communications, Inc., Geotek Communications, Inc	97–2415	06/20/97
Geotek Communications, Inc., Paging Network, Inc., Paging Network, Inc	97–2416	06/20/97
Price Communications Corporation, Palmer Communications Incorporated, Palmer Wireless, Inc	97–2425	06/20/97
ALZA Corporation, Bayer AG, Bayer Corporation	97–2426	06/20/97
Marmon Holdings, Inc., FCP Southeast Investors IV, L.P., Manan Holding Corporation	97–2441	06/20/97
Entergy Corporation, Ed Woodlee, Ranger American, Inc.; Ranger American of Georgia, Inc	97–2442	06/20/97
Entergy Corporation, F. Wayne Hayes, Alarmtel U.S.A. Corp	97–2443	06/20/97
The Washington Post Company, Meredith Corporation, Meredith Corporation	97–2445	06/20/97
Meredith Corporation, The Washington Post Company, Post-Newsweek Stations, Connecticut, Inc	97–2446	06/20/97
Egghead, Inc., Surplus Software, Inc., Surplus Software, Inc	97–2461	06/20/97
UCB S.A., W. Lindsey Walters, Flexel, Inc. (Debtor in possession)	97–2463	06/20/97
Hollywood Park, Boomtown, Inc., Boomtown Inc	97–2470	06/20/97
Peter G. Angelos, Bethlehem Steel Corporation, Bethlehem Steel Corporation	97–2476	06/20/97
Jones Medical Industries, Inc., SmithKline Beecham plc, SmithKline Beecham Corporation	97–2477	06/20/97
Vestar Capital Partners III, L.P., Vestar/R–S Investment Limited Partnership, Russell-Stanley Corporation	97–2482	06/20/97
Intuit, Inc., Excite, Inc., Excite, Inc	97–2494	06/20/97
RMI Titanium Company, Galt Alloys, Inc., Galt Alloys, Inc.	97–2506	06/20/97

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Parcellena P. Fielding, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, D.C. 20580, (202) 326–3100.

By Direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 97–17035 Filed 6–27–97; 8:45 am]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

Adaptive of an Historic Resource—Public Information Meeting

The U.S. General Services Administration (GSA) announces the Monday, June 9, 1997 issuance of a Request For Qualifications for the Development and Management of a National Historic Landmark. The General Post Office, a mid-nineteenth century historic property also known as the Tariff Commission building is located on Square 430, the city block between 7th & 8th Streets and E and F Streets, NW in Washington, District of Columbia on June 9, 1997. Response submissions from interested parties are due August 11, 1997. Copies of the GSA Request for Qualifications are available upon request from Elizabeth Gibson, U.S. General Services Administration, National Capital Region, Portfolio Management, Suite 7600, 7th & D Sts., S.W., Washington, DC 20407. For further information telephone 202–708–5334 or FAX 202–708–7671. Accordingly, the U.S. General Services Administration invites the public to a general information meeting on Monday, July 7, 1997 at 6 p.m. at the Naval Heritage Center, 701 Pennsylvania Avenue, N.W., Washington, DC 20004–2608. The entrance is on the ground floor in the east Market Square Building adjacent to the Archives/Navy Memorial Metro-Station—Yellow and Green Lines. The purpose of the meeting is to begin to solicit public participation in the identification of adaptive use concepts for the public building.

GSA is seeking private investment to restore and reuse an important historic property that no longer has a viable Federal use. Adaptive use concepts must be financially feasible and generate long term revenues for the federal government. GSA intends to retain ownership of the property for safekeeping while creating the opportunity for the private sector to change use of the property and keep it accessible for the public.

For additional information on the federal undertaking see the Internet Web Page http://www.gsa.gov/regions/r11/ncr.htm. For additional information on the historic property see the Historic American Building Survey No. DC–219 and U.S. Department of Interior National Register No. 69000311.

Dated: June 16, 1997.

Arthur M. Turowski,

Director, Portfolio Management Division, WPT.

[FR Doc. 97–16971 Filed 6–27–97; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following are those information collections recently submitted to OMB. *Comparative Analysis of Caregiving Patterns for Disabled Elders with Long-Term Care Insurance:*—New—The Assistant Secretary for Planning and Evaluation (ASPE) is participating in a survey which will compare the usage of

formal and informal caregiving services between the disabled elderly with long-term care insurance policies and the disabled elderly in the general population. *Respondents:* Individuals or households—Burden Information for the Home Care Instrument—*Number of respondents:* 740; *Average time per response:* 40 minutes; *Burden for Home Care Instrument:* 494 hours—Burden Information for the Nursing Home Instrument—*Number of respondents:* 350; *Average time per response:* 40 minutes; *Burden for Nursing Home Instrument:* 233 hours—Burden Information for the Informal Caregiver Telephone Survey—*Number of respondents:* 700; *Average time per response:* 20 minutes; *Burden for Informal Caregiver Telephone Survey:* 233 hours—Burden Information for the Policy Holder Screening Instrument—*Number of respondents:* 1500; *Average time per response:* 5 minutes; *Burden for Policy Holder Screening Instrument:* 125 hours—*Total Burden:* 1085 hours.

OMB Desk Officer: Allison Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 690–6207. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street N.W., Washington, D.C. 20503.

Comments may also be sent to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue S.W., Washington DC, 20201. Written comments should be received within 30 days of this notice.

Dated: June 24, 1997.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 97–17013 Filed 6–27–97; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)

Title: Statewide Automated Child Welfare Information System (SACWIS) Assessment Review Guide.

OMB No.: New.

Description: States submit to ACF, the completed SACWIS assessment review questionnaire. OBRA 93 requires that ACF continually review, assess, and inspect the planning, design, and operation of SACWIS systems to determine how such systems meet and continue to meet the requirements imposed by OBRA in the assessment guide will allow State and Federal officials to determine if State SACWIS systems meet applicable statutory and regulatory requirements.

Respondents: States, Puerto Rico, Guam and the District of Columbia.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Guide	15	1	24	360

Estimated Total Annual Burden Hours: 360.

Additional Information: ACF is requesting that OMB grant a 180 day approval for this information collection under procedures for emergency processing by July 15, 1997. A copy of this information collection, with applicable supporting documentation, may be obtained by calling the Administration for Children and Families, Acting Reports Clearance Officer, Bob Sargis (202) 690–7275.

Comments and questions about the information collection described above should be directed to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ACF, Office of Management and Budget, Paperwork Reduction Project, 725 17th Street N.W., Washington, D.C. 20503, (202) 395–7316.

Dated: June 24, 1997.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 97–17014 Filed 6–27–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration For Children and Families

[Program Announcement No. NCCAN/CB 97–10]

Announcement of the Availability of Financial Assistance and Request for Applications to Support Child Abuse and Neglect Research Projects

AGENCY: Administration on Children, Youth and Families ACF, DHHS.

ACTION: Announcement of the availability of financial assistance and request for applications to support child abuse and neglect research projects as authorized by the Child Abuse Prevention and Treatment Act, as amended by P.L. 104–235 (1996).

SUMMARY: The National Center on Child Abuse and Neglect/ Children's Bureau announces the availability of Fiscal Year 1997 funding for research projects designed to prevent, assess, identify, and treat child abuse and neglect.

Note: The National Center on Child Abuse and Neglect (NCCAN) was established in 1974 to carry out the functions of the Child Abuse Prevention and Treatment Act (CAPTA). Pursuant to P.L. 104–235, the Child Abuse Prevention and Treatment Act Amendments of 1996, the Office on Child Abuse and Neglect (OCAN) will, in the near future, be established by the Secretary for the purpose of coordinating the functions and activities of CAPTA, replacing NCCAN.

This announcement contains forms and instructions for submitting an application.

DATES: The closing time and date for the receipt of applications under this announcement is 4:30 p.m. (Eastern Time) August 14, 1997. Applications received after 4:30 p.m. will be classified as late.

FOR FURTHER INFORMATION CONTACT: The ACYF Operations Center Technical Assistance Team at 1–800–351–2293 is available to answer questions regarding application requirements and to refer you to the appropriate contact person in NCCAN for programmatic questions.

INTENT TO APPLY: If you are going to submit an application, call 1–800–351–

2293 within two weeks of the receipt of this announcement and give the following information: the name, address, and telephone number of the contact person; the name of the organization; and the priority area(s) in which you may submit an application. If you prefer, you may send a postcard with the information to: attention—Nainan Thomas, National Center on Child Abuse and Neglect, Administration on Children, Youth and Families, P.O. Box 1182, Washington, D.C. 20013. This information will be used to determine the number of expert reviewers needed and to update the mailing list for future program announcements.

SUPPLEMENTARY INFORMATION: This program announcement consists of three parts. Part I provides general information on the National Center on Child Abuse and Neglect. Part II describes the review process and priority areas. Part III provides information and instructions for the development and submission of applications.

Application forms are included in Appendix A—ACF Uniform Discretionary Grant Application Form (ACF/UDGAF). Please copy as single-sided forms and use in submitting an application under this announcement. No additional application forms are needed.

Grants to be awarded under this program announcement are subject to the availability of funds.

Outline of Announcement

Part I: General Information
A. Background
B. Statutory Authority Covered Under This Announcement
Part II: The Review Process and Priority Areas
A. Eligible Applicants
B. Review Process and Funding Decisions
C. Evaluation Criteria
D. Structure of Priority Area Descriptions
E. Available Funds
F. Summary of Public Comments
G. Priority Area Descriptions and Requirements
Part III: Instructions for the Development and Submission of Applications
A. Paperwork Reduction Act of 1995
B. Availability of Forms
C. Required Notification of the State Single Point of Contact
D. Deadline for Submission of Applications
E. Instructions for Preparing the Application Under Appendix A—ACF Uniform Discretionary Grant Application Form (ACF/UDGAF).
1. SF424, page 1, Application Cover Sheet
2. SF424A, Budget Information-Non-Construction Programs
3. Project Summary Description
4. Program Narrative Statement
5. Organizational Capability Statement
6. Assurances/Certifications
F. Checklist for a Complete Application
G. The Application Package

Part I. General Information:

A. Background

The Administration on Children, Youth and Families (ACYF) administers national programs for children and youth, works with States and local communities to develop services which support and strengthen family life, seeks out joint ventures with the private sector to enhance the lives of children and their families, and provides information and other assistance to parents, public and private agencies, States and local communities, and other entities.

The concerns of ACYF extend to all children from birth through adolescence. Many programs administered by the agency focus on children from low-income families; children and youth in need of foster care, adoption, or other child welfare services; preschool children; children with disabilities; abused and neglected children; runaway and homeless youth; and children from Native American and migrant families.

The National Center on Child Abuse and Neglect (NCCAN) in ACYF was established in 1974 to carry out the functions of the Child Abuse Prevention and Treatment Act (CAPTA).

NCCAN provides Federal leadership and conducts activities designed to assist and enhance national, State and community efforts to prevent, assess, identify and treat child abuse and neglect. These activities include: supporting knowledge-building research projects and service improvement demonstration programs; awarding grants to eligible States for developing child protection systems that are comprehensive, child-centered, family-focused, and community-based; promoting coordinated planning among all levels of government; developing national policies that prevent child abuse and neglect, protect children, and preserve families; providing training and technical resources necessary to develop and implement a successful, comprehensive child and family protection strategy through a National Resource Center on Child Maltreatment; supporting mutual support/and parent self-help programs; gathering, processing and housing high quality data sets through a National Data Archive on Child Abuse and Neglect; and gathering, storing and disseminating child maltreatment information through a National Clearinghouse on Child Abuse and Neglect Information.

B. Statutory Authority Covered Under This Announcement

NCCAN solicits applications under the authority of the Child Abuse Prevention and Treatment Act (CAPTA), as amended in 1996 (42 U.S.C. 5101 *et seq.*). Through the amendments of 1996, CAPTA is now reauthorized through September 30, 2001 (P.L. 104–235).

Funds were appropriated under the 1997 Appropriations Act (P. L. 104–208) through September 1997 (CFDA: 93.670).

Part II. The Review Process and Priority Areas

A. Eligible Applicants

Each priority area description contains information about applicant eligibility. Because eligibility varies depending on statutory provisions, it is critical that the ''Eligible Applicants'' section of each priority area be read carefully.

Before review, each application will be screened for eligibility. Applications from ineligible organizations will not be reviewed in the competition, and the applicants will be so informed.

Only agencies and organizations, not individuals, are eligible to apply under this Announcement. All applications developed jointly by more than one agency or organization must identify a single lead organization as the official applicant. Participating agencies and organizations can be included as co-participants, sub-grantees, or subcontractors. For-profit organizations are eligible to participate as sub-grantees or subcontractors with eligible non-profit organizations under all priority areas.

Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. Acceptable proof consists of either: a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code *or* a copy of the currently valid IRS tax exemption certificate, or a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

B. Review Process and Funding Decisions

Before review, each application is screened to determine whether the applicant organization is eligible. Applications from ineligible organizations will not be reviewed in the competition, and the applicants will be so informed. Applicants omitting essential components of the application

or failing to comply with the format specifications described in Part III will have their applications withdrawn from further consideration.

Timely and complete applications from eligible applicants will be reviewed and scored competitively. Experts in the field (generally persons outside the Federal government) will use the evaluation criteria listed later in this section to review and score the applications. The result of this review is a primary factor in funding decisions.

NCCAN and ACYF reserve the option to discuss applications with, or refer them to, other Federal or non-Federal funding sources when this is in the best interest of the Federal government or the applicants. ACYF may also solicit comments from ACF Regional Office staff, other Federal agencies, interested foundations, national organizations, specialists, experts, States and the general public. These comments, along with those of the expert reviewers, will be considered by ACYF in making funding decisions.

In making award decisions, ACYF may give preference to applications that focus on: substantially innovative research strategies with the potential to improve theory or practice in child welfare and child protective services; implications for model practice or set of procedures that holds the potential for use by organizations that administer or deliver child welfare and/or child protective services; substantial involvement of volunteers, where appropriate; substantial involvement (either financial or programmatic) of the private sector; the potential for high benefit from low Federal investment; and/or substantial involvement by national or community foundations.

To the greatest extent possible, funding decisions will reflect an equitable distribution of assistance among the States and geographical regions of the country, rural and urban areas, and ethnic populations. In deciding, ACYF may also take into account the need to avoid unnecessary duplication of effort.

C. Evaluation Criteria

A panel of at least three reviewers (primarily experts from outside the Federal government) will review each application. To facilitate this review, applicants should address every requirement in the appropriate section of the Program Narrative Statement.

The reviewers will determine the strengths and weaknesses of each application using the evaluation criteria listed below, provide verbal and written comments, and assign numerical scores to each application. The point value following each criterion heading is the maximum score for that criterion.

All research project applications will be evaluated against the following criteria:

(a) Objectives (5 points)

The application pinpoints the research problem addressed; concisely states the specific objectives of the study; and states the question(s) to be answered or hypothesis(es) to be tested.

(b) Background and Significance (19 points)

The application references theory or craft knowledge supporting the study, provides a thoughtful discussion about the current state of knowledge related to the research problem addressed by presenting a review of the relevant literature, including any pilot tests, in order to establish the need for the study as a replication to validate existing knowledge or a new study to fill a knowledge gap. Applicants also must indicate how the proposed study findings are expected to significantly inform policy, improve practice, and/or advance the science of child abuse and neglect research. Bibliographic references for all citations should be included.

(c) Methodology (51 points)

The application precisely defines the terms and variables used in the study; identifies data sources, data collection processes and instruments, including the instruments' reliability and validity with the population proposed; and describes the data analysis plan. If the study proposes secondary analysis of existing data, the application describes access to the chosen data set, familiarity with the original study design, measures, reports, data file structures, variables, codes, and the strengths and limitations of the data.

The application describes the characteristics of the target population and the rationale, strengths, and potential limitations for interpretations of findings due to the gender and ethnic composition of the proposed study sample; depicts recruitment and retention procedures; provides realistic estimates of attrition, and discusses appropriate procedures for handling attrition or interpreting the findings of the study in light of attrition. (This requirement is not applicable to priority area 2.04.)

The proposed methodology protects human subjects; reflects sensitivity to ethical issues that may arise; provides for reporting suspected abuse and/or neglect in accordance with applicable laws and regulations; and describes procedures for soliciting approval from an institutional review board (IRB), if applicable, and protecting the integrity and confidentiality of data.

The applicant(s) commits to using data processing and documentation practices in accordance with the needs of the National Data Archive on Child Abuse and Neglect and to providing study data to the Archive within two years of the termination of Federal funding for the project, as applicable. A manual describing such practices, The Preparation of Data Sets for Analysis and Dissemination: Technical Standards for Machine-Readable Data, can be obtained free of cost from the National Data Archive on Child Abuse and Neglect located at Cornell University, Family Life Development Center, G20 MVR Hall, Ithaca, New York 14853–4401, 607–255–7794. Applicants must confirm that the final report will be prepared in the suggested format to ensure its readiness for dissemination by NCCAN and ACYF, if desired. (This requirement is not applicable to priority area 2.04).

The application provides a workable plan of action; details a reasonable time-line and target dates; includes an adequate staffing plan, listing key and support staff, consultants, agency, organization, other key group, and/or advisory panels involved or proposed; and, if applicable, describes the responsibilities, activities, and/or training plans for each. The application explicitly identifies the role of its author(s) in relation to the work plan and administrative structure.

The application proposes reasonable and appropriate project costs and allocates sufficient funds across component areas. This information also must be included in the budget narrative.

(d) Staff Background and Organizational Experience (25 points)

The application describes the qualifications of the key staff and consultants alluded to in the methods section (a curriculum vitae for each key staff person must be included with the application); the geographic accessibility of the personnel proposed; and access to special personnel resources to be tapped, if required.

The application describes the adequacy of the available facilities and organizational experience to perform the pertinent tasks of the proposed project effectively and efficiently. Organizational capability statements included with applications should be no longer than two pages. If collaboration is proposed, its nature and extent must

be described in detail and supported by letters of commitment.

The application describes the relationship between this project and any other Federally financed work planned, anticipated, or underway by the applicant.

D. Structure of Priority Area Descriptions

Each priority area description is composed of the following sections:

Eligible Applicants: This section specifies the type of organizations eligible to apply under the particular priority area, noting specific restrictions where applicable.

Purpose: This section presents focus and/or broad goal(s) of the priority area.

Background Information: This section briefly discusses the legislative background and the current state-of-the-art and/or current state-of-practice supporting the need for the priority area activity. Relevant information on projects previously funded by ACYF and/or others are noted.

Minimum Requirements for Project Design: This section presents the minimum requirements which must be addressed in response to the evaluation criteria. These requirements relate to the objectives, background and significance, methodology, staff background and organizational experience. Reviewers will expect the details under these headings to correspond to the evaluation criteria.

Project Duration: This section specifies the maximum allowable project period; it refers to the amount of time for which Federal funding is available.

Federal Share of Project Cost: This section specifies the maximum amount of Federal support for the first budget year.

Matching Requirement: This section specifies the minimum non-Federal contribution, either cash or in-kind match, required for the project. There is no matching requirement for research projects.

Anticipated Number of Projects To Be Funded: This section specifies the number of projects ACYF anticipates funding under the priority area.

Non-responsiveness to the section ''Minimum Requirements for the Project Design'' is likely to result in a low evaluation score by the reviewers. Experience has shown that an application which is broader and more general in concept than the priority area description invariably scores lower than a more clearly focused and directly responsive application.

E. Available Funds

The ACYF intends to award new grants resulting from this announcement during the fourth quarter of Fiscal Year 1997, subject to the availability of funds. Approximately two million dollars ($2,000,000) are expected to be available for this program announcement. The size of the awards will vary from priority area to priority area.

Each priority area description specifies the maximum Federal share of the project costs and the anticipated number of projects to be funded.

''Budget period'' is the interval of time (usually 12 months) into which a multi-year period of assistance (project period) is divided for budgetary and funding purposes. ''Project period'' is the total time a project is approved for support, including any extensions. Where appropriate, applicants may propose project periods shorter than the specified maximums.

For multi-year projects, continued Federal funding beyond the first budget period depends upon satisfactory performance, availability of funds from future appropriations, and a determination that continued funding is in the best interest of the Government.

F. Summary of Public Comments

On February 12, 1997, the National Center on Child Abuse and Neglect (NCCAN) published its proposed research priority areas for 1997–2001 in the **Federal Register** (Volume 62, Number 29, pages 6546–6549.) The notice requested comments from the public on the research priority areas by no later than April 14, 1997.

NCCAN received 99 written responses from a variety of sources, including the following: The American Bar Association (ABA) Center on Child and the Law; State and county departments of social welfare and human services; city and county health departments; child protective service agencies; a newsletter for abuse survivors and their supporters; family violence projects; State protection and advocacy systems; community agencies for children and families; national, State and local associations and non-profit organizations; universities; hospitals; health care corporations; children's medical centers; mental health services agencies; agencies serving children with disabilities; and national resource centers.

The largest number of written responses (30) came from university representatives. The next largest number of responses (16) were from hospitals, health care corporations, children's medical centers and non-profit organizations. Counties, States, individuals and for-profit organizations accounted for the remainder (53) of comments.

Legislative Topics

Eight letters commented on the proposed research topic of mandated reporting. Some commenters suggested that research on the nature of adequate training for mandated reporters would be helpful, while one respondent noted that the need is not for training. Others suggested a study of the impact of mandated reporting on domestic violence or on provider behavior, while another wondered whether the elimination of mandatory reporting might increase the involvement of the criminal justice system in child protection.

Seven comments on research on unsubstantiated, unfounded and false reports reflected disagreement as to whether this area should be studied. Some cautioned that emphasis should be placed on the rights of the child rather than the alleged perpetrator. Questions were raised as to whether this is really a research priority or a matter of child welfare practice. Commenters feared that studies focused on false reports might send the wrong message to State governments and the research community implying that the key issue in child welfare is to ''reduce waste'' rather than protect children.

Four comments supported research on child abuse and neglect reporting in the context of family court proceedings. Commenters noted the need for research in effective coordination of child protection and family court staff who frequently work with the same families, especially on termination of parental rights cases. Another suggested that a research evaluation be done on the results of family court initiatives and the effects of court improvement projects on children's outcomes.

Seven comments pertained to research on child abuse and neglect involving substitute care. Most comments support research in this area. One State agency urged research into the matching of potential foster parents with special needs children and whether the training they are given is adequate. Another comment spoke to the need to examine the quality of investigations of allegations of abuse in substitute care, positing that sometimes the data on these cases are inadequate or skewed.

Four comments addressed research into systems and sequelae questions with substantiated case samples. One writer stated that research in this area would provide a more rational and

empirical foundation for shaping strategies and responses to child abuse and neglect. Another noted that longitudinal, epidemiological studies are relevant to these questions. Finally, it was noted that such research should occur in the context of the entire range of case flow and decision-making.

Other Topics

Twelve comments addressed the priority area regarding child safety and child fatality. In general, commenters favored research in this area. Possible emphases for the research include 1) home visitation services and other early intervention programs; 2) assessment measures for child safety and Sudden Infant Death Syndrome; 3) standards for evaluating deaths due to neglect for child fatality review teams; 4) identifying cases at high risk for fatality; 5) follow up to fatality reviews; 6) the over-representation of minorities in known child abuse and neglect fatalities; 7) integrating multiple data bases; and 8) the effects of severe and fatal child abuse on siblings and other family members.

Eight people commented on the co-occurrence of multiple family problems (substance abuse, domestic violence, criminal behavior) with child maltreatment in families. Commenters generally favored this priority. Several noted the clear links among domestic violence, substance abuse and child abuse, and called for research into developing a valid risk assessment instrument and best practices for treatment and services. A social work professor noted the paucity of research on co-occurrence, and the need for research that includes studies of families in the earliest stages of violent behavior in order to discern the potential for other types of violence. He also expressed interest in NCCAN funding research differentiating spouse abusing-only from child abusing-only families and taking urban and rural differences into account.

Three communications suggested ''definitions'' as a research topic. All supported this subject, and one commenter specified the need for multi-site studies.

Ten comments unanimously favored university-based doctoral or medical student and faculty research fellowships in child abuse and neglect. Only three commented on the desirability of either specified model: one preferred the student-only model; one preferred the faculty and student(s) group model; and the third commenter felt that either model would advance the field.

Four commenters addressed research on outcomes. Comments were generally favorable. Two organizations thought research should be conducted on the relationship between services by professionally trained social workers and outcomes for children and families. The remaining commenters asked for some expanded focus to the section, noting that it would be helpful to learn what services a community implements to achieve a particular outcome, and whether the result is intended or unplanned, but nonetheless beneficial.

Eight comments focused on over-represented and special populations. Three respondents expressed support for research on racial and ethnic groups and children with disabilities. Research ideas included: (1) Evaluating the importance of matching clients and service providers on the basis of demographic characteristics; (2) investigating treatment components that might be used to address cultural differences; and (3) determining the true distribution of child maltreatment among different social classes. Five respondents commented specifically on immigrant children and their families. Two questioned the emphasis, while three others applauded it.

Six commenters addressed secondary analysis of Federally-funded data sets. All supported this area of research. They expressed the following concerns and ideas: (1) The suggested range of minimum funding vary among the respondents from $5,000 in direct costs to $20,000; (2) a limit needs to be set on how old the data sets can be, and (3) results from secondary analysis may be a way for NCCAN to prioritize among the broad range of research topics.

There was much interest in triage as indicated by the eight comments received. Several commenters noted the need to examine broad issues encompassed by the triage concept, including privatization, managed care, kinship responses, cultural responsiveness and welfare reform. Others cited the need for improved risk assessment instruments as part of any research involving differentiated responses.

Two writers commented on welfare reform and system change. Both felt it is an important area of inquiry, but one noted that it seems implausible for NCCAN/CB to study this matter independent of other Federal constituencies.

Eight comments addressed the call for field-initiated research. All supported NCCAN'S reinstatement of the priority area, observing that field-initiated research encourages researchers from outside the field to apply knowledge and methods from their respective areas; allows the field to have input as to the most important issues for study; and permits researchers to carry on fields of study that build upon their past work.

Finally, several respondents recommended additional areas of research including medical evaluation of suspected sexual or physical abuse; prevalence of children witnessing violence in the home; the relationship between poverty and child maltreatment; monitoring sex offender treatment; effectiveness of primary prevention strategies; and the impact of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 on the prevalence of child maltreatment.

Over the next five years, NCCAN will address many of these proposed priorities, taking into consideration the public comments. For this year, funding will be available for Field-Initiated Research in Child Abuse and Neglect (Priority area 2.01); University-Based Doctoral or Medical Student and Faculty Fellowships in Child Abuse and Neglect (Priority Area 2.02); nd Dynamics of Unsubstantiated Reports of Child Abuse and Neglect (Priority Area 2.03). These three priority areas allow the applicants to propose projects within the scope of the legislatively mandated topics on which favorable comments were received as well as on research field initiated topics, including secondary analysis of existing data. In addition, the Multi-State Foster Care Data Archive (Priority area 2.04) from the Children's Bureau is included in this announcement because it closely relates to the research interests of those who may apply to NCCAN for research funding. It addresses the research needs in the broad array of child welfare services with an emphasis on foster care.

Applicants are strongly encouraged to build new projects on the results and findings of previously funded NCCAN grants. Information on prior research and demonstration projects supported by NCCAN and other references made in this announcement are available from the Clearinghouse on Child Abuse and Neglect Information, P.O. Box 1182, Washington, DC 20013, (Phone: 1–800-FYI–3366; web page: http://www.calib.com/nccanch). The Clearinghouse can provide information on the other Federal Clearinghouses and Resource Centers having special information and resources.

G. Priority Area Descriptions and Requirements

2.01 Field-Initiated Research on Child Abuse and Neglect

Eligible Applicants: Public (State, Tribal or local) or private non-profit

agencies, organizations, or institutions of higher learning, including Historically Black Colleges and Universities (HBCUs) and Hispanic Serving Colleges and Universities are eligible to apply. Collaborative efforts and interdisciplinary applications are encouraged. However, a primary applicant must be identified.

Purpose: To support research designed to carry out the legislative responsibilities established by the Child Abuse Prevention and Treatment Act (CAPTA) Amendments of 1996 (P.L. 104–235). These responsibilities include the conduct of research on the nature and scope of child abuse and neglect; the causes, prevention, assessment, identification, treatment, cultural and socio-economic distinctions, and consequences of child abuse and neglect; and appropriate, effective and culturally sensitive investigative, administrative, and judicial procedures with respect to cases of child abuse.

Background Information: The generation of new knowledge for understanding critical issues in child abuse and neglect improves prevention, assessment, identification, and treatment for children and families who have experienced child abuse and neglect. Research is one way to generate new knowledge. Field-initiated, or investigator-initiated, research may address any topic that will expand the current knowledge base, build on prior research, contribute to practice enhancements, inform policy, improve science, or provide insights into new approaches to the prevention, assessment, identification, and treatment of child maltreatment (i.e., physical abuse, sexual abuse, emotional maltreatment, and/or neglect).

This priority area responds to legislative direction. Those seeking general guidance about appropriate topics are referred to the **Federal Register** (February 12, 1997; Vol. 62, No. 29, pp. 6546–6549) announcement of proposed research priorities which lists legislative and other topics of interest; the section in this announcement summarizing public comments to the proposed research priorities; and the report, including research recommendations, published by the National Research Council, Commission on Behavioral and Social Sciences and Education, Panel on Research on Child Abuse and Neglect, Understanding Child Abuse and Neglect (Washington D.C.: National Academy Press, 1993).

Secondary analysis of existing databases, pilot tests of measurement tools, or validation studies may be proposed under this priority area. NCCAN encourages the use of existing data sets collected through NCCAN and other ACF-funded projects such as the National Incidence of Child Abuse Study (NIS), the National Study of Protective, Preventive and Reunification Services Delivered to Children and their Families, Head Start Data and other field generated data on child maltreatment, and data stored in the National Data Archive on Child Abuse and Neglect at Cornell University, Family Life Development Center, G20 MVR Hall, Ithaca, New York, 14853–4401; telephone: 607–255–7794. Budgets and project lengths for these more focussed activities must be justifiable and appropriate to the scope of the work.

Applicants are encouraged to plan and design, apply for funding, implement, and evaluate the proposed research in collaboration with a State IV–B agency, community-based organization (CBO), public, private, profit, or not-for-profit agency providing child welfare or child protective services.

As with other offerings, the Administration on Children, outh and Families maintains an interest in research which will be especially informative about over-represented populations and communities, and special populations (i.e., racial and ethnic groups, children with disabilities, and children in immigrant communities).

Minimum Requirements for Project Design: As part of addressing the evaluation criteria outlined in Part II of this announcement, each applicant must address the following items in the program narrative section of the proposal.

(a) Objectives

- Pinpoint the research problem being addressed.
- State the specific objectives of the study.
- State the question(s) to be answered or hypothesis(es) to be tested.

(b) Background and Significance

- Describe the conceptual framework that includes appropriate cultural perspectives and reference theory, if any, in support of the study.
- Discuss the current state of knowledge related to the research problem, providing a review of the relevant literature, including any pilot tests; describe how the proposed research has direct application to the field of child abuse and neglect within the context of NCCAN's legislative responsibilities.
- Establish the need for the study as either a replication to validate existing knowledge or as a new study to fill a knowledge gap. If applicable, indicate how the proposed study is distinguished from other on-going research of which it is a part.
- Indicate how the proposed study findings significantly inform policy, improve practice, and/or advance the science of child abuse and neglect research.
- Include all bibliographic references.

(c) Methodology

- Describe the proposed methodology. Define the terms, variables, and design to be used in the study.
- Describe the population and sampling plan, the rationale, strengths, and potential limitations for interpretations of findings due to the gender and ethnic composition of the proposed study sample.
- Describe recruitment and retention procedures; provide realistic estimates of attrition, and discuss appropriate procedures for handling attrition or interpreting the findings of the study in light of attrition.
- Identify data collection procedures and instruments, including information on reliability and validity of the instruments with the population proposed.
- Describe access to the data source and the chosen data set and demonstrate familiarity with the original study including its design, measures, reports, data file structures, variables, codes, and the strengths and limits of the data, if the study proposes secondary analysis of existing data.
- Provide a data analysis plan appropriate to the study. Applicants proposing secondary analysis of existing data may run a preliminary descriptive analysis on existing variables of interest to replicate published findings, add new variables and revise data analysis plans as needed.
- Provide assurance that draft reports of the findings of secondary analysis of existing data would be shared with the original investigators or other experts for comments.
- Provide assurance that a carefully prepared and thoroughly documented data set comprising the research data collected for the study would be deposited in the National Data Archive on Child Abuse and Neglect within two years of the termination of funding for the project.
- Provide Certification of Protection of Human Subjects Assurance as part of the application; describe procedures for soliciting approval from an institutional review board (IRB), if applicable; describe data management plan to

safeguard the integrity and confidentiality of data.

• Reflect sensitivity to ethical issues that may arise and make provision for reporting suspected abuse and/or neglect in accordance with applicable laws and regulations.

• Provide a workable plan of action; detail a reasonable time-line and target dates; include an adequate staffing plan, listing key and support staff, consultants, any agency, organization, other key group, and/or advisory panels involved or proposed; identify the role of the author(s) of the proposal in relation to the work-plan; describe the responsibilities, activities, and/or training plans for each, if applicable.

• Propose reasonable and appropriate project costs and allocate sufficient funds across component areas. This information should be given in the budget narrative section.

• Describe strategies for disseminating the findings in a manner that would be useful to other researchers and practitioners in the field.

(d) Staff Background and Organizational Experience

• Describe the academic qualifications of the principal investigator and the key project staff and consultants, if any, identified in the methodology section; include a brief curriculum vitae for each key staff person.

• Describe the adequacy of the available facilities and the capability of the organization to administer and implement the project effectively and efficiently; if the proposed project is a collaborative effort involving more than one agency or organization, attach letters of commitment documenting the nature and extent of such collaboration.

• Describe the relationship between this project and any other Federally-assisted work planned, anticipated, or underway, by the applicant.

• Provide assurances that one key staff person will attend a three-day annual Spring meeting of NCCAN research grantees in Washington, D.C. with an interim progress report of the research; prepare quarterly progress reports, and a final project report in an NCCAN-suggested format ensuring ease of dissemination and utilization.

Project Duration: The length of the project may not exceed 36 months. Projects involving secondary analysis of existing data may propose a shorter duration.

Federal Share of Project Costs: The maximum Federal share of the project is not to exceed $200,000 per 12-month budget period. Applications for lesser amounts are expected when appropriate to work of a smaller scale, especially proposals involving secondary analysis of existing data.

Matching Requirements: There is no matching requirement.

Anticipated Number of Projects to be Funded: Pending the availability of funding in FY 1997 or FY 1998, it is anticipated that up to four projects will be funded at the maximum funding level or more than five if applications for lesser amounts are funded.

2.02 University-Based Doctoral or Medical Student and Faculty Fellowships in Child Abuse and Neglect

Eligible Applicants: Institutions of higher learning, including medical schools, teaching hospitals, Historically Black Colleges and Universities (HBCUs) and Hispanic Serving Colleges and Universities on behalf of qualified doctoral students, medical students, residents (medical, surgical, pediatric, or others), house officers, or fellows enrolled in the institution and faculty employed by the institution. To be eligible to administer such a grant, the institution must be fully accredited by one of the regional institutional accrediting commissions recognized by the U.S. Secretary of Education and the Council on Post-Secondary Accreditation, the Accreditation Council for Graduate Medical Education, American Association of Medical Colleges, or the Liaison Committee for Medical Education, as applicable. While an individual is considered to be the beneficiary of the grant support, awards will be made only to eligible institutions on behalf of their qualified candidates.

Purpose: To provide support for doctoral students, medical students, residents, house officers, or fellows, who show promise and demonstrate a serious interest in and commitment to issues of child maltreatment, as well as for faculty who will conduct research on critical issues in child abuse prevention, assessment identification, and treatment. These fellowships serve to help cultivate the academic infrastructure, support the growth of university-based research capacity for child abuse and neglect, and encourage doctoral-level students and faculty to pursue careers in child abuse and neglect research.

Background Information: The research community has highlighted the need to draw new researchers into the field of child abuse and neglect (Understanding Child Abuse and Neglect, Washington, D.C.: National Academy Press, 1993). During FYs 1991, 1992, and 1994, NCCAN funded 26 graduate research fellowships for doctoral candidates to complete dissertations addressing critical issues in child abuse and neglect. This activity proved rewarding for NCCAN and garnered the support of the field.

In FY 1996, NCCAN initiated the university-based student and faculty fellowships by funding four institutions (the University of Chicago, the University of Maryland at Baltimore, Brandeis University and the University of Rhode Island). Students and faculty funded in FY 1996 are working on research issues that include topics such as:

—Child Protection Decision-Making in Cases Involving Substance-Exposed Infants,
—Decision-Making in Family Reunification,
—Child Maltreatment: Correlates and Outcomes
—Studies of the Impact of Criminal Justice and Child Welfare Systems' Involvement on Child Survivors of Abuse,
—The Process of Change Among Parents Who Abuse and Neglect Their Children, and
—Family Violence in Asian-American Families.

Faculty, doctoral students, and students in medical schools, resident, house officers, or fellows programs are encouraged to apply for support through their schools and interdisciplinary programs in social sciences, human development, community and family development, human services, social work, medicine, nursing, special education, early childhood education, psychology, sociology, anthropology, public health, child study, minority studies, and criminology.

NCCAN proposes to award funds for fellowships in blocks to eligible institutions. Each institutional block would contain at least two or up to four students and one faculty member. The students and faculty member may pursue their own individual research or work on coordinated projects on child abuse and neglect. In addition to submitting all the required reports to NCCAN, faculty are encouraged to publish the findings of the study funded. Students' work could lead to dissertations, publications, or fulfill the requirements of major research projects (e.g., independent study projects requiring a minimum commitment of 6 to 9 graduate credit hours).

Institutions will be selected competitively, with attention to geographic distribution. Historically Black Colleges and Universities (HBCUs) as well as Hispanic Serving

Colleges and Universities are encouraged to apply in order to generate knowledge particularly responsive to issues of cultural context and the over-representation of some groups in child welfare and child protective services systems.

Examples of topics to be studied for these fellowships include, but are not limited to, the following:

1. The number of substantiated cases that result in a judicial finding of child abuse or neglect or related criminal court convictions;
2. The extent to which the lack of adequate resources and lack of adequate training of individuals required by law to report suspected cases of child abuse have contributed to the inability of a State to respond effectively to serious cases of child abuse and neglect;
3. The incidence and prevalence of physical abuse, sexual abuse and emotional neglect in substitute care;
4. The incidence and outcomes of abuse allegations reported within the context of divorce, custody, or other family court proceedings, and the interaction between this venue and the child protective services system;
5. Child abuse and neglect service intervention outcome studies;
6. Child abuse and neglect treatment outcome studies;
7. Studies focussing on over-represented and special populations in child welfare and child protective services (i.e., racial and ethnic groups, children with disabilities, and immigrant children) and the systems' understanding or lack thereof of the dynamics of these populations, and methods for assessment of clients in order to generate knowledge about these populations from appropriate cultural and sociological perspectives.
8. Co-occurrence of child maltreatment and substance abuse and/or domestic violence and system responses to co-occurrence in terms of assessment, intervention, treatment and resources;
9. Secondary analyses of existing databases, pilot tests of measurement tools, or validation studies;
10. Research on new medical screening, diagnostic, or interview protocols, and treatment techniques.

For topics one through eight, applicants are encouraged to collect data in partnership with one or more agencies and/or organization of the local jurisdictions (e.g., child protective services/child welfare agencies, juvenile, criminal and family courts, substitute care settings, community-based substance abuse treatment centers, service providing organizations, family violence intervention programs, etc.). For topic nine, NCCAN encourages secondary analysis of existing data sets collected through NCCAN and other ACF-funded projects such as the National Incidence Study (NIS), the National Study of Protective, Preventive and Reunification Services Delivered to Children and their Families, Head Start Data and other field generated data on child maltreatment, and data stored in the National Data Archives on Child Abuse and Neglect at Cornell University, Family Life Development Center, G20 MVR Hall, Ithaca, New York, 14853–4401; telephone: 607–255–7794. Topic ten may be appropriate for study in teaching hospital settings with multi-disciplinary, child protection teams.

Each applicant institution should prepare a single submission packet composed of (up to) five individual research proposals. Each individual proposal will be evaluated against the criteria for evaluating research projects. However, each institution will receive only one score which will consist of the average of the individual proposal scores. For this priority area only, an exception is made regarding the total 60-page limit described elsewhere in this announcement. The text of each individual proposal for this area should not exceed a maximum of 15 pages. The total text for the five proposals cannot exceed a maximum of 75 pages. Application forms and all required attachments can add up to 25 more pages. Thus the total length of the institutional submission, including text, application, and attachments may be up to 100 pages. Human Subjects Assurances must be completed for each individual proposal; however, all other assurances should be submitted only once, by the institutional applicant. The academic institution, in accepting the award, agrees to waive overhead charges (indirect costs) and pass the entirety of the funds on to students and faculty as fellowships.

Minimum Requirements for Project Design: As part of addressing the evaluation criteria outlined in Part II of this announcement, each applicant must address the following items in the program narrative section of the proposal.

(a) Objectives

- Pinpoint the research problem being addressed.
- State the specific objectives of the study.
- State the question(s) to be answered or hypothesis(es) to be tested.

(b) Background and Significance

- Describe the conceptual framework that includes appropriate cultural perspectives and reference theory, if any, in support of the study.
- Discuss the current state of knowledge related to the research problem, providing a review of the relevant literature, including any pilot tests; describe how the proposed research has direct application to the field of child abuse and neglect.
- Establish the need for the study as either a replication to validate existing knowledge or as a new study to fill a knowledge gap. If applicable, indicate how the proposed study is distinguished from other on-going research of which it is a part.
- Indicate how the proposed study findings significantly inform policy, improve practice, and/or advance the science of child abuse and neglect research.
- Include all bibliographic references.

(c) Methodology

- Describe the proposed methodology. Define the terms, variables, and design to be used in the study.
- Describe the population and sampling plan, the rationale, strengths, and potential limitations for interpretations of findings due to the gender and ethnic composition of the proposed study sample.
- Describe recruitment and retention procedures; provide realistic estimates of attrition, and discuss appropriate procedures for handling attrition or interpreting the findings of the study in light of attrition.
- Identify data collection procedures and instruments, including information on reliability and validity of the instruments with the population proposed.
- Describe access to the data source and the chosen data set and demonstrate familiarity with the original study including its design, measures, reports, data file structures, variables, codes, and the strengths and limits of the data, if the study proposes secondary analysis of existing data.
- Provide a data analysis plan appropriate to the study. Applicants proposing secondary analysis of existing data may run a preliminary descriptive analysis on existing variables of interest to replicate published findings, add new variables and revise data analysis plans as needed.
- Provide assurance that draft reports of the findings of secondary analysis of existing data would be shared with the original investigators or other experts for comments.

• Provide assurance that a carefully prepared and thoroughly documented data set comprising the research data collected for the study would be deposited in the National Data Archive on Child Abuse and Neglect within two years of the termination of funding for the project.

• Provide Certification of Protection of Human Subjects Assurance as part of the application; describe procedures for soliciting approval from an institutional review board (IRB), if applicable; describe data management plan to safeguard the integrity and confidentiality of data.

• Reflect sensitivity to ethical issues that may arise and make provision for reporting suspected abuse and/or neglect as governed by applicable laws and regulations.

• Provide a workable plan of action; detail a reasonable time-line and target dates; include an adequate staffing plan, listing key and support staff, consultants, any agency, organization, other key group, and/or advisory panels involved or proposed; identify the role of the author(s) of the proposal in relation to the work-plan; describe the responsibilities, activities, and/or training plans for each, if applicable.

• Propose reasonable and appropriate project costs and allocate sufficient funds across component areas. This information should be given in the budget narrative section.

• Describe strategies for disseminating the findings in a manner that would be useful to other researchers and practitioners in the field.

Staff Background and Organizational Experience

• Include evidence that the student candidates are enrolled and in good standing as doctoral or medical students, residents, house officers, or fellows in the sponsoring institution and verify the employment status of the faculty candidate.

• Document the agreement between the dean or chairperson and the faculty candidate indicating that the faculty candidate will be permitted to conduct the research project as part of his/her academic duties, and if needed, that a senior faculty member would be available to guide the project.

• Include a letter of support from a tenured faculty member, advisor, Dean, or Chairperson for each student seeking a fellowship, recommending the student's capability to undertake a research project of this nature.

• Describe the corporate capability of the institution to support a research initiative, in terms of the existing research infrastructure and academic climate; if the proposed project is a collaborative effort involving more than one agency or organization, attach letters of commitment documenting the nature and extent of such collaboration.

• Include a short resume for each candidate (limit to one page) including information on education and relevant experiences.

• Describe the relationship between this project and any other Federally-assisted work planned, anticipated, or underway, by the applicant institution.

• Provide assurances that each candidate will attend a three-day annual Spring meeting of NCCAN research grantees in Washington, D.C. with an interim progress report of the research; prepare quarterly progress reports and a final project report in an NCCAN-suggested format ensuring ease of dissemination and utilization.

Project Duration: The length of the project may not exceed 17 months.

Federal Share of the Project Costs: The maximum Federal share of the project is not to exceed $75,000 per university or institution to fund up to four student-candidates at $13,750 each and $20,000 for the faculty candidate.

Matching Requirement: There is no matching requirement.

Anticipated Number of Projects to be Funded: It is anticipated that up to five sites will be funded.

2.03 Dynamics of Unsubstantiated Reports of Child Abuse and Neglect

Eligible Applicants: Public (State, Tribal or local) or private non-profit agencies, organizations, and institutions of higher learning, including Historically Black Colleges and Universities and Hispanic Serving Colleges and Universities are eligible to apply. Collaborative efforts are encouraged; however, a primary applicant must be identified. If the primary applicant is a private nonprofit agency, organization or institution of higher learning, a clear statement of commitment and agreement with the State, Tribal or local Child Protection/child welfare entities must be provided which assures access to appropriate sources and individuals.

Purpose: To support research on the dynamics of unsubstantiated cases of child abuse and neglect, including the factors that influence the decision not to substantiate, the agency resources expended in investigating unsubstantiated versus substantiated reports, service interventions provided to children and families during or as a result of the investigation, and outcomes of children and families who have been the subject of unsubstantiated reports, including their re-referral to child protective services in future reports of alleged abuse and neglect.

Background Information: In 1995, State child protective services agencies (CPS) received and referred for investigation nearly 2 million reports of alleged maltreatment, involving an estimated 3 million children (Child Maltreatment 1995: Reports from the States to the National Child Abuse and Neglect Data System, Washington, D.C., U.S. Government Printing Office, 1997). Over 1 million children were found to be victims of substantiated or indicated maltreatment.

Due to expungement practices, administrative data on unsubstantiated cases is limited in many States. In fact, not all States are able to provide data on the number of investigated children for whom maltreatment was not substantiated, as well as those for whom maltreatment was substantiated. However, based on data from the 40 States able to report on children with both substantiated and not substantiated dispositions, 34 percent of investigated children were found to have suffered substantiated or indicated abuse or neglect, while 60 percent received an investigation disposition of ''unsubstantiated.'' Less than 2 percent of children had investigations resulting in either ''no finding'' or ''unknown finding,'' and about 4 percent received a disposition categorized as ''other'' (NCANDS).

The large number of investigations resulting in unsubstantiated dispositions has raised questions and concern about the nature of these cases and their impact both on the children and families who are the subject of these CPS investigations and on the functioning of CPS systems. The CAPTA amendments of 1996 suggest several research topics specifically focusing on unsubstantiated cases of child abuse and neglect, including, ''the extent to which the number of unsubstantiated, unfounded and false reported cases of child abuse or neglect have contributed to the inability of a State to respond effectively to serious cases of child abuse and neglect;'' ''the number of unsubstantiated, false, or unfounded reports that have resulted in a child being placed in substitute care, and the duration of such placement;'' and ''the extent to which unsubstantiated reports return as more serious cases of child abuse or neglect.''

Concerns have also been raised about the potential harm to families that may accompany CPS investigations in cases where no maltreatment is present. Conversely, there is concern that significant numbers of children in

unsubstantiated cases may, in fact, have suffered harm or be at risk of harm due to abuse or neglect, and yet may not, because of the investigation disposition, receive the services necessary to ensure their safety and well-being.

Available data suggest that differences in State laws and policies, including definitions of child abuse and neglect and investigation disposition classification schemes, result in children experiencing similar events being classified differently. In 1995, the national rate of child maltreatment victims (where only children in substantiated or indicated reports were considered ''victims'') was 15 per 1,000 children younger than 18 in the population. However, when States were grouped and compared according to their system of classifying investigation dispositions, significant differences were seen. In States using a two-tier classification of dispositions (i.e., investigations were either substantiated or unsubstantiated) the average victim rate was 13 children per 1,000 in the population. In States using a three-tier classification of dispositions (i.e. where in addition to the findings of substantiated and unsubstantiated, a case may be classified as ''indicated,'' meaning there was reason to suspect maltreatment or a risk of maltreatment, although it did not rise to the level of evidence required by State law to substantiate), the average victim rate was 23 children per 1,000 in the population.

In a recent article entitled, ''Unraveling 'Unsubstantiated' '' Brett Drake highlights the heterogeneity within the category of unsubstantiated reports, and cautions against equating unsubstantiated reports with invalid or false reports (Drake, 1996). Drake offers a conceptual model for considering child maltreatment cases along a two-dimensional continuum of harm and evidence. As Drake writes, ''the conceptual basis for this model is the assumption that all CPS reports vary along two dimensions: the level of proof available that maltreatment exists and the degree of harm present. It is only through the simultaneous consideration of both of these dimensions that substantiation can be understood.'' Under Drake's model, substantiated cases are most likely to fall in the quadrant in which both the level of proof and the degree of harm are relatively high. Cases in which there is little evidence, even if there is a high degree of harm, may be unsubstantiated. Drake also notes that unsubstantiated cases may, nonetheless, result in services being provided to families to address family needs and problems and prevent future maltreatment.

Other research has compared longer-term outcomes for children involved in substantiated and unsubstantiated CPS reports. For instance, in research previously funded by NCCAN, Zingraff and Leitner (1995), found little or no difference in school performance or risk of delinquency for children in substantiated versus unsubstantiated reports.

In order to gain a better understanding of unsubstantiated reports of child abuse and neglect, NCCAN is interested in supporting studies that address questions that include, but are not limited to:

- What factors influence the decision on whether or not to substantiate the case? How do State laws and policies relating to levels of evidence required to substantiate and the level of harm required to substantiate affect the decision? Do agency organizational culture issues influence the decision? To what extent do factors such as the source of the report, nature of maltreatment, age of the child, willingness of the family to cooperate with the investigation, and service availability influence workers' decisions on whether or not to substantiate?
- How often do caseworkers suspect child maltreatment or risk of maltreatment in cases that are not substantiated? How often are potential risk factors for child maltreatment, such as substance abuse or domestic violence, seen in unsubstantiated cases? How frequently are allegations of maltreatment found to be intentionally false?
- How does the expenditure of agency resources (including worker time) in unsubstantiated cases compare with the expenditure of resources in substantiated cases?
- What service interventions (including removal from home) did children and families receive during or as a result of the investigation? In States implementing CPS reform through a differentiated response system, does this reform affect the degree to which families in unsubstantiated cases receive services?
- What outcomes were seen for children and families who were the subjects of unsubstantiated reports? Did they return in later reports of either substantiated or unsubstantiated maltreatment? What effect do families report experiencing as a result of CPS involvement?

Minimum Requirements for Project Design: As part of addressing the evaluation criteria outlined in Part II of this announcement, each applicant must address the following items in the program narrative section of the proposal.

(a) Objectives

- Pinpoint the research problem being addressed.
- State the specific objectives of the study.
- State the question(s) to be answered or hypothesis(es) to be tested.

(b) Background and Significance

- Describe the conceptual framework that includes appropriate cultural perspectives and reference theory, if any, in support of the study.
- Discuss the current state of knowledge related to the research problem, providing a review of the relevant literature, including previous studies on the topic or pilot tests; describe how the proposed research has direct application to the field of child abuse and neglect within the context of NCCAN's legislative responsibilities.
- Establish the need for the study as either a replication to validate existing knowledge or as a new study to fill a knowledge gap. If applicable, indicate how the proposed study is distinguished from other on-going research of which it is a part.
- Indicate how the proposed study findings significantly inform policy, improve practice, and/or advance the science of child abuse and neglect research.
- Include all bibliographic references.

(c) Methodology

- Describe the proposed methodology. Define the terms, variables, and design to be used in the study.
- Describe the sample selection sites, population and sampling plan, the rationale, strengths, and potential limitations for interpretations of findings due to the gender and ethnic composition of the proposed study sample.
- Provide realistic estimates of attrition and discuss appropriate procedures for handling attrition or interpreting the findings of the study in light of attrition.
- Identify data collection procedures and instruments, including information on reliability and validity of the instruments with the population proposed.
- Provide a data analysis plan appropriate to the study.
- Provide assurance that a carefully prepared and thoroughly documented data set comprising the research data collected for the study be deposited in the National Data Archive on Child

Abuse and Neglect within two years of the termination of funding for the project.

- Provide Certification of Protection of Human Subjects Assurance as part of the application; describe procedures for soliciting approval from an institutional review board (IRB), if applicable; describe data management plan to safeguard the integrity and confidentiality of data.
- Reflect sensitivity to ethical issues that may arise and make provision for reporting suspected abuse and/or neglect as governed by applicable laws and regulations.
- Provide a workable plan of action; detail a reasonable time-line and target dates; include an adequate staffing plan, listing key and support staff, consultants, any agency, organization, other key group, and/or advisory panels involved or proposed; and describe the responsibilities, activities, and/or training plans for each, if applicable.
- Propose reasonable and appropriate project costs and allocate sufficient funds across component areas. This information should be given in the budget narrative section.
- Describe strategies for disseminating the findings in a manner that would be useful to other researchers and practitioners in the field.

(d) Staff Background and Organizational Experience

- Describe the academic qualifications of the principal investigator and the key project staff and consultants, if any, identified in the methodology section; identify the role of the author(s) of the proposal in relation to the work-plan; include a brief curriculum vitae for each key staff person.
- Describe the adequacy of the available facilities and the capability of the organization to administer and implement the project effectively and efficiently; if State or county CPS data or records are planned to be used, and if the applicant is not a State or county CPS agency, document a commitment from the relevant CPS agency to provide the applicant researcher access to the data or case records.
- Describe the relationship between this project and any other Federally-assisted work planned, anticipated, or underway, by the applicant.
- Provide assurances that one key staff person will attend a three-day annual Spring meeting of NCCAN research grantees in Washington, D.C. with an interim progress report of the research; prepare quarterly progress reports, and a final project report in an NCCAN-suggested format ensuring ease of dissemination and utilization.

Project Duration: The length of the project may not exceed 36 months.

Federal Share of Project Costs: The maximum Federal share of the project is not to exceed $200,000 per 12-month budget period.

Matching Requirements: There is no matching requirement.

Anticipated Number of Projects to be Funded: Pending the availability of funding in FY 1997 or FY 1998, it is anticipated that up to three projects will be funded at the maximum funding level or more than three if applications for lesser amounts are funded.

2.04 Multi-State Foster Care Data Archive

Eligible Applicants: State or local, public or nonprofit, agencies, universities, and nonprofit organizations or institutions.

Purpose: To support the development, refinement and implementation of methods to link State-level foster care administrative data to other data at the State level for use in policy development and research through the maintenance and expansion to twelve States of a multi-State foster care data archive.

Background Information: For many years, concerns have been raised about the lack of information available on children in foster care. To address some of these concerns, in 1986 Congress amended title IV-E of the Social Security Act by adding section 479 which required the Federal government to institute a foster care and adoption data collection system. In response to this legislative mandate, the Administration for Children and Families (ACF) has implemented the Adoption and Foster Care Analysis and Reporting System (AFCARS). The AFCARS collects information on children in foster care and children adopted through the public child welfare system. The system is mandatory, and the failure of a State to submit reliable data will soon result in financial penalties.

Although AFCARS substantially improves information available on children in foster care and children being adopted, it is not intended to, nor will it ever, provide all of the information necessary to develop policy at the Federal, State and local levels on this population of children. There are, however, other existing data sources that have historically been under-utilized. Primary among these are the statewide information and tracking systems on children in foster care established to meet the requirements of Public Law 96–272, the Adoption Assistance and Child Welfare Act of 1980 and being modified or developed through the use of enhanced funding for Statewide Automated Child Welfare Information Systems (SACWIS). Frequently these systems have data for long periods of time which permit longitudinal analyses. In addition, because they contain more detailed information than is reported to AFCARS, individual cases can be linked across various data systems at the State level.

There are a number of administrative databases at the State level which relate to children in foster care. Some of these are data on child protective services investigations, Medicaid utilization, education, Temporary Assistance to Needy Families (TANF) or Child Support Enforcement, and data maintained by vital statistics offices. These and other administrative databases maintained by the States can be used to provide detailed information on how the foster care population changes over time, services being utilized and their costs, and comparisons of how foster care children and their families might differ from other children and their families in the frequency and/or intensity of their receipt of services or participation in various programs.

The proposed project will be voluntary for the States and should include a wider range of information and data sources than is mandated by AFCARS or utilized in the National Child Abuse and Neglect Data System (NCANDS). Information generated by the project will be used to supplement information generated by AFCARS, NCANDS and other major research efforts supported by the Federal government and foundations.

Prior work in this area has been conducted by the Chapin Hall Center for Children at the University of Chicago in collaboration with States and other university-based researchers under a five year grant from the Children's Bureau which was awarded in FY 1992. This grant established the Multi-State Foster Care Data Archive which includes foster care data from the States of Illinois, New York, Michigan, California, Texas, Missouri, and Florida. By the end of the grant period in September 1997, an additional three States are expected to be added bringing the total number of States to ten.

Through this grant and other funding from the Administration on Children and Families, the Assistant Secretary for Planning and Evaluation, other Federal agencies, States and foundations, the Archive has produced analyses on the

case flow in foster care, adoption disruption, the relationship between child protective services and foster care, relative foster care, and foster care re-entry, to name a few. This new project seeks to expand the Archive to 12 States and to focus the analyses on linking State administrative data to other databases at the State level to inform policy and practice at the local, State and Federal levels.

Minimum Requirements for Project Design: This is a three-year cooperative agreement project in which substantial Federal involvement is anticipated. The specific respective responsibilities of Federal staff and the awardee will be negotiated prior to the grant award. In order to compete successfully under this priority area, as part of addressing the evaluation criteria (a. objectives, b. background and significance, c. methodology, and d. staff background and organizational experience) outlined in Part II of this announcement, as appropriate to this project, each applicant must address the following items in the program narrative section of the proposal:

- Describe the applicant's experience in developing analytical files from large, complex case-specific databases; conducting analyses of case-specific child welfare and other related administrative data files; linking data through time and from different databases; and developing and maintaining data archives and insuring the confidentiality of the data. Also describe the hardware and software currently available to the applicant in the conduct of the project as well as additional hardware and/or software needed to conduct the project.
- Describe how the current participants in the Archive would be encouraged to continue in Archive activities and which activities would be continued or initiated which would encourage the use of the analyses by the State participants.
- Describe how at least two additional States would be identified and recruited to participate in the project. This should include a discussion of the applicant's experience in recruiting States to participate in similar activities; how State staff and university researchers would be identified; how access to the administrative databases would be achieved; how the appropriateness of administrative databases would be assessed; and how full participation of the States would be assured by the end of the project.
- Describe how technical assistance in developing analytical files, linking databases and conducting analyses would be delivered to those States which need it.
- Describe how an advisory committee for the project would be established and its composition. Discuss why the composition is appropriate.
- Describe how topic areas for exploration would be identified and prioritized.
- Describe activities that would be undertaken to develop, refine and implement methods to link State-level foster care administrative data to other data at the State level for use in policy development and research. Specifically, provide an outline of the steps that would be undertaken in the States to obtain access to these other databases and discuss some of the technical issues involved in conducting this type of work.
- Describe the frequency and content of briefings on findings for Federal, State and national organization staff that would be conducted under the grant and how these briefings would relate the research findings to policy and practice issues.
- Describe the reports, including an annual report, that would be developed under the project, including the types of information that would be presented, and the steps, including submission for publication to refereed journals, that would be undertaken to disseminate and promote the utilization of project findings. Also describe how information on project findings would be disseminated to both participating and non-participating States.
- Describe how support would be obtained from sources other than this cooperative agreement during the period of the project to enhance its work and how the project would continue with funds from other sources after the three-year project period has ended.
- Describe how the Archive will help inform, coordinate and collaborate with other major research and data collection activities such as AFCARS and the National Child Abuse and Neglect Data System (NCANDS) and other longitudinal research supported by ACF.
- Provide assurances that the principal investigator would attend a 2–3 day annual meeting of research grantees in Washington, D.C.
- Outline a plan of interaction with the Administration for Children and Families (ACF) for the implementation of the project under a cooperative agreement including, as appropriate, activities such as an annual briefing of Central Office staff and involving Headquarters and Regional Office staff in other ways in the project.

Project Duration: The length of the project must not exceed 36 months.

Federal Share of Project Costs: The maximum Federal share is not to exceed $250,000 per 12-month budget period.

Matching Requirement: There is no matching requirement

Anticipated Number of Projects to be Funded: It is anticipated that one project will be funded.

Part III. Instructions for the Development and Submission of Applications

This part contains information and instructions for submitting applications in response to this announcement. Application forms are provided in Appendix A—ACF Uniform Discretionary Grant Application Form (ACF/UDGAF) and a checklist for assembling an application package is included in Section F. Please copy and use these forms in submitting an application.

Potential applicants should read this section carefully in conjunction with the information in the specific priority area under which the application is to be submitted. The priority area descriptions are in Part II.

A. Paperwork Reduction Act of 1995

In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13), all information collections within this announcement are approved under OMB Control Number 0970–0139, the Uniform Discretionary Grant Application Form. 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.

B. Availability of Forms

Eligible applicants interested in applying for funds must submit a complete application including the required forms at the end of this program announcement in Appendix A. In order to be considered for a grant or cooperative agreement under this announcement, an application must be submitted on the Standard Form 424 (approved by OMB under Control Number 0348–0043). Each application must be signed by an individual authorized to act for the applicant and to assume responsibility for the obligations imposed by the terms and conditions of the grant award. Applicants requesting financial assistance for non-construction projects must file the Standard Form 424B, ''Assurances: Non-Construction Programs'' (approved by OMB under control number 0348–0040). Applicants must sign and return the Standard Form

424B (approved by OMB Control Number 0348–0340) with their application. Applicants must provide a certification regarding lobbying (approved by OMB under Control Number 0348–0046). Prior to receiving an award in excess of $100,000, applicants shall furnish an executed copy of the lobbying certification (approved by OMB under control number 0348–0046). Applicants must sign and return the certification with their application.

Applicants must make the appropriate certification of their compliance with the Drug-free Workplace Act of 1988. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for an award. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Applicants will be held accountable for the smoking prohibition in Pub. L. 103–227, Part C Environmental Tobacco Smoke (also known as the Pro-Children's Act of 1994). By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

All applicants for research projects must provide a Protection of Human Subjects Assurance as specified in the policy described on the HHS Form 596 (approved by the Office of Management and Budget under control number 0925–0137)in Appendix B. If there is a question regarding the applicability of this assurance, contact the Office of Protection from Research Risks of the National Institutes of Health at (301) 496–7041. Those applying for or currently conducting research projects are further advised of the availability of a Certificate of Confidentiality through the National Institute of Mental Health of the Department of Health and Human Services. To obtain more information and to apply for a Certificate of Confidentiality, contact the Division of Extramural Activities of the National Institute of Mental Health at (301) 443–4673.

C. Required Notification of the State Single Point of Contact

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 Program 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, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, American Samoa and 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. Applicants must submit any required material to the SPOCs as soon as possible 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 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline 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 may trigger the ''accommodate or explain'' rule.

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, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447.

A list of the Single Points of Contact for each State and Territory is included as Appendix B of this announcement.

D. Deadline for Submission of Applications

Deadline

Mailed applications shall be considered as meeting an 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, S.W., Mail Stop 6C–462, Washington, D.C. 20447, Attention: Application for Child Abuse and Neglect Research Project. 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 hand carried 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 8:00 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 Mailroom, 2nd Floor Loading Dock, Aerospace Center, 901 D Street, S.W., Washington, D.C. 20024, between Monday and Friday (excluding weekends and Federal holidays). **Any application received after 4:30 p.m. on the deadline date will not be considered for competition.** Applicants using express/overnight services should allow for two working days prior to the deadline date for receipt of applications. (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 of 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 a 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.

E. Instructions for Preparing the Application under Appendix A-ACF Uniform Discretionary Grant Application Form (ACF/UDGAF)

Under the ACF/UDGAF, applications submitted for funds under this announcement are considered New

Applications, therefore, follow instructions in the UDGAF for New Applications.

The SF 424, 424A (approved by OMB under Control Number 0348–0044), 424B, and certifications are included in Appendix A. You should reproduce single-sided copies of these forms from the reprinted forms in the announcement, typing your information onto the copies. Please do not use forms directly from the **Federal Register** announcement, as they are printed on both sides of the page.

Please prepare your application in accordance with the following instructions:

1. SF 424 Page 1, Application Cover Sheet

Please read the following instructions before completing the application cover sheet. An explanation of each item is included. Complete only the items specified.

Top of Page. Enter the single priority area number under which the application is being submitted.

Item 1. Type of submission—Pre-printed on the form.

Item 2. Date Submitted and Applicant Identifier—Date application is submitted to ACYF and applicant's own internal control number, if applicable.

Item 3. Date Received By State—State use only (if applicable).

Item 4. Date Received by Federal Agency—Leave blank.

Item 5. Applicant Information Legal Name—Enter the legal name of the applicant organization. For applications developed jointly, enter the name of the lead organization only. There must be a single applicant for each application.

Organizational Unit—Enter the name of the primary unit within the applicant organization which will actually carry out the project activity. Do not use the name of an individual as the applicant. If this is the same as the applicant organization, leave the organizational unit blank.

Address—Enter the complete address that the organization actually uses to receive mail, since this is the address to which all correspondence will be sent. Do not include both street address and P.O. box number unless both must be used in mailing.

Name and telephone number of the person to be contacted on matters involving this application (include area code)—Enter the full name (including academic degree, if applicable) and telephone number of a person who can respond to questions about the application. This person should be accessible at the address given here and will receive all correspondence regarding the application.

Item 6. Employer Identification Number (EIN)—Enter the employer identification number of the applicant organization, as assigned by the Internal Revenue Service, including, if known, the Central Registry System suffix.

Item 7. Type of Applicant—Self-explanatory.

Item 8. Type of Application—Check new application.

Item 9. Name of Federal Agency—ACYF/NCCAN/CB.

Item 10. Catalog of Federal Domestic Assistance Number and Title—Enter the Catalog of Federal Domestic Assistance (CFDA) number assigned to the program under which assistance is requested and its title, as indicated in the relevant priority area description.

Item 11. Descriptive Title of Applicant's Project—Enter the project title. The title is generally short and is descriptive of the project, not the priority area title.

Item 12. Areas Affected by Project—Enter the governmental unit where significant and meaningful impact could be observed. List only the largest unit or units affected, such as State, county, or city. If an entire unit is affected, list it rather than sub-units.

Item 13. Proposed Project—Enter the desired start date for the project and projected completion date.

Item 14. Congressional District of Applicant/Project—Enter the number of the Congressional District where the applicant's principal office is located and the number of the Congressional district(s) where the project will be located. If Statewide, a multi-State effort, or nationwide, enter 00.

Item 15. Estimated Funding Levels. In completing 15a through 15f, the dollar amounts entered should reflect, for a 12-month budget period, the total amount requested.

Item 15a. Enter the amount of Federal funds requested in accordance with the preceding paragraph. This amount should be no greater than the maximum amount specified in the priority area description.

Items 15b–e. Enter the amount(s) of funds from non-Federal sources that will be contributed to the proposed project. Items b–e are considered cost-sharing or matching funds. The value of third party in-kind contributions should be included on appropriate lines as applicable.

Item 15f. Enter the estimated amount of income, if any, expected to be generated from the proposed project. Do not add or subtract this amount from the total project amount entered under item 15g. Describe the nature, source and anticipated use of this income in the Project Narrative Statement.

Item 15g. Enter the sum of items 15a–15e.

Item 16a. Is Application Subject to Review By State Executive Order 12372 Process? Yes, except for the 23 jurisdictions provided at the end of Part III. Enter the date the applicant contacted the SPOC regarding this application. Select the appropriate SPOC from the listing provided in Appendix B. The review of the application is at the discretion of the SPOC. The SPOC will verify the date noted on the application. If there is a discrepancy in dates, the SPOC may request that the Federal agency delay any proposed funding.

Item 16b. Is Application Subject to Review By State Executive Order 12372 process? No.—Check the appropriate box if the application is not covered by E.O. 12372 or if the program has not been selected by the State for review.

Item 17. Is the Applicant Delinquent on any Federal Debt?—Check the appropriate box. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include audit disallowances, loans and taxes.

Item 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.—To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for signature of this application by this individual as the official representative must be on file in the applicant's office, and may be requested from the applicant.

Item 18a–c. Typed Name of Authorized Representative, Title, Telephone Number—Enter the name, title and telephone number of the authorized representative of the applicant organization.

Item 18d. Signature of Authorized Representative—Signature of the authorized representative named in Item 18a. At least one copy of the application must have an original signature. Use colored ink (not black) so that the original signature is easily identified.

Item 18e. Date Signed—Enter the date the application was signed by the authorized representative.

2. SF 424A—Budget Information—Non-Construction Programs

This is a form used by many Federal agencies. For this application, Sections

A, B, C, E and F are to be completed. Section D does not need to be completed.

Sections A and B should include the Federal as well as the non-Federal funding for the proposed project covering the first year budget period.

Section A—Budget Summary. This section includes a summary of the budget. On line 5, enter total Federal costs in column (e) and total non-Federal costs, including third party in-kind contributions, but not program income, in column (f). Enter the total of (e) and (f) in column (g).

Section B—Budget Categories. This budget, which includes the Federal as well as non-Federal funding for the proposed project, covers the first year budget period if the proposed project period exceeds 12 months. It should relate to item 15g, total funding, on the SF 424. Under column (5), enter the total requirements for funds (Federal dollars in one column and non-Federal in the other) by object class category.

A separate, itemized, budget justification for each line item is required. The types of information to be included in the justification are indicated under each category. For multiple-year projects, it is desirable to provide this information for each year of the project. Applicants should refer to the Budget and Budget Justification information in the Program Narrative section of the ACF/UDGAF on page 27 (Item D) in Appendix A.

Personnel—Line 6a. Enter the total costs of salaries and wages of applicant/grantee staff. Do not include the costs of consultants, which should be included on line 6h, Other.

Justification: Identify the principal investigator or project director, if known. 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.

Fringe Benefits—Line 6b. Enter the total cost of fringe benefits, unless treated as part of an approved indirect cost rate.

Justification: Provide a break-down of amounts and percentages that comprise fringe benefit costs, such as health insurance, FICA, retirement insurance, etc.

Travel—6c. Enter total costs of out-of-town travel (travel requiring per diem) for staff of the project. Do not enter costs for consultant's travel or local transportation, which should be included on Line 6h, Other.

Justification: Include the name(s) of traveler(s), total number of trips, destinations, length of stay, transportation costs and subsistence allowances.

Equipment—Line 6d. Enter the total costs of all equipment to be acquired by the project. Equipment is defined as non-expendable tangible personal property having a useful life of more than one year and a acquisition cost of $5,000 or more per unit.

Justification: Equipment to be purchased with Federal funds must be justified. The equipment must be required to conduct the project, and the applicant organization or its sub-grantees must not 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.

Supplies—Line 6e. Enter the total costs of all tangible expendable personal property (supplies) other than those included on Line 6d.

Justification: Specify general categories of supplies and their costs.

Contractual—Line 6f. Enter the total costs of all contracts, including (1) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and (2) contracts with secondary recipient organizations, including delegate agencies. Also include any contracts with organizations for the provision of technical assistance. Do not include payments to individuals on this line. If the name of the contractor, scope of work, and estimated total costs are not available or have not been negotiated, include on Line 6h, other.

Justification: Attach a list of contractors, indicating the names of the organizations, the purposes of the contracts, and the estimated dollar amounts of the awards as part of the budget justification. Whenever the applicant/grantee intends to delegate part or all of the program to another agency, the applicant/grantee must complete this section (Section B, Budget Categories) for each delegate agency by agency title, along with the supporting information. The total cost of all such agencies will be part of the amount shown on Line 6f. Provide back-up documentation identifying the name of contractor, purpose of contract, and major cost elements. Applicants who anticipate procurement that will exceed $5,000 (non-governmental entities) or $25,000 (governmental entities) and are requesting an award without competition should include a sole-source justification in the proposal which at a minimum should include the basis for contractor's selection, justification for lack of competition when competitive bids or offers are not obtained and basis for award cost or price. (NOTE: Previous or past experience with a contractor is not sufficient justification for sole source.)

Construction—Line 6g. Not applicable. New construction is not allowable.

Other—Line 6h. Enter the total of all other costs. Where applicable, such costs may include, but are not limited to: insurance, 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. Note that costs identified as miscellaneous and honoraria are not allowable.

Justification: Specify the costs included.

Total Direct Charge—Line 6i. Enter the total of Lines 6a through 6h.

Indirect Charges—6j. Enter the total amount of indirect charges (costs). If no indirect costs are requested, enter none. Generally, this line should be used when the applicant has a current indirect cost rate agreement approved by the Department of Health and Human Services or another Federal agency.

Local and State governments should enter the amount of indirect costs determined in accordance with DHHS requirements. When an indirect cost rate is requested, these costs are included in the indirect cost pool and should not be charged again as direct costs to the grant.

Justification: Enclose a copy of the indirect cost rate agreement.

Total—Line 6k. Enter the total amounts of lines 6i and 6j.

Program Income—Line 7. Enter the estimated amount, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount.

Justification: Describe the nature, source, and anticipated use of program income in the Program Narrative Statement.

Section C—Non-Federal Resources. This section summarizes the amounts of non-Federal resources that will be applied to the grant. Enter this information on line 12 entitled Totals. In-kind contributions are defined in 45 CFR, Part 74.51 and 45 CFR Part 92.3, as property or services which benefit a grant-supported project or program and which are contributed by non-Federal third parties without charge to the grantee, the sub-grantee, or a cost-type contractor under the grant or sub-grant.

Justification: Describe third party in-kind contributions, if included.

Section D—Forecasted Cash Needs, Not applicable.

Section E—Budget Estimate of Federal Funds Needed For Balance of the Project. This section should only be completed if the total project period exceeds 12 months.

Totals—Line 20. For projects that will have more than one budget period, enter the estimated required Federal funds for the second budget period (months 13 through 24) under column (b) First. If a third budget period will be necessary, enter the Federal funds needed for months 25 through 36 under (c) Second. Columns (d) and (e) would be used in the case of a 60 month project.

Section F—Other Budget Information

Direct Charges—Line 21, Not applicable.

Indirect Charges—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.

Remarks—Line 23. If the total project period exceeds 12 months, you must enter your proposed non-Federal share of the project budget for each of the remaining years of the project.

3. Project Summary Description

Clearly mark this separate page with the applicant name as shown in item 5 of the SF 424, the priority area number as shown at the top of the SF 424, and the title of the project as shown in item 11 of the SF 424. The summary description should not exceed 300 words. These 300 words become part of the computer database on each project.

Care should be taken to produce a summary description which accurately and concisely reflects the application. It should describe the objectives of the project, the approaches to be used and the outcomes expected. The description should also include a list of major products that will result from the proposed project, such as software packages, materials, management procedures, data collection instruments, training packages, or videos. (Please note that audiovisuals should be closed captioned.) The project summary description, together with the information on the SF 424, will constitute the project abstract. It is the major source of information about the proposed project and is usually the first part of the application that the reviewers read in evaluating the application.

At the bottom of the page, following the summary description, type up to 10 key words which best describe the proposed project, the service(s) involved and the target population(s) to be covered. These key words will be used for computerized information retrieval for specific types of funded projects. Applicants should refer to the instructions in Appendix A under the Program Narrative section on page 23 (Item A.1) regarding the project summary.

4. Program Narrative Statement

The Program Narrative Statement is a very important part of an application. It should be clear, concise, and address the specific requirements mentioned under the priority area description in Part II.

The narrative should provide information c Background and Significance.

(c) Methodology. The narrative should be typed double-spaced on a single-side of an 8½″ x 11″ plain white paper, with 1″ margins on all sides, using standard type sizes or fonts (e.g., Times Roman 12 or Courier 10). Applicants should not submit reproductions of larger size paper reduced to meet the size requirement. Applicants are requested not to send pamphlets, brochures, or other printed material along with their application as they pose copying difficulties. All pages of the narrative (including charts, references/footnotes, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with ''Objectives'' as page number one.

The length of the application, including the application forms and all attachments, should not exceed 60 pages, except for applications for priority area 2.02 which has different page limits as described in that section of the announcement. Anything over the limit will not be reproduced and distributed to reviewers. Applicants should understand that except for priority area 2.02, only the first 60 pages of material will be reviewed. A page is a single side of an 8½ x 11″ sheet of paper. Applicants are requested not to send pamphlets, brochures or other printed material along with their application as these pose xeroxing difficulties. These materials, if submitted, will not be included in the review process if they exceed the page limit criteria. Each page of the application will be counted to determine the total length.

5. Organizational Capability Statement

The Organizational Capability Statement should consist of a brief (two pages is suggested) background description of how the applicant organization (or the unit within the organization that will have responsibility for the project) is organized, the types and quantity of services it provides, and/or the research and management capabilities it possesses. This description should cover capabilities not included in the Program Narrative Statement. It may include descriptions of any current or previous relevant experience, or describe the competence of the project team and its demonstrated ability to produce a final product that is readily comprehensible and usable. An organization chart showing the relationship of the project to the current organization must be included.

6. Assurances/Certifications

Applicants are required to file an SF 424B, Assurances—Non-Construction Programs and the Certification Regarding Lobbying. Both must be signed and returned with the application. In addition, applicants must certify their compliance with: (1) Drug-free Work-place Requirements; and (2) Debarment and Other Responsibilities. Copies of the assurances/certifications are reprinted at the end of this announcement and should be reproduced, as necessary. A duly authorized representative of the applicant organization must certify that the applicant is in compliance with these assurances/certifications. A signature on the SF 424 indicates compliance with the Drug-free Work-place Requirements, and Debarment and Other Responsibilities certifications.

A signature on the application constitutes an assurance that the applicant will comply with the pertinent Departmental regulations contained in 45 CFR part 74.

F. Checklist for a Complete Application

The checklist below is for your use to ensure that your application package has been properly prepared.

—One original, signed and dated application, plus two copies. Applications for different priority areas are packaged separately;

—Application is from an organization which is eligible under the eligibility requirements defined in the priority area description (screening requirement);

—Application length does not exceed 60 pages, unless otherwise specified in the priority area description. A complete application consists of the following items in this order:

—Application for Federal Assistance (SF 424, REV 4–92);

—A completed SPOC certification with the date of SPOC contact entered in line 16, page 1 of the SF 424;

—Budget Information-Non-Construction Programs (SF 424A, REV 4–88);

—Budget justification for Section B-Budget Categories;

—Table of Contents;

—Letter from the Internal Revenue Service to prove non-profit status, if necessary;

—Copy of the applicant's approved indirect cost rate agreement, if appropriate;

—Project summary description and listing of key words;

—Program Narrative Statement (See Part III, Section D);

—Organizational capability statement, including an organization chart;

—Any appendices/attachments;

—Assurances-Non-Construction Programs (Standard Form 424B, REV 4–88);

—Certification Regarding Lobbying; and

—Certification of Protection of Human Subjects, if necessary.

G. The Application Package

Each application package must include an original and two copies of the complete application. Each copy should be stapled securely (front and back if necessary) in the upper left-hand corner. All pages of the narrative (including charts, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with page one. In order to facilitate handling, please do not use covers, binders or tabs. Do not include extraneous materials as attachments, such as agency promotion brochures, slides, tapes, film clips, minutes of meetings, survey instruments or articles of incorporation.

Do not include a self-addressed, stamped acknowledgment card. All applicants will be notified automatically about the receipt of their application. If acknowledgment of receipt of your application is not received within two weeks after the deadline date, please notify the ACYF Operations Center by telephone at 1–800–351–2293.

Dated: June 19, 1997.

James A. Harrell,

Acting Commissioner, Administration on Children, Youth and Families.

BILLING CODE 4184–01–P

Appendix A

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:		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a. Federal	$ .00	a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON: DATE _____
b. Applicant	$ .00	
c. State	$ .00	
d. Local	$ .00	b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372 ☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW
e. Other	$ .00	
f. Program Income	$ .00	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? ☐ Yes If "Yes," attach an explanation. ☐ No
g. TOTAL	$ .00	

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

Previous Edition Usable
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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

BILLING CODE 4184-01-C

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

Instructions 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 programs.

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 contributions 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

Line 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.

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 representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of 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 IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd–3 and 290 ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, 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 hazard 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 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984 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

_____

Applicant Organization

_____

Title

_____

Date Submitted

Program Narrative

This program narrative section was designed for use by many and varied programs. Consequently, it is not possible to provide specific guidance for developing a program narrative statement that would be appropriate in all cases. Applicants must refer the relevant program announcement for information on specific program requirements and any additional guidelines for preparing the program narrative statement. The following are general guidelines for preparing a program narrative statement.

The program narrative provides a major means by which the application is evaluated and ranked to compete with other applications for available assistance. It should be concise and complete and should address the activity for which Federal funds are requested. Supporting documents should be included where they can present information clearly and succinctly. Applicants are encouraged to provide information on their organizational structure, staff, related experience, and other

information considered to be relevant. Awarding offices use this and other information to determine whether the applicant has the capability and resources necessary to carry out the proposed project. It is important, therefore, that this information be included in the application. However, in the narrative the applicant must distinguish between resources directly related to the proposed project from those which will not be used in support of the specific project for which funds are requested.

Cross-referencing should be used rather than repetition. ACF is particularly interested in specific factual information and statements of measurable goals in quantitative terms. Narratives are evaluated on the basis of substance, not length. Extensive exhibits are not required. (Supporting information concerning activities which will not be directly funded by the grant or information which does not directly pertain to an integral part of the grant funded activity should be placed in an appendix.) Pages should be numbered for easy reference.

Prepare the program narrative statement in accordance with the following instructions:

- Applicants submitting new applications or competing continuation applications should respond to Items A and D.
- Applicants submitting noncompeting continuation applications should respond to Item B.
- Applicants requesting supplemental assistance should respond to Item C.

A. Project Description—Components

1. Project Summary/Abstract

A summary of the project description (usually a page or less) with reference to the funding request should be placed directly behind the table of contents or SF–424.

2. Objectives and Need for Assistance

Applicants must clearly identify the physical, economic, social, financial, institutional, or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation such as letters of support and testimonials from concerned interests other than the applicant may be included. Any relevant data based on planning studies should be included or referenced in the endnotes/footnotes. Incorporated demographic data and participant/beneficiary information, as needed. In developing the narrative, the applicant may volunteer or be requested to provide information on the total range of projects currently conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

3. Results or Benefits Expected

Identify results and benefits to be derived. For example, when applying for a grant to establish a neighborhood child care center, describe who will occupy the facility, who will use the facility, how the facility will be used, and how the facility will benefit the community which it will serve.

4. Approach

Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors which might accelerate or decelerate the work and state your reason for taking this approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of microloans made. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

Identify the kinds of data to be collected, maintained, and/or disseminated. (Note that clearance from the U.S. Office of Management and Budget might be needed prior to an information collection.) List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

5. Evaluation

Provide a narrative addressing how you will evaluate (1) the results of your project and (2) the conduct of your program. In addressing the evaluation of results, state how you will determine the extent to which the program has achieved its stated objectives and the extent to which the accomplishment of objectives can be attributed to the program. Discuss the criteria to be used to evaluate results; explain the methodology that will be used to determine if the needs identified and discussed are being met and if the project results and benefits are being achieved. With respect to the conduct of your program, define the procedures you will employ to determine whether the program is being conducted in a manner consistent with the work plan you presented and discuss the impact of the program's various activities upon the program's effectiveness.

6. Geographic Location

Give the precise location of the project and boundaries of the area to be served by the proposed project. Maps or other graphic aids may be attached.

7. Additional Information (Include if applicable)

Additional information may be provided in the body of the program narrative or in the appendix. Refer to the program announcement and ''General Information and Instructions'' for guidance on placement of application materials.

Staff and Position Data—Provide a biographical sketch for key personnel appointed and a job description for each vacant key position. Some programs require both for all positions. Refer to the program announcement for guidance on presenting this information. Generally, a biographical sketch is required for original staff and new members as appointed.

Plan for Project Continuance Beyond Grant Support—A plan for securing resources and continuing project activities after Federal assistance has ceased.

Business Plan—When federal grant funds will be used to make an equity investment, provide a business plan. Refer to the program announcement for guidance on presenting this information.

Organization Profiles—Information on applicant organizations and their cooperating partners such as organization charts, financial statements, audit reports or statements from CPA/Licensed Public Accountant, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with federal/state/local governments standards, documentation of experience in program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code *or* by providing a copy of the currently valid IRS Tax exemption certificate, *or* by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

Dissemination Plan—A plan for distributing reports and other projects outputs to colleagues and the public. Applicants must provide a description of the kind, volume and timing of distribution.

Third-Party Agreements—Written agreements between grantees and subgrantees or subcontractors or other cooperating entities. These agreements may detail scope of work, work schedule, remuneration, and other terms and conditions that structure or define the relationship.

Waiver Request—A statement of program requirements for which waivers will be needed to permit the proposed project to be conducted.

Letters of Support—Statements from community, public and commercial leaders which support the project proposed for funding.

B. Noncompeting Continuation Applications

A program narrative usually will not be required for noncompeting continuation applications for nonconstruction programs. Noncompeting continuation applications shall be abbreviated unless the ACF Program Office administering this program has issued a notice to the grantee that a full application will be required.

An abbreviated application consists of:

1. The Standard Form 424 series (SF 424, SF 424A, SF–424B)

2. The estimated or actual unobligated balance remaining from the previous budget period should be identified on an accurate SF–269 as well as in section A, Columns (c) and (d) of the SF–424A.

3. The grant budget, broken down into the object class categories on the 424A, and if category ''other'' is used, the specific items supported must be identified.

4. Required certifications.

A full application consists of all elements required for an abbreviated application plus:

1. Program narrative information explaining significant changes to the original program narrative statement, a description of accomplishments from the prior budget period, a projection of accomplishments throughout the entire remaining project period, and any other supplemental information that ACF informs the grantee is necessary.

2. A full budget proposal for the budget period under consideration with a full cost analysis of all budget categories.

3. A corrective action plan, if requested by ACF, to address organizational performance weaknesses.

C. Supplemental Requests

For supplemental assistance requests, explain the reason for the request and justify the need for additional funding. Provide a budget and budget justification *only* for those items for which additional funds are requested. (See Item D for guidelines on preparing a budget and budget justification.)

D. Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification which describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

The following guidelines are for preparing the budget and budget justification. Both federal and non-federal resources should be detailed and justified in the budget and narrative justification. For purposes of preparing the program narrative, ''federal resources'' refers only to the ACF grant for which you are applying. Non-Federal resources are all other federal and nonfederal resources. It is suggested that for the budget, applicants use a column format: Column 1, object class categories; Column 2, federal budget amounts; Column 3, non-federal budget amounts, and Column 4, total amounts. The budget justification should be a narrative.

Personnel. Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, show name/title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits. Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of amounts and percentages that comprise fringe benefit costs, such as health insurance, FICA retirement insurance, taxes, etc.

Travel. Costs of project related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF sponsored workshops as specified in this program announcement should be detailed in the budget.

Equipment. Costs of all non-expendable, tangible personal property to be acquired by the project where each article has a useful life of more than one year and an acquisition cost which equals the lesser of (a) the capitalization level established by the applicant organization for financial statement purposes, or (b) $5000.

Justification: For each type of equipment requested, provide a description of the equipment, cost per unit, number of units, total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends.

Supplies. Costs of all tangible personal property (supplies) other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

Contractual. Costs of all contracts for services and goods except for those which belong under other categories such as equipment, supplies, construction, etc. Third-party evaluation contracts (if applicable) and contracts with secondary recipient organizations including delegate agencies and specific project(s) of businesses to be financed by the applicant should be included under this category.

Justification: All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. If procurement competitions were held or if a sole source procurement is being proposed, attach a list of proposed contractors, indicating the names of the organizations, the purposes of the contracts, the estimated dollar amounts, and the award selection process. Also provide back-up documentation where necessary to support selection process.

Note: Whenever the applicant/grantee intends to delegate part of the program to another agency, the applicant/grantee must provide a detailed budget and budget narrative for each delegate agency by agency title, along with the required supporting information referenced in these instructions.

Applicants must identify and justify any anticipated procurement that is expected to exceed the simplified purchase threshold (currently set at $100,000) and to be awarded without competition. Recipients are required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc. under the conditions identified at 45 CFR Part 74.44(e).

Construction. Costs of construction by applicant or contractor.

Justification: Provide detailed budget and narrative in accordance with instructions for other object class categories. Identify which construction activity/costs will be contractual and which will assumed by the applicant.

Other. Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), fees and travel paid directly to individual consultants, 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.

Indirect Charges. Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services or another cognizant Federal agency.

Justification: With the exception of most local government agencies, an applicant which will charge indirect costs to the grant must enclose a copy of the current rate agreement if the agreement was negotiated with a cognizant Federal agency other than the Department of Health and Human Services (DHHS). If the rate agreement was negotiated with the Department of Health and Human Services, the applicant should state this in the budget justification. 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 or renegotiating 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. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not be also charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under this program announcement, the authorized representative of your organization needs to submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

Program Income. The estimated amount of income, if any, expected to be generated from this project. Separately show expected program income generated from program 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.

Justification: Describe the nature, source and anticipated use of program income in the

budget or reference pages in the program narrative statement which contain this information.

Non-Federal Resources. Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424.

Justification: The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process.

Total Direct Charges, Total Indirect Charges, Total Project Costs. (self explanatory)

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 (b) provide that a Federal agency may 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. The 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. Workplaces 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 known 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 substance 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 non-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. (Grantees Other Than Individuals)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an 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, county, state, zip code)

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

Alternate II. (Grantees 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]

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.

(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.

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 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 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 Nonprocurement 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.

(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.

BILLING CODE 4184–01–P

OMB No. 0925-0418
Approved for use through 12/31/97

Protection of Human Subjects
Assurance Identification/Certification/Declaration
(Common Federal Rule)

POLICY: Research activities involving human subjects may not be conducted or supported by the Departments and Agencies adopting the Common Rule (56FR28003, June 18, 1991) unless the activities are exempt from or approved in accordance with the common rule. See Section 101(B) the common rule for exemptions. Institutions submitting applications or proposals for support must submit certification of appropriate Institutional Review Board (IRB) review and approval to the Department or Agency in accordance with the common rule. Institutions with an assurance of compliance that covers the research to be conducted on file with the Department, Agency or the Department of Health and Human Services (HHS) should submit certification of IRB review and ap- proval with each application or proposal unless otherwise advised by the De- partment or Agency. Institutions which do not have such an assurance must submit an assurance and certification of IRB review and approval within 30 days of a written request from the Department or Agency.

1. Request Type	2. Type of Mechanism	3. Name of Federal Department or Agency and, if known, Application or Proposal Identification No.
☐ ORIGINAL ☐ FOLLOWUP ☐ EXEMPTION	☐ GRANT ☐ CONTRACT ☐ FELLOWSHIP ☐ COOPERATIVE AGREEMENT ☐ OTHER: _____	
4. Title of Application or Activity		5. Name of Principal Investigator, Program Director, Fellow, or Other

6. Assurance Status of this Project *(Respond to one of the following)*

☐ This assurance, on file with the Department of Health and Human Services, covers this activity:

Assurance identification no. M-_____ IRB identification no._____

☐ This Assurance, on file with *(agency/dept.)* _____, covers this activity:

Assurance identification no. _____ IRB identification no._____ *(if applicable)*

☐ No assurance has been filed for this project. This institution declares that it will provide an Assurance and Certification of IRB review and approval upon request.

☐ *Exemption status:* Human subjects are involved, but this activity qualifies for exemption under Section 101 (b), paragraph _____.

7. Certification of IRB Review *(Respond to one of the following IF you have an Assurance on file)*

☐ This activity has been reviewed and approved by the IRB in accordance with the common rule and any other governing regulations and subparts on *(date)*_____ by: ☐ Full IRB Review or ☐ Expedited Review.

☐ This activity contains multiple projects, some of which have not been reviewed. The IRB has granted approval on condition that all projects covered by the common rule will be reviewed and approved before they are initiated and that appropriate further certification will be submitted.

8. Comments

9. The official signing below certifies that the information provided above is correct and that, as required, future reviews will be performed and certification will be provided.		10. Name and Address of Institution
11. Phone No. *(with area code)*	12. Fax No. (with area code)	
13. Name of Official		14. Title
15. Signature		16. Date

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Public reporting burden for this collection of information is estimated to average 5 minutes per response. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: PHS Reports Clearance Officer (9999-0020 and 0925-0418), Humphrey Building, 200 Independence Ave. S.W., Washington, D.C. 20201. Attn: PRA. *Do not return the completed form to this address.*

OPTIONAL FORM 310 (Rev. 1-95)
Sponsored by HHS/PHS/NIH

BILLING CODE 4184-01-C

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 funded 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 office 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, of 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

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 grants, 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 $100 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.

Appendix B

OMB State Single Point of Contact Listing

Arizona

Joni Saad, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012; Telephone (602) 280–1315, FAX: (602) 280–1305.

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 & 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, 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. & Dev., 717 14th Street, N.W.—Suite 500, Washington, D.C. 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, Administrator, Georgia State Clearinghouse, 254 Washington Street, S.W.—Room 401J, Atlanta, Georgia 30334; Telephone: (404) 656–3855 or (404) 656–3829, FAX: (404) 656–7938.

Illinois

Virginia Bova, State Single Point of Contact, 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, Frankfort, Kentucky 40601–8204; Telephone: (502) 573–2382, FAX: (502) 573–2512.

Maine

Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333; Telephone: (207) 287–3261, FAX: (207) 287–6489.

Maryland

William G. Carroll, Manager, State Clearinghouse for Intergovernmental Assistance, Maryland Office of Planning, 301 W. Preston Street—Room 1104, Baltimore, Maryland 21201–2365. Staff Contact: Linda Janey; Telephone: (410) 225–4490, FAX: (410) 225–4480

Michigan

Richard Pfaff, Southeast Michigan Council of Governments, 1900 Edison Plaza, 660 Plaza Drive, Detroit, Michigan 48226; Telephone: (313) 961–4266

Mississippi

Cathy Malette, 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, 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: Review Coordinator, 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, Governor's Office, Director, Intergovernmental Coordination, P.O. Box 12428, Austin, Texas 78711; Telephone: (512) 463–1771, FAX: 1888

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) 528–1547

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, Wyoming 82002; Telephone: (307) 777–7446, FAX: (307) 631–3909

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: 011–671–472–2825

Puerto Rico

Norma Burgos/Jose E. Caro, Chairwoman/Director, Puerto Rico Planning Board, Federal Proposals Review Office, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–1119; Telephone: (809) 723–4444, FAX: (809) 724–3270, (809) 724–3103

North Mariana Islands

Mr. Alvaro A. Santos, Executive Officer, State Single Point of Contact, Office of Management and Budget, Office of the Governor, Saipan, MP, Northern Mariana Islands 96950; Telephone: (670) 664–2289, FAX: (670) 644–2272

Virgin Islands

Nelson 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.

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 point 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 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.

[FR Doc. 97–16935 Filed 6–27–97; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97M–0254]

Cytyc Corp. Premarket Approval Of ThinPrep® 2000 Processor

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Cytyc Corp., Marlborough, MA, for premarket approval, under the Federal Food, Drug, and Cosmetic Act (the act), of the ThinPrep® 2000 System. After reviewing the recommendation of the Hematology and Pathology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of May 20, 1996, of the approval of the application.

DATES: Petitions for administrative review by July 30, 1997.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Peter E. Maxim, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–1293.

SUPPLEMENTARY INFORMATION: On November 22, 1995, Cytyc Corp., Marlborough, MA 01752, submitted to CDRH an application for premarket approval of the ThinPrep® 2000 System. The device is an automated cytology slide preparation instrument and is intended as a replacement for the conventional method of pap smear preparation for use in screening for the presence of atypical cells, cervical cancer, or its precursor lesions (Low Grade Squamous Intraepithelial Lesions, High Grade Squamous Intraepithelial Lesions), as well as all other cytologic categories as defined by The Bethesda System for Reporting Cervical/Vaginal Cytologic Diagnoses.

On June 7, 1993, the Hematology and Pathology Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, reviewed and recommended approval of the application. Cytyc Corp. withdrew the application and subsequently resubmitted the application on November 22, 1995.

On May 20, 1996, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity For Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act, for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under 21 CFR part 12 of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under 21 CFR 10.33(b). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of the review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before July 30, 1997, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs.

515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: June 5, 1997.

Joseph A. Levitt,

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

[FR Doc. 97–17065 Filed 6–27–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97M–0257]

Personal Health & Hygiene, Inc.; Premarket Approval of Dr. Brown's Home Drug Testing System

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Personal Health & Hygiene, Inc., Silver Spring, MD, for premarket approval, under the Federal Food, Drug, and Cosmetic Act (the act), of Dr. Brown's Home Drug Testing System. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of January 21, 1997, of the approval of the application.

DATES: Petitions for administrative review by July 30, 1997.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Steven I. Gutman, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–3084.

SUPPLEMENTARY INFORMATION: On December 19, 1995, Personal Health & Hygiene, Inc., Silver Spring, MD 20910, submitted to CDRH an application for premarket approval of Dr. Brown's Home Drug Testing System. Dr. Brown's Home Drug Testing System is an over-the-counter collection and transport system intended for use by individuals wishing to anonymously test urine samples for drugs of abuse (marijuana, cocaine, amphetamine, methamphetamine, phencyclidine (PCP), codeine, and morphine).

In accordance with the provisions of section 515(c)(2) of the act (21 U.S.C. 360e(c)(2)) as amended by the Safe Medical Devices Act of 1990, this premarket approval application (PMA) was not referred to the Clinical Chemistry and Toxicology Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, for review and recommendation because the information in the PMA substantially duplicates information previously reviewed by this panel.

On January 21, 1997, CDRH approved the application by a letter to the applicant from the Deputy Director, Clinical and Review Policy, of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act authorizes any interested person to petition, under section 515(g) of the act, for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under 21 CFR part 12 of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under 21 CFR 10.33(b). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of the review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before July 30, 1997 file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: June 10, 1997.

Joseph A. Levitt,

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

[FR Doc. 97–17064 Filed 6–27–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food And Drug Administration

[Docket No. 97M–0252]

Sulzer Orthopedics®, Inc.; Premarket Approval of the Natural Knee and Natural Knee® II with Cancellous Structured Titanium (CSTi™)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application submitted by Sulzer Orthopedics®, Inc., Austin, TX, for premarket approval, under the Federal Food, Drug, and Cosmetic Act (the act), of the Natural Knee® and Natural Knee® II with Cancellous Structured Titanium (CSTi™). After reviewing the recommendation of the Orthopedic and Rehabilitation Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of March 21, 1997, of the approval of the application.

DATES: Petitions for administrative review by July 30, 1997.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Erin I. Keith, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2036.

SUPPLEMENTARY INFORMATION: On April 27, 1995, Sulzer Orthopedics®, Inc., Austin, TX 78717, submitted to CDRH an application for premarket approval of the Natural Knee® and Natural Knee® II with CSTi™. These devices are biologically fixed total knee prostheses and are indicated for uncemented use in skeletally mature individuals with intact medial and lateral collateral ligaments undergoing primary surgery for rehabilitating knees damaged as a result of Noninflammatory Degenerative Joint Disease or Inflammatory Joint Disease.

On June 12, 1995, the Orthopedics and Rehabilitation Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, reviewed and recommended approval of the application.

On March 21, 1997, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDR

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity For Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act, for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under 21 CFR 10.33(b). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of the review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before July 30, 1997, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: June 5, 1997.

Joseph A. Levitt,

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

[FR Doc. 97–16968 Filed 6–27–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–462 A/B]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Clinical Laboratory Improvement Amendments (CLIA) Adverse Action Extract 42 CFR 493.1840; *Form No.:* HCFA–462 A/B; *Use:* This form is used by HCFA surveyors (State health Department surveyors and other HCFA agents) to record which types of adverse actions are imposed against laboratories. The form will also serve to track dates of the imposition of adverse actions, dates on which a laboratory corrects deficiencies, and all appeals activity. *Frequency:* On occasion and biennially; *Affected Public:* Not-for-profit institutions, Federal Government, and State, Local or Tribal Government; *Number of Respondents:* 2,500; *Total Annual Responses:* 2,500; *Total Annual Hours:* 5,625

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or to obtain the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: OMB Human Resources and Housing Branch, *Attention:* Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: April 10, 1997.

Edwin J. Glatzel,

Director, Management Analysis and Planning Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 97–16984 Filed 6–27–97; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13), the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects being developed for submission to OMB under

the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: SPRANS/CISS Uniform Data Collection Instruments (OMB No. 0915–0169)—Extension and Revision—The Health Resources and Services Administration (HRSA) proposes to revise and reformat the Maternal and Child Health Special Projects of National and Regional Significance (SPRANS) and Community Integrated Service Systems (CISS) Uniform Data Collection Instruments. These revised instruments will be used to include information from grantees to comply with the legislative mandate for an annual report to Congress, and to include data for meeting the requirements of the Government Performance and Results Act (GPRA).

The SPRANS/CISS Programs complement and improve the MCH Block grants to the 50 states and 9 territories under Title V of the Social Security Act. Approximately 600 grants are awarded annually in the SPRANS/CISS programs, usually to state and local health departments, universities and other institutions of higher learning, and a smaller number of non-profit and for-profit organizations or associations. There are four separate SPRANS/CISS Uniform Data Collection Instruments, reflecting variations in the four basic types of SPRANS/CISS grantees and their unique data needs: (1) Training, (2) Research, (3) Data, and (4) Other Discretionary Programs.

The revisions to these data collection instruments are designed to ensure the collection of data needed by program managers to prepare the mandated annual report to Congress, and may be designed to ensure the collection of data required by GPRA without the introduction of additional collection instruments. We estimate that the burden hours will be decreased by more than 10%, due to further improvements to the instruments based on lessons learned from the initial use of the form, as well as improved technology that will be used to collect the data. Estimates of burden to complete the Uniform Data Collection Instruments are as follows:

Type of form	Number of respondents	Responses per respondent	Burden hours per response	Total burden hours
Training	150	1	1.75	262.5
Research	50	1	1.75	87.5
Data	30	1	1.75	52.5
Other Discretionary Programs	350	1	1.75	612.5
Total	580	1	1.75	1,015

Send comments to Patricia Royston, HRSA Reports Clearance Officer, Room 14–36, Parklawn Building, 5600 Fishers Lane, Rockville, MD, 20857. Written comments should be received within 60 days of this Notice.

Dated: June 24, 1997.

James J. Corrigan,

Acting Associate Administrator for Management and Program Support.

[FR Doc. 97–17063 Filed 6–27–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the National Institutes of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, the Developing Kidney in Health and Disease, June 29–July 1, 1997, Albert Einstein College of Medicine, 1300 Morris Park Avenue, New York, which was published in the **Federal Register** on May 27, (62 FR 2873).

The meeting was canceled due to the withdrawal of the application for review.

Dated: June 24, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–17194 Filed 6–27–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Institute of Mental Health Special Emphasis Panel:

Agenda/Purpose: to review and evaluate grant applications.

Committee name: National Institute of Mental Health Special Emphasis Panel.

Date: June 27, 1997.

Time: 1 p.m.

Place: Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Salvador H. Cuellar, Parklawn Building, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–4868.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: June 25, 1997.

LaVerne Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–17195 Filed 6–27–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Refugee Resettlement Program: Final Notice of Allocations to States of FY 1997 Funds for Refugee Social Services

AGENCY: Office of Refugee Resettlement (ORR), ACF, HHS.

ACTION: Final notice of allocations to States of FY 1997 funds for refugee[1] social services.

SUMMARY: This notice establishes the allocations to States of FY 1997 funds for social services under the Refugee Resettlement Program (RRP). This notice reflects the decision by Congress to move the $19,000,000 Cuban and Haitian entrant set-aside from targeted assistance to social services. In addition, Congress provided for $11,079,000 under social services for increased support to communities with large concentrations of refugees whose cultural differences make assimilation especially difficult.

EFFECTIVE DATE: June 30, 1997.

ADDRESSES: Office of Refugee Resettlement, Administration for Children and Families, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447.

FOR FURTHER INFORMATION CONTACT: Toyo Biddle, Director, Division of Refugee Self-Sufficiency, (202) 401–9250.

SUPPLEMENTARY INFORMATION: A notice of proposed social service allocations to States was published in the **Federal Register** on April 2, 1997, (62 FR 15721). The population estimates that were used in the proposed notice have been adjusted as a result of additional arrival information.

I. Amounts for Allocation

The Office of Refugee Resettlement (ORR) has available $110,882,000 in FY 1997 refugee social service funds as part of the FY 1997 appropriation for the Department of Health and Human Services (Pub. L. No. 104–208).

The FY 1997 House Appropriations Committee Report (H.R. Rept. No. 104–659) reads as follows with respect to social services funds:

> Funds are distributed by formula as well as through the discretionary grant making process for special projects. In addition, the Committee has transferred activities previously funded through the Targeted Assistance program to the Social Services program. The Committee agrees that $19,000,000 is available for assistance to serve communities affected by the Cuban and Haitian entrants and refugees whose arrivals in recent years have increased. The Committee has set-aside $11,079,000 for increased support to communities with large concentrations of refugees whose cultural differences make assimilation especially difficult justifying a more intense level and longer duration of Federal assistance.
>
> The Committee recommends that ORR give special consideration in allocating grant funding to applicants providing rehabilitation services for victims of physical and mental torture. The Committee requests that ORR be prepared to testify regarding its activities in support of victims of torture during the fiscal year 1998 budget hearings.

The FY 1997 Senate Appropriations Committee Report (S. Rept. No. 104–368) further clarifies Congress' intent regarding funding for services for victims of torture as follows:

> The Committee notes the recent request for proposals to provide mental health services to victims of torture, and recommends that the Office of Refugee Resettlement, to the extent possible, devote increased resources to that program in fiscal year 1997.

The Conference Report on Appropriations (H. Rept. No. 104-863) agrees with the House and Senate Reports regarding the allocation of social services.

The Director of the Office of Refugee Resettlement (ORR) will use the $110,882,000 appropriated for FY 1997 social services as follows:

- $68,682,550 will be allocated under the 3-year population formula, as set forth in this notice for the purpose of providing employment services and other needed services to refugees.
- $12,120,450 will be used to fund continuation grants and new grants through various discretionary grant announcements.
- $19,000,000 will be awarded to serve communities most heavily affected by recent Cuban and Haitian entrant and refugee arrivals. These funds would be awarded under a discretionary grant announcement that will be issued separately setting forth application requirements and evaluation criteria.
- $11,079,000 will be awarded through discretionary grants under various grant announcements for communities with large concentrations of refugees whose cultural differences make assimilation especially difficult justifying a more intense level and longer duration of Federal assistance.

Refugee Social Service Funds

The population figures for the social services allocation include refugees, Cuban/Haitian entrants, and Amerasians from Vietnam since these populations may be served through funds addressed in this notice. (A State must, however, have an approved State plan for the Cuban/Haitian Entrant Program or indicate in its refugee program State plan that Cuban/Haitian entrants will be served in order to use funds on behalf of entrants as well as refugees.)

The Director is allocating $68,682,550 to States on the basis of each State's proportion of the national population of refugees who had been in the U.S. 3 years or less as of October 1, 1996 (including a floor amount for States which have small refugee populations).

The use of the 3-year population base in the allocation formula is required by section 412(c)(1)(B) of the Immigration and Nationality Act (INA) which states that the ''funds available for a fiscal year for grants and contracts [for social services] * * * shall be allocated among the States based on the total number of refugees (including children and adults) who arrived in the United States not more than 36 months before the beginning of such fiscal year and who are actually residing in each State (taking into account secondary migration) as of the beginning of the fiscal year.''

As established in the FY 1991 social services notice published in the **Federal Register** of August 29, 1991, section I, ''Allocation Amounts'' (56 FR 42745), a variable floor amount for States which have small refugee populations is calculated as follows: If the application of the regular allocation formula yields less than $100,000, then —

(1) A base amount of $75,000 is provided for a State with a population of 50 or fewer refugees who have been in the U.S. 3 years or less; and

(2) For a State with more than 50 refugees who have been in the U.S. 3

[1] In addition to persons who meet all requirements of 45 CFR 400.43, ''Requirements for documentation of refugee status,'' eligibility for refugee social services also includes: (1) Cuban and Haitian entrants, under section 501 of the Refugee Education Assistance Act of 1980 (Pub. L. No. 96–422); (2) certain Amerasians from Vietnam who are admitted to the U.S. as immigrants under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as included in the FY 1988 Continuing Resolution (Pub. L. No. 100–202); and (3) certain Amerasians from Vietnam, including U.S. citizens, under title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Acts, 1989 (Pub. L. No. 100–461), 1990 (Pub. L. No. 101–167), and 1991 (Pub. L. No. 101–513). For convenience, the term ''refugee'' is used in this notice to encompass all such eligible persons unless the specific context indicates otherwise.

Refugees admitted to the U.S. under admissions numbers set aside for private-sector-initiative admissions are not eligible to be served under the social service program (or under other programs supported by Federal refugee funds) during their period of coverage under their sponsoring agency's agreement with the Department of State—usually two years from their date of arrival or until they obtain permanent resident alien status, whichever comes first.

years or less: (a) a floor has been calculated consisting of $50,000 plus the regular per capita allocation for refugees above 50 up to a total of $100,000 (in other words, the maximum under the floor formula is $100,000); (b) if this calculation has yielded less than $75,000, a base amount of $75,000 is provided for the State.

ORR has consistently supported floors for small States in order to provide sufficient funds to carry out a minimum service program. Given the range in numbers of refugees in the small States, we have concluded that a variable floor, as established in the FY 1991 notice, will be more reflective of needs than previous across-the-board floors.

Next year ORR plans to re-examine the floor formula to determine whether it should be modified or eliminated in FY 1998.

Population To Be Served

Although the allocation formula is based on the 3-year refugee population, in accordance with the current requirements of 45 CFR Part 400 Subpart I—Refugee Social Services, States are not required to limit social service programs to refugees who have been in the U.S. only 3 years. However, under 45 CFR 400.152, States may not provide services funded by this notice, except for referral and interpreter services, to refugees who have been in the United States for more than 60 months (5 years).

In accordance with 45 CFR 400.147, States are required to provide services to refugees in the following order of priority, except in certain individual extreme circumstances: (a) all newly arriving refugees during their first year in the U.S., who apply for services; (b) refugees who are receiving cash assistance; (c) unemployed refugees who are not receiving cash assistance; and (d) employed refugees in need of services to retain employment or to attain economic independence.

ORR funds may not be used to provide services to United States citizens, since they are not covered under the authorizing legislation, with the following exceptions: (1) Under current regulations at 45 CFR 400.208, services may be provided to a U.S.-born minor child in a family in which both parents are refugees or, if only one parent is present, in which that parent is a refugee; and (2) under the FY 1989 Foreign Operations, Export Financing, and Related Programs Appropriations Act (Pub. L. No. 100–461), services may be provided to an Amerasian from Vietnam who is a U.S. citizen and who enters the U.S. after October 1, 1988.

Service Priorities

Refugee social service funding should be used to assist refugee families to achieve economic independence. To this end, States are required to ensure that a coherent family self-sufficiency plan is developed for each eligible family that addresses the family's needs from time of arrival until attainment of economic independence. (See 45 CFR 400.79 and 400.156(g).) Each family self-sufficiency plan should address a family's needs for both employment-related services and other needed social services. The family self-sufficiency plan must include: (1) a determination of the income level a family would have to earn to exceed its cash grant and move into self-support without suffering a monetary penalty; (2) a strategy and timetable for obtaining that level of family income through the placement in employment of sufficient numbers of employable family members at sufficient wage levels; and (3) employability plans for every employable member of the family.

Reflecting section 412(a)(1)(A)(iv) of the INA, and in keeping with 45 CFR 400.145, States must ensure that women have the same opportunities as men to participate in all services funded under this notice, including job placement services. In addition, services must be provided to the maximum extent feasible in a manner that includes the use of bilingual/bicultural women on service agency staffs to ensure adequate service access by refugee women. The Director also strongly encourages the inclusion of refugee women in management and board positions in agencies that serve refugees. In order to facilitate refugee self-support, the Director also expects States to implement strategies which address simultaneously the employment potential of both male and female wage earners in a family unit, particularly in the case of large families. States are expected to make every effort to assure the availability of day care services for children in order to allow women with children the opportunity to participate in employment services or to accept or retain employment. To accomplish this, day care may be treated as a priority employment-related service under the refugee social services program. Refugees who are participating in employment services or have accepted employment are eligible for day care services for children. For an employed refugee, day care funded by refugee social service dollars should be limited to one year after the refugee becomes employed. States are expected to use day care funding from other publicly funded mainstream programs as a prior resource and are expected to work with service providers to assure maximum access to other publicly funded resources for day care.

In accordance with 45 CFR 400.146, social service funds must be used primarily for employability services designed to enable refugees to obtain jobs within one year of becoming enrolled in services in order to achieve economic self-sufficiency as soon as possible. Social services may continue to be provided after a refugee has entered a job to help the refugee retain employment or move to a better job. Social service funds may not be used for long-term training programs such as vocational training that last for more than a year or educational programs that are not intended to lead to employment within a year.

In accordance with 45 CFR 400.156, refugee social services must be provided, to the maximum extent feasible, in a manner that is culturally and linguistically compatible with a refugee's language and cultural background. In light of the increasingly diverse population of refugees who are resettling in this country, refugee service agencies will need to develop practical ways of providing culturally and linguistically appropriate services to a changing ethnic population.

Services funded under this notice must be refugee-specific services which are designed specifically to meet refugee needs and are in keeping with the rules and objectives of the refugee program. Vocational or job skills training, on-the-job training, or English language training, however, need not be refugee-specific.

English language training must be provided in a concurrent, rather than sequential, time period with employment or with other employment-related activities.

When planning State refugee services, States must take into account the reception and placement (R & P) services provided by local resettlement agencies in order to utilize these resources in the overall program design and to ensure the provision of seamless, coordinated services to refugees that are not duplicative.

In order to provide culturally and linguistically compatible services in as cost-efficient a manner as possible in a time of limited resources, ORR encourages States and counties to promote and give special consideration to the provision of refugee social services through coalitions of refugee service organizations, such as coalitions of mutual assistance associations (MAAs), voluntary resettlement

agencies, or a variety of service providers. ORR believes it is essential for refugee-serving organizations to form close partnerships in the provision of services to refugees in order to be able to respond adequately to a changing refugee picture. Coalition-building and consolidation of providers is particularly important in communities with multiple service providers in order to ensure better coordination of services and maximum use of funding for services by minimizing the funds used for multiple administrative overhead costs.

States should also expect to use funds available under this notice to pay for social services which are provided to refugees who participate in alternative projects. Section 412(e)(7)(A) of the INA provides that:

> The Secretary [of HHS] shall develop and implement alternative projects for refugees who have been in the United States less than thirty-six months, under which refugees are provided interim support, medical services, support [social] services, and case management, as needed, in a manner that encourages self-sufficiency, reduces welfare dependency, and fosters greater coordination among the resettlement agencies and service providers.

This provision is generally known as the Wilson/Fish Amendment. The Department has already issued a separate notice in the **Federal Register** with respect to applications for such projects (60 FR 15766, March 27, 1995). The notice on alternative projects does not contain provisions for the allocation of additional social service funds beyond the amounts established in this notice. Therefore a State which may wish to consider carrying out such a project should take note of this in planning its use of social service funds being allocated under the present notice.

Funding to MAAs

ORR no longer provides set-aside funds to refugee mutual assistance associations as a separate component under the social service notice; instead we have folded these funds into the social service formula allocation to States. Elimination of the MAA set-aside, however, does not represent any reduction in ORR's commitment to MAAs as important participants in refugee resettlement. ORR believes that the continued and/or increased utilization of qualified refugee mutual assistance associations in the delivery of social services helps to ensure the provision of culturally and linguistically appropriate services as well as increasing the effectiveness of the overall service system. Therefore, ORR expects States to use MAAs as service providers to the maximum extent possible. ORR strongly encourages States when contracting for services, including employment services, to give consideration to the special strengths of MAAs, whenever contract bidders are otherwise equally qualified, provided that the MAA has the capability to deliver services in a manner that is culturally and linguistically compatible with the background of the target population to be served. ORR also strongly encourages MAAs to ensure that their management and board composition reflect the major target populations to be served. ORR expects States to continue to assist MAAs in seeking other public and/or private funds for the provision of services to refugee clients.

States may use a portion of their social service grant, either through contracts or through the use of State/county staff, to provide technical assistance and organizational training to strengthen the capability of MAAs to provide employment services, particularly in States where MAA capability is weak or undeveloped.

ORR defines MAAs as organizations with the following qualifications:

a. The organization is legally incorporated as a nonprofit organization; and

b. Not less than 51% of the composition of the Board of Directors or governing board of the mutual assistance association is comprised of refugees or former refugees, including both refugee men and women.

II. Discussion of Comments Received

Three letters of comment were received in response to the notice of proposed FY 1997 allocations to States for refugee social services. The comments are summarized below and are followed in each case by the Department's response.

Comment: Three commenters felt that States and counties should have the flexibility to serve refugees in the U.S. over 5 years with social services formula funds. These commenters stated that there are large numbers of post-5-year refugees who are in need of services. One commenter stated that many of these refugees have difficulty accessing mainstream services and will soon lose eligibility for assistance. One commenter argued that ORR continues to provide funding for refugees in the U.S. over 60 months through discretionary funding suggesting that ORR recognizes the needs of post-5-year refugees. The commenter felt that local officials are in a better position than ORR to determine what services are needed and by whom.

Response: We continue to believe that social services formula funds should be used for refugees during their first 5 years in the U.S. in order to concentrate adequate resources on helping refugees to become self-sufficient as soon as possible without becoming long-term welfare recipients. Of particular concern are the large numbers of refugees in the U.S. less than 5 years who reside in high welfare States and have been on welfare since their arrival. These refugees require top priority in the refugee program. Also of top priority is to make sure that refugee arrivals never get to the point of being on welfare for most of their first 5 years in the U.S. For these reasons, we do not agree with the commenters that the 5-year limitation should be changed.

Regarding the comment that many post-5-year refugees are at risk of losing eligibility for assistance, it is important to note that most States have decided to allow refugees who were residing in the U.S. before August 22, 1996, to continue to be eligible for Temporary Assistance for Needy Families to the same extent as U.S. citizens.

Finally it is important to note that a substantial amount of ORR discretionary funds, approximately $42.7 million, will be available this year. These funds may be used to provide a variety of services to post 5-year refugees.

Comment: One commenter recommended that ORR pursue a statutory change to allow social services funds to be allocated on the basis of the total refugee population needing employment services in each State, instead of the three-year population formula that is currently required by statute.

Response: We do not believe there is a compelling enough reason to seek a statutory change that would change the social services allocation method from the three-year refugee population formula to the entire population in need of employment services. The current allocation formula ensures that funding is available to those States most in need of funds to meet the needs of new arrivals.

Comment: One commenter opposes the allotment of a floor amount of social services funds to States with small refugee populations. In particular, the commenter suggested that a floor for States with fewer than 1,000 refugees should not be included in the allocation.

Response: We continue to believe that a minimum allocation for social services is necessary to cover basic costs which a State incurs in providing services,

regardless of the number of refugees to be served. Therefore, we view the establishment of a floor as a reasonable approach to allocating funds to States with small refugee populations, where the use of the formula alone would yield too small an amount to be practical.

However, we do plan to re-examine this issue next year to determine whether our policy on floor allotments should be modified.

Comment: One commenter requested that social services discretionary funds be awarded only to those States with 5,000 refugees or more. The commenter stated that focusing on areas with a high refugee concentration in relation to the overall population often does not reflect where large refugee populations need services.

Response: There are many areas of the country which have fewer than 5,000 arrivals where refugees have many of the same needs as refugees residing in areas with large refugee populations. We do not agree with the commenter's view.

Comment: Two commenters expressed concern over ORR's requirement for family self-sufficiency plans. One commenter questioned whether services should be provided to take refugees to self-sufficiency thereby using resources that would otherwise be available to help some refugees find employment. The commenter felt that the requirement implied that services should be provided to a full-time employed refugee until the family is off aid. One commenter stated that individual employability plans are already a requirement under ORR regulations. This commenter recommended that ORR eliminate the family self-sufficiency plan requirement and waive this requirement in the interim.

Response: As stated in several previous notices, the family self-sufficiency plan is a tool that assists both the refugee family and the employment counselor to focus more clearly on what steps need to be taken to achieve self-sufficiency. In many cases it requires more than one wage-earner to go to work in order for a family to become self-sufficient. The development of a family self-sufficiency plan puts the proper focus on the family as the client unit. The employment plan, in contrast, focuses on one person's employment without addressing what is needed of other adults in the family to get the family unit self-sufficient. We do not view self-sufficiency plans and individual employment plans to be redundant; individual employment plans are part of a family self-sufficiency plan, not a separate entity.

We do not require that employment service providers work with all refugee families until they are self-sufficient at the expense of other clients, but we encourage States and providers to design programs that efficiently use resources to help refugee families become self-sufficient to the maximum extent feasible. By developing a family self-sufficiency plan, at least a refugee family will be able to understand what it takes not only to get a job, but to get off welfare. Experience in a number of States shows that the use of family self-sufficiency plans results ultimately in earlier family self-sufficiency through the attainment of jobs for one or more wage earners at self-supporting wages. We would be happy to connect any State and county that does not understand how to use family self-sufficiency plans to good effect with States and providers experienced in using family self-sufficiency plans effectively.

III. Allocation Formula

Of the funds available for FY 1997 for social services, $68,682,550 is allocated to States in accordance with the formula specified below. A State's allowable allocation is calculated as follows:

1. The total amount of funds determined by the Director to be available for this purpose; divided by—

2. The total number of refugees and Cuban/Haitian entrants who arrived in the United States not more than 3 years prior to the beginning of the fiscal year for which the funds are appropriated and the number of Amerasians from Vietnam eligible for refugee social services, as shown by the ORR Refugee Data System. The resulting per capita amount will be multiplied by—

3. The number of persons in item 2, above, in the State as of October 1, 1996, adjusted for estimated secondary migration.

The calculation above yields the formula allocation for each State. Minimum allocations for small States are taken into account.

IV. Basis of Population Estimates

The population estimates for the allocation of funds in FY 1997 are based on data on refugee arrivals from the ORR Refugee Data System, adjusted as of October 1, 1996, for estimated secondary migration. The data base includes refugees of all nationalities, Amerasians from Vietnam, and Cuban and Haitian entrants.

For fiscal year 1997, ORR's formula allocations for the States for social services are based on the numbers of refugees and Amerasians who arrived, and on the numbers of entrants who arrived or were resettled, during the preceding three fiscal years: 1994, 1995, and 1996, based on final arrival data by State. Therefore, estimates have been developed of the numbers of refugees and entrants with arrival or resettlement dates between October 1, 1993, and September 30, 1996, who are thought to be living in each State as of October 1, 1996.

The estimates of secondary migration were based on data submitted by all participating States on Form ORR–11 on secondary migrants who have resided in the U.S. for 36 months or less, as of September 30, 1996. The total migration reported by each State was summed, yielding in-and out-migration figures and a net migration figure for each State. The net migration figure was applied to the State's total arrival figure, resulting in a revised population estimate.

Estimates were developed separately for refugees and entrants and then combined into a total estimated 3-year refugee/entrant population for each State. Eligible Amerasians are included in the refugee figures.

With regard to Havana parolees, we have adjusted the 3-year population of one State, the State of Florida, based on documentation the State provided regarding the number of Havana parolee arrivals to that State. For all other States, in the absence of reliable data on Havana parolees, we are crediting each State that received entrant arrivals during the 3-year period from FY 1994—FY 1996 with a prorated share of the parolees who came to the U.S. directly from Havana in FY 1996. In addition, we have credited each State with the same share of FY 1995 Havana parolees that they were credited with in the final FY 1995 social service notice. The allocations in this notice reflect these additional parolee numbers.

Table 1, below, shows the estimated 3-year populations, as of October 1, 1996, of refugees (col. 1), entrants (col. 2), Havana parolees (col. 3); total refugee/entrant population, (col. 4); the formula amounts which the population estimates yield (col. 5); and the allocation amounts after allowing for the minimum amounts (col. 6).

V. Allocation Amounts

Funding subsequent to the publication of this notice will be contingent upon the submittal and approval of a State annual services plan that is developed on the basis of a local consultative process, as required by 45 CFR 400.11(b)(2) in the ORR regulations. The following amounts are allocated for refugee social services in FY 1997:

TABLE 1.—ESTIMATED 3-YEAR REFUGEE/ENTRANT POPULATIONS OF STATES PARTICIPATING IN THE REFUGEE PROGRAM AND SOCIAL SERVICE FORMULA AMOUNTS AND ALLOCATIONS FOR FY 1997

State	Refugees	Entrants	Havana parolees [1]	Total population	Formula amount	Allocation
	(1)	(2)	(3)	(4)	(5)	(6)
Alabama	497	117	40	654	$125,803	$125,803
Alaska [2]	0	0	0	0	0	0
Arizona	4,242	576	222	5,040	969,489	969,489
Arkansas	257	14	4	275	52,899	93,281
California [3]	62,173	1,209	488	63,870	12,285,959	12,285,959
Colorado	3,632	12	5	3,649	701,917	701,917
Connecticut	2,519	354	126	2,999	576,884	576,884
Delaware	84	4	2	90	17,312	75,000
Dist. of Columbia	1,683	14	5	1,702	327,395	327,395
Florida	13,914	35,241	15,548	64,703	12,446,194	12,446,194
Georgia	9,164	282	106	9,552	1,837,412	1,837,412
Hawaii	518	1	0	519	99,834	100,000
Idaho	1,215	1	1	217	234,101	234,101
Illinois	11,790	480	167	12,437	2,392,367	2,392,367
Indiana	1,016	17	7	1,040	200,053	200,053
Iowa	3,576	6	2	3,584	689,414	689,414
Kansas	1,837	18	7	1,862	358,172	358,172
Kentucky [4]	2,692	473	139	3,304	635,554	635,554
Louisiana	1,717	293	118	2,128	409,340	409,340
Maine	647	1	0	648	124,649	124,649
Maryland	4,871	180	72	5,123	985,454	985,454
Massachusetts	8,354	211	85	8,650	1,663,904	1,663,904
Michigan	7,655	338	117	8,110	1,560,030	1,560,030
Minnesota	9,640	26	10	9,676	1,861,264	1,861,264
Mississippi	102	41	16	159	30,585	75,000
Missouri	5,154	32	13	5,199	1,000,074	1,000,074
Montana	188	0	0	188	36,163	76,546
Nebraska	1,705	38	9	1,752	337,013	337,013
Nevada [4]	888	1,034	400	2,322	446,657	446,657
New Hampshire	725	1	0	726	139,653	139,653
New Jersey	5,018	1,426	590	7,034	1,353,052	1,353,052
New Mexico	629	1,132	465	2,226	428,191	428,191
New York	49,229	1,397	570	51,196	9,848,003	9,848,003
North Carolina	3,024	49	15	3,088	594,004	594,004
North Dakota	1,028	4	2	1,034	198,899	198,899
Ohio	4,285	62	18	4,365	839,646	839,646
Oklahoma	1,009	19	7	1,035	199,091	199,091
Oregon	4,751	523	176	5,450	1,048,356	1,048,356
Pennsylvania	8,482	332	104	8,918	1,715,456	1,715,456
Rhode Island	524	7	2	533	102,527	102,527
South Carolina	469	8	2	479	92,140	100,000
South Dakota	816	0	0	816	156,965	156,965
Tennessee	3,181	225	63	3,469	667,293	667,293
Texas	13,671	1,303	502	15,476	2,976,946	2,976,946
Utah	1,902	1	0	1,903	366,059	366,059
Vermont	707	0	0	707	135,998	135,998
Virginia	5,182	253	96	5,531	1,063,937	1,063,937
Washington	17,275	62	18	17,355	3,338,388	3,338,388
West Virginia	24	1	0	25	4,809	75,000
Wisconsin	3,849	22	8	3,879	746,160	746,160
Wyoming [2]	0	0	0	0	0	0
Total	287,510	47,840	20,347	355,697	68,421,465	68,682,550

[1] Includes Havana Parolees (HP's) for FY 1995 and FY 1996.

For FY 1995, Florida's HP's (8245) were based on actual data while HP's in other States (2188) were prorated based on the States' proportion of the three year (FY 1993–1995) entrant population.

For FY 1996, Florida's HP's (7303) were based on actual data while HP's in other States (2611) were prorated based on the States' proportion of the three year (FY 1994–1996) entrant population.

[2] Alaska and Wyoming no longer participate in the Refugee Program.

[3] A portion of the California allocation is expected to be awarded to continue a Wilson/Fish project in San Diego.

[4] The allocation for Kentucky and Nevada is expected to be awarded to continue a Wilson/Fish project.

VI. Paperwork Reduction Act

This notice does not create any reporting or recordkeeping requirements requiring OMB clearance.

(Catalog of Federal Domestic Assistance No. 93.566 Refugee Assistance—State Administered Programs)

Dated: June 20, 1997.

Lavinia Limon,

Director, Office of Refugee Resettlement.

[FR Doc. 97–16959 Filed 6–22–97; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–00–P, AA–6664–F, AA–6664–A2]

Notice for Publication; 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), Sec. 1410 of the Alaska National Interest Lands Conservation Act of December 2, 1980, 43 U.S.C. 1621, will be issued to English Bay Corporation for approximately 15,579.91 acres. The lands involved are in the vicinity of the Kenai Fjords, Alaska.

Seward Meridian, Alaska

U.S. Survey No. 4779

T. 3 S., R. 2 W.,
T. 4 S., R. 2 W.,
T. 5 S., R. 3 W.,
T. 5 S., R. 5 W.,
T. 6 S., R 5 W.,
T. 8 S., R. 6 W.,
T. 8 S., R. 7 W.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Seward Phoenix Log. 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 30, 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.

Chris Sitbon,

Land Law Examiner, ANCSA Team, Branch of 962 Adjudication.

[FR Doc. 97–16989 Filed 6–27–97; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–910–0777–74]

Notice of Alaska Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

SUMMARY: The Alaska Resource Advisory Council will conduct a meeting Thursday, July 31, 1997, from 9 a.m. until noon. The purpose of the meeting is to discuss and conduct a vote on a proposed recommendation to the BLM to resolve mining issues on the Fortymile Wild and Scenic River. The meeting will be held at the BLM Northern District Office, 1150 University Avenue, Fairbanks, AK.

Public comments directly pertaining to the draft recommendation will be taken from 9:30 to 10:30 a.m. Written comments may be submitted at the meeting or mailed to the address below prior to the meeting.

ADDRESSES: Inquiries about the meeting should be sent to External Affairs, Bureau of Land Management, 222 W. 7th Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Teresa McPherson at (907) 271–5555.

Dated: June 20, 1997.

Tom Allen,

State Director.

[FR Doc. 97–16988 Filed 6–27–97; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–924–1430–01; MTM 059318, MTM 40641, and MTM 41263]

Public Land Order No. 7272; Partial Revocation of Executive Order Dated July 9, 1910, Which Established Coal Reserve Montana No. 1, and Opening of Land, Under Section 24 of the Federal Power Act, Withdrawn by Secretarial Order Dated February 21, 1924, Which Established Powersite Classification No. 57, and Federal Power Commission Order No. 2188; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes an Executive order insofar as it affects 10 acres of National Forest System land withdrawn for the Bureau of Land Management's Coal Reserve Montana No. 1. The land is no longer needed for this purpose. This order also opens the same land withdrawn by Secretarial order for the Bureau of Land Management's Powersite Classification No. 57 and the Federal Power Commission Order dated April 23, 1956, as amended, for Power Project No. 2188. These actions will permit disposal of the land through a pending Forest Service exchange and retain the power rights to the United States. The land is temporarily closed to surface entry and mining due to the pending exchange. Uses not authorized by the license for Power Project No. 2188 continue to be prohibited without the consent of the Federal Energy Regulatory Commission.

EFFECTIVE DATE: July 30, 1997.

FOR FURTHER INFORMATION CONTACT: Sandra Ward, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–255–2949.

1. By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

The Executive Order dated July 9, 1910, which withdrew National Forest System land to establish Coal Reserve Montana No. 1 is hereby revoked insofar as it affects the following described land:

Principal Meridian, Montana

T. 12 S., R. 4 E.,
Sec. 12, SE¼SE¼NE¼.

The area described contains 10 acres in Gallatin County.

At 9 a.m. on July 30, 1997 the land described in paragraph 1 will be

relieved of the segregative effects of Coal Reserve Montana No. 1.

2. By virtue of the authority vested in the Secretary of the Interior by the Act of June 10, 1920, Section 24, as amended, 16 U.S.C. 818 (1994), it is ordered as follows:

At 9 a.m. on July 30, 1997 the land described in paragraph 1 withdrawn by Secretarial Order dated February 21, 1924, which established Powersite Classification No. 57, and Federal Power Commission Order dated April 23, 1956, for Power Project No. 2188, will be opened to disposal by land exchange, subject to the provisions of Section 24 of the Federal Power Act, and subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

Dated: June 13, 1997.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 97–17049 Filed 6–27–97; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Resource Area Management Plan Amendment; Bishop Resource Area, California

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of plan amendment to the Bishop Resource Management Plan.

SUMMARY: In compliance with the National Environmental Policy Act of 1969 (NEPA), the Federal Land Policy and Management Act of 1976 (FLPMA) and the Code of Federal Regulations (40 CFR 1508.13, 43 CFR 1610.5–5), notice is hereby given that the Bureau of Land Management (BLM) will implement a plan amendment to the Bishop Resource Area Management Plan.

The plan amendment releases from wilderness review eight Section 202 Wilderness Study Areas (WSAs) in the Bishop Resource Area. The WSAs would no longer be managed under Wilderness Interim Management Policy and would be subject to the Bishop Resource Management Plan (1993) or other applicable guidance.

SUPPLEMENTARY INFORMATION: Eight WSAs are removed from WSA status. In 1979–80, the eight areas were designated as WSAs in association with adjoining Forest Service WSAs. The BLM areas met the criteria for wilderness study status *only* because they were considered in combination with adjacent Forest Service WSAs. The Forest Service has subsequently removed their WSAs from wilderness study status. The Bureau's plan amendment releases the eight WSAs from further wilderness study because of this Forest Service action.

The WSAs include the following:

1. CA–010–060—Paiute WSA—7,600 acres
2. CA–010–063—Coyote Southeast WSA—3,211 acres
3. CA–010–065—Black Canyon WSA—6,518 acres
4. CA–010–068—Wheeler Ridge WSA—3,197 acres
5. CA–010–072—Laurel-McGee WSA—110 acres
6. CA–010–075—White Mountain WSA—1,260 acres
7. CA–010–077—Benton Range WSA—4,052 acres
8. CA–010–103—Sweetwater WSA—960 acres

A final environmental assessment (#CA–017–96–007) incorporating full public review documents the effects of this action. This document and accompanying Record of Decision is located in the Bishop Resource Area files.

FOR ADDITIONAL INFORMATION CONTACT: Genivieve D. Rasmussen, Bishop Resource Area, 785 N. Main., Ste E, Bishop, CA 93514. Telephone (760) 872–4881.

Genivieve D. Rasmussen,

Area Manager, Bishop Resource Area.

[FR Doc. 97–16983 Filed 6–27–97; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–942–5700–00]

Filing of Plats of Survey; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested state and local government officials of the latest filing of Plats of Survey in California.

EFFECTIVE DATE: Unless otherwise noted, filing was effective at 10:00 a.m. on the next federal work day following the plat acceptance date.

FOR FURTHER INFORMATION CONTACT: Lance J. Bishop, Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), California State Office, 2138 Butano Drive, Sacramento, CA 95825–0451, (916) 979–2890.

SUPPLEMENTARY INFORMATION: The Plats of Survey of lands described below have been officially filed at the California State Office of the Bureau of Land Management in Sacramento, CA.

Mount Diablo Meridian, California

T. 2 N., R. 16 E.—Supplemental plat of the NW¼ of section 10, accepted May 2, 1997, to meet certain administrative needs of the BLM, Bakersfield District, Folsom Resource Area.

T. 33 N., R. 2 W.—Supplemental plat of section 10 and the W½ of section 11, accepted May 6, 1997, to meet certain administrative needs of the BLM, Redding Resource Area.

T. 4 N., R. 14 E.—Supplemental plat of portions of sections 29, 30 and 32, accepted May 7, 1997, to meet certain administrative needs of the BLM, Bakersfield District, Folsom Resource Area.

T. 46 N., R. 12 W.—Supplemental plat of a portion of section 12, accepted May 9, 1997, to meet certain administrative needs of the US Forest Service, Klamath National Forest.

T. 33 N., R. 9 W.—Supplemental plat of the SE¼ of section 6, accepted May 20, 1997, to meet certain administrative needs of the BLM, Redding Resource Area.

T. 10 N., R. 10 E.—Supplemental plat of the N½ of section 27, accepted May 22, 1997, to meet certain administrative needs of the BLM, Bakersfield District, Folsom Resource Area.

T. 23 N., R. 4 E.—Supplemental plat of the SE¼ of section 29, accepted May 23, 1997, to meet certain administrative needs of the BLM, Redding Resource Area. All of the above listed survey plats are now the basic record for describing the lands for all authorized purposes. The survey plats have been placed in the open files in the BLM, California State Office, and are available to the public as a matter of information. Copies of the survey plats and related field notes will be furnished to the public upon payment of the appropriate fee.

Dated: June 18, 1997.

Lance J. Bishop,

Chief, Branch of Cadastral Survey.

[FR Doc. 97–17048 Filed 6–27–97; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF JUSTICE

Federal Bureau of Identification; Criminal Justice Information Services; Agency Information Collection Activities: Proposed Collection: Comment Request

ACTION: Notice of information collection under review: monthly return of arson offenses known to law enforcement.

The proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until August 29, 1997.

Request written comments and suggestions from the public and affected

agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

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

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

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

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time should be direct to SSA Paul J. Gans (phone number and address listed below). If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact SSA Paul J. Gans, 304–625–4830, FBI, CJIS, Statistical Unit, PO Box 4142, Clarksburg, WV 26302–9921. Overview of this information collection:

(1) *Type of information collection:* Extension of current collection.

(2) *The title of the form/collection:* Monthly return of arson offenses known to law enforcement.

(3) *The agency form number, if any, and applicable component of the Department sponsoring the collection.* Form: I–725. Federal Bureau of Identification, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as brief abstract.* Primary: State and Local Law Enforcement Agencies. This collection is needed to collect information on arson offenses committed throughout the United States and reported to Law Enforcement. Data is tabulated and published in the annual ''CRIME in the United States.''

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 87,000 responses; and with an average completion time of 9 minutes a month per report.

(6) *An estimate of the total public burden (in hours) associated with this collection:* 13,050 hours annually.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: June 28, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice

[FR Doc. 97–17022 Filed 6–27–97; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities; Proposed Collection; Comment Request

ACTION: Request OMB emergency approval; Petition for Amerasian, Widow(er), or Special Immigrant.

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. OMB approval has been requested by July 31, 1997. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information and Regulatory Affairs, Attention: Ms. Debra Bond, (202) 395–7316, Department of Justice Desk Officer, 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 29, 1997. Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points.

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

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

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

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

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Petition for Amerasian, Widow(er), or Special Immigrant.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–360. 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. As provided in 8 CFR 204 of the Immigration and Nationality Act, this information collection is used to classify an alien as an Amerasian, widow or widower, battered or abused spouse or child and special immigrant, including religious worker, juvenile court dependent and armed forces member. The petition is used to determine eligibility for the benefit.

(5) *An estimate of the total of respondents and the amount of time estimated for an average respondent to respond:* 8,397 respondents at 2 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 16,794 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 Directive 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, 1011 G Street, NW., Washington, DC 20530.

Dated: June 24, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–16980 Filed 6–27–97; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

[OJP(NIJ)–1125]

RIN 1121–ZA71

National Institute of Justice Solicitation ''Evaluation of the National Institute of Corrections Criminal Justice System Project''

AGENCY: Office of Justice Programs, National Institute of Justice, Justice.

ACTION: Notice of solicitation.

SUMMARY: Announcement of the availability of the National Institute of Justice solicitation ''Evaluation of the National Institute of Corrections Criminal Justice System Project''.

ADDRESSES: Proposals should be mailed to the National Institute of Justice, 633 Indiana Avenue, NW., Washington, D.C. 20531.

DATES: The deadline for receipt of proposals is close of business on August 19, 1997. Postmarked applications received after this date are not acceptable.

FOR FURTHER INFORMATION CONTACT: For a copy of the solicitation, please call the National Criminal Justice Reference Service at 1–800–851–3420. For general information about application procedures for solicitations, please call the U.S. Department of Justice Response Center at 1–800–421–6771.

SUPPLEMENTARY INFORMATION: The following supplementary information is provided:

Authority

This action is authorized under the Omnibus Crime Control and Safe Streets Act of 1968, §§ 201–03, as amended, 42 U.S.C. 3721–23 (1988).

Background

In March 1997, the National Institute of Corrections (NIC) began funding the Criminal Justice System Project (CJSP), created to assist criminal justice policymakers in eight State and local jurisdictions in developing and implementing new capacities for solving a wide range of corrections problems. Success is defined by developing and implementing purposeful, informed policies on the design, use, capacity, and cost of selected components of their correctional system for pretrial and sentenced offenders. Policies should be the product of ongoing sanctioning policy development, system monitoring, and collaboration among criminal justice policymakers and the community.

The purpose of this solicitation is to evaluate the implementation of CJSP, focusing on the steps taken to develop a new correctional policymaking structure. Grantees will be expected to provide regular feedback to NIJ, CJSP, and NIC to enable program development and informative evaluation.

Interested persons should call the National Criminal Justice Reference Service, at (800) 851–3420 to obtain a copy of ''Evaluation of the National Institute of Corrections Criminal Justice System Project'' (refer to SL #000218). For World Wide Web access, connect to the NCJRS Justice Information Center at http://www.ncjrs.org, and click on Justice Grants. Those without Internet access can dial the NCJRS Bulletin Board via modem: dial 301–738–8895. Set modem at 9600 baud, 8–N–1.

Jeremy Travis,

Director, National Institute of Justice.

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DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP(BJA)–1116]

RIN 1121–ZA62

State Criminal Alien Assistance Program

AGENCY: Office of Justice Programs, Bureau of Justice Assistance, Justice.

ACTION: Notice of final guidance and application information.

SUMMARY: This notice is to announce funding availability and final guidance on the application process for States and political subdivisions to obtain reimbursement for the incarceration of undocumented criminal aliens under the *State Criminal Alien Assistance Program*.

DATES: Application forms and supporting information will be mailed directly to eligible applicants on or before June 30, 1997; applications must be postmarked no later than August 30, 1997.

ADDRESSES: Applications should be submitted to the Bureau of Justice Assistance Control Desk, Office of Justice Programs, 633 Indiana Avenue, NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Linda James McKay, SCAAP Coordinator, State and Local Assistance Division, Bureau of Justice Assistance, or the Department of Justice Response Center, 1–800–421–6770 or 202–307–1480.

SUPPLEMENTARY INFORMATION: The following supplementary information is provided:

I. Background

A. Proposed Guidance

The State Criminal Alien Assistance Program (SCAAP) provides reimbursement to States and localities for costs incurred in incarcerating undocumented criminal aliens. The program is administered by the Bureau of Justice Assistance (BJA), a part of the Office of Justice Programs (OJP) in the Department of Justice, in conjunction with the Immigration and Naturalization Service (INS), which is responsible for verifying the undocumented criminal alien status of all individuals for whom records are submitted.

A notice of proposed guidance on the application process and eligibility criteria for States and political subdivisions to obtain reimbursement under SCAAP was published in the **Federal Register** on March 18, 1997 (62 FR 12848). In that notice, BJA solicited comments on the application procedures outlined therein. In this notice BJA responds to public comments and provides the final guidance on application procedures. However, actual application forms, including preprogrammed diskettes for filing information electronically, will be mailed directly to correctional agencies in eligible States and political subdivisions by June 30, 1997.

B. Statutory Authority and Agency Administration

SCAAP is authorized by section 241 of the Immigration and Nationality Act of 1990, as amended, 8 U.S.C. 1251(i). The Fiscal Year (FY) 1997 Omnibus Appropriations Act, Pub. L. 104–208, 110 Stat. 3009 (September 30, 1996) amended the authorization for SCAAP in FY 1996, redesignating section 242 of the INA as section 241 (codified at 8 U.S.C. 1251(i); 8 U.S.C.A. 1231(i)) and making changes to the characterization of ''undocumented criminal alien.'' These changes are discussed below and incorporated into this final guidance.

Section 241 gives the Attorney General the discretion, in the event of an appropriation, to either reimburse States and localities for costs incurred in incarcerating qualifying criminal aliens or to take such aliens into Federal custody. For FY 1997, the Attorney General has exercised her discretion to reimburse by delegating the authority

(through the Assistant Attorney General for the Office of Justice Programs) to the Bureau of Justice Assistance (BJA) to implement the program. BJA is a criminal justice grant making and administrative agency within the Department of Justice. It is only authorized to award and administer criminal justice grants and, thus, has no ability to take custody of undocumented criminal aliens being held at the State and local levels. Therefore, SCAAP is being administered as a reimbursement program. For FY 1997, $500,000,000, less administrative costs, is available for reimbursement payments under SCAAP.

C. Importance of Collecting Data on Aliens

As stated in the notice of proposed guidance, BJA has a responsibility to gather sufficient information to verify alien status and otherwise ensure that the data underlying its awards are complete and accurate. BJA has attempted throughout its administration of SCAAP to balance the burden on applicants to provide information relevant to and supportive of their claims for awards with the need to ensure that funds are being distributed in accordance with statutory criteria. To that end, in its first two years of operation, BJA has allowed applicants to provide, in good faith and on certification, limited data to support the eventual distribution of award funds.

As the program matures and appropriation levels for SCAAP increase, the focus of the program must move, as Congress intended, to reimbursing and verifying on an individual basis rather than continued reliance upon obtaining only partial or estimated information that may be easier for the applicants to provide. Thus, while BJA has been guided by the comments received to its proposed application requirements to ask only for what is essential for applicants to provide this year, we must adhere to requirements that further the longer term goal of an application process which collects information on individual incarcerated aliens using standardized coding schemes in easily retrievable electronic form.

Therefore this year, because of a change in the law which greatly expands the numbers and categories of incarcerated aliens who may be counted, the applicant must provide information demonstrating the requisite conviction level and type of offense for all aliens claimed for reimbursement.

Further, a change in the manner in which applicants are reimbursed for aliens for whom there is no positive match to INS records relieves applicants of attempting to determine which inmates might be reimbursable. This allows them to submit records for all suspected alien inmates. INS will take the responsibility for ensuring that aliens are properly identified and their status verified.

Most importantly, the continued reliance on a one-day count, which provides only an estimate of bed spaces occupied by inmates who might be qualifying aliens, as an equivalent option to a methodology that leads to the actual identification of qualifying aliens, is no longer acceptable. Therefore, BJA is asking all applicants to provide data on as many aliens as they can determine were incarcerated in their facilities during the one-year reporting period for this year's reimbursement cycle; eligible applicants who cannot comply with this requirement may use a one-day count taken at any point during the application period. However, this method is likely to result in a much lower level of reimbursement than would the use of the primary method.

Since aggregating the numbers of aliens housed throughout the year will continue to be the method used for SCAAP, BJA strongly suggests that all jurisdictions begin now to keep track of all foreign born inmates entering and leaving their facilities, so that they may benefit from SCAAP more completely in FY 1998.

D. Achieving Parity Between State and Local Applicants

A second goal for SCAAP this year, as suggested in the proposed guidance, is to impose the same requirements on both the States and the local subdivisions which apply. In the first year of SCAAP funding, only State departments of corrections were eligible. However, when the program was expanded last year to include local jails, some distinctions were made between State applicants and local applicants. This was based on the assumption of longer lengths of stay in State as opposed to local institutions.

Although this distinction is reasonable as a rule of thumb, and because there was some limited national data on lengths of stay for sentenced felons housed in jails, BJA factored this distinction into its formula in FY 1996 through the use of standardized lengths of stay for inmates counted by those applicants choosing the one-day count method. However, the lack of current, reliable data on lengths of stay of all types of inmates in all types of correctional facilities cannot support continued distinction among State and local agencies and BJA cannot arbitrarily assign some standardized length of stay which is not adequately supported by data and thus may be unduly favorable to one type of applicant over another.

Therefore, beginning this year, both State and local applicants will be expected to comply with the same requirements for SCAAP application.

II. Comments Received and BJA Response

Responses were received from 10 State departments of corrections and two county jail agencies. These responses addressed a number of topics and led to some changes in the approach that BJA will take during this year's distribution of SCAAP funds. In particular, respondents were concerned that requirements had been added or prior options restricted at the same time as the application period had been shortened. While, BJA is bound by changes in the governing legislation to add some restrictions and the proposed application period was not significantly shorter than in the prior two cycles, BJA is acutely aware of the increased amount of information required for the application and has made modifications to accommodate applicants while continuing to treat all eligible applicants fairly.

In particular, the need to ensure that applicants have a sufficient amount of time to provide the necessary information (as set forth in this announcement), has led BJA to extend the application period to 60 days and allow applicants to use their own offense coding system if use of the FBI's NCIC codes is not feasible. However, as indicated in the background section, BJA must ensure that the funds distribution model described herein furthers the intent and goals of the legislation governing this program.

The specific comments and BJA's response to them are as follows:

Foreign Country of Birth Information. Several comments concerned the mandatory requirement to provide a foreign place of birth. In particular, the comments were that it is the responsibility of INS to determine alien status and place of birth is not necessary to this determination; that place of birth information may be unreliable because it is self-reported or because aliens will lie to avoid possible deportation; that alien status may be suspected but the exact foreign country is not known; and that inmates for whom no foreign country of birth is given will be dropped completely from the numbers claimed unless a positive match with INS records is made.

Response. BJA's clear responsibility under SCAAP is to reimburse only for qualifying aliens. We do agree that only INS should determine which inmates are aliens and which ones qualify for reimbursement under the alien status categories listed in SCAAP law. Therefore, BJA asks only that applicants demonstrate some reasonable basis that the inmates they count and submit are potentially eligible by providing a foreign country of birth. We have facilitated submission of this information by allowing applicants to use their current data entry codes or terminology and submit a data dictionary if place names are coded rather than spelled out.

Further, BJA allows submission of records of inmates without country of birth specified or even with U.S. birthplaces, if the applicant has some reasonable basis for suspecting alien status, although such submission are not encouraged and with the understanding that, if there is no positive match, these records will be dropped. Such inmates cannot be treated as ''unmatched aliens'' eligible for reimbursement because we would be likely be reimbursing for inmates not covered by the law. No change from the proposed requirements can be made with regard to this requirement.

Qualifying Conviction Information. A number of comments were received concerning the requirement for provision of information on the conviction or convictions that qualify the alien inmate to be included in the count. Specifically, some of those comments indicated that type of qualifying conviction was not required for the purposes of alien identification while others argued that since State institutions house only felons, there was no need for additional proof of their eligibility under this criteria (at least from State applicants). One respondent indicated that this provision would require his institution to obtain information on prior records which is not readily available or is costly to obtain, and is frequently inaccurate. Another questioned our definition of a felony. Eight respondents commented on the proposed requirement to use the FBI's NCIC codes for identifying offenses. The comments on NCIC coding primarily concerned lack of sufficient time to do the reprogramming necessary to make the conversion from the respondents' current offense coding schemes to NCIC codes, rather than an inability to make the conversion.

Response. A change in the governing legislation, applicable to FY 1997 and future applications, dropped the requirement that all aliens for which reimbursement was made be sentenced felons and instead allows applicants to submit records for those inmates convicted of one felony or two misdemeanors, regardless of whether sentences have been imposed. Due to this major expansion in potential qualification of inmates for reimbursement, and consistent with our overall goal of obtaining more accurate and specific data on inmates for whom reimbursement is being made, BJA strongly feels it must ask for the level and type of offense that qualifies the inmate to be counted. The information requested has been reduced from that first proposed, however, to ask only if the qualifying conviction is a felony or two misdemeanors and what the offense code is, for the most serious conviction about which the applicant has information.

Further, for this award year, applicants will be allowed to use the offense coding scheme they currently have in place, as long as they submit a data dictionary (preferably in electronic form) which indicates the actual offenses and their corresponding codes. Applicants who can do so are strongly urged to use either the 2-digit or 4-digit NCIC code, and all eligible applicants are notified that BJA intends to move toward mandatory use of NCIC coding, perhaps as early as FY 1998. Thus, jurisdictions should be taking this type of conversion into account in their planning and systems programming.

With regard to which conviction offense should be coded, BJA will not specify any hierarchy among offenses (other than to choose the most serious if more than one qualifying conviction is known) nor set any time limit within which such offense must have occurred. Any qualifying conviction (one felony or the second misdemeanor) about which the applicant has information can be used. Thus, applicants who have limited information may rely on the ''controlling'' offense that resulted in the incarceration (if conviction has already occurred), on any known prior qualifying conviction, or on a qualifying conviction occurring during the reporting period. If a qualifying conviction exists, all of the time the inmate has been held in the applicant's custody can be counted, regardless of when the conviction occurred or whether or not a sentence of ''time served'' is subsequently imposed.

Although it is true that most State facilities house only felons, some States and all local facilities house misdemeanants. Indeed, some States run local facilities and others contribute to the costs of running such facilities. Thus, there are many variants from the strict State/local hierarchy suggested by some comments received. BJA feels strongly the need to standardize the requirements placed on both categories of applicants rather than to continue to make assumptions more favorable and/or less burdensome to States than to local applicants.

One applicant argued that the definition of ''felony'' should be those offenses for which the possible sentence could be ''one year or more'' rather than ''more than one year.'' The definition currently used is consistent with normal Federal usage and is correct. It should be noted, however, that this definition only applies if the applicant's State law does not have any established definition of felony and is applicable only to a few applicants.

Other inmate record requirements. One or more respondents had comments (some negative and some positive) about several other proposed inmate record requirements. One objected to the need for earliest possible release date. Others commented on the option to provide multiple records, generally indicating that they had no problem with this option.

Response. The request for earliest possible release date has been dropped. The option to submit multiple records for the same inmate is retained because this option allows applicants great flexibility to furnish additional identifying information on suspected criminal aliens, which increases their chances of having positive matches to INS records. Applicants may choose to submit only one record per inmate, but they are encouraged to submit as many records for inmates with legitimate indicators of alien status who have multiple names or dates of birth as they can in a cost effective manner. Applicants are reminded that multiple records must be traceable to a single inmate through use of an unique inmate number, which is a required data element.

Scope of alien coverage under the law. One respondent commented that the criterion for reimbursement should be ''deportability'' and another complained of the failure to automatically include ''Mariel Cubans.''

Response. BJA's criteria for inmate qualification and alien reimbursability come from a plain reading of the governing legislation. Therefore, while this program addresses criminal aliens, it does not provide reimbursement for every type of deportable alien, only for those who are clearly designated within the categories listed in the law itself. In particular, the inclusion or exclusion of ''Mariel Cubans'' under SCAAP is of concern to some applicants. A clear

reading of the statute does not recognize ''Mariel Cubans'' as a distinct category; thus, those aliens who might fit under that label are treated as are all other inmates whose names are submitted.

Treatment of unmatched aliens. Two of those commenting noted the proposed change in the way in which BJA and INS will determine the percentage of unmatched inmates for which applicants will receive reimbursement. Both indicated that they felt that the information given in the announcement was insufficient to allow comment and that an additional opportunity for comment should be allowed once the final methodology for this distribution is determined.

Response. Last year, alien inmates who could not be positively matched were allocated between reimbursable and nonreimbursable categories in the same ratio as those positively identified. In its earlier announcement of proposed guidance, BJA indicated that allocation of unmatched alien inmates would be based on a study which would determine how likely it was that the INS databases did not have information on alien inmates who were nonreimbursable. This study was to be based on the results of interviews of inmates that were conducted by INS field agents and the study had not been concluded at the time the initial announcement for comment was made.

The study indicated that approximately 95 percent of those interviewed who had no previous record in any INS database were determined to be undocumented aliens. Thus, this year applicants will be given credit for 95 percent of the unmatched inmates with valid foreign countries of birth. Since this percentage is higher than any ratio applied to any applicant's unmatched inmates in either prior year, BJA believes that no applicant will be prejudiced by its decision not to provide an additional comment period on this one issue.

Inmate counting methodology. A frequent comment made about provision of inmate records concerned the counting methodology to be used. BJA proposed to essentially eliminate the ''one-day count'' that had been used in the first two funding years in favor of an aggregate count of all alien inmates in the applicant's custody during the year-long reporting period (July 1, 1996 through June 30, 1997).

State agencies commenting indicated that providing a total or aggregate count of inmates, especially with provision of individual lengths of stay, would require extensive reprogramming that would take time and require, in some cases, searching several data bases, not all of which are under the direct control of the respondent. Almost unanimously, the 10 State comments asked that the one-day count be retained as a equal option to aggregate counting, with continued credit for a full year's slot (bed space) for each alien counted.

One State and one local respondent suggested that an alternative technique of sampling over some time period would be preferable to counting every inmate for the full year or suffering a significant reduction in total reimbursement due to use of a one-day count. One of the two local respondents indicated that it was unlikely that they could provide aggregate counts because they were not automated and thus expected to be seriously prejudiced in terms of reimbursement.

However, as in the case of utilizing NCIC codes, most respondents indicated that make the move to aggregate counting would require reprogramming that would be time-consuming, rather than indicating that it would be impossible to comply with the requirement.

Response. When working only with State agencies in the FY 1995 funding year, BJA had allowed a one-day count and gave applicants credit for having the number of inmates counted every day during the reporting year. That is, each reimbursable alien inmate verified by INS was treated as a full-time equivalent on the theory that most State correctional beds were always filled and that sentenced felons were likely to be incarcerated for at least a year.

Those same assumptions could not be made for local jails, which became eligible under the program in FY 1996. However, due to a foreshortened application period and the lack of definitive information on numbers, types, and lengths of stay of aliens in local jails, the one-day option was again allowed in FY 1996. Local jails were allowed to claim only 152 days for each alien inmate determined to be reimbursable, however, which was the average length of stay determined in an unrelated national survey results for sentenced felons housed in local jails. State agencies continued to receive a full year's credit.

The aggregate count option (counting all aliens incarcerated during the reporting year) was also allowed in FY 1996, and approximately one-fourth of the State correctional agencies and two-thirds of the local applicants chose that option. While the total numbers of applicants was small, the high use of aggregate counts in FY 1996 was encouraging and the evidence on actual lengths of stay was illuminating. For both State and local agencies, the actual, average lengths were much shorter than the standardized figures allowed.

More importantly, in proposing to move to aggregate counts as the preferred option in FY 1997, BJA was motivated by concerns about perpetuating a distinction between State and local agencies in counting methodology and overall reimbursement formula which might not be fair. Further, the use of standard lengths of stay emphasized ''bed spaces'' rather than individual incarcerated aliens.

In balancing the desire for better information against the limited time that it can allow applicants to provide the information required, BJA has decided to allow applicants a longer time period for application, and retain the admittedly less favorable one-day count option, for both State and local applicants to use only if they are unable to reconstruct data about inmates released from their facilities prior to the end of the official reporting period. Applicants selecting this option may choose any day during the application response period for the count, up to the day the application is submitted, but will receive credit only for days the counted inmates were incarcerated during the reporting period.

An intermediate option is also being allowed. This is to provide less than full year data on those inmates, housed by the applicant during the one-year reporting period, for which the applicant still has sufficient information to supply mandatory data items. This option may help some local jails that keep inmate data for limited periods. Note that these less than full year counts will not be used to credit applicants with estimated counts for the full year, but should certainly increase the number of inmates for whom these applicants may receive reimbursement.

However, in all cases, applicants will be expected to provide full data on every inmate counted, including dates of entry and (if applicable) release from custody. All applicants are notified that BJA intends to move toward aggregate counting methodology and eliminate the one-day count entirely in FY 1998.

Calculating lengths of stay for inmates counted. Related to the count methodology issue was the difficulty of calculating lengths of stay falling with the year-long reporting period. Several respondents suggested it would be easier for them if they could give admission and release dates and have BJA or INS do these calculations.

Response. BJA and INS will accede to this request. As part of its review of inmate records, INS will do all calculations of the lengths of stay for all inmates submitted, regardless of

whether applicants use the aggregate or the one-day count method. These calculations will result in a final number of inmate equivalents for reimbursement purposes. For each inmate counted, the applicant will need to provide only the date he or she entered custody and the date he or she was released from custody (if the inmate has been released), regardless of whether these dates fall within the reporting year (July 1, 1996, through June 30, 1997).

Having the actual date upon which the inmate entered custody will also allow INS to properly search for aliens qualifying under the ''subject of proceedings'' provision in the SCAAP law. Applicants should note that the release date requested is not a projected date but an actual date, and only applies if the applicant no longer has custody of the inmate. If the inmate is still in custody on June 30, 1997, or for those doing a one-day count, on the date of the count, this data field should be left blank.

Length of the application period. A number of comments were received indicating that the proposed applicant response time of at least 30 working days would not be sufficient to meet the various requirements proposed. Time periods from 60–120 days were mentioned as being necessary for reprogramming required to do aggregate counting and/or code qualifying offenses using NCIC codes.

Response. Despite the modifications BJA is adopting as a result of the comments received, BJA understands that an application period longer than 30 days may be necessary. Therefore, the due date has been moved to August 30, 1997. This should also accommodate those respondents who indicated that they would be pressed to finish by mid-July an aggregate count ending on June 30, 1997. Any additional delay in the deadline for application must be balanced against the desires of applicants to receive reimbursement as soon as possible. It is hoped that this extension of time will still allow final awards to be made in December 1997.

To facilitate this process, application kits will again be sent directly to correctional agencies that will have the necessary information. However, BJA wishes to emphasize that an agency's parent governmental entity (e.g, State, county or city) is the official eligible applicant and the correctional agency may only apply by delegation from that entity. An official delegation will be required in order to complete the application.

Cost per inmate data requirements. Four comments addressed aspects of the cost data required. Of these, three commentators indicated they had no problems with the cost data calculation. The fourth respondent criticized the method for making this calculation, the prohibition against inclusion of capital expenses, and the timing of the cost data. In particular, this respondent argued that applicants should be able to claim all alien inmates for whom they have legal responsibility, regardless of where they are housed. This commentator also indicated that facility costs are part and parcel of what jurisdictions must pay to house inmates and by not including them, the Federal Government is not reimbursing for all costs of housing undocumented aliens. Finally, this respondent was concerned that cost data for the reporting period would not be available by the date the application was due.

Response. In general, BJA has required and received the same type of cost information under essentially the same rules in both prior years. The method required gives applicants the flexibility to use readily available cost-per-inmate data that is not restricted to the cost of incarcerating the inmates counted for reimbursement. Only routine operating costs are allowed, but applicants can claim the full costs of running all facilities in their system. In recognition of the differences in accounting methods and fiscal years, BJA allows applicants to use the most current fiscal data available to them, including prior year data.

In FY 1995, applicants were allowed to claim a standard percentage over routine operating costs to cover nonroutine costs. However, capital expenses and other nonroutine costs do not fall evenly over all applicants and their inclusion could radically increase the cost per inmate for some applicants in some years. Because funds are limited and will not cover all costs claimed by applicants, BJA continues to believe that the restriction to the ''routine operating costs'' approach is fairer to all eligible applicants.

Recognizing that inmates move among institutions frequently and that many correctional agencies have inmates housed out of their jurisdiction or are housing inmates for other jurisdictions, BJA adopted an approach which offsets costs as the means of controlling for a number of possible situations in which the legally responsible agency is not the immediate custodian of an inmate. Applicants add in payments they make to other jurisdictions or private vendors for housing their inmates elsewhere and deduct payments to them for housing other jurisdictions' inmates. By using this method, BJA allows applicants to count all otherwise qualifying inmates actually housed in their institution during the reporting period without incurring duplication of costs or requiring cost information to be particularized to the individual inmates counted.

BJA does not feel it necessary or appropriate, based on these comments, to change the basic requirements for inmate costs. BJA is providing more detail on the types of situations which might arise in making these calculations to address issues that have occurred in the past 2 years of program administration.

Other comments. One comment questioned the need for requiring applicants to give assurances that they are complying with a wide range of Federal laws that have no relevance to the specific goals of SCAAP or the rules governing use of SCAAP funds. Two noted a desire to have feedback from INS as to specific aliens positively identified in prior award cycles. One respondent pointed out potentially confusing terminology regarding qualifying aliens.

Response. While SCAAP is unusual in that it provides reimbursement payments that, once legally obtained by the applicant, can be used by the applicant for any legitimate purpose, it remains a Federal grant program providing funds to eligible applicants. As such, applicants must adhere to standard Federal grant eligibility requirements, which include adherence to Federal laws. If applicants cannot meet these criteria, they are not eligible to receive Federal funds, no matter the purposes to which they plan to apply their reimbursement. Thus, all standard Federal assurances and certifications must be made at the time of application.

After the FY 1995 awards, INS did provide applicants with information on those aliens who were positively identified, whether or not the inmates had been determined to fall within a reimbursement category. Such information is not necessary to make the FY 1997 application, however, since there will be no reliance on the ratio of reimbursable to nonreimbursable aliens in determining the portion of unmatched alien inmates for which FY 1997 reimbursement will be made. However, this information may be of use to the applicant and INS plans to provide this information, as soon as feasible, to those applicants who received FY 1996 awards and who receive FY 1997 funds.

BJA and INS would like to thank all respondents for their thoughtful comments. This feedback has assisted

us in developing our final guidance for FY 1997, which is set forth below.

In addition, BJA would encourage any eligible applicants, and particularly local jurisdictions as few in this category responded to the earlier announcement, to provide BJA with comment on their experiences in making application in FY 1997 or their reasons for not making application, should that be their choice. Such comments can be submitted to the address for applications shown in the beginning of this notice, to the attention of Linda McKay, SCAAP Coordinator.

III. Final Application Guidance

Correctional facilities in eligible jurisdictions will receive an application kit that will include the following general guidance as well as proper forms and other materials with instructions for completing the forms, formatting data, and mailing in the application. Thus, the following information concerns only the essential requirements for application, as were previously announced and/or as modified from that prior announcement.

A. Eligible Applicants

Eligible applicants are States and political subdivisions of States (hereafter, ''localities'' or ''subdivisions'') that exercise authority with respect to the incarceration of an undocumented criminal alien in a facility that provides secure, overnight custody of inmates for periods extending beyond 72 hours. Only one application may be submitted by each State or locality; therefore, cost and inmate information from all facilities operated by a single applicant must be consolidated into a single application. A State correctional agency which directly operates some or all jails located in its political subdivisions should consolidate data from all such facilities.

The applicant may be either the chief executive officer (CEO) (e.g., governor, county executive, mayor) of the political entity or the head (e.g., director, commissioner, sheriff) of the correctional facility in that jurisdiction, pursuant to a delegation from the CEO. *Such delegation must be made in writing and be submitted to BJA by the CEO or correctional agency head applying on behalf of the jurisdiction.* A copy of a valid delegation previously obtained and submitted to BJA for the purpose of SCAAP will be acceptable.

Awards will be made to the place of business of the signatory on the application, regardless of designation. That is, if the county board chair (or county manager, county auditor, etc.) signs the application, the formal applicant is the county, at the address of the county office. If the county sheriff signs the application pursuant to delegation from the county board, the formal applicant is the sheriff, and the award will go directly to the address of the sheriff (or the county correctional facility). *Jurisdictions that want awarded SCAAP funds to be deposited into an existing governmental bank account or Letter of Credit (LOCES) account rather than into the correctional agency's account should have the CEO or a designated governmental officer (e.g., county manager or chief financial officer) sign the application and use their place of business as the official applicant name and address.*

For the purposes of the remainder of this guidance, ''*applicant*'' refers to the head of the correctional facility housing the alien inmates, as this facility is the source of both inmate and cost data required for the application.

B. Reimbursable Inmates and Length of Stay Calculation

Applicants will be expected to submit records on all inmates in their custody who have a foreign country of birth and who have been convicted of a felony or two misdemeanors. Applicants should not screen out aliens known or believed to be nonreimbursable. The methodology for determining reimbursability of unmatched inmates (as discussed below in subsection D, ''Verification of Inmate Data'') will *not* depend on the ratio of reimbursable to nonreimbursable inmates, as was the case in prior years. This change means that applicants will not be required to make any judgments about the potential reimbursability of their incarcerated aliens.

Not all foreign-born inmates whose records are submitted will be determined to be reimbursable aliens under the law. *To be reimbursable, an inmate must:*

- *Have a foreign country of birth.* The record submitted must contain the name of that foreign country. See the discussion under subsection D below for submission of suspected foreign-born inmates who do not self-report a foreign country of birth.
- *Fall within one of three categories specified in the statute:*
- *Entered the United States without inspection* or at any time or place other than as designated by the Attorney General;
- *Was the subject of exclusion or deportation proceedings at the time he or she was taken into custody* by the State or a political subdivision of the State; or
- *Was admitted as a nonimmigrant and at the time he or she was taken into custody* by the State, or a political subdivision of the State *has failed to maintain the nonimmigrant status* in which the alien was admitted (or to which it was changed) or to comply with the conditions of any such status.

In determining who is the ''subject of'' proceedings under the second category, an alien would be considered eligible to be counted for reimbursement if the charging document had been issued by INS prior to that alien's entry into the applicant's custody. The charging document need not be served against the alien nor filed with the immigration court. Alien inmates with final orders of deportation or exclusion will also be considered the ''subject of'' proceedings. Cubans who entered the United States as part of the 1980 Marielito boatlift (''Mariel Cubans'') are *not* separately eligible and will not automatically be included for reimbursement; rather, Cuban inmates, as all other inmates, will be reimbursable only to the extent they fall under one of the categories listed above.

- *Have been in the applicant's custody at some point between July 1, 1996, and June 30, 1997.* Applicants should count and report on all inmates who are otherwise qualifying under this section who were in their custody during this period and for whom they can provide the mandatory data elements described in C below. If correctional agency records are not adequate to provide information on inmates housed for the full year, the applicant may report on any lesser time period *within* this year-long reporting period. These less-than-full-year counts will *not* be used to credit applicants with higher estimated counts for a full year; rather, applicants will receive credit only for individual inmates for whom complete records are submitted. However, this intermediate option should certainly increase the number of inmates for whom these applicants may receive reimbursement.

A one-day count option is allowed, but applicants should use this method *only* if it cannot recreate accurate data for inmates who left the institution prior to the end of the reporting period. Applicants using this one-day count will receive credit only for those inmates counted who are determined to be qualifying aliens and only for the lengths of stay of these individual inmates that occurred within the reporting period. Applicants using this option may choose any day up to the day of application submission to make the one-day count.

Applicants are asked to provide, for each inmate counted, the date the inmate first came into the custody of the applicant and the date the inmate was released from custody (if already released). If an inmate is still in the applicant's custody at the end of the reporting period (or at the time of the one day count if that option is chosen), the field for release date should be left blank. All calculations of lengths of stay will be made by INS. Note that a cap of 365 days will be imposed on the number of days an applicant may claim for a single inmate.

Applicants will be asked to report, on the official application form, the count option chosen and the time period (up to 365 days) for which they were able to provide complete inmate records. Further instructions will be contained in the application kit.

- *Have been in the applicant's custody for a period exceeding 72 hours.* Police ''lockups'' and similar holding facilities are excluded, and applicants are not expected to submit records for persons held pending arraignment on new charges who are then released and not again incarcerated. However, once an applicant has exercised custody over an inmate beyond 72 hours, *all* time in custody (up to 365 days per inmate) will be credited in the length of stay calculation for an otherwise qualified alien, as defined in this section.
- *Have one felony conviction or two misdemeanor convictions.* Qualifying conviction(s) can occur prior to entry into the applicant's custody or be the result of charges that led to that incarceration. Once a conviction does occur, all time in custody during the specified one-year reporting period may be counted, even though some of the time in custody may have occurred prior to the conviction and even though no final sentence has been imposed. This interpretation recognizes that in most cases, once a conviction occurs, the eventual sentence takes into account ''time served,'' which converts the pretrial custody period into part of the final disposition for purposes of fulfilling the sentence. Although some States have laws automatically requiring this action, in most, the sentencing authority is given this discretion.

Please note that, in either case, the applicant must be able to determine and document that the qualifying convictions have taken place by providing indication of level and type of offense. Thus, particularly for those inmates for whom the qualifying conviction(s) occurred prior to entry into applicant's custody, the applicant must have ready access to accurate and complete criminal history information.

For the purposes of this determination, the applicant should follow its own State law as to what constitutes a felony or misdemeanor and what actions constitute a valid conviction. If a State has no set definition of ''felony,'' a felony should be considered any offense for which the potential sentence that could be imposed upon conviction is more than one year.

C. Specification for Inmate Records

The applicant will have two options for providing information about inmates: (1) Applicants may use their own inmate data system to produce a properly formatted data file, or (2) applicants may reenter data into a database shell on a diskette to be provided by BJA. For applicants choosing the first option, all inmate data submitted must be in ASCII format, in fixed length fields. Further, unless a specific exception is noted below, all data fields must be completed. *Failure to provide the requested data in the proper format will result in exclusion of the record from the verification process.* Exact information on the order and length of data fields will be provided in the application kit, which will be mailed to eligible jurisdictions.

The following inmate data will be requested:

- *Alien (''A'') number.* An ''A'' number is an 7-, 8-, or 9-digit number that may have been assigned to an inmate by INS and may or may not be known to the applicant. If no A number is available, the applicant may leave this field blank.
- *First, middle, and last names of the inmate, including all aliases.* A separate record may be submitted for each alias, but each record must repeat all required information in the proper data fields as if it were the only record being submitted for that individual.
- *Date of birth.* If more than one date of birth is provided, a separate record should be used for each date, as in the case of different names.
- *Unique identifying number for each inmate.* This number will allow INS to check separate alias or date of birth records, but avoid duplicate counting of the same inmate. The number is assigned to that inmate by the applicant and will generally be used by the applicant for other identification purposes.
- *Foreign country of birth.* Applicants should supply the actual name of the foreign country (up to the first 10 letters of the name will be allowed) or use a coding system. If a coding system is used, applicants must submit documentation of the codes as part of their applications, preferably in electronic form as a separate file on the inmate diskette submitted.
- *Date upon which the alien entered into the applicant's custody and date of release, if the inmate has already been released.* These dates will be required for all inmates, not just those potentially qualifying under the ''subject of proceedings'' category and will be used to calculate the length of stay of inmates counted. For inmates still in applicants' custody at the end of the reporting period (or date of the one day count), the date of release field can be left blank. Unlike last year, no predetermined, standard lengths of stay will be allowed. Both State and local facilities will be expected to comply with this requirement.
- *Type and level of crime of the qualifying conviction(s).* Applicants will be expected to code the level of the qualifying conviction (using ''F'' for one felony or ''M'' for two misdemeanors) and code the actual type of offense for which a conviction has occurred. The preferred coding scheme for the latter is the Federal Bureau of Investigation's National Criminal Information Center (NCIC) coding scheme, which provides 2-, 4-, and 8-digit codes. However, this year applicants may use the coding scheme currently in use for normal operational purposes and provide (preferably in electronic form on the inmate data diskette submitted to BJA) a data dictionary that identifies the offenses covered by the codes.

Only one of the two qualifying misdemeanors required under the law will need to be coded. BJA is not requiring applicants to establish a hierarchy among offenses nor is it placing any time limit within which such offenses must have occurred. Any qualifying conviction about which the applicant has information can be used, although the applicant should record the most serious offense for which it has conviction information. Thus, applicants who have limited information may rely on the ''controlling'' offense that resulted in the incarceration (if sentencing has already occurred) or on any known prior qualifying conviction or on a qualifying conviction that occurs during the reporting period.

- *FBI number.* Although not required, this information that will increase the probability of a positive match between applicant and existing INS records.

In addition, *each applicant will be preassigned a jurisdictional identification number that must appear on the diskette label and as part of every record submitted.* This number must also appear on the formal application

document. BJA will preprint this number on the labels and form, and it will be preentered into the BJA-provided inmate diskette. However, applicants converting their data directly into ASCII on their own diskette must ensure that their unique jurisdictional number is entered as part of each record submitted.

D. Verification of Inmate Data

INS will verify applicants' inmate records by matching those records to records in INS databases. The matching process will result in three groups of inmates: Positively identified reimbursable inmates, positively identified nonreimbursable inmates, and inmates not matched.

A reimbursement rate will be applied to inmates whose eligibility cannot be determined through a positive match. Unlike in prior years, this rate will not be based on the ratio of matched reimbursable to nonreimbursable inmates whose records are submitted by the applicant, but rather is based on a separate process. A study by INS of how likely it would be that INS databases did not have information on alien inmates who were nonreimbursable used the results of interviews of inmates that were conducted by INS field agents over a period of time. The study indicated that approximately 95 percent of those interviewed who had no previous record in any INS database were determined to be undocumented aliens. Thus, this year applicants will be given credit for 95 percent of the unmatched inmates with valid foreign countries of birth. This new procedure will lead to more uniformity among applicant submissions and thus be more equitable to all applicants.

Applicants who have a reasonable basis to believe that an inmate has falsely claimed to have been born in the United States or its territories and possessions (e.g., Guam, Northern Mariana Islands, the Virgin Islands, or Puerto Rico) may include those inmates in their data submissions. Similarly, applicants may include in their submissions inmates for whom they have no known country of birth. If INS is able to match these inmate records, they will be retained as part of the applicants' submissions. However, if INS is unable to match inmates for whom no foreign country of birth is provided, those records will be deleted from the applicants' submissions.

E. Cost of Inmate Custody

Only routine operating expenditures will be allowed as part of the calculation of annual inmate costs; capital expenditures and nonroutine costs will not be allowed. Cost calculations should be based on routinely maintained cost figures for all facilities administered by the political subdivision submitting an application, not on costs directly associated with alien inmates claimed. The costs should be calculated based on the average number of bed spaces filled in all facilities under the applicant's control over the course of the year, not on an average of the costs of running each separate component facility.

In making calculations, *all payments, including Federal payments, to the applicant from other jurisdictions to cover costs of housing inmates for those jurisdictions must be deducted* from the inmates' overall upkeep costs. Payments made by the applicant to other jurisdictions to house their inmates can be added to the cost figures. Similarly, services provided within facilities but not charged to the budget of the correctional agency (e.g., vocational training funded through the State's department of education) should not be included. Nor should applicants use inmate cost rates negotiated with Federal or State or other jurisdictions as their basis of claim. Rather, calculations should be based on their own actual costs of inmate custody for the current or the immediately prior fiscal year.

Local facilities that receive State funds that supplement their overall budget, as opposed to funds for housing of specific inmates, should include that State amount in the overall calculation of their routine operating cost. After award, these localities will be expected to share their reimbursement with the State in the same proportion as that State assistance contributes to the local facility's incarceration expenses.

BJA will review and compare inmate cost figures submitted. If requested to do so by BJA, the Department of Justice, or any other authorized auditor, applicants must be able to provide the detailed information that went into their claimed costs calculation. However, this underlying documentation should *not* be submitted as part of the application.

F. Formal Application and Deadline for Application

Application kits will be mailed directly to correctional facilities (unless BJA has been notified by an eligible jurisdiction to provide the kit to another office) by June 30, 1997. The kit will contain:

- This final guidance as well as more detailed instructions for completing all application materials, including inmate data submissions.
- A one-page application form as well as a diskette containing the same data fields to allow electronic submission of the form. The hardcopy application form will be scannable, so only the original can be returned to BJA. If the applicant chooses to enter the data into the diskette provided, the hardcopy form should not be returned. In addition to the basic information on the applicant (e.g., address, contact person, etc.), the application form will ask for information about the CEO of the jurisdiction and the form the delegation will take; the count method used, the inmate diskette option chosen, and number of inmates for which a claim is being made; and, the annual cost per inmate claimed. The authorized signing official for the applicant will, by his or her signature, make all necessary standard Federal assurance and certifications. If the application diskette is used, the electronic entry of the signatory's name constitutes the necessary certifications.
- A diskette preprogrammed to allow direct entry of inmate data on alien inmates counted in the proscribed format. The kit will also contain a diskette label to be put on the applicant's own diskette if the applicant chooses to directly convert its inmate data into the ASCII format.
- Mailing envelopes, one for the submission of diskettes and one for any hardcopy documents to be submitted, including the scannable application form, data dictionaries, or the delegation from the CEO of the jurisdiction, if the applicant is not the CEO. However, this delegation may be mailed separately to BJA.

The deadline for submission of the inmate data and all other application documents (other than the delegation) will be August 30, 1997. This date is a firm deadline (evidenced by postmark); no extensions will be given and late submissions of inmate diskettes will not be allowed. This deadline gives applicants approximately 60 days to complete the required application. During the application period, BJA staff will be available to answer any questions that applicants may have about filling in the formal application. Data specialists familiar with the electronic submissions requested or allowed as options will also be available. After an applicant has met the deadline, BJA reserves the right to ask for additional information to clarify or correct minor errors in the application. Any delegation required must be submitted by September 30, 1997.

G. Award Calculation and Funding Availability

The FY 1997 amount available for distribution is approximately

$492,500,000. As in past years, the formula for award calculation will establish the final dollar claim of each applicant, based on the verification of its inmate and cost data. This calculation will involve multiplying the number of reimbursable inmates (including a percentage of inmates not matched) by the lengths of stay for these inmates by the applicant's actual annual cost per day per inmate. The final claims for all applicants will then be totaled and divided into the available appropriation to determine the percentage payoff on the dollar of each claim. Finally, the award amount for each applicant will be calculated based on that payoff percentage.

Applicants cannot be assured of receiving an award, however, because it is possible that, following INS verification of inmate data, there will be no reimbursable inmates upon which to base an award. Similarly, past reimbursements should not be used to predict future reimbursements because the number of applicants may vary and the eligibility criteria have changed in each of the three years of this program's operation.

The CEO's of all eligible jurisdictions should note that payments can only be made to the applicant named in the application. Therefore, jurisdictions that want awarded SCAAP funds to be deposited into an existing governmental bank account or Letter of Credit (LOCES) account rather than into the correctional agency's account should have the CEO or a designated governmental officer (e.g., county manager or chief financial officer) sign the application and use their place of business as the official applicant name and address.

H. Award and Post-Award Processing

BJA will continue to utilize grants as its reimbursement mechanism. The conditions governing general award eligibility, drawdown, use of funds after drawdown, and the processes used for these events will remain the same as in the past year. In particular, *all payments to applicants will be made electronically.* New applicants will be expected to provide information to allow electronic transfer of funds as part of their award acceptance. Grant closeout will be automatic. Award funds, once properly distributed to eligible applicants, may be used by these jurisdictions for any lawful purposes and need not be applied towards reimbursement of correctional costs.

Dated: June 24, 1997.

Nancy E. Gist,

Director, Bureau of Justice Assistance.

[FR Doc. 97–16998 Filed 6–27–97; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning two proposed extension collections: (1) OFCCP Recordkeeping/Reporting: Construction and (2) OWCP Health Insurance Claim Form.

A copy of the proposed information collection requests can be obtained by contacting the representatives in the office listed below in the **ADDRESSEE** section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before August 28, 1997. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and

Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Contact Mr. Rich Elman, U.S. Department of Labor, 200 Constitution Ave., N.W., Room S–3201, Washington, D.C. 20210, telephone (202) 219–6375 regarding OFCCP recordkeeping and/Reporting. Contact Ms. Margaret Sherrill at the above address regarding OWCP Health Insurance Claim Form at the above address, telephone (202) 219–7601. (These are not toll-free numbers.) Fax (202) 219–6592.

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Federal Contract Compliance Programs enforces E.O. 11246, which prohibits employment discrimination because of race, color, religion, sex, or national origin, and requires affirmative action to ensure that persons are treated without regard to these prohibited factors. The Order applies to Federal contractors who have contracts exceeding $10,000. In addition, OFCCP enforces Section 503 of the Rehabilitation Act of 1973 which applies to Federal contractors and subcontractors with a contract exceeding $10,000, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, which applies to Federal contractors and subcontractors with a contract of $10,000 or more.

II. Current Actions

The Department of Labor seeks extension of approval to collection this information to insure that Federal and Federally assisted construction contractors and subcontractors are in compliance with nondiscrimination and affirmative action contractual obligations.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: OFCCP Recorkeeping/Reporting Construction.

OMB Number: 1215–0163.

Affected Public: Business or other for-profit institutions.

Total Respondents: 100,000.

Total Reporting Responses: 103,675.

Respondents	Average hours per response	Frequency	Total responses	Subtotal hours
Recordkeeping:				
100,000	48	Rcdkpg.	100,000	4,800,000
(2,552 of above, Affirmative Action Plan)	15	Rcdkpg.	2,552	38,943
Reporting:				
(1,077 of above, Compliance Reviews)	3	Annually	1,077	3,231
8 (Hometown Plans)	.42	Quarterly	32	13

Total Hours: 4,842,187.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $7.00.

I. Background

The Office of Workers' Compensation Programs OWCP) is responsible for the administration of the Federal Employees' Compensation Act (5 U.S.C. 8101, *et seq.*) which provides for the payment of medical expenses (for diagnostic and treatment services necessitated by a work-related injury or disease). (20 CFR 10.400 and 10.411)

OWCP is also responsible for the administration of the Federal Black Lung Benefits Act under the Federal Mine Health and Safety Act, as amended (30 U.S.C. 901 *et. seq.*), that provides for payment of medical examinations and related services to determine eligibility for benefits and for payment of black lung (coal mine workers' pneumoconiosis) related medical treatment provided to miners awarded compensation. (210 CFR 725.406, 725.701, an 725.704)

II: Current Actions

The Department of Labor seeks extension of approval to collect this information to insure payment of appropriate benefits or charges of diagnostic and treatment services under both the Federal Empoyees' and Black Lung Compensation mandates, and for reporting payment information required by the Internal Revenue Service.

Type of Review: Extension.

Title: Health Insurance Claim Form.

OMB Number: 1215–0055.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions; Federal Government, State, Local or tribal government.

Total Respondents: 763,516.

Total Responses: 763,516.

Total Hours: 167,868.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $2,800.00.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 24, 1997.

Cecily A. Rayburn,

Director, Divisions of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 97–17041 Filed 6–27–97; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Occupational Safety and Health Administration is soliciting comments concerning the proposed extension of the information collection request for the application for training grant report. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before August 29, 1 997. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket No. ICR 97–20, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210, telephone number (202) 219–7894. Written comments limited to 10 pages or less in length may also be transmitted by facsimile to (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Helen Beall, Division of Training and Educational Programs, OSHA Office of Training and Education, 1555 Times Drive, Des Plaines, Illinois 60018, telephone (847) 297–4810 (this is not a toll-free number), e-mail to helen.beall@oti.osha.gov, or send a facsimile message to (847) 297–4874. Copies of the referenced information collection request are available for inspection and copying in the Docket Office and will be mailed immediately to persons who request copies by telephoning Barbara Bielaski at (202) 219–4690. For electronic copies of the application for training grant Information Collection Request contact OSHA's WebPage on the Internet at http://www.osha.gov/ under Standards.

SUPPLEMENTARY INFORMATION:

I. Background

The Occupational Safety and Health Administration awards grants to nonprofit organizations to provide safety and health training to employees

and employers in the recognition, avoidance, and prevention of unsafe and unhealthy working conditions. The grants are awarded for one year, with the possibility of renewal for one or more years. The grant award process is competitive.

In order to evaluate applicant requests for grants, OSHA obtains information about the applicant and its proposed program through the training grant application. These applications serve as the basis for determining which organizations are awarded grants. When grants are awarded, the applications also become part of the grant, since they include a budget and a workplan for carrying out the training being funded by the grant.

There is no other practical way to obtain this information.

II. Current Actions

OSHA is planning to continue this form because it is planning to continue its training grant program.

Type of Review: Extension.

Agency: Occupational Safety and Heath Administration.

Title: Application for training grant.

OMB Number: 1218–0020.

Agency Number: None.

Recordkeeping: Applicants that are not awarded grants are not required to retain the information. Applicants awarded grants are required to retain the information until three years after grant closeout.

Affected Public: Not-for-profit institutions.

Total Respondents: 200.

Frequency: Annually.

Total Responses: 200.

Average Time per Response: 59 hours.

Estimated Total Burden Hours: 11,800.

Total Burden Cost (operating/maintaining): $337,000.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 28, 1997.

Harvey E. Harris,

Director, Office of Training and Education.

[FR Doc. 97–17042 Filed 6–27–97; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Occupational Safety and Health Administration is soliciting comments concerning the proposed reinstatement of the information collection request for the Grantee Quarterly Progress Report. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before August 29, 1997. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket No. ICR 97–11, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210, telephone number (202) 219–7894. Written comments limited to 10 pages or less in length may also be transmitted by facsimile to (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Helen Beall, Division of Training and Educational Programs, OSHA Office of Training and Education, 1555 Times Drive, Des Plaines, Illinois 60018, telephone (847) 297–4810 (this is not a toll-free number), e-mail to helen.beall@oti.osha.gov, or send a facsimile message to (847) 297–4874. Copies of the referenced information collection request are available for inspection and copying in the Docket Office and will be mailed immediately to persons who request copies by telephoning Barbara Bielaski at (202)–219–7177. For electronic copies of the Grantee Quarterly Progress Report Information Collection Request contact OSHA's WebPage on the Internet at http://www.osha.gov/ under Standards.

SUPPLEMENTARY INFORMATION:

I. Background

The Occupational Safety and Health Administration awards grants to nonprofit organizations to provide safety and health training to employees and employers in the recognition, avoidance, and prevention of unsafe and unhealthy working conditions. The grants are awarded for one year, with the possibility of renewal for one or more years.

In order to see that grant funds are being used in accordance with approved grants, OSHA requires grantees to report quarterly on their grant-funded activities. These reports, which show how many individuals have been trained and provide a narrative account of grant progress, are used by OSHA to monitor grant performance, to identify grant items that need to be brought to the attention of management, and to serve as one of the criteria for making decisions about continued grantee funding.

The quarterly reports enable OSHA to determine whether grant funds are being spent for the purpose for which they are intended. There is no other practical way to obtain this information.

II. Current Actions

OSHA is planning to reinstate this form. The form had been in use for ten years. Its approval was inadvertently allowed to lapse.

Type of Review: Reinstatement (with change).

Agency: Occupational Safety and Health Administration.

Title: Grantee Quarterly Progress Report.

OMB Number: 1218–0100.

Agency Number: OSHA 171.

Recordkeeping: Records are to be retained until three years after the grant is closed out.

Affected Public: Not-for-profit institutions.

Total Respondents: 26.

Frequency: Quarterly.

Total Responses: 104.

Average Time per Response: 12 hours.

Estimated Total Burden Hours: 1,248.

Total Burden Cost (operating/maintaining): $29,536.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 5, 1997.

Harvey E. Harris,

Director, Office of Training and Education.

[FR Doc. 97–17043 Filed 6–27–97; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Services.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that propose the destruction of records not previously authorized for disposal, or reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before August 14, 1997. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Civilian Appraisal Staff (NWRC), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

FOR FURTHER INFORMATION CONTACT: Michael L. Miller, Director, Records Management Programs, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001, telephone (301) 713–7110.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Executive Office of the President, Office of the United States Trade Representative (N1–364–97–2). Electronic and textual records created between April 24, 1986 and January 27, 1993, that are duplicative or deal with routine administrative matters. Master files of e-mail messages will be preserved.

2. Department of Commerce, International Trade Administration (N1–489–97–2). Nairobi Protocol files in hardcopy and electronic formats.

3. Department of Commerce, National Oceanic and Atmospheric Administration (N1–370–95–2). Textual and electronic records of the Alaska Groundfish Catch and Effort Data System.

4. Department of the Interior, Bureau of Land Management (N1–49–96–4). Motor Vehicle and Aircraft Maintenance Files.

5. Department of the Treasury, United States Mint (N1–104–97–2). Duplicative and fragmentary video recordings, audio recordings, and motion picture film of the Office of Public Affairs.

6. Federal Mine Safety and Health Review Commission (N1–470–96–2). Working files of the Chairman, Commissioners, and their legal counsels, and annual budget submissions and general correspondence of the Executive Director.

7. National Archives and Records Administration (N1–GRS–97–3). Semiannual expense reports for non-federally funded travel.

8. Panama Canal Commission (N1–185–97–6). Architectural and engineering records.

9. Panama Canal Commission (N1–185–97–14). Accountable Officer's records.

10. Panama Canal Commission (N1–185–97–15). Expenditure accounting records.

11. Tennessee Valley Authority (N1–142–97–13). Automated data processing administrative forms and newsletters.

Dated: June 23, 1997.

Michael J. Kurtz,

Assistant Archivist, for Record Services—Washington, DC.

[FR Doc. 97–17023 Filed 6–27–97; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[IA 97–049]

Jeffrey Lee Barnhart, (a.k.a. Gregory Kenneth Barnhart); Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately)

I

Mr. Jeffrey Lee Barnhart was a contract employee at Northern States Power Company's (Licensee or NSP) Prairie Island Nuclear Generating Plant (PINGP), working under temporary unescorted access authorization. NSP holds Facility Licenses No. DPR–42 and DPR–60, which were issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 50 on August 9, 1973, and October 29, 1974, respectively. These licenses authorize the operation of PINGP in accordance with the conditions specified therein. The facility is located on the Licensee's site in Minnesota.

II

In accordance with 10 CFR 73.56, nuclear power plant licensees must conduct access authorization programs for individuals seeking unescorted access to protected and vital areas of the plant with the objective of providing high assurance that individuals granted unescorted access are trustworthy and reliable and do not constitute an unreasonable risk to the health and safety of the public. Pursuant to 10 CFR 73.56, the unescorted access authorization program must include, at a minimum, verification of an individual's true identity, verification of an individual's character and reputation, and development of information concerning an individual's criminal history; and the decision to grant unescorted access authorization must be based on the licensee's review and evaluation of all pertinent information.

In order to be certified for unescorted access at PINGP, as a contractor employee, Mr. Barnhart completed the security background questionnaire under the assumed name of his deceased brother, Mr. Gregory Kenneth Barnhart, on December 7, 1995. In February 1996, NSP received information concerning Mr. Barnhart's deception before Mr. Barnhart's full background investigation had been completed. A subsequent NSP record review found that Mr. Barnhart's true identity was Jeffrey Lee Barnhart and that he had submitted falsified documents in his request for access authorization. NSP interviewed Mr. Barnhart and determined that he had obtained a driver's license under the assumed name and had been using a false identity for several years. Additionally, Mr. Barnhart admitted that, contrary to his responses on the Security Questionnaire, he had used and was once cited for possession of marijuana. Based on this information, NSP denied Mr. Barnhart's access on February 8, 1996.

An investigative report was prepared by the NSP security department regarding the falsification of the licensee's access authorization documents. The report was reviewed during an investigation conducted by the NRC Office of Investigations (OI), which was initiated on February 3, 1997. The OI investigation concluded that Mr. Barnhart had deliberately falsified his application for unescorted access, and was working under the assumed name of his deceased brother.

On April 24, 1997, a Demand for Information (DFI) was issued to Mr. Barnhart pursuant to 10 CFR 2.204 to determine whether enforcement action should be taken against him to ensure future compliance with NRC requirements. The DFI requested that Mr. Barnhart submit information by May 24, 1997, describing why the NRC should have confidence that he would provide complete and accurate information to NRC licensees and the Commission in the future. Mr. Barnhart did not respond to the DFI.

III

Based on the above, the NRC has concluded that Mr. Barnhart engaged in deliberate misconduct by deliberately assuming the identity of his deceased brother on his personal history questionnaire and misinforming the licensee as to his history of drug use and conviction for possession of marijuana. Mr. Barnhart's actions constitute a violation of 10 CFR 50.5(a)(2), which prohibits an individual from deliberately providing information to a licensee or contractor that the individual knows is inaccurate or incomplete in some respect material to the NRC. The information that Mr. Barnhart provided regarding his background information was material because, as indicated above, licensees are required to consider such information in making unescorted access determinations in accordance with the requirements of 10 CFR 73.56.

The NRC must be able to rely on the Licensee, its contractors, and Licensee and contractor employees to comply with NRC requirements, including the requirement to provide information that is complete and accurate in all material respects. Mr. Barnhart's actions in deliberately providing false information to the Licensee constitute deliberate violations of Commission regulations, and his conduct raises serious doubt about his trustworthiness and reliability and as to whether he can be relied upon to comply with NRC requirements and to provide complete and accurate information to NRC Licensees and their contractors in the future.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public would be protected if Mr. Barnhart were permitted at this time to be involved in NRC-licensed activities. Therefore, the public health, safety and interest require that Mr. Barnhart be prohibited from any involvement in NRC-licensed activities for a period of five years from the date of this order. If Mr. Barnhart is currently involved with another licensee in NRC-licensed activities, Mr. Barnhart must immediately cease such activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer. Additionally, Mr. Barnhart is required to notify the NRC of his employment in NRC-licensed activities for a period of five years following the prohibition period. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of Mr. Barnhart's conduct described above is such that the public health, safety and interest require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 103, 161b, 161c, 161i and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR 50.5, *it is hereby ordered, effective immediately, that:*

1. Mr. Jeffrey Lee Barnhart, a.k.a. Mr. Gregory Kenneth Barnhart, is prohibited from engaging in activities licensed by the NRC for five years from the date of this Order. For the purposes of this Order, licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.

2. For a period of five years after the five-year period of prohibition has expired, Mr. Barnhart shall, within 20 days of his acceptance of each employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities, as defined in Paragraph IV.1 above,

provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. In the first notification, Mr. Barnhart shall include a statement of his commitment to comply with NRC regulatory requirements and the basis for the Commission to have confidence that he will now comply with applicable NRC requirements.

The Director, OE, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Barnhart of good cause.

V

In accordance with 10 CFR 2.202, Mr. Barnhart must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Barnhart or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U. S. Nuclear Regulatory Commission, ATTN: Chief, Rulemakings and Adjudications, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U. S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, Region III, U. S. Nuclear Regulatory Commission, 801 Warrenville Road, Lisle, Illinois 60532–4351, and to Mr. Barnhart, if the answer or hearing request is by a person other than Mr. Barnhart. If a person other than Mr. Barnhart requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Mr. Barnhart or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Barnhart may, in addition to demanding a hearing, at the time that answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for a hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland this 23rd day of June 1997.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

[FR Doc. 97–16995 Filed 6–27–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Governors' Designees Receiving Advance Notification of Transportation of Nuclear Waste

On January 6, 1982 (47 FR 596 and 47 FR 600), the Nuclear Regulatory Commission (NRC) published in the **Federal Register** final amendments to 10 CFR Parts 71 and 73 (effective July 6, 1982), that require advance notification to Governors or their designees by NRC licensees prior to transportation of certain shipments of nuclear waste and spent fuel. The advance notification covered in Part 73 is for spent nuclear reactor fuel shipments and the notification for Part 71 is for large quantity shipments of radioactive waste (and of spent nuclear reactor fuel not covered under the final amendment to 10 CFR Part 73).

The following list updates the names, addresses and telephone numbers of those individuals in each State who are responsible for receiving information on nuclear waste shipments. The list will be published annually in the **Federal Register** on or about June 30, to reflect any changes in information.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS

State	Part 71	Part 73
ALABAMA	Col. L. N. Hagan, Director, Alabama Department of Public Safety, P.O. Box 1511, Montgomery, AL 36102–1511, (334) 242–4378.	Same.
ALASKA	Doug Dasher, Alaska Department of Environmental Conservation, Northern Regional Office 610 University Avenue, Fairbanks, AK 99709–3643, (907) 451–2172.	Same.
ARIZONA	Aubrey V. Godwin, Director, Arizona Radiation Regulatory Agency, 4814 South 40th Street, Phoenix, AZ 85040, (602) 255–4845, ext. 222, 24 hours: (602) 223–2212.	Same.
ARKANSAS	David D. Snellings, Jr., Director, Division of Radiation Control and Emergency Management, Arkansas Department of Health, 4815 West Markham Street, Mail Slot #30, Little Rock, AR 72205–3867, (501) 661–2301, 24 hours: (501) 661–2136.	Same.
CALIFORNIA	Lt. Ray Wineinger, California Highway Patrol, P.O. Box 942898, Sacramento, CA 94298–0001, (916) 327–3310, 24 hours: (916) 445–2211.	Same.
COLORADO	Captain Allan M. Turner, Hazardous Materials Section, Colorado State Patrol, 700 Kipling Street, Suite 1000, Denver, CO 80215–5865, (303) 239–4546, 24 hours: (303) 239–4501.	Same.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS—Continued

State	Part 71	Part 73
CONNECTICUT	Commissioner Sidney J. Holbrook, Department of Environmental Protection, 79 Elm Street, Hartford, CT 06106–5127, (860) 424–3001, 24 hours: (860) 424–3333.	Same.
DELAWARE	Karen L. Johnson, Secretary, Department of Public Safety, P.O. Box 818, Dover, DE 19903, (302) 739–4321, 24 hours: (302) 739–5851.	Same.
FLORIDA	Harlan Keaton, Manager, Environmental Radiation Program, Office of Radiation Control, Department of Health and Rehabilitative Services, P.O. Box 680069, Orlando, FL 32868–0069, (407) 297–2095.	Same.
GEORGIA	Al Hatcher, Director, Transportation Division, Public Service Commission, 1007 Virginia Avenue, Suite 310, Hapeville, GA 30354, (404) 559–6600.	Same.
HAWAII	Bruce S. Anderson, Ph.D., Deputy Director for Environmental Health, State of Hawaii, Department of Health, P.O. Box 3378, Honolulu, HI 96813, (808) 586–4424.	Same.
IDAHO	Captain David C. Rich, Department of Law Enforcement, Idaho State Police, P.O. Box 700, Meridian, ID 83680–0700, (208) 884–7206, 24 hours: (208) 334–2900.	Same.
ILLINOIS	Thomas W. Ortciger, Director, Illinois Department of Nuclear Safety, 1035 Outer Park Drive, 5th Floor, Springfield, IL 62704, (217) 785–9868, 24 Hours: (217) 785–9900.	Same.
INDIANA	Melvin J. Carraway, Superintendent, Indiana State Police, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, IN 46204, (317) 232–8248.	Same.
IOWA	Ellen M. Gordon, Administrator, Emergency Management Division, Hoover State Office Building, Des Moines, IA 50319–0113, (515) 281–3231.	Same.
KANSAS	Frank H. Moussa, M.S.A. Technological Hazards Administrator, Department of the Adjutant General, Division of Emergency Management, 2800 S.W. Topeka Boulevard, Topeka, KS 66611–1287, (913) 274–1409, 24 hours: (913) 296–3176.	Same.
KENTUCKY	John A. Volpe, Ph.D., Manager, Radiation and Toxic Agents Section, Cabinet for Human Resources, 275 East Main Street, Frankfort, KY 40621–0001, (502) 564–3700.	Same.
LOUISIANA	Captain Joseph T. Booth, Louisiana State Police, 7901 Independence Boulevard, P.O. Box 66614 (#21), Baton Rouge, LA 70896–6614, (504) 925–6113.	Same.
MAINE	Chief of the State Police, Maine Dept. of Public Safety, 36 Hospital Street, Augusta, ME 04333, (207) 624–7000.	Same.
MARYLAND	First Sgt. Wellington Gray, Maryland State Police, Communication Services Division, 1201 Reisterstown Road, Pikesville, MD 21208, (410) 653–4208, 24 hours: (410) 653–4200.	Same.
MASSACHUSETTS	Robert M. Hallisey, Director, Radiation Control Program, Massachusetts Department of Public Health, State Laboratory Institute, 305 South Street, 7th Floor, Jamaica Plain, MA 02130, (617) 727–6214.	Same.
MICHIGAN	Captain Stephen D. Madden, Commanding Officer, Special Operations Division, Michigan State Police, 714 S. Harrison Road, East Lansing, MI 48823, (517) 336–6263, 24 hours: (517) 336–6100.	Same.
MINNESOTA	John R. Kerr, Assistant Director, Planning Branch, Division of Emergency Management, Department of Public Safety, B5—State Capitol, 75 Constitution Avenue, St. Paul, MN 55155, (612) 296–0481, 24 hours: (612) 649–5451.	Same.
MISSISSIPPI	James E. Maher, Director, Emergency Management Agency, P.O. Box 4501, Fondren Station, Jackson, MS 39296–4501, (601) 352–9100.	Same.
MISSOURI	Jerry B. Uhlmann, Director, Emergency Management Agency, 2302 Militia Drive, P.O. Box 116, Jefferson City, MO 65102, (573) 526–9101, 24 hours: (573) 751–2748.	Same.
MONTANA	George Eicholtz, Coordinator, Radiation Control Section, DEQ/AQD, 1520 East Sixth Avenue, P.O. Box 200901, Helena, MT 59620–0901, (406) 444–5266.	Jim Greene, Administrator, Disaster and Emergency Services, P.O. Box 4789, Helena, MT 59604 (406) 444–6911.
NEBRASKA	Major Bryan J. Tuma, Nebraska State Patrol, P.O. Box 94907, Lincoln, NE 68509–4907, (402) 479–4950, 24 hours: (402) 471–4545.	Same.
NEVADA	Stanley R. Marshall, Supervisor, Radiological Health Section, Bureau of Health Protection Services, Nevada Division of Health, 505 East King Street, Carson City, NV 89710, (702) 687–5394, 24 hours: (702)687–5300.	Same.
NEW HAMPSHIRE	Richard M. Flynn, Commissioner, New Hampshire Dept. of Safety, James H. Hayes Building, 10 Hazen Drive, Concord, NH 03305, (603) 271–3903, (603) 271–3636 (24 hours).	Same.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS—Continued

State	Part 71	Part 73
NEW JERSEY	Kent Tosch, Manager, Bureau of Nuclear Engineering, Department of Environmental Protection, CN 415, Trenton, NJ 08625–0415, (609) 984–7701.	Same.
NEW MEXICO	Max D. Johnson, Bureau Chief, Technological Hazards Bureau, Department of Public Safety, P.O. Box 1628, Santa Fe, NM 87504–1628, (505) 476–9620, 24 hours: (505) 827–9126.	Same.
NEW YORK	Edward F. Jacoby, Jr., Director, State Emergency Management Office, 1220 Washington Avenue, Building 22—Suite 101, Albany, NY 12226–2251, (518) 457–2222.	Same.
NORTH CAROLINA	First Sgt. T.C. Stroud, Hazardous Materials Coordinator, North Carolina Highway Patrol Headquarters, 512 N. Salisbury St., P.O. Box 29590, Raleigh, NC 27626–0590, (919) 733–5282, After hours: (919) 733–3861.	Same.
NORTH DAKOTA	Dana K. Mount, Director, Division of Environmental Engineering, North Dakota Department of Health, 1200 Missouri Avenue, Box 5520, Bismarck, ND 58506–5520, (701) 328–5188, After hours: (701) 328–2121.	Same.
OHIO	James R. Williams, Chief of Staff, Ohio Emergency Management Agency, 2855 W. Dublin-Granville Road, Columbus, OH 43235–2206, (614) 889–7150.	Same.
OKLAHOMA	Bob A. Ricks, Commissioner, Oklahoma Department of Public Safety, P.0. Box 11415, Oklahoma City, OK 73136–0145, (405) 425–2001, 24 hours: (405) 425–2424.	Same.
OREGON	David Stewart-Smith, Administrator, Energy Resources Division, Oregon Office of Energy, 625 Marion Street, N.E., Salem, OR 97310, (503) 378–6469.	Same.
PENNSYLVANIA	John Bahnweg, Director of Operations and Training, Pennsylvania Emergency Management Agency, P. O. Box 3321, Harrisburg, PA 17105–3321, (717) 651–2120.	Same.
RHODE ISLAND	William A. Maloney, Associate Administrator, Motor Carriers Section, Division of Public Utilities and Carriers, 100 Orange Street, Providence, RI 02903, (401) 277–3500; ext. 150.	Same.
SOUTH CAROLINA	Virgil R. Autry, Director, Division of Radioactive Waste Management, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201, (803) 896–4244, Emergency: (803) 253–6488.	Same.
SOUTH DAKOTA	Gary N. Whitney, Director, Division of Emergency Management, 500 E. Capitol Avenue, Pierre, SD 57501–5060, (605) 773–3231.	Same.
TENNESSEE	John D. White, Jr., Director, Tennessee Emergency Management Agency, 3041 Sidco Drive, Nashville, TN 37204–1504, (615) 741–0001, After hours: (Inside TN) 1–800–262–3300, (Outside TN) 1–800–258–3300.	Same.
TEXAS	Richard A. Ratliff, Chief, Bureau of Radiation Control, Texas Department of Health, 1100 West 49th Street, Austin, TX 78756, (512) 834–6688.	Col. Dudley M. Thomas, Director Texas Department of Public Safety, Attn: EMS Tech. Hazards, P.O. Box 4087, Austin, TX 78773–0001, (512) 424–2429, (512) 424–2277 (24 hrs).
UTAH	William J. Sinclair, Director, Division of Radiation Control, 168 North 1950 West P.O. Box 144850, Salt Lake City, UT 84114–4850, (801) 536–4250, After hours: (801) 536–4123.	Same.
VERMONT	Glenn Gershaneck, Secretary, Vermont Transportation Agency, 133 State Street, Montpelier, VT 05633–5001, (802) 828–2657.	Same.
VIRGINIA	L. Ralph Jones, Jr., Director, Technological Hazards Division, Department of Emergency Services, Commonwealth of Virginia 310 Turner Road, Richmond, VA 23225, (804) 674–2400.	Same.
WASHINGTON	Lieutenant Gail R. Otto, Washington State Patrol, General Administration Building, P.O. Box 42600, Olympia, WA 98504–2600, (360) 753–0565.	Same.
WEST VIRGINIA	Colonel Thomas L. Kirk, Superintendent, Division of Public Safety, West Virginia State Police, 725 Jefferson Road, South Charleston, WV 25309, (304) 746–2111.	Same.
WISCONSIN	Steven D. Sell, Administrator, Wisconsin Division of Emergency Management, P.O. Box 7865, Madison, WI 53707–7865, (608) 242–3232.	Same.
WYOMING	Captain L. S. Gerard, Motor Carrier Officer, Wyoming Highway Patrol, 5300 Bishop Boulevard, P.O. Box 1708, Cheyenne, WY 82003–1708, (307) 777–4317, 24 hours: (307) 777–4321.	Same.

INDIVIDUALS RECEIVING ADVANCE NOTIFICATION OF NUCLEAR WASTE SHIPMENTS—Continued

State	Part 71	Part 73
DISTRICT OF COLUMBIA	Norma J. Stewart, Program Manager, Pharmaceutical, Radiological, and Medical Devices Control Division, Department of Consumer and Regulatory Affairs, 614 H Street, NW., Washington, DC 20001, (202) 727–7218, After hours: (202) 727–6161.	Same.
PUERTO RICO	Hector Russe Martinez, Chairman, Environmental Quality Board, P.O. Box 11488, San Juan, PR 00910, (787) 767–8056 or (787) 767–8181.	Same.
GUAM	Jesus T. Salas, Administrator, Guam Environmental Protection Agency, P.O. Box 22439 GMF, Barrigada, Guam 96921, (671) 475–1658/9.	Same.
VIRGIN ISLANDS	Roy L. Schneider, Governor, Governor's Office, 21–22 Kongens Gade, St. Thomas, Virgin Islands 00802, (809) 774–0001.	Same.
AMERICAN SAMOA	Pati Faiai, Government Ecologist, Environmental Protection Agency, Office of the Governor, Pago Pago, American Samoa 96799, (684) 633–2304.	Same.
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.	Nicolas M. Leon Guerrero, Director, Department of Natural Resources, Commonwealth of Northern Mariana Islands Government, Capitol Hill, Saipan, MP 96950, (670) 322–9830 or (670) 322–9834.	Same.

Questions regarding this matter should be directed to Spiros Droggitis, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (INTERNET Address: SCD@NRC.GOV) or at (301) 415–2367.

Dated at Rockville, Maryland, this 17th day of June, 1997.

For the Nuclear Regulatory Commission.

Richard L. Bangart,

Director, Office of State Programs.

[FR Doc. 97–16997 Filed 6–27–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Portable Gauge Licenses, Availability of NUREG

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: The Nuclear Regulatory Commission is announcing the completion and availability of NUREG–1556, Vol. 1. ''Consolidated Guidance about Materials Licenses: Program-Specific Guidance about Portable Gauge Licenses,'' dated May 1997.

ADDRESSES: Copies of NUREG–1556, Vol. 1, may be obtained by writing to the Superintendent of Documents, U.S. Government Printing Office, P. O. Box 37082, Washington, DC 20402–9328. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. A copy of the document is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC 20555–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia C. Vacca, Mail Stop TWFN 8–F5, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301–415–7908.

SUPPLEMENTARY INFORMATION: On October 3, 1996 (61 FR 51729), NRC announced the availability of draft NUREG–1556, Volume 1, ''Consolidated Guidance about Materials Licenses: Program-Specific Guidance about Portable Gauge Licenses,'' dated September 1996 and requested comments on it. This draft NUREG report is the first program-specific guidance developed to support an improved materials licensing process. On December 6, 1996 (61 FR 64768), NRC requested volunteers to participate in a January 1997 pilot test to evaluate the document's content, format, and usefulness. Most of the public comments and those of the participants in the pilot test were positive. The NRC staff considered all of the comments, including constructive suggestions to improve the document, in the preparation of the final NUREG report.

The final version of NUREG–1556, Volume 1, is now available for use by applicants, licensees, NRC license reviewers, and other NRC staff. It supersedes the guidance for applicants and licensees previously found in Draft Regulatory Guide DG–0008, ''Applications for the Use of Sealed Sources in Portable Gauging Devices,'' dated May 1995, and the guidance for licensing staff now found in Policy and Guidance Directive PG 2–07, ''Standard Review Plan for Applications for the Use of Sealed Sources in Portable Gauging Devices,'' dated September 1994.

The performance-based approach in NUREG–1556, Volume 1, gives portable gauge licensees greater flexibility than previously permitted under licenses based on applications prepared according to DG–0008. This permits licensees to make more changes in their radiation safety program without amending their licenses, thus reducing the regulatory burden on licensees and the NRC staff. Accordingly, existing portable gauge licensees have the option of submitting a complete application using NUREG–1556, Vol. 1, at the time they file an amendment request. Portable gauge licensees choosing this option should incorporate the requested change into the complete application, submit it with the appropriate amendment fee, and indicate that the complete application is an amendment request to take advantage of the new guidance. When the NRC staff has reviewed the request and resolved any outstanding issues, the NRC staff will amend the license in its entirety without changing the expiration date.

Portable gauge licensees wishing to renew their licenses should submit a complete application according to NUREG–1556, Vol. 1. The NRC staff's action will be similar to that described for amendments, but will include an extension of the license's expiration date. By following this procedure, the staff expects all existing portable gauge licenses to be converted to the more performance-based format within a few years.

Electronic Access

NUREG–1556, Volume 1, is also available electronically by visiting

NRC's Home Page (http://www.nrc.gov) and choosing ''Nuclear Materials,'' then ''Business Process Redesign project,'' then ''Library,'' and then ''NUREG–1556, Volume 1.''

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of the Office of Management and Budget.

Dated at Rockville, Maryland, this 24th day of June, 1997.

For the Nuclear Regulatory Commission.

Donald A. Cool,

Director, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–16996 Filed 6–27–97; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38763; File No. SR–CBOE–96–68]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment No. 1, and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 2 to the Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to RAES Orders That Are Rerouted to the Exchange's Order Routing System

June 24, 1997.

I. Introduction

On November 12, 1996, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] to specify the trading crowd's firm quote obligations for certain Retail Automatic Execution System (''RAES'') orders rerouted through the Exchange's Order Routing System (''ORS''). On February 28, 1997, the Exchange filed Amendment No. 1 to the rule proposal.[3] On June 13, 1997, the Exchange filed Amendment No. 2 to the rule proposal.[4]

Notice of the substance of the proposed rule change and Amendment No. 1 was provided by issuance of a release[5] and by publication in the **Federal Register**.[6] No comments were received. This order approves the proposed rule change and Amendment No. 1 to the proposed rule change, and approves Amendment No. 2, on an accelerated basis.

II. Description of the Proposal

The Exchange proposes to amend Rule 6.8 to add Interpretation .04 to specify the trading crowd's firm quote obligation for certain RAES orders rerouted through the Exchange's ORS. Specifically, the rule change would provide a price guarantee for the first order to be rerouted at a particularly market when the prevailing market bid or offer equals the best bid or offer on the Exchange's limit order book.[7] This change will permit the same execution for the covered RAES order as if the order had been executed based upon the displayed quote market.

The Exchange states that under ordinary trading conditions, only customer market or marketable limit orders are eligible to be routed to RAES. When RAES receives such an order, the system automatically attaches the execution price to the order. The execution price is determined by the prevailing market quote at the time of the order's entry to the system.[8] A market-maker who is participating in the RAES system will be designated as the contra-broker on the trade, and the trade will be automatically executed against the designated market-maker.

The Exchange states that when the prevailing market bid or offer is equal to the best bid or offer on the Exchange's customer limit order book, the RAES order generally[9] will be rerouted away from RAES on ORS, under existing ORS parameters. According to the Exchange, the rerouting occurs because the rule governing priority of bids and offers, Rule 6.45, gives priority to orders on the Exchange's customer limit order book over any other order at the post. As a result, Exchange rules do not permit a RAES sell order to be filled by the RAES system at a price lower than or equal to the best book bid, nor may a RAES buy order be filled by the RAES system at a price higher than or equal to the best book offer. The Exchange states that when the RAES order is rerouted over the ORS, the rerouted order ordinarily will be routed to a floor broker in the crowd via a printer or Public Automated Routing System (''PAR'') workstation,[10] or will be routed to the firm's booth.[11] Once the floor broker receives the order, it is the broker's responsibility to represent the order in the crowd.

The Exchange proposes to guarantee that the first rerouted RAES order (''RAES kickout'') for up to ten contracts be filled at the bid or offer that existed at the time the order was entered into the RAES system (*i.e.*, the price the order would have received had it traded directly with the customer limit order book).[12] The Exchange defines the first rerouted RAES order in Rule 6.8, Interpretations and Policies .04 as the first order rerouted at a particular market which existed at the time of the order's entry into the RAES system.[13] Therefore, if more than one RAES order is rerouted at approximately the same time and at the same market, the rule change does *not* guarantee that the second order will be filled at the price that existed at the time of the second order's entry into the RAES system.[14] Further, the Exchange states that the rule change would only apply to the first RAES kickout that is routed directly to the trading station.[15]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Letter from Timothy Thompson, CBOE, to Janice Mitnick, Commission, dated February 28, 1997 (''Amendment No. 1''). Amendment No. 1 made several changes to the rule proposal in order to clarify the scope of the rule filing and to conform the rule language to reflect the clarifications. In particular, Amendment No. 1 clarifies the trading crowd's firm quote obligation for RAES kickouts and further defines which orders are eligible for the proposed RAES kickout treatment, as discussed more fully herein.

[4] Letter from Timothy Thompson, CBOE, to Janice Mitnick, Commission, dated June 13, 1997 (''Amendment No. 2''). Amendment No. 2 is a technical amendment, clarifying that Rule 8.51(a)(2), which establishes when RAES orders are deemed to reach the trading station, does not apply to RAES orders eligible for the RAES kickout price guarantee pursuant to Interpretation .04 to Rule 6.8.

[5] Securities Exchange Act Release No. 38535 (April 21, 1997).

[6] 62 FR 22982 (April 28, 1997).

[7] *See* Rules 6.8(b) and (c).

[8] A buy order will pay the prevailing market offer and a sell order will sell at the prevailing market bid.

[9] Rule 6.8(b) provides an exception to this rule for options on IBM and other option classes following the determination of special market conditions. *See* Rules 6.8(b) and (c).

[10] A PAR workstation is an automated, computer-based workstation that provides users with the ability to execute trades, transmit trade reports, and enter other data and commands at the touch of a screen, thereby eliminating delay inherent in a keyboard-based system.

[11] Whether the order gets routed to the booth or to the trading station is determined by the order routing instructions the broker's firm provides to the Exchange.

[12] The Exchange states that if the market price is better than the guaranteed RAES kickout price when the order is represented in the crowd pursuant to Rule 6.73, the RAES kickout order would be filled at the better market price.

[13] *See* Amendment No. 1, *supra* n.3.

[14] *See* Amendment No. 1, *supra* n.3.

[15] In the case of an order that the firm has chosen to route to the firm's booth, the Exchange believes that the trading crowd should not bear the risk that the price will move away from the price that the

Continued

RAES kickouts not eligible for the RAES kickout price guarantee are ordinarily eligible for firm quote treatment under Rule 8.51 when the order is represented in the trading crowd.[16] Rule 8.51(a)(1) states a trading crowd is required to sell (buy) at least ten contracts at the offer (bid) which is displayed *when* a buy (sell) customer order ''reaches the trading station where the particular option contract is located for trading.'' Because the trading crowd will be expected to fill the first order at the price that existed when the RAES order was re-routed to the trading station, it is important that the floor broker represent the order in a timely fashion.

The Exchange proposes to amend Rule 8.51 to codify the Exchange's current understanding that the firm quote rule generally applies when an order reaches the trading station and is represented in the crowd by a floor broker, except in the case of a rerouted RAES order that is eligible for the RAES kickout price in accordance with Rule 6.8, Interpretations and Policies .04. As proposed in Rule 6.8, Interpretations and Policies .04, rerouted RAES orders that are eligible for the RAES kickout price are deemed to reach the trading station and entitled to firm quote protection of up to 10 contracts when the order is entered into the RAES system.[17]

The Exchange notes that, consistent with the terms of Rule 8.51, the trading crowd would be entitled to change their quotes after the first order of up to ten contracts has been traded at the quoted price. Therefore, the price at which the second (or any subsequent) RAES kickout order would be filled may be better or worse than the RAES kickout price for the first order.

The Exchange generally believes that the public customer should not have to bear the risk that the option price will change adversely during the period between the rerouting of the order to the floor broker via the printer or PAR workstation, and the time the floor broker actually represents the order in the crowd. The Exchange believes that it is appropriate to limit the price guarantee to only the first RAES kickout at a particular market which existed at the time of the order's entry into the RAES system [18] because most RAES kickout situations involve only one order which is kicked out of RAES. In addition, the Exchange believes that in situations where there is more than one kickout at a certain price, the market in these options is likely very busy and floor brokers may as a practical matter be incapable of representing these kicked out orders immediately. In proposing to limit the guarantee to the first RAES kickout order, the Exchange states that it weighed the benefits of this guarantee against the potential disruptive effect of numerous orders kicked out of RAES within a second or two of each other. The Exchange states that if the guarantee were extended to all orders that are kicked out at that price, market-makers would be forced to fill these customer orders at quotes that might no longer reflect current market situations by the time the floor broker was able to represent the orders. The Exchange notes, however, that the orders that do not get filled at the guaranteed RAES kickout price will be entitled to be filled at the disseminated market quotes at the time they are represented in the crowd, which may be better than the guaranteed RAES kickout price.[19]

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, Section 6(b)(5).[20] Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, perfect the mechanism of a free and open national market, and in general, to further investor protection and the public interest.[21]

As a general matter, the Commission believes that RAES-eligible orders should receive efficient, fair, and accurate executions after being rerouted to the trading floor for manual execution. The Commission further believes that this concern must be balanced against the desire to ensure that customer orders on the limit order book are not disadvantaged.

The Commission believes that the proposed rule change reasonably balances these concerns by ensuring greater price protection for RAES kickout orders when the prevailing market bid or offer is equal to the best bid or offer on the Exchange's customer limit order book. The Commission also believes that the price guarantee for the first RAES kickout provides a greater benefit to RAES public customer orders than currently exists, while continuing to ensure that customer orders on the limit order book that touch the market receive executions consistent with time and price priority principles.

The Commission also believes that the proposed rule change is reasonable because RAES kickouts that do not qualify for the RAES kickout price, as described above, will be automatically rerouted to a PAR workstation, a floor broker printer in the trading crowd, or to the appropriate member firm booth, where they can be immediately executed at the then current market quote. The Commission believes, however, that because these public customer orders may be filled at an inferior bid or offer than existed at the time their orders were entered into the RAES system, the Exchange should continue to explore methods to give all customers the benefit provided to the first RAES kickout by this rule change through the development of a customer limit order book which is fully integrated with RAES.

Finally, the Commission believes that it is reasonable for the Exchange to amend its rules to better identify when an order is deemed to have reached the trading station for firm quote protection purposes. In particular, the Commission believes the proposed change to Rule 8.51 appropriately codifies existing firm quote obligations and clearly addresses the proposed exception for RAES kickouts eligible for the RAES kickout price guarantee, as described above.

The Commission finds good cause for approving Amendment No. 2 to the filing prior to the 30th day after the date of publication in the **Federal Register**. Amendment No. 2 to the proposed rule change is a technical amendment, clarifying that Rule 8.51(a)(2), which establishes when RAES orders are deemed to reach the trading station, does not apply to RAES orders eligible for the RAES kickout price guarantee pursuant to Interpretation .04 to Rule 6.8. The Commission believes amendment No. 2 further clarifies and strengthens the Exchange's proposal, as originally intended, and raises no new regulatory issues.[22] Accordingly, the

customer could have received had the order not been rerouted, given the potential greater delay in the order being represented to the crowd. In these cases, the Exchange states the floor broker will be responsible for ensuring that the customer's order is represented in a timely fashion.

[16] In some instances, the firm quote obligation for a particular option may be for other than ten contracts. *See* Rule 8.51(a).

[17] *See* Amendments No. 2, *supra* n.4.

[18] *See* Amendment No. 1, *supra* n.3.

[19] *See* Amendment No. 1, *supra* n.3. In addition, as noted above, the Exchange states that if the current market price is better than the guaranteed RAES kickout price when the first RAES kickout is represented in the crowd, that order would be filled at the current market price.

[20] 15 U.S.C. 78f(b)(5).

[21] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] *See* Amendment No. 2, *supra* n.4.

Commission believes there is a good cause, consistent with Sections 6(b)(5) and 19(b)(2) of the Act, to approve Amendment No. 2 to the proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–96–68, and should be submitted by July 21, 1997.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[23] that the proposed rule change (SR–CBOE–96–68), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[24]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–17008 Filed 6–27–97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38758; File No. SR–NASD–97–43]

Self-Regulatory Organizations; Notice of Filing and immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Small Order Execution System Tier Size Classifications

June 23, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on June 17, 1997, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The NASD has designated this proposal as a stated policy, practice, and procedure with respect to the administration and enforcement of NASD rules under Section 19(b)(3)(A)(i) of the Act, which renders the rule effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is submitting this filing to effectuate The Nasdaq Stock Market, Inc.'s (''Nasdaq'') periodic reclassification of Nasdaq National Market (''NNM'') securities into appropriate tier sizes for purposes of determining the maximum size order for a particular security eligible for execution through Nasdaq's Small Order Execution System (''SOES''). Specifically, under the proposal, 592 NNM securities will be reclassified into a different SOES tier size effective July 1, 1997. Since the NASD's proposal is an interpretation of existing NASD rules, there are no language changes.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the rule change is to effectuate Nasdaq's periodic reclassification of NNM securities into appropriate tier sizes for purposes of determining the maximum size order for a particular security eligible for execution through SOES. Nasdaq periodically reviews the SOES tier size applicable to each NNM security to determine if the trading characteristics of the issue have changed so as to warrant a tier size adjustment. Such a review was conducted using data as of March 31, 1997, pursuant to the following established criteria:[2]

NNM securities with an average daily non-block volume of 3,000 shares or more a day, a bid price less than or equal to $100, and three or more market makers are subject to a minimum quotation size requirement of 1,000 shares and a maximum SOES order size of 1,000 shares;

NNM securities with an average daily non-block volume of 1,000 shares or more a day, a bid price less than or equal to $150, and two or more market makers are subject to a minimum quotation size requirement of 500 shares and a maximum SOES order size of 500 shares; and

NNM securities with an average daily non-block volume of less than 1,000 shares a day, a bid price less than or equal to $250, and less than two market makers are subject to a minimum quotation size requirement of 200 shares and a maximum SOES order size of 200 shares.

Pursuant to the application of this classification criteria, 592 NNM securities will be reclassified effective July 1, 1997. These 592 NNM securities are set out in the NASD's *Notice To Members 97–38* (July, 1997).

In ranking NNM securities pursuant to the established classification criteria, Nasdaq followed the changes dictated by the criteria with three exceptions. First, an issue was not moved more than one tier size level. For example, if an issue was previously categorized in the 1,000-share tier size, it would not be permitted to move to the 200-share tier even if the reclassification criteria showed that such a move was warranted. In adopting this policy, Nasdaq was attempting to maintain adequate public investor access to the market for issues in which the tier size level decreased and help ensure the ongoing participation of market makers in SOES for issues in which the tier size level increased. Second, for securities priced below $1 where the reranking called for a reduction in tier size, the tier size was not reduced. Third, for the top 50 Nasdaq securities based on market capitalization, the SOES tier sizes were not reduced regardless of whether the reranking called for a tier-size reduction.

The NASD believes that the proposed rule change is consistent with Section 15A(b)(6) of the Act. Section 15A(b)(6) requires, among other things, that the rules of the NASD governing the operation of The Nasdaq Stock Market be designed to foster cooperation and coordination with persons engaged in

[23] 15 U.S.C. 78s(b)(2).

[24] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The classification criteria is set forth in NASD Rule 4613(a)(2) and the footnote to NASD Rule 4710(g).

regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market. The NASD believes that the reassignment of NNM securities within SOES tier size levels will further these ends by providing an efficient mechanism for small, retail investors to execute their orders on Nasdaq and by providing investors with the assurance that they can effect trades up to a certain size at the best prices quoted on Nasdaq.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comment were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective immediately pursuant to Section 19(b)(3)(A)(i) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4 because the reranking of NNM securities into appropriate SOES tier sizes was done pursuant to the NASD's stated policy and practice with respect to the administrative and enforcement of an existing NASD rule. Further, in the SOES Tier Size Order, the Commission requested that the NASD provide this information as an interpretation of an existing NASD rule under Section 19(b)(3)(A) of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W. Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–97–43 and should be submitted by July 21, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–17007 Filed 6–27–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38766; File No. SR–PCX–97–24]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval to Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Exchange, Inc. Relating to the Change of Closing Time for Auction Market Trading on Its Equity Floors

June 24, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 12, 1997, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. On June 16, 1997, the PCX submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change fro interested persons and to grant accelerated approval to the proposed rule change, as amended.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX is proposing to change its closing time for auction market trading on its Equity Floors[4] to 1:30 p.m. (PT). The text of the proposed rule change is available at the Office of the Secretary, PCX, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the propose rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange's auction market trading session currently closes at 1:50 p.m. (PT).[5] In addition, after the auction market closes, the Exchange operates a Crossing Session between 1:50 p.m. and 2:00 p.m. (PT), which occurs concurrently with Crossing Session I of the New York Stock Exchange (''NYSE'').[6]

The Exchange is now proposing to change the closing time for auction market trading on its Equity Floors to 1:30 p.m. (PT). The Exchange will continue to operate its Crossing Session between 1:30 p.m. and 2:00 p.m. (PT) during which time certain designated orders will continue to be eligible for primary market price protection.[7] The Exchange is proposing to reduce its auction market trading hours because the light trading volume that currently occurs between 1:30 p.m. and 1:50 p.m. (PT) does not justify the operating expenses to the Exchange and its Members during that time period. In this regard, the Exchange does not believe that the change will have a

[3] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, PCX, to Ivette Lopez, Assistant Director, Division of Market Regulation, SEC, dated June 13, 1997 (''Amendment No. 1''). In Amendment No. 1, the PCX clarified that its Crossing Session will be operated between 1:30 p.m. and 2:00 p.m. Pacific Time (''PT''), rather than from 1:50 p.m. to 2:00 p.m. (PT), as set forth in the original filing.

[4] The Exchange operates equity trading floors in both San Francisco and Los Angeles.

[5] *See* Securities Exchange Act Release No. 29631 (August 30, 1991), 56 FR 46025 (September 9, 1991 (order approving change in close of auction market trading session on the Equity Floors from 1:30 p.m. to 1:50 p.m. (PT) (File No. SR–PSE–91–21).

[6] *See* Securities Exchange Act Release No. 29305 (June 13, 1991), 56 FR 29208 (order granting partial approval to File No. SR–PSE–91–21).

[7] Amendment No. 1 modified the original filing to reflect that PCX's Crossing Session will operate between 1:30 p.m. and 2:00 p.m. (PT) under the proposal, rather than from 1:50 p.m. to 2:00 p.m. (PT), as described in the original filing. *See* Amendment No. 1, *supra* note 3.

negative impact on the ability of investors to access the Exchange's markets.

The Exchange is proposing to add a new Commentary .02 to Rule 4.2 to codify the new closing time. In addition, the Exchange is proposing to modify Rule 5.25(f)(ii), which currently provides, in part, that from 1:00 p.m. to 1:50 p.m. (PT), P/COAST [8] will act as a routing system and will accept certain designated types of orders. Specifically, the Exchange proposes to change the references to ''1:50'' to ''1:30.''

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and Section 6(b)(5),[10] in particular, is that it is designed to promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–97–24 and should be submitted by July 21, 1997.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission has reviewed carefully the PCX's proposed rule change, as amended, and believes, for the reasons set forth below, the proposal is consistent with the requirements of Section 6 of the Act,[11] and the rules and regulations thereunder applicable to a national securities exchange.[12] Specifically, the Commission believes the proposal is consistent with Section 6(b)(5) of the Act [13] because it is reasonably designed to promote just and equitable principles of trade.

The Commission believes that, absent any regulatory concerns, the decision to change the Exchange's trading hours is a matter that falls within the business discretion of the PCX. The Commission notes that the Exchange requested approval to extend its trading hours from 1:30 p.m. to 1:50 p.m. in 1991.[14] At that time, the Exchange cited the need for a competitive response to the actions of the NYSE as the rationale underlying its decision to expand its trading hours.[15] In its Order approving the trading hour extension, the Commission stated that it believed that an extension of the auction market trading hours by 20 minutes would ''not affect the [PCX's] ability to provide fair and orderly markets or provide for the efficient execution of customer orders.''[16] Similarly, the Commission does not believe that reducing the trading hours by 20 minutes will have an adverse affect on the auction market or public customer orders. Moreover, as the volume of trading occurring during that 20 minute time period clearly has failed to meet the PCX's expectations, the Commission believes that it is reasonable for PCX to conclude that it is appropriate to curtail equity trading at 1:30 p.m. (PT). Accordingly, the Commission believes that the proposed changes will facilitate the operation of PCX's Equity Floor and, therefore, the proposed rule change is consistent with Section 6 of the Act.[17]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register.** The Commission notes that the PCX plans to shorten its equity trading hours to 1:30 p.m. (PT) effective June 26, 1997. The Commission also notes that the Exchange's members and the public were provided with advance notice of the proposed change in the form of a Regulatory Bulletin issued by the PCX on June 13, 1997. Finally, the Commission notes that the Exchange desires to shorten its trading hours as it is not cost effective for the Equity Floor to operate during that 20 minute time period. The Commission believes that the cost savings that are expected to accrue to the PCX from the shortened trading hours warrant approval of the proposal on an accelerated basis so that the Exchange may benefit from the anticipated cost savings as soon as possible. Therefore, the Commission believes that granting accelerated approval of the proposed rule change, as amended, is appropriate and consistent with Section 6 of the Act.[18]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[19] that the proposed rule change (SR–PCX–97–24), including Amendment No. 1, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–17006 Filed 6–27–97; 8:45 am]

BILLING CODE 8010–01–M

[8] Pacific Computerized Order Access Securities System. *See* Securities Exchange Act Release No. 38609 (May 12, 1997), 62 FR 27096 (May 16, 1997).

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78f.

[12] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78f(b)(5).

[14] *See supra* note 5.

[15] *Id.*

[16] *Id.*

[17] 15 U.S.C. 78f.

[18] 15 U.S.C. 78f.

[19] 15 U.S.C. 78s(b)(2).

[20] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Fittness Determination of Avcenter, Inc.

AGENCY: Department of Transportation.

ACTION: Notice of commuter air carrier fitness determination—Order 97–6–24, order to show cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding that Avcenter, Inc., is fit, willing, and able to conduct scheduled passenger operations as a commuter air carrier.

DATES: Persons wishing to file objections should do so no later than July 9, 1997.

ADDRESSES: Objections and answers to objections should be filed with the Air Carrier Fitness Division, X–56, Room 6401, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Janet A. Davis, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–9721.

Dated: June 24, 1997.

Patrick V. Murphy.

Deputy Assistant Secretary for Aviation and International Affairs.

[FR Doc. 97–16982 Filed 6–27–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF VETERANS AFFAIRS

Associated Health Professions Review Subcommittee of the Special Medical Advisory Group; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice that a meeting of the Associated Health Professions Review Subcommittee of the Special Medical Advisory Group will be held July 15 and 16, 1997. This subcommittee is established to review and recommend changes in Veterans Health Administration's (VHA) role and priorities in education and training, specifically with reference to the use of associated health professionals in the delivery of healthcare. Associated health disciplines are defined as all healthcare providers other than physicians. The meeting on both days will be held at the Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 830, Washington, DC. The meeting will convene on July 15 from 1:00 p.m. until 5:00 p.m. and on July 16 from 8:30 a.m. until approximately 3:00 p.m.

During both days, break-out groups will develop responses to the committee's charge and recommendations to the Under Secretary for Health. The break-out groups will report back to the subcommittee for consensus. By the end of the meeting, most of the report responses and recommendations should be identified.

The meetings will be open to the public. Those who plan to attend or who have questions concerning the meeting should contact Linda Johnson, Ph.D., R.N., Acting Director, Associated Health Professions Office (143), at 202–273–8372.

Dated: June 16, 1997.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 97–16994 Filed 6–27–97; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 62, No. 125
Monday, June 30, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97-1238-000]

CSW Power Marketing, Inc.; Notice of Issuance of Order

Correction

In notice document 97–16376 beginning on page 33850 in the issue of Monday, June 23, 1997 make the following correction:

On page 33850, in the third column, in the second document, the docket number should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-137-006]

Southern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

Correction

In notice document 97–16296 beginning on page 33855 in the issue of Monday, June 23, 1997 make the following correction:

On page 33855, in the third column, the docket number should read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AC07

Allow Lessees More Flexibility in Keeping Leases in Force Beyond Their Primary Term

Correction

In rule document 96–27783, beginning on page 55885, in the issue of Wednesday, October 30, 1996 make the following corrections:

1. On page 55887, in the second column, in amendatory instruction 2., ''150.13'' should read ''250.13''.

§ 250.13 [Corrected]

2. On the same page, in the third column, in § 250.13(b)(2), in the third line ''150.10'' should read ''250.10''.

BILLING CODE 1505-01-D

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 733

RIN 3206-AF78

Political Activity: Federal Employees Residing in Designated Localities

Correction

In proposed rule document 97–16424, beginning on page 34017 in the issue of Tuesday, June 24, 1997, make the following correction:

§ 733.107 [Corrected]

On page 34024, in the second column, in § 733.107(c), the heading ''**In Virignia**'' should read ''**In Virginia**''.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 27 and 29

[Docket No.28929; Notice No. 97-8]

RIN 2120-AG23

Harmonization of Miscellaneous Rotorcraft Regulation

Correction

In proposed rule document 97–14885 beginning on page 31476 in the issue of Monday, June 9, 1997, make the following corrections:

1. On page 31476, in the third column:

a. In the paragraph numbered ''1'', in the first line ''1329'' should read ''27.1329''.

b. In the paragraph numbered ''2'', in the third line ''transports'' should read ''transport''.

c. In the paragraph numbered ''4'', in the eighth line, ''(CRS)'' should read ''(CRFS)''.

d. In the fourth line from the bottom, ''the'' should read ''that''.

2. On page 31477, in the first column:

a. In the first paragraph, in the third line, ''change'' should read ''changes''.

b. In the **General Discussion of the Proposals** section, in the second line ''standard'' should read ''standards''.

BILLING CODE 1505-01-D

federal register

Monday
June 30, 1997

Part II

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Comprehensive Program Plan (FY 1997) and Discretionary Program Announcements and Application Kit Availability; Notice

DEPARTMENT OF JUSTICE

[OJP (OJJDP)–1115]

RIN 1121–ZA62

Comprehensive Program Plan for Fiscal Year 1997 and Availability of Discretionary Program Announcements and Application Kit

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of Final Program Plan for fiscal year 1997 and Availability of the Fiscal Year 1997 Discretionary Program Announcements and Application Kit.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention is publishing its Final Program Plan for fiscal year 1997 and announces the availability of the Fiscal Year 1997 Discretionary Program Announcements and Application Kit.

FOR FURTHER INFORMATION CONTACT: Eileen M. Garry, Special Assistant to the Administrator, at 202–307–5911. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is a component of the Office of Justice Programs in the U.S. Department of Justice. Pursuant to the provisions of Section 204 (b)(5)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. § 5601 *et seq.* (JJDP Act), on March 13, 1997, the Administrator of OJJDP published for public comment a Proposed Comprehensive Plan describing the program activities that OJJDP proposed to carry out during fiscal year (FY) 1997. The Proposed Comprehensive Plan included activities authorized in Parts C and D of Title II of the JJDP Act, codified at 42 U.S.C. § 5651–5665a, 5667, 5667a. The public was invited to comment on the Proposed Plan by April 28, 1997. The Administrator analyzed the public comments received, and that analysis is provided below. Taking these comments into consideration, the Administrator developed this Final Comprehensive Plan describing the particular program activities that OJJDP intends to fund during FY 1997, using in whole or in part funds appropriated under Parts C and D of Title II of the JJDP Act.

The Fiscal Year 1997 Discretionary Program Announcements and Application Kit is now available. To order an OJJDP Application Kit, please call the Juvenile Justice Clearinghouse, toll free, (800) 638–8736 or visit the OJJDP Home Page, Grants and Funding section, www.ncjrs.org/ojjdp/html/grants.html.

Overview

This is a critical time for juvenile justice, a time of both opportunity and challenge. Earlier this year, the Department of Justice announced a reduction in overall juvenile violent crime (3 percent) and a significant drop in juvenile homicide arrests (14 percent) between 1994 and 1995, the first downturns we have seen in 9 years. A National Center for Juvenile Justice analysis of the 1995 Uniform Crime Report data reveals that this decrease in overall juvenile crime arrests was driven by decreased arrests of juveniles 14 and under, an encouraging sign. While these younger juveniles were responsible for 30 percent of juvenile violent crime arrests in 1995, they accounted for more than half of the reported decline in juvenile violent crime arrests. All of the 2 percent decline in property arrests is attributable to these younger juveniles.

In order to ensure that these positive trends continue, we must continue to focus our efforts on establishing a continuum of prevention, early intervention, and graduated sanctions programs; strengthening the juvenile justice system; and building stronger, safer communities. These efforts are needed because we are still confronted with unacceptably high rates of juvenile crime. Juveniles still account for 18 percent of all arrests, some 2.7 million in 1995. Even with the 1995 decline in juvenile violent crime arrests noted above, the number is still 12 percent greater than the 1991 level and 67 percent above the 1986 level. Juveniles were involved in 32 percent of all robbery arrests, 23 percent of weapon arrests, and 15 percent of murder and aggravated assault arrests in 1995.

In the troubling area of drug use, juveniles were involved in 13 percent of all drug arrests in 1995, and the number of juvenile drug arrests has increased 138 percent since 1991. According to the 22d national survey in the Monitoring the Future study, illicit drug use among schoolchildren rose again in 1996. Since 1991, the proportion of students using any illicit drug in the 12 months prior to the survey has increased steadily. For 8th graders alone, the proportion has more than doubled (from 11 percent to 24 percent) since 1991. Since 1992, the proportion among 10th graders has nearly doubled (from 20 percent to 38 percent), and among 12th graders, it has risen by about half (from 27 percent to 40 percent).

Federal leadership in responding to the problems confronting juvenile justice is vested in OJJDP. Established in 1974 by the JJDP Act, OJJDP is the Federal agency responsible for providing a comprehensive, coordinated approach to preventing and controlling juvenile crime and improving the juvenile justice system. OJJDP administers State Formula Grants, State Challenge Grants, and the Title V Community Prevention Grants programs in States and territories; funds gang and mentoring programs under Parts D and G of the JJDP Act; funds more than 100 projects through its Special Emphasis Discretionary Grant Program and its National Institute for Juvenile Justice and Delinquency Prevention; and coordinates Federal activities related to juvenile justice and delinquency prevention.

OJJDP serves as the staff agency for the Coordinating Council on Juvenile Justice and Delinquency Prevention, coordinates the Concentration of Federal Efforts Program, and administers both the Title IV Missing and Exploited Children's Program and programs under the Victims of Child Abuse Act of 1990, as amended, 42 U.S.C. § 13001 *et seq.*

Fiscal Year 1997 Program Planning Activities

The OJJDP program planning process for FY 1997 was coordinated with the Assistant Attorney General, Office of Justice Programs (OJP), and the four other OJP program bureaus: the Bureau of Justice Assistance (BJA), the Bureau of Justice Statistics (BJS), the National Institute of Justice (NIJ), and the Office for Victims of Crime (OVC). The program planning process involved the following steps:

- Internal review of existing programs by OJJDP staff.
- Internal review of proposed programs by OJP bureaus and Department of Justice components.
- Review of information and data from OJJDP grantees and contractors.
- Review of information contained in State comprehensive plans.
- Review of comments made by youth service providers, juvenile justice practitioners, and researchers, to receive input in proposed new program areas.
- Consideration of suggestions made by juvenile justice policymakers concerning State and local needs.
- Consideration of all comments received during the period of public comment on the Proposed Comprehensive Plan.

Discretionary Program Activities

Discretionary Grant Continuation Policy

OJJDP has listed on the following pages continuation projects currently funded in whole or in part with Part C

and Part D funds and eligible for continuation funding in FY 1997, either within an existing project period or through an extension for an additional project period. A grantee's eligibility for continued funding for an additional budget period within an existing project period depends on the grantee's compliance with funding eligibility requirements and achievement of the prior year's objectives. The amount of award is based on prior projections, demonstrated need, and fund availability.

The only projects described in the Proposed Program Plan were those being considered for FY 1997 continuation funding and programs OJJDP was proposing for new awards in FY 1997.

Consideration for continuation funding for an additional budget or project period for previously funded discretionary grant programs was based upon several factors, including the following:

- The extent to which the project responds to the applicable requirements of the JJDP Act.
- Responsiveness to OJJDP and Department of Justice FY 1997 program priorities.
- Compliance with performance requirements of prior grant years.
- Compliance with fiscal and regulatory requirements.
- Compliance with any special conditions of the award.
- Availability of funds (based on appropriations and program priority determinations).

In accordance with Section 262 (d)(1)(B) of the JJDP Act, as amended, 42 U.S.C. § 5665a, the competitive process for the award of Part C funds is not required if the Administrator makes a written determination waiving the competitive process:

1. With respect to programs to be carried out in areas in which the President declares under the Robert T. Stafford Disaster Relief and Emergency Assistance Act codified at 42 U.S.C. § 5121 *et seq.* that a major disaster or emergency exists, or

2. With respect to a particular program described in Part C that is uniquely qualified.

Program Goals

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) seeks to focus its assistance on the development and implementation of programs with the greatest potential for reducing juvenile delinquency and improving the juvenile justice system by establishing partnerships with State and local governments, Native American and Native Alaskan jurisdictions, and public and private agencies and organizations. To that end, OJJDP has set three goals that constitute the major elements of a sound policy that assures public safety and security while establishing effective juvenile justice and delinquency prevention programs:

- To promote delinquency prevention and early intervention efforts that reduce the flow of juvenile offenders into the juvenile justice system, the numbers of serious and violent offenders, and the development of chronic delinquent careers. While removing serious and violent juvenile offenders from the street serves to protect the public, long-term solutions lie primarily in taking aggressive steps to stop delinquency before it starts or becomes a pattern of behavior.
- To improve the juvenile justice system and the response of the system to juvenile delinquents, status offenders, and dependent, neglected, and abused children.
- To preserve the public safety in a manner that serves the appropriate development and best use of secure detention and corrections options, while at the same time fostering the use of community-based programs for juvenile offenders.

Underlying each of the three goals is the overarching premise that their achievement is vital to protecting the long-term safety of the public from increased juvenile delinquency and violence. The following discussion addresses these three broad goals.

Delinquency Prevention and Early Intervention

A primary goal of OJJDP is to identify and promote programs that prevent or reduce the occurrence of juvenile offenses, both criminal and noncriminal, and to intervene immediately and effectively when delinquent or status offense conduct first occurs. A sound policy for juvenile delinquency prevention seeks to strengthen the most powerful contributing factor to socially acceptable behavior—a productive place for young people in a law-abiding society. Delinquency prevention programs can operate on a broad scale, providing for positive youth development, or can target juveniles identified as being at high risk for delinquency with programs designed to reduce future juvenile offending. OJJDP prevention programs take a risk and protective factor-focused delinquency prevention approach based on public health and social development models.

Early interventions are designed to provide services to juveniles whose noncriminal misbehavior indicates that they are on a delinquent pathway or to first-time nonviolent delinquent offenders or nonserious repeat offenders who do not respond to initial system intervention. These interventions are generally nonpunitive but serve to hold a juvenile accountable while providing services tailored to the individual needs of the juvenile and the juvenile's family. They are designed to both deter future misconduct and reduce the negative or enhance the positive factors present in a child's life.

Improvement of the Juvenile Justice System

A second goal of OJJDP is to promote improvements in the juvenile justice system and facilitate the most effective allocation of system resources. This goal is necessary for holding juveniles who commit crimes accountable for their conduct, particularly serious and violent offenders who sometimes slip through the cracks of the system or are inappropriately diverted. This includes assisting law enforcement officers in their efforts to prevent and control delinquency and the victimization of children through community policing programs and coordination and collaboration with other system components and with child caring systems. Meeting this goal involves helping juvenile and family courts, and the prosecutors and public defenders who practice in those courts, to provide a system of justice that maintains due process protections. It requires trying innovative programs and carefully evaluating those programs to determine what works and what does not work. It includes a commitment to involving crime victims in the juvenile justice system and ensuring that their rights are considered.

In this regard, OJJDP will continue to work closely with the Office for Victims of Crime to further cooperative programming, including the provision of services to juveniles who are crime victims or the provision of victims services that improve the operation of the juvenile justice system. Improving the juvenile justice system also calls for building an appropriate juvenile detention and corrections capacity and for intensified efforts to use juvenile detention and correctional facilities only when necessary and under conditions that maximize public safety, while providing effective rehabilitation services. It requires encouraging States to carefully consider the use of expanded transfer authority that sends the most serious, violent, and intractable juvenile offenders to the criminal justice system, while

preserving individualized justice. It necessitates conducting research and gathering statistical information in order to understand how the juvenile justice system works in serving children and families. And finally, the system can only be improved if information and knowledge are communicated, understood, and applied for the purpose of juvenile justice system improvement.

Corrections, Detention, and Community-Based Alternatives

A third OJJDP goal is to maintain the public safety through a balanced use of secure detention and corrections and community-based alternatives. This involves identifying and promoting effective community-based programs and services for juveniles who have formal contact with the juvenile justice system and emphasizing options that maintain the safety of the public, are appropriately restrictive, and promote and preserve positive ties with the child's family, school, and community. Communities cannot afford to place responsibility for juvenile delinquency entirely on publicly operated juvenile justice system programs. A sound policy for combating juvenile delinquency and reducing the threat of youth violence makes maximum use of a full range of public and private programs and services, most of which operate in the juvenile's home community, including those provided by the health and mental health, child welfare, social service, and educational systems.

Coordination of the development of community-based programs and services with the development and use of a secure detention and correctional system capability for those juveniles who require a secure option is cost effective, will protect the public, reduce facility crowding, and result in better services for both institutionalized juveniles and those who can be served while remaining in their community environment.

In pursuing these broad goals, OJJDP divides its programs into six key categories: public safety and law enforcement; strengthening the juvenile justice system; delinquency prevention and intervention; child abuse, neglect, and dependency courts; and missing and exploited children. A sixth category, overarching programs, contains programs that have significant elements common to more than one category.

Summary of Public Comments on the Proposed Comprehensive Plan for Fiscal Year 1997

OJJDP published its proposed Comprehensive Plan for FY 1997 in the **Federal Register** (Vol. 62, No. 49) on March 13, 1997, for a 45-day public comment period. OJJDP received 14 letters commenting on the proposed plan. All comments have been considered in the development of OJJDP's Final Comprehensive Plan for FY 1997.

The majority of the letters provided positive comments about the overall plan or specific programs. The following is a summary of the substantive comments received and OJJDP's responses to the comments. Unless otherwise indicated, each comment was made by a single respondent.

Comment: Three respondents praised the overall plan, including its breadth and coverage of important concepts in prevention and early intervention and its broad viewpoint and scope of activities. One of the three urged OJJDP to continue to support community alternatives, at-risk youth identification, multifaceted interventions, strong educational components, and evaluation and followup.

Response: OJJDP appreciates the support expressed by these respondents and their recognition of the importance of prevention and early intervention programs.

Comment: Three respondents made helpful suggestions on the proposed Evaluation of Teen Courts. One writer recommended that the OJJDP proposal include ''evaluations of how well youth courts are implemented, analyses of populations they serve, relationships between communities and offenders, and impacts of youth courts upon recidivism.'' This individual also suggested analyses of whether teen courts strengthened attachments between juveniles and teachers or police officers and, noting the uneven quality of data maintained by local law enforcement agencies, suggested that the recidivism analysis should be carried out in communities that keep good juvenile arrest records. The writer also expressed concern about the ethical ramifications of the use of experimental designs for the evaluation and suggested that OJJDP should not require an experimental design.

A second respondent offered several specific suggestions, recommending that the evaluation begin with an inventory of as many teen courts in operation as possible. Comments about the process evaluation touched on the context in which teen courts operate, the referral of offenders, selection of cases, operation of the court hearing, completion of sentences, and final disposition. The writer identified a need to focus on both nonoffending youth and offenders and a need for information on sentences and community involvement.

The final respondent on the teen court evaluation suggested that OJJDP require applicants to ''demonstrate experience in basic development of a teen court program with demonstrated success in evaluating their own teen court program.''

Response: These comments have considerable merit. In the description of this program in the Final Plan, OJJDP has added an inventory of teen courts and teen court models as part of the first phase of the evaluation. The other suggestions will be incorporated into the solicitation. In regard to the ethical concerns about the use of experimental designs, the description of the teen court evaluation does not require an experimental design. Also, it should be noted that concern over denying treatment to individuals assigned to control groups is something that evaluators face constantly, and there are a variety of ways to overcome this problem. In addition, capacity issues often make the concern moot.

Comment: One writer expressed concern that libraries are not mentioned as possible collaborators in the proposed plan. The same respondent suggested that library programs, such as the Enoch Pratt Library's training and mentoring program for at-risk youth in Baltimore, should be included in the proposed study of the juvenile justice system by the National Academy of Sciences (NAS).

Response: The list of collaborators in the closing paragraph of the introduction is illustrative, not all-inclusive, and libraries can be considered to be implicitly included in the reference to ''local agencies.'' OJJDP agrees with the respondent that libraries can play an important role in providing prevention programs for at-risk young people. However, in view of varied local needs, priorities, resources, and existing planning and service delivery systems, OJJDP does not see a need to go beyond providing general guidance on the range of participants. Therefore, the closing paragraph of the introduction remains unchanged from the proposed plan.

In regard to the NAS study, nothing in the description of the study in the proposed plan specifically precludes examination of a library-based program for at-risk youth.

Comment: One respondent indicated concern that ''little or no attention'' is directed to female juvenile offenders in the proposed plan.

Response: OJJDP is well aware of the importance of this segment of the juvenile population and their special needs. The proposed plan included

continuation of the Training and Technical Assistance Program To Promote Gender-Specific Programming for Female Juvenile Offenders. Greene, Peters and Associates, which was awarded a 3-year competitive grant in FY 1996, will provide a comprehensive framework for addressing the complex needs of female adolescents at risk for delinquent behavior. In addition, the proposed plan described a project that will allow the Cook County Board of Commissioners to use Federal, State, and local resources to implement a pilot program for female offenders. Finally, in response to the writer's concerns about the lack of programming for females, OJJDP can also point to the six sites in OJJDP's ongoing SafeFutures initiative, which includes components designed to establish services for at-risk and delinquent girls, and to the Program of Research on the Causes and Correlates of Delinquency. This OJJDP-funded research program is providing invaluable information about delinquent behavior, including gender-related data, through a longitudinal study of 4,000 adolescents in three cities. In addition, funding for gender-specific programming for female juvenile offenders is also available through OJJDP's Formula Grants, Challenge, and Title V (Community Prevention) funding, which is distributed to the States. Gender-specific programming for female juvenile offenders is one of 10 specific Challenge Activities funded under Part E of the JJDP Act.

Comment: One letter included comments from officials of two components of a local organization. One writer wrote approvingly of Youth Substance Abuse Prevention Programs; School-Based [Gang] Prevention and Intervention Programs; Youth-Centered Conflict Resolution; Teens, Crime, and the Community; Law-Related Education; Teen Courts; and Youth Entrepreneurship (a component of the Communities In Schools-Federal Interagency Partnership). The other writer, who coordinated a Mediation Center that had received funding from OJJDP, recommended that funding support to existing programs be continued so that ''work begun will be work continued.''

Response: OJJDP appreciates the first writer's expression of support for these programs, which are all included in the final plan. In regard to the comment about continuation funding, many of the programs described in the plan are ones that are being continued. The question of continued funding for existing programs is one that is always decided on a case-by-case basis and involves many considerations, including availability of funds and congressional and Administration/Department of Justice program priorities. OJJDP is well aware of the importance of the outstanding work that the Mediation Center has done under its 1-year grant from OJJDP. However, the discretionary funding available under Parts C and D is limited. In many cases, grants such as the one awarded to the Mediation Center are intended to generate and stimulate specific types of activity with the expectation that, once inaugurated, successful programs will be able to secure funding from other sources, such as State, county, or local governments and private fund sources.

Comment: One respondent addressed the need for comprehensive visitation, mediation, and conflict resolution services for children of divorced or troubled families.

Response: Three of the programs in the proposed plan are related to these areas of interest. Training and Technical Assistance for Family Strengthening Programs provides training and technical assistance to family services agencies and administrators to enable them to improve or establish effective family strengthening programs nationwide. In the Youth-Centered Conflict Resolution program, the Illinois Institute for Dispute Resolution is developing, in concert with other conflict resolution organizations, a national strategy for broad-based education and training in the use of conflict resolution skills. OJJDP is providing funds to support the national Parents Anonymous (PA) organization's comprehensive, neighborhood-based, shared leadership model to serve the needs of minority and ethnic families in low-income, high-crime areas of 11 States. Through PA, parents observe, practice, and learn skills in parenting, communication, conflict resolution, and other related life skills.

Comment: Two writers expressed support for the work of Communities In Schools (CIS).

Response: OJJDP appreciates these positive comments, which reflect the strengths of the CIS program. The FY 1997 funding for the Communities In Schools-Federal Interagency Partnership will help CIS continue to meet the challenge of working with young people who are either at risk of dropping out of school or have returned to complete their education after leaving the school environment.

Comment: One respondent raised the issue of the need for remedial action early in childhood for specific, verified incidences of abuse and neglect to forestall later delinquency and violence. Calling for action at ages far lower than 10 or 11, the writer noted that physical and sexual abuse and neglect in early childhood are often predictors of later delinquency and violence and that remedial programs for young victims would be a powerful crime prevention tool.

The positive news released in 1996 must not lead to a relaxation of efforts to lower unacceptably high rates of juvenile violence and delinquency. Instead, this partial success should lead the Nation to intensify its commitment to reducing juvenile crime and to sustain the 1995 decline in arrest rates. This commitment must focus on strengthening the ability of communities to provide for their immediate safety through law enforcement and correctional strategies, to develop and implement both prevention and intervention programs, and to provide those services that will enable children to grow up as healthy and productive citizens in nurturing homes, safe schools, and peaceful, caring communities. To be effective, however, this commitment must be rooted in a comprehensive approach to the problems of juvenile delinquency, violence, and victimization.

Over the past 4 years, OJJDP has developed a framework for an improved, more effective juvenile justice system. The foundation was laid in 1993 with the publication of OJJDP's *Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders.* The *Comprehensive Strategy* uses statistics, research, and program evaluations as the basis for a set of sound principles for establishing a continuum of care for the Nation's children. The *Comprehensive Strategy* emphasizes the importance of local planning teams that assess the influences or factors putting youth at risk for delinquency, determine available resources, and put prevention programs in place to either reduce those risk factors or provide protective factors that buffer juveniles from the impact of risk factors. The *Comprehensive Strategy* also stresses the importance of early intervention for juveniles whose behavior puts them on one or more pathways to delinquency and a system of graduated sanctions that can ensure immediate and appropriate accountability and treatment for juvenile offenders.

In 1995, OJJDP published its *Guide for Implementing the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders,* a resource to help States, cities, and communities implement the *Comprehensive Strategy.* Early in 1996, the Coordinating Council on Juvenile Justice and Delinquency

Prevention, of which OJJDP is a member, published *Combating Violence and Delinquency: The National Juvenile Justice Action Plan*. The *Action Plan* prioritizes Federal activities and resources under eight critical objectives that must be addressed to effectively combat delinquency and violence. Research and the findings of numerous commissions support the choice of these objectives as central to reducing and preventing juvenile violence, delinquency, and victimization. The objectives are to (1) provide immediate intervention and appropriate sanctions and treatment for delinquent juveniles; (2) prosecute certain serious, violent, and chronic juvenile offenders in criminal court; (3) reduce youth involvement with guns, drugs, and gangs; (4) provide opportunities for children and youth; (5) break the cycle of violence by addressing youth victimization, abuse, and neglect; (6) strengthen and mobilize communities; (7) support the development of innovative approaches to research and evaluation; and (8) implement an aggressive public outreach campaign on effective strategies to combat juvenile violence.

The OJJDP FY 1997 Program Plan is rooted in the principles of the *Comprehensive Strategy* and the objectives of the *Action Plan*. Just as in 1996, the Program Plan supports a balanced approach to aggressively addressing juvenile delinquency and violence through establishing graduated sanctions, improving the juvenile justice system's ability to respond, and preventing the onset of delinquency. The Program Plan also recognizes the need to ensure public safety and support children's development into healthy, productive citizens through a range of prevention, early intervention, and graduated sanctions programs.

Proposed new program areas were identified for FY 1997 through a process of engaging OJJDP staff, other Federal agencies, and juvenile justice practitioners in an examination of existing programs, research findings, and the needs of the field. OJJDP's national conference, ''Juvenile Justice at the Crossroads,'' held in December 1996 was particularly helpful in developing proposed program priorities for FY 1997. The new program areas selected for FY 1997 following public review and comment are school-based gang intervention and prevention, juvenile sex offenders, mental health, and cost-benefit analyses. The program called Interagency Programs on Mental Health and Juvenile Justice, described in the Proposed Program Plan as a potential competitive program, has been changed in the Final Plan to a program of OJJDP support for several ongoing programs funded by other Federal agencies. The program description, which can be found under the Public Safety and Law Enforcement category, provides a more complete explanation of this change. In addition, OJJDP has identified for FY 1997 funding a range of research and evaluation projects designed to expand knowledge about juvenile offenders; the effectiveness of prevention, intervention, and treatment programs; and the operation of the juvenile justice system. Specific evaluation initiatives will be undertaken related to Boys and Girls Clubs of America's gang outreach efforts, teen courts, the President's Crime Prevention Council's drug and alcohol use prevention program, and gun violence reduction. The Evaluation of Youth Gun Violence Reduction Programs, described in the Proposed Plan as a potential competitive program, will be funded through an existing evaluation grantee. A more complete explanation of this change can be found in the program description, which appears under the Public Safety and Law Enforcement Category. Combined with OJJDP programs being continued in FY 1997, these new demonstration and evaluation programs form a continuum of programming that supports the objectives of the *Action Plan* and mirrors the foundation and framework of the *Comprehensive Strategy*.

OJJDP's continuation activities and the new FY 1997 programs are at the heart of OJJDP's categorical funding efforts. For example, while focusing on the development of assessment centers as a new area of programming, continuing to offer training seminars in the Comprehensive Strategy, and looking to the SafeFutures program to implement a continuum of care system, OJJDP will be exploring how to better address juvenile sex offenders and the mental health needs of juvenile offenders. Combined, these activities provide a holistic approach to prevention and early intervention programs while enhancing the juvenile justice system's capacity to provide immediate and appropriate accountability and treatment for juvenile offenders, including those with special treatment needs.

OJJDP's Part D Gang Program will continue to support a range of comprehensive prevention, intervention, and suppression activities at the local level, evaluate those activities, and inform communities about the nature and extent of gang activities and effective and innovative programs through OJJDP's National Youth Gang Center. Similarly, our new activities related to school-based gang programs and the evaluation of the Boys and Girls Clubs gang outreach effort, along with an evaluation of selected youth gun violence reduction programs, will complement existing law enforcement and prosecutorial training programs by supporting and informing grassroots community organizations' efforts to address juvenile gangs and juvenile access to, carriage of, and use of guns. This programming will build upon OJJDP's youth-focused community policing, mentoring, and conflict resolution initiatives and programming in the area of drug abuse prevention, including funding to the Race Against Drugs program, the Congress of National Black Churches, and the National Center for Neighborhood Enterprise for schools, local church, and neighborhood-based drug abuse prevention programs.

In support of the need to break the cycle of violence, OJJDP's SafeKids/Safe Streets demonstration program, currently being implemented in partnership with other OJP offices and bureaus, will improve linkages between the dependency and criminal court systems, child welfare and social service providers, and family strengthening programs and will complement ongoing support of Court Appointed Special Advocates, Child Advocacy Centers, and prosecutor and judicial training in the dependency field, funded under the Victims of Child Abuse Act of 1990, as amended.

The Plan's research and evaluation programming will support many of the above activities by filling in critical gaps in knowledge about the level and seriousness of juvenile crime and victimization, its causes and correlates, and effective programs in preventing delinquency and violence. At the same time, OJJDP's research efforts will also be geared toward efforts that monitor and evaluate the ways juveniles are treated by the juvenile and criminal justice systems and the trends in this response, particularly as they relate to juvenile violence and its impact.

OJJDP is also utilizing its national perspective to disseminate information to those at the grassroots level-practitioners, policymakers, community leaders, and service providers who are directly responsible for planning and implementing policies and programs that impact juvenile crime and violence.

OJJDP will continue to fund longitudinal research on the causes and correlates of delinquency, the findings of which are shared regularly with the field through OJJDP publications; utilize state-of-the-art technology to provide the field with an interactive CD-ROM on promising and effective programs

designed to prevent delinquency and reduce recidivism; air national satellite teleconferences on key topics of relevance to practitioners; and publish new reports and documents on timely topics such as truants and dropouts, mentoring, home visitation and parent training, youth-related community policing strategies, youth gang homicides and drug trafficking, conflict resolution, collaborative partnerships, sharing of information pursuant to the Federal Educational Rights and Privacy Act, confidentiality of juvenile court records, innovative sentencing options, and strategies to reduce youth gun violence.

The various contracts, grants, cooperative agreements, and interagency fund transfers described in the Program Plan form a continuum of activity designed to address youth violence, delinquency, and victimization. In isolation, this programming can do little. However, the emphasis of OJJDP's programming is on collaboration. It is through collaboration that Federal, State, and local agencies; Native American tribes; national organizations; private philanthropies; the corporate and business sector; health, mental health, and social service agencies; schools; youth; families; and clergy can come together to form partnerships and leverage additional resources, identify needs and priorities, and implement innovative strategies. Together, as the promising statistics published last year demonstrate, we have made-and we can continue to make-a difference.

Fiscal Year 1997 Programs

The following are brief summaries of each of the new and continuation programs scheduled to receive funding in FY 1997. As indicated above, the program categories are public safety and law enforcement; strengthening the juvenile justice system; delinquency prevention and intervention; child abuse, neglect, and dependency courts; and missing and exploited children. However, because many programs have significant elements of more than one of these program categories, or generally support all of OJJDP's programs, they are listed in an initial program category called Overarching Programs. The specific program priorities within each category are subject to change with regard to their priority status, sites for implementation, and other descriptive data and information based on grantee performance, application quality, fund availability, and other factors.

A number of programs contained in this document have been identified for funding by Congress with regard to the grantee(s), the amount of funds, or both. Such programs are indicated by an asterisk (*). The 1997 Appropriations Act Conference Report for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Programs identified 12 programs for OJJDP to examine and fund if warranted. Four of these programs (Coalition for Juvenile Justice; KidsPeace-The National Center for Kids in Crisis, North America; Law-Related Education; and Parents Anonymous, Inc.) are included in the Plan for continuation funding. The remaining eight are receiving careful consideration for funding in FY 1997. They are:

Parents Resource Institute for Drug Education
Restorative Justice Challenge Grants
Institute on Violence and Destructive Behavior
Consortium on Children, Families, and the Law
Kansas Juvenile Intake and Assessment Center
Project O.A.S.I.S.
Savannah Youth Foundation
Teen Night Out

Fiscal Year 1997 Program Listing

Overarching

SafeFutures: Partnerships To Reduce Youth Violence and Delinquency
Evaluation of SafeFutures
Program of Research on the Causes and Correlates of Delinquency
Study Group on the Serious, Violent, and Chronic Juvenile Offender
National Academy of Sciences Study of Juvenile Justice
The Hamilton Fish National Institute on School/Community Violence *
OJJDP Management Evaluation Contract
Juvenile Justice Statistics and Systems Development
Census of Juveniles in Residential Placement
Cost-Benefit Analyses of Juvenile Justice Programs
Juvenile Justice Data Resources
National Juvenile Court Data Archive*
National Juvenile Justice and Delinquency Prevention Training and Technical Assistance Center
Technical Assistance for State Legislatures
OJJDP Technical Assistance Support Contract-Juvenile Justice Resource Center
Juvenile Justice Clearinghouse
Telecommunications Assistance
Coalition for Juvenile Justice*
Insular Area Support*

Public Safety and Law Enforcement

Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program
Evaluation of the Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program
Targeted Outreach With a Gang Prevention and Intervention Component (Boys and Girls Clubs)
The Developmental Dynamics of Gang Membership and Delinquency
National Youth Gang Center
Evaluation of Youth Gun Violence Reduction Programs
The Chicago Project for Violence Reduction
Child-Centered Community-Oriented Policing
Law Enforcement Training and Technical Assistance Program
Violence Studies

Strengthening the Juvenile Justice System

Development of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders
Serious, Violent, and Chronic Juvenile Offender Treatment Program
Juvenile Restitution: A Balanced Approach
Training and Technical Assistance Program to Promote Gender-Specific Programming for Female Juvenile Offenders
Cook County Juvenile Female Offenders Project
Juvenile Transfers to Criminal Court Studies
Replication and Expansion of Fagan Transfer Study
Technical Assistance to Juvenile Courts*
Juvenile Court Judges Training*
The Juvenile Justice Prosecution Unit
Due Process Advocacy Program Development
Quantum Opportunities Program (QOP) Evaluation
Intensive Community-Based Aftercare Demonstration and Technical Assistance Program
Evaluation of Intensive Community-Based Aftercare Demonstration and Technical Assistance Program
Interventions To Reduce Disproportionate Minority Confinement in Secure Detention and Correctional Facilities (The Deborah Ann Wysinger Memorial Program)
State Justice Statistics Program for Statistical Analysis Centers
Juvenile Probation Survey Research
Performance-Based Standards for Juvenile Detention and Correctional Facilities
Technical Assistance to Juvenile Corrections and Detention (The James E. Gould Memorial Program)
Training for Juvenile Corrections and Detention Management Staff

Training for Line Staff in Juvenile Detention and Corrections
Training and Technical Support for State and Local Jurisdictional Teams To Focus on Juvenile Corrections and Detention Overcrowding
National Program Directory
A Comprehensive Juvenile Sex Offender Typology
KidsPeace-The National Centers for Kids in Crisis, North America*
The Bethesda Day Treatment Program
Interagency Programs on Mental Health and Juvenile Justice

Delinquency Prevention and Intervention

Training In Risk-Focused Prevention Strategies
Youth Substance Use Prevention Programs (The President's Crime Prevention Council)
Survey of School-Based Gang Prevention and Intervention Programs
Youth-Centered Conflict Resolution
Teens, Crime, and the Community: Teens in Action in the 90s*
Law-Related Education*
Communities In Schools-Federal Interagency Partnership
The Congress of National Black Churches: National Anti-Drug Abuse/ Violence Campaign (NADVC)
Risk Reduction Via Promotion of Youth Development
Community Anti-Drug Abuse Technical Assistance Voucher Project
Training and Technical Assistance for Family Strengthening Programs
Training and Technical Assistance To Promote Teen Court Programs
Evaluation of Teen Courts
Henry Ford Health System
Angel Gate Academy*
Suffolk County PAL (Police Athletic League)*
Do the Write Thing

Child Abuse and Neglect and Dependency Courts

Permanent Families for Abused and Neglected Children*
Parents Anonymous, Inc.*

Missing and Exploited Children

Jimmy Ryce Law Enforcement Training Center*

Overarching

SafeFutures: Partnerships To Reduce Youth Violence and Delinquency

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) will award grants of up to $1.4 million to each of six communities, initially funded with FY 1995 funds, to assist with comprehensive community programs designed to reduce youth violence and delinquency. Boston, Massachusetts; Seattle, Washington; St. Louis, Missouri; Contra Costa County, California; Imperial County, California; and Fort Belknap, Montana (Native American site) were selected competitively to receive 5-year awards under the SafeFutures program on the basis of their substantial planning and progress in community assessment and strategic planning to address delinquency.

SafeFutures seeks to prevent and control youth crime and victimization through the creation of a continuum of care in communities. This continuum enables communities to be responsive to the needs of youth at critical stages of their development through providing an appropriate range of prevention, intervention, treatment, and sanctions programs.

The goals of SafeFutures are (1) to prevent and control juvenile violence and delinquency in targeted communities by reducing risk factors and increasing protective factors for delinquency; providing a continuum of services for juveniles at risk of delinquency, including appropriate immediate interventions for juvenile offenders; and developing a full range of graduated sanctions designed to hold delinquent youth accountable to the victim and the community, ensure community safety, and provide appropriate treatment and rehabilitation services; (2) to develop a more efficient, effective, and timely service delivery system for at-risk and delinquent juveniles and their families that is capable of responding to their needs at any point of entry into the juvenile justice system; (3) to build the community's capacity to institutionalize and sustain the continuum by expanding and diversifying sources of funding; and (4) to determine the success of program implementation and the outcomes achieved, including whether a comprehensive program involving community-based efforts and program resources concentrated on providing a continuum of care has succeeded in preventing or reducing juvenile violence and delinquency.

Each of the six sites will continue to provide a set of services that builds on community strengths and existing services and fills in gaps within their existing continuum. These services include family strengthening; afterschool activities; mentoring; treatment alternatives for juvenile female offenders; mental health services; day treatment; graduated sanctions for serious, violent, and chronic juvenile offenders; and gang prevention, intervention, and suppression.

A national evaluation is being conducted by The Urban Institute to determine the success of the initiative and track lessons learned at each of the six sites. OJJDP has also committed a cadre of training and technical assistance (TTA) resources to SafeFutures through OJJDP's National Training and Technical Assistance Center, which has brought together more than 40 TTA providers and dedicated a full-time TTA coordinator for SafeFutures. The Center also assists the communities in brokering and leveraging additional TTA resources. In addition, the U.S. Department of Housing and Urban Development has provided interagency support of $100,000 for training and technical assistance targeted to violence and delinquency prevention in public housing areas of SafeFutures sites. Thus, operations, evaluation, and TTA have been organized together to form a joint team at the national level to support local site efforts.

SafeFutures activities will be carried out by the six current SafeFutures grantees. No additional applications will be solicited in FY 1997.

Evaluation of SafeFutures

With FY 1995 funds, OJJDP funded six communities under the SafeFutures: Partnerships to Reduce Youth Violence and Delinquency Program. The program sites are: Contra Costa County, California; Fort Belknap Indian Community, Harlem, Montana; Boston, Massachusetts; St. Louis, Missouri; Seattle, Washington; and Imperial County, California. The SafeFutures Program provides support for a comprehensive prevention, intervention, and treatment program to meet the needs of at-risk juveniles and their families.

Up to approximately $8.4 million will be made available for annual awards over a 5-year project period to support the efforts of these jurisdictions to enhance existing partnerships, integrate juvenile justice and social services, and provide a continuum of care that is designed to reduce the number of serious, violent, and chronic juvenile offenders.

The Urban Institute received a competitive 3-year cooperative agreement award with FY 1995 funds to conduct a national evaluation of the SafeFutures program. The evaluation will consist of both process and impact components for each funded site. The evaluation process includes an examination of planning procedures and the extent to which each site's implementation plan is consistent with the principles of a continuum of care

model. The evaluation will identify the obstacles and key factors contributing to the successful implementation of the SafeFutures program. The evaluator is responsible for developing a cross-site monograph documenting the process of program implementation for use by other communities that want to develop and implement a comprehensive community-based strategy to address serious, violent, and chronic delinquency.

In FY 1996, The Urban Institute developed a logic model, held a cross-site cluster meeting, and conducted site visits at each of the six SafeFutures sites. The Urban Institute is working closely with local evaluators to develop individual project logic models. In FY 1997, the grantee will submit an evaluation plan and design and begin implementation.

A FY 1997 supplemental award will be made to the current grantee, The Urban Institute, to complete second year funding. No additional applications will be solicited in FY 1997.

Program of Research on the Causes and Correlates of Delinquency

Three project sites participate in the Program of Research on the Causes and Correlates of Delinquency: The University of Colorado at Boulder, the University of Pittsburgh, and the State University of New York at Albany. Results from this 10-year longitudinal study have been used extensively in the field of juvenile justice and have contributed to the development of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders and other program initiatives.

OJJDP began funding this program in 1986 and has invested approximately $10.3 million to date. The program has addressed many issues of juvenile violence and delinquency. These include developing and testing causal models for chronic violent offending and examining interrelationships among gang involvement, drug selling, and gun ownership/use. To date, the program has produced a massive amount of information on the causes and correlates of delinquent behavior.

Although there is great commonality across the project sites, each has unique design features. Additionally, each project has disseminated the results of its research through a variety of publications, reports, and presentations.

With FY 1996 funding, each site of the Causes and Correlates Program was provided additional funds to further analyze the longitudinal data. New publications were developed, and both the role of mental health in delinquency and pathways to delinquency were the subject of further analyses.

In FY 1997, the sites will continue their collaborative research efforts. Site-specific research will also continue. Additionally, the grantees will work on developing a cross-site data access capability to provide quick access to data from all three sites.

This program will be implemented by the current grantees-Institute of Behavioral Science, University of Colorado at Boulder; Western Psychiatric Institute and Clinic, University of Pittsburgh; and Hindelang Criminal Justice Research Center, State University of New York at Albany. No additional applications will be solicited in FY 1997.

Study Group on the Serious, Violent, and Chronic Juvenile Offender

In FY 1995, OJJDP funded the Study Group on the Serious, Violent, and Chronic Juvenile Offender to answer questions about these offenders. The objective of the Study Group is to develop a report that will include critical areas of interest including prevention, intervention, gangs, and other topics. The report will include programs that appear to be effective in responding to the violent juvenile offender. The report is expected to be completed in June 1997. Fiscal year 1997 funding will be provided for the Study Group to develop research papers on cost-benefit analysis and other topics that support the research on serious, violent, and chronic juvenile offenders. The Study Group, as an adjunct to their report, will also undertake the development of a 5-year research plan for OJJDP's Research and Program Development Division. The plan will include short-term and long-term research goals and objectives.

The project will be implemented by the current grantee, the University of Pittsburgh. No additional applications will be solicited in FY 1997.

National Academy of Sciences Study of Juvenile Justice

The unprecedented increase in the rates of violent crime arrests of youth between the ages of 12 and 17 through the mid 1990's, combined with the projected growth of this population over the next decade, portends an unwelcome increase in future violence by adolescents. Public anxiety over the growing seriousness of juvenile violence has led many States away from rehabilitation and toward deterrence and punishment as the primary thrust of their juvenile justice efforts.

In FY 1997, OJJDP will support a 24-month study by the National Academy of Sciences to examine research on the functioning of the juvenile justice system over the past 10 years in the area of delinquency prevention and control. The purpose of this extensive review will be to provide a scientifically sound basis for planning a multidisciplinary, multiagency agenda for research that not only informs policymakers and practitioners about the nature and extent of juvenile delinquency and violence but also identifies the most effective strategies for preventing and reducing youth crime and violence.

Issues of interest to the study include (1) an assessment of the status of research into youth violence, methodological approaches to evaluate the effectiveness of youth violence prevention efforts and the efficacy of Federal, State, and local efforts to control youth violence; (2) a review of research literature and data on juvenile court practices during this period, including the experience with Federal requirements regarding status offenders, detention practices, and the impact of diversion strategies and waivers to criminal court for certain offenders and offenses; (3) a review of research literature and data on clients in the juvenile justice system including concerns regarding disproportionate minority representation and gender bias; (4) an assessment of available evaluation literature on system programs and prevention strategies and programs, gaps in the research and recommendations to strengthen it; and (5) the relationship between the research on the causes and correlates of juvenile delinquency and normal adolescent growth and development.

A project report, synthesizing materials gathered from discussions and papers presented at workshops and panel meetings, will provide an overview of the critical issues confronting the juvenile justice field, gaps in current knowledge base, and future directions for research and program development.

The program will be implemented by the National Academy of Sciences. No additional applications will be solicited in FY 1997.

*The Hamilton Fish National Institute on School/Community Violence**

This consortium of eight universities will study violence in schools and the relationship of violence in schools to violence in the community. The consortium includes the George Washington University (Washington, D.C.), Morehouse School of Medicine (Georgia), the University of Oregon, the University of Kentucky, Florida State University, the University of Wisconsin,

Syracuse University (New York), and the University of Kansas. The Institute is a research, development, and service organization committed to assisting State and local policymakers, criminal justice officials, school administrators, teachers, parents, and students to reduce the present levels of violence in and around schools.

Each of the universities will establish a local community/schools/university partnership committed to a long-term reduction in violence. Each school, surrounding community, and a partner university will work to diagnose specific problems of violence that occur in and around the selected schools. After problem identification, the consortium and the local community and schools will design and implement interventions to address identified violence problems.

This program will be implemented by the George Washington University. No additional applications will be solicited in FY 1997.

OJJDP Management Evaluation Contract

The purpose of this contract, competitively awarded in FY 1995 to Caliber Associates, is to provide an expert resource capable of performing independent, management-oriented evaluations of selected juvenile delinquency programs. These evaluations are designed to determine the effectiveness and efficiency of either individual projects or groups of projects. The contractor also assists OJJDP in determining how to make the best use of limited evaluation resources and how best to design and implement evaluations.

In FY 1996, contract activities included continued evaluation of three OJJDP-funded boot camps; continued support for the evaluation of Title V delinquency prevention programs at the local level; assistance in preparing OJJDP's 1995 Title V Program Report to Congress; assistance to OJJDP program development working groups; assistance in the creation of an ''evaluation partnership for juvenile justice'' designed to improve the number and quality of evaluations conducted by Formula Grants Program grantees, other Federal agencies, private foundations that fund evaluations, and State and local governments; and conducting other short-or long-term evaluations as required.

Evaluation activities under consideration for FY 1997 include (1) OJJDP's Pathways to Success program; (2) two law enforcement training seminars, Managing Juvenile Operations and SAFE POLICY; (3) continued impact evaluations of three OJJDP-funded boot camps; (4) continued evaluation of Title V programs; (5) assistance to the OJJDP evaluation working group; (6) support to OJJDP Formula Grants Program grantees; and (7) evaluating OJJDP's implementation of the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders. The contract will be implemented by the current contractor, Caliber Associates. No additional applications will be solicited in FY 1997.

Juvenile Justice Statistics and Systems Development

The Juvenile Justice Statistics and Systems Development (SSD) program was competitively awarded to the National Center for Juvenile Justice (NCJJ) to improve national, State, and local statistics on juveniles as victims and offenders. The project has focused on three major functions: (1) assessing of how current information needs are being met with existing data collection efforts and recommending options for improving national level statistics; (2) analyzing data and disseminating information gathered from existing Federal statistical series and national studies. (Based on this work, OJJDP released the first *Juvenile Offenders and Victims: A National Report* in September 1995 and released *Juvenile Offenders and Victims: 1996 Update on Violence* in March 1996); and (3) providing of training and technical assistance for local agencies in developing or enhancing management information systems. A training curriculum, *Improving Information for Rational Decision Making in Juvenile Justice,* was drafted for pilot testing.

In this final phase of the SSD project, NCJJ will complete a long-term plan for improving national statistics on juveniles as victims and offenders, including constructing core data elements for a national reporting program for juveniles waived or transferred to criminal court; an implementation plan for integrating data collection on juveniles by juvenile justice, mental health, and child welfare agencies; and a report on standardized measures and instruments for self-reported delinquency surveys. The project will also make recommendations to fill information gaps in the areas of juvenile probation, juvenile court and law enforcement responses to juvenile delinquency, violent delinquency, and child abuse and neglect. In addition, the SSD Project will provide an update of *Juvenile Offenders and Victims: A National Report* and work with the Office of Justice Programs' Crime Statistics Working Group and other Federal interagency statistics working groups. The project will be implemented by the current grantee, NCJJ. No additional applications will be solicited in FY 1997.

Census of Juveniles in Residential Placement

The Census of Juveniles in Residential Placement will replace the biennial Census of Public and Private Juvenile Detention, Correctional, and Shelter Facilities, known as the Children in Custody census. This newly designed census will collect detailed information on the population of juveniles who are in juvenile residential placement facilities as a result of contact with the juvenile justice system. Over the past 3 years, OJJDP and the Bureau of the Census, with the assistance of a Technical Advisory Board, have developed a census designed to more accurately represent the numbers of juveniles in residential placement and describe the reasons for their placement. The new method of data collection, tested in FY 1996, involved gathering data in a roster-type booklet format or by electronic means. The new methods are expected to result in more accurate and useful data on the juvenile population, with less reporting burden for facility respondents.

In FY 1997, OJJDP will fund the initial implementation of this census, including form preparation, mailout, and processing of the census forms. Some followup will also be done under this agreement. This program will be implemented through an interagency agreement with the Bureau of the Census. No additional applications will be solicited in FY 1997.

Cost-Benefit Analyses of Juvenile Justice Programs

Finite resources require that hard choices be made among competing programs. Juvenile justice practitioners are increasingly being asked to justify their activities in terms of cost and effectiveness. Should programs be continued, expanded, or discontinued? Cost-benefit analyses are an important tool for policymakers and juvenile justice program administrators. They can provide useful, quantifiable, and integrated information. Accordingly, OJJDP will support studies designed to determine monetary program benefits of multiple but similar kinds of programs, of single programs, and across different programs.

A competitive solicitation for up to two studies will be issued in FY 1997 to support cost-benefit analyses.

Juvenile Justice Data Resources

OJJDP has entered into an agreement with the Inter-University Consortium for Political and Social Research (ICPSR) at the University of Michigan to make OJJDP data sets routinely available to researchers. Under this agreement, ICPSR assures the technical integrity of data and develops a universal data format. The codebooks, along with the data, provide clear guidance for additional analyses. Once prepared, ICPSR provides access to these data sets to member institutions and the public. Among the data sets previously processed and available through ICPSR are the Children in Custody series; various data sets from the Juvenile Court Statistics series; the Conditions of Confinement Study; the National Incidence Studies of Missing, Abducted, Runaway, and Thrownaway Children (NISMART); and data from the Delinquency in a Birth Cohort II study.

This program will be implemented under an interagency agreement with ICPSR. No additional applications will be solicited in FY 1997.

*National Juvenile Court Data Archive**

The National Juvenile Court Data Archive collects, processes, analyzes, and disseminates automated data and published reports from the Nation's juvenile courts. The Archive's reports examine referrals, offenses, intake, and dispositions in addition to providing information on specialized topics such as minorities in juvenile courts and specific offense categories. The Archive also provides assistance to jurisdictions in analyzing their juvenile court data.

In FY 1996, the Archive enhanced the collection, reporting, and analysis of detailed data on detention, dispositions, risk factors, and treatment data using offender-based data sets from a sample of juvenile courts. In support of OJJDP's National Forum on Female Offenders, the Archive prepared a special statistics summary, *Female Offenders in the Juvenile Justice System*.

In addition to preparing traditional reports, NCJJ prepared a software package, *Easy Access to Juvenile Court Statistics 1990–1994*, that allows users to quickly answer questions regarding a wide range of case characteristics supported with national estimates. The software is distributed free on diskette and is also available through OJJDP's homepage on the World Wide Web.

The project will be implemented by the current grantee, NCJJ. No additional applications will be solicited in FY 1997.

National Juvenile Justice and Delinquency Prevention Training and Technical Assistance Center

The National Juvenile Justice and Delinquency Prevention Training and Technical Assistance Center (NTTAC) was competitively funded in FY 1995 for a 3-year project period to develop a national training and technical assistance clearinghouse, inventory and coordinate integrated delivery of juvenile justice training/technical assistance (TA) resources, and establish a data base of these resources.

In FY 1995, initial work involved organization and staffing of the Center, orientation for OJJDP training/TA providers regarding their role in the Center's activities, and initial data base development. In FY 1996, NTTAC provided coordinated TA support for the OJJDP SafeFutures and gang program initiatives, continued to promote collaboration among OJJDP training/TA providers, developed training/TA materials, and completed the OJJDP *Training and Technical Assistance Resource Catalog*. In addition, NTTAC assisted State and local jurisdictions and other OJJDP grantees with specialized training, including the development of training-of-trainers programs. NTTAC continued to evolve as a central source for information pertaining to the availability of OJJDP-supported training/TA programs and resources.

In FY 1997, in cooperation with OJJDP training/TA grantees and contractors, NTTAC will complete jurisdictional team training/TA packages for gender-specific services and juvenile correctional services, field test the packages, and coordinate delivery upon request. NTTAC will also update the *Training and Technical Assistance Resource Catalog*, the repository of training/TA materials, and the electronically maintained data base of training/TA materials. Another task for 1997 will be to develop one additional jurisdictional team training/TA package.

This project will be implemented by the current grantee, Community Research Associates. No additional applications will be solicited in FY 1997.

Technical Assistance for State Legislatures

State legislatures are being pressed to respond to public fear of juvenile crime and a loss of confidence in the capacity of the juvenile justice system to respond effectively. Nearly every State has already implemented, or is considering, statutory changes affecting the juvenile justice system. State legislatures have historically lacked the information needed to properly address juvenile justice issues. In FY 1995, OJJDP awarded a 2-year grant to the National Conference of State Legislatures (NCSL) to provide relevant, timely information on comprehensive approaches in juvenile justice that are geared to the legislative environment. In FY 1995 and FY 1996, NCSL convened Leadership Forums for selected legislators, organized focus groups, and established an information clearinghouse function. In FY 1997, OJJDP will award continuation funding to the NCSL to further identify, analyze, and disseminate information to assist State legislatures to make more informed decisions about legislation affecting the juvenile justice system. A complementary task involves supporting increased communication between State legislators and State and local leaders who influence decisionmaking regarding juvenile justice issues. NCSL will provide intensive technical assistance to four States, continue outreach activities, and maintain its clearinghouse function.

The project will be implemented by the current grantee, NCSL. No additional applications will be solicited in FY 1997.

OJJDP Technical Assistance Support Contract-Juvenile Justice Resource Center

This 3-year contract, competitively awarded in FY 1994, provides technical assistance and support to OJJDP, its grantees, and the Coordinating Council on Juvenile Justice and Delinquency Prevention in the areas of program development, evaluation, training, and research. This program support contract will be extended in FY 1997. The contract will be implemented by the current contractor, Aspen Systems Corporation. A new competitive contract solicitation will be issued during FY 1997, and a new contract awarded in FY 1998.

Juvenile Justice Clearinghouse

A component of the National Criminal Justice Reference Service (NCJRS), the Juvenile Justice Clearinghouse (JJC) is OJJDP's central resource for collecting, maintaining, producing, and sharing information on all aspects of juvenile justice. Types of information managed by JJC include research and evaluation findings, State and local juvenile delinquency prevention and treatment programs and plans, availability of resources, training and educational programs, and statistics. JJC reaches the entire juvenile justice community and

other interested persons, serving researchers, law enforcement officials, judges, prosecutors, probation and corrections staff, youth-service personnel, legislators, the media, and the public.

Among its support services, JJC offers toll-free telephone and online access to information; prepares specialized responses to information requests; produces, warehouses, and distributes OJJDP publications; exhibits at national conferences; and maintains a comprehensive juvenile justice library and data base. Because of the critical need to inform juvenile justice practitioners and policymakers of promising program approaches, JJC continually develops and recommends new products and strategies to communicate more effectively the research findings and program activities of OJJDP and the field. The entire NCJRS, of which the OJJDP-funded JJC is a part, is administered by the National Institute of Justice under a competitively-awarded contract.

The contract will be implemented by the current contractor, Aspen Systems Corporation. No additional applications will be solicited in FY 1997.

Telecommunications Assistance

Developments in information technology and distance training have expanded and enhanced OJJDP's capacity to disseminate information and provide training and technical assistance. These technologies have the advantages of increased access to information and training for professionals in the juvenile justice system, reduced travel costs to conferences, and reduced time attending meetings requiring one or more nights away from one's home or office. Additionally, the successful use of live satellite teleconferences by OJJDP during the past 2 years has generated an enthusiastic response from the field.

During 1996, OJJDP's grantee, Eastern Kentucky University (EKU) produced five live satellite teleconferences on the following topics: juvenile boot camps, conflict resolution for youth, reducing youth gun violence, youth out of the education mainstream, and the future of the juvenile court.

In FY 1997, OJJDP will continue the competitively awarded cooperative agreement to EKU in order to provide program support and technical assistance for a variety of information technologies, including audiographics, fiber optics, and satellite teleconferences, producing five additional live national satellite teleconferences. The grantee will also continue to provide technical assistance to other grantees interested in using this technology and explore linkages with key constituent groups to advance mutual information goals and objectives.

This project will be implemented by the current grantee, EKU. No additional applications will be solicited in FY 1997.

*Coalition for Juvenile Justice**

The Coalition for Juvenile Justice supports and facilitates the purposes and functions of each State's Juvenile Justice State Advisory Group (SAG). Coalition members, acting as a statutorily authorized, duly chartered Federal advisory committee, review Federal policies and practices regarding juvenile justice and delinquency prevention and prepare and submit an annual report and recommendations to the President, Congress, and the Administrator of OJJDP. The Coalition also serves as an information center for the SAG's and conducts an annual conference to provide training for SAG members.

The program will be implemented by the current grantee, the Coalition for Juvenile Justice. No additional applications will be solicited in FY 1997.

*Insular Area Support**

The purpose of this program is to provide supplemental financial support to the U.S. Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands (Palau), and the Commonwealth of the Northern Mariana Islands. Funds are available to address the special needs and problems of juvenile delinquency in these insular areas, as specified by Section 261(e) of the JJDP Act, as amended, 42 U.S.C. § 5665(e).

Public Safety and Law Enforcement

Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program

This program supports the implementation of a comprehensive gang program model in five jurisdictions. The program was competitively awarded with FY 1994 funds under a 3-year project period. The demonstration sites implementing the model, which was developed by the University of Chicago with OJJDP funding support, are Bloomington, Illinois; Mesa, Arizona; Riverside, California; San Antonio, Texas; and Tucson, Arizona. Implementation of the comprehensive gang program model requires the mobilization of the community to address gang-related violence by making available and coordinating social interventions, providing social/academic/vocational and other opportunities, and supporting gang suppression through law enforcement, probation, and other community control mechanisms.

During the past year, the demonstration sites completed initial gang violence problem assessments to identify the full nature and extent of the gang problem in the community and its causes. The assessment process has helped communities to understand causes of gang violence in their community; identify key points for prevention, intervention, and suppression; and identify benchmarks by which program success may be measured. The demonstration sites also participated in training and technical assistance activities, including cluster conferences sponsored by OJJDP and visits to a program in Chicago where the model has been implemented and demonstrated positive initial results through a 4-year evaluation. In addition, the demonstration sites began strategy implementation and service provision and made progress in community mobilization, either through existing planning structures or by creating new structures.

In FY 1997, demonstration sites will receive third-year funding to continue implementation of the model program and build upon the sustained mobilization, planning, and assessment processes. Additionally, the demonstration sites will continue to target youth prone to gang violence through continuing implementation of the program model and work with the independent evaluator of this demonstration program. No additional applications will be solicited in FY 1997.

Evaluation of the Comprehensive Community-Wide Approach to Gang Prevention, Intervention and Suppression Program

The University of Chicago, School of Social Services Administration, received a competitive cooperative agreement award in FY 1994. This 4-year project period award supports the evaluation of OJJDP's Comprehensive Community-Wide Approach to Gang Prevention, Intervention, and Suppression Program. The evaluation grantee assisted the five program sites (Bloomington, Illinois; Mesa, Arizona; Tucson, Arizona; Riverside, California; and San Antonio, Texas) in establishing realistic and measurable objectives, documenting program implementation, and measuring the impact of a variety of gang program strategies. It has also

provided interim feedback to the program implementors.

In FY 1996, the grantee designed and implemented organizational surveys and youth interviews; developed and implemented program tracking and worker questionnaires and interviews; gathered and tracked aggregate level offense/offender client data from police, prosecutor, probation, school, and social service program sources; developed and implemented uniform individual level criminal justice data collection efforts; consulted with local evaluators on development and implementation of local site parent/community resident surveys; and coordinated ongoing efforts with local researchers conducting special surveys of gang youth in the program.

In FY 1997, the grantee will continue to gather data required to evaluate the program and provide ongoing feedback to project sites.

This project will be implemented by the current grantee, the University of Chicago, School of Social Services Administration. No additional applications will be solicited in FY 1997.

Targeted Outreach With a Gang Prevention and Intervention Component (Boys and Girls Clubs)

This program is designed to enable local Boys and Girls Clubs to prevent youth from entering gangs, intervene with gang members in the early stages of gang involvement, and divert youth from gang activities into constructive activities and programs. In FY 1996, Boys and Girls Clubs of America provided ongoing training and technical assistance to 30 existing gang prevention and 4 intervention sites and expanded the gang prevention and intervention program to 23 additional Boys and Girls Clubs, including clubs located in OJJDP's SafeFutures program sites.

In FY 1997, Boys and Girls Clubs of America will provide training and technical assistance to 20 new gang prevention sites, 3 new intervention sites, and the 6 SafeFutures sites and initiate a national evaluation of the Targeted Outreach: Gang Prevention and Intervention Program.

This program will be implemented by the current grantee, the Boys and Girls Clubs of America. No additional applications will be solicited in FY 1997.

The Developmental Dynamics of Gang Membership and Delinquency

The Seattle Social Development Project (SSDP) is a longitudinal gang prevention study conducted in collaboration with Seattle Public Schools. Initially funded under a competitive field-initiated research program, the analysis of gangs in the SSDP data set has examined juveniles ages 10–18 to identify risk and protective factors for gang membership. Analysis details predictors of gang membership, age of initiation, length, desistance from gang membership, and consequences, measured at age 18, of gang membership during early and mid-adolescence.

In FY 1996, the research study revealed the extent of gang membership in the SSDP sample, the types and proportion of crime committed in the sample that are committed by gang members, the extent of gang crime increases, when youth join gangs or already delinquent youth join gangs, the length of time youth stay active members, the childhood predictors of joining a gang in adolescence, and the developmental risk factors that best predict joining a gang.

In FY 1997, the SSDP will obtain official criminal records for a sample group, ages 18–21 years, and integrate them into the longitudinal data set from the SSDP. Additional data analysis will examine (1) the individual, peer, family, school, and neighborhood predictors of early initiation into gangs; (2) the predictors of sustained gang involvement; and (3) the effects of criminal justice system involvement on gang membership.

This project will be implemented by the current grantee, the University of Washington. No additional applications will be solicited in FY 1997.

National Youth Gang Center

The proliferation of gang problems in large inner cities, smaller cities, suburbs, and even rural areas over the past two decades led to the development by OJJDP of a comprehensive, coordinated response to America's gang problem. This response involved five program components, one of which was the implementation and operation of the National Youth Gang Center (NYGC). The NYGC was competitively funded with FY 1994 funds for a 3-year project period. NYGC was created to expand and maintain the body of critical knowledge about youth gangs and effective responses to them. NYGC assisted State and local jurisdictions in the collection, analysis, and exchange of information on gang-related demographics, legislation, research, and promising program strategies.

The Center also coordinated activities of the OJJDP Gang Consortium-a group of Federal agencies, gang program representatives, and service providers. Under the sponsorship of OJJDP, the National Institute of Justice, the Bureau of Justice Assistance, and members of the Regional Information Sharing Systems Program, the NYGC coordinated a National Youth Gang Symposium in June 1996, with over 700 participants in attendance. Results of the first NYGC National Youth Gang Survey were compiled and analyzed in FY 1996 and will be published in FY 1997.

Other major NYGC tasks in FY 1996 included analysis of gang legislation and coordination of the OJJDP Youth Gang Consortium. The Consortium is developing information that will provide an overview of Federal agencies, including the development of a matrix to include information on planning cycles, contacts, and gang-related programs.

In FY 1997, NYGC will prepare the matrix of the program planning cycle, information resources, contacts, and programs of the Consortium members and promote collaboration so State and local youth-serving agencies will be able to coordinate resources available from Federal agencies. Also, NYGC will hold additional focus group meetings to review the results of the first National Youth Gang Survey and to plan the format of followup surveys.

Fiscal year 1997 funds will support third-year funding of the NYGC cooperative agreement to the current grantee, the Institute for Intergovernmental Research. No additional applications will be solicited in FY 1997.

Evaluation of Youth Gun Violence Reduction Programs

In response to the problem of juvenile gun violence, OJJDP and the International Association of Chiefs of Police (IACP) have identified promising programs designed to reduce gun violence by youth. Currently, numerous communities have implemented or are in the process of implementing youth gun violence reduction programs. However, not enough is known about the effectiveness of such programs.

In the Proposed Program Plan for FY 1997, OJJDP proposed to evaluate a select number of promising youth gun violence reduction programs currently under way in communities across the country, as identified by IACP. After careful consideration, OJJDP decided not to issue a separate solicitation for this evaluation but to combine this work with research that is currently being undertaken under the Evaluation of the Partnerships To Reduce Gun Violence, a grant that was recently awarded to the

COSMOS Corporation. The Evaluation of the Partnerships To Reduce Gun Violence will document and evaluate the process of community mobilization, planning, and collaboration needed to develop a comprehensive, collaborative approach to reducing gun violence involving juveniles. The evaluation of the IACP sites is a natural addition to the COSMOS project. With an expanded base of youth gun violence projects, there is greater opportunity to identify sites that are employing similar strategies with different targeted populations. Combining the two projects will result in certain economies in terms of staffing and other project costs.

OJJDP will, therefore, incorporate the program summarized in the Proposed Program Plan and referred to as the Evaluation of Youth Gun Violence Reduction Programs into the Evaluation of the Partnerships To Reduce Youth Gun Violence. The current grantee, the COSMOS Corporation, will implement the evaluation. No additional applications will be solicited in FY 1997.

The Chicago Project for Violence Prevention

The Chicago Project for Violence Prevention's primary goal is the development of a citywide, accelerated, long-term effort to reduce violence in Chicago. Secondly, the Chicago Project demonstrates a comprehensive, citywide violence prevention model. Overall project objectives include reductions in homicide, physical injury, disability and emotional harm from assault, domestic abuse, sexual abuse and rape, and child abuse and neglect.

The Chicago Project is a partnership among the Chicago Department of Public Health, the Illinois Council for the Prevention of Violence, the University of Illinois, and Chicago communities. It began in January 1995 as a public health initiative with OJJDP funding. The project currently provides technical assistance to a variety of community-based and citywide organizations involved in violence prevention planning. The majority of technical assistance supports community level work and agencies working to directly support the community plan.

In FY 1996, technical assistance was provided to the central planning group for the Austin community-based coalition, leadership and staff of the Westside Health Authority in the Austin community, and to other selected groups involved in the Austin plan for the development of their components (e.g., to Northwest Austin Council for the development of the afterschool and drug treatment components of the Austin plan). These groups are members of the violence consortium in Austin.

In FY 1997, the Chicago Project will further refine the violence prevention strategy developed in the Austin community and begin implementation of the strategy and continue to provide technical assistance to the Logan Square and Grand Boulevard communities as they develop their violence prevention strategies.

The Chicago Project for Violence Prevention will be implemented by the current grantee, the University of Illinois, School of Public Health. No additional applications will be solicited in FY 1997.

Child-Centered Community-Oriented Policing

In FY 1993, OJJDP provided support to the New Haven, Connecticut, Police Department and the Yale University Child Development Center to document a child-centered community-oriented policing model being implemented in New Haven, Connecticut. The basic elements of the model are a 10-week training course in child development for all new police officers and child development fellowships for all community-based district commanders who direct neighborhood police teams. The fellowships provide 4 to 6 hours of training each week over a 3-month period at Yale's Child Study Center. The program also includes (1) a 24-hour consultation from a clinical professional and a police supervisor to patrol officers who assist children who have been exposed to violence; (2) weekly case conferences with police officers, educators, and child study center staff; and (3) open police stations located in neighborhoods and accessible to residents for police and related services, community liaison, and neighborhood foot patrols.

In FY 1994, Bureau of Justice Assistance (BJA) community policing funds helped OJJDP to support the first year of a 3-year training and technical assistance grant to replicate the program nationwide. These funds supported the development of criteria for a request for proposals, protocols for consultation, training-for-trainers sessions for New Haven police and clinical faculty, and the development of a multimodel strategy for data collection and program evaluation. Fiscal year 1995 OJJDP funds supported initiation of program replication efforts in Buffalo, New York; Charlotte, North Carolina; Nashville, Tennessee; and Portland, Oregon. Fiscal year 1996 funds supported the implementation of the five-phase replication protocol in the four selected sites. Fiscal year 1997 continuation funding from OJJDP will further support replication, site data collection and analysis activities, and development of a detailed casebook about the model and program.

This project will be implemented by the current grantee, the Yale University School of Medicine, in collaboration with the New Haven Department of Police Services. No additional applications will be solicited in FY 1997.

Law Enforcement Training and Technical Assistance Program

Juvenile crime and victimization present major challenges to practitioners who are responsible for prevention, intervention, and enforcement efforts. Increasing rates of violent crime committed by juveniles, rising juvenile involvement in gangs and drugs, and decreasing fiscal resources are just some of the challenges facing juvenile justice practitioners today.

OJJDP is committed to helping State and local agencies, organizations, and individuals face these challenges through a comprehensive program of training and technical assistance that is designed to enhance the juvenile justice system's ability to respond to juvenile crime and delinquency. This assistance targets many audiences, including law enforcement representatives, social service workers, school staff and administrators, prosecutors, judges, corrections and probation personnel, and key community and agency leaders.

Fiscal year 1997 funds will support the continuation of OJJDP's Chief Executive Officer Youth Violence Forum; the Managing Juvenile Operations (MJO) workshop; the Gang, Gun, and Drug POLICY workshop; the School Administrators for Effective Police, Prosecution, Probation Operations Leading to Improved Children and Youth Services (SAFE POLICY) workshop; the Serious Habitual Offender Comprehensive Action Program (SHOCAP); the Youth Oriented-Community Policing workshop; and the Tribal Law Enforcement Training and Technical Assistance workshop.

In FY 1997, through a competitive selection process, OJJDP awarded a 3-year contract to implement the Law Enforcement Training and Technical Assistance Program. The contractor is the John Jay College of Criminal Justice, teamed with the COSMOS Corporation. No additional applications will be solicited in FY 1997.

Violence Studies

The 1992 Amendments to the JJDP Act directed OJJDP to fund 2-year studies on violence in three urban and one rural jurisdiction. Building on the results of OJJDP's Program of Research on the Causes and Correlates of Delinquency, these studies were to examine the incidence of violence committed by or against juveniles in urban and rural areas of the United States. In FY 1994, OJJDP initiated a University of Wisconsin study of homicides by and of youth in Milwaukee, Wisconsin. In that same year, under a grant to the University of South Carolina, OJJDP funded a cross-site study in rural areas in South Carolina, Georgia, and Florida. In FY 1995, in Los Angeles, California, and Washington, D.C., the University of Southern California and the Institute for Law and Justice initiated additional violence studies.

These four studies are providing valuable information regarding community violence patterns, with a particular focus on homicide and firearm use involving juveniles. Their results will assist the juvenile justice system by identifying strategic law enforcement responses to juvenile violence and by identifying diversion, prevention, and control programs that ameliorate juvenile violence.

In FY 1996, the University of Wisconsin and the University of South Carolina analyzed their data and made their project findings. The Institute for Law and Justice collected and analyzed aggregate data from various juvenile justice providers and from a series of interviews with agency staff serving adjudicated juveniles. The University of Southern California received funds to identify violence prevention programs, conduct a household survey, and interview adolescents and their caregivers in Los Angeles County.

In FY 1997, OJJDP will provide limited funding to the University of Southern California to complete its study. The program will be implemented by the current grantee, the University of Southern California. No additional applications will be solicited in FY 1997.

Strengthening the Juvenile Justice System

Development of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders

The National Council on Crime and Delinquency and Developmental Research and Programs, Inc., have completed Phases I and II of a collaborative effort to support development and implementation of OJJDP's Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders. Phase I involved assessing existing and previously researched programs in order to identify effective and promising programs that can be used in implementing the Comprehensive Strategy. In Phase II, a series of reports were combined into a *Guide for Implementing the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders.* Phase II also included convening a forum, ''Guaranteeing Safe Passage: A National Forum on Youth Violence,'' and holding two regional training seminars for key leaders on implementing the Comprehensive Strategy.

In FY 1996, Phase III of the project was funded to provide: targeted dissemination of information on the Comprehensive Strategy at national conferences; intensive training for selected States to implement the Comprehensive Strategy in up to six local jurisdictions; the six SafeFutures sites; technical assistance to a limited number of individual jurisdictions interested in implementing the Comprehensive Strategy; and continued development of Comprehensive Strategy implementation resources.

In FY 1997, the grantees will continue to target dissemination of the *Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders* and hold regional training seminars in the Southeast and Midwest; provide training and technical assistance to additional state and local jurisdictions interested in implementing the Comprehensive Strategy; and provide intensive training and technical assistance in 5 competitively-selected Comprehensive Strategy States-Florida, Iowa, Maryland, Rhode Island, and Texas.

The program will be implemented by the current grantees, the National Council on Crime and Delinquency and Developmental Research and Programs, Inc. No additional applications will be solicited in FY 1997.

Serious, Violent, and Chronic Juvenile Offender Treatment Program

The Serious, Violent, and Chronic Juvenile Offender Treatment Program is designed to assist local jurisdictions in the development and implementation of a comprehensive strategy for the intervention, treatment, and rehabilitation of juvenile offenders. The program was initially funded in 1993 under the Accountability-Based Community (ABC) Intervention program. Under the ABC initiative, Allegheny County, Pennsylvania, and Washington, D.C., were competitively funded to plan and implement a comprehensive graduated sanctions plan.

In FY 1994, under a second competitive announcement, OJJDP awarded funds under the Serious, Violent, and Chronic Offender Treatment Program to three additional jurisdictions (Boston, Massachusetts; Jefferson Parish, Louisiana; and Richmond, Virginia) to develop and implement a comprehensive graduated sanctions plan.

Each jurisdiction's graduated sanctions plan included the following basic elements: (1) assess the existing continuum of secure and nonsecure intervention, treatment, and rehabilitation services in each jurisdiction; (2) define the juvenile offender population; (3) develop and implement a program strategy; (4) develop and implement an evaluation; (5) integrate private nonprofit, community-based organizations into the provision of offender services; (6) incorporate an aftercare program as an integral component of all residential placements; (7) develop a resource plan to enlist the financial and technical support of other Federal, State, and local agencies, private foundations, or other funding sources; and (8) develop a victim assistance component using local organizations.

In FY 1996, each of the three FY 1994 grantees received awards to continue implementation activities. Boston and Richmond will complete operations during FY 1997. Jefferson Parish will receive a final 6-month award in FY 1997.

No additional applications will be solicited in FY 1997.

Juvenile Restitution: A Balanced Approach

OJJDP will continue support of the juvenile restitution training and technical assistance program in FY 1997. The project design is based on practitioner recommendations regarding juvenile justice program needs and the best methods for integrating and institutionalizing restitution and community service as key components of juvenile justice system dispositions. In FY 1992, a practitioner working group helped map out a plan for optimum development of the components of restitution programs. Plan components included community service, victim reparation, victim-offender mediation, offender employment and supervision, employment development, and other program elements designed to establish

restitution as a key element in improving the juvenile justice system. This project is guided by balanced and restorative justice (BARJ) principles, which include the need to provide a balance of (1) community protection, (2) offender competency development, and (3) offender accountability to individual victims and communities. The project helps juvenile justice agencies to introduce these elements in programs for sanctioning and controlling juvenile offenders.

In FY 1995, the project assisted three local jurisdictions (Allegheny County, Pennsylvania; Dakota County, Minnesota; and West Palm Beach County, Florida) to implement the ''balanced approach,'' participated in presenting a series of regional roundtables for States interested in adopting the BARJ model, and provided *ad hoc* technical assistance. In FY 1996, the project continued training, technical assistance, and development of guideline materials, including a *Balanced and Restorative Justice Project Resource Guide* and a *Curriculum Guide* on the BARJ model.

In FY 1997, the project will provide training-of-trainers programs on the BARJ model based on the *Curriculum Guide* and the *Resource Guide.* The grantee will also continue to offer technical assistance to the increasing number of State and local jurisdictions interested in pursuing balanced and restorative justice.

This project will be implemented by the current grantee, Florida Atlantic University. No additional applications will be solicited in FY 1997.

Training and Technical Assistance Program To Promote Gender-Specific Programming for Female Juvenile Offenders

The 1992 Amendments to the JJDP Act addressed, for the first time, the issue of gender-specific services. The Amendments require States participating in OJJDP's State Formula Grants Program to conduct an analysis of gender-specific services for the prevention and treatment of juvenile delinquency, including the types of services available, the need for such services, and a plan for providing needed gender-specific services for the prevention and treatment of juvenile delinquency.

In FY 1995, the OJJDP Gender-Specific Services Program focused on providing training and technical assistance directly to States and on providing and promoting the establishment of gender-specific programs at the State level. Training and technical assistance were provided to a broad spectrum of policymakers and service providers regarding services for juvenile female offenders through direct grants, sponsorship of national conferences, and inclusion of a gender-specific service component in OJJDP's SafeFutures program.

In FY 1996, building upon these past efforts, OJJDP awarded a 3-year competitive grant to Greene, Peters and Associates (GPA) to provide a comprehensive framework for assisting policymakers, service providers, educators, parents, and the general public in addressing the complex needs of female adolescents who are at risk for delinquent behavior. The project's objectives are to develop and test a training curriculum for policymakers, advocacy organizations, and community-based youth-serving organizations that conveys the need for effective gender-specific programming for juvenile females and the elements of such programs; to develop, test, and deliver a technical assistance package on the development of gender-specific programs; to inventory female-specific programs, identifying those program models designed to build upon the gender-specific needs of girls, and prepare a monograph suitable for national dissemination; to design and test a curriculum for line staff delivering services to juvenile females; to design and implement a public education initiative on the need for gender-specific programming for girls; and to design and conduct training for trainers. Because the grant was awarded at the end of FY 1996, work on the project is in its initial stages.

The program will be implemented by the current grantee, GPA. No additional applications will be solicited in FY 1997.

Cook County Juvenile Female Offenders Project

In FY 1995, OJJDP awarded a competitive grant to enable Cook County to plan programs for juvenile female offenders in the Cook County Juvenile Temporary Detention Center. A Steering Committee formed to oversee the project included community and government agency representatives working together to effectuate change in the way juvenile female offenders are handled. To coordinate efforts, the committee organized a task force of 30 government and community-based agencies to promote gender equity and fairness.

The Steering Committee, with the assistance of task force members, accomplished several key objectives during their planning effort. They (1) developed a gender-specific needs and strengths assessment instrument and a risk assessment instrument for juvenile female offenders through a consulting contract with the National Council on Crime and Delinquency; (2) provided training in implementing gender-appropriate programming to more than 300 management and line staff representing more than 100 local public and private agencies; (3) compiled a directory of gender-specific services available in Cook County; (4) assessed the strengths and interactions, and the areas for improvement of interaction, among the five custodial agencies involved in legal responsibilities for juvenile female offenders in Cook County (the Chicago Police Department, Cook County Juvenile Temporary Detention Center, Illinois Department of Children and Family Services, Illinois Department of Corrections—Juvenile Division, and Cook County Juvenile Probation); and (5) designed a pilot program that includes a community-based continuum of care with a unique case management system.

In FY 1997, the project will join Federal, State, and local resources to implement the pilot program. Under the program, each juvenile female offender will have a case manager who will follow her throughout her involvement in the juvenile justice system. The case manager will advocate for services to meet the juvenile's needs in a timely and consistent manner.

This program will be implemented by the current grantee, the Cook County Board of Commissioners. No additional applications will be solicited in FY 1997.

Juvenile Transfers to Criminal Court Studies

States are increasingly enacting juvenile code revisions broadening judicial waiver authority, providing prosecutor direct file authority, and mandating transfer of older, more violent juveniles to criminal court. Many States are also developing innovative procedures, such as blending traditional features of juvenile and criminal justice sentencing practices, through statutes that categorize juvenile offenders into different classes according to the seriousness of the offense, designating juvenile or criminal court for each class, or providing judges with discretion to make these judgments at sentencing. Studies of the impact of criminal court prosecution of juveniles have yielded mixed conclusions. Solid research on the intended and unintended consequences of transfer of juveniles to criminal court will enable policymakers and legislatures to develop statutory provisions and

policies and improve judicial and prosecutorial waiver and transfer decisions.

To address the shortage of recent research results, OJJDP competitively funded two juvenile waiver and transfer research projects in FY 1995. The first, awarded to the National Center for Juvenile Justice, compares juvenile and criminal court handling of juveniles in four States that authorize judicial waiver of serious and violent juvenile offenders and mandate criminal court handling for specified categories of juvenile offenders. The second study, awarded to the Florida Juvenile Justice Advisory Board, evaluates Florida's system of blending the option of criminal and juvenile justice system sentencing for serious and violent juvenile offenders. Additional funding was provided in FY 1996 to enable the projects to collect case specific information on sentence completion and recidivism data in order to provide a more definitive assessment of the impact of criminal versus juvenile justice system handling of serious and violent offender cases.

In FY 1997, OJJDP will provide limited continuation funding in jurisdictions that were part of one or both of these studies and provide promising opportunities for longitudinal study. The projects will be implemented by the current grantees, the National Center for Juvenile Justice and the Florida Juvenile Justice Advisory Board. No additional applications will be solicited in FY 1997.

Replication and Extension of Fagan Transfer Study

OJJDP will award a grant to Columbia University to conduct a study, ''The Comparative Impact of Juvenile Versus Criminal Court Sanctions on Recidivism Among Adolescent Felony Offenders: A Replication and Extension.'' This study will be a replication and expansion of an original study and will be conducted by the Principal Investigator, Dr. Jeffrey Fagan. His 1986 New York/New Jersey study was the first transfer study comparing four contiguous counties matched on social, economic, and criminogenic factors and offender cohorts with essentially identical offense profiles. It was also the first such study to go beyond comparing sentences to studying the deterrent effects of the sanction and court jurisdiction on recidivism rates in juvenile versus criminal court.

The replication and extension is the only research project that can answer questions about how case processing decisions have changed in the last decade. The new study will compare case dispositional outcomes in 1981–82 with those cases processed in 1993–94, a time period following sustained growth in the rates of youth violence. In addition, a study component under the direction of Dr. Barry Feld will explore whether there are factors being considered by prosecutors, judges and defense attorneys that explain the variation in sentences/dispositions and recidivism between groups of offenders handled in different systems. This component will provide an analysis of the organizational, contextual, or systemic factors involved in the decision processes affecting both jurisdiction and punishment. The study will also conduct interviews with selected offenders processed in different systems to gain a perspective on the impact of criminal versus juvenile system handling of such cases on further experiences with the justice system. The project will also collaborate with the other OJJDP Juvenile Transfers to Criminal Court Studies in sharing data collection instruments and in planning joint analyses where appropriate.

This program will be implemented by Columbia University. No additional applications will be solicited in FY 1997.

*Technical Assistance to Juvenile Courts**

The National Center for Juvenile Justice (NCJJ), the research arm of the National Council of Juvenile and Family Court Judges, provides technical assistance under this grant for juvenile court practitioners. The focus of the technical assistance is on court administration and management, program development, and special legal issues. During FY 1996, NCJJ responded to more than 850 requests for technical assistance. In addition, NCJJ staff completed the Research Report *State Responses to Serious and Violent Juvenile Crime.*

In FY 1997, NCJJ will develop an online technical assistance capability to improve program monitoring and evaluation. In addition, a desktop guide for juvenile probation administrators will be completed.

The program will be implemented by the current grantee, NCJJ. No additional applications will be solicited in FY 1997.

*Juvenile Court Judges Training**

The primary focus of this project in FY 1997 will be to continue and refine the training and technical assistance program offered by the National Council of Juvenile and Family Court Judges (NCJFCJ). The objectives of the training are to supplement law school curriculums by providing basic training to new juvenile court judges and to provide experienced judges with state-of-the-art training on developments in juvenile and family case law and effective dispositional options. Emphasis is also placed on alcohol and substance abuse, child abuse and neglect, gangs and violence, cultural diversity, disproportionate incarceration of minority youth, and intermediate sanctions. Training is also provided to other court personnel, including juvenile probation officers, aftercare workers, and child protection and community treatment providers. In FY 1996, some 12,775 judges and court personnel received training through 74 different programs. In addition, more than 800 training-related technical assistance requests were completed.

The project will be implemented by the current grantee, NCJFCJ. No additional applications will be solicited in FY 1997.

The Juvenile Justice Prosecution Unit

OJJDP has historically supported prosecutor training activities through the National District Attorneys Association (NDAA). To continue that work, OJJDP awarded a 3-year project period grant in FY 1995 to the American Prosecutors Research Institute (APRI), the research and technical affiliate of NDAA, to establish a Juvenile Justice Prosecution Unit (JJPU). JJPU holds workshops on juvenile justice-related policy, leadership, and management for chief prosecutors and unit chiefs. JJPU also provides prosecutors with background information on juvenile justice issues and programs, training, and technical assistance.

The project is based on planning and input by prosecutors familiar with juvenile justice needs. It draws on the expertise of working groups of elected or appointed prosecutors and juvenile unit chiefs to support project staff in providing technical assistance, juvenile justice-related research, program information, and training to practitioners nationwide. In 1995, APRI collected information from prosecutors and sponsored a National Invitational Symposium on Juvenile Justice. The Symposium provided a forum for prosecutors to exchange ideas on programs, issues, legislation, and practices in juvenile justice. In 1996, APRI conducted three workshops for elected and appointed prosecutors and juvenile unit chiefs to help improve prosecutor involvement in the prosecution and prevention of juvenile delinquency. In 1997, APRI will conduct a second National Symposium,

present additional workshops, and develop new reference materials for prosecutors.

The project will be implemented by the current grantee, APRI. No additional applications will be solicited in FY 1997.

Due Process Advocacy Program Development

In FY 1993, OJJDP funded the American Bar Association (ABA), in partnership with the Juvenile Law Center (JLC) of Philadelphia, Pennsylvania, and the Youth Law Center (YLC) of San Francisco, California, to develop strategies to improve due process and the quality of legal representation in the juvenile justice system. The goals of the program are to increase juvenile offenders' access to legal services and to improve the quality of preadjudication, adjudication, and dispositional advocacy for juvenile offenders. The strategies that have been developed are being made available to State and local defender organizations, State and local bar associations, and other relevant organizations so that they can develop approaches to increase the availability and quality of counsel for juveniles.

In FY 1994 and FY 1995, the ABA, JLC, and YLC conducted an assessment of the current state of the art with regard to legal services, training, and education. This survey included a review of literature, case law, and State statutes and a survey of public defenders, court-appointed lawyers, law school clinical programs, and judges. As a result of this survey work, the ABA developed and published a report entitled *A Call for Justice: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings.* The report has been widely distributed to State and local bar associations, Chairs of State Juvenile Justice Advisory Groups, participants in the ABA survey, the National Association of Child Advocates, and others.

In FY 1996, training was initiated, beginning with the States of Maryland, Tennessee, and Virginia. The structure and scope of the training are tailored to fit the needs of each State.

In FY 1997, a training manual will be completed, covering key issues such as detention, transfer or waiver, and dispositional advocacy. The curriculum in the manual will build on existing quality training curriculums and inform defender organizations and others about the best training curriculums available. The training manual will be designed to fill gaps in existing training programs. The ABA and its partners will also continue to develop networks with public defenders offices, children's law centers, and others through the HANDSNET system and mailings that provide program updates. In addition, the ABA and its partners will provide or arrange for onsite technical assistance to additional jurisdictions that are actively pursuing the goals of this initiative.

This program will be implemented by the current grantee, ABA. No additional applications will be solicited in FY 1997.

Quantum Opportunities Program (QOP) Evaluation

OJJDP will fund an impact evaluation of the Quantum Opportunities Program, which the U.S. Department of Labor, in partnership with the Ford Foundation, is currently replicating in seven sites across the United States. The purpose of the funding is to determine whether QOP reduces the likelihood that inner-city youth at educational risk will enter the criminal justice system, including the juvenile justice system. The QOP impact evaluation is designed to measure the impact of QOP participation on such outcomes as high school graduation and enrollment in postsecondary education and training. Other student outcomes to be examined include academic achievement in high school, misbehavior in school, self-esteem and sense of control over one's life, educational and career goals, and personal decisions such as teenage parenthood, substance abuse, and criminal activity. Data on criminal activity is being collected from individual student interviews.

This evaluation enhancement to the Department of Labor-funded evaluation will provide for the collection of analogous data from the juvenile justice system, thus allowing estimates of the impact of the QOP program on the likelihood of program youth becoming involved in the criminal justice system. Initial attention will be focused on identifying the appropriate governmental agencies responsible for the data, dealing with confidentiality requirements, determining the feasibility of collecting such information, preparing data collection protocols for each site, and preparing a report outlining the data collection design for implementation.

This program will be implemented through an interagency agreement with the U.S. Department of Labor. No additional applications will be solicited in FY 1997.

Intensive Community-Based Aftercare Demonstration and Technical Assistance Program

This initiative is designed to support implementation, training and technical assistance, and an independent evaluation of an intensive community-based aftercare model in four jurisdictions that were competitively selected to participate in this demonstration program. The overall goal of the intensive aftercare model is to identify and assist high-risk juvenile offenders to make a gradual transition from secure confinement back into the community. The Intensive Aftercare Program (IAP) model can be viewed as having three distinct, yet overlapping segments: (1) Prerelease and preparatory planning activities during incarceration; (2) structured transitioning involving the participation of institutional and aftercare staffs both prior to and following community reentry; and (3) long-term reintegrative activities to insure adequate service delivery and the required level of social control.

In FY 1994, The Johns Hopkins University received a multiyear grant to test their intensive community-based aftercare model in four demonstration sites: Denver (Metro), Colorado; Clark County (Las Vegas), Nevada; Camden and Newark, New Jersey; and Norfolk, Virginia. Each of the four sites received funding in FY 1996 to support program implementation. The Johns Hopkins University contracts with California State University at Sacramento to assist in the implementation process by providing training and technical assistance and by making OJJDP funds available through contracts to each of the four demonstration sites. Each of the sites has developed risk assessment instruments for use in selecting high-risk youth who need this type of intensive aftercare, hired and trained staff in the intensive aftercare model, identified existing and needed community support (intervention) services, and identified and collected data necessary for the independent evaluation of the intensive community-based aftercare program. In accordance with a strong experimental research design, each of the sites uses a system of random assignment of clients to the program. The Johns Hopkins University and California State University at Sacramento have provided continuing training and technical assistance to both administrators/managers and line staff at the intensive community-based aftercare sites. Staff have been fully trained in the theoretical underpinnings of the IAP model and in its practical applications, such as techniques for

identifying juveniles appropriate for the program. Training and technical assistance in this model have also been available to other States and OJJDP grantees on a limited basis.

In FY 1997, the sites will continue to implement and test the aftercare model. An independent contractor is performing an evaluation under a separate grant. The Johns Hopkins University will provide ongoing training and technical assistance to the four selected sites and also provide aftercare technical assistance services to jurisdictions participating in the OJJDP/Department of the Interior Youth Environmental Service (YES) initiative, OJJDP's six SafeFutures program sites, and other programs, including the New York State Division for Youth's Youth Leadership Academy in Albany, New York.

The IAP project will be implemented by the current grantee, The Johns Hopkins University. No additional applications will be solicited in FY 1997.

Evaluation of Intensive Community-Based Aftercare Demonstration and Technical Assistance Program

The National Council on Crime and Delinquency (NCCD) received a 3-year competitive FY 1994 grant to conduct a process evaluation and design an impact evaluation of the Intensive Community-Based Aftercare Demonstration and Technical Assistance Program at sites in Colorado, New Jersey, Nevada, and Virginia. NCCD's initial award funded the design and implementation of the process evaluation, the design of an impact evaluation, and start-up data collection. A report on the process evaluation was submitted in the spring of 1996. Fiscal year 1996 funding enabled NCCD to begin the impact evaluation. Because of the excellent progress made during the first two years on the process evaluation, OJJDP extended this program for three additional years to allow sufficient time for completion of the impact evaluation.

NCCD will use a true experimental design to answer the following research questions: (1) Is the nature of supervision and services provided to Intensive Community-Based Aftercare (IAP) youth different from that given to ''regular'' parolees? (2) Does IAP have an impact on the subsequent delinquent or criminal involvement of program participants? (3) Does IAP have an impact on specific intermediate outcomes such as reduction of substance abuse, improved peer relationships, improved self-concept, and reduced delinquent or criminal behavior? and (4) Is IAP cost-effective?

The project will be implemented by the current grantee, NCCD. No additional applications will be solicited in FY 1997.

Interventions To Reduce Disproportionate Minority Confinement in Secure Detention and Correctional Facilities (The Deborah Ann Wysinger Memorial Program)

In FY 1995, under a national discretionary grant initiative, OJJDP funded eight programs designed to enable States to identify strategies to eliminate the overrepresentation of minority juveniles in secure detention or correctional facilities, adult jails and lockups, and other secure institutional facilities. One of the eight awards was made to The Academy, Inc., in Columbus, Ohio, which conducted an evaluation of the Franklin County (Ohio) Juvenile Court's efforts to reduce minority overrepresentation.

The evaluation focuses on three areas: (1) Staff issues such as working conditions, morale, and attitudes toward peers, supervisors, administrative staff, and jurists; (2) treatment issues related to reducing minority overrepresentation; and (3) broader implications for research, particularly studies supported by Federal agencies.

This project is an outgrowth of the research begun in the Franklin County Juvenile Court. The Academy is concluding the evaluation of a broad range of policy modifications undertaken by this court to address minority overrepresentation at intake and in its confinement facilities. In this project, the research will shift the focus from juvenile court to a study of similar circumstances surrounding police policies and decisions to refer some juveniles to the courts, release others to their parents, and/or divert still others to community-based programs.

This program will be implemented by The Academy, Inc. No additional applications will be solicited in FY 1997.

State Justice Statistics Program for Statistical Analysis Centers

Through an interagency agreement with the Bureau of Justice Statistics (BJS), OJJDP will contribute funds to the BJS State Justice Statistics Program for Statistical Analysis Centers (SAC). The supplemental funding will be offered to State SAC's to encourage them to undertake studies of juvenile transfers to criminal court for prosecution and youth gang involvement in criminal activity.

Studies of juvenile transfers to criminal court for prosecution include those studies that monitor the flow of cases involving juveniles (by reason of age and/or offense and prior history) into the criminal court and may focus on statewide or high-volume local processes, outcomes, and impact of the decision to try the case in criminal court. Preference will be given to those studies that provide appropriate comparative samples with juveniles retained in the juvenile justice system (or which have the capability to generate trends) and those studies that can and are willing to collect data currently being captured by OJJDP's studies of Juvenile Transfers to Criminal Court.

The second topic area to be supported is youth gang involvement in violence, drug sales, and weapons use and system response. This area will support studies that monitor trends in such behavior (violent crime, drug markets, and weapons use and sales) by youth gangs; its concentration and migration among different neighborhoods; and the law enforcement, criminal, and juvenile justice system response to such behavior. Of particular interest will be studies that demonstrate the utility of Geographic-Based Information Systems (GIS) to monitor trends in behavior and system response spatially.

No applications will be solicited by OJJDP in FY 1997. To acquire a copy of the BJS solicitation, contact Paul White, State Justice Statistics (SJS) Program Manager, at 202–307–0771. The deadline for the first cycle of applications to BJS is June 30, 1997.

Juvenile Probation Survey Research

Juvenile probation is one of the most critical areas of the juvenile justice system. However, there is currently very little information available on juveniles on probation. We do not know how many juveniles are on probation, their demographic characteristics, their offenses, or the conditions of their probation, including length, residential confinement, electronic monitoring, restitution, etc. In FY 1996, this project conducted survey research and developed a questionnaire to collect this important information. Because States operate their juvenile probation systems in very different manners, the project also examined how these differences affected the information collected.

Also in FY 1996, OJJDP held a national meeting to assess the needs and scope of future survey work to be undertaken. The meeting included probation officers, national experts in juvenile probation, and experts in the field of survey development.

In FY 1997, the project will develop an interview protocol for exploratory interviews, conduct interviews in 20

probation offices around the country, develop an initial data collection instrument, and provide a plan for testing.

OJJDP will provide second-year funding to complete this research through an interagency agreement with the Bureau of the Census. No additional applications will be solicited in FY 1997.

Performance-Based Standards for Juvenile Detention and Correctional Facilities

There is a need to increase the accountability of detention and correctional agencies, facilities, and staff in performing their basic functions. The development of performance-based standards has emerged as a primary strategy for improving conditions of confinement. This program supports the development and implementation of performance-based standards for juvenile detention and corrections. The performance measures and standards being developed will address both services and the quality of life for confined juveniles. They will reflect the consensus of a broadly representative group of national organizations on the mission, goals, and objectives of juvenile detention and corrections. OJJDP plans to promote nationwide adoption and implementation of the measures and standards through a future training and technical assistance program.

In FY 1995, OJJDP awarded a competitive 18-month cooperative agreement to the Council of Juvenile Corrections Administrators (CJCA) to develop national performance-based standards for juvenile detention and correctional facilities. A National Consortium of major professional and advocacy organizations provided technical advice and support in all aspects of the development and implementation of the standards. The project focused on standards in the areas of: safety; security; order; programming, treatment, and education; health; and justice.

During FY 1996, project working groups completed the drafting of performance criteria and measures and assessment tools for monitoring performance in all substantive areas. In addition, all materials were field tested and revised as needed. A plan for implementation was also completed.

In FY 1997, a complete set of performance-based standards and a measurement system will be completed, along with plans for an 18-month period of intensive demonstration and testing of the performance-based standards and their impact on juvenile corrections and detention programming.

The program will be implemented in FY 1997 by the current grantee, CJCA. No additional applications will be solicited in FY 1997.

Technical Assistance to Juvenile Corrections and Detention (The James E. Gould Memorial Program)

The primary purpose of the Technical Assistance to Juvenile Corrections and Detention project is to provide specialized technical assistance to juvenile corrections, detention, and community residential service providers. The grantee, the American Correctional Association (ACA), also plans and convenes an annual Juvenile Corrections and Detention Forum. The Forum provides an opportunity for juvenile corrections and detention leaders to meet and discuss issues, problems, and solutions to emerging corrections and detention problems. The ACA also provides workshops and conferences on current and emerging national issues in the field of juvenile corrections and detention, writes and solicits articles for professional publications, conducts surveys, and offers technical assistance through document dissemination. OJJDP awarded a FY 1995 competitive grant to the ACA to provide these services over a 3-year project period.

The project will be implemented by the current grantee, ACA. No additional applications will be solicited in FY 1997.

Training for Juvenile Corrections and Detention Management Staff

In FY 1997, OJJDP will continue its support for the development and implementation of a comprehensive training program for juvenile corrections and detention management staff through a new interagency agreement with the National Institute of Corrections (NIC). Initiated in 1991, the program is designed to offer a core curriculum for juvenile corrections and detention administrators and midlevel management personnel in such areas as leadership development, management, training of trainers, legal issues, cultural diversity, the role of the victim in juvenile corrections, juvenile programming for special needs offenders, and management of the violent or disruptive offender. In FY 1996, NIC conducted 8 training seminars, 5 workshops, and 1 video conference and made 10 technical assistance awards, reaching 3,302 participants.

In FY 1997, it is anticipated that the project will provide 8 seminars, 2 workshops at national conferences, and 1 national video conference to reach a total of 6,000 practitioners. The training will be conducted at the NIC Academy and regionally. No additional applications will be solicited in FY 1997.

Training for Line Staff in Juvenile Detention and Corrections

In FY 1994, the National Juvenile Detention Association (NJDA) was awarded a competitive 3-year project period grant to establish a training program to meet the needs of the more than 38,000 line staff of juvenile detention and corrections facilities. In FY 1996, NJDA developed and pilot tested the 40-hour Corrections Careworker Curriculum, developed the 24-hour Train-the-Trainer for the Corrections Careworker Curriculum, conducted 42 separate trainings for 2,700 participants, developed 2 new lesson plans in safety and conflict resolution, and provided technical assistance to 37 agencies.

In FY 1997, the third year of funding, NJDA will continue to offer training to practitioners, including the new Corrections Careworker Curriculum for juvenile corrections line staff. Additionally, NJDA will deliver selected training programs for juvenile detention and corrections line staff on current issues.

This project will be implemented by the current grantee, NJDA. No additional applications will be solicited in FY 1997.

Training and Technical Support for State and Local Jurisdictional Teams To Focus on Juvenile Corrections and Detention Overcrowding

The Conditions of Confinement: Juvenile Detention and Correctional Facilities Research Report (1994), completed by Abt Associates under an OJJDP grant, identified overcrowding as the most urgent problem facing juvenile corrections and detention facilities. Overcrowding in juvenile facilities is a function of decisions and policies made at the State and local levels. The trend toward increased use of detention and commitment to State facilities, which has been seen in many jurisdictions, has been reversed when key decisionmakers, such as the chief judge, chief of police, director of the local detention facility, head of the State juvenile correctional agency, and others who affect the flow of juveniles through the system, agree to make decisions collaboratively and modify existing practices and policies. In some instances, modification has occurred in response to court orders. Compliance

with court orders can be improved with the support of enhanced interagency communication and planning among those agencies affecting the flow of juveniles through the system.

In addressing the problem of overcrowded facilities, OJJDP considered the recommendations of the Conditions of Confinement study regarding overcrowding, the data on overrepresentation of minority youth in confinement, and other information that suggests crowding in juvenile facilities is a national problem. Policymakers can address this issue by increasing capacity, where necessary, or by taking other steps to control crowding.

This project, competitively awarded to the National Juvenile Detention Association (NJDA) (in partnership with the San Francisco Youth Law Center) in FY 1994 for a 3-year project period, provides training and technical assistance materials for use by State and local jurisdictional teams. In FY 1995, the project collected information on strategies to control crowding and prepared training and technical assistance materials. Based on the demonstrated need for assistance and related criteria, NJDA selected three jurisdictions in FY 1996 (Camden, New Jersey; Oklahoma City, Oklahoma; and the Rhode Island Juvenile Corrections System) for onsite development, implementation, and testing of procedures to reduce crowding. In FY 1997, the third year of funding, the project will continue to provide training and technical assistance to these sites, complete the development of technical assistance materials, and assess the procedures used to control overcrowding.

This project will be implemented by the current grantee, NJDA. No additional applications will be solicited in FY 1997.

National Program Directory

In FY 1995, OJJDP initiated the development of a *National Program Directory*, a national list of all juvenile justice offices, facilities, and programs in the United States, through the Bureau of the Census. The Census Bureau developed a directory format for juvenile detention and correctional facilities, which contains the addresses and phone numbers of localities, names and titles of directors, and important classification information, classifies facilities by the agency or firm that operates them, and lists the functions of the facility. This structure was developed specifically to provide OJJDP with the ability to conduct surveys and censuses of juvenile custody facilities. The effort placed into developing this structure also translated to other areas, such as a list of juvenile probation offices.

Beyond developing the computer structure, this project developed, in FY 1996, the actual sampling frame or address list. The development of complete frames for any segment of the juvenile justice system required many different approaches. The Census Bureau used contacts with professional organizations to compile a preliminary list of juvenile facilities, courts, probation offices, and programs. The Census Bureau will seek contacts in each State for further clarification of the lists, following up until a complete list of all programs of interest has been compiled.

This program will be continued in FY 1997 through an existing interagency agreement with the Census Bureau. No additional applications will be solicited in FY 1997.

A Comprehensive Juvenile Sex Offender Typology

The criminal justice system has struggled to address issues related to juvenile sex offenders' dangerousness, the most appropriate level of placement restrictiveness, the potential for rehabilitation, assessment requirements, and intervention needs. Efforts to address these issues effectively have been hampered by the lack of an empirically-based system for classifying this heterogeneous population into meaningful subgroups. OJJDP, in collaboration with other Federal agencies, will support a competitive research project to generate an empirically validated typology of the juvenile sex offender that will provide both the scientific basis for understanding differences between groups of juvenile sex offenders and direction to guide judicial decisionmaking.

*KidsPeace-The National Centers for Kids in Crisis, North America**

The purpose of this program is to provide children in crisis, specifically seriously disturbed children and adolescents, with Individual Foster Care (IFC) in a therapeutic family setting. Fiscal year 1996 accomplishments include opening up family training sessions to New Jersey foster parents and implementing outreach efforts that resulted in several hundred calls from individuals interested in working as foster parents. At present, five families are licensed and approved. Another 10 families are in various stages of the 10-week training and approval process. In the near future, a local television station will broadcast a show featuring the services being offered through this newly established program in Union, New Jersey.

KidsPeace will expand the program in FY 1997 to additional sites providing social, emotional, and educational growth and development in the children served; initial out-of-home placement, community reintegration from more restrictive residential programs, or an alternative to failed foster family placements; and intensive family treatment with professional training, supervision, and ongoing support to enhance families' abilities to meet the needs of their IFC children. The program also involves and challenges the family of origin to become active participants in their child's treatment program (whenever deemed appropriate by the courts). In FY 1997, KidsPeace will develop an outcome-based research component to better define the types of children who are best served in the IFC program, improve the services being offered, and track the progress of children following discharge from care.

The program will be implemented by the current grantee, KidsPeace-The National Centers for Kids in Crisis, North America. No additional applications will be solicited in FY 1997.

The Bethesda Day Treatment Program

Bethesda Day Treatment is a program of the Bethesda Family Services Foundation. OJJDP began funding the program in FY 1993 to establish a program in Philadelphia for serious juvenile offenders. The program was expanded in FY 1995 to replicate the Bethesda model in 10 national jurisdictions. Since the original grant was made, the Foundation has established programs in 17 localities. There are programs currently operating in Arizona, Florida, Maryland, New Mexico, New York, Oklahoma, and Pennsylvania.

The Bethesda Day Treatment Program consists of comprehensive community-based activities designed to safely reduce overcrowding in secure facilities, provide treatment prior to adjudication, continue treatment after adjudication or after release from secure treatment, and provide a continuum of care.

Replication sites receive technical assistance in the development of six distinct units of program service: day treatment services, a prep-school, drug and alcohol abuse treatment, foster care, family systems counseling, and parenting. Accepting juveniles between ages 10 and 17, the program uses 18 different treatment modalities, intensively penetrating the home, the school, the job site, and the peer group

in order to interrupt antisocial behavior patterns.

The site replication aspect of this program will be continued in FY 1997 with a continuation award to enable the Bethesda Family Services Foundation to complete technical assistance delivery to selected sites. No additional applications will be solicited in FY 1997.

Interagency Programs on Mental Health and Juvenile Justice

In October 1996, OJJDP convened a Mental Health/Juvenile Justice Working Group to discuss the mental health needs of juveniles and to suggest funding priorities for OJJDP. The Mental Health/Juvenile Justice Initiative addresses four of the eight ideas generated by the working group. These areas include: (1) Assessing screening instruments and screening procedures to identify multi-needs children, adjudicative competency, and other mental health issues; (2) examining the effectiveness of organizational structure and how organizations deal with providing mental health services on both a short-term and long-term basis; (3) examining the relationship between mental health and violence and co-occurring disorders; and (4) looking at best practices such as the use of common funding streams.

In the Proposed Program Plan, OJJDP expressed interest in providing support in one or more of these areas in FY 1997 and requested input from the field on suggested priorities, activities, and program support. The program was identified as a potential competitive program. Since the proposed plan was released, OJJDP has reassessed this program and determined that with the minimal resources available it would be more cost effective to support several ongoing programs funded by other Federal agencies. Consequently, OJJDP will not be issuing a competitive solicitation for a mental health program in FY 1997. Instead, it will transfer funds to three other agencies to support the enhancement of juvenile justice components or research on at-risk youth in the mental health area.

OJJDP will transfer funds to the Center for Mental Health Services (CMHS), U.S. Department of Health and Human Services, to support technical assistance to the 22 existing CMHS Service Sites and sites that will be awarded in FY 1997. These funds will be used to strengthen the capacity of the existing Service Sites to provide technical assistance on mental health services for juveniles in the juvenile justice system and to include them in the continuum of care that is being created in the sites.

OJJDP will also provide funding to CMHS to support the ongoing development of Guidelines for Psychiatric Systems of Care for Adolescents in the Juvenile Justice System. These guidelines, which are being prepared by the American Academy of Child Psychiatry, will reflect the experiences of the 22 CMHS Service Sites and document the best principles for systems of care for youth with serious emotional disturbances involved in the juvenile justice system. Early identification protocols, models of diversion, and outcomes that reflect increases in early identification and reduced recidivism will be highlighted.

OJJDP will also transfer funds to the National Institute of Corrections (NIC), which, along with the Substance Abuse and Mental Health Administration, supports a program to provide technical assistance with regard to dually diagnosed juvenile offenders. NIC will supplement the existing technical assistance provider, the GAINS Center, to enable it to devote technical assistance resources to the support of programs for dually diagnosed youth in the juvenile justice system. Currently, the focus of the grant is on the provision of technical assistance to the adult system.

Additionally, OJJDP will transfer funds to the National Institute of Mental Health to partially support additional costs associated with the conduct of an expanded and extended followup study of various treatment modalities for attention deficit hyperactive disorder (ADHD) in children. The expanded followup will assess substance abuse, use, and related factors necessary for evaluating changes in ADHD children's risk for subsequent substance use and abuse attributable to their randomly assigned treatment conditions. In addition, the multimodal treatment study of children with ADHD affords the opportunity to assess the experience of study participants with the legal system, e.g., contacts with the juvenile justice system, acts of delinquency, court referrals, and other criminal and/or precriminal activities.

Funding will be provided to the existing grantees, and no new applications will be solicited in FY 1997.

Delinquency Prevention and Intervention

Training in Risk-Focused Prevention Strategies

OJJDP will provide additional training in FY 1997 to communities interested in developing a risk and protective factor-focused delinquency prevention strategy. This training supports OJJDP's Title V Community Prevention Grants Program and the Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders by providing the knowledge and skills necessary for State, local, and private agency officials and citizens to identify and address risk factors that lead to violent and delinquent behavior in children. In FY's 1994–1996, this training was offered to all States, territories, and the District of Columbia that received discretionary grants from OJJDP to implement the Title V program.

After initiating this training program in FY 1994, OJJDP awarded a competitive contract with FY 1995 funds and continued the contract in 1996 to perform ongoing tasks and provide prevention training in the following areas: (1) orientation on risk- and resiliency-focused prevention theories and strategies for local community leaders; (2) identification, assessment, and addressing of risk factors; (3) development and provision of training of trainers in selected States to provide a statewide capacity to train communities in risk-focused prevention; and (4) provision of technical assistance to States and localities for needs identified through implementation of the Title V program.

These services will be provided in FY 1997 through third-year funding of the contract awarded to Developmental Research and Programs, Inc. A new competitive solicitation may be issued late in FY 1997 for award in FY 1998.

Youth Substance Use Prevention Programs (President's Crime Prevention Council)

Due to the urgency of the problem of drug use among juveniles and the importance of having Federal agencies undertake collaborative efforts to make the most efficient and effective use of resources, OJJDP joined with the President's Crime Prevention Council (PCPC) and early this year issued a Notice of Funding Availability (NOFA) for the Youth Substance Use Prevention Program and the evaluation of that program. The program will assist community-based, youth-led, and grassroots organizations that sponsor activities designed to combat youth drug and alcohol use and provide an evaluation of the funded programs. Up to $1 million is being made available from PCPC funds. OJJDP will administer the program under an interagency agreement with PCPC.

OJJDP also issued a separate, competitive solicitation to evaluate the

Youth Substance Use Prevention Program. The substance use prevention evaluation strategy used by the selected grantee must be theory driven and based on sound research principles. Both a process and an outcome evaluation will be performed. The outcome evaluation will determine whether youth-led prevention programs are effective. The process evaluation will define the critical elements of implementing a successful youth-led prevention program.

The deadlines for applications for the Youth Substance Use Prevention Program and for its evaluation have passed, and the selection process for both awards is now under way.

Survey of School-Based Gang Prevention and Intervention Programs

This program will assess school-based gang prevention and intervention programs to identify promising or successful models for national demonstration and evaluation or replication and dissemination. For example, one type of program of interest is a youth gang unit in the school. The school youth gang unit serves as the first line of defense against the problem of gangs. Some units address gang crimes and school rule violations citywide. Another program of interest would be entrepreneurial skills programs for youth to prevent them from staying in gangs. Examples of this type of program are found in schools that develop stores or gardens and train young people in marketable skills, giving them high school or college credit for successfully participating in the training.

OJJDP will issue a competitive solicitation for this initiative in FY 1997.

Youth-Centered Conflict Resolution

Increasing levels of juvenile violence have become a national concern. Violence in and around school campuses and conflict among juveniles in both schools and neighborhoods are problems for school administrators, teachers, parents, community leaders, and the public. Although experts may debate the merits and impact of the varied contributing factors, they would agree that most school curriculums do not provide for the systematic teaching of problem-and conflict-resolving skills.

To address this issue, OJJDP awarded a competitive cooperative agreement in FY 1995 for a 3-year project period to the Illinois Institute for Dispute Resolution (IIDR) to develop, in concert with other established conflict resolution (CR) organizations, a national strategy for broad-based education and training in the use of conflict resolution skills. In support of this task, IIDR conducted three regional conferences based on a joint publication developed by the Departments of Justice and Education. IIDR also provided technical assistance and disseminated information about CR programs to individuals, organizations, and communities.

In FY 1997, the project will conduct additional training sessions as part of, or in conjunction with, established meetings or conferences of national educational, justice, and youth-serving organizations. IIDR will also develop a training manual and provide training in CR education to administrators; school staff; and youth, parents, and staff associated with arts-based programs for at-risk youth. The arts component is funded by the National Endowment for the Arts.

The project will be implemented by the current grantee, IIDR. No additional applications will be solicited in FY 1997.

*Teens, Crime, and the Community: Teens in Action in the 90s**

This continuation program is conducted by the National Crime Prevention Council (NCPC) in partnership with the National Institute for Citizen Education in the Law (NICEL). Teens in Action in the 90s is a special application of the Teens, Crime, and Community (TCC) program that operates on the premise that teens, who are disproportionately the victims of crimes, can contribute to improving their schools and communities through a broad array of activities.

During FY 1996, the TCC Program expanded through five regional expansion centers located in New England, the Mid-Atlantic States, the Mid-South, the Deep South, and the Pacific Northwest Coast. These TCC projects utilized Boys and Girls Clubs of America and their affiliates to become partners in TCC efforts in these regions.

More than 5,000 teachers, social service providers, juvenile justice professionals, law enforcement officers, and other community leaders participated in intensive training to help sites implement the TCC curriculum in their communities. More than 1,000 individuals benefited from technical assistance, materials, and consultation regarding TCC in areas of program implementation, fund development, and networking opportunities. In addition, NCPC and NICEL initiated the implementation of the National Teens, Crime, and the Community Program in the six SafeFutures sites. In FY 1997, TCC will be implemented in additional sites throughout the country.

The program will be implemented by the current grantee, NCPC. No additional applications will be solicited in FY 1997.

*Law-Related Education (LRE)**

The national Law-Related Education (LRE) Program, Youth for Justice, includes 5 coordinated LRE projects and programs operating in 48 States and 4 non-State jurisdictions. Youth for Justice provides training and technical assistance to State and local school jurisdictions that are designed to achieve the institutionalization of quality LRE programs for at-risk juveniles. The major components of the program are coordination and management, training and technical assistance, assistance to local program sites, public information, and program development and assessment. In 1996, the Youth for Justice program continued to provide materials, training, and technical assistance to its national network of statewide LRE centers and sponsored youth summits in more than 40 States. The focus of the program during FY 1997 will be to continue linking LRE to violence reduction efforts and to involve program participants in finding solutions to juvenile violence. Planned activities for FY 1997 include a national teleconference and dissemination of information about special applications of LRE developed for high-risk segments of the population (middle school students and teen parents). Youth for Justice will also produce and disseminate a technical assistance compendium of LRE research and best practices.

This program will be implemented by the current grantees, the American Bar Association, the Center for Civic Education, the Constitutional Rights Foundation, the National Institute for Citizen Education in the Law, and Phi Alpha Delta. No additional applications will be solicited in FY 1997.

Communities in Schools—Federal Interagency Partnership

This program is a continuation of a national school dropout prevention model developed and implemented by Communities In Schools, Inc. (CIS). CIS, Inc., provides training and technical assistance to CIS programs in States and local communities, enabling them to adapt and implement the CIS model. The model brings social, employment, mental health, drug prevention, entrepreneurship, and other resources to high-risk youth and their families in the school setting. Where CIS State organizations are established, they assume primary responsibility for local

program replication during the Federal Interagency Partnership.

The Federal Interagency Partnership program is based on the following strategies: (1) To enhance CIS, Inc., training and technical assistance capabilities; (2) to enhance the organization's capability to introduce selected initiatives to CIS youth at the local level; (3) to enhance the CIS, Inc., information dissemination network capability; and (4) to enhance the CIS, Inc., capability to network with Federal agencies on behalf of State and local CIS programs.

Fiscal year 1996 accomplishments under the Federal Interagency Partnership include the following: (1) Continued support and expansion of the CIS Youth Entrepreneurial Project, including 16 student-run entrepreneurship programs; (2) expansion of a consulting program consisting of a pool of CIS State and local program directors and other experts to support programs that include community collaboration, strategic planning, and working with at-risk youth; (3) production and distribution of two issues of *Facts You Can Use: Seeds of Help,* a technical publication concentrating on functional areas of importance to local CIS programs and the sponsors of the Federal Interagency Partnership; and (4) a 3-day training session featuring presentations from Federal agencies on the financial and programmatic resources available through their Departments.

Fiscal year 1997 activities under consideration include: (1) Provide continuing training and technical assistance on family strengthening and parent participation initiatives that will expand and enhance CIS family service activities; (2) offer and provide training and technical assistance, as requested, to the six SafeFutures sites; (3) work with groups identified by the U.S. Department of Commerce to continue to support the development of a CIS program serving a Native American community in Rapid City, South Dakota; (4)support the continued expansion of the CIS Youth Entrepreneurship initiative; (5) update and produce the publication *CIS: A History of Partnership* and produce and distribute the CIS *Facts You Can Use* technical bulletin quarterly; (6) continue to identify violence prevention and gang prevention programs appropriate for use by the CIS network; and (7) continue to incorporate evaluated family strengthening programs in the *Facts You Can Use* technical bulletin and the *Federal Products Showcase.*

The Federal Interagency Partnership program is jointly funded by OJJDP and the Department of Commerce under an OJJDP grant. The program will be implemented by the current grantee, Communities In Schools, Inc. No additional applications will be solicited in FY 1997.

The Congress of National Black Churches: National Anti-Drug Abuse/ Violence Campaign (NADVC)

OJJDP will continue to fund the Congress of National Black Churches' (CNBC) national public awareness and mobilization strategy to address the problem of juvenile drug abuse and violence in targeted communities. The goal of the CNBC national strategy is to summon, focus, and coordinate the leadership of the black religious community, in cooperation with the Department of Justice and other Federal agencies and organizations, to mobilize groups of community residents to combat juvenile drug abuse and drug-related violence.

The campaign now operates in 37 city alliances, having grown from 5 original target cities. The smallest of these alliances consists of 6 churches and the largest has 135 churches. The NADVC program involves approximately 2,220 clergy and affects 1.5 million youth and the adults who influence their lives. NADVC also provides technical support to four statewide religious coalitions.

As a result of NADVC's technical assistance and training workshops, project sites have been able to leverage more than $2 million in private and government funding.

NADVC has contributed to the planning and presentation of numerous technical assistance and training conferences on violence and substance abuse prevention and produced a *National Training and Site Development Guide* and a video to assist sites in implementing the NADVC model.

In addition, in FY 1996, NADVC became a partner in the Education Development Center's (EDC) Juvenile Hate Crime Initiative. NADVC used EDC's hate crime curriculum to focus on prevention through the networks and resources in the faith community to address the impact and roles of juveniles and youth in engaging in and preventing hate crimes. NADVC is currently providing training and technical assistance in South Carolina, the location of the majority of the recent church burnings in the United States.

The expansion of activities in FY 1997 will be accomplished through NADVC's Regional Hate Crime Prevention Initiative, the Campaign's model for anti-drug/violence strategies, and NADVC's faith community network.

The program, which will continue to expand to new sites in FY 1997 and enhance efforts to address hate crime and family violence intervention issues, will be implemented by the current grantee, CNBC. No additional applications will be solicited in FY 1997.

Risk Reduction Via Promotion of Youth Development

Risk Reduction Via Promotion of Youth Development, located in South Carolina, is a large-scale prevention trial involving hundreds of children and several elementary schools located in lower socioeconomic neighborhoods of Columbia, South Carolina. This program is the result of an interagency agreement with the National Institute of Mental Health (NIMH). The Centers for Disease Control and Prevention and the National Institute on Drug Abuse have also provided funding for the program.

The trial involves a large-scale project designed to promote coping-competence and reduce risk for conduct problems, substance use, and school failure beginning in early elementary school. Interventions include a classroom program, a schoolwide conflict management program, peer social skills training, and home-based family programming. The sample includes African American and Caucasian children attending schools located in lower income neighborhoods. There is a sample of high-risk children (showing early aggressive behavior at school entry) and a second sample of lower risk children (residing in socioeconomically disadvantaged neighborhoods). The interventions begin in first grade, and children are followed longitudinally throughout the 5 years of the project. A major goal is to reduce the development of conduct problems, aggression, and subsequent delinquency and violence. The project also seeks to alter home and school climates in order to reduce risk for adverse outcomes and to promote positive youth development.

This program will be implemented through a fund transfer to NIMH under an interagency agreement. No additional applications will be solicited in FY 1997.

Community Anti-Drug Abuse Technical Assistance Voucher Project

Through the Community Anti-Drug Abuse Technical Assistance Voucher Project, the National Center for Neighborhood Enterprise (NCNE) awards vouchers to grassroots organizations to purchase technical assistance and training to effectively

address the problem of juvenile drug abuse.

As a result of a large number of incoming applications, NCNE has established a clearinghouse featuring 1,224 promising and proven anti-drug programs. They are part of the NCNE National Clearinghouse of Youth Anti-Drug Abuse Programs. Twenty-nine organizations received voucher awards totaling $62,000 in FY 1996. Awards ranged from $1,000 to $10,000 per site.

The impact of technical assistance vouchers includes enhanced organizational visibility, larger grant awards for indigenous groups, and expanded and increased services resulting from technical assistance in program development and staff training. In addition to awarding vouchers for technical assistance, NCNE provides technical assistance to applicants regarding the development of their mission, goals, and objectives.

The Community Anti-Drug Abuse Technical Assistance Voucher Project will be implemented by the current grantee, NCNE. No additional applications will be solicited in FY 1997.

Training and Technical Assistance for Family Strengthening Programs

Prevention, early intervention, and effective crisis intervention are critical elements in a community's family support system. In many communities, one or more of these elements may be missing or programs may not be coordinated. In addition, technical assistance and training are often not available to community organizations and agencies providing family strengthening services. In response, OJJDP awarded a 3-year competitive cooperative agreement in FY 1995 to the University of Utah's Department of Health and Education to provide training and technical assistance to communities interested in establishing or enhancing a continuum of family strengthening efforts. In the first program year, the grantee drafted a literature review and summaries of exemplary programs; conducted a national search for, rated, and selected family strengthening models; planned 2 regional training conferences to showcase the selected exemplary and promising family strengthening programs; convened the first conference for 250 attendees in Salt Lake City, Utah; and developed an application process for sites to receive followup training on specific program models. In FY 1997, the grantee will complete the literature review and model program summaries; convene the second regional conference in Washington, D.C.; conduct program-specific workshops; produce user and training-of-trainers guides; and distribute videos of several family strengthening workshops.

This program will continue to be implemented by the current grantee, the University of Utah's Department of Health and Education. No additional applications will be solicited in FY 1997.

Training and Technical Assistance To Promote Teen Court Programs

OJJDP considers teen courts, also called peer courts, to be a promising mechanism for holding juvenile offenders accountable for their actions while promoting avenues for positive youth development. Teen courts are included as a promising early intervention program in OJJDP's *Comprehensive Strategy for Serious, Violent, and Chronic Juvenile Offenders.*

To encourage the use of teen court programs to address problems associated with delinquency, substance abuse, and traffic safety, OJJDP provided funding in FY 1996 to supplement the existing Teen Court Programs Project of the National Highway Traffic Safety Administration (NHTSA) of the U.S. Department of Transportation. The NHTSA grant was awarded in FY 1994 for a 3-year project period to the American Probation and Parole Association (APPA) to develop a teen court guide and provide training and technical assistance to develop or enhance teen court programs. This existing NHTSA grant and OJJDP's FY 1996 funds supported the development of the joint publication *Peer Justice and Youth Empowerment: An Implementation Guide for Teen Court Programs* and additional technical assistance to three selected sites. Technical assistance to develop or enhance teen courts was provided to Lane and Deschuttes Counties in Oregon; Minnesota Planning, Inc., in St. Paul, Minnesota; and the Orange County Teen Court Program in Orlando, Florida. The additional funds from OJJDP enabled APPA to provide more onsite assistance to each of the three agencies in the areas of identifying problems and overcoming barriers.

The national response to the training and technical assistance and to the *Guide* has been enthusiastic. NHTSA and OJJDP have received numerous requests to provide additional training seminars and technical assistance based on the *Guide.* In FY 1997, OJJDP will provide funding to NHTSA through an interagency agreement to supplement the existing grant with APPA. This will enable APPA to provide six intensive training seminars and site-specific technical assistance to three additional sites in FY 1997. The seminars will each cover 2½ days of intensive training that is accredited by APPA for 1½ continuing education units to help maintain certification or for employment or school requirements. Technical assistance will be provided to three selected jurisdictions with site-specific strategic planning for the program organizers on developing, implementing, or enhancing teen court programs. To be eligible for technical assistance, recipients need to have completed an APPA teen court training seminar. A request for proposals will be sent to the six training seminar participants and to participants who completed earlier teen court training seminars held by APPA. Site selection for the training and technical assistance will be determined by APPA project staff with input and approval from OJJDP and NHTSA.

This project will be implemented by the current NHTSA grantee, APPA. No additional applications will be solicited in FY 1997.

Evaluation of Teen Courts

Teen courts constitute one approach to reducing underage drinking, impaired driving, and other problem behaviors of youth such as shoplifting and vandalism. Teen courts emphasize concepts such as accountability, positive peer influence, competency development, and youth empowerment and involvement. Teen court programs offer jurisdictions a potential means for holding youthful offenders accountable for problem behaviors, including those for which they previously may have received little or no intervention.

In FY 1997, OJJDP will begin an evaluation of teen court programs currently underway in communities across the country. During this initial phase, OJJDP will award a competitive grant to conduct an inventory of as many teen courts and teen court models as can be found in operation and to develop a strategy for selecting programs that have a sound theoretical foundation and are structured to support a rigorous evaluation that will help to refine that program model. This program will encourage a collaborative research approach between practitioners and researchers. Upon determination of the evaluation potential of the identified sites, OJJDP will support a full process and impact evaluation of these programs in subsequent fiscal years.

Henry Ford Health System

The Henry Ford Health System (HFHS) Center has developed and initiated a program in Detroit with FY

1995 and FY 1996 OJJDP funds that serves the Northern High School attendance area, including seven elementary schools and two middle schools that serve as feeder schools for Northern High School. Michigan Formula Grants Program funds assisted in this effort. The underlying objective of the program is the reduction of gang and community violence among children attending these Detroit schools. The program is designed to identify individuals at moderate to high risk of violence, assess the needs of the target population of youth and the resources available in the community to deal with those needs, coordinate community resources to create comprehensive violence reduction programs, and evaluate the efficacy of component programs and the initiative as a whole. Evaluation will be based on the project's effect on reducing the incidence of specific violent acts, in both school and community settings.

Five health centers were opened in 1996. The staff include a physician assistant, nurse practitioners, social workers, medical assistants, and receptionists. Along with analysis of crime and health data from the past 2 years in the target area, surveys were conducted in six of the school's areas. The health education programs were created in direct response to needs identified by community surveys and an overall evaluation of community resources. In FY 1997, this program will implement centers in the remaining school sites and strengthen the multiple component activities in each school such as community patrols, tutoring, drama, peer education, and substance abuse prevention.

This program will be implemented by the current grantee, HFHS. No new applications will be solicited in FY 1997.

*Angel Gate Academy**

In FY 1997, OJJDP will fund the Angel Gate Academy, a 4-week residential program jointly developed by the California National Guard (CNG), which runs the program, and the Los Angeles Unified School District (LAUSD), which recruits and refers high-risk youth and provides both teachers for the camp and reintegration support when the youth return to their respective schools.

Targeted youth are between 11 and 14 years of age and are referred to the program by the LAUSD because they are exhibiting various high-risk behaviors. Their participation is voluntary, and parents are actively involved in the referral decision and in participating with staff during the reintegration program. All of the children are part of the IMPACT counseling program that is supported by Drug-Free Schools and Communities funding from the U.S. Department of Education.

The camp is located on a National Guard facility near San Luis Obispo, California. At the camp, the youth learn discipline and leadership skills and participate in an educational program at nearby Cuesta College. The youth spend most of the day in the education program, where they participate in a curriculum that teaches critical thinking skills, science, and math. Additional educational experiences in writing and literacy are provided by the assigned LAUSD teachers. Other modules provided under the curriculum jointly developed by the CNG and LAUSD include physical fitness training, leadership training through drill and ceremony, self-discipline, team building, IMPACT counseling, and enrichment activities.

It is anticipated that up to 460 youth will participate in the 7 camps during this 9- to 10-month program. When they return to their schools, they will again engage in the intensive IMPACT counseling program and their parents will be provided the opportunity to participate in parenting classes by the LAUSD.

No additional applications will be solicited in FY 1997.

*Suffolk County PAL (Police Athletic League)**

The Suffolk County Police Athletic League Program provides recreational and athletic programs to hundreds of children in Suffolk County, New York. The youth are coached by police volunteers from the surrounding area. With this OJJDP grant, the Suffolk County PAL will expand its program over a 2-year period to increase the number of youth who participate; add a mentoring/tutoring component that will recruit law enforcement, business, and community leaders to mentor the youth; and fund an impact evaluation of the program. This 2-year effort will result in serving at least 400 new children each year.

This program will be implemented by Suffolk County PAL. No additional applications will be solicited in FY 1997.

Do the Write Thing

A program of the National Campaign to Stop Violence, the Do The Write Thing program was founded in 1994. The program approach is to encourage at-risk youth to write about the violence and drugs in their neighborhoods and lives, to identify solutions, and commit to a personal course of action to reduce violence. The program focuses on youth ages 12–14, offering them a therapeutic way to deal with the violence that surrounds them.

Do The Write Thing began as a local project in Washington, D.C. In 1996, the program expanded to 10 cities, with 300 middle schools and 5,000 children participating. Participating cities are Washington, D.C.; Atlanta, Georgia; Chicago, Illinois; Detroit, Michigan; Houston, Texas; Los Angeles, California; Las Vegas, Nevada; Miami, Florida; New York, New York; and Philadelphia, Pennsylvania. The program received solid support from mayors, police chiefs, judges, prosecutors, school superintendents, and other community leaders. With corporate and government support, including OJJDP, Do The Write Thing was able to compile and distribute a publication of winning essays and sponsor a national recognition ceremony in Washington, D.C.

In FY 1997, OJJDP will assist the program to expand the project within the ten existing sites and begin the process of expanding to new sites for the 1997–98 school year. The Do The Write Thing program will be implemented by the National Campaign to Stop Violence. No additional applications will be solicited in FY 1997.

Child Abuse and Neglect and Dependency Courts

*Permanent Families for Abused and Neglected Children**

This is a national project to prevent unnecessary foster care placement of abused and neglected children, reunify the families of children in care, and provide permanent adoptive homes when reunification is impossible. The purpose is to ensure that foster care is used only as a last resort and as a temporary solution. Accordingly, the project is designed to make certain that government's responsibility to children in foster care is acknowledged by appropriate disciplines. Project activities include national training programs for judges, social service personnel, citizen volunteers, and others under the ''reasonable efforts'' provision of the Social Security Act, as amended, 42 U.S.C. § 671(a)(15); training in selected States; and implementation of a model guide for risk assessment.

The project is implemented by the National Council of Juvenile and Family Court Judges (NCJFCJ). Under this project, NCJFCJ also provides technical assistance to help communities improve handling of child abuse and neglect

cases and supports replication of the model court improvement program in selected jurisdictions.

During the past project year, 31 State and national training programs were held. NCJFCJ also implemented a new program to divert families from the court system through arbitration under court supervision in a number of courts, using private funding sources. The court diversion project and efforts to improve dependency court administration, documented in the publication *Resource Guidelines: Improving Court Practice in Abuse and Neglect Cases*, were incorporated into training under this project. NCJFCJ also worked closely with allied national organizations, including the National Association of Public Child Welfare Administrators, the Association of Interstate Compact Administrators, and the National Court Appointed Special Advocate Association, to coordinate and leverage efforts to improve permanency planning for children. A key activity was the development of a curriculum to train judges and compact administrators on the new regulations regarding interstate placement.

With FY 1997 funds, NCJFCJ will continue and expand its training and technical assistance efforts, update the permanency planning curriculum, and strengthen and establish new linkages with allied organizations. The project's purpose remains focused on improving the ability of the dependency courts and related systems to make timely and informed decisions on placement for children and adolescents.

The Permanent Families for Abused and Neglected Children program will be implemented by the current grantee, NCJFCJ. No additional applications will be solicited in FY 1997.

*Parents Anonymous, Inc.**

Parents Anonymous, Inc. (PA) establishes groups and adjunct programs that respond to the needs of families through a mutual support model of parents and professionals sharing their expertise and their belief in each individual's ability to grow and change in ways that create caring and safe environments for themselves and their children. In FY 1994, OJJDP supported PA to enhance its mission to prevent child abuse and neglect by developing a new capability within the PA network to address the needs of high-risk, inner-city, and Native American populations.

As a result of OJJDP funding, PA has developed and maintained 40 new groups serving families of color in high-risk neighborhoods and on reservations in 12 States. In FY 1996, PA produced extensive technical assistance materials through two national teleconferences for several hundred participants on Successful Parents Anonymous Groups in Prisons and Promoting Effective Parent Leadership and conducted two regional conferences in Phoenix and Atlanta providing training to develop and maintain PA programs. PA also published and distributed nationwide 16,000 copies of *Innovations*, the PA, Inc., newsletter, with focused articles on the needs of Latino families and cultural responsiveness, and 30,000 copies of *The Parent Networker*, the PA, Inc., newsletter by and for parents. PA produced two program bulletins, *Parent Leadership Is a Powerful Tool for Outreach, Public Awareness and Advocacy* and *Parents Anonymous as Parent Education: A Model for Success Based on Adult Learning Styles*, and developed a manual for the PA National Network providing concrete methods for implementing PA programs in high-risk communities. PA also produced a brochure for judges, probation officers, and other professionals serving youth with delinquency problems and began information sharing to plan technical assistance for SafeFutures sites.

During FY 1997, PA, Inc., plans to (1) expand program sites for families of color with a specific focus on Minnesota, New Jersey, Oregon, and Texas; (2) provide technical assistance and training to PA groups with a focus on targeted populations and/or groups held in specialized settings such as local jails, State prisons, and Federal penitentiaries for incarcerated mothers and fathers; (3) develop a special national fathers' initiative in sites across the United States; (4) develop new program materials to address the needs of families of color; (5) expand PA's emphasis on parent leadership; and (6) create media opportunities for outreach, public awareness, and education on PA for professionals and families.

The project will be implemented by the current grantee, PA, Inc. No additional applications will be solicited in FY 1997.

Missing and Exploited Children

*Jimmy Ryce Law Enforcement Training Center**

This program establishes the Jimmy Ryce Law Enforcement Training Center (JRLETC) at the National Center for Missing and Exploited Children (NCMEC). The purpose of JRLETC is to enhance the overall response to nonparental abductions by providing training and technical assistance to Federal, State, and local law enforcement personnel. Fiscal year 1997 funds will be expended as follows:

NCMEC will expand its national Chief Executive Officer (CEO) training seminar into a 3-day course. The seminar will highlight the most current research and practices and provide information pertaining to comprehensive response protocols and NCMEC and Federal resources to assist State and local law enforcement.

Fox Valley Technical College (FVTC), OJJDP's missing children training contractor, will accelerate delivery of the Response to Missing and Exploited Children training course. This course targets State and local law enforcement and contains modules providing investigative information on all aspects of missing children cases.

The Federal Bureau of Investigation's (FBI) Criminal Justice Information Services Division will provide training for National Crime Information Center (NCIC) Control Terminal Officers in the new NCIC flagging system, Federal resources to assist State and local law enforcement investigating missing children cases, and NCIC Missing Person File definitions.

The FBI Child Abduction Serial Killer Unit (CASKU) will provide training and technical assistance to State and local law enforcement investigating difficult missing children cases. CASKU and the Hardiman Task Force will assess incident response for the purposes of curriculum development and will assist in the CEO training at JRLETC.

Fiscal year 1997 funds will be awarded by grant or transferred via interagency agreement to the organizations carrying out the activities outlined above. No additional applications will be solicited in FY 1997.

Dated: June 24, 1997.

Shay Bilchik,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

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Monday
June 30, 1997

Part III

Office of Management and Budget

Audits of States, Local Governments, and Non-Profit Organizations and OMB Circular A–133 Information Collection Under OMB Review; Notices

OFFICE OF MANAGEMENT AND BUDGET

Audits of States, Local Governments, and Non-Profit Organizations

AGENCY: Office of Management and Budget.

ACTION: Final revision of OMB Circular No. A–133, final rescission of OMB Circular No. A–128, and notice of document availability of the Provisional Circular A–133 Compliance Supplement.

SUMMARY: This revision of Office of Management and Budget (OMB) Circular No. A–133, re-titled ''Audits of States, Local Governments, and Non-Profit Organizations,'' establishes uniform audit requirements for non-Federal entities that administer Federal awards and implements the Single Audit Act Amendments of 1996, which were signed into law on July 5, 1996 (Public Law 104–156). OMB Circular No. A–128, ''Audits of States and Local Governments,'' issued in 1985, is rescinded, as a result of the consolidation of audit requirements under Circular A–133.

One of the more significant revisions is that the threshold for when an entity is required to have an audit is raised from $25,000 to $300,000. This will significantly reduce audit costs for many small entities. Other significant changes are: a report submission due date which is shortened from 13 to 9 months and a report submission process that includes a data collection form and streamlined filing requirements (§ ____.320); a new risk-based approach for major program determination (§ ____.520); and, additional guidance for program-specific audits (§ ____.235), audit findings (§ ____.510), and audit findings follow-up (§ ____.315).

This Notice also offers interested parties an opportunity to comment on the provisional ''Circular A–133 Compliance Supplement,'' provided as Appendix B to Circular A–133. However, due to its length, the provisional ''Circular A–133 Compliance Supplement'' is not included in this Notice. See **ADDRESSES** for information about how to obtain a copy.

DATES: The revised Circular is effective July 30, 1997. Federal agencies shall adopt the standards set forth in this revised Circular in codified regulations not later than August 29, 1997.

The standards set forth in § ____.400, which apply directly to Federal agencies, shall apply to audits of fiscal years beginning after June 30, 1996, except as otherwise specified in § ____.400(a).

The standards set forth in this Circular which Federal agencies shall apply to non-Federal entities shall apply to audits of fiscal years beginning after June 30, 1996, with the exception that § ____.305(b) applies to audits of fiscal years beginning after June 30, 1998. The requirements of Circular A–128, although the Circular is rescinded, and the 1990 version of Circular A–133 continue to apply for audits of fiscal years beginning on or before June 30, 1996.

All comments on the provisional ''Circular A–133 Compliance Supplement'' should be in writing, and must be received by November 30, 1997. Late comments will be considered to the extent practicable.

ADDRESSES: A copy of the Circular may be obtained from the OMB fax information line, 202–395–9068, document number 1133; OMB home page on the Internet which is currently located at http://www.whitehouse.gov/WH/EOP/omb, under the captions ''OMB Documents,'' and then ''Grants Management;'' or by writing or calling the Office of Administration, Publications Office, room 2200, New Executive Office Building, Washington, DC 20503, telephone (202) 395–7332. A single copy of the provisional ''Circular A–133 Compliance Supplement'' may be obtained from EOP Publications, Office of Administration, 2200 NEOB, Washington, DC 20503 (telephone 202–395–7332). The provisional ''Circular A–133 Compliance Supplement'' is also available from the OMB home page.

Comments on the provisional ''Circular A–133 Compliance Supplement'' should be mailed to the Office of Management and Budget, Office of Federal Financial Management, Financial Standards and Reporting Branch, Room 6025, New Executive Office Building, Washington, DC 20503. Where possible, comments should reference the applicable page numbers. When comments of five pages or less are sent in by facsimile (fax), they should be faxed to (202) 395–4915. Electronic mail comments may be submitted via the Internet to RAMSEY—T@A1.EOP.GOV. Please include the full body of electronic mail comments in the text of the message and not as an attachment. Please include the name, title, organization, postal address, and E-mail address in the text of the message.

To facilitate conversion of the comments into a computer format for analysis, it would be helpful if respondents would send a copy of comments on either a 3.5 or 5.25 inch diskette in either WordPerfect 5.1 or 6.0, WordPerfect for Windows, or ASCII format. When a diskette cannot be provided, it would be helpful if the comments were printed in pica or an equivalent 10 characters per inch type on white paper so the document can be easily scanned into a computer format.

FOR FURTHER INFORMATION CONTACT: Recipients should contact their cognizant or oversight agency for audit, or Federal awarding agency, as may be appropriate in the circumstances. Subrecipients should contact their pass-through entity. Federal agencies should contact Sheila O. Conley, Office of Management and Budget, Office of Federal Financial Management, Financial Standards and Reporting Branch, telephone (202) 395–3993.

SUPPLEMENTARY INFORMATION:

A. Background

The Office of Management and Budget (OMB) received approximately 80 letters providing approximately 600 individual comments in response to its **Federal Register** proposal of November 5, 1996 (61 FR 57232–57249). Letters came from Federal agencies (including Offices of Inspectors General), State governments (including State auditors), certified public accountants (CPAs), internal auditors, non-profit organizations (including colleges and universities), professional organizations, and others. All comments were considered in developing this final revision.

The November 5, 1996, **Federal Register** notice, requested public comment on the proposed revision and retitling of Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations,'' and proposed rescission of Circular A–128, ''Audits of States and Local Governments.'' Section B presents a summary of the major public comments grouped by subject and a response to each comment. Other technical amendments were made to conform to professional auditing standards and to increase clarity and readability.

The November 5, 1996, **Federal Register** notice also requested comment on two proposed information collection requirements contained in the proposed revision to Circular A–133. A summary of the comments received relating to the proposed information collection requirements and response to each comment is published in a companion Notice in this Part in today's **Federal Register**.

Interested parties may wish to refer to this Notice for a detailed discussion of the following information collection

matters: estimates of reporting burden; necessity of the data collection form; data collection form duplicates other reported information; data elements in the data collection form; suggested additional data elements for inclusion in the form; who should sign the data collection form for the auditee; level of form's specificity provided in the Circular and supplemental forms; data collection form sent only to the Federal clearinghouse; applicability of Freedom of Information Act and other Federal laws; report copies; report submission and distribution; Federal clearinghouse responsibilities; requirement for the auditor to prepare and sign the data collection form; increased costs for auditors to prepare and sign form; retention of audit workpapers; schedule of expenditures of Federal awards; summary schedule of prior audit findings; summary of the auditor's results; auditor's schedule of findings and questioned costs; report due date; and effective date for the data collection form requirement.

Readers of this Notice should especially note the discussion of the requirement for the auditor to prepare and sign the data collection form due to its impact on the text of the Circular. Other matters addressed in the accompanying Notice also resulted in revisions to the text of the Circular but are not repeated in this Notice.

B. Public Comments and Responses

Overall Reaction to the Proposed Revision to Circular A–133

Comment

Most commenters overwhelmingly supported the proposed revisions and believe that the revisions will greatly increase the efficiency and effectiveness of the single audit process. Several State auditors commented that the proposed revision to Circular A–133 was similar to what they expected, particularly in light of the changes included in the Single Audit Act Amendments of 1996 (1996 Amendments), which were signed into law on July 5, 1996 (Public Law 104–156). Many commenters were pleased with some of the most significant changes, such as: (a) the increased threshold that triggers an audit requirement from $25,000 to $300,000; (b) the risk-based approach to determining major programs; (c) the uniformity of audit requirements for States, local governments, and non-profit organizations; and, (d) the removal of the current requirement to report virtually all audit findings and questioned costs. A few commenters requested that the audit threshold remain at $25,000. Although most commenters supported these significant revisions, many commenters expressed concern about other proposals included in the proposed revision, on which OMB specifically requested public comment, such as the audit coverage for the allowability of charges to cost pools, and whether the auditor should prepare and sign the data collection form.

Response: The most significant provisions included in the proposed revision to Circular A–133 that commenters strongly supported are included in the final revision to Circular A–133. Several proposals, such as the audit threshold of $300,000, are based in the 1996 Amendments and, therefore, are adopted in the final Circular. Each of the proposals on which OMB requested public comment are addressed in the following sections or accompanying Notice. Some of the comments resulted in changes to the final revision.

Consolidation of Circular A–128 Into Circular A–133

Comment

All but one commenter strongly supported the proposal to consolidate Circular A–128 into Circular A–133, and rescind Circular A–128. Reasons cited include less confusion for auditees and auditors, uniformity of audit requirements for non-Federal entities that administer Federal awards, and consistency with concepts included in the 1996 Amendments. One Federal agency that oversees Indian tribal governments expressed concern about rescinding Circular A–128 because many Indian tribal governments have not yet submitted audit reports required by Circular A–128 for audits of fiscal years beginning on or before June 30, 1996.

Response: Pursuant to the 1996 Amendments, which establish uniform audit requirements for non-Federal entities that administer Federal awards, the final revision to Circular A–133 extends its coverage to include State and local governments. In response to the Federal agency's concern about Indian tribal governments, it should be noted that States, including Indian tribal governments for purposes of the Circular, and local governments are subject to the requirements of Circular A–128, issued April 12, 1985, for audits of fiscal years beginning on or before June 30, 1996. Sanctions are provided in Circular A–128 and are available for use by Federal agencies, as considered necessary, in instances of continued inability or unwillingness to comply with the requirements of Circular A–128. The rescission of Circular A–128 applies to audits of State and local governments for fiscal years beginning after June 30, 1996.

Comment

In light of the proposed rescission of Circular A–128, several commenters requested that the title of Circular A–133 be expanded to also include Indian tribal governments.

Response: No change was made as a result of these comments. For single audit purposes, Indian tribal governments are included under the definition of ''State'' in Circular A–133 based on the statutory definition of ''State'' in the Single Audit Act of 1984 and the 1996 Amendments.

Effective Date

Comment

Several Federal agencies questioned which audit requirements are effective prior to codification of the revised Circular in a Federal agency's regulations. Paragraph ten of the proposed revision states that the standards set forth in the revised Circular shall be adopted by Federal agencies in codified regulations not later than six months after publication ''in the **Federal Register**, so that they apply to audits of fiscal years beginning after June 30, 1996 * * * In the interim period, until the standards in this Circular are adopted and become applicable, the audit provisions of Circular A–128, issued April 12, 1985, and Circular A–133, issued April 22, 1996, shall continue in effect.'' Several Federal agencies also requested clarification about how the requirements of Circular A–133 should be codified in Federal agency regulations.

Response: The sentence regarding the interim period was removed from the revised Circular. The 1996 Amendments (31 U.S.C. 7505(a)) require that ''each Federal agency shall promulgate such amendments to its regulations as may be necessary to conform such regulations to the requirements of this chapter and of such guidance [provided by the Director of OMB to implement the 1996 Amendments].'' Federal agencies shall adopt the provisions of the revised Circular not later than 60 days after publication of the revised Circular in the **Federal Register**. OMB is coordinating an effort to facilitate Federal agency compliance with this adoption requirement.

Limited Scope Audits for Subrecipients With Federal Awards Expended of Less Than $300,000 Annually

Comment

Many commenters requested that further guidance be provided in the Circular to assist in determining what types of procedures would qualify as ''limited scope audits to monitor subrecipients.''

Response: The 1996 Amendments (31 U.S.C. 7505(b)(1)(A)(ii)) prohibit a non-Federal entity from charging to a Federal award the cost of a Circular A–133 audit when the amount of Federal awards expended is less than $300,000 per year, except that OMB may allow the cost of limited scope audits to monitor subrecipients. A sentence was added to the final revision of Circular A–133 (§ ____.230(b)(2)) which defines limited scope audits to include only agreed-upon procedures engagements conducted in accordance with either the American Institute of Certified Public Accountants' (AICPA) generally accepted auditing standards (GAAS) or attestation standards, that are paid for and arranged by a pass-through entity and only address one or more of the following types of compliance requirements: activities allowed or unallowed; allowable costs/cost principles; eligibility; matching, level of effort, earmarking; and, reporting.

For subrecipients that expend less than $300,000 in Federal awards annually, the cost of any audits or attestation engagements, other than limited scope audits described in the previous paragraph, are not allowable costs and, therefore, cannot be charged to any Federal award. This provision would prohibit the cost of a financial statement audit conducted in accordance with GAAS or generally accepted government auditing standards (GAGAS) issued by the Comptroller General of the United States from being charged (by either a pass-through entity or subrecipient) to Federal awards for a subrecipient that expends less than $300,000 in Federal awards annually.

Subrecipient Monitoring

Comment

One State agency recommended that pass-through entities no longer be required to monitor subrecipients expending less than $300,000 in Federal awards. Some pass-through entities expressed concern that they might be expected to perform audit procedures for each of their subrecipients not covered by Circular A–133. Some subrecipients stated concern that the requirement to monitor subrecipients expending under $300,000 in Federal awards could result in a return to grant-by-grant auditing of such entities.

Response: The 1996 Amendments (31 U.S.C. 7502(f)(2)(B)) require pass-through entities to monitor a subrecipient's use of Federal awards through site visits, limited scope audits, or other means. In light of the increased threshold that triggers an audit requirement under the Circular to $300,000 or more in Federal awards expended per year, pass-through entities will need to make appropriate changes in their agreements with subrecipients to reflect that Circular A–133 audits will no longer be required for non-Federal entities with total Federal awards expended of less than $300,000 annually.

Since pass-through entities are held accountable for Federal awards administered by their subrecipients, they will also need to review their overall subrecipient monitoring process, and decide what, if any, additional monitoring procedures may be necessary to ensure subrecipient compliance. Monitoring procedures, such as on-site visits, reviews of documentation supporting requests for reimbursement, and limited scope audits (e.g., agreed-upon procedures performed over eligibility determinations made by subrecipients), can be more targeted and less costly than a full Circular A–133 audit. OMB expects pass-through entities to consider various risk factors in developing subrecipient monitoring procedures, such as the relative size and complexity of the Federal awards administered by subrecipients, prior experience with each subrecipient, and the cost-effectiveness of various monitoring procedures.

For example, if a pass-through entity provides a large percentage of the only Federal award it expends to 10 subrecipients that each expend less than $300,000 in Federal awards annually, then the pass-through entity should carefully consider the most cost-effective method of monitoring these Federal awards. Perhaps the majority of this Federal award is provided to two subrecipients. The pass-through entity might consider conducting site visits at these two subrecipients and simply reviewing the documentation supporting requests for reimbursement from the other eight subrecipients. Conversely, if a small percentage of a Federal award is provided to subrecipients that each expend less than $300,000 in Federal awards, the risk to the pass-through entity is most likely low and, therefore, the monitoring procedures could be minimal.

OMB believes that this approach to designing subrecipient monitoring procedures should result in cost-effective monitoring and minimize the return to grant-by-grant auditing. This is a matter of particular importance to OMB and small recipients of Federal awards. Over the next few years, OMB and Federal agencies will review implementation of subrecipient monitoring procedures by pass-through entities to determine whether additional guidance or subsequent revisions to the Circular is warranted in this area.

Audit Coverage for the Allowability of Charges to Cost Pools

Comment:

Several Federal auditors and Federal agencies supported the proposed treatment of costs charged to cost pools used to support an indirect cost rate or allocated through a State/local-wide central service cost allocation plan (CAP). Most State auditors, State agencies, CPAs, and college and university commenters strongly opposed the proposal stating that the proposed revision appears to: (1) elevate coverage of indirect costs and CAPs to major program status, which would exceed the requirements of the 1996 Amendments; (2) require coverage regardless of materiality; (3) violate the risk-based approach to determining major programs; and, (4) single out indirect costs for extensive coverage beyond other elements of cost charged to Federal awards. Some commenters noted logistical difficulties that may result from the timing differences between when costs are charged to pools used to support an indirect cost rate or CAP; when the plans are submitted and negotiated; and when indirect costs are actually charged to Federal awards. Several college and university commenters opposed any additional requirements in this area because they believe that Federal cost negotiators perform some sort of audit of costs charged to cost pools under Circular A–21, ''Cost Principles for Educational Institutions.'' Most commenters requested that additional guidance, either in the Circular or the compliance supplement, be provided to assist auditors in this area.

Response: The proposed revision included certain phrases that were intended to clarify the auditor's responsibility for testing and reporting on the allowability of costs charged to cost pools: (1) used to support an indirect cost rate, or (2) allocated through a State/local-wide central service CAP (as fully described in Appendix C of Circular A–87, ''Cost

Principles for State, Local and Indian Tribal Governments,'' issued May 4, 1995 (60 FR 26484)). The suggested language was included in the proposed revision to address the timing of *when* costs charged to cost pools used to support an indirect cost rate or allocated through a CAP should be audited. This area presents unique timing considerations due to the manner in which indirect cost rates and CAPs are developed. Indirect cost rates are usually based on costs incurred in a base period and applied prospectively. Costs allocated through a CAP are typically based on the actual costs incurred in the current year and also previous years.

OMB did not intend for costs charged to cost pools used to support an indirect cost rate or allocated through a CAP to be audited every year as a major program regardless of materiality. As a result of the comments received, the suggested language relating to the treatment of indirect costs and costs allocated through a CAP was removed from § ____.500, § ____.505, and § ____.510 of the final revision of Circular A–133.

Although specific mention of indirect costs and costs allocated through a CAP was removed from the Circular, this removal does not diminish the auditor's responsibility for such costs. Accordingly, when indirect costs or allocated costs have a direct and material effect on any major program, the auditor is responsible for determining the propriety of costs charged to cost pools that are used to calculate an indirect cost rate or allocated through a CAP in the year in which the charges affect a major program. Because it may not be practical to perform such tests retroactively (e.g., when there is a change in auditors), OMB encourages the auditor to perform tests of costs charged to cost pools during the period when the actual costs were incurred or during the period when the proposal or plan is finalized, rather than waiting until the period when the rate was applied or in which the costs were allocated. Further guidance relating to audit coverage of indirect costs is provided in the provisional ''Circular A–133 Compliance Supplement.''

To illustrate the unique timing considerations relating to indirect costs and the impact on the audit process, assume that the actual costs charged to cost pools for 1997 form the basis for the indirect cost proposal to be submitted in 1998, and the final negotiated indirect cost rate that will be applied in 1999. Also, assume that indirect costs charged to a major program in 1999 are material. In this situation, the auditor is strongly encouraged to test actual costs charged to cost pools during 1997 as part of the 1997 audit, since 1997 is the base year, or as part of the 1998 audit, since 1998 is the year when the proposal will be finalized, submitted, and negotiated. If the auditor tests the actual costs charged to the cost pools as part of either the 1997 or 1998 audit (or can appropriately rely on the work performed by other auditors in these years), then the auditor's responsibility in 1999 will relate primarily to determining whether the appropriate rate was applied in 1999. However, if no prior audit work was done relating to the actual costs charged to cost pools used to support the rate used to charge a major program in 1999, then the auditor conducting the 1999 audit would be expected to test such costs, in addition to determining whether the appropriate rate was applied in 1999.

This area is of particular concern to OMB and Federal cost negotiators. Contrary to the views expressed by several commenters, Federal cost negotiators do not typically audit costs charged to cost pools used to support an indirect cost rate or allocated through a CAP. In the next few years, OMB and Federal agencies will monitor the coverage of indirect costs under Circular A–133 audits to determine whether additional guidance or subsequent revisions to the Circular are warranted. OMB may also consider if the coverage of indirect costs should be addressed separately from Circular A–133 audits in the future, possibly as separate engagements using the AICPA's attestation standards.

Audit Cognizance

Comment

One Federal auditor requested that OMB delay the effective date for the new method of determining the cognizant agency for audit for State and local governments because guidance relating to changing from one cognizant agency to another has not yet been provided. Another Federal auditor requested that the Circular name that agency as the cognizant agency for audit for every State based on the large amount of Federal funding provided by that Federal agency to States. Another Federal auditor opposed having one Federal agency responsible for audit cognizance for all States. Several State auditors and State agencies requested that they be permitted to retain their current cognizant agency for audit, and that they have input into future changes, if any, in audit cognizance.

Response: The primary reason for revising the approach to determining audit cognizance is to provide a straightforward method that can be used by the majority of auditees without the involvement of OMB. The previous policy whereby OMB was responsible for assigning audit cognizance did not work well, particularly for non-profit organizations. The proposed revision includes an approach whereby the auditee could readily determine its cognizant or oversight agency for audit based on which Federal agency provided the predominance of funding. However, several commenters noted that the proposal may have unintended consequences on some State and local governments that, under Circular A–128, were previously assigned cognizant agencies for audit by OMB in 1986 and have developed strong working relationships with their cognizant agencies.

In response to the comments received, the Circular was modified to reflect that current cognizant agency assignments shall continue in effect for States (including Indian tribal governments) and local governments that expend more than $25 million a year in Federal awards until fiscal years beginning after June 30, 2000. Thereafter, the method prescribed in § 400(a) shall be used by State and local governments for determining audit cognizance. This delay should provide sufficient time to smoothly transition from one Federal agency to another, or to request that OMB designate a specific cognizant agency for audit assignment, as circumstances warrant. However, for State and local governments that expend more than $25 million a year in Federal awards but do not have a currently assigned cognizant agency for audit, § ____.400(a) shall be used to determine audit cognizance upon the effective date of the Circular.

OMB expects to designate specific audit cognizance assignments for only a limited number of entities. However, if a change in audit cognizance is desired, then auditees are expected to first work through their Federal awarding agencies to obtain a reassignment. If the request cannot be adequately resolved among the Federal agencies, then the Federal agencies may contact OMB to resolve the matter. In response to several commenters, this process will permit auditees to be involved in future changes in audit cognizance.

The proposal indicates that, in instances in which OMB makes a specific cognizant agency for audit assignment, the assignment would be published in the **Federal Register**. OMB reconsidered the necessity of

performing this procedure and removed this provision from the final Circular. However, when specific assignments are made by OMB, OMB will inform the parties involved (e.g., the auditee and the Federal agencies involved) of the assignment.

Comment

Several Federal agencies and numerous college and university commenters expressed strong concern that the cognizant agency determination included in Circular A–133 is not consistent with Circular A–21, ''Cost Principles for Educational Institutions,'' and could result in an entity having one cognizant agency for audit purposes and another for indirect cost negotiation.

Response: No change was made as a result of these comments. Under Circular A–21, cost negotiation cognizance for the majority of colleges and universities is currently assigned to either the Department of Health and Human Services (HHS) or the Office of Naval Research (ONR) in the Department of Defense. OMB believes that it is unnecessary to require these two Federal agencies to also assume responsibility for audit cognizance for each of the colleges and universities for which they serve as cost negotiation cognizance. This additional responsibility for audit cognizance may impede HHS' or ONR's ability to fulfill their cost negotiation duties. Cost negotiation cognizance requires a high degree of specialized skills. However, any Federal agency is capable of performing audit cognizance duties. The responsibilities for audit cognizance (§ ____.400(a)) and indirect cost negotiation are different and, therefore, the same Federal agency need not be cognizant for both. While OMB expects that the Federal agency responsible for audit cognizance and cost negotiation cognizance will be the same in many instances, when they are different, the Federal agencies involved will be expected to coordinate their efforts to avoid duplication and disruption to the auditee.

Comment

Clarification was requested by many commenters on how to determine the predominant amount of direct funding for purposes of determining the cognizant agency for audit. One Federal auditor questioned whether loans and loan guarantees should be considered in the calculation. Several college and university commenters expressed concern that the term ''direct funding'' could be misinterpreted to mean the amount of ''awards,'' rather than ''expenditures.''

Response: No change was made as a result of these comments. The Circular states that the predominant amount of direct funding shall be based upon direct ''Federal awards expended'' in the recipient's fiscal year. § ____.205 of the final revision addresses the basis for determining the amount of Federal awards expended and specifically discusses the treatment of loans and loan guarantees. § ____.205 shall also be followed for purposes of determining the cognizant agency for audit.

Required Level of Internal Control Testing

Comment

Four State auditors and one CPA commenter opposed the proposed requirement for the auditor to plan the testing of internal control over major programs to support a low assessed level of control risk. One commenter stated that the Circular assumes that control risk is always either low or high and that it ''does not recognize that control risk may be anywhere on a continuum from low to high (with ''high'' indicating ineffective control). When an auditor gains an understanding of an entity's internal control and determines that the controls are not ineffective, but are also not sufficient to support a low assessed level of control risk, then no amount of planning or testing will support a low assessed level of control risk.'' Two commenters recommended that OMB allow the assessment of control risk at a moderate level, unless internal control is determined to be ineffective.

Response: No change was made as a result of these comments. Many Federal agencies are concerned that not enough testing of internal control over major programs is performed as part of single audits. The President's Council on Integrity and Efficiency's (PCIE) ''Study on Improving the Single Audit Process,'' issued in September 1993, highlighted the disparity between Federal agencies' expectations relating to the extent of internal control testing and the actual testing of internal control performed by auditors. The study identified the lack of clear requirements as a cause for this deficiency. The study recommended that the Circular ''Require the auditor to plan the internal control testing to perform sufficient tests to support an assessed level of control risk of low for each program tested as major.'' OMB believes that the Circular clearly describes the Federal Government's expectations relating to the coverage of internal control under single audits, in terminology that is consistent with professional auditing standards.

It has been a longstanding Federal policy that the recipient of Federal funds is required to establish a system of internal control to provide reasonable assurance that it is managing Federal funds in compliance with applicable laws and regulations. Also, the 1996 Amendments (31 U.S.C. 7502(e)(3)) require the auditor to test controls unless they are deemed to be ineffective. Therefore, it is reasonable to require the auditor to plan the audit consistent with the level of internal control which the recipient of Federal funds is required to maintain. Also, the Circular permits the auditor to not test internal controls which are inadequate and, instead, disclose a reportable condition (including whether any such condition is a material weakness) and perform additional tests of compliance as necessary in the auditor's judgment.

Compliance Supplement

Comment

Several State auditors and CPA commenters stated that, while significant progress was made to improve the single audit process, it is critically important for OMB to move swiftly to issue a revised compliance supplement, which is needed to conduct single audits. They emphasized the importance of finalizing and publishing this document as quickly as possible to facilitate audits of fiscal years beginning after June 30, 1996 (i.e., the first audits to be conducted using the revised Circular).

Response: OMB agrees that the compliance supplement is vital to successful implementation. In response to these comments, OMB is including a provisional compliance supplement as Appendix B to the final revision to Circular A–133. It is being issued at this time in provisional form so that it can be used as part of the first audits conducted in accordance with the revised Circular A–133. However, the provisional status also provides interested parties with the opportunity to comment on the document and permits OMB to include additional Federal programs in the document in the coming months.

The provisional ''Circular A–133 Compliance Supplement'' is effective for audits of fiscal years beginning after June 30, 1996, and supersedes the previously issued compliance supplements entitled ''Compliance Supplement for Single Audits of State and Local Governments,'' issued in 1990, and ''Compliance Supplement for Audits of Institutions of Higher Learning and Other Non-Profit Institutions,'' issued in 1991. The

definition of the term ''compliance supplement'' in § ____.105 of the final revision was revised to reflect the compliance supplement included as Appendix B to this revised Circular.

Comment

Several State auditors and one CPA requested removal of the requirement for the auditor to determine the current compliance requirements when changes were made to the compliance requirements and the changes are not yet reflected in the compliance supplement.

Response: No change was made as a result of these comments. However, minor modifications were made to § ____.500(d) to conform the language used in the Circular to the compliance supplement.

The requirement in § ____.500(d)(3) for auditors to consider whether changes were made in the compliance requirements included in the compliance supplement reflects current practice, which is based on two documents: (1) the PCIE's Position Statement No. 6, titled ''Questions and Answers on Circular A–133,'' and (2) the AICPA's Audit and Accounting Guide, entitled, ''Audits of State and Local Governmental Units,'' dated May 1, 1995.

The PCIE document includes a statement that ''If there have been changes [to the compliance requirements included in the compliance supplement], then the auditor should follow the provisions of the compliance supplements as modified by the changes'' (page 14). The AICPA's Accounting and Auditing Guide (paragraph 23.37) alerts auditors to the fact that compliance requirements may change over time and that this should be considered in planning tests of compliance. The provisional ''Circular A–133 Compliance Supplement'' provides guidance to auditors regarding the Federal Government's expectations for auditors to perform reasonable procedures (e.g., inquiry of auditee management, review of applicable contract and grant agreements) to determine currency of the compliance requirements included in the compliance supplement.

Transitional Guidance to Implementing the Risk-Based Approach to Determining Major Programs

Comment

OMB received several inquiries about whether a Type A program may be considered low-risk when it was audited as a major program in accordance with the prior Circular A–133, issued March 8, 1990, or Circular A–128, issued April 12, 1985, and otherwise met the requirements in § ____.520(c) to be considered as low-risk. Similar inquiries were received regarding whether single audits performed in accordance with the prior Circular A–133 or Circular A–128 would satisfy the requirements of § ____.530 for an auditee to qualify as a low-risk auditee.

Response: The reference in § ____.520(c)(1) to the two most recent audit periods includes audit periods in which the audit was performed under either Circular A–128 or the 1990 version of Circular A–133. Therefore, a Type A program which meets the criteria for low-risk under § ____.520(c)(1), based on the results of an audit performed under Circular A–128 or the 1990 version of Circular A–133, may be considered low-risk. Similarly, the requirement in § ____.530 that an auditee meet specified criteria for the preceding two years to be considered a low-risk auditee applies to audits performed under Circular A–128 or the 1990 version of Circular A–133.

Also, to provide a transition into the risk-based approach, the provision for deviation from use of risk criteria provided in § ____.520(i) applies to the first year this revision is applicable and permits auditors to defer implementation of the risk-based approach for one year.

Risk-Based Approach to Determining Major Programs

Comment

Several State auditors and one State agency requested clarification of the requirements for performing risk assessments of Type B programs under § ____.520(d) and § ____.520(e)(2). Many commenters questioned if the Circular requires the auditor to perform annual risk assessments of each Type B program (above an amount specified in the Circular) and expressed concern that such a requirement would significantly increase audit costs.

Response: Minor modifications were made to the Circular. Reference to the percentage of coverage rule was removed from § ____.520(d)(2) of the final revision because, as two commenters noted, program risk is not a consideration in selecting programs to meet the percentage of coverage rule described in § ____.520(f). Also, editorial changes were made to § ____.520(d)(2) to emphasize when risk assessments should be performed.

The final revision (§ ____.520(d)) requires the auditor to identify Type B programs that are high-risk and § ____.520(e)(2) provides two options for identifying high-risk Type B programs.

Under Option 1, the auditor would be expected to perform risk assessments of all Type B programs that exceed the amount specified in § ____.520(d)(2), and audit at least one half of these high-risk Type B programs as major, unless this number exceeds the number of low-risk Type A programs identified under § ____.520(c) (i.e., the ''cap''). In this case, the auditor would be required to audit as major the same number of high-risk Type B programs as the cap. For example, a State has ten low-risk Type A programs, and 50 Type B programs above the amount specified in § ____.520(d)(2). Under Option 1, the auditor would be required to perform risk assessments of the 50 Type B programs. Assume that the auditor determines that there are 25 high-risk Type B programs. One half of the 25 high-risk Type B programs is 12.5, or 13, programs. Under Option 1, the auditor would audit 13 of the high-risk Type B programs as major; however, the cap in this example is ten (i.e., the number of low-risk Type A programs); therefore, the auditor is only required to audit as major 10 high-risk Type B programs.

Under Option 2, the auditor is only required to audit as major one high-risk Type B program for each Type A program identified as low-risk under § ____.520(c). Under this option, the auditor would not be required to perform risk assessments for any Type B programs when there are no low-risk Type A programs (i.e., the cap is zero). Continuing with the previous example, under Option 2, the auditor would perform risk assessments of Type B programs until ten high-risk Type B programs are identified. The auditor would be required to audit ten high-risk Type B programs as major in this example. Depending on the order in which risk assessments on Type B programs are performed, the auditor might only need to perform risk assessments of ten Type B programs determined to be high-risk, or the auditor may need to perform risk assessments until ten high-risk programs are identified.

The auditor may choose either Option 1 or 2. There is no requirement to justify the reasons for selecting either option. The results under Options 1 and 2 may vary significantly, depending on the number of low-risk Type A programs and high-risk Type B programs. The auditor is encouraged to use an approach which provides an opportunity for different high-risk Type B programs to be audited as major over a period of time.

Comment

OMB received several inquiries about whether large loan and loan guarantee programs (that affect the determination of other Type A programs under § ____.520(b)(3)) audited as major programs may be used for purposes of meeting the percentage of coverage rule (§ ____.520(f)).

Response: The amount of Federal awards expended under such loan and loan guarantee programs that are audited as major may be used for purposes of meeting the percentage of coverage rule. In a related matter, programs audited as major under § ____.215(c), in which a Federal agency or pass-through entity requests and pays for a program to be audited as major, may also be used for purposes of meeting the percentage of coverage rule (§ ____.520(f)).

Comment

Several commenters questioned the difference in the number of days of advance notice a Federal agency shall provide an auditee when a particular program: (1) cannot be considered a low-risk Type A program (at least 120 days prior to the auditee's fiscal year end under § ____.520(c)(2)), and (2) must be audited as major (at least 180 days prior to the auditee's fiscal year end under § ____.215(c)).

Response: For consistency, a change was made to § ____.520(c)(2) of the final revision to require a Federal agency to inform an auditee at least 180 days prior to the auditee's fiscal year end when a Federal program cannot be considered a low-risk Type A program.

Biennial Audits

Comment

All State auditors that commented on the proposal relating to biennial audits strongly opposed the provision included in § ____.530(a) of the proposed revision that prohibits non-Federal entities that have biennial audits from qualifying as low-risk auditees. Commenters stated that this prohibition was not included in the 1996 Amendments and that the frequency of the audit has no bearing on the administration of Federal awards. One commenter suggested that, at a minimum, the cognizant or oversight agency for audit be authorized to permit, on a case-by-case basis, non-Federal entities that conduct biennial audits to qualify as low-risk auditees.

Response: A change was made to § ____.530(a) to permit non-Federal entities to qualify, on a case-by-case basis, as low-risk auditees with the approval of the cognizant or oversight agency for audit. A change was also made to § ____.400(a) of the final revision to add this responsibility to the list of cognizant agency for audit responsibilities.

Comment

One commenter inquired about the effective date of the Circular for biennial periods.

Response: The 1996 Amendments do not specifically address the effective dates for biennial audits. OMB interprets the 1996 Amendments to be effective for any biennial periods which begin after June 30, 1996. As with annual audits, the previously applicable Circulars are in effect until this final revision is effective. Therefore, an auditee that conducts biennial audits and has a biennial period beginning on or before June 30, 1996, should apply the provisions of Circular A–128 (for a State or local government) or Circular A–133, issued March 8, 1990 (for a non-profit organization), as applicable. The requirements of this Circular apply to any biennial periods beginning after June 30, 1996.

Credit Union Loans

Comment

OMB received inquiries about whether loans provided by the National Credit Union Administration (NCUA) should be considered Federal awards subject to the requirements of Circular A–133.

Response: A new paragraph (§ ____.205(j)) was added to the Circular to address certain loans provided by the NCUA. Specifically, loans made from the National Credit Union Share Insurance Fund and the Central Liquidity Facility are funded by contributions from insured institutions and are not considered Federal awards expended under Circular A–133. However, the NCUA provides loans under other programs, such as the Community Development Revolving Loan Programs for Credit Unions, which are considered Federal awards for purposes of applying Circular A–133.

Auditor Communication Regarding Report Distribution

Comment

Several commenters stated that, if the auditor prepares the data collection form, then the communication required by § ____.500(f) of the proposed revision, whereby the auditor is required to notify the auditee of which Federal agencies and pass-through entities are required to receive a copy of the reporting package, will no longer be necessary.

Response: The proposed revision of Circular A–133 included a requirement for the auditor to communicate, preferably in writing, to the auditee which Federal awarding agencies and pass-through entities are required to receive a copy of the reporting package. This requirement was removed. This separate communication is unnecessary because the final Circular (§ ____.320(b)(3)) requires the auditor to prepare and sign the portion of the data collection form that identifies which Federal agencies are required to receive a copy of the reporting package.

Basis of Accounting

Comment

One State auditor requested that § ____.310(a) and § ____.500(b) of the Circular be revised to include a statement, similar to a provision (paragraph 2.4(a)) included in GAGAS, that ''Financial statement audits also include audits of financial statements prepared in conformity with any of several other bases of accounting discussed in the auditing standards issued by the AICPA.'' One Federal auditor requested that the Circular require the auditee to use the same basis of accounting in preparing the schedule of expenditures of Federal awards that is used to prepare the auditee's financial statements, and noted that this omission has resulted in significant unreconciled differences on the schedule of expenditures of Federal awards.

Response: No changes were made as a result of these comments. Circular A–133 does not prescribe the basis of accounting that must be used by auditees to prepare their financial statements and schedule of expenditures of Federal awards. However, auditees are required to disclose the basis of accounting and significant accounting policies used in preparing the financial statements and schedule of expenditures of Federal awards. The auditor is required to report (§ ____.500(b)) whether the financial statements are prepared in accordance with generally accepted accounting principles (GAAP), and whether the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the auditee's financial statements taken as a whole. The auditee must be able to reconcile amounts presented in the financial statements to related amounts included in the schedule of expenditures of Federal awards.

Financial Statements

Comment

Several CPAs commented that § ____.310(a) of the Circular should be modified to recognize that financial statements should reflect the results of operations *or* changes in net assets. Financial statements prepared in accordance with GAAP for certain types of non-Federal entities reflect changes in net assets rather than results of operations. The commenters suggested that some auditees and auditors may interpret this section as imposing a requirement that is not consistent with GAAP.

Response: The Circular (§ ____.310(a)) was revised to state that financial statements should reflect either the results of operations or changes in net assets.

Comment

Several CPAs commented that the requirement included in § ____.310(a) of the Circular that the financial statements shall be for the same organizational unit that is chosen to meet the requirements of the Circular, considered in conjunction with § ____.500(a), could be problematic for certain auditees and may have unintended consequences. The commenters interpreted the Circular as requiring a direct match between the reporting entity included in the financial statements and the reporting entity covered by the Circular A–133 audit. The commenters questioned whether an auditee, that chooses to meet the Circular's requirements through a series of audits that cover separate departments, agencies, and other organizational units which expended Federal awards, would be required to issue non-GAAP financial statements that omitted the portions of the reporting entity which were separately audited. One commenter requested guidance in a situation where a local government has its school districts separately audited. If the local government's financial statements exclude the school districts (which is what the commenters believe the Circular requires), then the auditor may need to issue a qualified or adverse opinion on the local government's financial statements, which could raise unnecessary red flags and prohibit the auditee from qualifying as a low-risk auditee (§ ____.530). One State manager noted that considerably more public entities are included in that State's financial statement audit than in its state-wide single audit, and that, if the Circular requires such entities to be included in the state-wide single audit, this would result in additional audit costs and complicate the audit process.

Response: § ____.310(a) was revised to clarify OMB's expectations in this area. The revised Circular provides non-Federal entities an option to meet the audit requirements of the Circular through a series of audits that cover the non-Federal entity's departments, agencies, and other organizational units which expended or otherwise administered Federal awards during such fiscal year. If a non-Federal entity elects this option, then separate financial statements and a schedule of expenditures of Federal awards shall be prepared for each such department, agency, or other organizational unit. In these circumstances, a non-Federal entity's organization-wide financial statements may also include departments, agencies, or other organizational units that have separate audits and prepare separate financial statements.

In the example provided by the commenter, it would be acceptable for the local government's financial statements to include the school districts, even though the school districts were not included in the local government's Circular A–133 audit because a separate Circular A–133 audit is conducted of the school districts. However, if separate financial statements were not prepared for the school districts, it would be unacceptable for a separate Circular A–133 audit to be conducted of the school districts (i.e., the local government's organization-wide financial statements could not be used as a substitute for separate financial statements for the school districts).

Schedule of Expenditures of Federal Awards

Comment

One State auditor and one State manager commented that the Circular should not prescribe requirements for the schedule of expenditures of Federal awards beyond the current guidance.

Response: The ''current guidance'' for presenting the schedule of expenditures of Federal awards information was developed and promulgated by the AICPA, and was not specifically prescribed in Circulars A–128 and A–133 (1990 original issuance). OMB believes that the minimum requirements for the schedule should be specified in the Circular (§ ____.310(b)). Most respondents to the April 1996 revision of Circular A–133 supported the level of detail reflected in that revision. A few modifications of the requirements were made in this final revision of Circular A–133, in response to specific comments received, as described in the following sections.

Comment

Several CPAs and one State auditor commented that the Circular requires the auditor to be responsible for determining major programs and the threshold used to distinguish between Type A and Type B programs. However, these items are required to be presented in the schedule of expenditures of Federal awards prepared by the auditee and this requirement may blur the distinction between information that is the responsibility of the auditor versus the auditee.

Response: The proposed requirements for the schedule of expenditures of Federal awards to identify major programs and identify the threshold to distinguish between Type A and Type B programs (§ ____.310 (b)(3) and (b)(4) of the proposed revision) were removed. However, the requirement to report this information was added to § ____.505(d) so that this information is now required to be included in the auditor's report(s). While not required, some auditees may find it useful to present this information in the schedule of expenditures of Federal awards.

Comment

Several CPAs recommended that the value of non-cash assistance, insurance in effect, and loans and loans guarantees outstanding be required to be included in the schedule of expenditures of Federal awards. They stated that the option to present this information in a note to the schedule should be eliminated and that the consistency achieved will improve the usefulness of the schedule and facilitate OMB's data collection efforts. One college and university commenter stated that the requirement to provide this information (either in a note or in the schedule) was excessive, and that the same information could be obtained from existing Federal data banks.

Response: A change was made to § ____.310(b)(6) as a result of these comments. The Circular permits the option of presenting this information either in the schedule of expenditures of Federal awards or in a note to the schedule; however, an additional sentence was included indicating that it is preferable to present this information in the schedule. It is important to note that, regardless of whether this information is presented in a note or in the schedule, this information must be included in the data collection form. While the requirement to provide such information is not new, the Federal

Government does not currently collect and account for this information in a systematic manner or data bank (i.e., some Federal agencies track this information and others do not). A minor addition was made to § ____.310(b)(6) to clarify that the amount of insurance in effect during the year should be disclosed.

Report Due Date

Comment

Two Federal auditors commented that the requirement included in the 1996 Amendments to submit the reporting package to the Federal clearinghouse ''within the earlier of: 30 days after receipt of the auditor's report(s), or * * *'' is not clearly specified in the proposed revision.

Response: § ____.235(c) and § ____.320(a) were modified to incorporate the report due date requirements specified in the 1996 Amendments.

Summary Schedule of Prior Audit Findings

Comment

Several State auditors requested guidance on the auditor's responsibility for deficiencies noted in prior audit findings for which a management decision was not issued and which the auditee believes is no longer valid. Specifically, the commenters asked whether the lack of a timely management decision is evidence that the Federal awarding agency or pass-through entity is not concerned about the finding and whether future audits may exclude coverage of the deficiency that resulted in an audit finding. One State auditor also commented that auditees should not be given the authority to determine when an audit finding is no longer valid or does not warrant further action.

Response: § ____.315(b) permits an auditee to determine whether a prior audit finding is no longer valid or does not warrant further action. A valid reason for such a determination is that all of the following have occurred: (1) two years have passed since the audit report in which the finding occurred was submitted to the Federal clearinghouse, (2) the Federal agency or pass-through entity is not currently following up with the auditee on the audit finding, and (3) a management decision was not issued. OMB believes that it is appropriate for the auditee to make this determination. In addition, the auditor is required by § ____.500(e) of the Circular to assess the fairness of management's representations in the schedule.

The lack of a management decision for a prior audit finding may provide a basis for the auditee to indicate in the summary schedule of prior audit findings that the finding is no longer valid or does not warrant further action (provided the two other conditions previously listed are met). However, the lack of a management decision does not change the scope of audit work or the auditor's reporting requirements. As an example, if the same deficiency that resulted in a prior audit finding (for which a management decision was not issued) is discovered by the auditor in the current period, the auditor would be required to determine whether the matter met the criteria provided in § ____.510(a) for reporting an audit finding in the auditor's schedule of findings and questioned costs.

For the first year a non-Federal entity is audited under this revised Circular, the prior year report may not have included the equivalent of a summary schedule of prior audit findings. In these cases, the auditee may exercise judgment and only include, to the extent practical, audit findings from before the prior year. Also, the auditee is not expected to include prior findings that would not have been reported under the criteria provided in § ____.510(a).

Auditor's Schedule of Findings and Questioned Costs

Comment

Several State auditors and CPA commenters noted that GAGAS does not use the term ''findings and questioned costs,'' and the concept of questioned costs is not discussed in GAGAS. Commenters requested that OMB clarify the requirement included in § ____.505(d)(2) of the proposed revision.

Response: A change was made to § ____.505(d)(2) to replace the term ''findings and questioned costs'' with ''findings'' so that the final revision requires the auditor's schedule of findings and questioned costs to include a section that reports any findings relating to the financial statements which are required to be reported in accordance with GAGAS.

Comment

One State auditor requested that § ____.505(a) of the proposed revision be revised to permit unqualified opinions on financial statements prepared in accordance with an other comprehensive basis of accounting.

Response: No change was made as a result of this comment. The 1996 Amendments (31 U.S.C. 7502(e)(1)) require the auditor to ''* * * determine whether the financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles.'' However, it should be noted that neither the 1996 Amendments nor Circular A–133 prescribe the basis of accounting that must be used by auditees to prepare their financial statements and schedule of expenditures of Federal awards (i.e., non-GAAP statements are acceptable).

Comment

Two CPAs indicated that the reference to § ____.505(d)(2) and (3) that was included in § ____.505(d)(3)(ii) of the proposed revision is confusing because it refers to certain schedules that are supposed to be included as part of the schedule of findings and questioned costs.

Response: A change was made to § ____.505(d)(3)(ii) to reflect that the schedule of findings and questioned costs is comprised of several sections, rather than multiple schedules.

Audit Findings

Comment

Several Federal auditors, State auditors, and CPAs commented on the requirement included in § ____.510(a)(1) and (2) of the proposed revision that, for reporting purposes, audit findings must be evaluated in relation to a ''type of compliance requirement'' for a major program or an audit objective identified in the compliance supplement. Some commenters opposed requiring the evaluation of an audit finding in relation to an audit objective because they believe this to be a more constrictive requirement than the currently-used measurement standard, and others requested clarification of the requirement. Two commenters suggested that OMB revise this requirement to allow the auditor to make the determination of reportable conditions and material noncompliance based on the significance of the compliance requirement and the effect on the program as a whole.

Response: No change was made as a result of these comments. The scope of the auditor's work described in § ____.500 (c) and (d) is required at the major program level. However, for audit reporting purposes, the results of the auditor's work must be evaluated against a lower measure. Specifically, the revised Circular requires the auditor to consider an audit finding in relation to a type of compliance requirement for a major program or an audit objective identified in the compliance supplement. The types of compliance

requirements and related audit objectives are included in the provisional ''Circular A–133 Compliance Supplement.'' The auditor is expected to determine the types of compliance requirements that could have a direct and material effect on each major program, and to design and conduct tests necessary to render an opinion on compliance with respect to each major program. Clearly, auditor judgment must be used in determining the nature, timing, and extent of audit work to be performed, and in evaluating the audit results. The purpose of the requirement included in § ____.510(a)(1) and (2) is to advise the auditor of the criteria against which to measure or evaluate the impact of findings for reporting purposes.

It is important to note that, under the existing requirements of Circular A–128, the auditor is required to report all instances of noncompliance and, under the 1990 version of Circular A–133, the auditor is required to report all but nonmaterial instances of noncompliance. The requirements for reporting audit findings included in the revised Circular are less burdensome than the existing requirements with respect to instances of noncompliance.

Comment

Several commenters requested clarification of the requirement in § ____.510(a)(3) of the proposed revision to report as an audit finding known questioned costs which are greater than $10,000 for a type of compliance requirement, particularly with respect to determining the impact of multiple instances of noncompliance relating to a type of compliance requirement.

Response: No change was made as a result of these comments. However, the following example is provided to illustrate the requirements of this provision. Suppose an auditor: (1) determines that eligibility (which is one of the types of compliance requirements listed in the compliance supplement) could have a direct and material effect on a major program; (2) designs and conducts tests over eligibility relative to this major program; and, (3) discovers two separate instances of noncompliance, in the amount of $9000 each, relating to eligibility. The findings involve two different audit objectives relating to eligibility (which are listed in the compliance supplement): one finding relates to an individual participant's eligibility, and the other finding relates to the eligibility of a subrecipient. Since § ____.510(a)(3) requires the auditor to report known questioned costs which are greater than $10,000 for a type of compliance requirement (which is eligibility in this case), the auditor would be expected to report these questioned costs of $18,000 as an audit finding. The auditor would also be expected to consider the impact of these instances of noncompliance when reporting on compliance on each major program.

Comment

Some Federal agencies strongly object to not requiring known questioned costs of $10,000 or less to be reported. Conversely, one State auditor commented that the requirement to report known questioned costs greater than $10,000 could result in auditors' reporting matters that are minimal in relation to the size of a particular Federal program (e.g., a very large State program in which questioned costs of $11,000 is considered immaterial).

Response: No change was made as a result of these comments. OMB believes that the $10,000 threshold for reporting questioned costs provides an appropriate balance between reporting all questioned costs (which was previously required for State and local governments) and only reporting substantial questioned costs.

Comment

One Federal auditor requested that OMB require auditors to report an estimate of likely questioned costs when a known or likely questioned cost exceeds $10,000. The commenter stated that capturing the amount of likely questioned costs should better enable Federal agencies to assess the nature and magnitude of questioned costs on particular Federal awards and assist in prioritizing the resolution of audit findings. The commenter also suggested that OMB encourage auditors to use statistical means to determine likely questioned costs.

Response: No change was made as a result of this comment. § ____.510(a)(3) requires the auditor to report known questioned costs which are greater than $10,000, and known questioned costs when likely questioned costs are greater than $10,000, for a type of compliance requirement. GAAS require the auditor to project the amount of known questioned costs identified in a sample to the items in the major program and to consider the best estimate of total questioned costs (both known and likely) in determining an opinion on compliance. The auditor is required to document this consideration in the audit working papers.

The revised Circular does not require the auditor to report an exact amount or statistical projection of likely questioned costs, but rather to include an audit finding when the auditor's extrapolation of these likely questioned costs is greater than $10,000. In reporting likely questioned costs, it is important that the auditor follows the requirements of § ____.510(b) and provides appropriate information for judging the prevalence and consequences of the finding. The use of statistical means of determining likely questioned costs may be beneficial for auditors but it is not required. During the next few years, OMB expects Federal agencies to monitor auditor compliance in this area to assist OMB in determining whether an expansion of these reporting requirements is necessary in subsequent revisions.

Comment

Two CPA commenters requested guidance regarding the treatment of audit findings that cannot be quantified. The commenters cited as an example a situation where an auditor discovers that a pass-through entity consistently failed to provide its subrecipients with Federal award information, including applicable compliance requirements. The commenters stated that § ____.510(a)(3) could be read to indicate that such nonmonetary findings would not need to be reported.

Response: No change was made as a result of these comments. In the example provided by the commenters, this noncompliance would be required to be reported as an audit finding. The auditor must consider a finding in relation to the type of compliance requirement (subrecipient monitoring, in this case) or an audit objective identified in the compliance supplement. The pertinent audit objective included in the provisional ''Circular A–133 Compliance Supplement'' relating to this example is for the auditor to ''determine whether the pass-through entity identifies Federal award information and compliance requirements to the subrecipient.'' Because the pass-through entity failed to provide Federal award information to its subrecipients, this noncompliance is material in relation to the audit objective and, therefore, must be reported as an audit finding. In addition, the auditor must consider whether reportable conditions (and possibly material weaknesses in internal control) exist and require reporting with respect to subrecipient monitoring.

Audit Follow-up

Comment

Several commenters requested guidance on whether the auditor is required to follow up on all prior

findings, particularly immaterial amounts that were previously required to be reported. Two commenters opposed the requirement for audit follow-up on prior audit findings, even when a finding is unrelated to a major program in the current year.

Response: In the first year audited under the revised Circular, the auditor should use judgment in deciding which previously reported findings require follow-up in the current year. Auditors are not expected to follow up on prior year findings that are immaterial. The auditor should consider the criteria for reporting audit findings, provided in § ____.510(a), in determining which prior audit findings require follow-up.

No change was made to § ____.500(e), which requires the auditor to perform follow-up procedures regardless of whether a prior audit finding relates to a major program in the current year. This requirement is consistent with the requirement for management to report on the status of prior findings in the summary schedule of prior audit findings.

Auditor Selection

Comment

Two State auditors requested a change to recognize that some auditees (e.g., State and local governments) do not have the constitutional or legal authority to arrange for audit services.

Response: A clarification was made to § ____.305(a) to indicate that, in procuring (rather than arranging for) audit services, auditees shall follow the provisions described in § ____.305(a). If an auditee is not authorized to procure audit services (e.g., State law may require that a State auditor perform all required audits for that State), then the provisions of § ____.305(a) do not apply.

Comment

One State agency and one CPA commenter did not support the restriction on auditors that perform Circular A–133 audits and also prepare indirect cost proposal or CAPs. These commenters stated that the AICPA's professional standards adequately address auditor independence.

Response: No change was made as a result of these comments. § ____.305(b) precludes the same auditor from preparing the indirect cost proposal or CAP when indirect costs exceeded $1 million in the prior year. This restriction was developed based on comments relating to April 1996 revision of Circular A–133, in which all Federal agencies that responded cited at least an appearance of a lack of independence when the same auditor both performed the audit and prepared the indirect cost proposal or

CAP. The $1 million threshold was chosen to limit this restriction to a relatively small number of entities, while still protecting the Federal interest.

The implementation date for this provision is delayed two years until audits of fiscal years beginning after June 30, 1998, to minimize any effect this provision could have on existing contracts for audit services. In the future, OMB and Federal agencies will monitor this area to determine whether additional guidance or further revision to the Circular is necessary.

Federal Awarding Agency Responsibilities

Comment

A commenter noted that the Circular does not list as a responsibility of Federal awarding agencies the requirement included in the 1996 Amendments (31 U.S.C. 7502(f)(1)(A)) to inform recipients of the Federal requirements imposed on them by Federal laws, regulations, and the provisions of contracts or grant agreements.

Response: A change was made to add this responsibility to the list included in § ____.400(c) of the revised Circular.

Request for a Program to be Audited as a Major Program

Comment

Two State auditors opposed the provision included in § ____.215(c) in which a Federal agency or pass-through entity may request for a program to be audited as a major program. Reasons cited include: (1) that Federal agencies might use this provision excessively, and (2) that specifying programs to be audited as major is contrary to the risk-based approach to determining major programs.

Response: No changes were made to the Circular as a result of these comments. This process does not significantly change the authority Federal agencies and pass-through entities now have to perform additional audits as long as they pay for them. These audits may be incorporated within the framework of the single audit and thereby eliminate duplicative audit planning and reporting. Since the Federal agency or pass-through entity must still pay the full incremental audit cost, OMB does not expect a significant increase in major programs from this provision.

It should be pointed out that any Type A program selected to be audited under this provision must be low-risk. If it were not low-risk, it would have been audited as a major program under the risk-based approach. Therefore, this provision will not reduce the number of high-risk Type B programs audited as major. Also, programs audited as major under this process count towards meeting the percentage of coverage rule provided in § ____.520(f).

Management Decisions

Comment

Several State auditors expressed concern about the provision permitting Federal agencies and pass-through entities, prior to issuing a management decision, to request additional information or documentation from an auditee, including a request that the documentation be audited, as a way of mitigating disallowed costs. Two CPAs requested that the term ''audit'' be replaced by ''auditor assurance'' for clarity.

Response: A minor change was made to § ____.405(a) to clarify that the request is for auditor assurance relating to the specified documentation. OMB also expects Federal agencies and pass-through entities to use this provision judiciously.

Comment

One State auditor commented that it would be beneficial if auditors could obtain copies of management decisions and suggested that the Federal Government establish a centralized contact from which auditors could request copies.

Response: In the next few years, OMB will consider this and other suggestions to improve the dissemination of management decision information.

Audit Working Papers

Comment

Several auditors requested that the Circular reflect the wording included in the 1996 Amendments (31 U.S.C. 7503(f)) that indicates the purpose for which access to working papers is intended.

Response: A change was made to § ____.515(b) to reflect wording similar to the 1996 Amendments relating to this matter.

Additional OMB Guidance

Comment

Several commenters requested additional information about various provisions in the proposed revision and asked whether OMB will publish a ''questions and answers'' document as implementation issues arise.

Response: Interested parties may wish to refer to the April 30, 1996 (61 FR

19134) and November 5, 1996 (61 FR 57232) **Federal Register** for discussion of various provisions included in the Circular. Useful information is provided in these Notices that is not necessarily repeated in this Notice. In the future, if there are significant questions concerning the revised Circular A–133, OMB will consider issuing a ''questions and answers'' document relating to the revised Circular.

Franklin D. Raines,

Director.

1. OMB rescinds Circular A–128 July 30, 1997.

2. OMB revises Circular A–133 to read as follows:

[Circular No. A–133 Revised]

To the Heads of Executive Departments and Establishments

Subject: Audits of States, Local Governments, and Non-Profit Organizations.

1. *Purpose.* This Circular is issued pursuant to the Single Audit Act of 1984, P.L. 98–502, and the Single Audit Act Amendments of 1996, P.L. 104–156. It sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of States, local governments, and non-profit organizations expending Federal awards.

2. *Authority.* Circular A–133 is issued under the authority of sections 503, 1111, and 7501 *et seq.* of title 31, United States Code, and Executive Orders 8248 and 11541.

3. *Rescission and Supersession.* This Circular rescinds Circular A–128, ''Audits of State and Local Governments,'' issued April 12, 1985, and supersedes the prior Circular A–133, ''Audits of Institutions of Higher Education and Other Non-Profit Institutions,'' issued April 22, 1996. For effective dates, see paragraph 10.

4. *Policy.* Except as provided herein, the standards set forth in this Circular shall be applied by all Federal agencies. If any statute specifically prescribes policies or specific requirements that differ from the standards provided herein, the provisions of the subsequent statute shall govern.

Federal agencies shall apply the provisions of the sections of this Circular to non-Federal entities, whether they are recipients expending Federal awards received directly from Federal awarding agencies, or are subrecipients expending Federal awards received from a pass-through entity (a recipient or another subrecipient).

This Circular does not apply to non-U.S. based entities expending Federal awards received either directly as a recipient or indirectly as a subrecipient.

5. *Definitions.* The definitions of key terms used in this Circular are contained in § ____.105 in the Attachment to this Circular.

6. *Required Action.* The specific requirements and responsibilities of Federal agencies and non-Federal entities are set forth in the Attachment to this Circular. Federal agencies making awards to non-Federal entities, either directly or indirectly, shall adopt the language in the Circular in codified regulations as provided in Section 10 (below), unless different provisions are required by Federal statute or are approved by the Office of Management and Budget (OMB).

7. *OMB Responsibilities.* OMB will review Federal agency regulations and implementation of this Circular, and will provide interpretations of policy requirements and assistance to ensure uniform, effective and efficient implementation.

8. *Information Contact.* Further information concerning Circular A–133 may be obtained by contacting the Financial Standards and Reporting Branch, Office of Federal Financial Management, Office of Management and Budget, Washington, DC 20503, telephone (202) 395–3993.

9. *Review Date.* This Circular will have a policy review three years from the date of issuance.

10. *Effective Dates.* The standards set forth in § ____.400 of the Attachment to this Circular, which apply directly to Federal agencies, shall be effective July 1, 1996, and shall apply to audits of fiscal years beginning after June 30, 1996, except as otherwise specified in § ____.400(a).

The standards set forth in this Circular that Federal agencies shall apply to non-Federal entities shall be adopted by Federal agencies in codified regulations not later than 60 days after publication of this final revision in the **Federal Register**, so that they will apply to audits of fiscal years beginning after June 30, 1996, with the exception that § ____.305(b) of the Attachment applies to audits of fiscal years beginning after June 30, 1998. The requirements of Circular A–128, although the Circular is rescinded, and the 1990 version of Circular A–133 remain in effect for audits of fiscal years beginning on or before June 30, 1996.

Franklin D. Raines,

Director.

Attachment

PART____—AUDITS OF STATES, LOCAL GOVERNMENTS, AND NON-PROFIT ORGANIZATIONS

Subpart A—General

Sec.

____.100 Purpose.
____.105 Definitions.

Subpart B—Audits

____.200 Audit requirements.
____.205 Basis for determining Federal awards expended.
____.210 Subrecipient and vendor determinations.
____.215 Relation to other audit requirements.
____.220 Frequency of audits.
____.225 Sanctions.
____.230 Audit costs.
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Subpart C—Auditees

____.300 Auditee responsibilities.
____.305 Auditor selection.
____.310 Financial statements.
____.315 Audit findings follow-up.
____.320 Report submission.

Subpart D—Federal Agencies and Pass-Through Entities

____.400 Responsibilities.
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Subpart E—Auditors

____.500 Scope of audit.
____.505 Audit reporting.
____.510 Audit findings.
____.515 Audit working papers.
____.520 Major program determination.
____.525 Criteria for Federal program risk.
____.530 Criteria for a low-risk auditee.

Appendix A to Part____—Data Collection Form (Form SF–SAC)

Appendix B to Part____—Circular A–133 Compliance Supplement

Subpart A—General

§ ____.100 Purpose.

This part sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of non-Federal entities expending Federal awards.

§ ____.105 Definitions.

Auditee means any non-Federal entity that expends Federal awards which must be audited under this part.

Auditor means an auditor, that is a public accountant or a Federal, State or local government audit organization, which meets the general standards specified in generally accepted government auditing standards (GAGAS). The term auditor does not include internal auditors of non-profit organizations.

Audit finding means deficiencies which the auditor is required by § ____.510(a) to report in the schedule of findings and questioned costs.

CFDA number means the number assigned to a Federal program in the *Catalog of Federal Domestic Assistance (CFDA).*

Cluster of programs means a grouping of closely related programs that share common compliance requirements. The types of clusters of programs are research and development (R&D), student financial aid (SFA), and other clusters. ''Other clusters'' are as defined by the Office of Management and Budget (OMB) in the compliance supplement or as designated by a State for Federal awards the State provides to its subrecipients that meet the definition of a cluster of programs. When designating an ''other cluster,'' a State shall identify the Federal awards included in the cluster and advise the subrecipients of compliance requirements applicable to the cluster, consistent with § ____.400(d)(1) and § ____.400(d)(2), respectively. A cluster of programs shall be considered as one program for determining major programs, as described in § ____.520, and, with the exception of R&D as described in § ____.200(c), whether a program-specific audit may be elected.

Cognizant agency for audit means the Federal agency designated to carry out the responsibilities described in § ____.400(a).

Compliance supplement refers to the *Circular A–133 Compliance Supplement,* included as Appendix B to Circular A–133, or such documents as OMB or its designee may issue to replace it.

This document is available from the Government Printing Office, Superintendent of Documents, Washington, DC 20402–9325.

Corrective action means action taken by the auditee that:

(1) Corrects identified deficiencies;

(2) Produces recommended improvements; or

(3) Demonstrates that audit findings are either invalid or do not warrant auditee action.

Federal agency has the same meaning as the term *agency* in Section 551(1) of title 5, United States Code.

Federal award means Federal financial assistance and Federal cost-reimbursement contracts that non-Federal entities receive directly from Federal awarding agencies or indirectly from pass-through entities. It does not include procurement contracts, under grants or contracts, used to buy goods or services from vendors. Any audits of such vendors shall be covered by the terms and conditions of the contract. Contracts to operate Federal Government owned, contractor operated facilities (GOCOs) are excluded from the requirements of this part.

Federal awarding agency means the Federal agency that provides an award directly to the recipient.

Federal financial assistance means assistance that non-Federal entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance, but does not include amounts received as reimbursement for services rendered to individuals as described in § ____.205(h) and § ____.205(i).

Federal program means:

(1) All Federal awards to a non-Federal entity assigned a single number in the CFDA.

(2) When no CFDA number is assigned, all Federal awards from the same agency made for the same purpose should be combined and considered one program.

(3) Notwithstanding paragraphs (1) and (2) of this definition, a cluster of programs. The types of clusters of programs are:

(i) Research and development (R&D);

(ii) Student financial aid (SFA); and

(iii) ''Other clusters,'' as described in the definition of cluster of programs in this section.

GAGAS means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits.

Generally accepted accounting principles has the meaning specified in generally accepted auditing standards issued by the American Institute of Certified Public Accountants (AICPA).

Indian tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation (as defined in, or established under, the Alaskan Native Claims Settlement Act) that is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

Internal control means a process, effected by an entity's management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

(1) Effectiveness and efficiency of operations;

(2) Reliability of financial reporting; and

(3) Compliance with applicable laws and regulations.

Internal control pertaining to the compliance requirements for Federal programs (Internal control over Federal programs) means a process—effected by an entity's management and other personnel—designed to provide reasonable assurance regarding the achievement of the following objectives for Federal programs:

(1) Transactions are properly recorded and accounted for to:

(i) Permit the preparation of reliable financial statements and Federal reports;

(ii) Maintain accountability over assets; and

(iii) Demonstrate compliance with laws, regulations, and other compliance requirements;

(2) Transactions are executed in compliance with:

(i) Laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on a Federal program; and

(ii) Any other laws and regulations that are identified in the compliance supplement; and

(3) Funds, property, and other assets are safeguarded against loss from unauthorized use or disposition.

Loan means a Federal loan or loan guarantee received or administered by a non-Federal entity.

Local government means any unit of local government within a State, including a county, borough, municipality, city, town, township, parish, local public authority, special district, school district, intrastate district, council of governments, and any other instrumentality of local government.

Major program means a Federal program determined by the auditor to be a major program in accordance with § ____.520 or a program identified as a major program by a Federal agency or pass-through entity in accordance with § ____.215(c).

Management decision means the evaluation by the Federal awarding agency or pass-through entity of the audit findings and corrective action plan and the issuance of a written decision as to what corrective action is necessary.

Non-Federal entity means a State, local government, or non-profit organization.

Non-profit organization means:

(1) any corporation, trust, association, cooperative, or other organization that:

(i) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

(ii) Is not organized primarily for profit; and

(iii) Uses its net proceeds to maintain, improve, or expand its operations; and

(2) The term *non-profit organization* includes non-profit institutions of higher education and hospitals.

OMB means the Executive Office of the President, Office of Management and Budget.

Oversight agency for audit means the Federal awarding agency that provides the predominant amount of direct funding to a recipient not assigned a cognizant agency for audit. When there is no direct funding, the Federal agency with the predominant indirect funding shall assume the oversight responsibilities. The duties of the oversight agency for audit are described in § ____.400(b).

Pass-through entity means a non-Federal entity that provides a Federal award to a subrecipient to carry out a Federal program.

Program-specific audit means an audit of one Federal program as provided for in § ____.200(c) and § ____.235.

Questioned cost means a cost that is questioned by the auditor because of an audit finding:

(1) Which resulted from a violation or possible violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the use of Federal funds, including funds used to match Federal funds;

(2) Where the costs, at the time of the audit, are not supported by adequate documentation; or

(3) Where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances.

Recipient means a non-Federal entity that expends Federal awards received directly from a Federal awarding agency to carry out a Federal program.

Research and development (R&D) means all research activities, both basic and applied, and all development activities that are performed by a non-Federal entity. *Research* is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. The term research also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function. *Development* is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes.

Single audit means an audit which includes both the entity's financial statements and the Federal awards as described in § ____.500.

State means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, any instrumentality thereof, any multi-State, regional, or interstate entity which has governmental functions, and any Indian tribe as defined in this section.

Student Financial Aid (SFA) includes those programs of general student assistance, such as those authorized by Title IV of the Higher Education Act of 1965, as amended, (20 U.S.C. 1070 *et seq.*) which is administered by the U.S. Department of Education, and similar programs provided by other Federal agencies. It does not include programs which provide fellowships or similar Federal awards to students on a competitive basis, or for specified studies or research.

Subrecipient means a non-Federal entity that expends Federal awards received from a pass-through entity to carry out a Federal program, but does not include an individual that is a beneficiary of such a program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency. Guidance on distinguishing between a subrecipient and a vendor is provided in § ____.210.

Types of compliance requirements refers to the types of compliance requirements listed in the compliance supplement. Examples include: activities allowed or unallowed; allowable costs/cost principles; cash management; eligibility; matching, level of effort, earmarking; and, reporting.

Vendor means a dealer, distributor, merchant, or other seller providing goods or services that are required for the conduct of a Federal program. These goods or services may be for an organization's own use or for the use of beneficiaries of the Federal program. Additional guidance on distinguishing between a subrecipient and a vendor is provided in § ____.210.

Subpart B—Audits

§ ____.200 Audit requirements.

(a) *Audit required.* Non-Federal entities that expend $300,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of this part. Guidance on determining Federal awards expended is provided in § ____.205.

(b) *Single audit.* Non-Federal entities that expend $300,000 or more in a year in Federal awards shall have a single audit conducted in accordance with § ____.500 except when they elect to have a program-specific audit conducted in accordance with paragraph (c) of this section.

(c) *Program-specific audit election.* When an auditee expends Federal awards under only one Federal program (excluding R&D) and the Federal program's laws, regulations, or grant agreements do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with § ____.235. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a subrecipient, approves in advance a program-specific audit.

(d) *Exemption when Federal awards expended are less than $300,000.* Non-Federal entities that expend less than $300,000 a year in Federal awards are exempt from Federal audit requirements for that year, except as noted in § ____.215(a), but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).

(e) *Federally Funded Research and Development Centers (FFRDC).* Management of an auditee that owns or operates a FFRDC may elect to treat the FFRDC as a separate entity for purposes of this part.

§ ____.205 Basis for determining Federal awards expended.

(a) *Determining Federal awards expended.* The determination of when an award is expended should be based on when the activity related to the award occurs. Generally, the activity pertains to events that require the non-Federal entity to comply with laws, regulations, and the provisions of contracts or grant agreements, such as: expenditure/expense transactions associated with grants, cost-reimbursement contracts, cooperative agreements, and direct appropriations; the disbursement of funds passed through to subrecipients; the use of loan proceeds under loan and loan guarantee programs; the receipt of property; the

receipt of surplus property; the receipt or use of program income; the distribution or consumption of food commodities; the disbursement of amounts entitling the non-Federal entity to an interest subsidy; and, the period when insurance is in force.

(b) *Loan and loan guarantees (loans).* Since the Federal Government is at risk for loans until the debt is repaid, the following guidelines shall be used to calculate the value of Federal awards expended under loan programs, except as noted in paragraphs (c) and (d) of this section:

(1) Value of new loans made or received during the fiscal year; plus

(2) Balance of loans from previous years for which the Federal Government imposes continuing compliance requirements; plus

(3) Any interest subsidy, cash, or administrative cost allowance received.

(c) *Loan and loan guarantees (loans) at institutions of higher education.* When loans are made to students of an institution of higher education but the institution does not make the loans, then only the value of loans made during the year shall be considered Federal awards expended in that year. The balance of loans for previous years is not included as Federal awards expended because the lender accounts for the prior balances.

(d) *Prior loan and loan guarantees (loans).* Loans, the proceeds of which were received and expended in prior-years, are not considered Federal awards expended under this part when the laws, regulations, and the provisions of contracts or grant agreements pertaining to such loans impose no continuing compliance requirements other than to repay the loans.

(e) *Endowment funds.* The cumulative balance of Federal awards for endowment funds which are federally restricted are considered awards expended in each year in which the funds are still restricted.

(f) *Free rent.* Free rent received by itself is not considered a Federal award expended under this part. However, free rent received as part of an award to carry out a Federal program shall be included in determining Federal awards expended and subject to audit under this part.

(g) *Valuing non-cash assistance.* Federal non-cash assistance, such as free rent, food stamps, food commodities, donated property, or donated surplus property, shall be valued at fair market value at the time of receipt or the assessed value provided by the Federal agency.

(h) *Medicare.* Medicare payments to a non-Federal entity for providing patient care services to Medicare eligible individuals are not considered Federal awards expended under this part.

(i) *Medicaid.* Medicaid payments to a subrecipient for providing patient care services to Medicaid eligible individuals are not considered Federal awards expended under this part unless a State requires the funds to be treated as Federal awards expended because reimbursement is on a cost-reimbursement basis.

(j) *Certain loans provided by the National Credit Union Administration.* For purposes of this part, loans made from the National Credit Union Share Insurance Fund and the Central Liquidity Facility that are funded by contributions from insured institutions are not considered Federal awards expended.

§ ___.210 Subrecipient and vendor determinations.

(a) *General.* An auditee may be a recipient, a subrecipient, and a vendor. Federal awards expended as a recipient or a subrecipient would be subject to audit under this part. The payments received for goods or services provided as a vendor would not be considered Federal awards. The guidance in paragraphs (b) and (c) of this section should be considered in determining whether payments constitute a Federal award or a payment for goods and services.

(b) *Federal award.* Characteristics indicative of a Federal award received by a subrecipient are when the organization:

(1) Determines who is eligible to receive what Federal financial assistance;

(2) Has its performance measured against whether the objectives of the Federal program are met;

(3) Has responsibility for programmatic decision making;

(4) Has responsibility for adherence to applicable Federal program compliance requirements; and

(5) Uses the Federal funds to carry out a program of the organization as compared to providing goods or services for a program of the pass-through entity.

(c) *Payment for goods and services.* Characteristics indicative of a payment for goods and services received by a vendor are when the organization:

(1) Provides the goods and services within normal business operations;

(2) Provides similar goods or services to many different purchasers;

(3) Operates in a competitive environment;

(4) Provides goods or services that are ancillary to the operation of the Federal program; and

(5) Is not subject to compliance requirements of the Federal program.

(d) *Use of judgment in making determination.* There may be unusual circumstances or exceptions to the listed characteristics. In making the determination of whether a subrecipient or vendor relationship exists, the substance of the relationship is more important than the form of the agreement. It is not expected that all of the characteristics will be present and judgment should be used in determining whether an entity is a subrecipient or vendor.

(e) *For-profit subrecipient.* Since this part does not apply to for-profit subrecipients, the pass-through entity is responsible for establishing requirements, as necessary, to ensure compliance by for-profit subrecipients. The contract with the for-profit subrecipient should describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance for Federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the contract, and post-award audits.

(f) *Compliance responsibility for vendors.* In most cases, the auditee's compliance responsibility for vendors is only to ensure that the procurement, receipt, and payment for goods and services comply with laws, regulations, and the provisions of contracts or grant agreements. Program compliance requirements normally do not pass through to vendors. However, the auditee is responsible for ensuring compliance for vendor transactions which are structured such that the vendor is responsible for program compliance or the vendor's records must be reviewed to determine program compliance. Also, when these vendor transactions relate to a major program, the scope of the audit shall include determining whether these transactions are in compliance with laws, regulations, and the provisions of contracts or grant agreements.

§ ___.215 Relation to other audit requirements.

(a) *Audit under this part in lieu of other audits.* An audit made in accordance with this part shall be in lieu of any financial audit required under individual Federal awards. To the extent this audit meets a Federal agency's needs, it shall rely upon and use such audits. The provisions of this part neither limit the authority of Federal agencies, including their Inspectors General, or GAO to conduct or arrange for additional audits (e.g., financial audits, performance audits,

evaluations, inspections, or reviews) nor authorize any auditee to constrain Federal agencies from carrying out additional audits. Any additional audits shall be planned and performed in such a way as to build upon work performed by other auditors.

(b) *Federal agency to pay for additional audits.* A Federal agency that conducts or contracts for additional audits shall, consistent with other applicable laws and regulations, arrange for funding the full cost of such additional audits.

(c) *Request for a program to be audited as a major program.* A Federal agency may request an auditee to have a particular Federal program audited as a major program in lieu of the Federal agency conducting or arranging for the additional audits. To allow for planning, such requests should be made at least 180 days prior to the end of the fiscal year to be audited. The auditee, after consultation with its auditor, should promptly respond to such request by informing the Federal agency whether the program would otherwise be audited as a major program using the risk-based audit approach described in § ____.520 and, if not, the estimated incremental cost. The Federal agency shall then promptly confirm to the auditee whether it wants the program audited as a major program. If the program is to be audited as a major program based upon this Federal agency request, and the Federal agency agrees to pay the full incremental costs, then the auditee shall have the program audited as a major program. A pass-through entity may use the provisions of this paragraph for a subrecipient.

§ ____.220 Frequency of audits.

Except for the provisions for biennial audits provided in paragraphs (a) and (b) of this section, audits required by this part shall be performed annually. Any biennial audit shall cover both years within the biennial period.

(a) A State or local government that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its audits pursuant to this part biennially. This requirement must still be in effect for the biennial period under audit.

(b) Any non-profit organization that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, is permitted to undergo its audits pursuant to this part biennially.

§ ____.225 Sanctions.

No audit costs may be charged to Federal awards when audits required by this part have not been made or have been made but not in accordance with this part. In cases of continued inability or unwillingness to have an audit conducted in accordance with this part, Federal agencies and pass-through entities shall take appropriate action using sanctions such as:

(a) Withholding a percentage of Federal awards until the audit is completed satisfactorily;

(b) Withholding or disallowing overhead costs;

(c) Suspending Federal awards until the audit is conducted; or

(d) Terminating the Federal award.

§ ____.230 Audit costs.

(a) *Allowable costs.* Unless prohibited by law, the cost of audits made in accordance with the provisions of this part are allowable charges to Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with the provisions of applicable OMB cost principles circulars, the Federal Acquisition Regulation (FAR) (48 CFR parts 30 and 31), or other applicable cost principles or regulations.

(b) *Unallowable costs.* A non-Federal entity shall not charge the following to a Federal award:

(1) The cost of any audit under the Single Audit Act Amendments of 1996 (31 U.S.C. 7501 *et seq.*) not conducted in accordance with this part.

(2) The cost of auditing a non-Federal entity which has Federal awards expended of less than $300,000 per year and is thereby exempted under § ____.200(d) from having an audit conducted under this part. However, this does not prohibit a pass-through entity from charging Federal awards for the cost of limited scope audits to monitor its subrecipients in accordance with § ____.400(d)(3), provided the subrecipient does not have a single audit. For purposes of this part, limited scope audits only include agreed-upon procedures engagements conducted in accordance with either the AICPA's generally accepted auditing standards or attestation standards, that are paid for and arranged by a pass-through entity and address only one or more of the following types of compliance requirements: activities allowed or unallowed; allowable costs/cost principles; eligibility; matching, level of effort, earmarking; and, reporting.

§ ____.235 Program-specific audits.

(a) *Program-specific audit guide available.* In many cases, a program-specific audit guide will be available to provide specific guidance to the auditor with respect to internal control, compliance requirements, suggested audit procedures, and audit reporting requirements. The auditor should contact the Office of Inspector General of the Federal agency to determine whether such a guide is available. When a current program-specific audit guide is available, the auditor shall follow GAGAS and the guide when performing a program-specific audit.

(b) *Program-specific audit guide not available.* (1) When a program-specific audit guide is not available, the auditee and auditor shall have basically the same responsibilities for the Federal program as they would have for an audit of a major program in a single audit.

(2) The auditee shall prepare the financial statement(s) for the Federal program that includes, at a minimum, a schedule of expenditures of Federal awards for the program and notes that describe the significant accounting policies used in preparing the schedule, a summary schedule of prior audit findings consistent with the requirements of § ____.315(b), and a corrective action plan consistent with the requirements of § ____.315(c).

(3) The auditor shall:

(i) Perform an audit of the financial statement(s) for the Federal program in accordance with GAGAS;

(ii) Obtain an understanding of internal control and perform tests of internal control over the Federal program consistent with the requirements of § ____.500(c) for a major program;

(iii) Perform procedures to determine whether the auditee has complied with laws, regulations, and the provisions of contracts or grant agreements that could have a direct and material effect on the Federal program consistent with the requirements of § ____.500(d) for a major program; and

(iv) Follow up on prior audit findings, perform procedures to assess the reasonableness of the summary schedule of prior audit findings prepared by the auditee, and report, as a current year audit finding, when the auditor concludes that the summary schedule of prior audit findings materially misrepresents the status of any prior audit finding in accordance with the requirements of § ____.500(e).

(4) The auditor's report(s) may be in the form of either combined or separate reports and may be organized differently from the manner presented in this section. The auditor's report(s) shall state that the audit was conducted in accordance with this part and include the following:

(i) An opinion (or disclaimer of opinion) as to whether the financial statement(s) of the Federal program is

presented fairly in all material respects in conformity with the stated accounting policies;

(ii) A report on internal control related to the Federal program, which shall describe the scope of testing of internal control and the results of the tests;

(iii) A report on compliance which includes an opinion (or disclaimer of opinion) as to whether the auditee complied with laws, regulations, and the provisions of contracts or grant agreements which could have a direct and material effect on the Federal program; and

(iv) A schedule of findings and questioned costs for the Federal program that includes a summary of the auditor's results relative to the Federal program in a format consistent with § ____.505(d)(1) and findings and questioned costs consistent with the requirements of § ____.505(d)(3).

(c) *Report submission for program-specific audits.* (1) The audit shall be completed and the reporting required by paragraph (c)(2) or (c)(3) of this section submitted within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a longer period is agreed to in advance by the Federal agency that provided the funding or a different period is specified in a program-specific audit guide. (However, for fiscal years beginning on or before June 30, 1998, the audit shall be completed and the required reporting shall be submitted within the earlier of 30 days after receipt of the auditor's report(s), or 13 months after the end of the audit period, unless a different period is specified in a program-specific audit guide.) Unless restricted by law or regulation, the auditee shall make report copies available for public inspection.

(2) When a program-specific audit guide is available, the auditee shall submit to the Federal clearinghouse designated by OMB the data collection form prepared in accordance with § ____.320(b), as applicable to a program-specific audit, and the reporting required by the program-specific audit guide to be retained as an archival copy. Also, the auditee shall submit to the Federal awarding agency or pass-through entity the reporting required by the program-specific audit guide.

(3) When a program-specific audit guide is not available, the reporting package for a program-specific audit shall consist of the financial statement(s) of the Federal program, a summary schedule of prior audit findings, and a corrective action plan as described in paragraph (b)(2) of this section, and the auditor's report(s) described in paragraph (b)(4) of this section. The data collection form prepared in accordance with § ____.320(b), as applicable to a program-specific audit, and one copy of this reporting package shall be submitted to the Federal clearinghouse designated by OMB to be retained as an archival copy. Also, when the schedule of findings and questioned costs disclosed audit findings or the summary schedule of prior audit findings reported the status of any audit findings, the auditee shall submit one copy of the reporting package to the Federal clearinghouse on behalf of the Federal awarding agency, or directly to the pass-through entity in the case of a subrecipient. Instead of submitting the reporting package to the pass-through entity, when a subrecipient is not required to submit a reporting package to the pass-through entity, the subrecipient shall provide written notification to the pass-through entity, consistent with the requirements of § ____.320(e)(2). A subrecipient may submit a copy of the reporting package to the pass-through entity to comply with this notification requirement.

(d) Other sections of this part may apply. Program-specific audits are subject to § ____.100 through § ____.215(b), § ____.220 through § ____.230, § ____.300 through § ____.305, § ____.315, § ____.320(f) through § ____.320(j), § ____.400 through § ____.405, § ____.510 through § ____.515, and other referenced provisions of this part unless contrary to the provisions of this section, a program-specific audit guide, or program laws and regulations.

Subpart C—Auditees

§ ____.300 Auditee responsibilities.

The auditee shall:

(a) Identify, in its accounts, all Federal awards received and expended and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass-through entity.

(b) Maintain internal control over Federal programs that provides reasonable assurance that the auditee is managing Federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a material effect on each of its Federal programs.

(c) Comply with laws, regulations, and the provisions of contracts or grant agreements related to each of its Federal programs.

(d) Prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with § ____.310.

(e) Ensure that the audits required by this part are properly performed and submitted when due. When extensions to the report submission due date required by § ____.320(a) are granted by the cognizant or oversight agency for audit, promptly notify the Federal clearinghouse designated by OMB and each pass-through entity providing Federal awards of the extension.

(f) Follow up and take corrective action on audit findings, including preparation of a summary schedule of prior audit findings and a corrective action plan in accordance with § ____.315(b) and § ____.315(c), respectively.

§ ____.305 Auditor selection.

(a) *Auditor procurement.* In procuring audit services, auditees shall follow the procurement standards prescribed by the Grants Management Common Rule (hereinafter referred to as the ''A–102 Common Rule'') published March 11, 1988 and amended April 19, 1995 [insert appropriate CFR citation], Circular A–110, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations,'' or the FAR (48 CFR part 42), as applicable (OMB Circulars are available from the Office of Administration, Publications Office, room 2200, New Executive Office Building, Washington, DC 20503). Whenever possible, auditees shall make positive efforts to utilize small businesses, minority-owned firms, and women's business enterprises, in procuring audit services as stated in the A–102 Common Rule, OMB Circular A–110, or the FAR (48 CFR part 42), as applicable. In requesting proposals for audit services, the objectives and scope of the audit should be made clear. Factors to be considered in evaluating each proposal for audit services include the responsiveness to the request for proposal, relevant experience, availability of staff with professional qualifications and technical abilities, the results of external quality control reviews, and price.

(b) *Restriction on auditor preparing indirect cost proposals.* An auditor who prepares the indirect cost proposal or cost allocation plan may not also be selected to perform the audit required by this part when the indirect costs recovered by the auditee during the prior year exceeded $1 million. This

restriction applies to the base year used in the preparation of the indirect cost proposal or cost allocation plan and any subsequent years in which the resulting indirect cost agreement or cost allocation plan is used to recover costs. To minimize any disruption in existing contracts for audit services, this paragraph applies to audits of fiscal years beginning after June 30, 1998.

(c) *Use of Federal auditors.* Federal auditors may perform all or part of the work required under this part if they comply fully with the requirements of this part.

§ ____.310 Financial statements.

(a) *Financial statements.* The auditee shall prepare financial statements that reflect its financial position, results of operations or changes in net assets, and, where appropriate, cash flows for the fiscal year audited. The financial statements shall be for the same organizational unit and fiscal year that is chosen to meet the requirements of this part. However, organization-wide financial statements may also include departments, agencies, and other organizational units that have separate audits in accordance with § ____.500(a) and prepare separate financial statements.

(b) *Schedule of expenditures of Federal awards.* The auditee shall also prepare a schedule of expenditures of Federal awards for the period covered by the auditee's financial statements. While not required, the auditee may choose to provide information requested by Federal awarding agencies and pass-through entities to make the schedule easier to use. For example, when a Federal program has multiple award years, the auditee may list the amount of Federal awards expended for each award year separately. At a minimum, the schedule shall:

(1) List individual Federal programs by Federal agency. For Federal programs included in a cluster of programs, list individual Federal programs within a cluster of programs. For R&D, total Federal awards expended shall be shown either by individual award or by Federal agency and major subdivision within the Federal agency. For example, the National Institutes of Health is a major subdivision in the Department of Health and Human Services.

(2) For Federal awards received as a subrecipient, the name of the pass-through entity and identifying number assigned by the pass-through entity shall be included.

(3) Provide total Federal awards expended for each individual Federal program and the CFDA number or other identifying number when the CFDA information is not available.

(4) Include notes that describe the significant accounting policies used in preparing the schedule.

(5) To the extent practical, pass-through entities should identify in the schedule the total amount provided to subrecipients from each Federal program.

(6) Include, in either the schedule or a note to the schedule, the value of the Federal awards expended in the form of non-cash assistance, the amount of insurance in effect during the year, and loans or loan guarantees outstanding at year end. While not required, it is preferable to present this information in the schedule.

§ ____.315 Audit findings follow-up.

(a) *General.* The auditee is responsible for follow-up and corrective action on all audit findings. As part of this responsibility, the auditee shall prepare a summary schedule of prior audit findings. The auditee shall also prepare a corrective action plan for current year audit findings. The summary schedule of prior audit findings and the corrective action plan shall include the reference numbers the auditor assigns to audit findings under § ____.510(c). Since the summary schedule may include audit findings from multiple years, it shall include the fiscal year in which the finding initially occurred.

(b) *Summary schedule of prior audit findings.* The summary schedule of prior audit findings shall report the status of all audit findings included in the prior audit's schedule of findings and questioned costs relative to Federal awards. The summary schedule shall also include audit findings reported in the prior audit's summary schedule of prior audit findings except audit findings listed as corrected in accordance with paragraph (b)(1) of this section, or no longer valid or not warranting further action in accordance with paragraph (b)(4) of this section.

(1) When audit findings were fully corrected, the summary schedule need only list the audit findings and state that corrective action was taken.

(2) When audit findings were not corrected or were only partially corrected, the summary schedule shall describe the planned corrective action as well as any partial corrective action taken.

(3) When corrective action taken is significantly different from corrective action previously reported in a corrective action plan or in the Federal agency's or pass-through entity's management decision, the summary schedule shall provide an explanation.

(4) When the auditee believes the audit findings are no longer valid or do not warrant further action, the reasons for this position shall be described in the summary schedule. A valid reason for considering an audit finding as not warranting further action is that all of the following have occurred:

(i) Two years have passed since the audit report in which the finding occurred was submitted to the Federal clearinghouse;

(ii) The Federal agency or pass-through entity is not currently following up with the auditee on the audit finding; and

(iii) A management decision was not issued.

(c) *Corrective action plan.* At the completion of the audit, the auditee shall prepare a corrective action plan to address each audit finding included in the current year auditor's reports. The corrective action plan shall provide the name(s) of the contact person(s) responsible for corrective action, the corrective action planned, and the anticipated completion date. If the auditee does not agree with the audit findings or believes corrective action is not required, then the corrective action plan shall include an explanation and specific reasons.

§ ____.320 Report submission.

(a) *General.* The audit shall be completed and the data collection form described in paragraph (b) of this section and reporting package described in paragraph (c) of this section shall be submitted within the earlier of 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a longer period is agreed to in advance by the cognizant or oversight agency for audit. (However, for fiscal years beginning on or before June 30, 1998, the audit shall be completed and the data collection form and reporting package shall be submitted within the earlier of 30 days after receipt of the auditor's report(s), or 13 months after the end of the audit period.) Unless restricted by law or regulation, the auditee shall make copies available for public inspection.

(b) *Data Collection.* (1) The auditee shall submit a data collection form which states whether the audit was completed in accordance with this part and provides information about the auditee, its Federal programs, and the results of the audit. The form shall be approved by OMB, available from the Federal clearinghouse designated by OMB, and include data elements similar to those presented in this paragraph. A senior level representative of the auditee (e.g., State controller, director of

finance, chief executive officer, or chief financial officer) shall sign a statement to be included as part of the form certifying that: the auditee complied with the requirements of this part, the form was prepared in accordance with this part (and the instructions accompanying the form), and the information included in the form, in its entirety, are accurate and complete.

(2) The data collection form shall include the following data elements:

(i) The type of report the auditor issued on the financial statements of the auditee (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion).

(ii) Where applicable, a statement that reportable conditions in internal control were disclosed by the audit of the financial statements and whether any such conditions were material weaknesses.

(iii) A statement as to whether the audit disclosed any noncompliance which is material to the financial statements of the auditee.

(iv) Where applicable, a statement that reportable conditions in internal control over major programs were disclosed by the audit and whether any such conditions were material weaknesses.

(v) The type of report the auditor issued on compliance for major programs (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion).

(vi) A list of the Federal awarding agencies which will receive a copy of the reporting package pursuant to § ____.320(d)(2).

(vii) A yes or no statement as to whether the auditee qualified as a low-risk auditee under § ____.530.

(viii) The dollar threshold used to distinguish between Type A and Type B programs as defined in § ____.520(b).

(ix) The *Catalog of Federal Domestic Assistance* (CFDA) number for each Federal program, as applicable.

(x) The name of each Federal program and identification of each major program. Individual programs within a cluster of programs should be listed in the same level of detail as they are listed in the schedule of expenditures of Federal awards.

(xi) The amount of expenditures in the schedule of expenditures of Federal awards associated with each Federal program.

(xii) For each Federal program, a yes or no statement as to whether there are audit findings in each of the following types of compliance requirements and the total amount of any questioned costs:

(A) Activities allowed or unallowed.

(B) Allowable costs/cost principles.

(C) Cash management.

(D) Davis-Bacon Act.

(E) Eligibility.

(F) Equipment and real property management.

(G) Matching, level of effort, earmarking.

(H) Period of availability of Federal funds.

(I) Procurement and suspension and debarment.

(J) Program income.

(K) Real property acquisition and relocation assistance.

(L) Reporting.

(M) Subrecipient monitoring.

(N) Special tests and provisions.

(xiii) Auditee Name, Employer Identification Number(s), Name and Title of Certifying Official, Telephone Number, Signature, and Date.

(xiv) Auditor Name, Name and Title of Contact Person, Auditor Address, Auditor Telephone Number, Signature, and Date.

(xv) Whether the auditee has either a cognizant or oversight agency for audit.

(xvi) The name of the cognizant or oversight agency for audit determined in accordance with § ____.400(a) and § ____.400(b), respectively.

(3) Using the information included in the reporting package described in paragraph (c) of this section, the auditor shall complete the applicable sections of the form. The auditor shall sign a statement to be included as part of the data collection form that indicates, at a minimum, the source of the information included in the form, the auditor's responsibility for the information, that the form is not a substitute for the reporting package described in paragraph (c) of this section, and that the content of the form is limited to the data elements prescribed by OMB.

(c) *Reporting package.* The reporting package shall include the:

(1) Financial statements and schedule of expenditures of Federal awards discussed in § ____.310(a) and § ____.310(b), respectively;

(2) Summary schedule of prior audit findings discussed in § ____.315(b);

(3) Auditor's report(s) discussed in § ____.505; and

(4) Corrective action plan discussed in § ____.315(c).

(d) *Submission to clearinghouse.* All auditees shall submit to the Federal clearinghouse designated by OMB the data collection form described in paragraph (b) of this section and one copy of the reporting package described in paragraph (c) of this section for:

(1) The Federal clearinghouse to retain as an archival copy; and

(2) Each Federal awarding agency when the schedule of findings and questioned costs disclosed audit findings relating to Federal awards that the Federal awarding agency provided directly or the summary schedule of prior audit findings reported the status of any audit findings relating to Federal awards that the Federal awarding agency provided directly.

(e) *Additional submission by subrecipients.* (1) In addition to the requirements discussed in paragraph (d) of this section, auditees that are also subrecipients shall submit to each pass-through entity one copy of the reporting package described in paragraph (c) of this section for each pass-through entity when the schedule of findings and questioned costs disclosed audit findings relating to Federal awards that the pass-through entity provided or the summary schedule of prior audit findings reported the status of any audit findings relating to Federal awards that the pass-through entity provided.

(2) Instead of submitting the reporting package to a pass-through entity, when a subrecipient is not required to submit a reporting package to a pass-through entity pursuant to paragraph (e)(1) of this section, the subrecipient shall provide written notification to the pass-through entity that: an audit of the subrecipient was conducted in accordance with this part (including the period covered by the audit and the name, amount, and CFDA number of the Federal award(s) provided by the pass-through entity); the schedule of findings and questioned costs disclosed no audit findings relating to the Federal award(s) that the pass-through entity provided; and, the summary schedule of prior audit findings did not report on the status of any audit findings relating to the Federal award(s) that the pass-through entity provided. A subrecipient may submit a copy of the reporting package described in paragraph (c) of this section to a pass-through entity to comply with this notification requirement.

(f) *Requests for report copies.* In response to requests by a Federal agency or pass-through entity, auditees shall submit the appropriate copies of the reporting package described in paragraph (c) of this section and, if requested, a copy of any management letters issued by the auditor.

(g) *Report retention requirements.* Auditees shall keep one copy of the data collection form described in paragraph (b) of this section and one copy of the reporting package described in paragraph (c) of this section on file for three years from the date of submission to the Federal clearinghouse designated by OMB. Pass-through entities shall

keep subrecipients' submissions on file for three years from date of receipt.

(h) *Clearinghouse responsibilities.* The Federal clearinghouse designated by OMB shall distribute the reporting packages received in accordance with paragraph (d)(2) of this section and § ____.235(c)(3) to applicable Federal awarding agencies, maintain a data base of completed audits, provide appropriate information to Federal agencies, and follow up with known auditees which have not submitted the required data collection forms and reporting packages.

(i) *Clearinghouse address.* The address of the Federal clearinghouse currently designated by OMB is Federal Audit Clearinghouse, Bureau of the Census, 1201 E. 10th Street, Jeffersonville, IN 47132.

(j) *Electronic filing.* Nothing in this part shall preclude electronic submissions to the Federal clearinghouse in such manner as may be approved by OMB. With OMB approval, the Federal clearinghouse may pilot test methods of electronic submissions.

Subpart D—Federal Agencies and Pass-Through Entities

§ ____.400 Responsibilities.

(a) *Cognizant agency for audit responsibilities.* Recipients expending more than $25 million a year in Federal awards shall have a cognizant agency for audit. The designated cognizant agency for audit shall be the Federal awarding agency that provides the predominant amount of direct funding to a recipient unless OMB makes a specific cognizant agency for audit assignment. To provide for continuity of cognizance, the determination of the predominant amount of direct funding shall be based upon direct Federal awards expended in the recipient's fiscal years ending in 1995, 2000, 2005, and every fifth year thereafter. For example, audit cognizance for periods ending in 1997 through 2000 will be determined based on Federal awards expended in 1995. (However, for States and local governments that expend more than $25 million a year in Federal awards and have previously assigned cognizant agencies for audit, the requirements of this paragraph are not effective until fiscal years beginning after June 30, 2000.) Notwithstanding the manner in which audit cognizance is determined, a Federal awarding agency with cognizance for an auditee may reassign cognizance to another Federal awarding agency which provides substantial direct funding and agrees to be the cognizant agency for audit. Within 30 days after any reassignment, both the old and the new cognizant agency for audit shall notify the auditee, and, if known, the auditor of the reassignment. The cognizant agency for audit shall:

(1) Provide technical audit advice and liaison to auditees and auditors.

(2) Consider auditee requests for extensions to the report submission due date required by § ____.320(a). The cognizant agency for audit may grant extensions for good cause.

(3) Obtain or conduct quality control reviews of selected audits made by non-Federal auditors, and provide the results, when appropriate, to other interested organizations.

(4) Promptly inform other affected Federal agencies and appropriate Federal law enforcement officials of any direct reporting by the auditee or its auditor of irregularities or illegal acts, as required by GAGAS or laws and regulations.

(5) Advise the auditor and, where appropriate, the auditee of any deficiencies found in the audits when the deficiencies require corrective action by the auditor. When advised of deficiencies, the auditee shall work with the auditor to take corrective action. If corrective action is not taken, the cognizant agency for audit shall notify the auditor, the auditee, and applicable Federal awarding agencies and pass-through entities of the facts and make recommendations for follow-up action. Major inadequacies or repetitive substandard performance by auditors shall be referred to appropriate State licensing agencies and professional bodies for disciplinary action.

(6) Coordinate, to the extent practical, audits or reviews made by or for Federal agencies that are in addition to the audits made pursuant to this part, so that the additional audits or reviews build upon audits performed in accordance with this part.

(7) Coordinate a management decision for audit findings that affect the Federal programs of more than one agency.

(8) Coordinate the audit work and reporting responsibilities among auditors to achieve the most cost-effective audit.

(9) For biennial audits permitted under § ____.220, consider auditee requests to qualify as a low-risk auditee under § ____.530(a).

(b) *Oversight agency for audit responsibilities.* An auditee which does not have a designated cognizant agency for audit will be under the general oversight of the Federal agency determined in accordance with § ____.105. The oversight agency for audit:

(1) Shall provide technical advice to auditees and auditors as requested.

(2) May assume all or some of the responsibilities normally performed by a cognizant agency for audit.

(c) *Federal awarding agency responsibilities.* The Federal awarding agency shall perform the following for the Federal awards it makes:

(1) Identify Federal awards made by informing each recipient of the CFDA title and number, award name and number, award year, and if the award is for R&D. When some of this information is not available, the Federal agency shall provide information necessary to clearly describe the Federal award.

(2) Advise recipients of requirements imposed on them by Federal laws, regulations, and the provisions of contracts or grant agreements.

(3) Ensure that audits are completed and reports are received in a timely manner and in accordance with the requirements of this part.

(4) Provide technical advice and counsel to auditees and auditors as requested.

(5) Issue a management decision on audit findings within six months after receipt of the audit report and ensure that the recipient takes appropriate and timely corrective action.

(6) Assign a person responsible for providing annual updates of the compliance supplement to OMB.

(d) *Pass-through entity responsibilities.* A pass-through entity shall perform the following for the Federal awards it makes:

(1) Identify Federal awards made by informing each subrecipient of CFDA title and number, award name and number, award year, if the award is R&D, and name of Federal agency. When some of this information is not available, the pass-through entity shall provide the best information available to describe the Federal award.

(2) Advise subrecipients of requirements imposed on them by Federal laws, regulations, and the provisions of contracts or grant agreements as well as any supplemental requirements imposed by the pass-through entity.

(3) Monitor the activities of subrecipients as necessary to ensure that Federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are achieved.

(4) Ensure that subrecipients expending $300,000 or more in Federal awards during the subrecipient's fiscal year have met the audit requirements of this part for that fiscal year.

(5) Issue a management decision on audit findings within six months after receipt of the subrecipient's audit report and ensure that the subrecipient takes appropriate and timely corrective action.

(6) Consider whether subrecipient audits necessitate adjustment of the pass-through entity's own records.

(7) Require each subrecipient to permit the pass-through entity and auditors to have access to the records and financial statements as necessary for the pass-through entity to comply with this part.

§ ____.405 Management decision.

(a) *General.* The management decision shall clearly state whether or not the audit finding is sustained, the reasons for the decision, and the expected auditee action to repay disallowed costs, make financial adjustments, or take other action. If the auditee has not completed corrective action, a timetable for follow-up should be given. Prior to issuing the management decision, the Federal agency or pass-through entity may request additional information or documentation from the auditee, including a request for auditor assurance related to the documentation, as a way of mitigating disallowed costs. The management decision should describe any appeal process available to the auditee.

(b) *Federal agency.* As provided in § ____. 400(a)(7), the cognizant agency for audit shall be responsible for coordinating a management decision for audit findings that affect the programs of more than one Federal agency. As provided in § ____. 400(c)(5), a Federal awarding agency is responsible for issuing a management decision for findings that relate to Federal awards it makes to recipients. Alternate arrangements may be made on a case-by-case basis by agreement among the Federal agencies concerned.

(c) *Pass-through entity.* As provided in § ____. 400(d)(5), the pass-through entity shall be responsible for making the management decision for audit findings that relate to Federal awards it makes to subrecipients.

(d) *Time requirements.* The entity responsible for making the management decision shall do so within six months of receipt of the audit report. Corrective action should be initiated within six months after receipt of the audit report and proceed as rapidly as possible.

(e) *Reference numbers.* Management decisions shall include the reference numbers the auditor assigned to each audit finding in accordance with § ____. 510(c).

Subpart E—Auditors

§ ____.500 Scope of audit.

(a) *General.* The audit shall be conducted in accordance with GAGAS. The audit shall cover the entire operations of the auditee; or, at the option of the auditee, such audit shall include a series of audits that cover departments, agencies, and other organizational units which expended or otherwise administered Federal awards during such fiscal year, provided that each such audit shall encompass the financial statements and schedule of expenditures of Federal awards for each such department, agency, and other organizational unit, which shall be considered to be a non-Federal entity. The financial statements and schedule of expenditures of Federal awards shall be for the same fiscal year.

(b) *Financial statements.* The auditor shall determine whether the financial statements of the auditee are presented fairly in all material respects in conformity with generally accepted accounting principles. The auditor shall also determine whether the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the auditee's financial statements taken as a whole.

(c) *Internal control.* (1) In addition to the requirements of GAGAS, the auditor shall perform procedures to obtain an understanding of internal control over Federal programs sufficient to plan the audit to support a low assessed level of control risk for major programs.

(2) Except as provided in paragraph (c)(3) of this section, the auditor shall:

(i) Plan the testing of internal control over major programs to support a low assessed level of control risk for the assertions relevant to the compliance requirements for each major program; and

(ii) Perform testing of internal control as planned in paragraph (c)(2)(i) of this section.

(3) When internal control over some or all of the compliance requirements for a major program are likely to be ineffective in preventing or detecting noncompliance, the planning and performing of testing described in paragraph (c)(2) of this section are not required for those compliance requirements. However, the auditor shall report a reportable condition (including whether any such condition is a material weakness) in accordance with § ____. 510, assess the related control risk at the maximum, and consider whether additional compliance tests are required because of ineffective internal control.

(d) *Compliance.* (1) In addition to the requirements of GAGAS, the auditor shall determine whether the auditee has complied with laws, regulations, and the provisions of contracts or grant agreements that may have a direct and material effect on each of its major programs.

(2) The principal compliance requirements applicable to most Federal programs and the compliance requirements of the largest Federal programs are included in the compliance supplement.

(3) For the compliance requirements related to Federal programs contained in the compliance supplement, an audit of these compliance requirements will meet the requirements of this part. Where there have been changes to the compliance requirements and the changes are not reflected in the compliance supplement, the auditor shall determine the current compliance requirements and modify the audit procedures accordingly. For those Federal programs not covered in the compliance supplement, the auditor should use the types of compliance requirements contained in the compliance supplement as guidance for identifying the types of compliance requirements to test, and determine the requirements governing the Federal program by reviewing the provisions of contracts and grant agreements and the laws and regulations referred to in such contracts and grant agreements.

(4) The compliance testing shall include tests of transactions and such other auditing procedures necessary to provide the auditor sufficient evidence to support an opinion on compliance.

(e) *Audit follow-up.* The auditor shall follow-up on prior audit findings, perform procedures to assess the reasonableness of the summary schedule of prior audit findings prepared by the auditee in accordance with § ____. 315(b), and report, as a current year audit finding, when the auditor concludes that the summary schedule of prior audit findings materially misrepresents the status of any prior audit finding. The auditor shall perform audit follow-up procedures regardless of whether a prior audit finding relates to a major program in the current year.

(f) *Data Collection Form.* As required in § ____. 320(b)(3), the auditor shall complete and sign specified sections of the data collection form.

§ ____. 505 Audit reporting.

The auditor's report(s) may be in the form of either combined or separate reports and may be organized differently from the manner presented in this

section. The auditor's report(s) shall state that the audit was conducted in accordance with this part and include the following:

(a) An opinion (or disclaimer of opinion) as to whether the financial statements are presented fairly in all material respects in conformity with generally accepted accounting principles and an opinion (or disclaimer of opinion) as to whether the schedule of expenditures of Federal awards is presented fairly in all material respects in relation to the financial statements taken as a whole.

(b) A report on internal control related to the financial statements and major programs. This report shall describe the scope of testing of internal control and the results of the tests, and, where applicable, refer to the separate schedule of findings and questioned costs described in paragraph (d) of this section.

(c) A report on compliance with laws, regulations, and the provisions of contracts or grant agreements, noncompliance with which could have a material effect on the financial statements. This report shall also include an opinion (or disclaimer of opinion) as to whether the auditee complied with laws, regulations, and the provisions of contracts or grant agreements which could have a direct and material effect on each major program, and, where applicable, refer to the separate schedule of findings and questioned costs described in paragraph (d) of this section.

(d) A schedule of findings and questioned costs which shall include the following three components:

(1) A summary of the auditor's results which shall include:

(i) The type of report the auditor issued on the financial statements of the auditee (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion);

(ii) Where applicable, a statement that reportable conditions in internal control were disclosed by the audit of the financial statements and whether any such conditions were material weaknesses;

(iii) A statement as to whether the audit disclosed any noncompliance which is material to the financial statements of the auditee;

(iv) Where applicable, a statement that reportable conditions in internal control over major programs were disclosed by the audit and whether any such conditions were material weaknesses;

(v) The type of report the auditor issued on compliance for major programs (i.e., unqualified opinion, qualified opinion, adverse opinion, or disclaimer of opinion);

(vi) A statement as to whether the audit disclosed any audit findings which the auditor is required to report under § ____. 510(a);

(vii) An identification of major programs;

(viii) The dollar threshold used to distinguish between Type A and Type B programs, as described in § ____. 520(b); and

(ix) A statement as to whether the auditee qualified as a low-risk auditee under § ____. 530.

(2) Findings relating to the financial statements which are required to be reported in accordance with GAGAS.

(3) Findings and questioned costs for Federal awards which shall include audit findings as defined in § ____. 510(a).

(i) Audit findings (e.g., internal control findings, compliance findings, questioned costs, or fraud) which relate to the same issue should be presented as a single audit finding. Where practical, audit findings should be organized by Federal agency or pass-through entity.

(ii) Audit findings which relate to both the financial statements and Federal awards, as reported under paragraphs (d)(2) and (d)(3) of this section, respectively, should be reported in both sections of the schedule. However, the reporting in one section of the schedule may be in summary form with a reference to a detailed reporting in the other section of the schedule.

§ ____. 510 Audit findings.

(a) *Audit findings reported.* The auditor shall report the following as audit findings in a schedule of findings and questioned costs:

(1) Reportable conditions in internal control over major programs. The auditor's determination of whether a deficiency in internal control is a reportable condition for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program or an audit objective identified in the compliance supplement. The auditor shall identify reportable conditions which are individually or cumulatively material weaknesses.

(2) Material noncompliance with the provisions of laws, regulations, contracts, or grant agreements related to a major program. The auditor's determination of whether a noncompliance with the provisions of laws, regulations, contracts, or grant agreements is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program or an audit objective identified in the compliance supplement.

(3) Known questioned costs which are greater than $10,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor shall also report known questioned costs when likely questioned costs are greater than $10,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor shall include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

(4) Known questioned costs which are greater than $10,000 for a Federal program which is not audited as a major program. Except for audit follow-up, the auditor is not required under this part to perform audit procedures for such a Federal program; therefore, the auditor will normally not find questioned costs for a program which is not audited as a major program. However, if the auditor does become aware of questioned costs for a Federal program which is not audited as a major program (e.g., as part of audit follow-up or other audit procedures) and the known questioned costs are greater than $10,000, then the auditor shall report this as an audit finding.

(5) The circumstances concerning why the auditor's report on compliance for major programs is other than an unqualified opinion, unless such circumstances are otherwise reported as audit findings in the schedule of findings and questioned costs for Federal awards.

(6) Known fraud affecting a Federal award, unless such fraud is otherwise reported as an audit finding in the schedule of findings and questioned costs for Federal awards. This paragraph does not require the auditor to make an additional reporting when the auditor confirms that the fraud was reported outside of the auditor's reports under the direct reporting requirements of GAGAS.

(7) Instances where the results of audit follow-up procedures disclosed that the summary schedule of prior audit findings prepared by the auditee in accordance with § ____.315(b) materially misrepresents the status of any prior audit finding.

(b) *Audit finding detail.* Audit findings shall be presented in sufficient detail for the auditee to prepare a corrective action plan and take corrective action and for Federal agencies and pass-through entities to arrive at a management decision. The following specific information shall be included, as applicable, in audit findings:

(1) Federal program and specific Federal award identification including the CFDA title and number, Federal award number and year, name of Federal agency, and name of the applicable pass-through entity. When information, such as the CFDA title and number or Federal award number, is not available, the auditor shall provide the best information available to describe the Federal award.

(2) The criteria or specific requirement upon which the audit finding is based, including statutory, regulatory, or other citation.

(3) The condition found, including facts that support the deficiency identified in the audit finding.

(4) Identification of questioned costs and how they were computed.

(5) Information to provide proper perspective for judging the prevalence and consequences of the audit findings, such as whether the audit findings represent an isolated instance or a systemic problem. Where appropriate, instances identified shall be related to the universe and the number of cases examined and be quantified in terms of dollar value.

(6) The possible asserted effect to provide sufficient information to the auditee and Federal agency, or pass-through entity in the case of a subrecipient, to permit them to determine the cause and effect to facilitate prompt and proper corrective action.

(7) Recommendations to prevent future occurrences of the deficiency identified in the audit finding.

(8) Views of responsible officials of the auditee when there is disagreement with the audit findings, to the extent practical.

(c) *Reference numbers.* Each audit finding in the schedule of findings and questioned costs shall include a reference number to allow for easy referencing of the audit findings during follow-up.

§ ____.515 Audit working papers.

(a) *Retention of working papers.* The auditor shall retain working papers and reports for a minimum of three years after the date of issuance of the auditor's report(s) to the auditee, unless the auditor is notified in writing by the cognizant agency for audit, oversight agency for audit, or pass-through entity to extend the retention period. When the auditor is aware that the Federal awarding agency, pass-through entity, or auditee is contesting an audit finding, the auditor shall contact the parties contesting the audit finding for guidance prior to destruction of the working papers and reports.

(b) *Access to working papers.* Audit working papers shall be made available upon request to the cognizant or oversight agency for audit or its designee, a Federal agency providing direct or indirect funding, or GAO at the completion of the audit, as part of a quality review, to resolve audit findings, or to carry out oversight responsibilities consistent with the purposes of this part. Access to working papers includes the right of Federal agencies to obtain copies of working papers, as is reasonable and necessary.

§ ____.520 Major program determination.

(a) *General.* The auditor shall use a risk-based approach to determine which Federal programs are major programs. This risk-based approach shall include consideration of: Current and prior audit experience, oversight by Federal agencies and pass-through entities, and the inherent risk of the Federal program. The process in paragraphs (b) through (i) of this section shall be followed.

(b) *Step 1.* (1) The auditor shall identify the larger Federal programs, which shall be labeled Type A programs. Type A programs are defined as Federal programs with Federal awards expended during the audit period exceeding the larger of:

(i) $300,000 or three percent (.03) of total Federal awards expended in the case of an auditee for which total Federal awards expended equal or exceed $300,000 but are less than or equal to $100 million.

(ii) $3 million or three-tenths of one percent (.003) of total Federal awards expended in the case of an auditee for which total Federal awards expended exceed $100 million but are less than or equal to $10 billion.

(iii) $30 million or 15 hundredths of one percent (.0015) of total Federal awards expended in the case of an auditee for which total Federal awards expended exceed $10 billion.

(2) Federal programs not labeled Type A under paragraph (b)(1) of this section shall be labeled Type B programs.

(3) The inclusion of large loan and loan guarantees (loans) should not result in the exclusion of other programs as Type A programs. When a Federal program providing loans significantly affects the number or size of Type A programs, the auditor shall consider this Federal program as a Type A program and exclude its values in determining other Type A programs.

(4) For biennial audits permitted under § ____.220, the determination of Type A and Type B programs shall be based upon the Federal awards expended during the two-year period.

(c) *Step 2.* (1) The auditor shall identify Type A programs which are low-risk. For a Type A program to be considered low-risk, it shall have been audited as a major program in at least one of the two most recent audit periods (in the most recent audit period in the case of a biennial audit), and, in the most recent audit period, it shall have had no audit findings under § ____.510(a). However, the auditor may use judgment and consider that audit findings from questioned costs under § ____.510(a)(3) and § ____.510(a)(4), fraud under § ____.510(a)(6), and audit follow-up for the summary schedule of prior audit findings under § ____.510(a)(7) do not preclude the Type A program from being low-risk. The auditor shall consider: the criteria in § ____.525(c), § ____.525(d)(1), § ____.525(d)(2), and § ____.525(d)(3); the results of audit follow-up; whether any changes in personnel or systems affecting a Type A program have significantly increased risk; and apply professional judgment in determining whether a Type A program is low-risk.

(2) Notwithstanding paragraph (c)(1) of this section, OMB may approve a Federal awarding agency's request that a Type A program at certain recipients may not be considered low-risk. For example, it may be necessary for a large Type A program to be audited as major each year at particular recipients to allow the Federal agency to comply with the Government Management Reform Act of 1994 (31 U.S.C. 3515). The Federal agency shall notify the recipient and, if known, the auditor at least 180 days prior to the end of the fiscal year to be audited of OMB's approval.

(d) *Step 3.* (1) The auditor shall identify Type B programs which are high-risk using professional judgment and the criteria in § ____.525. However, should the auditor select Option 2 under Step 4 (paragraph (e)(2)(i)(B) of this section), the auditor is not required to identify more high-risk Type B programs than the number of low-risk Type A programs. Except for known reportable conditions in internal control or compliance problems as discussed in § ____.525(b)(1), § ____.525(b)(2), and § ____.525(c)(1), a single criteria in § ____.525 would seldom cause a Type B program to be considered high-risk.

(2) The auditor is not expected to perform risk assessments on relatively small Federal programs. Therefore, the auditor is only required to perform risk assessments on Type B programs that exceed the larger of:

(i) $100,000 or three-tenths of one percent (.003) of total Federal awards expended when the auditee has less than or equal to $100 million in total Federal awards expended.

(ii) $300,000 or three-hundredths of one percent (.0003) of total Federal awards expended when the auditee has more than $100 million in total Federal awards expended.

(e) *Step 4.* At a minimum, the auditor shall audit all of the following as major programs:

(1) All Type A programs, except the auditor may exclude any Type A programs identified as low-risk under Step 2 (paragraph (c)(1) of this section).

(2) (i) High-risk Type B programs as identified under either of the following two options:

(A) *Option 1.* At least one half of the Type B programs identified as high-risk under Step 3 (paragraph (d) of this section), except this paragraph (e)(2)(i)(A) does not require the auditor to audit more high-risk Type B programs than the number of low-risk Type A programs identified as low-risk under Step 2.

(B) *Option 2.* One high-risk Type B program for each Type A program identified as low-risk under Step 2.

(ii) When identifying which high-risk Type B programs to audit as major under either Option 1 or 2 in paragraph (e)(2) (i)(A) or (B) of this section, the auditor is encouraged to use an approach which provides an opportunity for different high-risk Type B programs to be audited as major over a period of time.

(3) Such additional programs as may be necessary to comply with the percentage of coverage rule discussed in paragraph (f) of this section. This paragraph (e)(3) may require the auditor to audit more programs as major than the number of Type A programs.

(f) *Percentage of coverage rule.* The auditor shall audit as major programs Federal programs with Federal awards expended that, in the aggregate, encompass at least 50 percent of total Federal awards expended. If the auditee meets the criteria in § ____.530 for a low-risk auditee, the auditor need only audit as major programs Federal programs with Federal awards expended that, in the aggregate, encompass at least 25 percent of total Federal awards expended.

(g) *Documentation of risk.* The auditor shall document in the working papers the risk analysis process used in determining major programs.

(h) *Auditor's judgment.* When the major program determination was performed and documented in accordance with this part, the auditor's judgment in applying the risk-based approach to determine major programs shall be presumed correct. Challenges by Federal agencies and pass-through entities shall only be for clearly improper use of the guidance in this part. However, Federal agencies and pass-through entities may provide auditors guidance about the risk of a particular Federal program and the auditor shall consider this guidance in determining major programs in audits not yet completed.

(i) *Deviation from use of risk criteria.* For first-year audits, the auditor may elect to determine major programs as all Type A programs plus any Type B programs as necessary to meet the percentage of coverage rule discussed in paragraph (f) of this section. Under this option, the auditor would not be required to perform the procedures discussed in paragraphs (c), (d), and (e) of this section.

(1) A first-year audit is the first year the entity is audited under this part or the first year of a change of auditors.

(2) To ensure that a frequent change of auditors would not preclude audit of high-risk Type B programs, this election for first-year audits may not be used by an auditee more than once in every three years.

§ ____.525 Criteria for Federal program risk.

(a) *General.* The auditor's determination should be based on an overall evaluation of the risk of noncompliance occurring which could be material to the Federal program. The auditor shall use auditor judgment and consider criteria, such as described in paragraphs (b), (c), and (d) of this section, to identify risk in Federal programs. Also, as part of the risk analysis, the auditor may wish to discuss a particular Federal program with auditee management and the Federal agency or pass-through entity.

(b) *Current and prior audit experience.* (1) Weaknesses in internal control over Federal programs would indicate higher risk. Consideration should be given to the control environment over Federal programs and such factors as the expectation of management's adherence to applicable laws and regulations and the provisions of contracts and grant agreements and the competence and experience of personnel who administer the Federal programs.

(i) A Federal program administered under multiple internal control structures may have higher risk. When assessing risk in a large single audit, the auditor shall consider whether weaknesses are isolated in a single operating unit (e.g., one college campus) or pervasive throughout the entity.

(ii) When significant parts of a Federal program are passed through to subrecipients, a weak system for monitoring subrecipients would indicate higher risk.

(iii) The extent to which computer processing is used to administer Federal programs, as well as the complexity of that processing, should be considered by the auditor in assessing risk. New and recently modified computer systems may also indicate risk.

(2) Prior audit findings would indicate higher risk, particularly when the situations identified in the audit findings could have a significant impact on a Federal program or have not been corrected.

(3) Federal programs not recently audited as major programs may be of higher risk than Federal programs recently audited as major programs without audit findings.

(c) *Oversight exercised by Federal agencies and pass-through entities.* (1) Oversight exercised by Federal agencies or pass-through entities could indicate risk. For example, recent monitoring or other reviews performed by an oversight entity which disclosed no significant problems would indicate lower risk. However, monitoring which disclosed significant problems would indicate higher risk.

(2) Federal agencies, with the concurrence of OMB, may identify Federal programs which are higher risk. OMB plans to provide this identification in the compliance supplement.

(d) *Inherent risk of the Federal program.* (1) The nature of a Federal program may indicate risk. Consideration should be given to the complexity of the program and the extent to which the Federal program contracts for goods and services. For example, Federal programs that disburse funds through third party contracts or have eligibility criteria may be of higher risk. Federal programs primarily involving staff payroll costs may have a high-risk for time and effort reporting, but otherwise be at low-risk.

(2) The phase of a Federal program in its life cycle at the Federal agency may indicate risk. For example, a new Federal program with new or interim regulations may have higher risk than an established program with time-tested regulations. Also, significant changes in Federal programs, laws, regulations, or

the provisions of contracts or grant agreements may increase risk.

(3) The phase of a Federal program in its life cycle at the auditee may indicate risk. For example, during the first and last years that an auditee participates in a Federal program, the risk may be higher due to start-up or closeout of program activities and staff.

(4) Type B programs with larger Federal awards expended would be of higher risk than programs with substantially smaller Federal awards expended.

§ ____.530 Criteria for a low-risk auditee.

An auditee which meets all of the following conditions for each of the preceding two years (or, in the case of biennial audits, preceding two audit periods) shall qualify as a low-risk auditee and be eligible for reduced audit coverage in accordance with § ____.520:

(a) Single audits were performed on an annual basis in accordance with the provisions of this part. A non-Federal entity that has biennial audits does not qualify as a low-risk auditee, unless agreed to in advance by the cognizant or oversight agency for audit.

(b) The auditor's opinions on the financial statements and the schedule of expenditures of Federal awards were unqualified. However, the cognizant or oversight agency for audit may judge that an opinion qualification does not affect the management of Federal awards and provide a waiver.

(c) There were no deficiencies in internal control which were identified as material weaknesses under the requirements of GAGAS. However, the cognizant or oversight agency for audit may judge that any identified material weaknesses do not affect the management of Federal awards and provide a waiver.

(d) None of the Federal programs had audit findings from any of the following in either of the preceding two years (or, in the case of biennial audits, preceding two audit periods) in which they were classified as Type A programs:

(1) Internal control deficiencies which were identified as material weaknesses;

(2) Noncompliance with the provisions of laws, regulations, contracts, or grant agreements which have a material effect on the Type A program; or

(3) Known or likely questioned costs that exceed five percent of the total Federal awards expended for a Type A program during the year.

Appendix A to Part ____—Data Collection Form (Form SF–SAC)

[insert SF–SAC after finalized]

Appendix B to Part ____—Circular A–133 Compliance Supplement

Note: Provisional OMB Circular A–133 Compliance Supplement is available from the Office of Administration, Publications Office, room 2200, New Executive Office Building, Washington, DC 20503.

[FR Doc. 97–16965 Filed 6–27–97; 8:45 am]

BILLING CODE 3110–01–P

OFFICE OF MANAGEMENT AND BUDGET

OMB Circular A–133 Information Collection Under OMB Review

AGENCY: Office of Management and Budget.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980, as amended (44 U.S.C. 3501 et seq.), this notice announces that an information collection request was submitted to the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs for processing under 5 CFR 1320.10. The first notice of this information collection request, as required by the Paperwork Reduction Act, was published in the **Federal Register** on November 5, 1996 (61 FR 57232), as part of the proposed revision of OMB Circular A–133, re-titled ''Audits of States, Local Governments, and Non-Profit Organizations.''

The information collection request involves two proposed information collections from two types of entities: (1) Reports from auditors to auditees concerning audit results, audit findings, and questioned costs; and, (2) reports from auditees to the Federal Government providing information about the auditees, the awards they administer, and the audit results. Circular A–133's information collection requirements will apply to approximately 25,000 States, local governments, and non-profit organizations on an annual basis.

DATES: Written comments must be received by July 30, 1997.

ADDRESSES: Written comments should be sent to: Edward Springer, Office of Information and Regulatory Affairs, OMB, Room 10236, New Executive Office Building, Washington, DC 20503. Electronic mail comments may be submitted via the Internet to SPRINGER__E@A1.EOP.GOV.

FOR FURTHER INFORMATION CONTACT: For further information, contact Sheila Conley, Office of Federal Financial Management, OMB (telephone: 202–395–3993). The text of this Notice and the November 5, 1996, **Federal Register** are available electronically on the OMB home page at http://www.whitehouse.gov/WH/EOP/omb, under the caption ''**Federal Register** Submissions.''

SUPPLEMENTARY INFORMATION:

A. Background

As part of the Single Audit Act Amendments of 1996 (1996 Amendments), Congress intended to improve the usefulness and effectiveness of single audit reporting with respect to information provided by both auditors and auditees. In its report on the 1996 Amendments, the House Committee on Government Reform and Oversight stated that ''the complexity of the reports makes it difficult for the average reader to understand what has been audited and reported * * * A summary of the audit results would highlight important information and thus enable users to quickly discern the overall results of an audit'' (H.R. Report 104–607, page 18).

The revised information collection requirements included in the proposed revision of Office of Management and Budget (OMB) Circular A–133, re-titled ''Audits of States, Local Governments, and Non-Profit Organizations,'' published in the November 5, 1996, **Federal Register** notice (61 FR 57232), are intended to improve both the content of single audit reports and the dissemination of information included therein to various report users (e.g., Congress, Federal program managers, pass-through entities). As indicated in the November 5, 1996, **Federal Register** notice, OMB believes that the revised information collection requirements included in the proposed revision of Circular A–133 would result in significantly improved single audit reporting and governmentwide data collection.

Circular A–133's information collection requirements will apply to approximately 25,000 States, local governments, and non-profit organizations on an annual basis. OMB's estimate of the total annual reporting and recordkeeping burden that will result from this information collection is presented in Table 1.

B. Public Comments and Responses

Pursuant to the November 5, 1996, **Federal Register** notice, OMB received approximately 150 comments relating to this proposed information collection. Letters came from Federal agencies (including Offices of Inspectors General), State governments (including State auditors), certified public

accountants (CPAs), non-profit organizations (including colleges and universities), professional organizations, and others. All comments were considered in preparing OMB's responses presented below and in developing the final revision to Circular A–133, which is published in a companion Notice in this Part in today's **Federal Register**. The comments received relating to the information collection and OMB's responses are summarized below.

Estimates of Reporting Burden

Comments

In the preamble of the proposed revision, OMB stated that the reporting burden per audit will increase from 26 hours under the existing requirements of Circulars A–128, ''Audits of States and Local Governments,'' and A–133, ''Audits of Institutions of Higher Education and Other Non-Profit Institutions,'' to 34 hours under the proposed revision. OMB stated that the increase in hours was due, in part, to the new requirement to prepare the data collection form, which would take four hours, if prepared by the auditee, and two hours, if prepared by the auditor. Most commenters—primarily State auditors and CPAs—stated that OMB's estimates regarding the preparation of the data collection form are too low. Several State auditors commented that, while the estimates may be appropriate for smaller States and local governments, they are grossly understated for larger governments. Some State auditors provided estimates to prepare the form for smaller entities ranging from two to four hours but no estimates were provided by State auditors to prepare the form for larger entities. One State agency stated that ''For an audit the size and complexity of New York State, the preparation and review of a data collection form would take at least 15 hours and could take up to 40 hours. For smaller entities where New York State serves as the pass-through entity, the estimates range from 5 to 15 hours.'' One State auditor questioned how realistic any time estimates can be until someone actually prepares the form. One CPA commenter stated that ''OMB's estimate that auditor preparation of the data collection form would take two hours appears to be low. Most firms, including ours, have implemented policies that require reviews of work performed and reports issued, whether involving formal reports or preparation of government forms. Depending on the size and complexity of an auditee, the preparation and review of a data collection form could take anywhere from 5 to 15 hours.''

Response: Based on the comments received, OMB revised the reporting burden and cost estimates, as presented in Table 1. Several modifications were made in determining the revised estimates. First, OMB estimated reporting burden hours and costs separately for large auditees (i.e., auditees most likely to administer a large number of Federal awards) and all other auditees. For estimation purposes, OMB separately estimated burden for 200 large auditees, consisting of the 50 States, 50 largest counties and cities, and 100 largest non-profit organizations (including colleges and universities). The reporting burden for both auditees and auditors increases significantly for entities that administer a large number of Federal awards because the length of time required to prepare both the schedule of Federal awards and the data collection form increase with the number of Federal awards administered by the auditee. Second, the revised estimates reflect the modified requirements included in the final revision to Circular A–133 whereby the auditor will prepare and sign sections of the data collection form that relate to the audit results and Federal awards, and the auditee will review and sign the form certifying its completeness and accuracy. And, third, the cost estimates are now based on an average rate per hour of $25 per hour for auditees and $70 per hour for auditors.

The 1996 Amendments increased the threshold that triggers an audit requirement from $25,000 to $300,000, thereby reducing the number of entities subject to the Act's requirements from approximately 35,000 entities under the existing requirements to approximately 25,000 entities under the 1996 Amendments. As a result, the overall burden hours of this information collection decreased by 43,200 hours (from 910,000 burden hours under the existing requirements to 866,800 under the new requirements). However, the total annualized cost of this information collection increased by $1.6 million (from $38.5 million under the existing requirements to $40.1 million under the new requirements), due to an increase in the number of hours incurred by auditors (versus auditees) under the new requirements at a higher hourly rate.

The average reporting burden per respondent increased 8.7 hours under the new requirements (from an average of 26 hours per respondent under the existing requirements of Circulars A–128 and A–133 to an average of 34.7 hours per respondent under the new requirements) primarily due to requirements to prepare and submit to the Federal Government for the first time two new documents: (1) the auditor's summary of audit findings, and (2) the data collection form. The auditor's summary of audit findings is required by the 1996 Amendments. The data collection form is required by Circular A–133 and will be used to capture information about Federal awards in a governmentwide database that will be accessible by the Congress, Federal Government, non-Federal entities, and the public. These data are not currently available, yet they are essential for making decisions about Federal awards, including program design and delivery and audit requirements.

OMB estimates that approximately 80 percent of the annualized reporting burden cost results from statutorily-imposed requirements included in the 1996 Amendments, while the remaining 20 percent of the annualized reporting burden cost results from the new OMB-imposed requirement included in Circular A–133 to prepare a data collection form.

Necessity of the Data Collection Form

Comments:

Federal auditors and Federal agencies supported the use of the data collection form as an efficient and effective means to capture governmentwide information about Federal awards administered by non-Federal entities that expend $300,000 or more annually in Federal awards. One Federal auditor stated that the information collection is necessary for the Federal agency to carry out its grants management responsibilities. College and university commenters had mixed reactions, including some supporting the form and some not.

Many State auditors and State managers strongly opposed the requirement to prepare a data requirement form because it is viewed as being unnecessary, duplicative of information included in other reports, and especially burdensome for large entities. One State auditor commented that ''Making single audit information easy for Federal agencies to use seems to have been the primary consideration in the drafting of the requirements, with less concern for the preparation time and costs of auditees and especially auditors.'' Another State auditor noted that the Federal Government should be responsible for categorizing audit findings by using the reporting package as the sole source of this information. One local government manager stated that the burden of ''spoon-feeding''

information that is already available in the reporting package to the Federal Government should not be borne by either auditees or auditors. Alternatively, the commenter recommended that the data collection form should be an internal document completed by reviewers of single audit reports at the Federal Government level.

Most CPA commenters supported using the form to streamline the distribution of single audit reports and improve governmentwide collection and analysis of single audit results. One CPA commenter stated that ''We support the use of a data collection form to streamline distribution of audit reports and governmentwide collection and analysis of single audit results. Steps which increase the usefulness of audit results are positive for both the Federal Government and our profession. Tools, such as a data collection form, which increase the usability of audit reports serve that purpose.''

Response: The requirement to prepare and submit a data collection form at the completion of the audit is included in § ____.320(b) of Circular A–133. To streamline the distribution of audit reports and improve the governmentwide collection and analysis of single audit results, Circular A–133 provides for a data collection form to be prepared at the completion of each audit and submitted to the Federal clearinghouse designated by OMB. The data collection form will provide key information about the auditee, the Federal awards it administers, and the audit results. It will serve as the basis for developing a governmentwide database on covered Federal awards administered by States, local governments, and non-profit organizations that expend $300,000 or more in Federal awards annually. The database is intended to be used by entities responsible for overseeing the funding and administration of Federal awards (e.g., the Congress, Federal agencies, and pass-through entities) and entities responsible for administering Federal awards (e.g., State and government officials and board of directors of non-profit organizations). The information provided by the database is intended to be used to make better decisions about which Federal awards and recipients to fund in the future, identifying and resolving areas of noncompliance, and improving the administration and delivery of Federal awards.

In addition, this information is essential in developing effective governmentwide audit policies over Federal awards. For example, OMB is required by the 1996 Amendments to perform a biennial review of the threshold that triggers an audit requirement, prescribe a risk-based approach to auditing major programs, and provide guidance on other matters necessary to implement the Act. OMB cannot perform its duties required by the Act or develop effective future audit policies without the information to be collected in the database.

Initiatives, such as the Government Performance and Results Act of 1993 and Government Management Reform Act of 1994, highlighted the need for the Federal Government to improve its oversight of and accountability for the over $220 billion of Federal awards it funds annually. The information provided by the database will help Federal agencies fulfill their grants management responsibilities.

OMB believes that the development of a governmentwide database on Federal awards administered by non-Federal entities that expend $300,000 or more in Federal awards annually is critical. OMB also believes that the most efficient and effective approach to collecting these data is to have the auditee and auditor provide the required information to the Federal Government in a standardized form. An alternative to this approach would be to have the Federal Government extract the required data elements from the reporting package and enter the data into a database. However, OMB believes that the auditee and auditor are most familiar with the auditee's activities and the Federal awards it administers, and have a thorough understanding of the audit results. Therefore, it is most likely that the information would be more accurate if provided by the auditee and auditor than if the Federal Government compiled this information from the reporting packages.

The data collection form also permits streamlining of the report distribution process. The form identifies which Federal agencies are required to receive a copy of the complete reporting package. When the schedule of findings and questioned costs disclosed no findings relative to the Federal awards funded by the Federal agency, and the summary schedule of prior audit findings did not report on the status of any audit findings relating to Federal awards funded by the Federal agency or pass-through entity (see § ____.235(c) and § ____.320(d) and (e) of the Circular for report submission requirements), the auditee will no longer be required to send a complete reporting package to each Federal agency. Without the data collection form (and the auditor's association with it), the Federal clearinghouse would have to review each reporting package submitted to determine which Federal agencies are required to receive a copy of the reporting package.

Data Collection Form Duplicates Other Reported Information

Comment

Many commenters—mostly State auditors and colleges and universities—are concerned about the need to repeat information on the data collection form that is readily available in the reporting package. Many State auditors specifically identified renumbered items ix, x, and xi on the data collection form (§ ____.320(b)) as being the same information presented on the schedule of expenditures of Federal awards (§ ____.310(b)). They stated that providing this information again on the form will be a time consuming and burdensome effort, as the schedule of expenditures of Federal awards in some States can range from 17 pages (with more than 700 Federal awards) to over 60 pages in length. Many State auditors also stated that renumbered item xii on the form is also particularly burdensome. Item xii requires a yes or no statement as to whether there are audit findings and requires that the total amount of questioned costs for each Federal award be included in the form.

Many State auditors suggest that the required information on the form be limited to only those programs with audit findings. Another State auditor suggested significantly reducing the required data elements included in the form and having the Federal Government input the Federal award and audit results data using the reporting package. This State auditor suggested that ''OMB could require that the schedule of expenditures of Federal awards be established in a columnar format with the specified data elements across the top with no subtotals appearing and by prohibiting the inclusion of extraneous rows and columns of data which have a tendency to creep in. Essentially, OMB could require the schedule to look like a spreadsheet containing a database of information.''

Most college and university commenters stated that the data collection form duplicates information already available from the schedule of expenditures of Federal awards and auditor's reports. The views of many respondents are reflected in the following statement by one college and university commenter that recommended ''that the schedule of expenditures of Federal awards be expanded to incorporate the necessary

data and that information in the auditor's reports be cross-referenced to the schedule of expenditures of Federal awards to achieve the equivalent of the data collection form without creating another form.'' Another college and university commenter stated that ''The recapping of Catalog of Federal Domestic Assistance (CFDA) number and name of each program is entirely unwarranted. So is the requirement to list individual awards within a cluster. If the information is needed, it should be separately gathered by the authorized Federal paying agencies. Surely, this information is available for each recipient.''

One Federal auditor encouraged OMB to explore the possibility of incorporating the schedule of expenditures of Federal awards in the data collection form to reduce redundancy.

One Federal auditor, one State manager, and one CPA commenter stated that it was duplicative to include a summary of the auditor's results in the schedule of findings and questioned costs prepared by the auditor (required by § ____.505(d)(1) of the Circular) and to present essentially the same information in the data collection form. One commenter recommended that, if the auditor prepares the data collection form, then the auditor's summary can be included in the data collection form and the requirement to include the auditor's summary in the schedule of findings and questioned costs can be removed from the Circular. One CPA commenter stated that ''Elimination of the summary of auditor results (data collection form would serve as the summary) could potentially reduce auditor time spent by one-half.''

Several commenters suggested requiring the data collection form to be prepared only when there are no audit findings and submitting it in lieu of the complete reporting package.

Response: OMB acknowledges that there are many duplicative aspects of the proposed data collection form. OMB has already begun working with the Federal clearinghouse to implement some of the suggestions provided by commenters, such as providing for the electronic submission of the data collection form information through the Internet and the electronic submission of the entire reporting package. OMB is fully committed to reducing or eliminating duplication in the future through electronic means. However, the Federal Government needs the information provided by the data collection form currently. Therefore, in the near term, reporting required by the Circular will be submitted initially to the Federal Government in ''hard copy.''

The proposed revision states that the form will use a ''machine-readable format.'' This term was removed from the Circular to provide the Federal clearinghouse flexibility in processing the initial data collections. OMB expects iterative developments in the data submission process which will evolve from initial hard copy submissions to electronic submissions.

Section ____.320(j) of Circular A–133 states that ''Nothing in this part shall preclude electronic submissions to the Federal clearinghouse in such manner as may be approved by OMB. With OMB approval, the Federal clearinghouse may pilot test methods of electronic submissions.'' The first phase of this pilot test has already begun and it is concentrating on providing auditees with the means to electronically submit the data collection form information through the Internet to the Federal clearinghouse for fiscal years beginning after June 30, 1997. In addition, the Federal clearinghouse is working with certain States to develop a mechanism whereby auditees may submit the required information to the Federal clearinghouse in a computerized format or diskette for fiscal years beginning after June 30, 1997.

The objective of the second phase will be to develop the capability to electronically submit the complete reporting package or key components of it, such as the auditee's schedule of expenditures of Federal awards and the auditor's schedule of findings and questioned costs. It is expected that, when auditees submit their reporting packages electronically, there will no longer be a need for the data collection form. However, the Federal clearinghouse will continue to process data collection forms for auditees that are unable or choose not to submit their reporting packages electronically.

Until such time as electronic submission is available, OMB's intent is to simplify the preparation of the data collection form by only requesting information in the form that is already required to be included in the reporting package. While this approach results in some duplication, it is intended to facilitate the ease of completing the form and the accuracy of the information provided.

With respect to renumbered items ix, x, and xi on the data collection form, OMB believes that it is necessary to capture Federal award information at this level of detail. The governmentwide database must contain information at the Federal program level so that future decisions about Federal awards and related audit policies (e.g., audit thresholds, the risk-based approach to determining major programs) can be made. Some commenters appeared to misunderstand the intended level of detail. For instance, one commenter indicated that it was onerous to list individual awards within a cluster of programs. Other than Research and Development (R&D), most clusters of programs include only about two or three Federal programs (CFDA numbers). For R&D, total Federal awards expended may be shown either by individual award or by Federal agency and major subdivision within the Federal agency.

It is also important to track in the governmentwide database not only which Federal awards had audit findings but also an indication of the nature of the audit findings relative to the Federal awards. For this reason, renumbered item xii in the proposed form is retained. Item xii requires a yes or no statement as to whether there are audit findings and the total amount of any questioned costs related to each Federal award. It also requires an indication of the type of compliance requirement to which the audit findings relate. This information is critically important for monitoring Federal awards, identifying systemic problems, and developing future policy changes for Federal awards.

In response to the comments received suggesting that the information in the form be limited to only those programs with audit findings, OMB believes that it is important that the governmentwide database include information about all Federal awards administered by auditees, not just those Federal awards with findings. The form must reflect each Federal award to ensure the completeness of the database, which will be important for future decisionmaking.

OMB does not support the comments suggesting that the schedule of expenditures of Federal awards be expanded to serve in lieu of the data collection form and that the Federal Government input the data using the reporting package. Similarly, OMB does not support the suggestion that the form be submitted only when there are no audit findings and in lieu of submitting the reporting package. OMB's long term goal is to eliminate the data collection form for auditees that report electronically in the future. However, in the near term, when hard copy reports are submitted, OMB opposes expanding the minimum reporting requirements on auditees beyond those included in § ____.310(b) of the Circular and having the Federal Government input the data

using the reporting package. As previously stated, OMB believes that the information would be more accurate if prepared by the auditee and auditor than if the Federal Government compiled this information from the reporting packages.

In response to comments received regarding the duplication between information required to be included in the form and also in the summary of audit results required by § ____.505(d)(1) of Circular, OMB acknowledges the duplication. However, the requirement for the auditor to prepare a summary of the auditor's results is contained 1996 Amendments (31 U.S.C. 7502(g)(2)). Also, Congress intended for this summary to be readily available to any reader of the reporting package. Some commenters suggested that the data collection form could satisfy the Act's summary reporting requirements, rather than preparing a separate schedule. However, the data collection form cannot be used to satisfy the Act's requirement because it will not be available to all users of the reporting package. In fact, the form will only be sent to the Federal clearinghouse. Also, this duplication can be eliminated once reporting packages are submitted electronically.

Data Elements in the Data Collection Form

Comment

Many comments were received addressing various data elements included in proposed data collection form (§ ____.320(b)) as follows: former item 2—Commenters suggested removing the requirement to state whether the auditor's report indicated that the auditor had substantial doubt about the auditee's ability to continue as a going concern; renumbered item vi—A commenter recommended removing the requirement to list which pass-through entities are required to receive a copy of the reporting package; renumbered item xii—A commenter suggested removing the list of types of compliance requirements (particularly the item for ''other'') into which audit findings are to be categorized, and including in its place a reference to the compliance supplement which will list the types of compliance requirements which the auditor is expected to test; renumbered item xiii—A commenter noted that it may be necessary for auditees to provide multiple employer identification numbers (EINs); and, renumbered item xv—A commenter questioned whether this item was necessary since every auditee will have either a cognizant or oversight agency for audit.

Response: § ____.320(b) of Circular A–133 was revised to reflect several modifications as a result of these comments. First, former item 2 was removed from the final revision for consistency purposes because the requirement to report ''going concern'' information in the summary of the auditor's results (§ ____.505(d)(1)) was removed. Second, renumbered item vi was modified to remove the requirement to list pass-through entities that are required to receive a copy of the reporting package. Third, renumbered item xii was revised to reflect the types of compliance requirements included in the provisional ''Circular A–133 Compliance Supplement'' (which is Appendix B to Circular A–133). Fourth, renumbered item xiii was modified to indicate whether there are multiple EINs. While not currently required, it may be necessary in the future for auditees to provide each EIN covered by the form for identification purposes. And, finally, a clarification was made to renumbered item xv. It is important to distinguish between whether an auditee has either a cognizant or oversight agency for audit, and to include this information in the governmentwide datatbase because of the different duties assigned to cognizant and oversight agencies in § ____.400(a) and (b) of Circular A–133.

Comment

Suggestions were also made to add to the data collection form each of the matters addressed in the summary of the auditor's results, described in § ____.505(d)(1), such as the matters discussed in § ____.505(d)(1)(ii), § ____.505(d)(1)(iii), and § ____.505(d)(1)(iv).

Response: § ____.320(b) of Circular A–133 was revised to include in the data collection form each of the matters addressed in the summary of the auditor's results under § ____.505(d)(1).

Suggested Additional Data Elements for Inclusion in the Form

Comment

Several commenters—primarily Federal auditors and a pass-through entity—requested that the data collection form indicate if a management letter was issued. Commenters stated that management letters sometimes discuss significant deficiencies that are not disclosed in the auditor's report. One commenter requested that management letters be submitted to the Federal Government as part of the reporting package and, if that were not possible, then the data collection form should indicate if a management letter was issued. Conversely, two State auditors requested that the requirement in § ____.320(f) of the proposed revision, which requires auditees to provide copies of management letters if requested by a Federal agency and pass-through entity, be removed from the Circular.

Response: No changes to Circular A–133 were made as a result of these comments. The management letter will not be a required component of the reporting package (§ ____.320(c)) and the data elements on the form (§ ____.320(b)) will not include a statement as to whether or not a management letter was issued by the auditor. The Circular (§ ____.510(a)) clearly describes matters that the auditor shall report as audit findings in the schedule of findings and questioned costs. In *no* instance should the management letter be used as a substitute for reporting audit findings in the schedule of findings and questioned costs. OMB believes that the fundamental cause of the concern raised by the Federal auditors regarding the misuse of management letters has more to do with audit quality than with the content of management letters. OMB believes that it is more effective for Federal agencies to address the issue of audit quality (including adherence to professional standards and regulatory audit requirements) as part of their quality reviews of auditors performing audits in accordance with Circular.

Also, no change was made to § ____.320(f) of Circular A–133. OMB agrees with many commenters that it is not necessary to routinely submit all management letters issued by auditors. However, because management letters may contain information relevant to the needs of Federal agencies and pass-through entities to monitor Federal awards, the provision permitting Federal agencies and pass-through entities to request a copy of management letters remains unchanged in Circular A–133.

Who Should Sign the Data Collection Form for the Auditee

Comment

Several commenters questioned who within an auditee's organization would be required to sign the data collection form, particularly for large entities, such as a State government.

Response: The proposed revision (§ ____.320(b)) provided that the chief executive officer or chief financial officer shall sign a statement that the

information on the form is accurate and complete. The requirement was modified to clearly indicate that a senior official from State or local government shall sign the form, as appropriate. The intent of this requirement is to ensure that the form is signed by a senior or executive level representative of the auditee that is authorized to, and can be held accountable for, representations made to the Federal Government on behalf of the auditee. The certifying official should be knowledgeable about the Federal awards administered by the auditee, the requirements of Circular A–133, and the actual audit results. In a State-wide single audit, it is expected that a State official (e.g., State controller, State treasurer) would sign the form.

Level of Form's Specificity Provided in the Circular and Supplemental Forms

Comment

One Federal auditor stated that, while it was necessary to include specific certification language on the form to provide reviewers with sufficient detail to understand the proposal, the Circular should not contain language that is so detailed that it precludes amending the data collection form without revising the Circular. The commenter recommended removing the certification language in § ____.320(b) of the Circular and including a provision authorizing OMB to add or remove data elements, as needed. A CPA commented that the final revised Circular should provide specific guidance on preparing the form and include, as an attachment, the form itself and the standard wording to be developed by OMB and the audit community to appropriately characterize the auditor's and auditee's responsibility for information included in the form. One college and university commenter recommended that OMB clearly state that the data collection form is the only form that can be used by Federal agencies and pass-through entities to gather information related to the audit and that entities may not develop their own supplemental forms.

Response: Circular A–133 (§ ____.320(b)) identifies the data elements to be included in the data collection form and provides a general description of the auditee's certification and auditor's statement that will accompany the form. The data collection form to be used by the Federal clearinghouse will be presented as an Appendix to the final revised Circular A–133. The form, developed cooperatively by a Federal interagency task force, is the *only* form that may be used by a Federal agency for the purpose of collecting single audit data. However, OMB expects that the standard form may be modified in the future, as circumstances warrant. Any revisions require approval from OMB's Office of Information and Regulatory Affairs and the revised form, or a notice of its revision, will be published in the **Federal Register**.

Data Collection Form Sent Only to the Federal Clearinghouse

Comment

The CPA community's support for the proposal requiring the auditor to prepare and sign the form was based on the understanding that the data collection form would be sent only to the Federal clearinghouse designated by OMB and not to Federal agencies and pass-through entities. Also, several college and university commenters urged OMB to permit a subrecipient to simply send a letter to a pass-through entity when there are no audit findings that relate to the Federal awards provided by the pass-through entity.

Response: Several modifications were necessary to reflect this understanding in the final revision of Circular A–133. First, Circular A–133 now reflects that the data collection form will no longer be a required component of the reporting package described in § ____.235(c)(3) and § ____.320(c) of the Circular. Also, the requirement for subrecipients to send copies of the data collection form to pass-through entities was removed from § ____.235(c)(3) and § ____.320(e) of the Circular.

When there are no audit findings that relate to a Federal award provided by a pass-through entity, the subrecipient is not required to send the reporting package to that pass-through entity. In this situation, without receiving the data collection form, the pass-through entity would not otherwise receive any audit result information about the Federal awards it provides to the subrecipient. Therefore, § ____.235(c)(3) and § ____.320(e) of Circular A–133 requires a subrecipient in this situation to inform a pass-through entity that an audit of the subrecipient was conducted in accordance with Circular A–133 and that no audit findings relative to the Federal awards provided by the pass-through entity were reported. Examples of ways in which the subrecipient may communicate this information to the pass-through entity include: (1) writing a letter to the pass-through entity indicating that an audit of the subrecipient was conducted in accordance with Circular A–133 and that no audit findings relative to the Federal awards provided by the pass-through entity were reported, (2) submitting the complete reporting package to the pass-through entity, and (3) a combination of both (1) and (2).

Applicability of Freedom of Information Act and Other Federal Laws

Comment

One CPA commenter asked whether the data collection form is available under the Freedom of Information Act (FOIA) and whether other Federal laws apply, such as those relating to false statements.

Response: The data collection form is subject to FOIA. Also, representations made by auditees and auditors are subject to applicable penalties for false statements.

Report Copies

Comment

One Federal auditor suggested that a copy of the report be provided to the Federal clearinghouse by all auditees that have cognizant agencies for audit (i.e., auditees that expend more than $25 million a year in Federal awards), so that each cognizant agency can carry out its responsibilities required by the Circular. A State agency commented that reports should be provided for every Federal agency and pass-through entity that provided Federal awards to the auditee, regardless if any audit findings are reported or not. This commenter stated that the reports are necessary for closeout and other program monitoring purposes, and that this State agency will now be required to request all reports. The commenter also stated that this proposal to streamline the report distribution process places additional pressure on auditors to issue more reports with no audit findings.

Response: No change was made to the number of reporting package copies to be sent to the Federal clearinghouse. In all instances, the Federal clearinghouse will retain one copy for archival purposes. If requested by the cognizant agency for audit, the Federal clearinghouse will provide a copy of the reporting package to the cognizant agency.

OMB believes that the benefits to be achieved through report distribution streamlining outweigh the possible inconveniences that may result for some Federal agencies and pass-through entities from having to request report copies, as needed. Therefore, no changes to the proposed streamlined report distribution process were made.

Comment

One local government manager commented that savings may result from

using the data collection form rather than submitting the reporting package to every Federal agency and pass-through entity. However, if those entities routinely request copies of the reporting package regardless of the audit results, then the savings will diminish. It was suggested that OMB discourage routine requests for the reporting packages and monitor report distribution during the next few years.

Response: For several reasons, OMB does not expect Federal agencies or pass-through entities to routinely request copies of reporting packages that do not include audit findings or report on the status of prior findings relative to the Federal awards funded by the Federal agency or pass-through entity. First, Federal agencies and pass-through entities are facing resource constraints with respect to both the administrative capacity to collect and store reports and the professional capability to review and process ''no findings'' reports. Also, once Federal agencies and pass-through entities become familiar with the information that will be routinely provided to them from (or accessible to them through) the governmentwide database maintained by the Federal clearinghouse, OMB believes requests for reporting packages will decline. However, over the next few years, OMB will periodically review if the objectives of streamlining the report distribution process have been met.

Report Submission and Distribution

Comment

Several commenters requested clarification regarding the report submission requirements.

Response: § ____.320 (d) and (e) of the proposed revision were modified slightly to reflect the following report submission requirements. In all instances, an auditee is required to submit, at a minimum, the data collection form and one copy of the reporting package to the Federal clearinghouse. An auditee is also required to submit to the Federal clearinghouse a copy of the reporting package for each Federal awarding agency when there are audit findings reported in the auditor's schedule of findings and questioned costs, or the auditee's summary of prior audit findings reports on the status of any audit findings, relating to the Federal awards that the Federal awarding agency provided directly. The Federal clearinghouse will be responsible for actually distributing the reporting packages to the appropriate Federal agencies.

Where the auditee is also a subrecipient, the subrecipient shall submit a copy of the reporting package to each pass-through entity when there are audit findings reported in the auditor's schedule of findings and questioned costs, or the auditee's summary of prior audit findings reports on the status of any audit findings, relating to the Federal awards provided by the pass-through entity. When there are no audit findings reported in the auditor's schedule of findings and questioned costs and the auditee's summary schedule of prior audit findings does not report on the status of any audit findings relating to the Federal awards provided by the pass-through entity, the subrecipient is *not* required to submit the reporting package to the pass-through entity, unless the pass-through entity requests a copy under § ____.320(f). However, if the subrecipient chooses not to submit the reporting package to the pass-through entity in these circumstances, the subrecipient must inform the pass-through entity, in writing, that an audit of the subrecipient was conducted in accordance with Circular A–133, and that no audit findings were reported (nor was the status of any prior audit finding reported) that relate to the Federal awards provided by the pass-through entity.

To illustrate the report submission process, suppose an auditee administers four Federal awards. The first program is provided directly to the auditee from the U.S. Department of Health and Human Services (HHS), and the auditor reported audit findings relating to this program. The second program is provided directly to the auditee from the U.S. Department of Education (ED), and no audit findings have ever been reported relating to this program. The third program is provided to the auditee by a State agency, or pass-through entity, funded by the U.S. Department of Labor, and audit findings were reported relating to this program. The fourth program is provided to the auditee by a local government pass-through entity funded by the U.S. Department of Agriculture, and no audit findings have ever been reported relating to this program. In this example, the auditee would be required to submit to the Federal clearinghouse a data collection form and two copies of the reporting package (one for the Federal clearinghouse to retain for archival purposes and one for the Federal clearinghouse to distribute to HHS). The auditee would also be required to submit a reporting package to the State agency because audit findings were reported that relate to the third program and the State agency needs the reporting package to ensure appropriate resolution of the audit findings. With respect to the fourth program, the auditee could either send the reporting package to the local government, or send some form of written communication stating that the audit was conducted in accordance with the Circular and no audit findings were reported relating to the fourth program.

Federal Clearinghouse Responsibilities

Comment

A few college and university commenters requested that the Federal clearinghouse be responsible for supplying all report copies to Federal agencies *and* pass-through entities. One commenter suggested that the Federal clearinghouse provide reporting packages in electronic form accessible to potential users through the Internet. Another respondent requested more specific information about acceptable forms of electronic submissions.

Response: Until such time as the reporting packages are available in electronic form, it is not feasible for the Federal clearinghouse to be responsible for distributing reporting packages to pass-through entities. It is possible, however, that once reporting packages are available electronically, there may not be a continued need for pass-through entities to receive ''hard paper copies'' of the reporting packages. As previously noted, the Federal clearinghouse expects to be capable of processing reporting packages electronically for audits of fiscal years beginning after June 30, 1998.

Requirement for the Auditor To Prepare and Sign the Data Collection Form

Comment

In the preamble of the proposed revision, OMB stated that it was considering adding a provision that requires the auditor (rather than the auditee) to prepare and sign the data collection form and requested respondents to comment on this proposal. OMB received approximately 45 comments —'' more than any other individual issue included in the November 5, 1996, **Federal Register** publication —'' in response to this proposed requirement.

All Federal auditors and State governments, and most CPAs and Federal agencies supported this proposal. Many of these respondents commented that the auditor should prepare and sign the sections of the form that relate to the audit results, and that, even if the auditor prepares and

signs sections of the form, the auditee should also be required to sign the form certifying to the completeness and accuracy of the entire form.

Federal auditors, Federal agencies, and State governments cited the following reasons for supporting the proposal for auditors to prepare and sign the form: (1) greater assurance as to the accuracy of the form and the governmentwide database, (2) greater efficiency in preparing the form, (3) more streamlined audit reporting achieved by having the auditor sign the form rather than issuing a separate report describing the auditor's association with and responsibility for the form, (4) more timely data collection, and (5) reduced need for independent verification of data included in the governmentwide database by Federal agencies. One Federal agency supported having the auditor prepare the form but did not support requiring the auditor to sign the form. Reasons cited included that the proposal is ''contrary to and inconsistent with the Government's long-established practice of requiring the institution [auditee], not the auditor, to sign existing certifications' and that the proposal raises new concerns about the auditor's litigation liability, which will take time to research and resolve.

Most CPA commenters indicated that independent auditor association with the form would enhance its usefulness. However, most CPA commenters and some Federal auditors and Federal agencies were concerned that certain report users may view the information contained in the form as a substitute for reading the full auditor's reports, which present a more complete picture of the auditor's testing and findings. These commenters also stated their belief that a form can be developed that would meet the needs of OMB and Federal agencies and also address the concerns of the CPA community. Commenters strongly encouraged OMB to work with the American Institute of Certified Public Accountants (AICPA), the Inspectors General, Federal agencies, and other interested parties to develop a useful data collection form, and many commenters offered to assist OMB in this effort.

Several CPA commenters suggested that, to provide appropriate protection to auditors, the auditor signature section of the form should possess certain elements including: (1) a statement that certain information included in the form is based on the auditor's reports and is not a substitute for such reports, (2) a statement concerning the availability of the auditor's reports, (3) a statement that the content of the form is limited to information prescribed by OMB, and (4) a clear indication of which information is being provided by the auditor versus that which is the responsibility of the auditee. CPA commenters' support for this proposal was based on the understanding that: (1) the form would be sent only to the Federal clearinghouse and not to Federal agencies and pass-through entities, and (2) acceptable language would be added to the form to appropriately characterize the nature of the information included in the form and the auditor's and auditee's responsibility for information included in the form. One CPA commenter did not support the proposal stating that it ''is beyond the scope of reporting required by professional and governmental auditing standards.''

Most State auditors and one professional organization commented that they were strongly opposed to requiring the auditor to prepare and sign the data collection form. Reasons cited included: (1) the requirement for the auditee to prepare and sign the form emphasizes the auditee's responsibility for administering Federal funds in compliance with the law, ensuring the accuracy and completeness of information provided to the Federal Government, and resolving deficiencies uncovered by audits; (2) the type of information required by the form is readily available and should be clearly understood by the auditee; (3) if the auditor is required to sign the form, the auditor's legal liability exposure may increase, which will result in increased audit fees; (4) it is not justified to reduce burden on auditees by increasing the burden on auditors; (5) if the auditor is required to prepare the form, the auditor's independence may be questioned and the distinction between management and auditor responsibilities may be blurred; and, (6) it is uncertain whether the auditor or auditee can prepare the form more efficiently.

One State auditor commented that ''We see it [the requirement for the auditee to prepare and sign the form] as the first step in a process that will ultimately result in auditees' providing management assertions on internal controls and compliance regarding their use of Federal funds * * * We view the requirement for the auditee to prepare the data collection form as a kind of ''homework assignment'' by which auditee personnel will read the auditor's reports and start to understand the significance of the issues covered in those reports * * * Therefore, we are quite concerned with OMB's suggestion * * * [to require] the auditor to prepare and sign the data collection form.''

Several State auditors suggested alternatives to the proposal for the auditor to prepare and sign the form including: (1) requiring the auditee to prepare the form and have the auditor review the form (but not as a separate engagement) for accuracy in relation to the auditee's financial statements taken as a whole, for limited distribution to the Federal Government; (2) requiring the auditee to prepare the form and have the auditor issue a separate letter of assurance on the form regarding its reasonableness; (3) removing the requirement to prepare the form and requiring the auditee to send a transmittal letter along with the audit report to the Federal Government, stating that the audit was completed in accordance with the single audit requirements; (4) presenting certain summary information on the form with no signature by either the auditee or auditor, and having the auditee sign a separate form asserting that an audit in accordance with Circular A–133 was performed; (5) adding a provision to the financial reporting section of the compliance supplement directing the auditor to verify the completeness and accuracy of the form; and, (6) requiring the auditee to prepare the form and having the auditor sign it, provided that the auditor's signature is accompanied by standard language specifically describing and limiting the assurance the auditor is providing by signing the form.

Several State auditors supported the proposal for the auditor to sign the form, provided that the form includes ''liability limiting statements'' similar to the wording suggested by the CPA commenters, and indicated that it would be more efficient for auditors to prepare the form.

Two college and university commenters opposed the proposal stating that many colleges and universities could readily prepare the form similar to other documents they are required to prepare (e.g., the schedule of Federal awards and corrective action plans) and that the additional cost for the auditor to prepare the form is not justified compared to the benefit received. However, one of these college and university commenters also indicated that having the auditor prepare the form would add to its accuracy and greatly assist many auditees and suggested a more flexible solution to permit either the auditor or auditee to prepare the form (at the option of the auditee) and require the auditor to sign the form as a reviewer. One college and university commenter indicated that neither the auditors nor auditees want to prepare the form

because of the additional cost but that, if OMB decides to require the form, then the auditor would be the logical choice to prepare the form.

One local government commented that the single audit is a collaborative effort between auditors and auditees and that the process used to prepare and sign the form should be similar to procedures used to satisfy other single audit requirements. Specifically, the commenter suggested that the auditee prepare the form with the assistance of the auditor and that both sign the form.

Response: Auditor association with the data collection form is essential to streamlining the audit report distribution process and ensuring the accuracy of the governmentwide database. However, OMB agrees with the view of many commenters that the auditee is primarily responsible for ensuring the accuracy and completeness of Federal award information submitted to the Federal Government, and that this responsibility should not be diminished. Therefore, the requirement for the auditee to sign a statement included in the form that acknowledges the auditee's responsibility for the entire form and certifies its completeness and accuracy remains in § ____.320(b) of Circular A–133. In addition, the proposal requiring the auditor to prepare and sign the sections of the form that relate to the auditor's results and the Federal awards was adopted in the final revision of Circular A–133 (§ ____.320(b)(3)). The Circular also states that the auditee is responsible for submitting the data collection form and reporting package to the appropriate parties (§ ____.320(d) and (e)).

OMB commits to working with the audit community (e.g., Inspectors General, AICPA, State auditors), Federal agencies, and other interested parties to finalize language on the form to appropriately characterize the auditor's and auditee's responsibility for information on the form. As a starting point, OMB used the recommendations provided by one CPA commenter for the auditor's standard language including: (1) a statement that certain information included in the form is based on the auditor's reports and is not a substitute for such reports, (2) a statement concerning the availability of the auditor's reports, (3) a statement that the content of the form is limited to information prescribed by OMB, and (4) a clear indication of which information is being provided by the auditor versus that which is the responsibility of the auditee. OMB concurs with several CPA commenters that stated that the auditor's exposure to litigation regarding association with the form could be reduced by incorporating acceptable standard language in the form.

Increased Costs for Auditors To Prepare and Sign Form

Comment

Several respondents commented that requiring the auditor to prepare and sign the data collection form will result in increased audit costs. One CPA stated that the proposal ''is perceived as increasing auditor responsibility without increasing the value of the audit for which the auditee would be willing to compensate the auditor.'' One State auditor commented that ''it is misleading to consider requiring the auditor to do this [prepare the form] while speculating that it will not significantly increase audit costs. The auditor is entitled to charge for the time associated with preparing the form and for assuming the increased liability of associating his name with the information on the form.'' One State manager stated that, if the requirement to prepare the data collection form remains, the auditor should be responsible for the data collection provided OMB determines ''a true-cost benefit of this requirement before implementing it.''

Several college and university commenters stated that the preparation of a data collection form will result in increased and unreimbursable audit costs at a time when many organizations have reached or exceeded the administrative cap under the Facilities and Administrative reimbursement rate.

One Federal auditor commented that ''we believe that ''experienced'' auditors should be able to provide at a reasonable cost the information requested on the data collection form.'' One Federal agency commenter stated that ''The additional cost of completing this form is expected to be insignificant, particularly when its intended use is considered.''

Response: OMB acknowledges that there are costs associated with the new requirement to prepare the data collection form. Using an average rate per hour of $25 per hour for auditees and $70 per hour for auditors, OMB estimates that the cost for auditor's to prepare and sign specified sections of the form is $7.3 million and the cost for auditees to prepare specified sections of the form and sign it is $1.2 million, for a total cost of $8.5 million.

OMB believes the decision to require the form is justified for several reasons. First, costs will be fully or partially offset by the savings realized from implementing other provisions of the 1996 Amendments and the revised Circular A–133. Examples of opportunities for savings include: the reduced scope of audits of low-risk auditees; the elimination of auditing and reporting requirements previously associated with non-major programs; and, the elimination of the requirement to report all matters of noncompliance, regardless of significance. Second, the data collection form, including the auditor's association with it, is essential to streamlining the historical report distribution and review processes and reducing associated burden. Finally, OMB believes that the data collection form, including the auditor's association with it, is essential to the development of a reliable governmentwide database that is critical to effective Federal award administration.

With respect to comments received from several colleges and universities stating that this new requirement may result in unreimbursed audit costs because their administrative caps have been reached, OMB suggests that auditees consider discussing with their auditor whether any increases due to preparing the data collection form will be offset by: audit cost savings associated with reduced scope of audit work for a low-risk auditee, the auditor having to audit fewer programs under the risk-based approach, a reduction of audit work and related reporting for Federal programs not considered major, and the removal of the requirement to report all instances of noncompliance.

It will take several years for OMB to determine the actual ''cost-benefit'' of this new requirement. However, OMB believes that it is important to implement this reporting requirement as part of the final revision of Circular A–133, rather than postpone implementation until a later date. The estimates presented in Table 1 are based on the best information available to date. OMB will reevaluate the burden estimates within the next three years (the sunset date for resubmission for approval under the Paperwork Reduction Act of 1980, as amended) using actual results.

Retention of Audit Workpapers

Comment

One Federal auditor requested that Federal awarding agencies be added to the list of entities that may notify the auditor to retain the working papers beyond three years.

Response: No change was made to the Circular as a result of these comments. OMB believes that requests by Federal awarding agencies for auditors to retain working papers beyond the minimum

period should be coordinated through either the cognizant or oversight agency for audit.

Schedule of Expenditures of Federal Awards

Comment

One State auditor commented that the State's accounting system could not capture Federal award expenditure information and requested that the Circular permit alternatives methods of reporting Federal award information, such as reporting receipts.

Response: No change was made to the Circular based on this comment. Auditees shall report the amount of expenditures of Federal awards. This information is important to Federal agencies and pass-through entities and the amount of Federal award expenditures is critical to every monetary determination required by the Circular (e.g., the threshold that triggers a Circular A–133 audit requirement, and the dollar threshold used to distinguish Type A and Type B programs using the risk-based approach to determining major programs). Also, the requirement to report Federal award expenditures is consistent with the financial management systems requirements of § ____.20 in the Grants Management Common Rule, published March 11, 1988 (53 FR 8034) and amended April 19, 1995 (60 FR 19638), whereby States' systems should permit accounting for expenditures to a level sufficient to demonstrate compliance with applicable laws and regulations.

Comment

Several commenters interpreted the proposal as requiring that the schedule of expenditures of Federal awards include information about the amount of Federal funds awarded (rather than Federal awards expended), and that such information be presented by award year. One commenter asked whether the information requested by Federal agencies and pass-through entities to be included on the schedule was limited to the minimum requirements or whether such requests could include additional information.

Response: A change was made to § ____.310(b) to clarify that the schedule requires presentation of the amounts of Federal awards expended, rather than the amounts awarded. Also, § ____.310(b) was modified to indicate that an auditee may choose to provide information requested by Federal agencies and pass-through entities to make the schedule easier to use. However, the auditee is not required by the Circular to provide information beyond the minimum requirements described in § ____.310(b).

Comment

§ ____.310(b)(1) of the proposed revision requires that the schedule of expenditures of Federal awards list individual Federal programs by Federal agency and major subdivision within a Federal agency. Many respondents strongly opposed the requirement to provide the major subdivision within a Federal agency. Reasons cited include that this information is readily available to the Federal Government through the CFDA numbers and that it is particularly onerous for large entities, such as States, to provide this information for each individual Federal program.

Response: The requirement to list each individual Federal program by major subdivision within a Federal agency was removed from § ____.310(b)(1) of the Circular, except for the R&D program cluster. This revision reduces reporting burden for many auditees that administer a large number of Federal awards. For the R&D program cluster, auditees are provided the option of reporting Federal awards expended either by individual Federal award or by Federal agency and major subdivision within the Federal agency. This option reduces burden on auditees that administer a large number of R&D awards, such as certain colleges and universities, by permitting summary reporting at the Federal agency and major subdivision level. Federal awarding agencies and pass-through entities providing R&D awards should assist auditees in identifying major subdivisions within the Federal agency responsible for such awards.

Comment

Several commenters opposed the proposal included in § ____.310(b)(5) which requested, to the extent practical, pass-through entities to identify on the schedule of expenditures of Federal awards the total amount provided to subrecipients from each Type A program and each Type B program audited as major. This provision was perceived as burdensome. One CPA commenter was concerned that, if such information were provided for all Type A programs, including those Type A programs that were not audited as major, then the auditor would be required to report on a schedule that includes unaudited information.

Response: A change was made to the Circular as a result of these comments. The proposal requested auditees to provide information about amounts provided to subrecipients from each Type A program and each Type B program audited as major. The final revision to Circular A–133 requests this information for each Federal program. This change was made to simplify the requirement but does not necessarily increase burden on auditees because the information is not mandatory. This information should be included on the schedule, to the extent practical. In response to a CPA's concern, the schedule of expenditures of Federal awards includes information about each of the Federal awards administered by the auditee, not just those audited as major. OMB does not believe that presenting information about amounts provided to subrecipients is different from other information included in the schedule relating to programs that were not audited as major.

Summary Schedule of Prior Audit Findings

Comment

Several State auditors and State agencies questioned the need for a separate schedule reporting the status of prior audit findings. One State auditor noted that requiring the auditor to report any material misrepresentations made by the auditee in the schedule will increase pressure on auditors and strain their relationship with the auditee. A State agency commented that the information in the new summary schedule of prior audit findings is also included in other required reports and recommended that the cognizant agency for audit be responsible for reviewing and approving follow-up actions outlined in the corrective action plan. One Federal auditor noted the importance of continuing to report deficiencies until the finding is adequately resolved and suggested that the schedule also include a description of the means used to substantiate the audit finding resolution.

Response: No change was made to § ____.315 of the Circular as a result of these comments. It is important for the auditee to report on the status of prior audit findings in a consistent and systematic manner. It is also important that the auditor assess the fairness of management's representations included in the schedule, as required by § ____.500(e) of the Circular.

Summary of the Auditor's Results

Comment

One Federal auditor recommended revising the Circular to require the auditor to provide a narrative summary at the beginning of the single audit reporting package. One State auditor opposed the requirement to prepare a

summary of auditor's results and commented that the Federal Government could obtain this information by reviewing the documents included in the reporting package.

Response: No change was made to § ____.505(d)(1) of the Circular as a result of these comments. The 1996 Amendments include a provision (31 U.S.C. 7502(g)(2)) whereby ''the auditor shall include a summary of the auditor's results regarding the non-Federal entity's financial statements, internal controls, and compliance with laws and regulations.'' OMB believes that the summary of auditor's results prescribed by § ____.505(d)(1) of the final revision satisfies the requirements of the 1996 Amendments, and will facilitate consistency and uniformity of the summary information provided to Federal awarding agencies and pass-through entities and captured in the governmentwide database.

Auditor's Schedule of Findings and Questioned Costs

Comment

Several State auditors indicated that the requirements described in § ____.505(d) (2) and (3) of the proposed revision may result in duplicative and more cumbersome audit reporting and, as a result, increased audit costs.

Response: No changes were made to the Circular as a result of these comments. The purpose of § ____.505(d) of the Circular is to present the results of audit in one location or schedule. In the past, this information was presented in a variety of locations throughout the auditor's reports. This provision of the Circular prescribes where this information must be reported and provides guidance on reporting audit findings that relate to the same issue and that relate to matters affecting both the financial statements and the Federal awards administered by the auditee. OMB believes the reporting requirements included in the Circular will improve the usefulness and uniformity of audit reports.

Report Due Date

Comment

Many respondents—mostly State managers and college and university commenters—stated that shortening the report due date from 13 months to nine months after the end of the audit period was unrealistic and that it will adversely affect audit scheduling and workloads, increase audit costs and burden on auditees, and may result in increased noncompliance by subrecipients. Many commenters suggested that the 13-month report due date be retained in the Circular and that, if the due date must be shortened, then a 12-month due date would be more acceptable. One local government suggested granting an automatic extension of the report due date to auditees that expend over $25 million in Federal awards. A Federal agency stated that a six-month report due date should be imposed and that the two-year transition period is unnecessary.

Response: No change was made to the Circular as a result of these comments. The report due date is prescribed by the 1996 Amendments (31 U.S.C. 7502(h)). The 1996 Amendments require the report to be submitted within the earlier of 30 days after receipt of the auditor's report, or nine months after the end of the audit period for audits of fiscal years beginning after June 30, 1998. A transition period of at least two years is provided in the 1996 Amendments whereby the report shall be submitted within the current 13-month due date (or 30 days after the receipt of the auditor's report, if earlier). OMB believes that the transition period of two years is sufficient for most auditees to meet the new report due date. However, cognizant or oversight agencies for audit may provide extensions to auditees.

Comment

One State auditor commented that total audit hours will increase as a result of preparing a data collection form, and ''Since our audit resources are limited, any increase in audit hours is likely to make it more difficult for us to meet the 9-month reporting deadline required by § ____.320(a) of the Circular.''

Response: As presented in Table 1, OMB estimates the average number of auditor hours necessary to prepare and sign the appropriate sections of the data collection form to be 24 hours for auditees that administer a large number of Federal awards and four hours for other auditees. Moreover, the requirements of the 1996 Amendments and the final revision to Circular A–133 are designed to reduce audit burden by decreasing the number of entities subject to audit and improving the effectiveness of the audit requirements. Accordingly, OMB believes that the two-year transition period is sufficient for most auditors to incorporate the data collection form preparation requirements into their audit plans so that the work can be completed within the nine-month due date.

Effective Date for the Data Collection Form Requirement

Comment

One Federal auditor stated that it was not clear from reading the proposed revision when the proposed requirement to prepare and submit the data collection form would be effective.

Response: The requirement to prepare and submit a data collection form will be effective for audits of fiscal years beginning after June 30, 1996.

The proposed data collection form and its instructions follow.

John A. Koskinen,

Deputy Director for Management.

TABLE 1.—REPORTING BURDEN ESTIMATE

	Existing burden	New burden			Change in burden increase (decrease)
		Auditees with a large number of programs	Other auditees	Total auditees	
Number of Auditees	35,000	200	24,800	25,000	(10,000)
Number of Auditors	35,000	200	24,800	25,000	(10,000)
Auditee hours to prepare reporting package	16	48	16	[1] 16.3	.3
Auditee hours to prepare & sign data collection form	.....	6	2	[1] 2.0	2.0
Auditor hours to prepare auditor's reports	10	40	12	[1] 12.2	2.2
Auditor hours to prepare & sign data collection form	.....	24	4	[1] 4.2	4.2
Average hour burden per respondent	26	118	34	[1] 34.7	8.7
Total burden hours	910,000	23,600	843,200	866,800	(43,200)

[1] Weighted average.

BILLING CODE 3110–01–P

OMB No. 0348-0000

FORM **SF-SAC**
(6-5-97)

U.S. DEPARTMENT OF COMMERCE - BUREAU OF THE CENSUS
ACTING AS COLLECTING AGENT FOR
OFFICE OF MANAGEMENT AND BUDGET

Data Collection Form for Reporting on

AUDITS OF STATES, LOCAL GOVERNMENTS, AND NON-PROFIT ORGANIZATIONS

Complete this form, as required by OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

PART I GENERAL INFORMATION *(To be completed by auditee)*

1. Fiscal year ending date for this submission
Month / Day / Year

2. Type of Circular A-133 audit
1 ☐ Single audit 2 ☐ Program-specific audit

3. Audit period covered
1 ☐ Annual 3 ☐ Other – Months
2 ☐ Biennial

FEDERAL GOVERNMENT USE ONLY

4. Date received by Federal clearinghouse

5. Employer Identification Number (EIN)
a. Auditee EIN | | | | | | | | | |
b. Are multiple EINs covered in this report? 1 ☐ Yes 2 ☐ No

6. AUDITEE INFORMATION

a. Auditee name

b. Auditee address *(Number and street)*
City
State ZIP Code

c. Auditee contact
Name
Title

d. Auditee contact telephone
( ) –

e. Auditee contact FAX *(Optional)*
( ) –

f. Auditee contact E-mail *(Optional)*

g. AUDITEE CERTIFICATION STATEMENT – This is to certify that, to the best of my knowledge and belief, the auditee has: (1) Engaged an auditor to perform an audit in accordance with the provisions of OMB Circular A-133 for the stated period; (2) the auditor has completed such audit and presented a signed audit report which states that the audit was conducted in accordance with the provisions of the Circular; and, (3) the information included in **Parts I, II,** and **III** of this data collection form is accurate and complete. I declare under penalty of law that the foregoing is true and correct.

Signature of certifying official Date
Month / Day / Year

Name/Title of certifying official

7. AUDITOR INFORMATION

a. Auditor name

b. Auditor address *(Number and street)*
City
State ZIP Code

c. Auditor contact
Name
Title

d. Auditor contact telephone
( ) –

e. Auditor contact FAX *(Optional)*
( ) –

f. Auditor contact E-mail *(Optional)*

g. AUDITOR STATEMENT – The data elements and information included in this form are limited to those prescribed by OMB Circular A-133. Certain information included in Parts II and III of the form (except for Part III, Item 7) is based on the auditor's report(s) and is not a substitute for such reports. A copy of the reporting package required by OMB Circular A-133, which includes the complete auditor's report(s), is available in its entirety from the auditee at the address provided in Part I of this form. As required by OMB Circular A-133, the information in **Parts II** and **III** of this form was entered in this form by the auditor under penalty of law based on information included in the reporting package.

Signature of auditor Date
Month / Day / Year

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-____. The time required to complete this data collection form is estimated to average 30 hours for large auditees (i.e., auditees most likely to administer a large number of Federal awards) and 6 hours for all other auditees. These amounts reflect estimates of reporting burden on both auditees and auditors relating to the data collection form, including the time to review instructions, obtain the needed data, and complete and review the information collection.

EIN: | | | | | | | | | |

PART I GENERAL INFORMATION – Continued

8. Indicate whether the auditee has either a Federal cognizant or oversight agency for audit. *(Mark (X) one box)*

1 ☐ Cognizant agency 2 ☐ Oversight agency

9. Name of Federal cognizant or oversight agency for audit *(Mark (X) one box)*

01 ☐ African Development Foundation
02 ☐ Agency for International Development
10 ☐ Agriculture
11 ☐ Commerce
94 ☐ Corporation for National and Community Service
12 ☐ Defense
84 ☐ Education
81 ☐ Energy
66 ☐ Environmental Protection Agency
83 ☐ Federal Emergency Management Agency
34 ☐ Federal Mediation and Conciliation Service
39 ☐ General Services Administration
93 ☐ Health and Human Services
14 ☐ Housing and Urban Development
03 ☐ Institute for Museum Services
04 ☐ Inter-American Foundation
15 ☐ Interior
16 ☐ Justice
17 ☐ Labor
43 ☐ National Aeronautics and Space Administration
89 ☐ National Archives and Records Administraton
05 ☐ National Endowment for the Arts
06 ☐ National Endowment for the Humanities
47 ☐ National Science Foundation
07 ☐ Office of National Drug Control Policy
08 ☐ Peace Corps
59 ☐ Small Business Administration
96 ☐ Social Security Administration
19 ☐ State
20 ☐ Transportation
21 ☐ Treasury
82 ☐ United States Information Agency
64 ☐ Veterans Affairs

PART II FINANCIAL STATEMENTS *(To be completed by auditor)*

1. Type of audit report *(Mark (X) one box)*

1 ☐ Unqualified opinion 2 ☐ Qualified opinion 3 ☐ Adverse opinion 4 ☐ Disclaimer of opinion

2. Is a reportable condition disclosed?

1 ☐ Yes 2 ☐ No – *SKIP to Item 4*

3. Is any reportable condition reported as a material weakness?

1 ☐ Yes 2 ☐ No

4. Is a material noncompliance disclosed?

1 ☐ Yes 2 ☐ No

PART III FEDERAL PROGRAMS *(To be completed by auditor)*

1. Type of audit report on major program compliance *(Mark (X) one box)*

1 ☐ Unqualified opinion 2 ☐ Qualified opinion 3 ☐ Adverse opinion 4 ☐ Disclaimer of opinion

2. What is the dollar threshold to distinguish Type A and Type B programs §___ .520(b)?

$

3. Did the auditee qualify as a low-risk auditee (§___ .530)?

1 ☐ Yes 2 ☐ No

4. Are there any audit findings required to be reported under §___ .510(a)?

1 ☐ Yes 2 ☐ No

5. Which Federal Agencies are required to receive the reporting package? *(Mark (X) all that apply)*

01 ☐ African Development Foundation
02 ☐ Agency for International Development
10 ☐ Agriculture
11 ☐ Commerce
94 ☐ Corporation for National and Community Service
12 ☐ Defense
84 ☐ Education
81 ☐ Energy
66 ☐ Environmental Protection Agency
83 ☐ Federal Emergency Management Agency
34 ☐ Federal Mediation and Conciliation Service
39 ☐ General Services Administration
93 ☐ Health and Human Services
14 ☐ Housing and Urban Development
03 ☐ Institute for Museum Services
04 ☐ Inter-American Foundation
15 ☐ Interior
16 ☐ Justice
17 ☐ Labor
43 ☐ National Aeronautics and Space Administration
89 ☐ National Archives and Records Administraton
05 ☐ National Endowment for the Arts
06 ☐ National Endowment for the Humanities
47 ☐ National Science Foundation
07 ☐ Office of National Drug Control Policy
08 ☐ Peace Corps
59 ☐ Small Business Administration
96 ☐ Social Security Administration
19 ☐ State
20 ☐ Transportation
21 ☐ Treasury
82 ☐ United States Information Agency
64 ☐ Veterans Affairs
00 ☐ None

EIN: | | | | | | | | | |

FORM SF-SAC (6-5-97)

PART III FEDERAL PROGRAMS – Continued

6. FEDERAL AWARDS EXPENDED DURING FISCAL YEAR			7. AUDIT FINDINGS AND QUESTIONED COSTS				
CFDA number [1] (a)	Name of Federal program (b)	Amount expended (c)	Major program (a)	Type of compliance requirement[2] (b)	Amount of questioned costs (c)	Internal control findings[3] (d)	Audit finding reference number(s) (e)
		$	1 ☐ Yes 2 ☐ No		$	1 ☐ A 3 ☐ C 2 ☐ B	
		$	1 ☐ Yes 2 ☐ No		$	1 ☐ A 3 ☐ C 2 ☐ B	
		$	1 ☐ Yes 2 ☐ No		$	1 ☐ A 3 ☐ C 2 ☐ B	
		$	1 ☐ Yes 2 ☐ No		$	1 ☐ A 3 ☐ C 2 ☐ B	
		$	1 ☐ Yes 2 ☐ No		$	1 ☐ A 3 ☐ C 2 ☐ B	
		$	1 ☐ Yes 2 ☐ No		$	1 ☐ A 3 ☐ C 2 ☐ B	
		$	1 ☐ Yes 2 ☐ No		$	1 ☐ A 3 ☐ C 2 ☐ B	
		$	1 ☐ Yes 2 ☐ No		$	1 ☐ A 3 ☐ C 2 ☐ B	
		$	1 ☐ Yes 2 ☐ No		$	1 ☐ A 3 ☐ C 2 ☐ B	
		$	1 ☐ Yes 2 ☐ No		$	1 ☐ A 3 ☐ C 2 ☐ B	
	TOTAL →	$	*IF ADDITIONAL LINES ARE NEEDED, PLEASE PHOTOCOPY THIS PAGE AND ATTACH ADDITIONAL PAGES TO THE FORM.*				

[1] Or other identifying number when the Catalog of Federal Domestic Assistance (CFDA) number is not available.

[2] Type of compliance requirement *(Enter the letter(s) of all that apply)*

A. Activities allowed or unallowed
B. Allowable costs/cost principles
C. Cash management
D. Davis - Bacon Act
E. Eligibility
F. Equipment and real property management
G. Matching, level of effort, earmarking
H. Period of availability of funds
I. Procurement
J. Program income
K. Real property acquisition and relocation assistance
L. Reporting
M. Subrecipient monitoring
N. Special tests and provisions
O. None

[3] Type of internal control findings *(Mark (X) all that apply)*

A. Material weaknesses B. Reportable conditions C. None

Instructions for Completion of SF-SAC, Reporting on Audits of States, Local Governments, and Non-Profit Organizations

Office of Management and Budget (OMB) Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," requires non-Federal entities that expend $300,000 or more in a year in Federal awards to have an audit conducted in accordance with the Circular. Circular A-133 (§__. 320(b)) requires auditees to submit a data collection form, along with other specified reports, to the Federal clearinghouse designated by OMB (currently the U.S. Bureau of the Census) at the completion of each audit.

Submission to Federal Clearinghouse

The data collection form must be completely filled out and signed by both the auditee and auditor. **Submission of anything other than a complete data collection form and reporting package as required by Circular A-133 will be returned to the auditee.**

Description of the Data Collection Form Items

PART I - GENERAL INFORMATION: The auditee should complete this section and sign the certification statement provided in Item 6 (g).

Item 1: Fiscal Year Ending Date:
Enter the last day of the entity's fiscal period covered by the audit.

Item 2: Type of Circular A-133 Audit:
Check the appropriate box. §__.200 of Circular A-133 requires non-Federal entities that expend $300,000 or more in a year in Federal awards to have a single audit conducted in accordance with §__.500, except when they elect to have a program-specific audit conducted in accordance with §__.235.

Item 3: Audit Period Covered:
Check the appropriate box. Annual audits cover 12 months and Biennial audits cover 24 months. If the audit period covered is neither Annual or Biennial, mark "Other" and provide the number of months covered in the space provided.

Item 4: Date Received by Federal Clearinghouse:
Federal Government use only.

Item 5: Employer Identification Number (EIN)

(a) Auditee EIN:
Enter the auditee Employer Identification Number (EIN), which is the Taxpayer Identification Number assigned by the Internal Revenue Service (IRS). Also, using the spaces provided, enter the EIN on the top of each page.

(b) Multiple EINs Covered in this Report:
Check the appropriate box to indicate whether the auditee (or components of an auditee covered by the audit) was assigned more than one EIN by the IRS. (Example: A State-wide audit covers many departments, each of which may have its own separate EIN.) If yes, indicate principal EIN under 5 (a).

Item 6: Auditee Information

(g) A senior representative of the auditee (e.g., State controller, director of finance, chief executive officer, chief financial officer) shall sign a statement that the information on the form is accurate and complete as required by §__.320(b) of Circular A-133. Provide the name and title of the signatory and date of signature.

Item 7: Auditor Information

(a) Enter the name of the auditor that conducted the audit in accordance with Circular A-133. The auditor name may represent a sole practitioner, certified public accounting firm, State auditor, etc. Where multiple auditors or audit organizations are used to conduct the audit work, the auditors should use judgment in determining which auditor's name should be provided in Item 7. The auditor listed in Part I, Item 7 (a) shall be the same auditor that signs the auditor statement in Part I, Item 7 (g) of this form.

Item 8: Cognizant or Oversight Agency for Audit:

Check the appropriate box. Each auditee has either a Federal cognizant agency for audit or an oversight agency for audit, determined in accordance with §__.400(a) or (b) of Circular A-133.

Item 9: Name of Federal Cognizant or Oversight Agency for Audit:

Check the appropriate box to indicate the name of the Federal cognizant or oversight agency for audit determined in accordance with §__.400(a) or (b) of Circular A-133.

PART II - FINANCIAL STATEMENTS: The auditor shall complete this section of the form.

PART III - FEDERAL PROGRAMS: The auditor shall complete this section of the form.

Item 2: Dollar Threshold to Distinguish Type A and Type B Programs:

Enter the dollar threshold used to distinguish between Type A and Type B programs as defined in §__.520(b) of Circular A-133.

Item 3: Low-Risk Auditee:

Indicate whether or not the auditee qualifies as a low-risk auditee under §__.530 of Circular A-133.

Item 4: Audit Findings:

Indicate whether or not the audit disclosed any audit findings which the auditor is required to report under §__.510(a) of Circular A-133.

Item 5: Federal Agencies Required to Receive the Reporting Package:

Check the appropriate box to indicate each Federal awarding agency required to receive a copy of the reporting package pursuant to §__.320(d) of Circular A-133. If no Federal awarding agency is required to receive a copy of the reporting package, mark "None."

Item 6: Federal Awards Expended:

The information to complete columns (a), (b), and (c) shall be obtained from the Schedule of Expenditures of Federal Awards prepared by the auditee. If additional space is required, photocopy page 3 and attach the additional page(s) to the form.

Column (a) - CFDA Number:

Enter the number assigned to a Federal program in the Catalog of Federal Domestic Assistance (CFDA) or other identifying number when the CFDA information is not available. If the CFDA information is not available, enter the identifying number provided by the Federal awarding agency or pass-through entity. Individual programs within a cluster of programs should be listed in the same level of detail as they are listed in the schedule of expenditures of Federal awards.

Column (b) - Name of Federal Program:

Enter the name of the Federal program. If no CFDA number is provided in column (a), enter the name of the Federal awarding agency or pass-through entity that provided the Federal award.

Column (c) - Amount of Federal Expenditures:
Enter the amount of expenditures included in the Schedule of Expenditures of Federal Awards for each Federal program. It is important to note that amounts shall be provided for the value of Federal awards expended in the form of non-cash assistance, the amount of insurance in effect during the year, and loans or loan guarantees outstanding at year end, regardless of whether such amounts were presented in the Schedule of Expenditures of Federal Awards or in a note to the Schedule.

If additional pages are required, photocopy page 3 of the form and attach additional page(s) to the form. Also, instead of subtotals at the bottom of each page, only include a grand total on the final page in the "TOTAL" block.

Item 7: Audit Findings and Questioned Costs:
The information to complete columns (a), (b), (c), (d) and (e) shall be obtained from the Schedule of Findings and Questioned Costs prepared by the auditor. If additional space is required, photocopy page 3 and attach the additional page(s) to the form.

Column (a) - Major Program:
Indicate whether or not the Federal program is a major program, as defined in §__.520 of Circular A-133, by marking (X) in one box.

Column (b) - Type of Compliance Requirement:
Using the list provided on the form, enter the letter that corresponds to the type(s) of compliance requirements applicable to the Federal program. Mark all that apply or None.

Column (c) - Questioned Costs:
Enter the amount of questioned costs by Federal program. If no questioned costs were reported, enter N/A for 'Not Applicable.'

Column (d) - Internal Control Findings:
Check the appropriate box, using the list provided on the form, that corresponds to the internal control findings that apply to the Federal program. Mark all that apply or None.

Column (e) - Audit Finding Reference Number(s):
Enter the audit finding reference number(s) for audit findings included in the Schedule of Findings and Questioned Costs. If no audit finding reference numbers exist, enter N/A for 'Not Applicable.'

[FR Doc. 97–16966 Filed 6–27–97; 8:45 am]
BILLING CODE 3110–01–C

Federal Register

Monday
June 30, 1997

Part IV

Department of Education

Office of Special Education and Rehabilitative Services; Final Priority and FY 1997 New Awards Applications; Notices

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Notice of Final Priority

AGENCY: Department of Education.

SUMMARY: The Secretary announces a final priority for programs administered by the Office of Special Education and Rehabilitative Services (OSERS) under the Individuals with Disabilities Education Act (IDEA). The Secretary may use this priority in Fiscal Year 1997 and subsequent years. The Secretary takes this action to focus Federal assistance on identified needs to improve results for children with disabilities. This final priority is intended to ensure wide and effective use of program funds.

EFFECTIVE DATE: This priority takes effect on July 30, 1997.

FOR FURTHER INFORMATION CONTACT: For further information on this final priority contact the Grants and Contracts Services Team, 600 Independence Avenue, S.W., room 3317, Switzer Building, Washington, D.C. 20202–2641. The preferred method for requesting information is to FAX your request to: (202) 205–8717. Telephone: (202) 260–9182.

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–9860. Individuals with disabilities may obtain a copy of this notice in an alternate format (e.g. Braille, large print, audiotape, or computer diskette) by contacting the Department as listed above.

SUPPLEMENTARY INFORMATION: This notice contains one final priority authorized by the Individuals with Disabilities Education Act. This final priority supports the National Education Goals by helping to improve results for children with disabilities.

On March 24, 1997, the Secretary published a notice of proposed priorities in the **Federal Register** (62 FR 13972).

The publication of this final priority does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only this priority, subject to meeting applicable rulemaking requirements. Funding of particular projects depends on the availability of funds, and the quality of the applications received.

Note: This notice of final priority does *not* solicit applications. A notice inviting applications under this competition is published in a separate notice in this issue of the **Federal Register**.

Analysis of Comments and Changes

In response to the Secretary's invitation in the notice of proposed priorities, twelve parties submitted comments. An analysis of the comments and of the changes in the proposed priority follows. Technical and other minor changes—as well as suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Priority—Directed Research Projects

Focus 1—Beacons of Excellence.

Comment: One commenter recommended that Focus 1 be operated as a five-year institute with sufficient funding to investigate both general education and special education change.

Discussion: The Secretary notes that Focus 1 requires projects to study schools achieving exemplary results for students with disabilities in the context of efforts to achieve exemplary results for all students. The Secretary anticipates that applicants would need to investigate both the general education and special education practices associated with achieving exemplary results for students with disabilities. Decisions concerning the number of projects to fund, project funding levels, and project durations are based on a determination of the time and funding needed to carry out the intent of a particular focus. The Secretary believes it is possible that some, but not necessarily all, applicants may need more than three years to complete project activities. However, the Secretary prefers, given the diversity of approaches and of schools achieving exemplary results, to fund multiple projects, rather than extend the project's duration in this focus.

Changes: The phrase ''During the third year'' in the last sentence of Focus 1 has been replaced with ''During the final year'' to allow project periods to exceed three years if the extended time period is justified.

Comment: One commenter recommended that Focus 1 support one project to study reform at middle and high school levels, asserting that the need for information is greater at these levels than at the elementary level, where greater progress in reform has been made.

Discussion: The Secretary agrees that middle and high school levels should be studied, and notes that Focus 1 allows projects to focus on either secondary or elementary levels, or both. Further, the Secretary believes it would be beneficial to support at least one project at both the elementary and secondary school level. However, the Secretary does not believe that it is necessary to have one project that includes both levels.

Changes: The priority has been revised to reflect the Secretary's plan to support at least one project at the elementary level and at least one project at the secondary level.

Comment: One commenter asked if projects were required to study multiple schools, or if a project could propose to study only one school.

Discussion: It may be possible for an applicant to propose a technically sound project involving the study of just one exemplary school.

Changes: The phrase ''one or more'' has been added to the first sentence to indicate that a project may propose to study just one exemplary school.

Comment: One commenter suggested that Focus 1 require applicants to identify in their proposals the exemplary schools they will study so that reviewers can assess school quality as part of the proposal evaluation focus and so that OSEP is assured that exemplary schools agree to participate in the project.

Discussion: The Secretary is confident that researchers will include criteria in their applications that will result in the identification of exemplary schools, but that it is unlikely that many applicants will be able to identify exemplary schools with sufficient rigor prior to receiving funding. The commenter's suggested approach could potentially weaken the competition and reduce the overall quality of the projects funded under this focus.

Changes: None.

Comment: One commenter suggested that OSEP clarify whether Focus 1 includes ''promising'' practices as well as practices that have been proven effective. The commenter further suggested that promising and proven practices should be reported as separate categories.

Discussion: The distinction between ''promising'' and ''proven'' is a relatively complex issue, as is the exact definition of ''practice,'' and the Secretary believes these issues go beyond the central purpose of Focus 1. The projects must identify and study factors contributing to exemplary learning results, not necessarily promising or proven practices.

Changes: None.

Focus 2—Prevention and Early Intervention Services for Children With Emotional and Behavioral Problems

Comment: One commenter expressed confusion as to the purpose of Focus 2, and recommended that projects be required to identify factors that prevent children from developing emotional and

behavioral problems, identify program factors designed to prevent the problems, and describe the results of the intervention in terms of outcomes for children.

Discussion: Focus 2 is broadly stated, intentionally, to welcome a diversity of research foci that examine specific factors that contribute to effectiveness. The only specific requirement for every research project is that, in some way, each research project must include an evaluation of the collaboration and coordination of prevention and early intervention services. The areas of investigation recommended by the commenter are permissible under Focus 2, as long as the proposed research also includes an evaluation of collaboration and coordination of prevention and early intervention services.

Changes: None.

Comment: One commenter recommended that Focus 2 specifically identify the child's primary health care provider or medical home provider as one of the service providers to be included in evaluating the effectiveness of collaborative, community-based services.

Discussion: Focus 2 states that primary care and mental health programs, where available, are additional programs appropriate for study. Given the vast array of service providers applicants could propose to study, the Secretary does not believe it is possible to provide an all inclusive list and prefers to retain the broad language of Focus 2.

Changes: None.

Focus 4—The Sustainability of Promising Innovations

Comment: Two commenters wrote in support of the importance of allowing, as an integral component of Focus 4, the development of approaches to build internal site capacity for maintaining effective innovations beyond the term of external implementation support.

Discussion: The Secretary agrees that the development of site-based approaches to build internal capacity to sustain promising and effective innovations is a desirable outcome. However, the Secretary emphasizes that the primary purpose of Focus 4 is to study the sustainability of promising innovations and that, as such, any proposed approach to site based capacity building should be an integral part of the research design.

Change: None.

Comment: One commenter suggested expanding Focus 4 to include the study of sustaining innovations designed to prevent inappropriate referrals to and placement in special education.

Discussion: The Secretary agrees with the commenter on the importance of effective approaches for preventing inappropriate referrals to and placement in special education. The Secretary notes that Focus 4 is primarily interested in issues of sustainability of innovations that hold positive results for children with disabilities within a school restructuring/reform context. This broad focus does not preclude projects from including the study of inappropriate referrals and placement as a component of a research plan.

Changes: None.

Comment: One commenter suggested that Focus 4 should consider the interrelationships between the innovations being studied and the overall educational system where they are used.

Discussion: The Secretary agrees with the importance of studying the interrelationships among a variety of factors across different levels of the system. The Secretary notes, however, that Focus 4 does not preclude the study of interrelationships among factors, in fact Focus 4 encourages that study. For example, Focus 4 projects may address the extent of consonance or dissonance between critical features of the innovations and existing (and emerging) school and district practices and policies.

Changes: None.

Comment: One commenter recommended Focus 4 specify that promising innovations may include policy implementation research as well as practice-based research and model demonstrations.

Discussion: The Secretary agrees that policy implementation research is important, but believes that Focus 4 does not preclude those studies. The Secretary notes that, among the factors that may be studied, item (f) includes school policy requirements and item (g) includes school and district practices and policies.

Changes: None.

Comment: Two commenters expressed concerns regarding the documentation of ongoing program effectiveness. One commenter asked if the sustainability of programs or the effectiveness of programs is the area of concentration. Another commenter recommended including sustained changes in student results as part of the research design.

Discussion: The purpose of Focus 4 is to study the sustainability of innovations that have documented positive results for children with disabilities and, in doing so, requires the ongoing documentation of results for children with disabilities as a component of the research plan.

Changes: Focus 4 has been revised to clarify that sustained changes in student results is part of the research design.

Comment: One commenter suggested the phrase ''results for students with disabilities'' as used in Focus 4 be expanded to include factors such as more substantial and ongoing parent involvement in individual education plan (IEP) development that are important aspects of providing an appropriate education for students with disabilities.

Discussion: The Secretary agrees that innovative approaches to improving interactions among professionals and families and facilitating least restrictive environment (LRE) placements are important aspects of providing an appropriate education for children with disabilities. The Secretary believes, however, that the ultimate measure of the effectiveness of these approaches is the extent to which they lead to positive results for children with disabilities. The Secretary believes that the phrase ''positive results for students with disabilities'' is inclusive of a wide range of possible important results for students with disabilities including the attainment of relevant and appropriate academic, social, behavioral, and functional goals and objectives.

Changes: None.

General Comments

Comment: One commenter requested that all research focus areas include the need for research in early intervention and school based therapeutic interventions to meet the educational needs of children with disabilities.

Discussion: The Secretary acknowledges that early intervention and school based therapeutic interventions are often important elements in improving results for children with disabilities. However, these interventions are not pertinent to all of the focus areas. The various focus areas do not preclude an applicant from proposing early intervention and school based therapeutic interventions, where appropriate. The Secretary believes it would be impossible to provide a comprehensive list of potential intervention strategies in any focus area. The Secretary prefers to maintain the broad language of the focus areas, and allow applicants to propose and justify their particular strategy.

Changes: None.

Comment: One commenter recommended that all research projects should be capped at some reasonable indirect rate, and stated that an indirect

cost rate between 8 to 12 percent is more than adequate.

Discussion: The subject of indirect cost rates for research projects is beyond the scope of comments sought in the notice of proposed priorities. Indirect cost rates are addressed in the Education Department General Administrative Regulations (EDGAR), which are currently under review.

Changes: None.

Priority

Under 34 CFR 75.105(c)(3), the Secretary gives an absolute preference to applications that meet the following priority. The Secretary will fund under this competition only applications that meet this absolute priority:

Absolute Priority—Directed Research Projects

Background

The Office of Special Education Programs (OSEP) has, in prior years, announced priorities for the support of research projects under several of the programs authorized by the Individuals with Disabilities Education Act. Separate research priorities (competitions) have been announced under the Early Education Program for Children with Disabilities, Program for Children with Severe Disabilities, Secondary Education and Transitional Services for Youth with Disabilities Program, Program for Children and Youth with Serious Emotional Disturbance, and the Research in Education of Individuals with Disabilities Program. The purpose of this priority is to group all priorities for directed research and apply a single set of requirements among the various competitions. By consolidating multiple priorities and announcements into one priority, OSEP endeavors to avoid unnecessary duplication and provide consistent information for all research competitions. The program authority for each focus is listed following each focus statement.

Priority

This priority provides support for projects that advance and improve the knowledge base and improve the practice of professionals, parents, and others providing early intervention, special education, and related services, including professionals who work with children with disabilities in regular education environments, to provide such children effective instruction and enable them to learn successfully. Under this priority, projects must support innovation, development, exchange, and use of advancements in knowledge and practice designed to contribute to the improvement of early intervention, instruction, and learning of infants, toddlers, children, and youth with disabilities.

A research project must address one of the following focus areas:

Focus 1—Beacons of excellence. Research projects supported under focus 1 must identify and study one or more schools achieving exemplary results for students with disabilities in the context of efforts to achieve exemplary results for all students. Projects must develop and apply procedures and criteria to identify such schools, and to identify factors contributing to exemplary learning results, and examine how those factors and other factors relate to achieving exemplary learning results for students with disabilities. Projects may focus on either secondary or elementary levels, or both. The Secretary intends to award at least one project at the elementary level and at least one project at the secondary level. During the final year of the project, the Secretary will determine whether or not to fund an optional six-month period for extended dissemination activities arranged with OSEP.

Program Authority: Research in Education of Individuals with Disabilities Program, 20 U.S.C. 1441.

Focus 2—Prevention and early intervention services for children with emotional and behavioral problems. Many young children with emotional and behavioral problems experience years of repeated preschool and school failure, permanent damage to their self-esteem, and escalation of their problems, before they receive appropriate services. Research projects supported under this focus must identify, examine, and document information about the specific factors that contribute to effectiveness in collaborative, community-based, prevention and early intervention services to prevent children with emotional and behavioral problems from developing serious emotional disturbance. The target population for these projects includes children in preschool, kindergarten, and the primary grades (1–4), and their families.

The research may focus, for example, on child find, screening, early identification, assessment, pre-referral strategies, child and family intervention and prevention services, and results. Research must include but is not limited to services and programs funded under the Individuals with Disabilities Education Act. Additional programs with collaborative, community-based services appropriate for study may include, where available, Head Start and Early Head Start programs, other early childhood service programs, primary care and mental health programs, child care center programs, and public and private preschools and elementary school programs. Each research project must include an evaluation of the collaboration and coordination of prevention and early intervention services across multiple service providers and agencies working with these children and their families.

Program Authority: Program for Children and Youth with Serious Emotional Disturbance, 20 U.S.C. 1426.

Focus 3—Students approaching graduation and the supplemental security income program. Many children and youth with disabilities receiving special education services also receive Supplemental Security Income (SSI). Administered by the Social Security Administration, the SSI program provides cash assistance, Medicaid eligibility, and work incentives such as the Impairment-Related Work Expense incentive and the Plan for Achieving Self-Support. National data indicate that these work incentives are under-utilized and that most working-age SSI recipients are unemployed. To address this problem, the National Academy of Social Insurance (1996) recommended that information about the SSI work incentives should be incorporated in the transition planning process required by the Individuals with Disabilities Education Act. The SSI work incentives may therefore enhance the employment results of transitioning youth with disabilities.

The purpose of focus 3 is to develop and test innovative strategies for increasing the utilization of the SSI work incentives. Projects must: (a) Examine the barriers to employment for young adults with disabilities who are receiving SSI benefits; (b) develop innovative strategies and materials for promoting the utilization of work incentives through the transition planning process; and (c) apply qualitative and quantitative research methods to determine the relative efficacy of technical assistance strategies, toward improving work incentive utilization developed under (b).

Program Authority: Secondary Education and Transitional Services for Youth with Disabilities Program, 20 U.S.C. 1425.

Focus 4—The sustainability of promising innovations. A growing body of practice-based research and model demonstration work in schools and local districts, including projects

supported by the Office of Special Education Programs (OSEP), has focussed on meeting the needs of, and improving the results for, students with disabilities in schools and districts involved in reform and restructuring initiatives. Some of this work is yielding promising positive results for students with disabilities. However, little is known about the extent to which the innovations developed and implemented in these efforts are sustained in project sites beyond the term of time-limited external support and assistance.

Focus 4 is designed to study the implementation of practices that have been found to be effective in meeting the needs of students with disabilities in reform/restructuring initiatives in local and district schools. The practices must have been included as part of projects designed to implement such practices. The study must address: (1) The extent to which such practices have been sustained beyond the term of the projects; and (2) factors that influence the determined level of sustainability. Factors to be studied may include, but are not limited to: (a) The nature of the innovations and the extent to which the innovations have undergone adaptation or alteration over time; (b) the type and extent of support strategies employed during initial implementation stages and over time; (c) planned and unplanned changes in school organizational and/or structural contexts; (d) the level of penetration of the innovation; (e) the actual and perceived costs and benefits for participants; (f) constancy of site leadership, school staff, and school policy requirements; (g) the extent of consonance or dissonance between critical features of the innovations and existing (and emerging) school and district practices and policies; and (h) resource access and allocation. Within focus 4, projects must provide comprehensive descriptions of the targeted effective practices to be studied, and convincing documentation of resulting positive results for students with disabilities. Projects must focus research on issues of sustainability and must incorporate in their research design the continuing documentation of results for students with disabilities. Within focus 4, the Secretary particularly encourages an in-depth case study research design where the sites to be studied are the cases.

Program Authority: Research in Education of Individuals with Disabilities Program, 20 U.S.C. 1441.

Focus 5—Educating children with severe disabilities in inclusive settings.

Focus 5 supports research projects to (a) identify new or improved strategies to address the educational and related service needs of children and youth with severe disabilities in inclusive general education settings and extracurricular activities, and (b) describe how the school inclusion strategies as identified in (a) are aligned with systemic reform and school improvement strategies for all students.

Additional research is needed to identify, describe, and examine: (1) The efficacy and linkages of existing systemic reform and school inclusion strategies, (2) how school systems provide supports and collaborative teaming to meet the needs of students with severe disabilities, and other diverse learners; (3) how standards and authentic assessment practices are implemented for students with severe disabilities and their impact on inclusive and systemic reform efforts, (4) social support strategies that promote positive interactions among students with severe disabilities and other students, and their same-aged peers to foster cohesive school and classroom communities; and (5) the types of peer-mediated strategies that actively involve all students, including students with severe disabilities, in inclusive educational programs.

To be considered for funding under focus 5, a research project must—

(a) Identify specific interventions or strategies to be investigated;

(b) Design the research activities in a manner that is likely to improve services for all students in inclusive classrooms, including students with severe disabilities;

(c) Conduct the research in schools pursuing systemic education reform and school inclusion; and

(d) Use methodological procedures designed to produce findings useful to program implementers and policy makers regarding the impact and interaction effects of systemic reform and school inclusion strategies in State and local contexts.

All projects funded under focus 5 must identify and describe how these inclusion efforts benefit students with severe disabilities including the reciprocal benefits of inclusive schooling for all students.

Program Authority: Program for Children with Severe Disabilities, 20 U.S.C. 1424.

Requirements for All Directed Research Projects

In addition to addressing focus (1), (2), (3), (4), or (5) above, projects must:

(a) Apply rigorous research methods (qualitative and/or quantitative) to identify approaches contributing to improved results for children with disabilities;

(b) Provide a conceptual framework, based on extant research and theory to serve as a basis for the issues to be studied, the research design, and the target population;

(c) Prepare dissemination materials for both researcher and practitioner audiences and develop linkages with U.S. Department of Education dissemination and technical assistance providers, in particular those supported under the Individuals with Disabilities Education Act, to communicate research findings and distribute products; and

(d) Budget for two trips annually to Washington, D.C., for: (1) a two-day Research to Practice Division Project Directors' meeting; and (2) another meeting to collaborate with the Research to Practice Division project officer and the other projects funded under this priority, and to share information and discuss findings and methods of dissemination.

Selection Criteria for Evaluating Applications Under the Absolute Priority—Directed Research Projects

The Secretary will use the following criteria to evaluate applications under the absolute priority—Directed Research Projects. The maximum score for all the criteria is 100 points.

(a) *Importance* (10 points). The Secretary reviews each application to determine the importance of the project in leading to the understanding of, remediation of, or compensation for, the problem or issue that relates to the early intervention with or special education of infants, toddlers, children, and youth with disabilities.

(b) *Technical soundness* (40 points). The Secretary reviews each application to determine the technical soundness of the research, including—

(1) The design;

(2) The proposed sample;

(3) Instrumentation; and

(4) Data analysis procedures.

(c) *Plan of operation* (10 points).

(1) The Secretary reviews each application to determine the quality of the plan of operation for the project.

(2) The Secretary looks for—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program; and

(iv) The way the applicant plans to use its resources and personnel to achieve each objective.

(3) The quality of the evaluation plan for the project including the extent to

which the methods of evaluation are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(Cross Reference: 34 CFR 75.590, Evaluation by the grantee.)

(d) *Quality of key personnel* (10 points).

(1) The Secretary reviews each application to determine the qualifications of the key personnel that the applicant plans to use on the project.

(2) The Secretary considers—

(i) The qualifications of the project director (if one is to be used); and,

(ii) The qualifications of each of the other key personnel to be used in the project; and

(iii) The time that each person referred to in paragraphs (d)(2)(i) and (ii) of this section will commit to the project.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other evidence that the applicant provides.

(e) *Underrepresented populations* (10 points). The Secretary reviews each application for information that shows the extent to which the applicant, as part of its nondiscriminatory employment practices, employs members of underrepresented populations as project staff. The Secretary looks for—

(1) Employees who are members of underrepresented populations, including members of racial or ethnic minority groups and individuals with disabilities; and

(2) Procedures to provide training and other necessary support to retain and advance qualified personnel from underrepresented populations.

(f) *Adequacy of resources* (5 points).

(1) The Secretary reviews each application to determine if the applicant plans to devote adequate resources to the project.

(2) The Secretary considers the extent to which—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(g) *Impact* (5 points). The Secretary reviews each application to determine the probable impact of the proposed research and development products and the extent to which those products can be expected to have a direct influence on infants, toddlers, children, and youth with disabilities or personnel responsible for their education or early intervention services.

(h) *Organizational capability* (5 points). The Secretary considers—

(1) The applicant's experience in special education or early intervention services; and

(2) The ability of the applicant to disseminate the findings of the project to appropriate groups to ensure that they can be used effectively.

(i) *Budget and cost effectiveness.* (5 points)

(1) The Secretary reviews each application to determine if the project has an adequate budget and is cost effective.

(2) The Secretary considers the extent to which—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

Intergovernmental Review

Except for Focus areas 1 and 4 in this priority, all other focus areas included in this notice are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

(Catalog of Federal Domestic Assistance Numbers: Research in Education of Individuals with Disabilities Program, 84.023; Program for Children with Severe Disabilities, 84.086; Program for Children and Youth with Serious Emotional Disturbance, 84.238; and Secondary Education and Transitional Services for Youth with Disabilities Program, 84.158)

Dated: June 24, 1997.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 97–17059 Filed 6–27–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Notice Inviting Applications for New Awards for Fiscal Year 1997

SUMMARY: This notice provides a closing date and other information regarding the transmittal of applications for a fiscal year 1997 competition under programs authorized by the Individuals with Disabilities Education Act. This notice supports the National Education Goals by helping to improve results for children with disabilities.

Note: The Department of Education is not bound by any estimates in this notice.

Priorities

Under 34 CFR 75.105(c)(3) the Secretary gives an absolute preference to applications that meet the following priority. The Secretary will fund under this competition only those applications that meet this absolute priority:

Absolute Priority—Directed Research Projects (84.023D). The priority Directed Research Projects in the notice of final priority under programs authorized by the Individuals with Disabilities Education Act, published elsewhere in this issue of the **Federal Register**, applies to this competition.

Applications Available: July 3, 1997.

Deadline for Transmittal of Applications: August 15, 1997.

Under this Directed Research Projects priority, a research project must address one of five focus areas. A separate application must be submitted for each focus area. Following is the pertinent information for each focus area:

Focus 1—Beacons of Excellence

Eligible applicants: State and local educational agencies, institutions of higher education, and other public agencies and nonprofit private organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 80, 81, 82, 85, and 86; and (b) The regulations in 34 CFR Part 324.

Note: The regulations in 34 CFR Part 86 apply to institutions of higher education only.

Estimated Number of Awards: 4.

Project Period: The majority of projects will be funded for up to 36 months. Only in exceptional circumstances—such as research questions that require repeated measurement, longitudinal design—will projects be funded for more than 36 months or up to a maximum of 54 months.

Focus 2—Prevention and Early Intervention Services for Children With Emotional and Behavioral Problems

Eligible Applicants: Institutions of higher education, State educational agencies, local educational agencies, and other appropriate public and nonprofit private institutions or agencies.

Applicable Regulations: (a) The Education Department General

Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations in 34 CFR Part 328.

Note: The regulations in 34 CFR Part 86 apply to institutions of higher education only.

Deadline for Intergovernmental Review: September 15, 1997.
Estimated Number of Awards: 1.
Project Period: Up to 36 months.

Focus 3—Students Approaching Graduation and the Supplemental Security Income Program

Eligible Applicants: Institutions of higher education, State education agencies, local education agencies, and other public and nonprofit private institutions or agencies (including the State job training coordinating councils and service delivery area administrative entities established under the Job Training Partnership Act).
Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations in 34 CFR Part 326.

Note: The regulations in 34 CFR Part 86 apply to institutions of higher education only.

Deadline for Intergovernmental Review: September 15, 1997.
Estimated Number of Awards: 4.
Project Period: Up to 48 months.

Focus 4—The sustainability of Promising Innovations

Eligible applicants: State and local educational agencies, institutions of higher education, and other public agencies and nonprofit private organizations.
Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 80, 81, 82, 85, and 86; and (b) The regulations in 34 CFR Part 324.

Note: The regulations in 34 CFR Part 86 apply to institutions of higher education only.

Estimated Number of Awards: 4.
Project period: Up to 48.

Focus 5—Educating Children With Severe Disabilities in Inclusive Settings

Eligible applicants: Any public or private, profit or nonprofit, organization or institution.
Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) the regulations in 34 CFR Part 315.

Note: The regulations in 34 CFR Part 86 apply to institutions of higher education only.

Deadline for Intergovernmental Review: September 15, 1997.
Estimated Number of Awards: 6.
Project Period: Up to 36 months.

Maximum Award for All Focus Areas

If an applicant wishes to address more than one Focus area, a separate application must be submitted for each focus area. The Secretary rejects and does not consider an application that proposes a budget exceeding $250,000 for any single budget period of 12 months. However, because of budgetary considerations contingent upon congressional action, the Secretary may change the maximum amount through a notice published in the **Federal Register**. This maximum award applies to any application for any Focus area.

Page Limits for All Focus Areas

Part III of the application, the Application Narrative, requires applicants to address the selection criteria that will be used by reviewers in evaluating individual proposals. The applicant must limit the Part III—Application Narrative to no more than 60 double-spaced 8½×11'' pages (on one side only) with one inch margins (top, bottom, and sides). This page limitation applies to all applications to any focus area and to all material presented in the application narrative—including, for example, any charts, tables, figures, and graphs. The application narrative page limit does not apply to: Part I—the cover sheet; Part II—the budget section (including the narrative budget justification); and Part IV—the assurances and certifications. Also, the one-page abstract, resumes, bibliography, or letters of support, while considered part of the application, are not subject to the page limitation. Applicants should note that reviewers are not required to review any information provided in addition to the application information listed above. All sections of text in the application narrative must be double-spaced (no more than 3 lines per vertical inch). If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 14 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch. Double-spacing and font requirements do not apply within charts, tables, figures, and graphs, but the information presented in those formats should be easily readable. The Secretary rejects and does not consider an application that does not adhere to these requirements.

Program authority: 20 U.S.C. 1441, 1424, 1425, and 1426.

For Applications and General Information Contact

Requests for applications and general information should be addressed to the Grants and Contracts Services Team, 600 Independence Avenue, S.W., room 3317, Switzer Building, Washington, D.C. 20202–2641. The preferred method for requesting information is to FAX your request to: (202) 205–8717. Telephone: (202) 260–9182.

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953. Individuals with disabilities may obtain a copy of this notice and an application package in an alternate format (e.g. Braille, large print, audiotape, or computer diskette) by contacting the Department as listed above.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Server (at Gopher://gcs.ed.gov); or on the World Wide Web (at http://gcs.ed.gov). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

(Catalog of Federal Domestic Assistance Numbers: Research in Education of Individuals with Disabilities Program, 84.023; Program for Children with Severe Disabilities, 84.086; Secondary Education and Transitional Services for Youth with Disabilities Program, 84.158, and Program for Children and Youth with Serious Emotional Disturbance, 84.238)

Dated: June 24, 1997.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 97–17060 Filed 6–27–97; 8:45 am]

BILLING CODE 4000–01–M

Federal Register

Monday
June 30, 1997

Part V

Department of Transportation

Federal Railroad Administration

Notice of Safety Directive; Notice

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Safety Directive

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of safety directive.

SUMMARY: FRA is issuing Safety Directive 97–1 addressing safety practices to evaluate the integrity of all railroads' programs of operational tests and inspections and to ensure that safety-critical information is accurately conveyed and acknowledged for operations in Direct Train Control [1] (DTC) territory.

FOR FURTHER INFORMATION CONTACT: Douglas H. Taylor, Staff Director, Operating Practices Division, Office of Safety Assurance and Compliance, FRA, 400 Seventh Street, S.W., RRS–11, Mail Stop 25, Washington, D.C. 20590 (telephone 202–632–3346) or David H. Kasminoff, Trial Attorney, Office of Chief Counsel, 400 Seventh Street, S.W., RCC–12, Mail Stop 10, Washington, D.C. 20590 (telephone 202–632–3191).

SUPPLEMENTARY INFORMATION: FRA has determined that the safety of railroad employees and the general public compels the issuance of this safety directive. A review of FRA's accident/incident data demonstrates that the safety of rail transportation has continued to improve; however, two recent train accidents, one on CSX Transportation (CSX) in St. Albans, West Virginia, on June 7, 1997, and the other on the Union Pacific Railroad (UP) in Devine, Texas, on June 22, 1997, have claimed a total of five lives, and have caused FRA serious concern about the safety of certain aspects of rail transportation. Specifically, FRA is concerned about possible gaps in existing train control systems that, due to inadequate operational testing or deficient operational procedures, can lead to train collisions. In response, FRA has initiated an in-depth and comprehensive analysis of the operational tests and inspections programs and dispatching procedures employed by CSX and UP. FRA inspection teams are on those properties to conduct safety assurance reviews on all aspects of these issues.

[1] This is an umbrella term and refers to methods of operation known variously as Direct Traffic Control, Track Warrant Control (TWC), Track Permit Control Systems (TPCS), Form D control system (DCS), and similar methods of authorizing train movements.

Operational Tests and Inspections

Subsequent to the CSX train accident, an initial analysis of CSX's operational tests and inspections program raised questions about the adequacy of the quality controls necessary to accomplish the objectives of 49 CFR 217.9. FRA's preliminary findings from an inspection of CSX's program of operational tests and inspections indicated that while the program itself was detailed and comprehensive, CSX's implementation of the program fell short of the intended objectives. While the program's provisions with respect to the number of tests supervisors are required to conduct each month are typically met, the quality of those tests performed is suspect. For example, FRA found that supervisors generally conduct testing at a single location, rather than at a variety of locations across the territory. Additionally, most of the required tests are typically conducted during one- or two-day periods rather than throughout the month. Consequently, FRA's initial findings indicate that the operational tests and inspections program appears to be a numbers-generating exercise that precludes any meaningful analysis of the results by CSX.

Operational tests and inspections programs are intended to achieve the following objectives:

- Improve employee compliance with railroad operating rules;
- Measure rules proficiency, in order to isolate areas of non-compliance for corrective action;
- Reduce human factor accidents;
- Reduce personal injuries and incidents resulting from inattention to the requirements of the railroad's operating rules;
- Provide the railroad with information on rules requiring supplemental employee training;
- Provide the railroad supervisor with an immediate evaluation of an employee's application, comprehension, and compliance with the rules; and
- Improve and maintain employee alertness.

However, without a sincere commitment from management to properly implement the railroad's program, the objectives as described above cannot be fully achieved. Therefore, in order to determine if the areas of concern identified on CSX are present on other railroads, and to evaluate compliance of individual railroads with their operational tests and inspections programs, FRA concludes that each railroad subject to 49 CFR part 217 should:

Within three calendar days of the date of publication of this safety directive in the **Federal Register**, review its program of operational tests and inspections required by 49 CFR 217.9 to ensure that the recorded individual tests and inspections are conducted in accordance with all of the program's requirements. Specifically, the review should focus on the types of tests conducted, the means and procedures utilized to conduct the tests, and test frequency with the object of determining whether the program is effectively implemented. Within the same time frame of three calender days, each railroad shall advise FRA in writing as to what steps it has taken and what additional steps it intends to take to ensure that the program is effectively implemented.

Train Dispatcher Procedures

Preliminary investigatory findings following the head-on collision of two UP freight trains at Devine, Texas, on June 22, 1997, indicate that existing DTC procedures of carriers pertaining to the issuance of movement authorities need to be modified in order to reduce the risk of similar collisions.

The UP accident occurred in single track, non-signaled TWC territory; timetable direction is northward and southward. A planned meet of a northward train (UP 5981 North) and a southward train (UP 9186 South), was to have occurred at a passing siding identified in UP's operating timetable as Gessner. UP 5981 North was authorized by track warrant to operate to, and take the siding at, Gessner. UP 5981 North was also in possession of a second track warrant that authorized movement north of Gessner after the arrival of UP 9186 South. UP 9186 South was authorized by track warrant to operate to, and hold the main track at, Gessner. UP 9186 South was also in possession of a second track warrant that authorized movement south of Gessner, but the track warrant in possession of the train crew omitted a requirement to wait at Gessner until after the arrival of UP 5981 North. Consequently, UP 9186 South passed Gessner and approximately 13 miles south of Gessner, struck UP 5981 North head-on. The track warrants entered by the dispatcher into the computer dispatching system established that UP 9186 South was required to wait at Gessner until after the arrival of UP 5981 North. However, the transcript of the dispatcher's radio communications established that the dispatcher authorized UP 9186 South to operate south of Gessner without instructions to wait at Gessner for the arrival of UP 5981 North.

Therefore, in order to avoid a recurrence of such an event, FRA believes that, unless a railroad utilizes a computer-aided dispatching system that employs hard coded safety-edit procedures (such as those already in place at The Burlington Northern and Santa Fe Railway Company's National Operations Center in Fort Worth, Texas), the following procedures are necessary to ensure the safe operation of trains in non-signaled DTC territory:

1. After the contents of a movement authority have been transmitted by the train dispatcher, and before the movement authority is repeated by the receiving employee(s), the train dispatcher should observe the computer monitor and state the total number of boxes (lines) marked on the movement authority and identify the individual box (line) numbers (e.g., ''There are four boxes (lines) marked. They are box (line) numbers 2, 7, 8, and 15.'') For railroads that do not utilize computer-aided dispatching systems, the train dispatcher should reexamine the office copy of the movement authority document, state the total number of boxes (lines) marked on the movement authority, and identify the individual box (line) numbers. In those instances in which a train meet is included in the movement authority, the train dispatcher should specifically so state, e.g., ''this track warrant includes a requirement to meet another train.'' The train dispatcher should then instruct the receiving employee(s) to repeat the movement authority.

2. After the receiving employee(s) repeats the movement authority back to the train dispatcher, the employee(s) should also state the total number of boxes (lines) marked on the movement authority and identify the individual box (line) numbers (e.g., ''There are four boxes (lines) marked. They are box (line) numbers 2, 7, 8, and 15.'')

3. Before the train dispatcher issues the time effective (''OK'' time), the train dispatcher should confirm the total number of boxes (lines) marked on the movement authority and identify the individual box (line) numbers in the appropriate manner described above.

4. Within five calendar days of the date of publication of this safety directive in the **Federal Register**, a railroad operating supervisor should personally contact each train dispatcher responsible for controlling train movements in non-signaled territory and inform the train dispatchers in face-to-face meetings of the circumstances surrounding the UP accident described above and the requirements of this safety directive. The occurrence of these meetings should be documented in writing and be made available for review by FRA upon request during normal business hours. FRA expects that each railroad should conduct regular observations of train dispatchers to ensure compliance with the train dispatcher procedures specified in this directive.

5. Within three calendar days of the date of publication of this safety directive in the **Federal Register**, each railroad should:

(a) Review its operating rules and practices pertaining to operations in non-signaled territory to determine what further enhancements in its rules and practices are warranted, including the possibility of eliminating the use of ''after arrival of'' orders, to improve safety; and

(b) Submit in writing to FRA the following:

- A description of the current train dispatching procedures used in non-signaled territory and the safeguards built into the system to prevent human error from causing accidents;
- A description of the steps that the railroad is taking to implement the train dispatcher procedure provisions of this safety directive; and
- What additional steps the railroad intends to take to enhance the level of safety.

FRA recognizes that all collisions are avoidable, and the most effective way to accomplish this objective is with Positive Train Control (PTC). PTC holds the promise of achieving a level of railroad safety not available through conventional practices. PTC systems improve safety by preventing collisions, overspeed derailments and other types of accidents. These systems can precisely transmit and receive critical safety information for the movement of trains, and eliminate problems associated with voice transmissions. However, until these PTC systems come on line, FRA believes that all railroads should implement intense interim measures to maximize the level of safety available utilizing existing technology. Based on the information obtained from FRA's two ongoing safety initiatives on CSX and UP, subsequent audits on all other railroads, and information gathered in response to this safety directive, FRA may modify Safety Directive 97–1, issue additional safety directives, or take other appropriate necessary action to ensure the highest level of safety on the Nation's railroads.

Issued in Washington, D.C. on June 25, 1997.

James T. Schultz,

Associate Administrator for Safety.

[FR Doc. 97–17132 Filed 6–27–97; 8:45 am]

BILLING CODE 4910–06–P

Federal Register

Monday
June 30, 1997

Part VI

Department of Commerce

Bureau of Export Administration

15 CFR Part 744

Revisions to the Export Administration Regulations: Additions to the Entity List; Final Rules

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 744

[Docket No. 970428099–7150–02]

RIN 0694–AB60

Revisions to the Export Administration Regulations: Additions to the Entity List

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Export Administration Regulations (EAR) provide that the Bureau of Export Administration (BXA) may inform exporters, individually or through amendment to the EAR, that a license is required for exports or reexports to certain entities. The EAR contains a list of such entities. This rule makes several additions to the entity list.

EFFECTIVE DATE: This rule is effective June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Eileen Albanese, Office of Exporter Services, Bureau of Export Administration, Telephone: (202) 482–0436.

SUPPLEMENTARY INFORMATION:

Background

On February 3, 1997, the Bureau of Export Administration published in the **Federal Register** a rule that established the ''Entity List'' found in Supplement No. 4 to Part 744 of the Export Administration Regulations. The Entity List was established to inform exporters about entities that are ineligible to receive specified items without a license.

General Prohibition Five (§ 736.2(b)(5) of the EAR) prohibits exports and reexports to certain end-users or end-uses (described in part 744 of the EAR) without a license. In the form of Supplement No. 4 to part 744, BXA maintains an ''Entity List'' to provide notice informing the public of certain entities subject to such licensing requirements.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect, to the extent permitted by law, the provisions of the EAA and the EAR in Executive Order 12924 of August 19, 1994, continued by Presidential notices of August 15, 1995 and August 14, 1996.

Rulemaking Requirements

1. This final rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. This rule involves a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694–0088.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (Sec. 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under 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 not applicable.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sharron Cook, Regulatory Policy Division, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Part 744

Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended, as follows:

1. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026 (61 FR 58767, November 19, 1996); Notice of August 15, 1995, 3 CFR, 1995 Comp., p. 501; and Notice of August 14, 1996 (61 FR 42527, August 15, 1996).

PART 744—[AMENDED]

2. Supplement No. 4 to part 744 is amended by adding, in alphabetical order, the following entities:

Supplement No. 4 to Part 744—Entity List

All-Russian Scientific Research Institute of Technical Physics, (aka VNIITF, Chelyabinsk-70, All-Russian Research Institute of Technical Physics, ARITP, Russian Federal Nuclear Center), the All-Union Scientific Research Institute of Experimental Physics, (aka VNIIEF, Arzamas-16, Russian Federal Nuclear Center, All Russian Research Institute of Experimental Physics, ARIEP, Khariton Institute) and any other entities, institutes, or centers associated with the Ministry for Atomic Power of Russia located in either Snezhinsk or Kremlev, Russia, for all items subject to the EAR.

Bhaba Atomic Research Center (BARC), Trombay, India, for all items subject to the EAR.

* * * * *

Chinese Academy of Engineering Physics (aka Ninth Academy, including the Southwest Institutes of: Applied Electronics, Chemical Materials, Electronic Engineering, Explosives and Chemical Engineering, Environmental Testing, Fluid Physics, General Designing and Assembly, Machining Technology, Materials, Nuclear Physics and Chemistry, Structural Mechanics; Research and Applications of Special Materials Factory; Southwest Computing Center (all of preceding located in or near Mianyang, Sichuan Province); Institute of Applied Physics and Computational Mathematics, Beijing; and High Power Laser Laboratory, Shanghai, People's Republic of China), for all items subject to the EAR.

Indira Gandhi Center for Atomic Research, Khalpakham, India, for all items subject to the EAR.

Khan Research Laboratory, Kahuta, Pakistan, for all items subject to the EAR.

Nuclear Research Center at Negev, Dimona, Israel, for all items subject to the EAR.

Pakistan Institute for Nuclear Science and Technology, Rawalpindi, Pakistan, (including New Labs Rawalpindi) for all items subject to the EAR.

Dated: June 26, 1997.

Iain S. Baird,

Acting Assistant Secretary for Export Administration.

[FR Doc. 97–17146 Filed 6–27–97; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 744

[Docket No. 970428099–7151–03]

RIN 0694–AB60

Revisions to the Export Administration Regulations: Additions to Entity List: National Development Centre, Pakistan; and Indian Rare Earths, Ltd., India

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Export Administration Regulations (EAR) provide that the Bureau of Export Administration (BXA) may inform exporters, individually or through amendment to the EAR, that a license is required for exports or reexports to certain entities. The EAR contains a list of such entities. This rule adds to the entity list: National Development Centre, Pakistan; and Indian Rare Earths, Ltd., India, and requires a license for exports or reexports of all items subject to the EAR for both entities.

EFFECTIVE DATE: This rule is effective June 30, 1997.

FOR FURTHER INFORMATION CONTACT: Eileen M. Albanese, Office of Exporter Services, Bureau of Export Administration, Telephone: (202) 482–0436.

SUPPLEMENTARY INFORMATION:

Background

General Prohibition Five (§ 736.2(b)(5) of the EAR) prohibits exports and reexports to certain end-users or end-uses (described in part 744 of the EAR) without a license. In the form of Supplement No. 4 to part 744, BXA maintains an ''Entity List'' to provide notice informing the public of certain entities subject to such licensing requirements.

Although the Export Administration Act (EAA) expired on August 20, 1994, the President invoked the International Emergency Economic Powers Act and continued in effect, to the extent permitted by law, the provisions of the EAA and the EAR in Executive Order 12924 of August 19, 1994, continued by Presidential notices of August 15, 1995 and August 14, 1996.

Rulemaking Requirements

1. This final rule has been determined to be not significant for the purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. This rule involves a collection of information requirements subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the Office of Management and Budget under control number 0694–0088.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. The provisions of the Administrative Procedure Act requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military or foreign affairs function of the United States (see 5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given 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.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Sharron Cook, Office of Exporter Services, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Part 744

Exports, Foreign trade, Reporting and recordkeeping requirements.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended, as follows:

1. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; Notice of August 15, 1995 (60 FR 42767, August 17, 1995); and Notice of August 14, 1996 (61 FR 42527).

PART 744—[AMENDED]

2. Supplement No. 4 to part 744 is amended by adding, in alphabetical order, the following two entities:

Supplement No. 4 to Part 744—Entity List

* * * * *

Indian Rare Earths, Ltd., India, for all items subject to the EAR.

* * * * *

National Development Centre, Pakistan, for all items subject to the EAR.

Dated: June 26, 1997.

Iain S. Baird,

Acting Assistant Secretary for Export Administration.

[FR Doc. 97–17148 Filed 6–27–97; 8:45 am]

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT JUNE 30, 1997

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Export licensing:
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National Oceanic and Atmospheric Administration
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Alaska; fisheries of Exclusive Economic Zone—
Fishing trip definition; published 6-30-97

ENERGY DEPARTMENT
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Fluorescent and incandescent lamp test procedures; published 5-29-97

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1997. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1996. The CFR volume issued July 1, 1991, should be retained.

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