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Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 63, No. 249
Tuesday, December 29, 1998

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 707

Truth in Savings

AGENCY: National Credit Union Administration (NCUA).

ACTION: Interim final rule with request for comments.

SUMMARY: NCUA is amending part 707 of its regulations to implement certain statutory changes in the Truth in Savings Act (TISA). These amendments: modify the rules governing indoor lobby signs; eliminate subsequent disclosure requirements for automatically renewable term share accounts with terms of one month or less; repeal TISA's civil liability provisions as of September 30, 2001; and permit disclosure of an annual percentage yield (APY) equal to the contract dividend rate for term share accounts with maturities greater than one year that do not compound but require dividend distributions at least annually.

DATES: This rule is effective December 29, 1998. Comments must be received on or before March 29, 1999.

ADDRESSES: Direct comments to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. You may fax comments to (703) 518–6319. *Please send comments by one method only.*

FOR FURTHER INFORMATION CONTACT: Frank S. Kressman, Staff Attorney, Division of Operations, Office of General Counsel, at the above address or telephone: (703) 518–6540.

SUPPLEMENTARY INFORMATION:

Background

Part 707 of NCUA's regulations implements TISA. 12 CFR part 707. The purpose of part 707 and TISA is to assist members in making meaningful comparisons among share accounts offered by credit unions. Part 707 requires disclosure of fees, dividend rates, APY, and other terms concerning share accounts to members at account opening or whenever a member requests this information. Fees and other information also must be provided on any periodic statement credit unions send to their members. TISA requires NCUA to promulgate regulations substantially similar to those promulgated by the Board of Governors of the Federal Reserve System (Federal Reserve). 12 U.S.C. 4311(b). In doing so, NCUA is to take into account the unique nature of credit unions and the limitations under which they may pay dividends on member accounts.

The Federal Reserve has issued final rules to implement certain statutory changes in TISA. One of these rules: expands an exemption from certain advertising provisions for signs on the interior of a depository institution; eliminates the requirement that depository institutions provide disclosures in advance of maturity for automatically renewable (rollover) accounts with a term of one month or less; and repeals TISA's civil liability provisions, effective September 30, 2001. 63 FR 52105 (September 29, 1998). The Federal Reserve also has promulgated a final rule that permits depository institutions to disclose an APY equal to the contract interest rate for time accounts with maturities greater than one year that do not compound but require interest distributions at least annually. 63 FR 40635 (July 30, 1998). NCUA is issuing final rules that are substantially similar to the above rules issued by the Federal Reserve.

Interim Final Rule

The NCUA Board is issuing these rules as interim final rules because there is a strong public interest in having in place consumer oriented rules that are consistent with those recently promulgated by the Federal Reserve. Additionally, as discussed above, NCUA is required to issue rules substantively similar to those of the Federal Reserve shortly after the Federal Reserve issues its final rules. Accordingly, for good cause, the Board finds that, pursuant to 5 U.S.C. 553(b)(3)(B), notice and public procedures are impracticable, unnecessary, and contrary to the public interest; and, pursuant to 5 U.S.C. 553(d)(3), the rules shall be effective immediately and without 30 days advance notice of publication. Although the rules are being issued as interim final rules and are effective immediately, the NCUA Board encourages interested parties to submit comments.

Section by Section Analysis

Section 707.4 Account Disclosures

A brief statement has been added to the account disclosure requirements of § 707.4(b)(6)(iii) for credit unions stating an APY equal to the contract dividend rate for noncompounding term share accounts that have a maturity greater than one year and that require dividend payouts at least annually. The statement alerts members to the fact that dividends cannot remain in the account. This is intended to assist members in comparison shopping between accounts with annual compounding and accounts that do not compound but require dividend payouts during the account term.

Section 707.5 Subsequent Disclosures

Section 266(a)(3) of TISA requires depository institutions to provide certain disclosures for rollover accounts at least 30 days before maturity. The Federal Reserve has determined that the purposes of TISA would not be served by requiring advance disclosures for rollover accounts with maturities of one month or less, and has interpreted one month to include 30 or 31 days. NCUA takes the same approach in this context, and does not require disclosures to be provided in advance of maturity for these accounts. Credit unions will continue to provide disclosures when these accounts are opened. Accordingly, § 707.5(c) and the corresponding provision in Appendix C-Official Staff Interpretations, which required disclosure, are deleted.

Section 707.8 Advertising

This section requires credit unions that advertise APYs for accounts to disclose other key account features. It requires a brief narrative that parallels the account disclosure statement required by § 707.4(b)(6)(iii). If a credit union states an APY equal to the contract dividend rate in advertising a noncompounding multi-year account that requires dividend payments, the

fact that dividend payouts are mandatory and that dividends cannot remain in the account must be stated. This disclosure is intended to assist members in comparison shopping between multi-year accounts that compound annually and multi-year accounts that do not compound but require dividend payouts at least annually.

Section 263(a) of TISA provides that a reference to a specific dividend rate, yield, or rate of earnings in an advertisement triggers a duty to state certain additional information, including the APY. In 1994, Congress amended section 263(c) of the advertising rules to provide that, if a rate is displayed on a sign, including a rate board, designed to be viewed only from the interior of the premises, then the disclosure requirements of section 263 do not apply. A subsequent statutory amendment to section 263(c) expands the exemption for signs on the interior of the premises. Specifically, all signs inside the premises are exempt from certain advertising disclosures, including signs that are intended to be viewed from outside the premises. Accordingly, the reference in § 707.8(e) to signs that face outside the premises and the corresponding provision in the Appendix C—Official Staff Interpretations are amended. Any sign posted on the outside of the premises remains covered by the advertising provisions unless the sign qualifies for some other exemption, such as the exemption for electronic media.

The Federal Reserve exempts advertisements made through broadcast or electronic media from several of the mandatory advertising disclosures. The Federal Reserve has determined that computer or other advertisements, such as those posted on the Internet, are not exempt under the broadcast or electronic media provision. The rationale for broadcast and electronic media exemptions is that these media have time or space constraints that make it extremely burdensome to provide the required disclosures. Advertisements posted on the Internet generally do not have the same time and space constraints. Such advertisements, therefore, remain subject to the general advertising rules and must comply with the requirements of §§ 707.8(a), (b), (c), and (d).

Section 707.9 Enforcement and Record Retention

Section 271 of TISA, which provides for civil liability for violations of TISA, has been repealed effective September 30, 2001. This section reflects the effective date of the repeal.

Appendix A to Part 707—Annual Percentage Yield Calculation

Paragraph E is added to Appendix A, Part I to clarify how APYs may be determined for noncompounding term share accounts that have a maturity greater than one year and that pay dividends at least annually. Two examples are added, including an example calculating the APY for a stepped-rate account.

Appendix B to Part 707—Model Clauses and Sample Forms

A new model clause is added to describe the effect of dividend payments on earnings.

Appendix C to Part 707—Official Staff Interpretations

Appendix C has been amended in accordance with the amendments made to §§ 707.5 and 707.8 for the reasons discussed above.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact any proposed regulation may have on a substantial number of small entities (primarily those under $1 million in assets). The NCUA has determined and certifies that this interim rule will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the NCUA has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

This interim rule has no net effect on the reporting requirements in part 707.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. It states that: ''Federal action limiting the policy-making discretion of the states should be taken only where constitutional authority for the action is clear and certain, and the national activity is necessitated by the presence of a problem of national scope.'' This interim rule will not have a direct effect 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. NCUA has determined that this interim rule does not constitute a significant regulatory action for purposes of the executive order.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedures Act. 5 U.S.C. 551. The Office of Management and Budget has reviewed this rule and has determined that for purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 this is not a major rule.

List of Subjects in 12 CFR Part 707

Advertising, Consumer protection, Credit unions, Reporting and recordkeeping requirements, Truth in savings.

By the National Credit Union Administration Board on December 17, 1998.

Becky Baker,

Secretary of the Board.

For the reasons set forth above, 12 CFR part 707 is amended as follows:

PART 707—TRUTH IN SAVINGS

1. The authority citation for part 707 continues to read as follows:

Authority: 12 U.S.C. 4311.

2. Section 707.4 is amended by adding a sentence at the end of paragraph (b)(6)(iii) to read as follows:

§ 707.4 Account disclosures.

* * * * *

(b) * * *

(6) * * *

(iii) * * * For accounts with a stated maturity greater than one year that do not compound dividends on an annual or more frequent basis, that require dividend payouts at least annually, and that disclose an APY determined in accordance with section E of appendix A of this part, a statement that dividends cannot remain on account and that payout of dividends is mandatory.

* * * * *

§ 707.5 [Amended]

3. Section 707.5 is amended by removing paragraph (c) and redesignating paragraph (d) as new paragraph (c).

4. Section 707.8 is amended as follows:

a. Add a new paragraph (c)(6)(iii) to read as set forth below; and

b. Revise paragraph (e)(2)(i) to read as set forth below.

§ 707.8 Advertising.

* * * * *

(c) * * *

(6) * * *

(iii) *Required dividend payouts.* For noncompounding term share accounts with a stated maturity greater than one year that do not compound dividends on an annual or more frequent basis, that require dividend payouts at least annually, and that disclose an APY determined in accordance with section E of appendix A of this part, a statement that dividends cannot remain on account and that payout of dividends is mandatory.

* * * * *

(e) Exemption for certain advertisements. * * *

(2) *Indoors signs.* (i) Signs inside the premises of a credit union (or the premises of a share or deposit broker) are not subject to paragraphs (b), (c), (d) or (e)(1) of this section.

* * * * *

5. Section 707.9 is amended by revising paragraph (b) to read as follows:

§ 707.9 Enforcement and record retention.

* * * * *

(b) *Civil liability.* Section 271 of TISA (12 U.S.C. 4310) contains the provisions relating to civil liability for failure to comply with the requirements of TISA and this part; Section 271 is repealed effective September 30, 2001.

* * * * *

6. Appendix A to part 707 is amended as follows:

a. Revise the third sentence in the introductory text to Part I to read as set forth below;

b. Revise the first sentence of the introductory text to Part I, A. General Rules to read as set forth below; and

c. A new section E is added to Part I and reads as set forth below.

Appendix A to Part 707—Annual Percentage Yield Calculation

* * * * *

Part I. Annual Percentage Yield for Account Disclosures and Advertising Purposes

* * * Special rules apply to accounts with tiered and stepped dividend rates, and to certain term share accounts with a stated maturity greater than one year.

A. General Rules

Except as provided in Part I. E. of this appendix, the annual percentage yield shall be calculated by the formula shown below. * * *

* * * * *

E. Term Share Accounts with a Stated Maturity Greater than One Year that Pay Dividends At Least Annually

1. For term share accounts with a stated maturity greater than one year, that do not compound dividends on an annual or more frequent basis, and that require the member to withdraw dividends at least annually, the annual percentage yield may be disclosed as equal to the dividend rate.

Example

If a credit union offers a $1,000 two-year term share account that does not compound and that pays out dividends semi-annually by check or transfer at a 6.00% dividend rate, the annual percentage yield may be disclosed as 6.00%.

2. For term share accounts covered by this paragraph that are also stepped-rate accounts, the annual percentage yield may be disclosed as equal to the composite dividend rate.

Example

(1) If a credit union offers a $1,000 three-year term share account that does not compound and that pays out dividends annually by check or transfer at a 5.00% dividend rate for the first year, 6.00% dividend rate for the second year, and 7.00% dividend rate for the third year, the credit union may compute the composite dividend rate and APY as follows:

(a) Multiply each dividend rate by the number of days it will be in effect;

(b) Add these figures together; and

(c) Divide by the total number of days in the term.

(2) Applied to the example, the products of the dividend rates and days the rates are in effect are (5.00%×365 days) 1825, (6.00%×365 days) 2190, and (7.00%×365) 2555, respectively. The sum of these products, 6570, is divided by 1095, the total number of days in the term. The composite dividend rate and APY are both 6.00%.

* * * * *

7. Appendix B to part 707 is amended by adding a new paragraph (I)(v) under B–1 Model Clauses For Account Disclosures and reads as follows:

Appendix B to Part 707—Model Clauses and Sample Forms

* * * * *

B–1 Model Clauses for Account Disclosures

* * * * *

(I) * * *

(V) *Required dividend distribution.*

This account requires the distribution of dividends and does not allow dividends to remain in the account.

* * * * *

Appendix C to Part 707 [Amended]

8. Appendix C to part 707 is amended as follows:

a. Remove paragraph (c)1. under Section 707.5 and redesignate paragraph (d)1. under Section 707.5 as new paragraph (c)1.

b. Remove paragraph (e)(2)(i)2. under Section 707.8.

[FR Doc. 98–33944 Filed 12–28–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–288–AD; Amendment 39–10965; AD 98–26–22]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10 Series Airplanes and KC–10A (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–10 series airplanes and KC–10A (military) airplanes, that requires repetitive inspections to detect cracking of the lower cap of the wing rear spar, and repair, if necessary. For certain airplanes, this AD also provides for an optional terminating modification for the repetitive inspections. This amendment is prompted by reports of fatigue cracks found in the lower cap of the wing rear spar. The actions specified by this AD are intended to detect and correct fatigue cracking of the lower cap of the wing rear spar, which could result in reduced structural integrity of the airplane.

DATES: Effective February 2, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 2, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). 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 FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ron Atmur, Aerospace Engineer, Airframe Branch, ANM–120L, FAA Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood,

California 90712–4137; telephone (562) 627–5224; fax (562) 627–5210.

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 McDonnell Douglas Model DC–10 Series Airplanes and KC–10A (military) airplanes was published in the **Federal Register** on March 26, 1998 (63 FR 14654). That action proposed to require repetitive inspections to detect cracking of the lower cap of the wing rear spar, and repair, 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.

Several commenters support the proposed rule.

Requests to Reference Latest Service Bulletins

Several commenters request that the proposed AD be revised to reference Revision 01 of McDonnell Douglas Alert Service Bulletin DC10–57A137, dated May 26, 1998, and McDonnell Douglas Service Bulletin DC10–57–138, dated May 28, 1998.

These commenters state that Revision 01 of McDonnell Douglas Alert Service Bulletin DC10–57A137 contains new repair procedures and that McDonnell Douglas Service Bulletin DC10–57–138 contains an optional preventative modification. Without incorporation of this information, the commenters state that operators would have to seek approval from the FAA for alternative methods of compliance, which would create additional work for operators and the FAA.

The FAA concurs with the commenters' requests to reference the latest service bulletins. Since issuance of the notice of proposed rulemaking (NPRM), the FAA has reviewed and approved the service bulletins mentioned by the commenters.

The inspection procedures described in Revision 01 of McDonnell Douglas Alert Service Bulletin DC10–57A137 are identical to those described in the original version of that alert service bulletin (which was referenced in the proposed AD as the appropriate source of service information for accomplishment of the eddy current surface inspection). However, Revision 01 revises the original cracking conditions and adds new procedures for specific repairs. The FAA finds that accomplishment of these new repair procedures will maintain an adequate level of safety. Therefore, in lieu of accomplishing the required repair in accordance with a method approved by the FAA, operators can elect to accomplish the new subject repair. The FAA has revised paragraph (b) of the final rule accordingly.

McDonnell Douglas Service Bulletin DC10–57–138 describes procedures for a preventative modification that would eliminate the need for certain repetitive inspections described in McDonnell Douglas Alert Service Bulletin DC10–57A137. The preventative modification involves the following:

1. Removing affected taper-lok fasteners;
2. Reaming holes to remove taper;
3. Cold working affected holes;
4. Performing an eddy current inspection using the open hole technique to detect cracks inside the holes, and repair, if necessary; and
5. Installing new fasteners.

The FAA finds that the preventative modification specified in that service bulletin may be provided as an optional terminating action for certain repetitive inspection requirements of the final rule. The FAA is not mandating the preventative modification of the rear spar lower cap for several reasons:

1. Accessing the taper-lok fasteners of the lower cap of the wing rear spar for inspection is easily accomplished.

2. The cracking of the spar emanating from the fastener holes is easily detectable by means of an eddy current surface inspection.

3. The failure of a fastener may adversely affect the structural integrity of the airplane; however, the eddy current surface inspections will preclude the occurrence of multiple failed fasteners, which could result in a catastrophic failure.

Therefore, for certain airplanes, the FAA has added a new paragraph (c) to the final rule to provide for this option, and has revised the cost impact information accordingly.

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 283 Model DC–10 Series Airplanes and KC–10A (military) airplanes of the affected design in the worldwide fleet. The FAA estimates that 201 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $96,480, or $480 per airplane, per inspection cycle.

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

Should an operator elect to accomplish the optional terminating action rather than continue the repetitive inspections, it would take approximately 15 (for Group 1 airplanes) or 6 (for Group 2 airplanes) work hours per airplane to accomplish the modification, at an average labor rate of $60 per work hour. Required parts will cost approximately $3,546 per airplane (for Group 1 airplanes) and $2,145 per airplane (for Group 2 airplanes). Based on these figures, the cost impact of this optional terminating action is estimated to be $4,446 per airplane (for Group 1 airplanes) and $2,505 per airplane (for Group 2 airplanes).

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:

98–26–22 McDonnell Douglas: Amendment 39–10965. Docket 97–NM–288–AD.

Applicability: Model DC–10 series airplanes and KC–10A (military) airplanes, as listed in McDonnell Douglas Alert Service Bulletin DC10–57A137, dated July 31, 1997; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) 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 detect and correct fatigue cracking of the lower cap of the wing rear spar, which could result in reduced structural integrity of the airplane, accomplish the following:

(a) Conduct an eddy current surface inspection to detect cracking of the lower cap of the wing rear spar, in accordance with the Accomplishment Instructions of McDonnell Douglas Alert Service Bulletin DC10–57A137, dated July 31, 1997, or Revision 01, dated May 26, 1998; at the later of the times specified in paragraphs (a)(1) and (a)(2) of this AD. Thereafter, repeat this inspection at intervals not to exceed 1,500 landings, except as provided by paragraph (c) of this AD.

(1) Prior to the accumulation of 7,000 total landings, or within 18 months after the effective date of this AD, whichever occurs later. Or

(2) Within 1,500 landings after the accomplishment of the inspection of Principal Structural Elements 57.10.007 and 57.10.008, in accordance with AD 95–23–09, amendment 39–9429.

(b) If any crack is found during any inspection required by paragraph (a) of this AD, accomplish paragraph (b)(1) or (b)(2) of this AD, as applicable.

(1) Except as provided by paragraph (c) of this AD, for any crack identified in Condition 2 or Condition 3 of McDonnell Douglas Alert Service Bulletin DC10–57A137, Revision 01, dated May 26, 1998: Prior to further flight, repair in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; or accomplish the permanent repair of the spar cap in accordance with Revision 01 of the alert service bulletin, and repeat the eddy current surface inspection required by paragraph (a) of this AD thereafter at the times specified in Revision 01 of the alert service bulletin for that repaired spar cap.

(2) For any crack identified in Condition 4 of McDonnell Douglas Alert Service Bulletin DC10–57A137, Revision 01, dated May 26, 1998: Accomplish either paragraph (b)(2)(i), or paragraphs (b)(2)(ii) and (b)(2)(iii) of this AD.

(i) Prior to further flight, repair in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(ii) Prior to further flight, temporarily repair the spar cap in accordance with Revision 01 of the alert service bulletin. Repeat the eddy current surface inspection required by paragraph (a) of this AD thereafter at the applicable times specified in the alert service bulletin for that repaired spar cap, until accomplishment of paragraph (b)(3)(iii) of this AD.

(iii) At the applicable time specified in the alert service bulletin, permanently repair the crack in accordance with Revision 01 of the alert service bulletin. Accomplishment of the permanent repair constitutes terminating action for the repetitive eddy current surface inspection requirements of paragraph (b)(2)(ii) of this AD. Within 10,000 landings following accomplishment of the permanent repair, repeat the eddy current surface inspection required by paragraph (a) of this AD thereafter at the applicable times specified in Revision 01 of the alert service bulletin for that permanently repaired spar cap.

(c) For airplanes on which no crack (Condition 1) or any crack that is specified in Condition 2 of McDonnell Douglas Alert Service Bulletin DC10–57A137, Revision 01, dated May 26, 1998, is detected: Accomplishment of the preventative modification specified in paragraphs (c)(1), (c)(2), (c)(3), (c)(4), (c)(5), and (c)(6) of this AD, in accordance with Revision 01 of the alert service bulletin, constitutes terminating action for the repetitive inspection requirements of paragraph (a) of this AD.

(1) Remove existing sealant as required.

(2) Remove affected taper-lok fasteners.

(3) Ream holes to remove taper.

(4) Cold work affected holes.

(5) Perform an eddy current inspection using the open hole technique to detect cracks inside the holes. If any crack is detected, prior to further flight, repair in accordance with a method approved by Manager, Los Angeles ACO.

(6) Install new fasteners.

(d) 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, Los Angeles ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(e) 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.

(f) Certain actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin DC10–57A137, dated July 31, 1997, or McDonnell Douglas Alert Service Bulletin DC10–57A137, Revision 01, dated May 26, 1998. 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 Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on February 2, 1999.

Issued in Renton, Washington, on December 17, 1998.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–34095 Filed 12–28–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–309–AD; Amendment 39–10966; AD 98–26–23]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, that requires repetitive detailed visual inspections to detect

corrosion on the rear spar web of the wing center section and adjacent bulkhead fittings at body station 1241; and corrective action, if necessary. This amendment is prompted by reports of corrosion found on the rear spar web and bulkhead fitting. The actions specified by this AD are intended to detect and correct such corrosion, which could cause cracking of the rear spar web, and result in a fuel leak and consequent fire/explosion in the wheel well of the main landing gear.

DATES: Effective February 2, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 2, 1999.

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: Bob Breneman, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2776; fax (425) 227–1181.

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 Boeing Model 747 series airplanes was published in the **Federal Register** on March 27, 1998 (63 FR 14863). That action proposed to require repetitive detailed visual inspections to detect corrosion on the rear spar web of the wing center section and adjacent bulkhead fittings at body station 1241; and corrective action, 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 Proposed Rule

One commenter supports the rule.

Request to Withdraw AD or Combine with Previous AD

Two commenters state that the existing corrosion prevention and control program (CPCP), which is mandated by AD 90–25–05, amendment 39–6790 (55 FR 49268, November 27, 1990), would provide adequate repetitive inspection opportunities. One commenter requests that the proposed AD be revised to create a ''hybrid'' AD that comprises both the initial service bulletin inspections and the follow-on CPCP inspections. The commenter states that if a ''hybrid'' AD or a similar action is not accomplished, this AD would be redundant to the CPCP AD, and therefore unnecessary.

The FAA does not concur in the commenter's request to revise this AD to create such a hybrid. Contrary to the commenter's belief that the mandated CPCP already requires discrete inspections of this area, the FAA has determined that this is not so. AD 90–25–05 requires inspections in accordance with Boeing Document D6–36022, ''Aging Airplane Corrosion Prevention and Control Program, Model 747,'' Revision A, dated July 28, 1989. This mandated revision to the document does not explicitly require discrete inspections of the affected area. It is true that later revisions to the document do contain the subject inspections and that these revisions have been approved as alternative methods of compliance to AD 90–25–05. However, the FAA emphasizes that these approved alternative methods of compliance are optional; it is only the original revision to the Boeing document that is currently mandatory. Therefore, the FAA has determined that the issuance of this final rule is not redundant to the requirements of AD 90–25–05.

Request to Withdraw Proposed AD

One commenter, the manufacturer, opposes the proposed AD and requests that it be withdrawn. The commenter states that it does not believe that an unsafe condition exists. In addition, this commenter states that such an AD would be both redundant and unnecessary. Specifically, the commenter adduces from its review of past service history the following reasons for its comment. Since 1980, the commenter has received a total of 49 reports of corrosion (on 32 airplanes) at the affected area. In no case did the corrosion lead to any fuel leaking at the rear spar. In only one case was a crack found (and this crack was initiated at a fastener hole, not on the web away from the hole). This crack was found by a nondestructive test (NDT) inspection, not by the type of visual inspection required by the proposed AD. Due to the low stresses seen by the rear spar web at this fastener location, the crack growth at the affected fastener hole is so slow that the probability of detecting by visual means a crack that has grown beyond the fastener cap sealant is considered to be ''extremely remote.''

In addition, the commenter notes that a review of the corrosion data indicated that previous reports of corrosion reaching a depth of 0.25 inches were erroneous. In fact, the maximum depth of corrosion found at this location was only 0.20 inches. Furthermore, Boeing points out that the rear spar web thickness at this location is 0.40 inches, which is considerably thicker than the minimum thickness of 0.123 inches, for which the Model 747 has been certified. If one were to subtract from this value the 0.20 inches of maximum corrosion damage experienced to date, there would still be 0.20 inches of web thickness remaining to provide adequate fuel leak protection (and also static strength capability).

The FAA does not agree with the statement that there is no unsafe condition and does not concur that this AD should be withdrawn. While the FAA does not dispute the data presented by the commenter, it does not accept the conclusions that were made. There are, in general, two safety concerns that arise whenever corrosion is found on a piece of structure (including the rear spar web). First, there is a concern that a piece of structure, such as a rear spar web, could become so corroded that the remaining intact parent material would no longer be sufficiently thick to react applied loads. The FAA accepts the commenter's point that so far, none of the corrosion found to date has been sufficiently severe to put the static strength capability of the structure into doubt.

The second general concern (which is also the primary concern that the FAA has in this case) is that corrosion often leads to crack initiation in the parent material, and that this crack would eventually propagate through the entire thickness of the affected structure. Furthermore, such cracks are not usually detectable by visual means alone (as the crack in its early stages usually does not extend beyond the corrosion); instead, the cracks can only be detected by NDT methods, which, as the commenter points out, are not always reliable when corrosion is present. Furthermore, while it is true that cracks do propagate slowly when applied stress levels are low, it is well known that corrosion can accelerate the rate at which the crack grows. What all of this implies is that corrosion on the rear spar web could easily mask a crack that is propagating through the parent material; that such a crack cannot be reliably detected by visual or NDT inspections; and finally, that the

structure could therefore fail before the crack is detected by any of the inspection programs that are now in place. This is the reason why the FAA concludes that the unsafe condition does exist.

Request to Revise Applicability of Proposed AD

Two commenters request that the proposed AD be revised to exclude those airplanes that have already accomplished the required actions. The FAA does not concur that a change to the AD is necessary. Operators are always given credit for work previously accomplished by means of the phrase in the compliance section of the AD that states ''required as indicated, unless accomplished previously.'' This statement serves the same purpose as the requested change.

Request to Reference Later Service Bulletin Revision

Several commenters request that the proposed rule be changed to refer to Revision 2 of Boeing Service Bulletin 747–57–2263, as this revision provides a better definition of the required inspections and corrective action than Revision 1 of the service bulletin does. (Revision 1 of the service bulletin was referenced in the proposed AD as the appropriate source of service information.)

The FAA concurs partially. Revision 2, which the FAA has reviewed and approved, does contain a better definition of the required actions. Specifically, the new revision to the service bulletin contains improved methods for removing corrosion and a new method for measuring the remaining spar web thickness. However, the FAA has determined that Revision 1 of the service bulletin also provides an acceptable level of safety. Therefore, the FAA has revised the final rule to include Revision 2 of the service bulletin as an additional source of service information for accomplishing the actions required by this AD.

Request to Extend Inspection Interval

One commenter requests that the repetitve inspection intervals specified in the proposed AD be changed from 2 years to 3 years. The FAA does not concur with the request. The 2-year intervals were developed by considering both the service history of this problem and the fact that there is a variance in the rate at which the structure can corrode (based upon different operation environments). No change to the final rule is necessary.

Request for Deferral of Repairs

One commenter requests that the proposed AD be changed to permit a two-year deferral for repairing any corrosion that is found, provided that repetitive ultrasonic inspections are performed to detect cracks that might be present. The FAA does not concur. Nondestructive inspections do not reliably detect cracking if active corrosion is present. Therefore, there would be no assurance that a corroded area is not also cracked. No change to the final rule has been made in this regard.

Request for Manufacturer Repair Approvals

One commenter requests that the proposed AD be revised to allow operators to contact the manufacturer in lieu of the FAA for certain repair approvals. The FAA concurs partially. Potential repairs to this area are likely to be complex and have not yet been defined for all cases. Therefore, the FAA needs to review such repairs until a complete method of repair has been defined and approved. However, the FAA has delegated such repairs in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the FAA to make such findings. The final rule has been revised to provide for such repair approval.

Request to Revise Cost Estimates

Two commenters point out that the cost estimates contained in the proposed AD are unrealistic. One commenter asserts that accomplishment of the required inspections could take as many as 32 work hours. Also, the commenters note that the work hours to remove any corrosion could range from 74 to 320 work hours. One of the commenters points out that Revision 2 of the Boeing service bulletin contains more realistic work hour estimates.

The FAA concurs partially. The FAA agrees with the commenters that the 32-work hour figure is a more realistic estimate of the time to accomplish the required inspections; therefore, this rule has been changed accordingly. With respect to the request to change the work hours for accomplishing corrosion repair, the FAA does not concur. Corrosion repair is an ''on-condition'' action; such actions are not required to be considered in AD's because they are required to be accomplished quite apart from the AD, in order to maintain the airplane in an airworthy condition.

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 816 Model 747 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 236 airplanes of U.S. registry will be affected by this AD, that it will take approximately 32 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $453,120, or $1,920 per airplane, per inspection cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–26–23 Boeing: Amendment 39–10966. Docket 97–NM–309–AD.

Applicability: Model 747 series airplanes, line positions 1 through 816 inclusive, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct corrosion and consequent cracking of the rear spar web of the wing center section and adjacent bulkhead fittings at body station 1241, which could result in a fuel leak and consequent fire/explosion in the wheel well of the main landing gear, accomplish the following:

(a) Within 18 months after the effective date of this AD, perform a detailed visual inspection to detect corrosion of the rear spar web of the wing center section and adjacent bulkhead fittings at body station 1241, in accordance with Boeing Service Bulletin 747–57–2263, Revision 1, dated December 21, 1995, or Revision 2, dated March 26, 1998, including Appendix A. Thereafter, repeat the inspection at intervals not to exceed 2 years.

(1) If no corrosion is detected during the inspection: Prior to further flight, apply corrosion inhibitor in accordance with the service bulletin.

(2) If any corrosion is detected during the inspection, and the corrosion is within the limits specified by the service bulletin: Prior to further flight, accomplish the actions specified in paragraphs (a)(2)(i), (a)(2)(ii), and (a)(2)(iii).

(i) Remove the corrosion in accordance with the service bulletin. And

(ii) Perform a high frequency eddy current inspection to detect cracking in the area of removed corrosion in accordance with the service bulletin. If any crack is detected, prior to further flight, repair it in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate; or in accordance with data meeting the type certificate basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. And

(iii) Apply corrosion inhibitor in accordance with the service bulletin.

(3) If any corrosion is detected during the inspection, and the corrosion exceeds the limits specified by the service bulletin: Prior to further flight, repair the corroded area in accordance with a method approved by the Manager, Seattle ACO; or in accordance with data meeting the type certificate basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle 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 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

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

(d) Except for the repairs required by paragraphs (a)(2)(ii) and (a)(3), the actions shall be done in accordance with Boeing Service Bulletin 747–57–2263, Revision 1, dated December 21, 1995; or Boeing Service Bulletin 747–57–2263, Revision 2, dated March 26, 1998, including Appendix A, which contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
1–54	2	March 26, 1998.
Appendix A		
1, 2	2	March 26, 1998.

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 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.

(e) This amendment becomes effective on February 2, 1999.

Issued in Renton, Washington, on December 17, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–34096 Filed 12–28–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 774

[Docket No. 981215307–8307–01]

RIN 0694–AB83

Expansion of License Exception CIV Eligibility for ''Microprocessors'' Controlled by ECCN 3A001

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: The Bureau of Export Administration (BXA) maintains the Commerce Control List (CCL), which identifies those items subject to Department of Commerce export licensing requirements. Consistent with technological changes, this interim rule adjusts the License Exception CIV eligibility level for microprocessors controlled by Export Control Classification Number (ECCN) 3A001 from a composite theoretical performance (CTP) of equal to or less than 500 million theoretical operations per second (MTOPS) to a CTP of equal to or less than 1200 MTOPS. License Exception CIV is available for exports and reexports to civil end-users for civil end-uses in Country Group D:1.

BXA will continue to review the technical levels for microprocessors.

DATES: This rule is effective on January 1, 1999. Comments on this rule must be received on or before January 30, 1999.

ADDRESSES: Written comments should be sent to Patricia Muldonian, Regulatory Policy Division, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: James Lewis, Director, Office of Strategic Trade and Foreign Policy Controls, Bureau of Export Administration, Telephone: (202) 482–4196.

SUPPLEMENTARY INFORMATION: 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, as extended by the President's notices of August 15, 1995 (60 FR 42767), August 14, 1996 (61 FR 42527), August 13, 1997 (62 FR 43629), and August 13, 1998 (63 FR 44121).

Rulemaking Requirements

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

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection of information displays a currently valid OMB Control Number. This rule involves a collection of information subject to the Paperwork Reduction Act of 1995 (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 interim 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. or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations.

Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close on January 30, 1999. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form.

Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, Room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue, NW, Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 482–5653.

List of Subjects in 15 CFR part 774

Exports, Foreign Trade.

Accordingly, part 774 of the Export Administration Regulations (15 CFR parts 730 through 799) is amended as follows:

1. The authority citation for part 774 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 10 U.S.C. 720; 10 U.S.C. 7430(e); 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 287c; 22 U.S.C. 3201 *et seq.*; 22 U.S.C. 6004; Sec. 201, Pub. L. 104–58, 109 Stat. 557 (30 U.S.C. 185(s)); 30 U.S.C. 185(u); 42 U.S.C. 2139a; 42 U.S.C. 6212; 43 U.S.C. 1354; 46 U.S.C. app. 466c; 50 U.S.C. app. 5; E.O. 12924, 59 FR 43437, 3 CFR, 1994 Comp., p. 917; Notice of August 15, 1995, 3 CFR, 1995 Comp., p. 501; Notice of August 14, 1996, 3 CFR, 1996 Comp., p. 298; Notice of August 13, 1997 (62 FR 43629, August 15, 1997); Notice of August 13, 1998 (63 FR 44121, August 17, 1998).

PART 774—AMENDED

Supplement No. 1 To Part 774—Amended

2. In Supplement No. 1 to part 774 (the Commerce Control List), Category 3—Electronics, Export Control Classification Number (ECCN) 3A001 is amended by revising the License Exceptions section to read as follows:

3A001 Electronic components, as follows (see List of Items Controlled).

* * * * *

License Exceptions

LVS: N/A for MT
  $1500: 3A001.c
  $3000: 3A001.b.1, b.2, b.3, .d, .e and .f
  $5000: 3A001.a, and .b.4 to b.7
GBS: Yes, except 3A001.a.1.a, b.1, b.3 to b.7, .c to .f
CIV: Yes, except 3A001.a.1, a.2, a.3.a (for processors with a CTP greater than 1200 Mtops), a.5, a.6, a.9, a.10, and a.12, .b, .c, .d, .e, and .f

* * * * *

Dated: December 22, 1998.

R. Roger Majak,

Assistant Secretary for Export Administration.

[FR Doc. 98–34344 Filed 12–28–98; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

[Docket No. 970728182–8272–02; I.D. 071697A]

RIN 0648–AG16

Magnuson-Stevens Act Provisions; Financial Disclosure; Correction

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

ACTION: Final rule; correction.

SUMMARY: NMFS issues a correction to the final rule, published in the **Federal Register** of November 19, 1998, which revised the rules of conduct and financial disclosure provisions applicable to Council nominees,

appointees, and voting members. This correction removes amendatory language and regulatory text that was incorrectly included in the final rule.

DATES: Effective February 17, 1999.

FOR FURTHER INFORMATION CONTACT: Margaret Frailey Hayes, Assistant General Counsel for Fisheries, NOAA Office of General Counsel, (301) 713–2231.

SUPPLEMENTARY INFORMATION: On November 19, 1998, NMFS published a final rule, at 63 FR 64182, FR Doc. 98–30898, to implement the financial disclosure provisions of the Sustainable Fisheries Act. The final rule incorrectly amended the 15 CFR 902.1 (b) by adding text that was already in existence. This correction removes that unnecessary amendment.

Under NOAA Administrative Order 205-11, 7.01, dated December 17, 1990, the Under secratary for Oceans and Atmosphere has delegated to the Assistant Adminstrator for Fisheries, NOAA, the authority to sign material for publication in the **Federal Register**.

Correction

In final rule Magnuson-Stevens Act Provisions; Financial Disclosure, I.D. 071697A, published November 19, 1998, correct the following: On page 64185, first column, last paragraph, remove amendatory instruction 2, and, in the second column, remove the amendment to § 902.1(b).

Dated: December 23, 1998.

Gary C. Matlock,

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

[FR Doc. 98–34448 Filed 12–28–98; 8:45 am]

BILLING CODE 3510–22–F

FEDERAL TRADE COMMISSION

16 CFR Parts 0, 300, 301, 303, and 460

Miscellaneous Rules

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission Rules of Practice and certain other Rules are being revised to reflect certain address changes.

EFFECTIVE DATE: December 29, 1998.

ADDRESSES: Requests for copies of the **Federal Register** notice should be sent to the Consumer Response Center, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580. The notice announcing the address changes is available on the Internet at the Commission's website, ''http://www.ftc.gov''.

FOR FURTHER INFORMATION CONTACT: Donald S. Clark, Secretary, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, telephone number (202) 326–2514, E-mail ''dclark@ftc.gov''.

SUPPLEMENTARY INFORMATION: The Commission Rules of Practice and certain other Rules contain addresses to which certain filings, submissions, and other communications should be directed, and from which certain information and documentary material can be obtained. Some of these addresses have been changed, and the affected Rule provisions accordingly are being amended. In particular, the official address of the Commission has been changed from ''Pennsylvania Avenue and Sixth Street, NW'' to the following: Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

Moreover, the addresses of a number of the Commission's Regional Offices have changed. In addition, the addresses embodied in a number of provisions of the Rules and Regulations Under the Wool Products Labeling Act of 1939; the Rules and Regulations Under the Fur Products Labeling Act; the Rules and Regulations Under the Textile Fiber Products Identification Act; and the Labeling and Advertising of Home Insulation Rule have been changed.

List of Subjects

16 CFR Part 0

Organization and functions (Government agencies).

16 CFR Parts 300, 301, 303

Furs, Incorporation by reference, Labeling, Textile fiber products identification, Trade practices, Wool products.

16 CFR Part 460

Home insulation products.

For the reasons set forth in the preamble, the Federal Trade Commission amends Title 16, Chapter I, of the Code of Federal Regulations as follows:

PART 0—ORGANIZATION

1. The authority for part 0 continues to read as follows:

Authority: Sec. 6(g), 38 Stat. 721 (15 U.S.C. 46); 80 Stat. 383 as amended (5 U.S.C. 552).

2. Section 0.2 is revised to read as follows:

§ 0.2 Official address.

The principal office of the Commission is at Washington, DC. All communications to the Commission should be addressed to the Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580, unless otherwise specifically directed.

3. Section 0.19(b) is revised to read as follows:

§ 0.19 The Regional Offices.

* * * * *

(b) The addresses of the respective regional offices, and of the field stations located in the area of each are as follows:

(1) Atlanta Regional Office. Federal Trade Commission, Suite 5M35, Midrise Building, 60 Forsyth Street, S.W., Atlanta, Georgia 30303.

(2) Boston Regional Office. Federal Trade Commission, 101 Merrimac Street, Suite 810, Boston, Massachusetts 02114–4719.

(3) Chicago Regional Office. Federal Trade Commission, 55 East Monroe Street, Suite 1860, Chicago, Illinois 60603–5701.

(4) Cleveland Regional Office. Federal Trade Commission, Eaton Center, Suite 200, 1111 Superior Avenue, Cleveland, Ohio 44114.

(5) Dallas Regional Office. Federal Trade Commission, 1999 Bryan Street, Suite 2150, Dallas, Texas 75201.

(6) Denver Regional Office. Federal Trade Commission, 1961 Stout Street, Suite 1523, Denver, Colorado 80294–0101.

(7) Los Angeles Regional Office. Federal Trade Commission, 10877 Wilshire Boulevard, Suite 700, Los Angeles, California 90024.

(8) New York Regional Office. Federal Trade Commission, 150 William Street, Suite 1300, New York, New York 10038.

(9) San Francisco Regional Office. Federal Trade Commission, 901 Market Street, Suite 570, San Francisco, California 94103.

(10) Seattle Regional Office. Federal Trade Commission, 915 Second Avenue, Suite 2896, Seattle, Washington 98174.

* * * * *

PART 300—RULES AND REGULATIONS UNDER THE WOOL PRODUCTS LABELING ACT OF 1939

1. The authority citation for part 300 continues to read as follows:

Authority: 15 U.S.C. 68 *et seq.* and 15 U.S.C. 70 *et seq.*

2. The second sentence of § 300.4(e) is revised to read as follows:

§ 300.4 Registered identification numbers.

* * * * *

(e) * * * The form is available upon request from the Textile Section, Enforcement Division, Federal Trade Commission, 600 Pennsylvania Avenue,

NW, Washington, DC 20580, or on the Internet at http://www.ftc.gov.

3. The second sentence of § 300.33(b) is revised to read as follows:

§ 300.33 Continuing guaranty filed with Federal Trade Commission.

* * * * *

(b) * * * The form is available upon request from the Textile Section, Enforcement Division, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

* * * * *

PART 301—RULES AND REGULATIONS UNDER THE FUR PRODUCTS LABELING ACT

1. The authority citation for part 301 continues to read as follows:

Authority: 15 U.S.C. 69 *et seq.*

2. The second sentence of § 301.26(d) is revised to read as follows:

§ 301.26 Registered identification numbers.

* * * * *

(d) * * * The form is available upon request from the Textile Section, Enforcement Division, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580, or on the Internet at http://www.ftc.gov).

* * * * *

3. The second sentence of § 301.48(a)(3) is revised to read as follows:

§ 301.48 Continuing guaranty filed with the Federal Trade Commission.

* * * * *

(a) * * *

(3) * * * The form is available upon request from the Textile Section, Enforcement Division, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

* * * * *

PART 303—RULES AND REGULATIONS UNDER THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT

1. The authority citation for part 303 continues to read as follows:

Authority: 15 U.S.C. 70 *et seq.*

2. The fourth sentence of § 303.7 is revised to read as follows:

§ 303.7 Generic names and definitions for manufactured fibers.

* * * Copies may be inspected at the Federal Trade Commission, Room 130, 600 Pennsylvania Avenue, NW, Washington, DC 20580, or at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

* * * * *

3. Section 303.20(d) is revised to read as follows:

§ 303.20 Registered identification numbers.

* * * * *

(d) Form to apply for a registered identification number or to update information pertaining to an existing number (the form is available upon request from the Textile Section, Enforcement Division, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580, or on the Internet at http://www.ftc.gov):

BILLING CODE 6750–01–P

APPLICATION FOR A REGISTERED IDENTIFICATION NUMBER ("RN")

DO NOT WRITE IN THIS SPACE

RN: _____

DATE ISSUED: _____ UPDATED: _____ BY: _____

1. PURPOSE OF APPLICATION. *(Both new applicants and update applicants must complete all entries on this form.)*

☐ APPLY FOR A NEW RN

☐ UPDATE INFORMATION ON AN EXISTING RN. ENTER EXISTING RN NUMBER _____

2. LEGAL NAME OF APPLICANT FIRM

3. NAME UNDER WHICH APPLICANT DOES BUSINESS, IF DIFFERENT FROM LEGAL NAME

4. TYPE OF COMPANY *(If "OTHER" is checked, please state the type of company.)*

☐ PROPRIETORSHIP ☐ PARTNERSHIP ☐ CORPORATION ☐ OTHER _____

5. ADDRESS OF PRINCIPAL OFFICE OR PLACE OF BUSINESS *(Include zip code. Address must be the actual location where business is conducted in the US. An additional mailing address or PO box address may also be listed, if desired.)*

OPTIONAL INFORMATION

TELEPHONE NUMBER:

FAX NUMBER:

E-MAIL ADDRESS:

INTERNET URL ADDRESS:

6. TYPE OF BUSINESS *(Put an 'X' in all the boxes that apply.)*

☐ MANUFACTURING ☐ IMPORTING ☐ WHOLESALING

☐ OTHER *(Please specify)* _____

7. LIST PRODUCTS *(To qualify for an RN, a company must be engaged in the importation, manufacturing, selling or other marketing of at least one product line subject to the Textile, Wool, or Fur Act.)*

8. CERTIFICATION

The products listed in item seven (7) above are subject to one or more of the following Acts: The Textile Fiber Products Identification Act (15 U.S.C. § § 70-70k), The Wool Products Labeling Act (15 U.S.C. § § 68-68j), or the Fur Products Labeling Act (15 U.S.C. § § 69-69k). By filing this form with the Federal Trade Commission, the company named above applies for a registered identification number to use on labels required by these Acts.

Under penalty of perjury, I certify that the information supplied on this form is true and correct.

SIGNATURE OF PROPRIETOR, PARTNER, OR CORPORATE OFFICIAL

9. NAME *(Please print or type)*	10. TITLE	11. DATE

INSTRUCTIONS

Regulations under the Textile Fiber Products Identification Act, the Wool Products Labeling Act, and the Fur Products Labeling Act provide that any USA company that is a manufacturer or marketer of fiber or fur products may, in lieu of the name under which it does business, be identified by its RN on labels required by these statutes.

In completing this form, please observe the following:

(a) All blanks must be filled in (except for optional information). **Type or legibly print the required information.**

(b) Item 8 must contain the original signature of a responsible company official.

(c) Send or fax one completed, **signed** copy to:

Federal Trade Commission
Division of Enforcement
600 Pennsylvania Ave, NW
Washington, DC 20580

Fax Number: (202) 326-3197

RNs are subject to cancellation if the holder fails to promptly submit an updated FTC Form 31 upon any change(s) in its legal name (box #2), type of company information (box #4), or business address (box #5).

FTC Form **31** (rev. 11/98) 8

BILLING CODE 6750–01–C

4. Section 303.38(b) is revised to read as follows:

§ 303.38 Continuing guaranty filed with Federal Trade Commission.

* * * * *

(b) Prescribed form for a continuing guaranty:

CONTINUING GUARANTY

1. LEGAL NAME OF GUARANTOR FIRM

2. NAME UNDER WHICH GUARANTOR FIRM DOES BUSINESS, IF DIFFERENT FROM LEGAL NAME

3. TYPE OF COMPANY

☐ PROPRIETORSHIP ☐ PARTNERSHIP ☐ CORPORATION

4. ADDRESS OF PRINCIPAL OFFICE OR PLACE OF BUSINESS *(Include Zip Code)*	OPTIONAL INFORMATION TELEPHONE NUMBER: FAX NUMBER: INTERNET ADDRESS:

5. LAW UNDER WHICH THE CONTINUING GUARANTY IS TO BE FILED *(Put an 'X' in the appropriate boxes)*

☐ Under the **Textile Fiber Products Identification Act** (15 U.S.C. § § 70-70k): The company named above, which manufactures, markets, or handles textile fiber products, guarantees that when it ships or delivers any textile fiber product, the product will not be misbranded, falsely or deceptively invoiced, or falsely or deceptively advertised, within the meaning of the Textile Fiber Products Identification Act and the rules and regulations under that Act.

☐ Under the **Wool Products Labeling Act** (15 U.S.C. § § 68-68j): The company named above, which manufactures, markets, or handles wool products, guarantees that when it ships or delivers any wool product, the product will not be misbranded within the meaning of the Wool Products Labeling Act and the rules and regulations under that Act.

☐ Under the **Fur Products Labeling Act** (15 U.S.C. § § 69-69k): The company named above, which manufactures, markets, or handles fur products, guarantees that when it ships or delivers any fur product, the product will not be misbranded, falsely or deceptively invoiced, or falsely or deceptively advertised, within the meaning of the Fur Products Labeling Act and the rules and regulations under that Act.

6. CERTIFICATION

Under penalty of perjury, I certify that the information supplied on this form is true and correct.

SIGNATURE OF PROPRIETOR, PRINCIPAL PARTNER, OR CORPORATE OFFICIAL

7. NAME *(Please print or type)*	8. TITLE

9. CITY AND STATE WHERE SIGNED	10. DATE

INSTRUCTIONS

The Textile Fiber Products Identification Act, the Wool Products Labeling Act, and the Fur Products Labeling Act provide that any marketer or manufacturer of fiber or fur products covered by those Acts may file a continuing guaranty with the Federal Trade Commission. A continuing guaranty on file assures customer firms that the guarantor's products are in conformance with the Act(s) under which the guarantor has filed. Customer firms rely on the continuing guaranties for protection from liability if violations occur.

In completing this form, please observe the following:

(a) All appropriate blanks on the form should be filled in. Include your Zip Code in Item 4.

(b) In Item 6, signature of proprietor, partner, or corporate official of guarantor firm.

(c) Send two completed, signed original copies to:
Federal Trade Commission
Division of Enforcement
600 Pennsylvania Ave, NW
Washington, DC 20580

(d) Do not fax application - mail signed originals only.

Continuing guaranties filed with the Commission continue in effect until revoked. The guarantor must immediately notify the Commission in writing of any change in business status. Any change in the address of the guarantor's principal office and place of business must also be promptly reported.

DO NOT USE THIS SPACE

Filed _____ 19 ____

FEDERAL TRADE COMMISSION

FTC Form **31-A** (rev. 11/98)

BILLING CODE 6750–01–C

* * * * *

PART 460—LABELING AND ADVERTISING OF HOME INSULATION

1. The authority citation for part 460 continues to read as follows:

Authority: 38 Stat. 717, as amended (15 U.S.C. 41 *et seq.*).

2. The last sentence of § 460.5(a) introductory text is revised to read as follows:

§ 460.5 R-value tests.

* * * * *

(a) * * * Copies may be inspected at the Federal Trade Commission, Consumer Response Center, Room 130, 600 Pennsylvania Avenue, NW, Washington, DC 20580, or at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

* * * * *

3. The last sentence of § 460.5(a)(2) is revised to read as follows:

§ 460.5 R-value tests.

* * * * *

(a) * * *

(2) * * * Copies may be inspected at the Federal Trade Commission, Consumer Response Center, Room 130, 600 Pennsylvania Avenue, NW, Washington, DC 20580, or at the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC.

* * * * *

Donald S. Clark,

Secretary.

[FR Doc. 98–34407 Filed 12–28–98; 8:45 am]

BILLING CODE 6750–01–P

UNITED STATES INFORMATION AGENCY

22 CFR Part 503

Freedom of Information Act Regulations; Electronic Records

AGENCY: United States Information Agency.

ACTION: Final rule; amendment.

SUMMARY: This document amends the Agency's current regulations implementing the Freedom of Information Act (FOIA) in order to conform with the amendments required by the Electronic Records Act of 1996.

EFFECTIVE DATE: January 28, 1999.

ADDRESSES: Freedom of Information Office, United States Information Agency, Room M–29, 301 4th Street, SW, Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Lola L. Secora, Chief, FOIA/PA Unit, (202) 619–5499.

SUPPLEMENTARY INFORMATION: The United States Information Agency published a Notice of Proposed Rulemaking to amend its FOIA regulations on April 1, 1998 (63 FR 15800–15802). Pursuant to that notice, USIA received only one comment from the public. While USIA noted that electronic information was available via ''computer,'' and meant that it was available electronically through the Internet (as this law requires), the public comment sought clarification and so the wording has been changed to denote that Agency information is available electronically through the ''Internet,'' and not just through a computer located at USIA. The final rule is based on the proposed rule. This addition § 503.9 is required by the Electronics Records Act of 1996, as amended by Public Law 104–231, October 2, 1996, 110 Stat. 3049–3054 (5 U.S.C. 552). It has been determined that this addition is not a significant regulatory action and it will not:

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

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

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

(4) Have a significant economic impact on a substantial number of small entities; or

(5) Impose any reporting or record keeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

List of Subjects in 22 CFR Part 503

Freedom of information.

Accordingly, 22 CFR part 503 is amended as set forth below.

PART 503—FREEDOM OF INFORMATION ACT REGULATION

1. The authority citation for Part 503 continues to read as follows:

Authority: 5 U.S.C. 301, 552; 13 U.S.C. 8; 22 U.S.C. 503, 2658; E.O. 10477, 18 FR 4540, 3 CFR, 1949–1953 Comp., p. 958; E.O. 10822, 24 FR 4159, 3 CFR, 1959–5963 Comp., p. 355; E.O. 12292, 46 FR 13967, 3 CFR, 1981 Comp., p. 134; E.O. 12356, 47 FR 14874 and 15557, 3 CFR, 1982 Comp., p. 166; E.O. 12958, 60 FR 19825, 3 CFR, 1995 Comp., p. 333.

2. Section 503.9 is added to read as follows:

§ 503.9 Electronic Records Act of 1996.

(a) *Introduction.* This section applies to all records of the United States Information Agency, including all of its foreign posts. Congress enacted the FOIA to require Federal agencies to make records available to the public through public inspections and at the request of any person for any public or private use. The increase in the Government's use of computers enhances the public's access to Government information. This section addresses and explains how records will be reviewed and released when the records are maintained in electronic format. Documentation not previously subject to the FOIA when maintained in a non-electronic format is not made subject to FOIA by this law.

(b) *Definitions*—(1) *Compelling need.* Obtaining records on an expedited basis because of an imminent threat to the life of physical safety of an individual, or urgently needed by an individual primarily engaged in disseminating information to the public concerning actual or alleged Federal Government activities.

(2) *Discretionary disclosure.* Records or information normally exempt from disclosure will be released whenever it is possible to do so without reasonably foreseeable harm to any interest protected by an FOIA exemption.

(3) *Electronic reading room.* The room provided which makes electronic records available.

(c) *Electronic format of records.* (1) Materials such as Agency opinions and policy statements (available for public inspection and copying) will be available electronically by accessing USIA's Home Page via the Internet at http://www.usia.gov. To set up an appointment to view such records in hard copy or to access the Internet via USIA computer, please contact the FOIA/PA Unit on (202) 619–5499.

(2) The Agency will make available for public inspection and copying, both electronically via the Internet and in hard copy, those records that have been previously released in response to FOIA requests, when the Agency determines the records have been or are likely to be the subject of future requests.

(3) The Agency will provide both electronically through its Internet address and in hard copy a ''Guide'' on how to make an FOIA request, and an Index of all Agency information systems and records that may be requested under the FOIA.

(4) The Agency may delete identifying details when it publishes or makes

available the index and copies of previously-released records to prevent a clearly unwarranted invasion of personal privacy.

(i) The Agency will indicate the extent of any deletions made from where the deletion was made, if feasible.

(ii) The Agency will not reveal information about deletions if such disclosure would harm an interest protected by an exemption.

(d) *Honoring form or format requests.* The Agency will aid requesters by providing records and information in the form requested, including electronic format, if we can readily reproduce them in that form or format. However, if we cannot accommodate the requester, we will provide responsive, nonexempt information in a reasonably accessible form.

(1) The Agency will make a reasonable effort to search for records kept in an electronic format. However, if the effort would significantly interfere with the operations of the Agency or the Agency's use of its computers, we will consider the effort to be unreasonable.

(2) The Agency need not create documents that do not exist, but computer records found in a database rather than in a file cabinet may require the application of codes of some form of programming to retrieve the information. This application of codes of programming of records will not amount to the creation of records.

(3) Except in unusual cases, the cost of computer time will not be a factor in calculating the two free hours of search time available under $503.7 In those unusual cases, where the cost of conducting a computerized search significantly detracts from the Agency's ordinary operations, no more than the dollar equivalent of two hours of manual search time shall be allowed. For searches conducted beyond the first two hours, the Agency shall only charge the direct costs of conducting such searches.

(e) *Technical feasibility of redacting non-releasable material.* The Agency will make every effort to indicate the place on the record where a redaction of non-releasable material is made, and an FOIA citation noting the applicable exemption for the deletion will also be placed at the site. If unable to do so, we will notify you of that fact.

(f) *Ensuring timely response to request.* The Agency will make every attempt to respond to FOIA requests within the prescribed 20 working-day time limit. However, processing some requests may require additional time in order to properly screen material against the inadvertent disclosure of material covered by the exemptions.

(1) *Multitrack first-in first-out processing.* (i) Because the Agency has been able to process its requests without a backlog of cases, USIA will not institute a multitract system. Those cases that may be handled easily, because they require only a few documents or a simple answer, will be handled immediately by each specialist.

(ii) If you wish to qualify for processing under a faster track, you may limit the scope of your request so that we may respond more quickly.

(2) *Unusual circumstances.* (i) The Agency may extend for a maximum of ten working days the statutory time limit for responding to an FOIA request by giving notice in writing as to the reason for such an extension. The reasons for such an extension may include: the need to search for and collect requested records from multiple offices; the volume of records requested; and, the need for consultation with other components within the Agency.

(ii) If an extra ten days still does not provide sufficient time for the Agency to deal with your request, we will inform you that the request cannot be processed within the statutory time limit and provide you with the opportunity to limit the scope of your request and/or arrange with us a negotiated deadline for processing your request.

(iii) If you refuse to reasonable limit the scope of your request or refuse to agree upon a time frame, the Agency will process your case as it would have, had no modification been sought. We will make a diligent, good-faith effort to complete our review within the statutory time frame.

(3) *Aggregation of requests.* The Agency will aggregate requests that clearly involve related material that should be considered as a single request.

(i) If you make multiple or related requests for similar material for the purpose of avoiding costs, the Agency will notify you that we are aggregating your requests, and the reasons why.

(ii) Multiple or related requests may also be aggregated, such as those involving requests and schedule, but you will be notified in advance if we intend to do so.

(g) *Time periods for Agency consideration of requests*—(1) *Expedited access.* The Agency will authorized expedited access to requesters who show a compelling need for access, but the burden is on the requester to prove that expedition is appropriate. The Agency will determine within ten days whether or not to grant a request for expedited access and will notify the requester of its decision.

(2) *Compelling need for expedited access.* Failure to obtain the records within an expedited deadline must pose an imminent threat to an individual's life or physical safety; or the request must be made by someone primarily engaged in disseminating information, and who has an urgency to inform the public about actual or alleged Federal Government activity.

(3) *How to request expedited access.* We will be required to make factual and subjective judgments about the circumstances cited by requesters to qualify them for expedited processing. To request expedited access, your request must be in writing and it must explain in detail your basis for seeking expedited access. The categories for compelling need are intended to be narrowly applied:

(i) *A threat to an individual's life or physical safety.* A threat to an individual's life or physical safety should be imminent to qualify for expedited access to the records. You must include the reason why a delay in obtaining the information could reasonably be foreseen to cause significant adverse consequences to a recognized interest.

(ii) *Urgency to inform.* The information requested should pertain to a matter of a current exigency to the American public, where delay in response would compromise a significant recognized interest. The person requesting expedited access under an ''urgency to inform,'' must be primarily engaged in the dissemination of information. This does not include individuals who are engaged only incidentally in the dissemination of information. ''Primarily engaged'' requires that information dissemination be the main activity of the requester. A requester only incidentally engaged in information dissemination, besides other activities, would not satisfy this requirement. The public's right to know, although a significant and important value, would not by itself be sufficient to satisfy this standard.

(4) *Expansion of Agency response time.* The new law provides that agencies now have 20 working-days to respond to all FOIA requests. However, when possible, we will continue to respond to requests within the former 10 working-day time frame.

(5) *Estimation of matter denied.* The Agency will try to estimate the volume of any denied material and provide the estimate to the requester, unless doing so would harm an interest protected by an exemption,

(h) *Computer redaction*. The Agency will identify the location of deletions in the released portion of the records, and where technologically feasible, will show the deletion at the place on the record where the deletion was made, unless including that indication would harm an interest protected by an exemption.

(i) *Report to Congress*. In addition to the information already provided to Congress in the Agency's Annual Report on FOIA Activities, the Agency will include the following: the number of Privacy Act (PA) requests handled; the number of backlogged requests; the number of days taken to process requests; the number of staff devoted to processing FOIA requests; whether a claimed (b)(3) statute has been upheld in court; and the costs of litigation. The Agency's annual report will be available both in hard copy and through the Internet. In the past, annual reports were required based on a calendar year and were provided to Congress on or before March 1 of the following year. However, the new law has changed the annual reporting requirements now to be related to the Agency's fiscal year. Thus, the Annual Report to Congress on FOIA Activities for 1997 only encompassed the first nine months (January through September), and was reported by March 1, 1998. The FY 98 report will begin in October 1997 and conclude at the end of September 1998. This report will be presented to the Department of Justice instead of Congress, by February 1, 1999, and Justice will report all Federal agency FOIA activity through electronic means.

(j) *Reference materials and guides*. The Agency has available in hard copy, and will have electronically via the Internet, a guide for requesting records under the FOIA and an index and description of all major information systems of the Agency. The guide is a simple explanation of what the FOIA is intended to do, and how you can use it to access USIA records. The Index explains the types of records that may be requested from the Agency through FOIA requests and why some records cannot, by law, be made available by USIA.

Les Jin,

General Counsel.

[FR Doc. 98–34443 Filed 12–28–98; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8800]

RIN 1545–AW51

Consolidated Returns—Limitation on Recapture of Overall Foreign Loss Accounts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains temporary amendments to the consolidated return regulations. The temporary amendments modify the date temporary regulations apply as published in the **Federal Register** on January 12, 1998, and modified by amendments published in the **Federal Register** on March 16, 1998, relating to a consolidated group's recapture of an overall foreign loss account arising in a separate return limitation year. The regulations affect consolidated groups that claim foreign tax credits. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: *Effective dates:* These amendments are effective December 29, 1998.

Applicability dates: For dates of applicability of these regulations, see § 1.1502–9T(b)(1)(v).

FOR FURTHER INFORMATION CONTACT: Trina Dang of the Office of Associate Chief Counsel (International), (202) 622–3850 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

As announced in Notice 98–40 (1998–35 I.R.B. 7), these temporary regulations permit taxpayers to elect to delay the effective date of § 1.1502–9T, published in the **Federal Register** on January 12, 1998 (TD 8751, 63 FR 1740), and modified by amendments published in the **Federal Register** on March 16, 1998 (TD 8766, 63 FR 12641).

On January 12, 1998, Treasury and the IRS published in the **Federal Register** (TD 8751, 63 FR 1740) final, temporary and proposed regulations (the January 1998 regulations) relating to limitations on the use of certain tax credits and related attributes by corporations filing consolidated income tax returns. In general, the January 1998 regulations relate to the separate return limitation year (SRLY) provisions for general business credits, alternative minimum tax credits, foreign tax credits and overall foreign loss accounts. The January 1998 regulations were generally applicable to consolidated return years beginning on or after January 1, 1997.

On March 16, 1998, Treasury and the IRS published in the **Federal Register** (TD 8766, 63 FR 12641) final, temporary, and proposed regulations (the March 1998 regulations) modifying the effective date of the January 1998 regulations. The March 1998 regulations provide that the provisions of the January 1998 regulations will apply for consolidated return years for which the due date (without extensions) of the income tax return is after March 13, 1998. In lieu of applying this effective date, however, the March 1998 regulations permit a consolidated group to choose to apply the effective date provisions under the January 1998 regulations. The March 1998 regulations provide that taxpayers making this choice must apply all those effective date provisions for all relevant years. Thus, under the March 1998 regulations, taxpayers are not permitted to apply one provision of the January 1998 regulations (e.g., the general business credit effective date) without applying all the other provisions (e.g., the foreign tax credit effective date).

On May 7, 1998, a public hearing was held regarding the proposed January and March regulations. At the hearing and in written submissions, commentators expressed concern regarding the effective dates contained in the January 1998 and March 1998 regulations with respect to the overall foreign loss account provisions of § 1.1502–9T. The commentators' principal concern was that these effective dates resulted in adverse tax consequences not anticipated by taxpayers with respect to business transactions that occurred prior to the issuance of the January 1998 regulations. Treasury and the IRS now believe that certain of these consequences are inappropriate.

Accordingly, on August 14, 1998, Treasury and the Service issued Notice 98–40 (1998–35 I.R.B. 7), announcing their intent to issue regulations providing relief from the application of § 1.1502–9T (the overall foreign loss account provisions) for consolidated return years beginning before January 1, 1998.

Explanation of Provisions

As announced in Notice 98–40, taxpayers are permitted to elect not to apply § 1.1502–9T(b)(1)(v) to

consolidated return years beginning before January 1, 1998. Section 1.1502–3T(c)(4) is amended to clarify that a taxpayer that chooses under the March 1998 regulations to apply the effective date provisions under the January 1998 regulations may also make the election referred to in Notice 98–40.

To make the election, a taxpayer must write ''Election Pursuant to Notice 98–40'' across the top of page 1 of an original or amended tax return for each consolidated return year subject to the election. For the first consolidated return year to which the overall foreign loss provisions of § 1.1502–9T apply (i.e., the first year beginning on or after January 1, 1998), such taxpayer must write ''Notice 98–40 Election in Effect in Prior Years'' across the top of page 1 of the consolidated tax return for that year. For purposes of applying § 1.1502–9T with respect to such year, any member with a balance in an overall foreign loss account from a separate return limitation year on the first day of such year shall be treated as joining the group on such first day.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It is hereby certified that these regulations do not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations principally affect corporations filing consolidated federal income tax returns that have overall foreign losses from separate return limitation years. Available data indicates that many consolidated return filers are large companies (not small businesses). In addition, the data indicates that an insubstantial number of consolidated return filers that are smaller companies have overall foreign losses. Presumably, even fewer of these filers have overall foreign loss accounts that are subject to the separate return limitation year rules. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. It has also been determined that under section 553(d) of the Administrative Procedure Act (5 U.S.C. chapter 5) these regulations should be effective immediately because they involve the applicability of regulations that modify the limitations on the use of certain tax attributes for taxable years for which a return is due after March 13, 1998. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking accompanying these regulations is being sent to the Small Business Administration for comment on its impact on small businesses.

Drafting Information

The principal author of these regulations is Trina Dang of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and Treasury participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.1502–3T is amended by removing the last sentence of paragraph (c)(4) and adding two sentences in its place to read as follows:

§ 1.1502–3T Consolidated investment credit (temporary).

* * * * *

(c) * * *

(4) * * * A consolidated group making this choice generally must apply all such paragraphs for all relevant years. However, a consolidated group making the election provided in § 1.1502–9T(b)(1)(vi) (electing not to apply § 1.1502–9T(b)(1)(v) to years beginning before January 1, 1998) may nevertheless choose to apply all such paragraphs other than § 1.1502–9T(b)(1)(v) for all relevant years.

* * * * *

Par. 3. In § 1.1502–9, paragraph (a) is amended by revising the last two sentences to read as follows:

§ 1.1502–9 Application of overall foreign loss recapture rules to corporations filing consolidated returns.

(a) * * * See § 1.1502–9T(b)(1)(v) for the rule that ends the separate return limitation year limitation for consolidated return years for which the due date of the income tax return (without extensions) is after March 13, 1998, and § 1.1502–9T(b)(1)(vi) for an election to continue the separate return limitation year limitation for consolidated return years beginning before January 1, 1998. See also § 1.1502–3T(c)(4) for an optional effective date rule (generally making the rules of paragraphs (b)(1)(iii) and (iv) of this section inapplicable for a consolidated return year beginning after December 31, 1996, if the due date of the income tax return (without extensions) for such year is on or before March 13, 1998).

* * * * *

Par. 4. Section 1.1502–9T is amended by revising paragraph (b)(1)(v) and adding paragraph (b)(1)(vi) to read as follows:

§ 1.1502–9T Application of overall foreign loss recapture rules to corporations filing consolidated returns (temporary).

* * * * *

(b)(1)(v) *Special effective date for SRLY limitation.* Except as provided in paragraph (b)(1)(vi) of this section, § 1.1502–9(b)(1)(iii) and (iv) apply only to consolidated return years for which the due date of the income tax return (without extensions) is on or before March 13, 1998. For consolidated return years for which the due date of the income tax return (without extensions) is after March 13, 1998, the rules of § 1.1502–9(b)(1)(ii) shall apply to overall foreign losses from separate return years that are separate return limitation years. For purposes of applying § 1.1502–9(b)(1)(ii) in such years, the group treats a member with a balance in an overall foreign loss account from a separate return limitation year on the first day of the first consolidated return year for which the due date of the income tax return (without extensions) is after March 13, 1998, as a corporation joining the group on such first day. An overall foreign loss that is part of a net operating loss or net capital loss carryover from a separate return limitation year of a member that is absorbed in a consolidated return year for which the due date of the income tax return (without extensions) is after March 13, 1998, shall be added to the appropriate consolidated overall foreign loss account in the year that it is absorbed. For consolidated return years for which the due date of the income tax return (without extensions) is after March 13, 1998, similar principles apply to overall foreign losses when there has been a consolidated return change of ownership (regardless of when the change of ownership occurred). See also § 1.1502–3T(c)(4) for an optional effective date rule (generally making this paragraph (b)(1)(v) applicable to a consolidated return year beginning after December 31, 1996, if the due date of the income tax return (without extensions) for such year is on or before March 13, 1998).

(vi) *Election to defer application of special effective date.* A consolidated group may elect not to apply paragraph (b)(1)(v) of this section to consolidated return years beginning before January 1, 1998. To make this election, a consolidated group must write ''Election Pursuant to Notice 98–40'' across the top of page 1 of an original or amended tax return for each consolidated return year subject to the election. For the first consolidated return year to which the overall foreign loss provisions of paragraph (b)(1)(v) of this section apply (i.e., the first year beginning on or after January 1, 1998), such consolidated group must write ''Notice 98–40 Election in Effect in Prior Years'' across the top of page 1 of the consolidated tax return for that year. For purposes of applying § 1.1502–9(b)(1)(ii) with respect to such year, any member with a balance in an overall foreign loss account from a separate return limitation year on the first day of such year shall be treated as joining the group on such first day.

* * * * *

Approved: December 7, 1998.

Robert L. Wenzel,

Deputy Commissioner of Internal Revenue.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 98–33702 Filed 12–28–98; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8802]

RIN 1545–AN21

Certain Asset Transfers to a Tax-Exempt Entity

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that implement provisions of the Tax Reform Act of 1986 and the Technical and Miscellaneous Revenue Act of 1988. The final regulations generally affect a taxable corporation that transfers all or substantially all of its assets to a tax-exempt entity or converts from a taxable corporation to a tax-exempt entity in a transaction other than a liquidation, and generally require the taxable corporation to recognize gain or loss as if it had sold the assets transferred at fair market value.

DATES: *Effective Date:* These regulations are effective January 28, 1999.

Applicability Date: For dates of applicability of these regulations, see § 1.337(d)-4(e).

FOR FURTHER INFORMATION CONTACT: Stephen R. Cleary, (202) 622–7530 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information in these final regulations has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned control number 1545–1633.

The collection of information in this regulation is described in § 1.337(d)-4(b)(1)(i). The information is a written representation made by a tax-exempt entity estimating the percentage it will use assets formerly held by a taxable corporation in an activity the income from which is subject to tax under section 511(a), as opposed to other activities. The information may be used by the taxable corporation in computing the amount of gain or loss that is recognized under the regulations. The information may also be used by the IRS in determining whether the proper amount of tax is due on the transaction. The collection of information is not mandatory but will enable the taxable corporation to support its reporting of the tax consequences of the transaction. The likely respondents are tax-exempt entities subject to the unrelated business income tax under section 511(a) (including most organizations that are exempt from tax under section 501, state colleges and universities, and certain charitable trusts).

Comments concerning the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attention: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224. Any such comments should be submitted not later than March 1, 1999.

Comments are specifically requested concerning:

(a) Whether the collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

(b) The accuracy of the estimated burden associated with the collection of information (see below);

(c) How the quality, utility, and clarity of the information requested may be enhanced;

(d) How the burden of complying with the collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Estimated total annual reporting burden: 125 hours. The annual burden per respondent varies from 1 hour to 10 hours, depending on individual circumstances, with an estimated average of 5 hours.

Estimated number of respondents: 25.

Estimated frequency of responses: Once.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and return information are confidential, as required by 26 U.S.C. 6103.

Background

On January 15, 1997, proposed regulations § 1.337(d)-4 were published in the **Federal Register** (62 FR 2064, [REG–209121–89, 1997–1 C.B. 719]). The regulations were proposed to amend 26 CFR part 1 and were intended to carry out the purposes of the repeal of the *General Utilities* doctrine (''*General Utilities* repeal'') as enacted in the Tax Reform Act of 1986 (the ''1986 Act'').

The 1986 Act amended sections 336 and 337, generally requiring corporations to recognize gain or loss when appreciated or depreciated property is distributed in complete liquidation or is sold in connection with a complete liquidation. Section 337(d) directs the Secretary to prescribe regulations as may be necessary to carry out the purposes of *General Utilities* repeal, including rules to ''ensure that these purposes shall not be circumvented * * * through the use of a * * * tax-exempt entity.''

The legislative history concerning a 1988 amendment to section 337(d) explains:

> The bill also clarifies in connection with the built-in gain provisions of the Act that the Treasury Department shall prescribe such regulations as may be necessary or appropriate to carry out those provisions * * *. For example, this includes rules to

require the recognition of gain if appreciated property of a C corporation is transferred to a * * * tax-exempt entity [footnote 32] in a carryover basis transaction that would otherwise eliminate corporate level tax on the built-in appreciation.

[footnote 32] The Act generally requires recognition of gain if a C corporation transfers appreciated assets to a tax exempt entity in a section 332 liquidation. See Code section 337(b)(2).

S. Rep. No. 445, 100th Cong., 2d Sess. 66 (1988).

Explanation of Provision

A. The Proposed Rule

(1) A taxable corporation that transfers all or substantially all of its assets to one or more tax-exempt entities is required to recognize gain or loss as if the assets transferred were sold at their fair market values (§ 1.337(d)-4(a)(1), Asset Sale Rule);

(2) A taxable corporation that changes its status to a tax-exempt entity generally is treated as having transferred all of its assets to a tax-exempt entity immediately before the change in status becomes effective in a transaction governed by the Asset Sale Rule (§ 1.337(d)-4(a)(2), Change in Status Rule);

(3) The Change in Status Rule does not apply (subject to application of the anti-abuse rule) if the corporation formerly was tax-exempt and the change in status is within three years of the later of (a) the corporation first filing a return as a taxable corporation, or (b) a final determination that the corporation had become a taxable corporation (§ 1.337(d)-4(a)(3), 3-Year Rule);

(4) The Asset Sale Rule does not apply if the transferred assets are used by the tax-exempt entity in an activity the income from which is subject to the unrelated business tax under section 511(a); notwithstanding any other provision of law, gain on such assets will later be included in unrelated business taxable income when the tax-exempt entity disposes of the assets or ceases to use the assets in an activity the income from which is subject to tax under section 511(a) (§ 1.337(d)-4(b)(1), UBTI Rule);

(5) The regulations apply to transfers of assets occurring after January 28, 1999, unless the transfer is pursuant to a written agreement which is (subject to customary conditions) binding on or before that date (§ 1.337(d)-4(e), Effective Date Rule).

The IRS and Treasury Department received approximately 32 written comments on the proposed regulations. In addition, the IRS held a public hearing on the proposed regulations on May 6, 1997. After consideration of all the written and oral comments, the IRS and Treasury Department are adopting the proposed regulations as revised by this Treasury Decision. The comments and changes to the regulations made in response to the comments are summarized below.

B. Comments and Changes in Response to Comments

1. Asset Sale Rule

Some commentators questioned whether section 337(d) authorizes taxation of asset transfers other than liquidations. Section 337(d) authorizes regulations to prevent circumvention of *General Utilities* repeal through the ''use of'' any provision of law or regulations (specifically including the corporate reorganization rules in Part III of Subchapter C). The statutory rules in sections 336 and 337(b)(2), enacted as part of *General Utilities* repeal, provide for corporate-level gain or loss recognition when a taxable corporation liquidates into a controlling tax-exempt entity. The regulations published in this Treasury Decision are intended to reach transactions that are economically similar to those liquidations but take different forms, such as a taxable corporation's transfer of substantially all of its assets to a tax-exempt entity or a taxable corporation's change in status resulting in its becoming a tax-exempt entity. The IRS and Treasury Department believe that section 337(d) provides clear authority for these regulations.

Some commentators questioned whether section 337(d) authorizes regulations that would tax transfers of assets without consideration, noting that making a gift generally does not cause the recognition of gain to the donor. Other commentators claimed that the proposed regulations, to the extent they apply to transfers of assets to charitable organizations, conflict with the policy of the charitable contribution deduction under section 170. The regulations do not affect the tax treatment of a corporation's gift of a portion of its assets to charity, nor do they affect the shareholders' tax treatment when transferring all or any part of the corporation's assets to charity by transferring all or any part of the corporation's stock to charity. The regulations apply only to transfers of all or substantially all of the assets of a taxable corporation to a tax-exempt entity or a taxable corporation's conversion to a tax-exempt entity. If shareholders donate all of a corporation's stock to a charity and the charity then liquidates the corporation, section 337(b)(2) taxes the liquidating corporation's gain. The final regulations, which remain unchanged from the proposed regulations in this respect, tax a taxable corporation's gain in other transactions that have the same economic effect.

One commentator proposed that the final regulations allow deferral of gain recognition on any asset transferred to a tax-exempt entity until the entity disposes of the asset. The commentator suggests a rule similar to that of section 1374, which provides generally that a C corporation that converts to being an S corporation is subject to tax if it disposes of assets held at the time of conversion during the ten-year period after the conversion. Under this rule, the tax-exempt entity would not be taxed on the built-in gain in assets that it retains. For the reasons stated above, the IRS and Treasury Department have concluded that the regulations generally should follow the rule in section 337(b)(2) rather than the rule contained in section 1374 to best accomplish the goal set forth in the statute and legislative history.

One commentator suggested that the Asset Sale Rule should not apply to a taxable corporation transferring assets to a tax-exempt entity in a like-kind exchange described in section 1031 or an involuntary conversion described in section 1033. In transactions described in these sections, the taxable corporation acquires replacement property that has a basis determined by reference to the basis of the property replaced. Because the built-in appreciation in the transferred asset is preserved in the replacement asset and remains in the hands of a taxable corporation, *General Utilities* repeal is not circumvented in these transactions. Accordingly, the final regulations exclude transactions from the Asset Sale Rule to the extent the transactions qualify for nonrecognition of gain or loss under section 1031 or 1033.

Some commentators proposed removing section 528 homeowners associations from the list of tax-exempt entities subject to the regulations because dispositions of assets by a homeowners association are subject to tax. Under section 528, homeowners associations are subject to tax on all of their income except for *exempt function income*, which is defined as fees, dues, or assessments from homeowners. Gains from the sale of a homeowners association's property are taxable; therefore, *General Utilities* repeal is not circumvented by transfers to homeowners associations. In addition, the properties that become the subject of section 528 homeowners associations generally are developed as business

ventures, and the developer has substantial incentive to realize the increase in value of its assets in connection with their transfer to the association, thus providing additional protection with respect to *General Utilities* repeal. Also, a homeowners association may alternate between taxable and tax-exempt status because its exemption is based on a year-by-year election under section 528(c)(1)(E). In a given year, a homeowners association may prefer taxable status to tax-exempt status under section 528 because a section 528 organization is taxed at a 30 percent flat rate on income other than membership fees, dues, or assessments, while a taxable homeowners association is subject to tax on all income but at the progressive rates of section 11 (15 to 35 percent). The tax on non-exempt income under section 528 may exceed the tax the association would pay as a taxable corporation. Congress anticipated that these entities may alternate between taxable and tax-exempt status and that the assets of these entities will remain subject to tax on transfer. Imposing a tax on appreciated property each time such an entity converts its status could inhibit this flexibility. For this reason, and because *General Utilities* repeal will not be compromised, the IRS and Treasury Department believe that an organization's election to be treated under section 528 for a tax year should not trigger gain recognition. Accordingly, the final regulations do not treat section 528 homeowners associations as tax-exempt entities for purposes of section 337(d). For similar reasons, the final regulations do not define political organizations described in section 527 as tax-exempt entities for purposes of section 337(d).

Some commentators suggested that social clubs that are tax-exempt as organizations described in section 501(c)(7) should be removed from the list of tax-exempt entities for purposes of section 337(d). Commentators also suggested that tax-exempt social clubs be allowed to defer gain on transactions subject to the regulations, because social clubs may be subject to tax on gains from asset sales. Section 512(a)(3)(A) generally taxes the income of a section 501(c)(7) social club except for the social club's ''exempt function income,'' as defined in section 512(a)(3)(B). Section 512(a)(3)(A) also applies to tax-exempt organizations described in section 501(c)(9), (17), or (20). The final regulations, however, do not provide relief from the general rules of the regulations for section 501(c)(7) organizations. Unlike section 528 homeowners associations, section 501(c)(7) social clubs are permitted to avoid gain recognition on certain asset sales. For example, if the club replaces the property sold with other property used directly in the performance of its tax-exempt function, no tax is owed on any gain recognized. Because of these exceptions, the IRS and Treasury Department believe that deferring tax on transfers of assets to section 501(c)(7) organizations would not be consistent with *General Utilities* repeal. Accordingly, the final regulations follow the proposed regulations and apply to transfers of assets to section 501(c)(7) organizations.

2. Change in Status Rule

A significant number of commentators contended that the Change in Status Rule could have a major adverse effect on mutual or cooperative electric companies that are tax-exempt as organizations described in section 501(c)(12). That section provides tax exemption for benevolent life insurance associations of a purely local character, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations (including mutual or cooperative electric companies), but only if more than 85 percent of their income is collected from members for the sole purpose of meeting losses and expenses. The 85 percent test is applied annually, so that an electric cooperative could be taxable one year and tax-exempt the next year. The commentators requested that electric cooperatives be given relief from the Change in Status Rule because business exigencies may cause these cooperatives to fail the 85 percent test. They also noted that the relief provided in the proposed regulations for organizations temporarily losing their exempt status was insufficient because more than 3 years may elapse before the organization once again meets the 85 percent test.

In addition to meeting the 85 percent test, section 501(c)(12) organizations must operate according to cooperative principles to be eligible for exemption. See Rev. Rul. 72–36, 1972–1 C.B. 151; *Buckeye Countrymark, Inc.* v. *Commissioner*, 103 T.C. 547, 554–555 (1994), *acq. on other issues*, 1997–1 C.B. 1; *Puget Sound Plywood, Inc.* v. *Commissioner*, 44 T.C. 305, 308 (1965), *acq. on other issues*, 1966–2 C.B. 6. An organization may operate according to cooperative principles yet fail the 85 percent test. Congress anticipated that section 501(c)(12) mutual or cooperative organizations could alternate between taxable and tax-exempt status due to the operation of the 85 percent income requirement. The IRS and Treasury Department do not believe it is appropriate to treat these entities as having disposed of all their assets when they regain tax-exempt status where the sole reason for their becoming taxable was the failure to meet the 85 percent test. Therefore, the final regulations provide that the Change in Status Rule does not apply when an organization previously tax-exempt as an organization described in section 501(c)(12) loses exemption solely because it fails the 85 percent test and later regains tax-exempt status, provided that in each intervening taxable year it meets all the requirements for exemption under section 501(c)(12) except for the 85 percent test.

One commentator suggested that because social clubs alternate between taxable and tax-exempt status they should be given relief similar to that requested by section 501(c)(12) organizations. Social clubs can lose their tax exemption if they generate excessive nonmember income in a particular year. See S. Rep. No. 1318, 94th Cong., 2d Sess. 4 (1976), 1976–2 C.B. 599. After considering this comment and the Service's experience with these organizations, we have concluded that the 3-Year Rule will provide adequate relief for social clubs from inappropriate application of the Change in Status Rule.

A number of commentators urged exempting newly formed social clubs from the application of the regulations if they become tax-exempt within seven years of their formation, rather than within the three-year period provided for other tax-exempt entities. Those commentators explained that some social clubs are organized when a real estate developer acquires land to be used for a housing development and a social club for the homeowners. The assets of the future social club are held by a corporation, but it cannot qualify as a tax-exempt section 501(c)(7) organization until several years later, after the stock or membership interests in the corporation have been transferred to the homeowners. Commentators familiar with development practices advised that it often takes up to seven years to transfer the club to the members' control. Furthermore, because the developer is forming the club as a business venture, the developer will work to realize the increase in the value of the club's assets as part of the transfer. For these reasons, providing additional time for newly-formed clubs to become tax-exempt does not conflict with *General Utilities* repeal. Therefore, the final regulations incorporate the recommendation made in the comments and provide that a social club will not

be subject to the Change in Status Rule if it converts to tax-exempt status within seven taxable years after the year in which it was formed.

Two commentators suggested that the Change in Status Rule could adversely affect a taxable property and casualty insurance company that becomes tax-exempt as an organization described in section 501(c)(15) when it encounters financial difficulties leading to conservation or liquidation proceedings pursuant to authority granted by a state regulatory agency. A taxable property or casualty insurance company whose net written premiums or direct written premiums are $350,000 or less for the taxable year is eligible to be exempt from tax under section 501(c)(15). The final regulations provide an exception from the Change in Status Rule if in a taxable year an insurance company becomes an organization described in section 501(c)(15), and during that year and all subsequent years in which it is exempt under that section, the insurance company is the subject of a court supervised rehabilitation, conservatorship, liquidation, or similar state proceeding. In such cases, the reduction in premium income to $350,000 or less is likely to be involuntary and a direct result of the state proceeding. However, the final regulations continue to apply the Change in Status Rule to all other insurance companies qualifying for tax exemption under section 501(c)(15).

3. UBTI Rule

Some commentators asked how the UBTI Rule would apply when assets that are transferred to a tax-exempt entity are used partly in an activity of the organization the income from which is subject to tax under section 511(a) (''section 511(a) activity'') and partly in other activities. The UBTI Rule in the proposed regulations defers gain recognition with respect to those assets that will be used in a section 511(a) activity of the tax-exempt entity after the asset is transferred to the tax-exempt entity or after the taxable corporation converts to tax-exempt status. The final regulations provide that, if an asset will be used partly or wholly in a section 511(a) activity of a tax-exempt entity, the taxable corporation will recognize an amount of gain or loss that bears the same ratio to the asset's built-in gain or loss as 100 percent reduced by the percentage of use in the section 511(a) activity bears to 100 percent. The taxable corporation generally may rely on a written representation from the tax-exempt entity as to the anticipated percentage of use of the asset in a section 511(a) activity during the first taxable year after the transfer or change in status. If the percentage of an asset's use in the section 511(a) activity later decreases from the estimate used in computing gain or loss when the asset was transferred, the tax-exempt entity will recognize part of the deferred gain or loss in an amount that is proportionate to the decrease in use in the section 511(a) activity, and the gain or loss recognized will be subject to tax under section 511(a). The tax-exempt entity must use the same reasonable method of allocation for determining the percentage it uses assets in the section 511(a) activity for purposes of the UBTI Rule as it uses for other tax purposes (e.g., depreciation deductions). The tax-exempt entity also must use this same reasonable method of allocation for each taxable year that it holds the assets.

One commentator asked that gain not be recognized when a tax-exempt entity disposes of an asset used in a section 511(a) activity in a transaction eligible for nonrecognition treatment under the Code. The proposed regulations provide that gain is recognized on such dispositions ''notwithstanding any other provision of law,'' corresponding with the rule in section 337(b)(2)(B)(ii), and overruling the application of nonrecognition provisions such as section 512(b)(5). In response to these comments, the final regulations allow continuing deferral to the extent that the tax-exempt entity disposes of assets in a transaction that qualifies for nonrecognition of gain or loss under section 1031 or section 1033, but only to the extent that the replacement asset is used in a section 511(a) activity. No exception is made with respect to other nonrecognition provisions.

Special Analyses

It has been determined that this Treasury Decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the Internal Revenue Service's estimate that only 25 entities per year will be responding to the collection of information, and that the total annual reporting burden of this information collection for all responding entities will be only 125 hours. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f), the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Stephen R. Cleary of the Office of Assistant Chief Counsel (Corporate), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for 26 CFR Part 1 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *
Section 1.337(d)–4 also issued under 26 U.S.C. 337. * * *

Par. 2. Section 1.337(d)–4 is added to read as follows:

§ 1.337(d)–4 Taxable to tax-exempt.

(a) *Gain or loss recognition*—(1) *General rule.* Except as provided in paragraph (b) of this section, if a taxable corporation transfers all or substantially all of its assets to one or more tax-exempt entities, the taxable corporation must recognize gain or loss immediately before the transfer as if the assets transferred were sold at their fair market values. But see section 267 and paragraph (d) of this section concerning limitations on the recognition of loss.

(2) *Change in corporation's tax status treated as asset transfer.* Except as provided in paragraphs (a)(3) and (b) of this section, a taxable corporation's change in status to a tax-exempt entity will be treated as if it transferred all of its assets to a tax-exempt entity immediately before the change in status becomes effective in a transaction to which paragraph (a)(1) of this section applies. For example, if a state, a political subdivision thereof, or an entity any portion of whose income is excluded from gross income under

section 115, acquires the stock of a taxable corporation and thereafter any of the taxable corporation's income is excluded from gross income under section 115, the taxable corporation will be treated as if it transferred all of its assets to a tax-exempt entity immediately before the stock acquisition.

(3) *Exceptions for certain changes in status*—(i) *To whom available.* Paragraph (a)(2) of this section does not apply to the following corporations—

(A) A corporation previously tax-exempt under section 501(a) which regains its tax-exempt status under section 501(a) within three years from the later of a final adverse adjudication on the corporation's tax exempt status, or the filing by the corporation, or by the Secretary or his delegate under section 6020(b), of a federal income tax return of the type filed by a taxable corporation;

(B) A corporation previously tax-exempt under section 501(a) or that applied for but did not receive recognition of exemption under section 501(a) before January 15, 1997, if such corporation is tax-exempt under section 501(a) within three years from January 28, 1999;

(C) A newly formed corporation that is tax-exempt under section 501(a) (other than an organization described in section 501(c)(7)) within three taxable years from the end of the taxable year in which it was formed;

(D) A newly formed corporation that is tax-exempt under section 501(a) as an organization described in section 501(c)(7) within seven taxable years from the end of the taxable year in which it was formed;

(E) A corporation previously tax-exempt under section 501(a) as an organization described in section 501(c)(12), which, in a given taxable year or years prior to again becoming tax-exempt, is a taxable corporation solely because less than 85 percent of its income consists of amounts collected from members for the sole purpose of meeting losses and expenses; if, in a taxable year, such a corporation would be a taxable corporation even if 85 percent or more of its income consists of amounts collected from members for the sole purpose of meeting losses and expenses (a non-85 percent violation), paragraph (a)(3)(i)(A) of this section shall apply as if the corporation became a taxable corporation in its first taxable year that a non-85 percent violation occurred; or

(F) A corporation previously taxable that becomes tax-exempt under section 501(a) as an organization described in section 501(c)(15) if during each taxable year in which it is described in section 501(c)(15) the organization is the subject of a court supervised rehabilitation, conservatorship, liquidation, or similar state proceeding; if such a corporation continues to be described in section 501(c)(15) in a taxable year when it is no longer the subject of a court supervised rehabilitation, conservatorship, liquidation, or similar state proceeding, paragraph (a)(2) of this section shall apply as if the corporation first became tax-exempt for such taxable year.

(ii) *Application for recognition.* An organization is deemed to have or regain tax-exempt status within one of the periods described in paragraph (a)(3)(i)(A), (B), (C), or (D) of this section if it files an application for recognition of exemption with the Commissioner within the applicable period and the application either results in a determination by the Commissioner or a final adjudication that the organization is tax-exempt under section 501(a) during any part of the applicable period. The preceding sentence does not require the filing of an application for recognition of exemption by any organization not otherwise required, such as by § 1.501(a)-1, § 1.505(c)-1T, and § 1.508–1(a), to apply for recognition of exemption.

(iii) *Anti-abuse rule.* This paragraph (a)(3) does not apply to a corporation that, with a principal purpose of avoiding the application of paragraph (a)(1) or (a)(2) of this section, acquires all or substantially all of the assets of another taxable corporation and then changes its status to that of a tax-exempt entity.

(4) *Related transactions.* This section applies to any series of related transactions having an effect similar to any of the transactions to which this section applies.

(b) *Exceptions.* Paragraph (a) of this section does not apply to—

(1) Any assets transferred to a tax-exempt entity to the extent that the assets are used in an activity the income from which is subject to tax under section 511(a) (referred to hereinafter as a ''section 511(a) activity''). However, if assets used to any extent in a section 511(a) activity are disposed of by the tax-exempt entity, then, notwithstanding any other provision of law (except section 1031 or section 1033), any gain (not in excess of the amount not recognized by reason of the preceding sentence) shall be included in the tax-exempt entity's unrelated business taxable income. To the extent that the tax-exempt entity ceases to use the assets in a section 511(a) activity, the entity will be treated for purposes of this paragraph (b)(1) as having disposed of the assets on the date of the cessation for their fair market value. For purposes of paragraph (a)(1) of this section and this paragraph (b)(1)—

(i) If during the first taxable year following the transfer of an asset or the corporation's change to tax-exempt status the asset will be used by the tax-exempt entity partly or wholly in a section 511(a) activity, the taxable corporation will recognize an amount of gain or loss that bears the same ratio to the asset's built-in gain or loss as 100 percent reduced by the percentage of use for such taxable year in the section 511(a) activity bears to 100 percent. For purposes of determining the gain or loss, if any, to be recognized, the taxable corporation may rely on a written representation from the tax-exempt entity estimating the percentage of the asset's anticipated use in a section 511(a) activity for such taxable year, using a reasonable method of allocation, unless the taxable corporation has reason to believe that the tax-exempt entity's representation is not made in good faith;

(ii) If for any taxable year the percentage of an asset's use in a section 511(a) activity decreases from the estimate used in computing gain or loss recognized under paragraph (b)(1)(i) of this section, adjusted for any decreases taken into account under this paragraph (b)(1)(ii) in prior taxable years, the tax-exempt entity shall recognize an amount of gain or loss that bears the same ratio to the asset's built-in gain or loss as the percentage point decrease in use in the section 511(a) activity for the taxable year bears to 100 percent;

(iii) If property on which all or a portion of the gain or loss is not recognized by reason of the first sentence of paragraph (b)(1) of this section is disposed of in a transaction that qualifies for nonrecognition treatment under section 1031 or section 1033, the tax-exempt entity must treat the replacement property as remaining subject to paragraph (b)(1) of this section to the extent that the exchanged or involuntarily converted property was so subject;

(iv) The tax-exempt entity must use the same reasonable method of allocation for determining the percentage that it uses the assets in a section 511(a) activity as it uses for other tax purposes, such as determining the amount of depreciation deductions. The tax-exempt entity also must use this same reasonable method of allocation for each taxable year that it holds the assets; and

(v) An asset's built-in gain or loss is the amount that would be recognized

under paragraph (a)(1) of this section except for this paragraph (b)(1);

(2) Any transfer of assets to the extent gain or loss otherwise is recognized by the taxable corporation on the transfer. See, for example, sections 336, 337(b)(2), 367, and 1001;

(3) Any transfer of assets to the extent the transaction qualifies for nonrecognition treatment under section 1031 or section 1033; or

(4) Any forfeiture of a taxable corporation's assets in a criminal or civil action to the United States, the government of a possession of the United States, a state, the District of Columbia, the government of a foreign country, or a political subdivision of any of the foregoing; or any expropriation of a taxable corporation's assets by the government of a foreign country.

(c) *Definitions.* For purposes of this section:

(1) *Taxable corporation.* A *taxable corporation* is any corporation that is not a tax-exempt entity as defined in paragraph (c)(2) of this section.

(2) *Tax-exempt entity.* A *tax-exempt entity* is—

(i) Any entity that is exempt from tax under section 501(a) or section 529;

(ii) A charitable remainder annuity trust or charitable remainder unitrust as defined in section 664(d);

(iii) The United States, the government of a possession of the United States, a state, the District of Columbia, the government of a foreign country, or a political subdivision of any of the foregoing;

(iv) An Indian Tribal Government as defined in section 7701(a)(40), a subdivision of an Indian Tribal Government determined in accordance with section 7871(d), or an agency or instrumentality of an Indian Tribal Government or subdivision thereof;

(v) An Indian Tribal Corporation organized under section 17 of the Indian Reorganization Act of 1934, 25 U.S.C. 477, or section 3 of the Oklahoma Welfare Act, 25 U.S.C. 503;

(vi) An international organization as defined in section 7701(a)(18);

(vii) An entity any portion of whose income is excluded under section 115; or

(viii) An entity that would not be taxable under the Internal Revenue Code for reasons substantially similar to those applicable to any entity listed in this paragraph (c)(2) unless otherwise explicitly made exempt from the application of this section by statute or by action of the Commissioner.

(3) *Substantially all.* The term *substantially all* has the same meaning as under section 368(a)(1)(C).

(d) *Loss limitation rule.* For purposes of determining the amount of gain or loss recognized by a taxable corporation on the transfer of its assets to a tax-exempt entity under paragraph (a) of this section, if assets are acquired by the taxable corporation in a transaction to which section 351 applied or as a contribution to capital, or assets are distributed from the taxable corporation to a shareholder or another member of the taxable corporation's affiliated group, and in either case such acquisition or distribution is made as part of a plan a principal purpose of which is to recognize loss by the taxable corporation on the transfer of such assets to the tax-exempt entity, the losses recognized by the taxable corporation on such assets transferred to the tax-exempt entity will be disallowed. For purposes of the preceding sentence, the principles of section 336(d)(2) apply.

(e) *Effective date.* This section is applicable to transfers of assets as described in paragraph (a) of this section occurring after January 28, 1999, unless the transfer is pursuant to a written agreement which is (subject to customary conditions) binding on or before January 28, 1999.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 3. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 4. In § 602.101, paragraph (c) is amended by adding an entry in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(c) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.337(d)–4	1545–1633
* * * * *	

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: December 17, 1998.

Dated: December 17, 1998.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 98–34210 Filed 12–28–98; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6209–8]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of deletion from the Frontera Creek Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Frontera Creek Superfund Site (Site) located in Rio Abajo within the Municipality of Humacao, Puerto Rico, from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR Part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the Puerto Rico Environmental Quality Board have determined that the Site poses no significant threat to public health or the environment and, therefore, no further response actions pursuant to CERCLA are appropriate.

EFFECTIVE DATE: December 29, 1998.

FOR FURTHER INFORMATION CONTACT: Luis E. Santos, Remedial Project Manager, U.S. Environmental Protection Agency, Region 2, Caribbean Environmental Protection Division (CEPD), Centro Europa Building, Suite 417, 1492 Ponce de León Ave., Stop 22, San Juan, Puerto Rico 00907–4127, (787) 729–6951 Ext. 223.

SUPPLEMENTARY INFORMATION: The Site to be deleted from the NPL is: the Frontera Creek Superfund Site, Rio Abajo, Puerto Rico.

A Notice of Intent to Delete for this Site was published on July 30, 1998 (63 FR 40685–40687). The closing date for comments on the Notice of Intent to Delete was August 31, 1998. EPA held a public availability session on the proposal to delete the Site from the NPL on August 20, 1998 at the Humacao Town Hall. EPA received two letters offering comments. EPA responded to the letters and no further action is required. Copies of the letters and the responses are available in the Administrative Record File.

EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those

sites. As described in 40 CFR 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for remedial actions in the unlikely event that conditions at the site warrant such action in the future. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: December 14, 1998.

William Muszynski,

Acting Regional Administrator, U.S. EPA Region II.

For the reasons set out in the preamble, 40 CFR Part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for Part 300 continues to read as follows:

Authority: 42 U.S.C. 9601–9657; 33 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to Part 300 is amended by removing the site, ''Frontera Creek, Rio Abajo, Puerto Rico.''

[FR Doc. 98–34303 Filed 12–28–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6209–3]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of deletion for the Hill Property portion of the American Cyanamid Superfund Site from the National Priorities List.

SUMMARY: The United States Environmental Protection Agency (EPA) announces the deletion of the Hill Property (HP) portion of the American Cyanamid Superfund Site from the National Priorities List (NPL). The American Cyanamid Site is located in Bound Brook, New Jersey in the southeastern section of Bridgewater Township, Somerset County. The NPL is Appendix B of 40 CFR Part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the State of New Jersey have determined that all appropriate response actions under CERCLA have been implemented at the HP portion of the American Cyanamid site to protect human health, welfare and the environment. This partial deletion pertains only to the HP portion of the American Cyanamid Site and does not include the other portions of the American Cyanamid Site.

EFFECTIVE DATE: December 29, 1998.

FOR FURTHER INFORMATION CONTACT: Jeff Catanzarita, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290, Broadway—19th Floor, New York, NY 10007–1866, (212) 637–4409.

SUPPLEMENTARY INFORMATION: The site to be partially deleted from the NPL is: the Hill Property (HP) portion of the American Cyanamid Site located in Bridgewater, Somerset County, New Jersey.

A Notice of Intent to Delete for the HP portion was published on October 20, 1998 (63 FR 55986). The closing date for comments on the Notice of Intent to Delete was November 19, 1998. EPA received no comments. The Deletion Docket may be reviewed at the EPA Region II office in New York, New York, the Bridgewater Town Hall and Somerset County/Bridgewater Library in Bridgewater, New Jersey, and New Jersey Department of Environmental Protection office in Trenton, New Jersey.

EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. As described in 40 CFR 300.425(e)(3) of the NCP, any site or portion thereof deleted from the NPL remains eligible for remedial actions in the unlikely event that conditions warrant such action in the future. Deletion of a portion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: December 12, 1998.

William Muszynski,

Acting Regional Administrator, Region I.

For the reasons set out in the preamble, 40 CFR Part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for Part 300 continues to read as follows:

Authority: 42 U.S.C. 9601–9657; 33 U.S.C. 1321(c)(2); E.O.12777, 56 FR 54757, 3 CFR 1991 Comp., p.351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

2. Table 1 of Appendix B to Part 300 is amended by revising the entry for ''American Cyanamid Co., Bound Brook, New Jersey'' to read as follows:

Appendix B to Part 300—National Priorities List

TABLE 1.—GENERAL SUPERFUND SECTION

State	Site name	City/County	Notes(a)
*	* * * * * * *		
NJ	American Cyanamid Co.	Bound Brook	P
*	* * * * * * *		

(a) * * *

P=Sites with partial deletion(s).

* * * * *

[FR Doc. 98–34301 Filed 12–28–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6210–1]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Deletion for the Lodi Municipal Well Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Lodi Municipal Well Superfund Site (Site) located in Lodi, Bergen County, New Jersey, from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the State of New Jersey have determined that the Site poses no significant threat to public health or the environment and, therefore, no further response actions pursuant to CERCLA are appropriate.

EFFECTIVE DATE: December 29, 1998.

FOR FURTHER INFORMATION CONTACT: Jeff Catanzarita, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290 Broadway—19th Floor, New York, NY 10007–1866, (212) 637–4409.

SUPPLEMENTARY INFORMATION: The Site to be deleted from the NPL is: the Lodi Municipal Well Site (Site) located in Lodi, Bergen County, New Jersey. A Notice of Intent to Delete for this Site was published on October 20, 1998 (63 FR 55985). The closing date for comments on the Notice of Intent to Delete was November 19, 1998. EPA received three written comments from one individual. One comment raised procedureal questions regarding how sites are deleted from the NPL. The remaining comments expressed concern about sporadic non-radiological regional contamination in the area.

EPA provided detailed responses to these comments in a responsiveness summary, which is contained in the Deletion Docket. The Deletion Docket may be reviewed at the EPA Region II office in New York, New York, and the Lodi Memorial Public Library in Lodi, New Jersey. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. As described in 40 CFR 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for remedial actions in the unlikely event that conditions at the site warrant such action in the future. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: December 14, 1998.

William Muszynski,

Acting Regional Administrator, Region II.

For the reasons set out in the preamble, 40 CFR Part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for Part 300 continues to read as follows:

Authority: 42 U.S.C. 9601–9657; 33 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to Part 300 is amended by removing the site, ''Lodi Municipal Well, Lodi, N.J.''

[FR Doc. 98–34302 Filed 12–28–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6209–7]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of Deletion of the Denzer & Schafer X-Ray Company Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region II announces the deletion of the Denzer & Schafer X-Ray Company Site in Bayville, New Jersey from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) as amended. EPA and the State of New Jersey have determined that the site poses no significant threat to public health or the environment and, therefore, no remedial measures pursuant to CERCLA are appropriate.

EFFECTIVE DATE: December 29, 1998.

FOR FURTHER INFORMATION CONTACT: Matthew Westgate, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290 Broadway, 19th floor, New York, N.Y. 10007–1866. (212) 637–4422.

ADDRESSES: Comprehensive information about the Denzer & Schafer X-Ray Company Site is available for viewing at the Administrative Record Repositories which are located at:

Berkeley Township Library, 42 Station Road, Bayville, New Jersey 08721

Berkeley Township Municipal Building, Pinewald-Keswick Road, P.O. Box B, Bayville, New Jersey 08721

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Denzer & Schafer X-Ray Company, Bayville, New Jersey.

A Notice of Intent to Delete for this site was published in the **Federal Register** on August 18, 1998 (63 FR 44218). The closing date for comments on the Notice of Intent to Delete was September 17, 1998. EPA received no comments.

The EPA identifies sites that appear to present a significant risk to public health, welfare or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust (Fund) financed remedial actions. Pursuant to 40 CFR 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event conditions at the Site warrant such action. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping

requirements, Superfund, Water pollution control, Water supply.

Dated: December 14, 1998.

William Muszynski,

Acting Regional Administrator, Region II.

For reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for Part 300 continues to read as follows:

Authority: 42 U.S.C. 9601–9657; 33 U.S.C. 1321(c)(2); E.O. 12777, 56 FR 54757, 3 CFR 1991 Comp., p 351; E.O. 12580, 52 FR 02923; 3 CFR, 1987 Comp., p 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to part 300 is amended by removing the site, ''Denzer & Schafer X-Ray Co., Bayville, New Jersey.''

[FR Doc. 98–34305 Filed 12–28–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 710

[OPPTS–82052; FRL–6052–7]

1998 Reporting Notice and Amendment; Partial Updating of TSCA Inventory Data Base, Production and Site Reports

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; Amendment; Notice of Reporting Period Extension.

SUMMARY: This document announces an amendment to the Toxic Substances Control Act (TSCA) Inventory Update Rule (IUR) that extends the reporting deadline for 1998. The time for reporting has been extended so that IUR reports are now due by January 31, 1999. This is a one-time extension for the 1998 reporting period only. The IUR requires manufacturers and importers of certain chemical substances included on the TSCA Chemical Substance Inventory to report current data on the production volume, plant site, and site-limited status of the substances.

DATES: This amendment is effective December 29, 1998. The 1998 IUR reporting period is extended to run from August 25, 1998 to January 31, 1999.

FOR FURTHER INFORMATION CONTACT: For general information contact: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 554–1404; TDD: (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov. For technical information contact: Scott M. Sherlock, Information Management Divison (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, telephone: (202) 260–1536, fax: (202) 260–9555, e-mail: sherlock.scott@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Notice Apply to Me?

You may be potentially affected by this action if you manufactured or imported organic chemicals or other chemicals subject to proposed or final rules or orders during your company's latest fiscal year prior to August 25, 1998. This notice announces a rule amendment which provides for an extension of the 1998 IUR reporting deadline. The Agency must receive the reports by January 31, 1999. The original **Federal Register** notice for the 1998 IUR collection was published on August 28, 1998 (63 FR 45950)(FRL–6028–3). Potentially affected categories and entities may include, but are not limited to:

Category	Examples of potentially Affected Entities
Chemical manufacturers (SIC codes 28 and 2911).	Manufacturers of chemical substances subject to the rule.
Chemical importers (SIC Codes 28 and 2911).	Importers of chemical substances. Under the regulations importers include such persons as brokers, agents, importers of record, consignees, and owners.

This table is not intended to be exhaustive, but rather provides a summary guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this table could also be affected. To determine whether you or your business is affected by this action, you should carefully examine the applicability provisions beginning at 40 CFR part 710. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

II. How Can I Get Additional Information or Copies of this Document or Other Support Documents?

A. Electronically

You may obtain electronic copies of this document and other IUR related documents from the EPA Internet Home Page at http://www.epa.gov/opptintr/iur98. On the Home Page select ''Laws and Regulations'' and then look up the entry for this document under ''Federal Register - Environmental Documents.'' An alternative internet address is the ''Federal Register'' listings at http://www.epa.gov/homepage/fedrgstr/.

B. Fax-on-Demand

You may request a faxed copy of the Form U, the form used for IUR reporting, by using a faxphone to call (202) 401–0527 and selecting item 5119.

C. In Person or By Phone

If you have any questions or need additional information about this action, please contact the technical person identified in the ''FOR FURTHER INFORMATION CONTACT'' section, or the staff at the TSCA Hotline. In addition, the official record for the IUR has been established under docket control number OPPTS–82015A. The public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as CBI, is available for inspection in Rm. G–099, Waterside Mall, 401 M St., SW., Washington, DC, from noon to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Office telephone number is (202) 260–0660.

III. Why is the Agency taking this Action?

EPA is issuing this amendment to extend the 1998 reporting period for IUR reporting until January 31, 1999. The August 28, 1998 Notice designated the IUR reporting period as August 25, 1998 to December 23, 1998. The Agency is taking this action in response to concerns raised by the regulated community about their ability to submit the required information in a timely basis. There are two separate process issues that are the bases to these concerns. First, the Agency did not make reporting materials available to the regulated community until August 28, 1998, three days after the beginning of the reporting period. Second, the Agency introduced reporting software on disks for this reporting period, and a significant portion of the regulated community is having some difficulty working with the new reporting media. EPA believes it is appropriate to extend the reporting period to allow the regulated community to adjust to the new software and submit their reports.

IV. What is the Agency's Authority for Taking the Action in this Document?

The Inventory Update Rule or IUR is issued pursuant to the authority of

section 8(a) of TSCA, 15 U.S.C. 2607(a). The regulations for this rule are located at 40 CFR part 710, (51 FR 21438, June 12, 1986).

Under section 553(b)(3)(B) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B), the Agency may make a rule immediately final if it finds that notice and public participatory procedures are impracticable, unnecessary or contrary to the public interest. In this case, for the extension sought, the Agency does find that normal notice and public process rulemaking is impracticable, unnecessary and contrary to the public interest.

The Agency believes that this one time extension is consistent with the public interest because it is designed to facilitate compliance with the IUR and to ensure that the 1998 collection includes accurate data on chemical manufacturing in the United States. The Agency further believes that the one time extension will not adversely affect potential users of the IUR data since the extension will not delay the processing of the IUR collected information.

Notice and public comment are impracticable because the existing reporting deadlines would expire by the time the notice and comment period was completed. As indicated above, EPA intends to process the IUR information on an expedited schedule, making the information available to users in the same time frame as originally planned.

Similarly, under section 553(d) of the APA, 5 U.S.C. 553(d), the Agency may make a rule immediately effective ''for good cause found and published with the rule.'' In addition to the reasons discussed above, EPA believes that there is ''good cause'' because today's action does not impose any additional burdens on the regulated community, and in fact provides a more relaxed reporting schedule. Accordingly, EPA is making this amendment effective upon publication in the **Federal Register**.

V. Do Any Regulatory Assessment Related Requirements Apply to this Action?

No. This action is classified as a final rule because it makes an amendment to the Code of Federal Regulations (CFR). The amendment to the CFR is necessary to allow for a one time extension to the 1998 reporting IUR period. This action does not impose any new requirements or amend the existing requirements. This action does not require review by the Office of Management and Budget (OMB) under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and does not require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875, entitled *Enhancing Intergovernmental Partnerships* (58 FR 58093, October 28, 1993) or Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19,1998), or involve special consideration of environmental justice related issues as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104–113, section 12(d) (15 U.S.C. 272 note). In addition, since this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the preamble to the final IUR rule (63 FR 45950, August 28, 1998)(6028–3).

VI. Does EPA Have to Submit this Action to Congress and the Comptroller General of the United States?

Yes, this one time extension to the 1998 IUR reporting period is classified as a ''final rule.'' The Congressional Review Act, 5 U.S.C. 801 et seq., generally provides that, before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. However, section 808 provides that for any rule for which the issuing agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rule) that notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest, shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of December 29, 1998. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 710

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: December 17, 1998.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore 40 CFR part 710 is amended as follows:

PART 710—[AMENDED]

1. The authority citation for part 710 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

2. Section 710.33 is amended by revising paragraph (b) and by adding paragraph (c) to read as follows:

§ 710.33 When to report.

* * * * *

(b) *Recurring reporting periods.* The first recurring reporting period is from August 25, 1990 to December 23, 1990. Subsequent reporting periods, except as provided in paragraph (c) of this section, are from August 25 to December 23 at 4-year intervals thereafter. Any person described in § 710.28(b) must report during the appropriate reporting period for each chemical substance described in § 710.25 that the person manufactured during the applicable corporate fiscal year described in § 710.28(b).

(c) *Reporting in 1998.* The 1998 reporting period is from August 25, 1998 until January 31, 1999. Any person described in § 710.28(b) must report during this reporting period for each chemical substance described in § 710.25 that the person manufactured during the applicable corporate fiscal year described in § 710.28(b). This reporting period is applicable to 1998 reporting only.

[FR Doc. 98–34428 Filed 12–28–98; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 74

[MM Docket No. 98–98; FCC 98–324]

Call Sign Assignments for Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission modifies its practices and procedures regarding the assignment of call signs to radio and television broadcast stations. The document replaces the Commission's existing manual procedures with an on-line system for the electronic preparation and submission of requests for the reservation and authorization of new and modified call signs. Implementation of the on-line call sign system will enhance the speed and certitude of radio and television broadcast station call sign assignments, thereby providing better service to all broadcast licensees and permittees, and will also conserve Commission resources.

EFFECTIVE DATE: December 29, 1998.

FOR FURTHER INFORMATION CONTACT: James J. Brown or Jerianne Timmerman at (202) 418–1600.

SUPPLEMENTARY INFORMATION:

1. In this *Report and Order* adopted December 8, 1998, and released December 16, 1998, the Federal Communications Commission is modifying its practices and procedures regarding the assignment of call signs to radio and television broadcast stations. As proposed in the *Notice of Proposed Rulemaking* in this proceeding, 63 FR 38357 (July 16, 1998), this *Report and Order* replaces the Commission's existing manual procedures for assigning call signs with an on-line system for the electronic preparation and submission of requests for the reservation and authorization of new and modified call signs.

2. As described in detail in the *Report and Order*, implementation of the on-line call sign system will enhance the speed and certitude of radio and television broadcast station call sign assignments, thereby providing better service to all broadcast licensees and permittees, and will also conserve Commission resources. For these reasons, the *Report and Order* requires broadcast licensees and permittees to utilize the new on-line system in making call sign requests. However, as the Commission seeks to avoid any disruption to broadcast licensees and permittees who may not have ready access to the Internet, the *Report and Order* allows applicants to request a waiver of the Commission's requirement to utilize the on-line system to request new or modified call signs for their stations.

3. The complete text of this *Report and Order* is available for inspection and copying during normal business hours in the Federal Communications Commission Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and it may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857–3800.

Final Regulatory Flexibility Act Analysis (FRFA)

Summary

4. As required by the Regulatory Flexibility Act (RFA), 5 U.S.C. 603, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rulemaking (NPRM)* in this proceeding. The Commission sought written public comments on the proposals in the *NPRM*, including on the IRFA. The Commission's Final Regulatory Flexibility Analysis (FRFA) in this *Report and Order* conforms to the RFA, as amended by the Contract With America Advancement Act of 1996.

Need for and Objectives of Action

5. This *Report and Order* adopts modified procedures regarding the assignment of call signs for radio and television broadcast stations. By replacing its existing manual procedures with a new on-line system for the electronic preparation and submission of requests for new and modified call signs, the Commission will enhance the speed and certitude of radio and television broadcast station call sign assignments, while at the same time conserving Commission resources.

Significant Issues Raised by Public in Response to Initial Analysis

6. No comments were received specifically in response to the IRFA contained in the *NPRM*. However, two commenters did address an issue relating to call signs for low power television (LPTV) stations, whose licensees are generally small businesses. One commenter opposed allowing LPTV permittees to reserve four-letter call signs, but another commenter opposed this position. The Commission concluded that there was no compelling reason to prevent LPTV permittees from obtaining four-letter call signs via the new electronic system if they wish to replace their Commission-assigned five character alpha-numeric call signs.

Description and Estimate of the Number of Small Entities Involved

7. *Definition of a ''Small Business.''* Under the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions. 5 U.S.C. 601(6). The RFA, 5 U.S.C. 601(3), generally defines the term ''small business'' as having the same meaning as the term ''small business concern'' under the Small Business Act, 15 U.S.C. 632. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency after consultation with the Office of Advocacy of the SBA and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.''

8. In the IRFA we stated that we tentatively believe that the SBA's definition of ''small business'' greatly overstates the number of radio and television broadcast stations that are small businesses and is not particularly suitable for the purpose of determining the impact of the proposals in the *NPRM* on small television and radio stations. While we utilized the SBA's definition to determine the number of small businesses to which the revised call sign procedures would apply, we reserved the right to adopt a more suitable definition of ''small business'' as applied to radio and television broadcast stations. We received no comment in response to the IRFA on how to define radio and television broadcast ''small businesses.'' Therefore, we will continue to utilize the SBA's definitions for the purposes of this FRFA.

9. *Issues in Applying the Definition of a ''Small Business.''* As discussed below, we could not precisely apply the foregoing definition of ''small business'' in developing our estimates of the number of small entities to which the amended call sign procedures will apply. Our estimates reflect our best judgments based on the data available to us.

10. An element of the definition of ''small business'' is that the entity not

be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific radio or television station is dominant in its field of operation. Accordingly, the following estimates of small businesses to which the new call sign rules and procedures will apply do not exclude any radio or television station from the definition of a small business on this basis and are therefore overinclusive to that extent. An additional element of the definition of ''small business'' is that the entity must be independently owned and operated. As discussed further below, we could not fully apply this criterion, and our estimates of small businesses to which the amended call sign procedures may apply may be overinclusive to this extent.

11. With respect to applying the revenue cap, the SBA has defined ''annual receipts'' specifically in 13 CFR 121.104, and its calculations include an averaging process. We do not currently require submission of financial data from licensees that we could use in applying the SBA's definition of a small business. Thus, for purposes of estimating the number of small entities to which the rules apply, we are limited to considering the revenue data that are publicly available, and the revenue data on which we rely may not correspond completely with the SBA definition of annual receipts.

12. Under SBA criteria for determining annual receipts, if a concern has acquired an affiliate or been acquired as an affiliate during the applicable averaging period for determining annual receipts, the annual receipts in determining size status include the receipts of both firms. 13 CFR 121.104(d)(1). The SBA defines affiliation in 13 CFR 121.103. In this context, the SBA's definition of affiliate is analogous to our attribution rules. Generally, under the SBA's definition, concerns are affiliates of each other when one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. 13 CFR 121.103(a)(1). The SBA considers factors such as ownership, management, previous relationships with or ties to another concern, and contractual relationships, in determining whether affiliation exists. 13 CFR 121.103(a)(2). Instead of making an independent determination of whether television stations were affiliates based on SBA's definitions, we relied on the databases available to us to provide us with that information.

13. *Estimates Based on Census Data.* The amended call sign rules and procedures will apply to television and LPTV broadcasting licensees and permittees and radio broadcasting licensees and permittees. The SBA defines a television broadcasting station that has no more than $10.5 million in annual receipts as a small business. Television broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services. Included in this industry are commercial, religious, educational, and other television stations. Also included are establishments primarily engaged in television broadcasting and which produce taped television program materials. Separate establishments primarily engaged in producing taped television program materials are classified under another SIC number.

14. There were 1,509 television stations operating in the Nation in 1992. That number has remained fairly steady as indicated by the approximately 1,583 operating television broadcasting stations in the Nation as of August 1998. For 1992, the number of television stations that produced less than $10.0 million in revenue was 1,155 establishments. Thus, the amended call sign procedures will affect some of the approximately 1,583 television stations; approximately 77%, or 1219, of those stations are considered small businesses. The amended call sign procedures will also apply to LPTV stations that choose to apply for four letter call signs, and we believe that the vast majority of the existing 2088 LPTV stations are small businesses. These estimates may overstate the number of small entities since the revenue figures on which they are based do not include or aggregate revenues from non-television affiliated companies.

15. The amended call sign rules and procedures will also affect radio stations. The SBA defines a radio broadcasting station that has no more than $5 million in annual receipts as a small business. A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public. Included in this industry are commercial, religious, educational, and other radio stations. Radio broadcasting stations that primarily are engaged in radio broadcasting and that produce radio program materials are similarly included. However, radio stations that are separate establishments and are primarily engaged in producing radio program material are classified under another SIC number. The 1992 census indicates that 96 percent (5,861 of 6,127) of radio station establishments produced less than $5 million in revenue in 1992. Official Commission records indicate that 11,334 individual radio stations were operating in 1992. As of August 1998, official Commission records indicate that 12,365 radio stations were operating. We conclude that a similarly high percentage (96 percent) of current radio broadcasting licensees are small entities, some of which will be affected by the amended call sign procedures. These estimates may overstate the number of small entities since the revenue figures on which they are based do not include or aggregate revenues from non-radio affiliated companies.

Description of Projected Recording, Recordkeeping, and Other Compliance Requirements

16. The measures adopted in the *Report and Order* will reduce the burdens on broadcast station licensees and permittees applying for or requesting a change in their station call signs. Replacement of the current manual call sign assignment process with an entirely electronic system will reduce the overall administrative burden upon both broadcast licensees and the Commission. Given the expected benefits of the new electronic system, all broadcast licensees and permittees will be required to utilize the system to make call sign requests. We believe that utilization of the new on-line system will, among other things, increase the speed and certitude of the call sign assignment process, conserve Commission resources, and aid licensees and permittees by informing them of errors in their call sign requests before they are actually sent. The measures adopted in the *Report and Order* do not alter the Commission's current rules and policies regarding call signs (such as what constitutes a valid call sign), but modify the procedures by which call signs are assigned.

Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

17. This *Report and Order* implements the Mass Media Bureau's new on-line call sign reservation system. Given the expected benefits of the new electronic system for both broadcast station licensees and the Commission, we determined to require all broadcast licensees and permittees to utilize the system for reserving call signs. No comments were submitted opposing mandatory use of the electronic call sign system, and none contended that use of the system would impose a significant economic impact on small entities, although one

commenter supported a phase in period before use of the system would become mandatory. Given the significant inefficiencies, for both licensees and the Commission, associated with maintaining a manual call sign request system following the implementation of our new electronic system, we declined to adopt a phase in period for the new on-line system. However, as we seek to avoid any disruption to broadcast licensees and permittees (particularly small or rural broadcasters) who may not have ready access to the Internet, we will allow applicants to request a waiver of our requirement to utilize the on-line system to make call sign requests.

Report to Congress

18. The Commission will send a copy of the *Report and Order*, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. *See* 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the *Report and Order*, including the FRFA, to the Chief Counsel for Advocacy of the SBA.

19. Authority for issuance of this *Report and Order* is contained in Sections 4(i), 4(j) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j) and 303.

List of Subjects in 47 CFR parts 73 and 74

Radio broadcasting, Reporting and recordkeeping requirements, Television broadcasting.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Parts 73 and 74 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334, and 336.

2. Section 73.3550 is revised to read as follows:

§ 73.3550 Requests for new or modified call sign assignments.

(a) All requests for new or modified call sign assignments for radio and television broadcast stations shall be made via the FCC's on-line call sign reservation and authorization system accessible through the Internet's World Wide Web by specifying http://www.fcc.gov. Licensees and permittees may utilize this on-line system to determine the availability and licensing status of any call sign; to select an initial call sign for a new station; to change a station's currently assigned call sign; to modify an existing call sign by adding or deleting an ''-FM'' or ''-TV'' suffix; to exchange call signs with another licensee or permittee in the same service; or to reserve a different call sign for a station being transferred or assigned.

(b) No request for an initial call sign assignment will be accepted from a permittee for a new radio or full-service television station until the FCC has granted a construction permit. Each such permittee shall request the assignment of its station's initial call sign expeditiously following the grant of its construction permit. All initial construction permits for low power TV stations will be issued with a five-character low power TV call sign, in accordance with § 74.783(d) of this chapter.

(c) Following the filing of a transfer or assignment application, the proposed assignee/transferee may request a new call sign for the station whose license or construction permit is being transferred or assigned. No change in call sign assignment will be effective until such transfer or assignment application is granted by the FCC and notification of consummation of the transaction is received by the FCC.

(d) Where an application is granted by the FCC for transfer or assignment of the construction permit or license of a station whose existing call sign conforms to that of a commonly-owned station not part of the transaction, the new licensee of the transferred or assigned station shall expeditiously request a different call sign, unless consent to retain the conforming call sign has been obtained from the primary holder and from the licensee of any other station that may be using such conforming call sign.

(e) Call signs beginning with the letter ''K'' will not be assigned to stations located east of the Mississippi River, nor will call signs beginning with the letter ''W'' be assigned to stations located west of the Mississippi River.

(f) Only four-letter call signs (plus an LP suffix or FM or TV suffixes, if used) will be assigned. However, subject to the other provisions of this section, a call sign of a station may be conformed to a commonly owned station holding a three-letter call sign assignment (plus FM, TV or LP suffixes, if used).

(g) Subject to the foregoing limitations, applicants may request call signs of their choice if the combination is available. Objections to the assignment of requested call signs will not be entertained at the FCC. However, this does not hamper any party from asserting such rights as it may have under private law in some other forum. Should it be determined by an appropriate forum that a station should not utilize a particular call sign, the initial assignment of a call sign will not serve as a bar to the making of a different assignment.

(h) Stations in different broadcast services (or operating jointly in the 535–1605 kHz band and in the 1605–1705 kHz band) which are under common control may request that their call signs be conformed by the assignment of the same basic call sign if that call sign is not being used by a non-commonly owned station. For the purposes of this paragraph, 50% or greater common ownership shall constitute a prima facie showing of common control.

(i) The provisions of this section shall not apply to International broadcast stations or to stations authorized under part 74 of this chapter (except as provided in § 74.783).

(j) A change in call sign assignment will be made effective on the date specified in the postcard acknowledging the assignment of the requested new call sign and authorizing the change. Unless the requested change in call sign assignment is subject to a pending transfer or assignment application, the requester is required to include in its on-line call sign request a specific effective date to take place within 45 days of the submission of its electronic call sign request. Postponement of the effective date will be granted only in response to a timely request and for only the most compelling reasons.

(k) Four-letter combinations commencing with ''W'' or ''K'' which are assigned as call signs to ships or to other radio services are not available for assignment to broadcast stations, with or without the ''-FM'' or ''-TV'' suffix.

(l) Users of nonlicensed, low-power devices operating under part 15 of this chapter may use whatever identification is currently desired, so long as propriety is observed and no confusion results with a station for which the FCC issues a license.

(m) Where a requested call sign, without the ''-FM,'' ''-TV'' or ''-LP'' suffix, would conform to the call sign of any other non-commonly owned station(s) operating in a different service, an applicant utilizing the on-line reservation and authorization system will be required to certify that consent to use the secondary call sign has been obtained from the holder of the primary call sign.

PART 74—EXPERIMENTAL RADIO, AUXILIARY, SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

3. The authority citation for part 74 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 307, and 554.

4. Section 74.783 is amended by revising paragraph (e) to read as follows:

§ 74.783 Station identification.

* * * * *

(e) Low power TV permittees or licensees may request that they be assigned four-letter call signs in lieu of the five-character alpha-numeric call signs described in paragraph (d) of this section. Parties requesting four-letter call signs are to follow the procedures delineated in § 73.3550 of this chapter. Such four-letter call signs shall begin with K or W; stations west of the Mississippi River will be assigned an initial letter K and stations east of the Mississippi River will be assigned an initial letter W. The four-letter call sign will be followed by the suffix ''-LP.''

* * * * *

[FR Doc. 98–34237 Filed 12–28–98; 8:45 am]

BILLING CODE 6712–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1871

Administrative Revisions to the NASA FAR Supplement, MidRange Procurement Procedures

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This is a final rule to conform NASA FAR Supplement MidRange Procurement Procedures with FAR 19.10 and 13.5.

DATES: This final rule is effective December 29, 1998.

ADDRESSES: Celeste Dalton, NASA Headquarters Office of Procurement, Contract Management Division (Code HK), Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Celeste Dalton, (202) 358–1645.

SUPPLEMENTARY INFORMATION:

Background

NASA MidRange Procurement Procedures require that all acquisitions be reserved for small business concerns with specific exceptions noted. FAR Subpart 19.10, Small Business Competitiveness Demonstration Program, requires acquisitions in four designated industry groups be conducted on an unrestricted basis as long as specific goals for small business are achieved. This rule will add acquisitions subject to FAR Subpart 19.10 to the list of MidRange exceptions. Also, FAR Subpart 13.5, Test Program for Certain Commercial Items, allows for use of simplified acquisition procedures for commercial item acquisition of $5M or less. NASA MidRange Procurement Procedures require that commercial items acquired under FAR Subpart 13.5 be accomplished using MidRange Procedures. This precludes the use of additional flexibility provided for in FAR Part 13. This final rule will relax the MidRange requirement to permit use of MidRange Procurement Procedures for commercial item acquisitions conducted under FAR Subpart 13.5. Also, an editorial change is made to correct a FAR citation noted in section 1871.401–6.

Impact

NASA certifies that this regulation will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) since the changes modify administrative procedures and do not impose any new requirements on offerors or contractors. The rule does not impose any reporting or recordkeeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR Part 1871

Government Procurement.

Tom Luedtke,

Acting Associate Administrator for Procurement.

Accordingly, 48 CFR Part 1871 is amended as follows:

1. The authority citation for 48 CFR Part 1871 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1)

PART 1871—MIDRANGE PROCUREMENT PROCEDURES

2. Section 1871.204 is revised to read as follows:

1871.204 Small business set-asides.

(a) Except as provided in paragraphs (b) through (f) of this section, each MidRange acquisition shall be reserved exclusively for small business concerns.

(b) The requirement for small business MidRange set-asides does not relieve the buying office of its responsibility to procure from required sources of supply, such as Federal Prison Industries, Industries for the Blind and Other Severely Handicapped, and multiple award Federal Supply Schedule contracts.

(c) Procurements not conducted as small business set-asides and under less than full and open competition require a Justification for Other than Full and Open Competition pursuant to FAR Part 6.

(d) If the buying team procurement member determines there is no reasonable expectation of obtaining offers from two or more responsible small business concerns that will be competitive in terms of market price, quality, and delivery, the buying team need not proceed with the small business set-aside and may purchase on an unrestricted basis utilizing MidRange procedures. The buying team procurement member shall document the contract file with the reason for the unrestricted procurement.

(e) Acquisitions required to be conducted under Full and Open Competition by the Small Business Competitiveness Demonstration Program, FAR subpart 19.10, will not be set aside for small business.

(f) If the buying team proceeds with the small business MidRange set-aside and receives an offer from only one responsible small business concern at a reasonable price, the contracting officer will normally make an award to that concern. However, if the buying team does not receive a reasonable offer from a responsible small business concern, the buying team procurement member may cancel the small business set-aside and complete the procurement on an unrestricted basis utilizing MidRange procedures. The buying team procurement members shall document in the file the reason for the unrestricted purchase.

(g) Each model contract under a small business MidRange set-aside shall contain the clause at FAR 52.219–6, Notice of Total Small Business Set-Aside.

1871.401–6 [Amended]

3. In paragraph (a)(2) to section 1871.401–6, the word ''shall'' is revised to read ''may'' and the citation ''FAR subpart 13.6'' is revised to read ''FAR subpart 13.5''.

[FR Doc. 98–34316 Filed 12–28–98; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Parts 800 and 831

Organization of the Board and Accident/Incident Investigation Procedures

AGENCY: National Transportation Safety Board.

ACTION: Final rules.

SUMMARY: The Board is correcting minor typographical errors and making other non-substantive changes primarily to update these rules to reflect the Board's current organization.

DATES: The new rules are effective January 28, 1999.

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall, (202) 314–6080.

SUPPLEMENTARY INFORMATION: The existing rules at parts 800 and 831 contain a small number of typographical errors that, although likely mislead no one, merit correction.[1] Other amendments contained here reflect recent organizational changes to eliminate the Office of Administration, consolidate the Offices of Public Affairs and Government Affairs and include family affairs matters in this office as well, and to separate the Office of Surface Transportation Safety into modal offices for railroad, highway, marine, and pipeline/hazardous materials matters. As all the changes are of agency organization only and none has substantive effect on the public, notice and comment are not necessary.

List of Subjects

49 CFR Part 800

Authority delegations, Organization and functions.

49 CFR Part 831

Aviation safety, Highway safety, Investigations, Marine safety, Pipeline safety, Railroad safety.

Accordingly, 49 CFR Parts 800 and 831 are amended as follows:

PART 800—ORGANIZATION AND FUNCTIONS OF THE BOARD AND DELEGATIONS OF AUTHORITY

1. The Authority citation for Part 800 continues to read as follows:

Authority: Independent Safety Board Act of 1974, as amended (49 U.S.C. 1101 *et seq.*); Federal Aviation Act of 1958, as amended (49 U.S.C. 40101 *et seq.*).

[1] That is, (1) in § 800.2, ''was'' should be ''as;'' (2) in the Appendix to part 800, paragraph (b), ''serial'' should be ''aerial;'' and in § 831.11(a)(2), ''actively'' should be ''activity.''

Section 800.2 is amended by revising the introductory text, revising paragraphs (b) through (j) and adding paragraph (k)

§ 800.2 Organization.

The Board consists of five Members appointed by the President with the advice and consent of the Senate. One of the Members is designated by the President as Chairman with the advice and consent of the Senate and one as Vice Chairman. The Members exercise various functions, powers, and duties set forth in the Federal Aviation Act of 1958, as amended (49 U.S.C. 40101 *et seq.*), and the Independent Safety Board Act of 1974, as amended (49 U.S.C. 1101 *et seq.*). The Board is an independent agency of the United States. More detailed descriptions of the Board and its work are contained in other parts of this chapter VIII, notably parts 825, 830 through 835, and 840 through 850. Various special delegations of authority from the Board and the Chairman to the staff are set forth in subpart B of this part. The Board's staff is comprised of the following principal components:

* * * * *

(b) The Office of Government, Public, and Family Affairs, which supplies the Congress and Federal, State, and local government agencies with information regarding the Safety Board's activities, programs and objectives; supplies the public, the transportation industry and the news media with current, accurate information considering the work, programs, and objectives of the Board; coordinates public and private responsibilities, including aid to survivors and families of accident victims, in the wake of transportation disasters. This Office maintains the 24-hour Communications Center, which assists in coordinating accident notification and launch operations for all modes and provides an off-hour base for family assistance functions during accident investigations.

(c) The Office of the General Counsel, which provides legal advice and assistance to the Board and its staff; prepares Board rules, opinions and/or orders, and advice to all offices on matters of legal significance; and represents the Board in judicial matters to which the Board is a party or in which the Board is interested.

(d) The Office of Administrative Law Judges, which conducts all formal proceedings arising under the Federal Aviation Act of 1958, as amended, including proceedings involving civil penalties and suspension or revocation of certificates, and appeals from actions of the Federal Aviation Administration Administrator in refusing to issue airman certificates.

(e) The Office of Aviation Safety, which conducts investigations of all aviation accidents within the Board's jurisdiction; prepares reports for submission to the Board and release to the public setting forth the facts and circumstances of such accidents, including a recommendation as to the probable cause(s); determines the probable cause(s) of accidents when delegated authority to do so by the Board; initiates safety recommendations to prevent future aviation accidents; participates in the investigation of accidents that occur in foreign countries and involve U.S.-registered and/or U.S.-manufactured aircraft; and conducts special investigations into selected aviation accidents involving safety issues of concern to the Board.

(f) The Office of Railroad Safety, which conducts investigations of railroad accidents within the Board's jurisdiction; prepares reports for submission to the Board and release to the public setting forth the facts and circumstances of such accidents, including a recommendation as to the probable cause(s); determines the probable cause(s) of accidents when delegated authority to do so by the Board; initiates safety recommendations to prevent future railroad accidents; and conducts special investigations into selected rail accidents involving safety issues of concern to the Board.

(g) The Office of Highway Safety, which conducts investigations of highway accidents, including railroad grade-crossing accidents, within the Board's jurisdiction; prepares reports for submission to the Board and release to the public setting forth the facts and circumstances of such accidents, including a recommendation as to the probable cause(s); determines the probable cause(s) of accidents when delegated authority to do so by the Board; initiates safety recommendations to prevent future highway accidents; and conducts special investigations into selected highway accidents involving safety issues of concern to the Board.

(h) The Office of Marine Safety, which conducts investigations of marine accidents within the Board's jurisdiction; prepares reports for submission to the Board and release to the public setting forth the facts and circumstances of such accidents, including a recommendation as to the probable cause(s); determines the probable cause(s) of accidents when delegated authority to do so by the Board; initiates safety recommendations to prevent future marine accidents; participates in the investigation of

accidents that occur in foreign countries and that involve U.S.-registered vessels; and conducts special investigations into selected marine accidents involving safety issues of concern to the Board.

(i) The Office of Pipeline and Hazardous Materials Safety, which conducts investigations of pipeline and hazardous materials accidents within the Board's jurisdiction; prepares reports for submission to the Board and release to the public setting forth the facts and circumstances of such accidents, including a recommendation as to the probable cause(s); determines the probable causes of accidents when delegated authority to do so by the Board; initiates safety recommendations to prevent future pipeline and hazardous materials accidents; and conducts special investigations into selected pipeline and hazardous materials accidents involving safety issues of concern to the Board.

(j) The Office of Research and Engineering, which conducts research and carries out analytical studies and tests involving all modes, including readouts of voice and date recorders, flight path analysis and computer simulation/animation, component examination and material failure analysis; conducts safety studies of specific safety issues; performs statistical analyses of transportation accident and incident data; maintains archival records of the Board's accident investigation and safety promotion activities and supports public access to these records; and administers the Board's information technology infrastructure, including computer systems, networks, databases, and application software.

(k) The Office of Safety Recommendations & Accomplishments, which oversees the Board's safety recommendations program, including the Board's ''MOST WANTED'' recommendations, and the Board's safety accomplishment program.

3. Section 800.24 is amended by adding paragraph (j) to read as follows:

§ 800.24 Delegation to the General Counsel.

* * * * *

(j) Dismiss late filed notices of appeal and appeal briefs for lack of good cause.

4. Section 800.25 is amended by revising the section heading and the introductory text to read as follows:

§ 800.25 Delegation to the Directors of Office of Aviation Safety, Office of Railroad Safety, Office of Highway Safety, Office of Marine Safety, and Office of Pipeline and Hazardous Materials Safety.

The Board delegates to the Directors of the Offices of Aviation, Railroad, Highway, Marine, and Pipeline and Hazardous Materials Safety, the authority to:

* * * * *

5. Section 800.26 is revised to read as follows:

§ 800.26 Delegation to the Chief, Public Inquiries Branch.

The Board delegates to the Chief, Public Inquiries Branch, the authority to determine, initially, the withholding of a board record from inspection or copying, pursuant to part 801 of this chapter.

6. A new section 800.28 is added to read as follows:

§ 800.28 Delegation to the Chief Financial Officer.

The Board delegates to the Chief Financial Officer the authority to settle claims for money damages of $2,500 or less against the United States arising under Section 2672 of 28 United States Code (the Federal Tort Claims Act) because of acts or omissions of Board employees.

7. The Appendix to part 800 is amended by revising paragraph (b) introductory text to read as follows:

Appendix to Part 800—Request to the Secretary of the Department of Transportation To Investigate Certain Aircraft Accidents

* * * * *

(b) the authority to be exercised hereunder shall include the investigation of all civil aircraft accidents involving rotorcraft, aerial application, amateur-built aircraft, restricted category aircraft, and all fixed-wing aircraft which have a certificated maximum gross takeoff weight of 12,500 pounds or less except:

* * * * *

PART 831—ACCIDENT/INCIDENT INVESTIGATION PROCEDURES

8. The Authority citation for Part 831 continues to read as follows:

Authority: Independent Safety Board Act of 1974, as amended (49 U.S.C. 1101 *et seq.*); Federal Aviation Act of 1958, as amended (49 U.S.C. 40101 *et seq.*).

9. Section 831.3 is revised to read as follows:

§ 831.3 Authority of Directors..

The Directors, Office of Aviation Safety, Office of Railroad Safety, Office of Highway Safety, Office of Marine Safety, and Office of Pipeline and Hazardous Materials Safety, subject to the provisions of § 831.2 and part 800 of this chapter, may order an investigation into any accident or incident.

10. Section 831.11 is amended by revising paragraph (a)(2) to read as follows:

§ 831.11 Parties to the investigation.

(a) * * *

(2) Participants in the investigation (*i.e.,* party representatives, party coordinators, and/or the larger party organization) shall be responsive to the direction of Board representatives and may lose party status if they do not comply with their assigned duties and activity proscriptions or instructions, or if they conduct themselves in a manner prejudicial to the investigation.

* * * * *

Issued in Washington, DC this 18th day of December, 1998.

Jim Hall,

Chairman.

[FR Doc. 98–34092 Filed 12–28–98; 8:45 am]

BILLING CODE 7533–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 835

Testimony of Board Employees

AGENCY: National Transportation Safety Board.

ACTION: Final rule.

SUMMARY: The Board is modifying rules regarding the testimony of Board employees to clarify and codify existing policies.

DATES: The new rules are effective January 28, 1999.

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall, (202) 314–6080.

SUPPLEMENTARY INFORMATION: The amendments made here are intended primarily to answer questions that often arise: regarding the use of Board reports in litigation; regarding the scope of permissible testimony; regarding procedures and policies in criminal matters; and regarding testimony of current Board employees concerning their activities before joining the Safety Board. Because these rule changes affect only rules of agency organization, procedure, or practice, notice and comment procedures are not required and are not provided here. 5 U.S.C. 553(b)(B).

List of Subjects in 49 CFR Part 835

Courts, Government employees.

Accordingly, 49 CFR Part 835 is amended as follows:

PART 835—TESTIMONY OF BOARD EMPLOYEES

1. The Authority citation for Part 835 is revised to read as follows:

Authority: 5 U.S.C. 301; Independent Safety Board Act of 1974, as amended (49 U.S.C. 1101 *et seq.*).

2. Section 835.1 is revised to read as follows:

§ 835.1 Purpose.

This part prescribes policies and procedures regarding the testimony of employees of the National Transportation Safety Board (Board) in suits or actions for damages and criminal proceedings arising out of transportation accidents when such testimony is in an official capacity and arises out of or is related to accident investigation. The purpose of this part is to ensure that the time of Board employees is used only for official purposes, to avoid embroiling the Board in controversial issues that are not related to its duties, to avoid spending public funds for non-Board purposes, to preserve the impartiality of the Board, and to prohibit the discovery of opinion testimony.

3. Section 835.2 is revised to read as follows:

§ 835.2 Definitions.

Accident, for purposes of this part includes ''incident.''

Board accident report means the report containing the Board's determinations, including the probably cause of an accident, issued either as a narrative report or in a computer format (''briefs'' of accidents). Pursuant to section 701(e) of the Federal Aviation Act of 1958 (FA Act), and section 304(c) of the Independent Safety Board Act of 1974 (49 U.S.C. 1154(b)) (Safety Act), no part of a Board accident report may be admitted as evidence or used in any suit or action for damages growing out of any matter mentioned in such reports.

Factual accident report means the report containing the results of the investigator's investigation of the accident. The Board does not object to, and there is no statutory bar to, admission in litigation of factual accident reports. In the case of a major investigation, group chairman factual reports are factual accident reports.

4. Section 835.3 is amended by adding paragraphs (c) through (f) to read as follows:

§ 835.3 Scope of permissible testimony.

* * * * *

(c) Board employees may testify about the firsthand information they obtained during an investigation that is not reasonably available elsewhere, including observations recorded in their own factual accident reports. Consistent with the principles cited in § 835.1 and this section, Board employees are not authorized to testify regarding other employee's reports, or other types of Board documents, including but not limited to safety recommendations, safety studies, safety proposals, safety accomplishments, reports labeled studies, and analysis reports, as they contain staff analysis and/or Board conclusions.

(d) Briefs of accidents may be released in conjunction with factual accident reports. Nevertheless, they are not part of those reports and are not to be admitted in evidence or used in a deposition approved under this part.

(e) Not all material in a factual accident report may be the subject of testimony. The purpose of the factual accident report, in great part, is to inform the public at large, and as a result the factual accident report may contain information and conclusions for which testimony is prohibited by this part.

(f) No employee may testify in any matter absent advance approval by the General Counsel as provided in this part.

5. Section 835.4 is amended by revising paragraph (a) to read as follows:

§ 835.4 Use of reports.

(a) As a testimonial aid and to refresh their memories, Board employees may use copies of the factual accident report they prepared, and may refer to and cite from that report during testimony.

* * * * *

6. Section 835.5 is amended by revising the section heading and paragraphs (a), (c) and (d) to read as follows:

§ 835.5 Manner in which testimony is given in civil litigation.

(a) Testimony of Board employees with unique, firsthand information may be made available for use in civil actions or civil suits for damages arising out of accidents through depositions or written interrogatories. Board employees are not permitted to appear and testify in court in such actions.

* * * * *

(c) Board employees are authorized to testify only once in connection with any investigation they have made of an accident. Consequently, when more than one civil lawsuit arises as a result of an accident, it shall be the duty of counsel seeking the employee's deposition to ascertain the identity of all parties to the multiple lawsuits and their counsel, and to advise them of the fact that a deposition has been granted, so that all interested parties may be afforded the opportunity to participate therein.

(d) Upon completion of the deposition of a Board employee, the original of the transcript will be provided the deponent for signature and correction, which the Board does not waive. A copy of the transcript of the testimony and any videotape shall be furnished, at the expense of the party requesting the deposition, to the Board's General Counsel at Washington, DC headquarters for the Board's files.

7. Section 835.6 is revised to read as follows:

§ 835.6 Request for testimony in civil litigation.

(a) A written request for testimony by deposition or interrogatories of a Board employee relating to an accident shall be addressed to the General Counsel, who may approve or deny the request consistent with this part. Such request shall set forth the title of the civil case, the court, the type of accident (aviation, railroad, etc.), the date and place of the accident, the reasons for desiring the testimony, and a showing that the information desired is not reasonably available from other sources.

(b) Where testimony is sought in connection with civil litigation, the General Counsel shall not approve it until the factual accident report is issued (*i.e.*, in the public docket). In the case of major accident investigations where there are multiple factual reports issued and testimony of group chairmen is sought, the General Counsel may approve depositions regarding completed group factual reports at any time after incorporation of the report in the public docket. However, no deposition will be approved prior to the Board's public hearing, where one is scheduled or contemplated. The General Counsel may approve a deposition in the absence of a factual accident report when such a report will not be issued but all staff fact-finding is complete.

(c) The General Counsel shall attach to the approval of any deposition such reasonable conditions as may be deemed appropriate in order that the testimony will be consistent with § 835.1, will be limited to the matters delineated in § 835.3, will not interfere with the performance of the duties of the employee as set forth in § 835.5, and will otherwise conform to the policies of this part.

(d) A subpoena shall not be served upon a Board employee in connection with the taking of a deposition in civil litigation.

8. Section 835.7 is revised to read as follows:

§ 835.7 Testimony of former Board employees.

It is not necessary to request Board approval for testimony of a former Board employee, nor is testimony limited to depositions. However, the scope of permissible testimony continues to be constrained by all the limitations set forth in § 835.3 and § 835.4.

9. Section 835.8 is revised to read as follows:

§ 835.8 Testimony by current Board employees regarding prior activity.

Any testimony regarding any accident within the Board's jurisdiction, or any expert testimony arising from employment prior to Board service is prohibited absent approval by the General Counsel. Approval shall only be given if testimony will not violate § 835.1 and § 835.3, and is subject to whatever conditions the General Counsel finds necessary to promote the purposes of this part as set forth in § 835.1 and § 835.3.

10. Section 835.9 is revised to read as follows:

§ 835.9 Procedure in the event of a subpoena in civil litigation.

(a) If the Board employee has received a subpoena to appear and testify in connection with civil litigation, a request for his deposition shall not be approved until the subpoena has been withdrawn.

(b) Upon receipt of a subpoena, the employee shall immediately notify the General Counsel and provide all information requested by the General Counsel.

(c) The General Counsel shall determine the course of action to be taken and will so advise the employee.

11. Section 835.10 is added to read as follows:

§ 835.10 Testimony in Federal, State, or local criminal investigations and other proceedings.

(a) As with civil litigation, the Board prefers that testimony be taken by deposition if court rules permit, and that testimony await the issuance of the factual accident report. The Board recognizes, however, that in the case of coroner's inquests and grand jury proceedings this may not be possible. The Board encourages those seeking testimony of Board employees to contact the General Counsel as soon as such testimony is being considered. Whenever the intent to seek such testimony is communicated to the employee, he shall immediately notify the General Counsel.

(b) In any case, Board employees are prohibited from testifying in any civil, criminal, or other matter, either in person or by deposition or interrogatories, absent advance approval of the General Counsel. The Board discourages the serving of a subpoena for testimony but, if issued, it should be served on the General Counsel, rather than the employee.

(c) If permission to testify by deposition or in person is granted, testimony shall be limited as set forth in § 835.3. Only factual testimony is authorized; no expert or opinion testimony shall be given.

12. Section 835.11 is added to read as follows:

§ 835.11 Obtaining Board accident reports, factual accident reports, and supporting information.

It is the responsibility of the individual requesting testimony to obtain desired documents. There are a number of ways to obtain Board accident reports, factual accident reports, and accompanying accident docket files. Our rules at parts 801 and 837 of this chapter explain our procedures, as will our web site, at www.ntsb.gov. Or, you may call our Public Inquiries Branch, at (800) 877–6799. Documents will not be supplied by witnesses at depositions, nor will copying services be provided by deponents.

Issued in Washington, DC this 17th day of December, 1998.

Jim Hall,

Chairman.

[FR Doc. 98–34091 Filed 12–28–98; 8:45 am]

BILLING CODE 7533–01–M

Proposed Rules

Federal Register
Vol. 63, No. 249
Tuesday, December 29, 1998

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.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1260

Miscellaneous Revisions to the NASA Grant and Cooperative Agreement Handbook, Section A, Management Fee

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: This is a proposed rule to revise the NASA Grant and Cooperative Agreement Handbook to specify that for all awards of new grants and cooperative agreements and modifications of existing grants and cooperative agreements, management fee shall not be permitted.

EFFECTIVE DATE: Comments should be submitted on or before March 1, 1999.

ADDRESSES: Interested parties should submit written comments to Steve Miley, NASA Headquarters, Office of Procurement, Analysis Division (Code HC), Washington, DC 20546. Comments may also be submitted by e-mail to steve.miley@hq.nasa.gov.

FOR FURTHER INFORMATION CONTACT: Steve Miley, (202) 358–0493.

SUPPLEMENTARY INFORMATION:

Background

A September 30, 1998, NASA Office of Inspector General (OIG) report questioned NASA's practice of awarding management fee on certain cooperative agreements. Management fee has been provided on less than 1 percent of NASA grants and cooperative agreements. For all types of funding instruments, the recipient of Federal funds is entitled to be reimbursed only those costs which are allowable under the cost principles that are applicable to the particular recipient. Therefore, management fee is not appropriate to the extent that it includes unallowable costs.

Impact

NASA certifies that this regulation will not have a significant economic impact on a substantial number of small business entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because currently less than 1percent of recipients of NASA grants and cooperative agreements have received management fee. The proposed rule does not impose any reporting or recordkeeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 14 CFR Part 1260

Grants programs—science and technology.

Tom Luedtke,

Acting Associate Administrator for Procurement.

Accordingly, 14 CFR Part 1260 is proposed to be amended as follows:

PART 1260—GRANTS AND COOPERATIVE AGREEMENTS

1. The authority citation for 14 CFR Part 1260 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

2. In § 1260.10, paragraph (b)(1)(iv) is added to read as follows:

§ 1260.10 Proposals.

* * * * *

(b) * * *

(1) * * *

(iv) *Management fee.* Recipients of grants and cooperative agreements are entitled to be reimbursed only those costs which are allowable according to applicable cost principles (see § 1260.127). Accordingly, for new awards or modifications of grants and cooperative agreements, management fee shall not be paid.

* * * * *

[FR Doc. 98–34317 Filed 12–28–98; 8:45 am]
BILLING CODE 7510–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–106902–98]

RIN 1545–AW08

Consolidated Returns—Consolidated Overall Foreign Losses and Separate Limitation Losses

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking; notice of proposed rulemaking by cross-reference to temporary regulations; and notice of public hearing.

SUMMARY: This document contains proposed consolidated return regulations relating to the treatment of overall foreign losses and separate limitation losses in the computation of the foreign tax credit limitation. The proposed rules are necessary to modify existing guidance with respect to overall foreign losses and to provide guidance with respect to separate limitation losses. These proposed regulations affect consolidated groups that compute the foreign tax credit limitation or that dispose of property used in a foreign trade or business. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written comments must be received by February 10, 1999. Outlines of oral comments to be discussed at the public hearing scheduled for 10 a.m. on February 17, 1999, must be received by January 27, 1999.

ADDRESSES: Send submissions to CC:DOM:CORP:R (REG–106902–98), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–106902–98), Courier s Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/prod/tax____regs/comments. html. The public hearing will be held in room 2615, Internal Revenue Building, 1111

Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations in general, Trina Dang of the Office of Associate Chief Counsel (International), (202) 622–3850; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, LaNita Van Dyke, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224. Comments on the collection of information should be received by March 1, 1999. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collection of information in this proposed regulation is in § 1.1502–9(c)(2)(iv). This information is required to help the Internal Revenue Service monitor compliance with the provisions of the proposed regulations and to ensure that taxpayers use consistent asset valuations in applying the proposed regulations. This information will be used for tax administration purposes. The collection of information is mandatory. The likely respondents are business or other for-profit institutions.

Estimated total annual reporting burden: 3,000 hours.

Estimated average annual burden per respondent: 1.5 hours.

Estimated number of respondents: 2,000.

Estimated annual frequency of responses: on occasion.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained so long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains proposed consolidated return regulations under section 1502 of the Internal Revenue Code. The regulations provide guidance concerning the application of the overall foreign loss (OFL) and separate limitation loss (SLL) rules of section 904(f) in the context of a consolidated group.

On January 12, 1998, the IRS and Treasury published in the **Federal Register** (TD 8751, 63 FR 1740) temporary regulations modifying the rules governing the absorption of certain tax attributes, including OFL accounts and foreign tax credit carryovers and carrybacks. The temporary regulations eliminated the limitation on OFL recapture and foreign tax credit utilization with respect to separate return limitation years (SRLYs). As explained in the preamble to those temporary regulations, one reason for the repeal of the SRLY limitation for the foreign tax credit attributes was the conceptual and practical difficulty of measuring a member's contribution to a group's ability to absorb these attributes in light of foreign tax credit provisions that allocate interest expense and certain other expenses (and intercompany interest income) of a member based upon the entire group's assets or activities. The preamble to those regulations noted that these expense allocation provisions also create similar problems with respect to the notional account method of apportioning OFL accounts to a member ceasing to be a member of a group and stated that the IRS and Treasury expected to modify these rules in the near future.

Overview

The proposed regulations modify the existing regulations under § 1.1502–9, which were promulgated in 1987 (the 1987 regulations). The 1987 regulations are proposed to be amended in three major respects: the notional account method for apportioning OFL accounts to a departing member is replaced by an asset-based allocation method, the interaction between the intercompany transaction rules and the disposition rules of section 904(f)(3) and (5)(F) is simplified and refined, and guidance is provided concerning the computation of a group's SLLs (whereas the 1987 regulations addressed only OFLs).

The 1987 regulations allocated an OFL account to a departing member based upon the member's ''notional'' OFL account. A separate notional account was established for each member of a group that contributed to a consolidated OFL account. The accounts were adjusted annually. A member was considered to have contributed to a group's OFL account if the member had an overall foreign loss (deductions allocated against foreign-source income exceeded foreign-source gross income) in a year in which the group added to its consolidated OFL account.

At the time the 1987 regulations were being drafted, however, Congress substantially changed the rules for allocating interest expense in the Tax Reform Act of 1986. Congress believed that corporations were borrowing in ways designed to inappropriately minimize the amount of interest expense allocated against foreign-source income, thus inflating the amount of foreign-source income that could be sheltered from U.S. tax by foreign tax credits. In the case of an affiliated group, Congress was concerned that interest expense allocation could be manipulated by placing the borrowing function in group members with no foreign assets, while diverting available equity in the group to members with substantial foreign assets. Congress therefore enacted section 864(e), which requires an affiliated group to allocate interest expense of each member as if all such members were a single corporation. Under this rule, although the borrowing corporation incurs the interest expense, that expense is allocated among U.S. and foreign income based upon the assets of the group as a whole. (Group-based expense allocation is also required for research and experimental expenditures under section 864(f) and expenses not directly allocable to specific income under section 864(e)(6).)

Due in large measure to these group-based expense allocation provisions, the notional account method can result in a member taking from a group an OFL or SLL account that is unrelated to either the member's activities or future income. For example, assume that P holds all the stock of S and S holds all the stock of R. P, S, and R file a consolidated return. P has no assets other than the stock of S. S's operations are foreign and R's operations are entirely domestic. S s assets have a tax book value of $600 and R s assets have a tax book value of $400. S is entirely equity financed, but R borrows funds from an unrelated lender. S earns $100 foreign-source income and incurs $100 of foreign-allocated expense. R earns $200 U.S.-source income and incurs $100 of interest expense. Under section 864(e)(1) and § 1.861–11T, the $100 of interest expense is allocated to R s U.S. and foreign-source gross income based upon the assets of the group as a whole. Thus R, with no foreign operations, is treated as having a $60 foreign loss (no foreign income and $60 foreign expense), but S, the only member with foreign operations, does not have a foreign loss. R's notional OFL account would thus be $60 (100 percent of the consolidated OFL account) and, if R left the group, R would take the entire consolidated OFL account with it. The group, however, would retain the foreign assets and the OFL account might never be recaptured.

As described in more detail below, the proposed regulations do not apply the notional account approach, but instead apportion accounts to a departing member based upon the member's share of the group's foreign assets that produce foreign-source income that would be subject to recapture. The new approach does not attempt to measure a member's ''contribution'' to the group's consolidated account; rather, the asset approach associates an OFL or SLL account with a member s foreign assets that produce income subject to recapture and measures each member's share of the group OFL or SLL account based upon the member's share of these assets. This approach is more in keeping with the interest allocation provisions for affiliated groups enacted in 1986.

The proposed regulations also modify the interaction between section 904(f) and the intercompany transaction rules of § 1.1502–13. Under the 1987 regulations, a consolidated OFL account could trigger gain recognition with respect to an otherwise tax-free intercompany transaction (such as a member's contribution under section 351 to another member of the group) that is a disposition subject to section 904(f)(3) or (5)(F). This gain recognition could occur even though the gain would not be taken into account currently under § 1.1502–13. Because the gain is not taken into account, however, the consolidated OFL account is not reduced. Since the consolidated OFL account is not reduced, it can continue to recharacterize foreign-source income or trigger gain recognition with respect to subsequent dispositions subject to section 904(f)(3) or (5)(F). This regime thus has the potential to multiply the effects of a consolidated OFL account. This rule was necessary under the notional account system of apportioning OFL accounts to a departing member because otherwise a member with a notional OFL account could contribute appreciated foreign assets to a new subsidiary, and the new subsidiary could then leave the group unencumbered by the OFL account, contrary to the purpose of section 904(f)(3). As described in more detail below, the proposed regulations ease the section 904(f)(3) and (5)(F) disposition rules in the case of intercompany transactions.

Finally, the proposed regulations provide computational rules and nomenclature for SLLs as well as OFLs. Because the regulations issued in 1987 were actually drafted prior to the enactment of the SLL rules in 1986, the 1987 regulations provide rules only for OFLs, although rules for SLLs could be derived by analogy.

Explanation of Provisions

The proposed regulations do not provide comprehensive guidance under section 904(f) and address only particular section 904(f) issues that arise in the context of a consolidated group. The proposed regulations must be read in conjunction with general guidance under section 904(f), such as Notice 89–3 (1989–1 C.B. 623).

Proposed § 1.1502–9(b)(1) through (4) provides computational rules for consolidated OFL and SLL accounts. Generally, a group applies section 904(f) on a group-wide basis. Thus, it nets together all members' income and losses from the same separate limitation income category (or basket) to determine its consolidated separate limitation income or loss for the basket. Pursuant to section 904(f)(5), the group then nets any consolidated separate limitation loss for a basket (a loss basket) against consolidated separate limitation income for all other baskets (the income baskets) on a proportionate basis. Such netting creates a consolidated SLL account (a CSLL account) for the loss basket with respect to one or more income baskets. The group then nets any remaining consolidated separate limitation loss for a loss basket against its U.S.-source income. Such netting creates a consolidated OFL account (a COFL account) for the loss basket. The group recaptures a COFL or CSLL account as required by section 904(f).

Proposed § 1.1502–9(b)(5) addresses the interaction between section 904(f) and the intercompany transaction rules. In the case of an intercompany transaction in which gain is recognized but not currently taken into account, the gain is treated as subject to section 904(f)(3) or (5)(F) only when taken into account under § 1.1502–13, to the extent of the COFL or CSLL account existing at that time. In the case of an intercompany transaction in which gain is not recognized (such as a section 351 contribution), section 904(f) will not trigger gain recognition.

Proposed § 1.1502–9(c) provides rules for members becoming or ceasing to be members of a group. Consistent with the temporary regulations issued in January 1998, and modified in March 1998 and in temporary regulations published elsewhere in this issue of the **Federal Register**, a member that enters a group with an OFL or SLL account adds this account to the consolidated account, without any SRLY limitation. A departing member takes a portion of the group's COFL and CSLL accounts based upon the member's share of the group's assets that generate income subject to recapture (i.e., assets that generate income in the same basket as the loss basket). The proposed regulations rely on the characterization principles of §§ 1.861–9T(g)(3) and 1.861–12T to identify the member s share of assets that generate foreign-source income subject to recapture in each basket. The value of the foreign assets is determined under the asset valuation rules of § 1.861–9T(g)(1) and (2) using either tax book value or fair market value under the method chosen by the group for purposes of interest apportionment as provided in § 1.861–9T(g)(1)(ii). Although actual market values generally provide a better means of apportioning accounts than tax book values (since market values more accurately represent the projected future earnings of an asset), apportionment based upon tax book value is permitted in the interest of administrative convenience. For groups using tax book value, however, an upper limitation is placed upon a member's share of the consolidated accounts to prevent extreme situations in which disparities between tax book value and fair market value could result in the removal of excessive OFL or SLL accounts from the group. The proposed

regulations provide an anti-abuse rule that is designed to prevent taxpayers from manipulating the COFL and CSLL account apportionment rules to achieve results inconsistent with the purpose of the OFL and SLL rules.

Proposed § 1.1502–9(c)(2)(i) provides that a group apportions COFL and CSLL accounts to a departing member only after the group makes the annual additions or reductions to the accounts to reflect current-year foreign-source income or loss. To the extent this rule conflicts with the ordering rules of § 1.904(f)–1(e)(1), the proposed rule, when finalized, is intended to supersede the existing regulations.

Proposed Effective Dates

These regulations are proposed to apply to consolidated return years for which a return is due after the date final regulations are published in the **Federal Register**. However, § 1.1502–9(b)(5) (intercompany transactions) is not applicable for intercompany transactions that occur before January 28, 1999. Also, § 1.1502–9(c)(2) (apportionment of consolidated account to departing member) is not applicable for members ceasing to be members of a group before January 28, 1999.

Election To Defer Repeal of SRLY Limitation

Temporary regulations published elsewhere in this issue of the **Federal Register** permit consolidated groups to elect to continue to apply the SRLY limitation for overall foreign loss accounts for consolidated years beginning before January 1, 1998, as announced in Notice 98–40 (1998–35 I.R.B. 7). The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory impact analysis is not required. It is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations principally affect corporations filing consolidated federal income tax returns that have overall foreign losses or separate limitation losses. Available data indicates that many consolidated return filers are large companies (not small businesses). In addition, the data indicates that an insubstantial number of consolidated return filers that are smaller companies have overall foreign losses or separate limitation losses. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments that are submitted timely to the IRS (a signed original and eight (8) copies). In particular, the IRS and Treasury request comments on the clarity of the proposed rules and how they may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for February 17, 1999, beginning at 10 a.m. in room 2615 of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by January 27, 1999. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal authors of these regulations are Seth B. Goldstein and Trina Dang, of the Office of the Associate Chief Counsel (International), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR Part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding entries in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *
Section 1.1502–9 also issued under 26 U.S.C. 1502. * * *
Section 1.1502–9A also issued under 26 U.S.C. 1502. * * *

Par. 2. Section 1.1502–3, as proposed to be amended at 63 FR 12717, March 16, 1998, is further amended by removing the last sentence of paragraph (c)(4) and adding two sentences in its place to read as follows:

§ 1.1502–3 Consolidated investment credit.

* * * * *

(c) * * *

(4) * * * [The last two sentences of proposed paragraph (c)(4) is the same as the last two sentences of § 1.1502–3T(c)(4) published elsewhere in this issue of the **Federal Register**.]

* * * * *

Par. 3. Immediately following § 1.1504–4 an undesignated center heading is added to read as follows:

Regulations Applicable for Tax Years for Which a Return Is Due on or Before the Date Final Regulations Are Published in The Federal Register

§ 1.1502–9 [Redesignated as § 1.1502–9A]

Par. 4. Section 1.1502–9 is redesignated as § 1.1502–9A and added under the new undesignated center heading.

Par. 5. Newly designated § 1.1502–9A is amended by:

1. Revising the section heading.

2. Redesignating the heading and text of paragraph (a) as the heading and text of paragraph (a)(2).

3. Adding a new heading to paragraph (a), and new paragraphs (a)(1), (b)(1)(v) and (b)(1)(vi).

The revisions and additions read as follows:

§ 1.1502–9A Application of overall foreign loss recapture rules to corporations filing consolidated returns due on or before the date final regulations are published in the Federal Register.

(a) *Scope*—(1) *Effective date.* This section applies only to consolidated return years for which the due date of

the income tax return (without extensions) is on or before the date final regulations are published in the **Federal Register**.

(2) *In general.* * * *

(b) * * *

(1) * * *

(v) [The text of this proposed paragraph (b)(1)(v) is the same as the text of § 1.1502–9T(b)(1)(v) published elsewhere in this issue of the **Federal Register**.]

(vi) [The text of this proposed paragraph (b)(1)(vi) is the same as the text of § 1.1502–9T(b)(1)(vi) published elsewhere in this issue of the **Federal Register**.]

* * * * *

Par. 6. New § 1.1502–9 is added to read as follows:

§ 1.1502–9 Consolidated overall foreign losses and separate limitation losses.

(a) *In general.* This section provides rules for applying section 904(f) (including its definitions and nomenclature) to a group and its members. Generally, section 904(f) concerns rules relating to overall foreign losses (OFLs) and separate limitation losses (SLLs) and the consequences of such losses. As provided in section 904(f)(5), losses are computed separately in each category of income described in section 904(d)(1) (basket). Paragraph (b) of this section defines terms and provides computational and accounting rules, including rules regarding recapture. Paragraph (c) of this section provides rules that apply to OFLs and SLLs when a member becomes or ceases to be a member of a group. Paragraph (d) of this section provides a predecessor and successor rule. Paragraph (e) of this section provides effective dates.

(b) *Consolidated application of section 904(f).* A group applies section 904(f) for a consolidated return year in accordance with that section, subject to the following rules:

(1) *Computation of CSLI or CSLL and consolidated U.S. source income or loss.* The group computes its consolidated separate limitation income (CSLI) or consolidated separate limitation loss (CSLL) for each basket under the principles of § 1.1502–11 by aggregating each member's foreign-source taxable income or loss in such basket computed under the principles of § 1.1502–12, and taking into account the foreign portion of the consolidated items described in § 1.1502–11(a)(2) through (8) for such basket. The group computes its consolidated U.S.-source taxable income or loss under similar principles.

(2) *Netting CSLLs, CSLIs, and consolidated U.S. source taxable income or loss.* The group applies section 904(f)(5) to determine the extent to which a CSLL for a basket reduces CSLI for another basket or consolidated U.S.-source taxable income.

(3) *CSLL and COFL accounts.* To the extent provided in section 904(f), the amount by which a CSLL for a basket (the loss basket) reduces CSLI for another basket (the income basket) shall result in the creation of (or addition to) a CSLL account for the loss basket with respect to the income basket. Likewise, the amount by which a CSLL for a loss basket reduces consolidated U.S.-source income will create (or add to) a consolidated overall foreign loss account (a COFL account).

(4) *Recapture of COFL and CSLL accounts.* In the case of a COFL account for a loss basket, section 904(f)(1) and (3) recharacterizes some or all of the foreign-source income in the loss basket as U.S.-source income. In the case of a CSLL account for a loss basket with respect to an income basket, section 904(f)(5)(C) and (F) recharacterizes some or all of the foreign-source income in the loss basket as foreign-source income in the income basket. The COFL account or CSLL account is reduced to the extent amounts are recharacterized with respect to such account.

(5) *Intercompany transactions*—(i) *Nonapplication of section 904(f) disposition rules.* Neither section 904(f)(3) (in the case of a COFL account) nor (5)(F) (in the case of a CSLL account) applies at the time of a disposition that is an intercompany transaction to which § 1.1502–13 applies. Instead, section 904(f)(3) and (5)(F) applies only at such time and only to the extent that the group is required under § 1.1502–13 (without regard to section 904(f)(3) and (5)(F)) to take into account any intercompany items resulting from the disposition, based on the COFL or CSLL account existing at the end of the consolidated return year during which the group takes the intercompany items into account.

(ii) *Example.* Paragraph (b)(5)(i) of this section is illustrated by the following examples. The identity of the parties and the basic assumptions set forth in § 1.1502–13(c)(7)(i) apply to the examples. Except as otherwise stated, assume further that the consolidated group recognizes no foreign-source income other than as a result of the transactions described. The examples are as follows:

Example 1. (i) On June 10, Year 1, S transfers nondepreciable property with a basis of $100 and a fair market value of $250 to B in a transaction to which section 351 applies. The property was predominantly used without the United States in a trade or business, within the meaning of section 904(f)(3). B continues to use the property without the United States. The group has a COFL account in the relevant loss basket of $120 as of December 31, Year 1.

(ii) Because the contribution from S to B is an intercompany transaction, section 904(f)(3) does not apply to result in any gain recognition in Year 1. See paragraph (b)(5)(i) of this section.

(iii) On January 10, Year 4, B ceases to be a member of the group. Because S did not recognize gain in Year 1 under section 351, no gain is taken into account in Year 4 under § 1.1502–13(d). Thus, no portion of the group's COFL account is recaptured in Year 4. For rules requiring apportionment of a portion of the COFL account to B, see paragraph (c)(2) of this section.

Example 2. (i) The facts are the same as in paragraph (i) of *Example 1.* On January 10, Year 4, B sells the property to X for $300. As of December 31, Year 4, the group's COFL account is $40. (The COFL account was reduced between Year 1 and Year 4 due to unrelated foreign-source income taken into account by the group.)

(ii) B takes into account gain of $200 in Year 4. The $40 COFL account in Year 4 recharacterizes $40 of the gain as U.S. source. See section 904(f)(3).

Example 3. (i) On June 10, Year 1, S sells nondepreciable property with a basis of $100 and a fair market value of $250 to B for $250 cash. The property was predominantly used without the United States in a trade or business, within the meaning of section 904(f)(3). The group has a COFL account in the relevant loss basket of $120 as of December 31, Year 1. B predominately uses the property in a trade or business without the United States.

(ii) Because the sale is an intercompany transaction, section 904(f)(3) does not require the group to take into account any gain in Year 1. Thus, under paragraph (b)(5)(i) of this section, the COFL account is not reduced in Year 1.

(iii) On January 10, Year 4, B sells the property to X for $300. As of December 31, Year 4, the group's COFL account is $60. (The COFL account was reduced between Year 1 and Year 4 due to unrelated foreign-source income taken into account by the group.)

(iv) In Year 4, S's $150 intercompany gain and B's $50 corresponding gain are taken into account to produce the same effect on consolidated taxable income as if S and B were divisions of a single corporation. See § 1.1502–13(c). All of B's $50 corresponding gain is recharacterized under section 904(f)(3). If S and B were divisions of a single corporation and the intercompany sale were a transfer between the divisions, B would succeed to S's $100 basis in the property and would have $200 of gain ($60 of which would be recharacterized under section 904(f)(3)), instead of a $50 gain. Consequently, S's $150 intercompany gain and B's $50 corresponding gain are taken into account, and $10 of S's gain is recharacterized under section 904(f)(3) as U.S. source to reflect the $10 difference between B's $50 recharacterized gain and the $60 recomputed gain that would have been recharacterized.

(c) B*ecoming or ceasing to be a member of a group*—(1) *Adding separate accounts on becoming a member.* At the time that a corporation becomes a member of a group (a new member), the group adds to the balance of its COFL or CSLL account the balance of the new member's corresponding OFL account or SLL account. A new member's OFL account corresponds to a COFL account if the account is for the same loss basket. A new member's SLL account corresponds to a CSLL account if the account is for the same loss basket and with respect to the same income basket. If the group does not have a COFL or CSLL account corresponding to the new member's account, it creates a COFL or CSLL account with a balance equal to the balance of the member's account.

(2) *Apportionment of consolidated account to departing member*—(i) *In general.* A group apportions to a member that ceases to be a member (a departing member) a portion of each COFL and CSLL account as of the end of the year during which the member ceases to be a member and after the group makes the additions or reductions to such account required under paragraphs (b)(3), (b)(4) and (c)(1) of this section (other than an addition under paragraph (c)(1) of this section attributable to a member becoming a member after the departing member ceases to be a member). The group computes such portion under paragraph (c)(2)(ii) of this section, as limited by paragraph (c)(2)(iii) of this section. The departing member carries such portion to its first separate return year after it ceases to be a member. Also, the group reduces each account by such portion and carries such reduced amount to its first consolidated return year beginning after the year in which the member ceases to be a member. If two or more members cease to be members in the same year, the group computes the portion allocable to each such member (and reduces its accounts by such portion) in the order that the members cease to be members.

(ii) *Departing member's portion of group's account.* A departing member's portion of a group's COFL or CSLL account for a loss basket is computed based upon the member's share of the group's assets that generate income subject to recapture at the time that the member ceases to be a member. Under the characterization principles of §§ 1.861–9T(g)(3) and 1.861–12T, the group identifies the assets of the departing member and the remaining members that generate foreign-source income (foreign assets) in each basket. The assets are characterized based upon the income that the assets are reasonably expected to generate after the member ceases to be a member. The member's portion of a group's COFL or CSLL account for a loss basket is the group's COFL or CSLL account, respectively, multiplied by a fraction, the numerator of which is the value of the member's foreign assets for the loss basket and the denominator of which is the value of the foreign assets of the group (including the departing member) for the loss basket. The value of the foreign assets is determined under the asset valuation rules of § 1.861–9T(g)(1) and (2) using either tax book value or fair market value under the method chosen by the group for purposes of interest apportionment as provided in § 1.861–9T(g)(1)(ii). For purposes of this paragraph (c)(2)(ii), § 1.861–9T(g)(2)(iv) (assets in intercompany transactions) shall apply, but § 1.861–9T(g)(2)(iii) (adjustments for directly allocated interest) shall not apply. If the group uses the tax book value method, the member's portions of COFL and CSLL accounts are limited by paragraph (c)(2)(iii) of this section. The assets should be valued at the time the member ceases to be a member, but values on other dates may be used unless this creates substantial distortions. For example, if a member ceases to be a member in the middle of the group's consolidated return year, an average of the values of assets at the beginning and end of the year (as provided in § 1.861-9T(g)(2)) may be used or, if a member ceases to be a member in the early part of the group's consolidated return year, values at the beginning of the year may be used, unless this creates substantial distortions.

(iii) *Limitation on member's portion for groups using tax book value method.* If a group uses the tax book value method of valuing assets for purposes of paragraph (c)(2)(ii) of this section and the aggregate of a member's portions of COFL and CSLL accounts for a loss basket (with respect to one or more income baskets) determined under paragraph (c)(2)(ii) of this section exceeds 150 percent of the actual fair market value of the member's foreign assets in the loss basket, the member's portion of the COFL or CSLL accounts for the loss basket shall be reduced (proportionately, in the case of multiple accounts) by such excess. This rule does not apply if the departing member and all other members that cease to be members as part of the same transaction own all (or substantially all) the foreign assets in the loss basket.

(iv) *Determination of values of foreign assets binding on departing member.* The group's determination of the value of the member's and the group's foreign assets for a loss basket is binding on the member, unless the District Director concludes that the determination is not appropriate. The common parent of the group must attach a statement to the return for the taxable year that the departing member ceases to be a member of the group that sets forth the name and taxpayer identification number of the departing member, the amount of each COFL or CSLL for each loss basket that is apportioned to the departing member under this paragraph (c)(2), the method used to determine the value of the member's and the group's foreign assets in each such loss basket, and the value of the member's and the group's foreign assets in each such loss basket. The common parent must also furnish a copy of the statement to the departing member.

(v) *Anti-abuse rule.* If a corporation becomes a member and ceases to be a member, and a principal purpose of the corporation becoming and ceasing to be a member is to transfer the corporation's OFL account or SLL account to the group or to transfer the group's COFL or CSLL account to the corporation, appropriate adjustments will be made to eliminate the benefit of such a transfer of accounts. Similarly, if any member acquires assets or disposes of assets (including a transfer of assets between members of the group and the departing member) with a principal purpose of affecting the apportionment of accounts under paragraph (c)(2)(i) of this section, appropriate adjustments will be made to eliminate the benefit of such acquisition or disposition.

(vi) *Examples.* The following examples illustrate this paragraph (c):

Example 1. (i) On November 6, Year 1, S, a member of the P group, a consolidated group with a calendar consolidated return year, ceases to be a member of the group. On December 31, Year 1, the P group has a $40 COFL account for the general limitation basket, a $20 CSLL account for the general limitation basket (i.e., the loss basket) with respect to the passive basket (i.e., the income basket), and a $10 CSLL account for the shipping income basket (i.e., the loss basket) with respect to the passive basket, (i.e., the income basket). No member of the group has foreign-source income or loss in Year 1. The group apportions its interest expense according to the tax book value method.

(ii) On November 6, Year 1, the group identifies S's assets and its own assets (including S's assets) expected to produce foreign general limitation income. Use of end-of-the-year values will not create substantial distortions in determining the relative values of S's and the group's relevant assets on November 6, Year 1. The group determines that S's relevant assets have a tax book value of $2,000 and a fair market value of $2,200. Also, the group's relevant assets (including S's assets) have a tax book value of $8,000. On November 6, Year 1, S has no assets expected to produce foreign shipping income.

(iii) Under paragraph (c)(2)(ii) of this section, S takes a $10 COFL account for the general limitation basket ($40 × $2000/$8000)

and a $5 CSLL account for the general limitation basket with respect to the passive basket ($20 × $2000/$8000). S does not take any portion of the shipping income basket CSLL account. The limitation described in paragraph (c)(2)(iii) of this section does not apply because the aggregate of the COFL and CSLL accounts for the general limitation basket that are apportioned to S ($15) is less than 150 percent of the actual fair market value of S's general limitation foreign assets ($2,200 × 150%).

Example 2. (i) Assume the same facts as in *Example 1,* except that the fair market value of S's general limitation foreign assets is $4 as of November 6, Year 1.

(ii) Under paragraph (c)(2)(iii) of this section, S's COFL and CSLL accounts for the general limitation basket must be reduced by $9, which is the excess of $15 (the aggregate amount of the accounts apportioned under paragraph (c)(2)(ii) of this section) over $6 (150 percent of the $4 actual fair market value of S's general limitation foreign assets). S thus takes a $4 COFL account for the general limitation basket ($10—($9 × $10/$15)) and a $2 CSLL account for the general limitation basket with respect to the passive basket ($5—($9 × $5/$15)).

(d) *Predecessor and successor.* A reference to a member includes, as the context may require, a reference to a predecessor or successor of the member. See § 1.1502–1(f).

(e) *Effective dates.* This section applies to consolidated return years for which the due date of the income tax return (without extensions) is after the date final regulations are published in the **Federal Register**. However, paragraph (b)(5) of this section (intercompany transactions) is not applicable for intercompany transactions that occur before January 28, 1999. A group applies the principles of § 1.1502–9A(e) to a disposition which is an intercompany transaction to which § 1.1502–13 applies and that occurs before January 28, 1999. Also, paragraph (c)(2) of this section (apportionment of consolidated account to departing member) is not applicable for members ceasing to be members of a group before January 28, 1999. A group applies the principles of § 1.1502–9A (rather than paragraph (c)(2) of this section) to determine the amount of a consolidated account that is apportioned to a member that ceases to be a member of the group before January 28, 1999 (and reduces its consolidated account by such apportioned amount) before applying paragraph (c)(2) of this section to members that cease to be members on or after January 28, 1999.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 98–33703 Filed 12–28–98; 8:45 am]

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Notices

Federal Register

Vol. 63, No. 249

Tuesday, December 29, 1998

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Summer Food Service Program for Children

Program Reimbursement for 1999

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of the annual adjustments to the reimbursement rates for meals served in the Summer Food Service Program for Children (SFSP). These adjustments reflect changes in the Consumer Price Index and are required by the statute governing the Program. In addition, further adjustments are made to these rates to reflect the higher costs of providing meals in the States of Alaska and Hawaii, as authorized by the William F. Goodling Child Nutrition Reauthorization Act of 1998.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Melissa A. Rothstein, Section Chief, Summer Food Service Program and Child and Adult Care Food Program, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 1007, Alexandria, Virginia 22302, (703) 305–2620.

SUPPLEMENTARY INFORMATION: This program is listed in the Catalog of Federal Domestic Assistance under No. 10.559 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983).

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3518), no new recordkeeping or reporting requirements have been included that are subject to approval from the Office of Management and Budget.

This notice is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act. Additionally, this notice has been determined to be exempt from review by the Office of Management and Budget under Executive Order 12866.

Definitions

The terms used in this Notice shall have the meaning ascribed to them in the regulations governing the Summer Food Service Program for Children (7 CFR Part 225).

Background

In accordance with section 13 of the National School Lunch Act (NSLA)(42 U.S.C. 1761) and the regulations governing the SFSP (7 CFR Part 225), notice is hereby given of adjustments in Program payments for meals served to children participating in the SFSP in 1999. Adjustments are based on changes in the food away from home series of the Consumer Price Index (CPI) for All Urban Consumers for the period November 1997 through November 1998.

Section 104(a) of the William F. Goodling Child Nutrition Reauthorization Act of 1998 (Pub. L. 105–336) amended section 12(f) of the NSLA (42 U.S.C. 1760(f)) to allow adjustments to SFSP reimbursement rates to reflect the higher cost of providing meals in the SFSP in Alaska and Hawaii. Therefore, this notice contains adjusted rates for Alaska and Hawaii. This change was made in an effort to be consistent with other Child Nutrition Programs, such as the National School Lunch Program and the School Breakfast Program, which already have the authority to provide higher reimbursement rates for programs in Alaska and Hawaii.

The new 1999 reimbursement rates in dollars are as follows:

Maximum Per Meal Reimbursement Rates for All States (Not Including Alaska and Hawaii)

Operating Costs

Breakfast—$1.22
Lunch or Supper—$2.13
Supplement—$0.49

Administrative Costs

a. For meals served at rural or self-preparation sites:
Breakfast—$0.1200
Lunch or Supper—$0.2225
Supplement—$0.0600
b. For meals served at other types of sites:
Breakfast—$0.0950
Lunch or Supper—$0.1850
Supplement—$0.0475

The new payment rates for Alaska are as follows:

Maximum Per Meal Reimbursement Rates for Alaska

Operating Costs

Breakfast—$1.98
Lunch or Supper—$3.45
Supplement—$0.80

Administrative Costs

a. For meals served at rural or self-preparation sites:
Breakfast—$0.1950
Lunch or Supper—$0.3600
Supplement—$0.0975
b. For meals served at other types of sites:
Breakfast—$0.1550
Lunch or Supper—$0.3000
Supplement—$0.0775

The new payment rates for Hawaii are as follows:

Maximum Per Meal Reimbursement Rates for Hawaii

Operating Costs

Breakfast—$1.43
Lunch or Supper—$2.49
Supplement—$0.58

Administrative Costs

a. For meals served at rural or self-preparation sites:
Breakfast—$0.1425
Lunch or Supper—$0.2600
Supplement—$0.0700
b. For meals served at other types of sites:
Breakfast—$0.1125
Lunch or Supper—$0.2150
Supplement—$0.0550

The total amount of payments to State agencies for disbursement to Program sponsors will be based upon these Program reimbursement rates and the number of meals of each type served. The above reimbursement rates, for both operating and administrative reimbursement rates, represent a 2.52

percent increase during 1998 (from 158.6 in November 1997 to 162.6 in November 1998) in the food away from home series of the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor. The Department would like to point out that the SFSP administrative reimbursement rates continue to be adjusted up or down to the nearest quarter-cent, as has previously been the case. Additionally, operating reimbursement rates have been rounded down to the nearest whole cent, as required by Section 11(a)(3)(B) of the NSLA (42 U.S.C. 1759(a)(3)(B)).

Authority: Secs. 9, 13 and 14, National School Lunch Act, as amended (42 U.S.C. 1758, 1761, and 1762a).

Dated: December 22, 1998.

Samuel Chambers, Jr.,

Administrator.

[FR Doc. 98–34409 Filed 12–28–98; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Municipal Interest Rates for the First Quarter of 1999; Correction

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice; correction.

SUMMARY: On December 17, 1998, the Rural Utilities Service published a notice announcing the interest rates for advances on municipal rate loans. The interest rate table was incorrect. Therefore, in notice document 98–33433, beginning on page 69611 in the issue of Thursday, December 17, 1998, make the following correction:

On page 69611, and continuing to page 69612, the first column of the table, ''Interest rate term ends in (year),'' should begin with ''2020 or later'' with each calendar year to follow in descending order, ending with the year 2000. The corrected table is as follows:

Interest rate term ends in (year)	RUS rate (0.000 percent)
2020 or later	5.000
2019	5.000
2018	4.875
2017	4.875
2016	4.875
2015	4.750
2014	4.750
2013	4.625
2012	4.500
2011	4.500
2010	4.375
2009	4.250
2008	4.250
2007	4.125
2006	4.000
2005	4.000
2004	3.875
2003	3.750
2002	3.500
2001	3.250
2000	3.125

Christopher A. McLean,

Acting Administrator, Rural Utilities Service.

[FR Doc. 98–34290 Filed 12–28–98; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Sensors and Instrumentation Technical Advisory Committee; Notice of Partially Closed Meeting

The Sensors and Instrumentation Technical Advisory Committee will meet on January 12, 1999, 9:00 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution and Pennsylvania Avenues, N.W., Washington, D.C. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to sensors and instrumentation equipment and technology.

Agenda

General Session

1. Opening remarks by the Chairman.
2. Update on Wassenaar Arrangement list review.
3. Update on India/Pakistan regulations.
4. Discussion on pending encryption regulations.
5. Presentation of papers or comments by the public.

Excutive Session

6. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. Reservations are not required. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting date to the following address: Ms. Lee Ann Carpenter, Advisory Committees MS: 3886C, Bureau of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on December 3, 1997, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and 10(a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, D.C. 20230. For further information contact Lee Ann Carpenter on (202) 482–2583.

Dated: December 22, 1998.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 98–34343 Filed 12–28–98; 8:45 am]

BILLING CODE 3510–33–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 58–98]

Foreign-Trade Zone 22—Chicago, Illinois; Expansion of Manufacturing Authority—Subzone 22F; Abbott Laboratories, Inc., Facilities (Pharmaceuticals) Chicago, IL

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Illinois International Port District, grantee of FTZ 22, requesting authority on behalf of the Abbott Laboratories, Inc. (Abbott), to expand the scope of manufacturing authority under zone procedures at the Abbott facilities in the Chicago, Illinois, area. It was formally filed on December 17, 1998.

Subzone 22F was approved by the Board in 1992 at four sites (791 acres) of the Abbott manufacturing and research complex in North Chicago, and adjacent Lake County, Illinois: *Site 1* (75 buildings/2.4 million sq. ft. on 140 acres)—North Chicago manufacturing, administrative, and laboratory facilities.

14th Street and Sheridan Road, North Chicago; *Site 2* (28 buildings/3.6 million sq. ft. on 480 acres)—Abbott Park manufacturing, administrative and laboratory facilities, One Abbott Park Road, Lake County; *Site 3* (129 acres)—Jennett site, undeveloped tract with urban zoning, Atkinson Road, Lake County; and *Site 4* (4 buildings/369,000 sq. ft. on 42 acres)—Skokie site, manufacturing, administrative, research facilities, 22nd Street, North Chicago. Authority was granted for the manufacture of three products indicated in its original application: clarythromycin, temafloxin, timethoxybenzene (Board Order 611, 57 FR 61045, 12/23/92).

Abbott is now proposing to expand the scope of authority for manufacturing activity conducted under FTZ procedures at Subzone 22F to include a wider range of pharmaceuticals and their intermediates, medicaments and laboratory and medical instruments and appliances. The facility (with some 10,000 employees) produces finished pharmaceutical products, primarily anti-infectives, cardiovascular agents, anti-AIDS treatments, and anti-cancer agents, as well as laboratory and medical appliances and devices. At the outset, the company is expecting to manufacture the following under zone procedures: aminosyn, an intravenous nutritional (HTSUS 3004.90.1000); valproic acid, an anti-epileptic agent (HTSUS 2915.90.1400); clarithromycin, an anti-infective (HTSUS 3003.90.0000); and, ABT378, an anti-AIDS protease inhibitor (HTSUS 3004.90.9010). Foreign-sourced materials for these products include L-threonine (HTSUS 2922.50.5000), L-lysine (HTSUS 2922.41.0090), L-tryptophan (HTSUS 2933.90.7900), diethyl dipropyl malonate (HTSUS 2917.19.7050), hydroxylamine (HTSUS 2825.10.000), 2,6-dimethyl-henoxyacetic acid (HTSUS 2918.90.4300), wing A acid (HTSUS 2933.59.7000), and wing B acid (HTSUS 2933.59.9500), and will account for, on average, 16 percent of material value.

The company may also purchase from abroad ingredients and materials in the following general categories: gums, starches, waxes, vegetable extracts, mineral oils, sugars, empty capsules, protein concentrates, prepared animal feed, mineral products, inorganic acids, chlorides, chlorates, sulfites, sulfates, phosphates, cyanides, silicates, radioactive chemicals, rare-earth metal compounds, hydroxides, hydrazine and hydroxylamine, chlorides, phosphates, carbonates, hydrocarbons, alcohols, phenols, ethers, epoxides, acetals, aldehydes, ketone function compounds, mono- and polycarboxylic acids, phosphoric esters, amine-, carboxymide-, nitrile- and oxygen-function compounds, heterocyclic compounds, sulfonamides, insecticides, rodenticides, fungicides and herbicides, fertilizers, vitamins, hormones, antibiotics, gelatins, enzymes, pharmaceutical glaze, essential oils, albumins, gelatins, activated carbon, residual lyes, acrylic polymers, color lakes, soaps and detergents, various packaging and printing materials, medicaments, pharmaceutical products, and instruments and appliances used in medical sciences.

FTZ procedures would exempt Abbott from Customs duty payments on the foreign components used in export activity (currently some 10% of shipments). On its domestic sales, the company would be able to elect the duty rate that applies to finished products (duty-free) for the foreign components noted above (duty rates ranging from duty-free to 16.3%, with most between 3.7% and 12.3%+2.2¢/kg.). The application indicates that the savings from FTZ procedures will help improve Abbott's international competitiveness.

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 March 1, 1999. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to March 16, 1999).

A copy of the application will be available for public inspection at the following locations:

U.S. Department of Commerce, Export Assistance Center, 55 West Monroe Street, Chicago, Illinois 60603

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th Street & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: December 17, 1998.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 98–34470 Filed 12–28–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 121698C]

Marine Mammals; File No. 369–1440

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

ACTION: Receipt of application for amendment.

SUMMARY: Notice is hereby given that Dr. Bruce R. Mate, Oregon State University, has requested an amendment to scientific research Permit No. 369–1440.

DATES: Written or telefaxed comments must be received on or before January 28, 1999.

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment (See **SUPPLEMENTARY INFORMATION**).

Written comments or requests for a public hearing on this request should be submitted 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 amendment 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 e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Ruth Johnson or Sara Shapiro 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 369–1440 issued on September 18, 1998 (63 FR 52686) is 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).

Permit No. 369–1440 authorizes the permit holder to: (1) approach to tag/biopsy sample, photograph and evaluate tag attachment on seven species of large whales; and (2) to opportunistically photograph an unlimited number of cetaceans and pinnipeds. In the original application, the permit holder inadvertently omitted requesting authorization to: conduct tagging/biopsy sampling in international waters and to import/export samples for genetic analysis.

In compliance with the National Environmental Policy Act of 1969 (42

U.S.C. 4321 *et seq.*), an environmental assessment was prepared on the original application. The environmental assessment is available upon request.

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.

Documents may be reviewed in the following locations:

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221);

Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930, (978/281–9250);

Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way, NE, BIN C15700, Bldg. 1, Seattle, WA, 98115–0070 (206/526–6150);

Regional Administrator, Southeast Region, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2432 (813/570–5312); and

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (562/980–4001).

Dated: December 21, 1998.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–34449 Filed 12–28–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. 981214305–8305–01]

RIN 0651–AB02

Official Insignia of Native American Tribes; Statutorily Required Study

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Request for comments.

SUMMARY: On October 30, 1998, President Clinton signed Public Law 105–330. This law requires that the Patent and Trademark Office (PTO) study a variety of issues surrounding trademark protection for the official insignia of federally and/or state recognized Native American tribes. The new law requires that the Commissioner of Patents and Trademarks (Commissioner) complete the study and submit a report, including the findings and conclusions, to the chairmen of the Committee on the judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, not later than September 30, 1999. This notice requests input that will help the PTO make an initial determination of how best to conduct the study, where public hearings should be held, and who should be consulted during the study process.

DATES: To ensure consideration, comments must be received no later than February 12, 1999.

ADDRESSES: Comments must be submitted to: Eleanor K. Meltzer, Attorney-Advisor, Office of Legislative and International Affairs; U.S. Patent and Trademark Office; 2121 Crystal Drive, Suite 902; Arlington, VA 22202. Comments may also be submitted by e-mail to: NAFedRegNotice@USPTO.GOV.

FOR FURTHER INFORMATION CONTACT: Eleanor K. Meltzer; Telephone: 703–306–2960; E-mail: eleanor.meltzeruspto.gov; facsimile transmission: 703–305–8885. P.L. 105–330 may be viewed via the Library of Congress website at: *thomas.loc.gov*

SUPPLEMENTARY INFORMATION: Members of Congress have received complaints regarding the lack of adequate protection for the official insignia of Native American tribes. Title III of P.L. 105–330 requires the PTO to study how such official insignia may better be protected under trademark law. As an initial step to completing the mandated study, through this Notice the PTO would like comments on: (1) how best to conduct the study; (2) where public hearings should be held; and (3) who should be consulted during the study process.

Issues to be Addressed by the Study

The final study must address a variety of issues, including the impact of any changes on the international legal obligations of the United States, the definition of ''official insignia'' of a federally and/or state recognized Native American tribe, and the administrative feasibility, including the cost, of changing current law or policy in light of any recommendations. to help in answering items 1–3 above, the following issues are raised. They are provided for informational purposes only. Another **Federal Register** notice will be published in 1999 specifically requesting answers to the following questions.

- *Defnition of ''Official Insignia''*—How should the PTO define ''official insignia'' of a federally or state recognized Native American tribe?

- *Establishing and Maintaining a List of Official Insignia*—How should the PTO establish a list of the official insignia of federally and/or state recognized Native American tribes? How should the PTO maintain such a list?

- *Impact of Changes in Current Law or Policy*—How would any change in law or policy with respect to prohibiting the Federal registration of trademarks identical to the official insignia of native American tribes, or of prohibiting any new use of the official insignia of native American tribes, affect Native American tribes? How would such changes affect trademark owners? How would such changes affect the Patent and Trademark Office? How would such changes affect any other interested party? What impact would any such changes have on the international legal obligations of the United States?

- *Impact of Prohibition on Federal Registration & New Uses of Official Insignia*—How would prohibiting Federal registration of trademarks identical to the official insignia of Native American tribes affect any/all of the above-mentioned entities? How would prohibiting any new use of the official insignia of Native American tribes affect any/all of the above-mentioned entities? What effect would such prohibitions have on the international legal obligations of the United States? What defenses, including fair use, might be raised against any claims of infringement?

- *Administrative Feasibility*—What is the administrative feasibility, including the cost, of changing the current law or policy, to prohibit the registration? What is the administrative feasibility, including the cost, of prohibiting any new uses of the official insignia of state or federally recognized Native American tribes? What is the administrative feasibility, including the cost, of otherwise providing additional protection to the official insignia of federally and state recognized Native American tribes?

- *Timing of Changes in Protection*—Should changes in the scope of protection for official tribal insignia be offered prospectively? Retrospectively? What is the impact of such protection?

- *Statutory Requirements*—What statutory changes would be necessary in order to provide such protection?

- *Other Relevant Factors*—What other factors, not mentioned above, are relevant to this issue?

Request for Public Comment

The Commissioner has identified the following topics for which public comment is currently requested:

1. Best Method of Obtaining Public Comments

What is the best way to obtain public comments? Should the PTO conduct public hearings in order to obtain comments?

2. Site of Public Hearings

If public hearing are desirable, where should these hearings be conducted? If suggesting sites for public hearings, please explain the benefits, particularly in terms of reaching a relevant audience.

3. Persons/Organizations to Consult

Who should be consulted in order to effectively study the impact of changes in trademark protection for the official insignia of Native American tribes? Why?

Persons interested in commenting on the issues outlined above, or any other topics related to the official insignia of native American tribes, should submit their comments in writing to the above address. It is emphasized that, right now, the PTO is only requesting comments on Questions 1, 2, and 3 above. All comments received in response to this notice will become part of the public record and will be available for inspection and copying at Suite 902Q, Crystal Park 2, 2121 Crystal Drive, Arlington, Virginia.

Dated: December 22, 1998.

Q. Todd Dickinson,

Deputy Assistant Secretary of Commerce and Deputy Commissioner of Patents and Trademarks.

[FR Doc. 98–34349 Filed 12–28–98; 8:45 am]

BILLING CODE 3510–16–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in Cambodia

December 22, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits.

EFFECTIVE DATE: December 30, 1998.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715. For information on categories on which consultations have been requested, call (202) 482-3740.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

A notice published in the **Federal Register** on November 4, 1998 (63 FR 59548) announces that if no solution is agreed upon in consultations between the Governments of the United States and Cambodia on Categories 338/339 and 345 the Committee for the Implementation of Textile Agreements may establish a limit for the twelve-month period beginning on October 28, 1998 and extending through October 27, 1999 at a level of not less than 1,745,634 dozen for Categories 338/339 and at a level of not less than 53,001 dozen for Category 345.

Inasmuch as no agreement was reached during consultations on a mutually satisfactory solution, the United States Government has decided to control imports in Categories 338/339 and 345 for the period October 28, 1998 through October 27, 1999, as authorized by Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The United States remains committed to finding a solution concerning Categories 338/339 and 345. Should such a solution be reached in consultations with the Government of Cambodia, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Information regarding the 1999 Correlation will be published in the **Federal Register** at a later date.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 22, 1998.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); and Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on December 30, 1998, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in the following categories, produced or manufactured in Cambodia and exported during the twelve-month period beginning on October 28, 1998 and extending through October 27, 1999, in excess of the following levels of restraint:

Category	Twelve-month limit [1]
338/339	1,745,634 dozen.
345	53,001 dozen.

[1] These limits have not been adjusted to account for any imports exported after October 27, 1998.

Textile products in Categories 338/339 and 345 which have been exported to the United States prior to October 28, 1998 shall not be subject to this directive.

Textile products in Categories 338/339 and 345 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1) prior to the effective date of this directive shall not be denied entry under this directive.

Charges to these categories based on exports between October 28, 1998 and the effective date of this directive will be provided to Customs when information regarding these entries becomes available.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–34388 Filed 12–28–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Consolidation and Amendment of Export Visa Requirements to Include the Electronic Visa Information System for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Hong Kong

December 21, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs consolidating and amending visa requirements.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

In exchange of notes dated December 15, 1998, the Governments of the United States and the Hong Kong Special Administrative Region of the People's Republic of China (HKSAR) agreed to amend the existing visa arrangement for cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in Categories 200–239, 300–369, 400–469, 600–670, 800–899, produced or manufactured in Hong Kong and exported on and after January 1, 1999. The amended arrangement consolidates existing provisions and new provisions for the Electronic Visa Information System (ELVIS). The Governments of the United States and the HKSAR will implement a 6-month test phase in which, in addition to the ELVIS requirements, shipments will continue to be accompanied by a visa. There will be a grace period beginning on January 1, 1999 and extending through January 14, 1999 during which shipments accompanied by an original Hong Kong visa will be permitted entry either with or without an ELVIS transmission. Beginning on January 15, 1999, textile products must be accompanied by an ELVIS transmission and an original Hong Kong visa.

Effective on January 1, 1999 neither a visa nor an ELVIS transmission will be required for products integrated in the second stage of the integration of textiles and clothing into GATT 1994 from WTO member countries (see 63 FR 53881, published on October 7, 1998). A visa will continue to be required for non-integrated products.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Information regarding the 1999 CORRELATION will be published in the **Federal Register** at a later date. Also see 58 FR 2400, published on January 19, 1983; and 51 FR 27235, published on July 30, 1986.

Interested persons are advised to take all necessary steps to ensure that textile products entered into the United States for consumption, or withdrawn from warehouse for consumption, will meet the visa requirements set forth in the letter published below to the Commissioner of Customs.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 21, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 14, 1983, as amended, by the Chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit entry of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Hong Kong for which the Government of the Hong Kong Special Administrative Region of the People's Republic of China (HKSAR) has not issued an appropriate export visa.

Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); and pursuant to the Uruguay Round Agreement on Textiles and Clothing and the Export Visa Arrangement, effected by exchange of notes dated December 15 1998, between the Governments of the United States and the HKSAR; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1999, entry into the Customs territory of the United States (i.e., the 50 states, the District of Columbia and the Commonwealth of Puerto Rico) for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in Categories 200–239, 300–369, 400–469, 600–670, 800–899, including part categories and merged categories, produced or manufactured in Hong Kong and exported on and after January 1, 1999 for which the Government of the HKSAR has not issued an appropriate export visa and Electronic Visa Information System (ELVIS) transmission fully described below. Should additional categories, part-categories or merged categories become subject to import quotas, the entire category(s), part-category(s) or merged category(s) shall be included in the coverage of this arrangement. There will be a grace period beginning on January 1, 1999 and extending through January 14, 1999 during which shipments accompanied by an original Hong Kong visa will be permitted entry either with or without an ELVIS transmission. Beginning on January 15, 1999, textile products must be accompanied by an ELVIS transmission and an original Hong Kong visa.

A visa must accompany each shipment of the aforementioned textile products. A circular stamped marking in blue ink will appear on the front of the original export license. The original visa shall not be stamped on duplicate copies of the export license. The original export license with the original visa stamp will be required to enter the shipment into the United States. Duplicates of the export license and/or visa may not be used for this purpose.

Each visa stamp shall include the following information:

1. The visa number. The visa number shall be in the standard nine digit letter format, beginning with one numeric digit for the last digit of the year of export, followed by the two character alpha code specified by the International Organization for Standardization (ISO) (the code for the HKSAR is ''HK''), and a six digit numerical serial number identifying the shipment; e.g., 9HK123456.

2. The date of issuance. The date of issuance shall be the day, month and year on which the visa was issued.

3. The original signature of the issuing official authorized by the Government of the HKSAR.

4. The correct category(s), part category(s), merged category(s), quantity(s) and unit(s) of quantity of the shipment in the unit(s) of quantity provided for in the 1992–1995 bilateral agreement and notified to the Textiles Monitoring Body and listed in Annex A to the Export Visa Arrangement shall be reported in the spaces provided within the visa stamp (e.g., ''Cat. 340–510 DOZ'').

Quantities must be stated in whole numbers. Decimals or fractions will not be accepted.

U.S. Customs shall not permit entry if the shipment does not have a visa, or if the visa number, date of issuance, signature, category, quantity or units of quantity are missing, incorrect, illegible, or have been crossed out or altered in any way. If the quantity indicated on the visa is less than that of the shipment, entry shall not be permitted. If the quantity indicated on the visa is more than that of the shipment, entry shall be permitted and only the amount entered shall be charged to any applicable quota.

If the visa is not acceptable then a new correct visa must be obtained from the Government of the HKSAR or a visa waiver may be issued by the U.S. Department of Commerce at the request of the Hong Kong

Economic and Trade Office in Washington, DC, for the Government of the HKSAR and presented to the U.S. Customs Service before any portion of the shipment will be released. The waiver, if used, only waives the requirement to present a visa with the shipment. It does not waive any quota requirement. Visa waivers will only be issued for classification purposes or for one-time special purpose shipments that are not part of an ongoing commercial enterprise.

If the visaed export license is deficient, the U.S. Customs Service will not return the original document after entry, but will provide the importer a certified copy of that visaed export license for use in obtaining a new correct visaed export license or a visa waiver.

ELVIS Requirements:

A. Each ELVIS message will include the following information:

i. The visa number as defined above.

ii. The date of issuance. The date of issuance shall be the day, month and year on which the visa was issued.

iii. The correct category(s), part category(s), merged category(s), quantity(s) and unit(s) of quantity of the shipment in the unit(s) of quantity provided for in the 1992–1995 bilateral agreement and notified to the Textiles Monitoring Body and listed in Annex A to the Export Visa Arrangement.

iv. The manufacturer ID number (MID). The MID shall begin with ''HK,'' followed by the first three characters from each of the first two words of the name of the manufacturer, followed by the largest number on the address line up to the first four digits, followed by three letters from the city name.

B. Entry of a shipment shall not be permitted:

i. if an ELVIS transmission has not been received for the shipment from the HKSAR;

ii. if the ELVIS transmission for that shipment is missing any of the following:

a. visa number

b. category, part category or merged category

c. quantity

d. unit of measure

e. date of issuance

f. manufacturer ID number;

iii. if the ELVIS transmission for the shipment does not match the information supplied by the importer with regard to any of the following:

a. visa number

b. category, part category or merged category

c. unit of measure;

iv. if the quantity being entered is greater than the quantity transmitted;

v. if the visa number has previously been used, except in the case of a split shipment, or canceled, except when an entry has already been made using the visa number.

C. A new, correct ELVIS transmission from the HKSAR is required before a shipment that has been denied entry for one of the circumstances described above will be released.

D. Visa waivers will only be considered for one time special purpose shipments that are not part of an ongoing commercial enterprise and for legitimate classification purposes.

E. Shipments will not be released for twenty–four hours or 1 calendar day in the event of a system failure. If system failure exceeds twenty–four hours or 1 calendar day, for the remaining period of the system failure the U.S. Customs Service will release shipments on the basis of the paper visaed document.

F. If a shipment from the HKSAR is allowed entry into the commerce of the United States with an incorrect visa, no visa, an incorrect ELVIS transmission, or no ELVIS transmission, and redelivery is requested but cannot be made, and after the Government of the HKSAR does not issue a visa or ELVIS transmission or request a visa waiver (if applicable), the shipment will be charged to the correct category limit whether or not a replacement visa or waiver is provided or a new ELVIS message is transmitted.

G. The U.S. Customs will provide the Government of the HKSAR with an electronic report on visa utilization which is accessible at any time. This report will contain:

a. visa number

b. category number

c. unit of measure

d. quantity charged to quota

e. entry number

f. entry line number

Other Provisions:

With the exception of suits of wool, man-made fibers, silk blend and/or non-cotton vegetable fibers, all textiles and textile products, including bona-fide gifts valued at US$50 or less, imported for the personal use of the importer and not for resale, regardless of value, and properly marked commercial sample shipments valued at US$800 or less do not require a visa or ELVIS transmission for entry and shall not be charged to agreement levels if applicable. Notwithstanding the foregoing, personal shipments of suits of wool, man-made fibers, silk blend and/or non-cotton vegetable fibers accompanying the traveler, regardless of value, do not require a visa or ELVIS transmission for entry and shall not be charged to agreement levels.

Effective on January 1, 1999 neither a visa nor an ELVIS transmission will be required for products integrated in the second stage of the integration of textiles and clothing into GATT 1994 from WTO member countries (see directive dated September 30, 1998) A visa will continue to be required for non-integrated products.

Any shipment which is not accompanied by a valid and correct visa and ELVIS transmission in accordance with the foregoing provisions, shall be denied entry by the Government of the United States unless the Government of the HKSAR authorizes the entry and any charges to the agreement levels.

The visa stamp remains unchanged.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1). This letter will be published in the **Federal Register**.

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–34328 Filed 12–28–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Coverage of Unit of Quantity Requirement for Textile and Apparel Products Produced or Manufactured in Various Countries

December 21, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending coverage of the requirement that visa quantities be in whole numbers only.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Ross C. Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

As stated in the notice and letter to the Commissioner of Customs dated November 30, 1998, published in the **Federal Register** on December 4, 1998 (see 63 FR 67053), the United States Government has notified all countries with visa arrangements with the United States of the requirement to issue visas in whole numbers. Effective on January 1, 1999, the following countries shall be excluded from this requirement: Bangladesh, Egypt, Peru, Trinidad and Tobago, and Turkey. For these five countries, Customs will not deny visas solely because they have decimals or fractions. However, Customs will continue to charge in whole units using standard rounding procedures.

The requirement for the use of whole numbers will be effective only for goods exported on and after January 1, 1999. For those countries in which the visa arrangement already requires the use of whole numbers, this requirement continues to apply.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to exclude the aforementioned countries from the requirement that the quantity stated on the visa be listed in whole numbers only. Also, the Commissioner of Customs is directed to implement the November 30, 1998 directive for textile

products exported on and after January 1, 1999.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 21, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 30, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directs you to require that shipment quantities of textile and apparel products entered into the United States be stated on the visa in whole numbers only.

Effective on January 1, 1999, you are directed to exclude Bangladesh, Egypt, Peru, Trinidad and Tobago, and Turkey from this requirement. For these five countries, Customs will not deny visas solely because they have decimals or fractions. However, Customs will continue to charge in whole units, using standard rounding procedures.

The requirement for the use of whole numbers will be effective only for goods exported on and after January 1, 1999. For those countries in which the visa arrangement already requires the use of whole numbers, this requirement continues to apply.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–34328 Filed 12–28–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comments on a Request that the United States Consult with Mexico and Canada Concerning Short Supply of a Certain Polyester Filament Yarn

December 22, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Request for public comments concerning a request for consultations on a certain polyester filament yarn.

FOR FURTHER INFORMATION CONTACT: Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The purpose of this notice is to advise the public that CITA has been petitioned to initiate consultations with Mexico and Canada under Section 7(2) of Annex 300–B of the North American Free Trade Agreement (NAFTA) for the purpose of amending the NAFTA rules of origin for HTS subheading 5806.32 to allow the use of a certain non-North American 70 denier bright polyester filament yarn classified in HTS subheading 5402.43, in NAFTA originating goods.

There will be a 30-day comment period beginning on December 29, 1998 and extending through January 28, 1999. Anyone wishing to comment or provide data or information regarding domestic production or availability of this polyester filament yarn classified in HTS subheading 5402.43 is invited to submit 10 copies of such comments or information to Troy H. Cribb, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande.

Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

The solicitation of comments is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute ''a foreign affairs function of the United States.''

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Information regarding the 1999 CORRELATION will be published in the **Federal Register** at a later date.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 98–34887 Filed 12–28–98; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:30 a.m., Thursday, January 7, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Catherine D. Dixon,

Assistant Secretary of the Commission.

[FR Doc. 98–34490 Filed 12–23–98; 4:44 pm]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0041]

Proposed Collection; Comment Request Entitled Technical Proposal-Two-Step Sealed Bidding

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Technical Proposal-Two-Step Sealed Bidding. The clearance currently expires on April 30,1999.

DATES: Comments may be submitted on or before March 1, 1999.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street,

NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0041, Technical Proposal-Two-Step Sealed Bidding, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Ralph DeStefano, Federal Acquisition Policy Division, GSA (202) 501–1758.

SUPPLEMENTARY INFORMATION:

A. Purpose

Two-step sealed bidding is a method of contracting designed to obtain the benefits of sealed bidding when adequate specifications are not available. An objective is to permit the development of a sufficiently descriptive and not unduly restrictive statement of the Government's requirements, including an adequate technical data package, so that subsequent acquisitions may be made by conventional sealed bidding. This method is especially useful in acquisitions requiring technical proposals, particularly those for complex items. It is conducted in two steps:

(a) Step 1 consists of the request for, submission, evaluation, and (if necessary) discussion of a technical proposal. No pricing is involved. The objective is to determine the acceptability of the supplies or services offered. As used in this context, the word ''technical'' has a broad connotation and includes, among other things, the engineering approach, special manufacturing processes, and special testing techniques. It is the proper step for clarification of questions relating to technical requirements.

(b) Step 2 involves the submission of sealed price bids by those who submitted acceptable technical proposals in step 1.

The requested information is needed, in the absence of adequate specifications, to develop a sufficiently descriptive and not unduly restrictive statement of the Government's requirements and to determine the acceptability of proposals received. The contracting officer evaluates the acceptability of the information received, based on the criteria in the request for proposals.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *8* hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *3,225;* responses per respondent, *1;* total annual responses, *3,225;* preparation hours per response, *8;* and total response burden hours, *25,800.*

OBTAINING COPIES OF PROPOSALS: Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0041, Technical Proposal-Two-Step Sealed Bidding, in all correspondence.

Dated: December 22, 1998.

Victoria E. Moss,

Acting Director, Federal Acquisition Policy Division.

[FR Doc. 98–34368 Filed 12–28–98; 8:45 am]

BILLING CODE 6820–34–U

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0108]

Proposed Collection; Comment Request Entitled Bankruptcy

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Bankruptcy. The clearance currently expires on April 30, 1999.

DATES: Comments may be submitted on or before March 1, 1999.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0108, Bankruptcy, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Federal Acquisition Policy Division, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

Under statute, contractors may enter into bankruptcy which may have a significant impact on the contractor's ability to perform its Government contract. The Government often does not receive adequate and timely notice of this event. The clause at 52.242–13 requires contractors to notify the contracting officer within five days after the contractor enters into bankruptcy.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *1* hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *1,000*; responses per respondent, *1*; total annual responses, *1,000*; preparation hours per response, *1*; and total response burden hours, *1,000*.

C. Annual Recordkeeping Burden

The annual recordkeeping burden is estimated as follows: Recordkeepers, *1,000*; hours per recordkeeper, *.25*; and total recordkeeping burden hours, *250*.

Obtaining copies of proposals: Requester may obtain a copy of the justification from the General Services Administration, FAR Secretariat (MVRS), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 9000–0108, Bankruptcy, in all correspondence.

Dated: December 22, 1998.

Victoria E. Moss,

Acting Director, Federal Acquisition Policy Division.

[FR Doc. 98–34369 Filed 12–28–98; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability of the Final Environmental Impact Statement for Pilot Testing Neutralization/ Supercritical Water Oxidation of VX Agent at Newport Chemical Depot, Indiana

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: This announces the availability of the Final Environmental Impact Statement (FESS) which assesses the potential environmental impacts of the construction and operation of a facility to pilot test the chemical neutralization process followed by supercritical water oxidation (SCWO) as a potential disposal technology for bulk agent VX stored at Newport Chemical Depot (NECD).

DATES: The public review period will end 30 days following the publication of the Environmental Protection Agency's Notice of Availability in the **Federal Register**.

ADDRESSES: To obtain copies of the FEIS contact Ms. Mona Harney, Newport Outreach Office, 140 South Main Street, Newport, Indiana 47966.

FOR FURTHER INFORMATION CONTACT: Ms. Catherine Herlinger at (800) 488–0648 or (410) 463–2583.

SUPPLEMENTARY INFORMATION: The proposed facility will be used to demonstrate, as part of a research and development program, the neutralization process followed by SCWO to destroy VX agent currently stored in containers at NECD.

The alternatives considered in this FEIS are the proposed action and no action (continued storage of VX in ton containers). Although the no action alternative is not viable under Pub. L. 99–145, it was analyzed to provide a comparison with the proposed action. In addition, the no action alternative would not comply with Pub. L. 102–484, which specifies that the Army must consider using a technological alternative to incineration.

The FEIS concludes that VX stored in bulk containers can be pilot tested at NECD using the neutralization process, followed by SCWO, in a safe and environmentally acceptable manner. At one time, the option of sending the neutralization hydrolysate to an off-site biotreatment facility was under consideration by the Army. However, technical and programmatic evaluations have concluded that off-site biotreatment is not suitable at this time. Therefore, off-site biotreatment is not addressed further in this EIS.

A Notice of Availability was published on June 12, 1998 (63 FR 32207), which provided notice that the Draft EIS was available for comment. Comments from the DEIS have been considered and responses are included in this FEIS. After a 30-day waiting period the Army will publish a Record of Decision.

Copies of the FEIS may also be obtained by calling the Newport Outreach Office at (765) 492–4445. Questions may be forwarded to Office of the Program Manager for Chemical Demilitarization, ATTN: SFAE–CD–P) (Ms. Herlinger) Building E4585, Aberdeen Proving Ground, Maryland 21010–5401; or via-e-mail at cherlin@cdra.apgea.army.mil.

Dated: December 22, 1998.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health) OASA(I,L&E).

[FR Doc. 98–34111 Filed 12–28–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Advisory Committee Meeting Notice

AGENCY: U.S. Army Training and Doctrine Command (TRADOC).

ACTION: Notice of meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following meeting:

Name of Committee: Distance Learning/Training Technology Subcommittee of the Army Education Advisory Committee.

Date: 20–22 January 1999.

Place: Fort Sill, Oklahoma.

Time: 1400–1630 on 20 January 1999; 0830–1630 on 21 January 1999; and 0830–1130 on 22 January 1999.

Proposed Agenda: Review and discussion of the status of Army Distance Learning.

Purpose of the Meeting: The members will advise the Assistant Deputy Chief of Staff (ADCST), HQ Training and Doctrine Command (TRADOC), on matters pertaining to education and training technologies to be used for Army Distance Learning and resident instruction.

FOR FURTHER INFORMATION CONTACT: All communications regarding this subcommittee should be addressed to Mr. Richard Karpinski, at Commander, Headquarters TRADOC, ATTN: ATTG–CF (Mr. Karpinski), Fort Monroe, VA 23651–5000; telephone number (757) 728–5531.

SUPPLEMENTARY INFORMATION: Meeting of the advisory committee is open to the public. Because of restricted meeting space, attendance will be limited to those persons who have notified the Advisory Committee Management Office in writing at least five days prior to the meeting of their intention to attend. Contact Mr. Karpinski (757) 728–5531 for meeting agenda and specific locations.

Any member of the public may file a written statement with the committee before, during, or after the meeting. To the extent that time permits, the committee chairman may allow public presentations or oral statements at the meeting.

Mary V. Yonts,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 98–34434 Filed 12–28–98; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

[CFDA No. 84.120A]

Minority Science and Engineering Improvement Program

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year 1999 under the Minority Science and Engineering Improvement Program.

Purpose of Program

The Minority Science and Engineering Improvement Program (MSEIP) is designed to effect long-range improvement in science education at predominantly minority institutions and to increase the flow of underrepresented ethnic minorities, particularly minority women, into scientific careers.

Eligibility for Grants

With the October 7, 1998 enactment of the Higher Education Amendments of 1998, Pub. L. 105–244, the criteria for eligibility for grants under MSEIP were amended. Congress also relocated MSEIP from Title X to Title III of the Higher Education Act of 1965 (HEA). Under section 361 of the HEA, as now amended, eligibility for grants is now defined as follows:

Eligibility to receive grants under this part is limited to—

(1) Public and private nonprofit institutions of higher education that:

(A) Award baccalaureate degrees; and

(B) Are minority institutions;

(2) Public or private nonprofit institutions of higher education that:

(A) Award associate degrees; and

(B) Are minority institutions that:

(i) Have a curriculum that includes science or engineering subjects; and

(ii) Enter into a partnership with public or private nonprofit institutions of higher education that award baccalaureate degrees in science and engineering;

(3) Nonprofit science-oriented organizations, professional scientific

societies, and institutions of higher education that award baccalaureate degrees, that:

(A) Provide a needed service to a group of minority institutions; or

(B) Provide in-service training for project directors, scientists, and engineers from minority institutions; or

(4) Consortia of organizations, that provide needed services to 1 or more minority institutions, the membership of which may include:

(A) Institutions of higher education which have a curriculum in science and engineering;

(B) Institutions of higher education that have a graduate or professional program in science or engineering;

(C) Research laboratories of, or under contract with, the Department of Energy;

(D) Private organizations that have science or engineering facilities; or

(E) Quasi-governmental entities that have a significant scientific or engineering mission.

Section 365(4) was also amended to include behavioral sciences in the definition of science programs that can be supported.

Deadline for Application Transmittal: March 5, 1999.

Applications Available: January 5, 1999.

Eligible Applicants: (a) For institutional, design, and special projects described in 34 CFR 637.14 (a), (b), and (c)—public and nonprofit private minority institutions as defined in section 361 (1) and (2) of the HEA.

(b) For special projects described in 34 CFR 637.14 (b) and (c)—non-profit organizations, institutions, and consortia as defined in section 361 (3) and (4) of the HEA.

(c) For cooperative projects described in 34 CFR 637.15—groups of nonprofit accredited colleges and universities whose primary fiscal agent is an eligible minority institution as defined in 34 CFR 637.4(b).

Note: A minority institution is defined in 34 CFR 637.4(b) as an accredited college or university whose enrollment of a single minority group or combination of minority groups, as defined in 34 CFR 637.4(b), exceeds 50 percent of the total enrollment.

Estimated Range and Average Size of Awards: The amounts referenced below are advisory and represent the Department's best estimates at this time. The average size of an award is the estimate for a single-year project or for the first budget period of a multi-year project.

Institutional

Estimated Range of Awards: $100,000–$200,000.

Estimated Average Size of Awards: $120,000.

Estimated Number of Awards: 22.

Design

Estimated Range of Awards: $15,000–$20,000.

Estimated Average Size of Awards: $18,000.

Estimated Number of Awards: 4.

Special

Estimated Range of Awards: $20,000–$150,000.

Estimated Average Size of Awards: $25,000.

Estimated Number of Awards: 11.

Cooperative

Estimated Range of Awards: $20,000–$500,000.

Estimated Average Size of Awards: $280,000.

Estimated Number of Awards: 4.

Applicable Regulations

Regulations applicable to this program are (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 83, 85, and 86; and (b) The regulations in 34 CFR part 637, except for 34 CFR 637.2 which has been superseded by section 361 of the HEA, as amended.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

Project Period: Up to 36 months.

For Application or Information Contact: Mr. Kenneth Waters or Ms. Deborah Newkirk, Institutional Development and Undergraduate Service, U.S. Department of Education, 600 Maryland Avenue, SW (Portals CY–80), Washington, DC 20202–5335. Telephone: 202/708–9926 or by Internet to deborah__newkirk@ed.gov. The government encourages applicants to FAX requests for applications to 202/401–7532.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800/877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register** in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg/htm
http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888/293–6498.

Program Authority

Sections 301 (a), (b), and 307 of the Higher Education Amendments of 1998, Public Law 105–244, 112 Stat. 1581.

Dated: December 22, 1998.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 98–34332 Filed 12–28–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

(CFDA Nos.: 84.297A and 84.209A)

Native Hawaiian Curriculum Development, Teacher Training and Recruitment Program and Native Hawaiian Family-Based Education Centers Program

AGENCY: Department of Education.

ACTION: Notice of proposed funding priorities for fiscal year (FY) 1999.

SUMMARY: The Secretary of Education proposes to establish absolute priorities for the FY 1999 grant competitions under the Native Hawaiian Curriculum Development, Teacher Training and Recruitment Program and the Native Hawaiian Family-Based Education Centers Program. Under the priorities, funds under the Native Hawaiian Curriculum Development, Teacher Training and Recruitment Program would be used to support activities in the areas of (1) computer literacy and technology education, (2) agriculture education partnerships, (3) astronomy, (4) indigenous health, (5) waste management, and (6) prisoner education. Funds under the Native Hawaiian Family-Based Education Centers Program would be used to support preschool education.

DATES: Comments must be received on or before January 28, 1999.

ADDRESSES: Comments should be addressed to Madeline Baggett, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW, Room 3E228, Washington, D.C. 20202–6410,

Telephone: (202) 260–2502, FAX: (202) 205–0302. Comments may also be sent through the Internet: at madeline__baggett@ed.gov.

FOR FURTHER INFORMATION CONTACT: Madeline Baggett, U.S. Department of Education, 400 Maryland Avenue, SW, Room 3E228, Washington, DC 20202. Telephone: (202) 260–2502. 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.

Individuals with disabilities may obtain a copy of this notice in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: There is available for distribution to eligible grantees under the Native Hawaiian Curriculum Development, Teacher Training and Recruitment Program (20 U.S.C. 7909) a total of $4,800,000 of FY 1999 funds. Congress has encouraged the U.S. Department of Education to use funds appropriated for this program to support curriculum development and teacher training activities in the areas of (1) computer literacy and technology education, (2) agriculture education partnerships, (3) astronomy, (4) indigenous health, (5) waste management, and (6) prisoner education. The Secretary believes that limiting newly funded projects in this way will help address the needs of Native Hawaiian students in these significant areas of Native Hawaiian culture and traditions. Therefore, the Secretary is proposing absolute funding priorities and intends to use $1,500,000 of the FY 1999 funds available under the program for a competition to fund one or two projects in each of the six categories. In funding these activities, the Secretary intends to allocate approximately $250,000 among each of the six categories and estimates that the average size of the FY 1999 awards for these new projects will range from $125,000 to $250,000. The Secretary will use the remaining $3,300,000 of FY 1999 funds for continuation awards for previously funded projects in the areas of waste management innovation, Native Hawaiian language revitalization curricula and teacher training and recruitment activities, and prisoner education.

There is available for distribution under the Native Hawaiian Family-Based Education Centers Program (20 U.S.C. 7905) a total of $7,200,000 of FY 1999 funds. Congress has encouraged the Department to use funds under the program to support activities in preschool education, and the Secretary is proposing an absolute priority to accomplish this objective. The Secretary intends to use a total of $2,000,000 of the FY 1999 funds available under the program for a competition to fund one or two projects in preschool education. It is estimated that these projects will range from $1,000,000 to $2,000,000. The Secretary will use the remaining $5,200,000 to fund continuation awards for previously funded family-based education centers projects.

The Secretary will announce final priorities for these competitions in a notice in the **Federal Register**. The final priorities will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of a particular project depends on the final priority, the availability of funds, and the quality of the applications received. The publication of these proposed priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priorities does not solicit applications. A notice inviting applications under the competitions will be published in the **Federal Register** concurrent with or following the notice of final priorities.

Proposed Absolute Priorities: Under the Native Hawaiian Curriculum Development, Teacher Training and Recruitment Program, the Secretary proposes to give an absolute preference to applications that focus entirely on activities in one of the following areas:

(1) Computer literacy and technology education—to support K–12 curricula development, teacher training and model programs designed to increase computer literacy and access for Native Hawaiian students;

(2) Agriculture education partnerships—to support the integration of agricultural and businesses practices into high school curriculum through the expansion of partnerships between community-based agricultural businesses and high schools with high concentrations of Native Hawaiian students;

(3) Astronomy—to support the development of educational programs to encourage Native Hawaiians to enter the field of astronomy, with emphasis on astronomy as a profession, operation of astronomical and observatory equipment, or scientific and cultural expertise in astronomy;

(4) Indigenous health—to support teacher training, curriculum development, and instruction activities that will foster a better understanding and knowledge of Native Hawaiian traditional medicine among Native Hawaiian elementary and secondary students;

(5) Waste management—to study and document traditional Hawaiian practices of sustainable waste management and to prepare teaching materials for educational purposes and for demonstration of the use of native Hawaiian plants and animals for waste treatment and environmental remediation; and

(6) Prisoner education—to support programs that target juvenile offenders and/or youth at risk of becoming juvenile offenders and that involve comprehensive and culturally sensitive strategies that include family counseling, basic education/jobs skills training, and the involvement of community elders as mentors.

Under the Native Hawaiian Family-Based Education Centers Program, the Secretary proposes to give an absolute preference to applications that focus entirely on preschool education. The programs must provide coordinated and integrated services to preschool children, especially children from birth through age three, and may involve consortia that include educational entities and health care organizations.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov//fedreg.htm
http://www.ed.gov//news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of a document is the document published in the **Federal Register**.

Invitation to Comment: Interested persons are invited to submit comments

and recommendations regarding these proposed priorities. All comments submitted in response to this notice will be available for public inspection during and after the comment period, in Room 3E228, 400 Maryland Avenue, SW, Washington, DC between 9:00 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Program Authority: Sections 9205 and 9209 of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 7905 and 7909).

Dated: December 22, 1998.

Gerald N. Tirozzi,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 98–34331 Filed 12–28–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Notice of Intent To Prepare an Environmental Impact Statement for Closure of High-Level Waste Tanks at the Savannah River Site, Aiken, South Carolina

AGENCY: Department of Energy.

ACTION: Notice of Intent.

SUMMARY: The Department of Energy (DOE) intends to prepare an environmental impact statement (EIS) on the proposed closing of high-level waste tanks at the Savannah River Site (SRS) near Aiken, South Carolina. DOE proposes to close the tanks to protect human health and the environment and to promote safety. DOE's preferred alternative is to remove the residual waste from the tanks to the extent technically and economically feasible, and then to fill them with a reducing grout to bind up residual waste and a structural material to prevent collapse of the tanks. DOE proposes to close these tanks and their associated waste handling equipment in accordance with the Industrial Wastewater Closure Plan for F- and H-Area High-Level Waste Tank Systems, prepared by DOE and approved by the South Carolina Department of Health and Environmental Control (SCDHEC). In closing the tanks, DOE will comply not only with the Closure Plan, which is required by Industrial Wastewater Permits that SCDHEC issued to DOE, but also with the applicable requirements of DOE Orders, including DOE 5820.2A (Radioactive Waste Management). DOE invites comments on the scope of the EIS.

DATES: The public scoping period begins with the publication of this Notice and concludes February 12, 1998. DOE invites Federal agencies, Native American tribes, State and local governments, and the public to comment on the scope of this EIS. DOE will consider fully all comments received by the close of the scoping period, and will consider comments received after that date to the extent practicable.

Two public scoping workshops will be held during the scoping period:

January 14, 1999
2:00–4:00 pm and 6:00–8:00 pm, North Augusta Community Center, 101 Brookside Drive, North Augusta, South Carolina, and,

January 19, 1999
2:00–4:00 pm and 6:00–8:00 pm, Holiday Inn Coliseum, 630 Assembly Street, Columbia, South Carolina.

These scoping workshops will provide information about the high-level waste tank closure process and alternatives for closure of high-level waste tanks at SRS. The workshops will provide opportunities to comment orally or in writing on the EIS scope, including the alternatives and issues that the Department should consider in the EIS.

ADDRESSES: Comments on the scope of the EIS may also be mailed to the address below or sent by fax, voice mail, or electronic mail. Written comments on the scope of this EIS should be sent to: Andrew Grainger, NEPA Compliance Officer, Savannah River Operations Office, U. S. Department of Energy, Building 742A, Room 183, Aiken, South Carolina 29802, Attention: Tank Closure EIS.

Toll-free 24-hour fax and voice mail (local and nationwide): 800–881–7292; E-mail: nepa@srs.gov.

FOR FURTHER INFORMATION CONTACT: To request information about this EIS and the public scoping workshops, or to be placed on the EIS distribution list, use any of the methods listed in **ADDRESSES** above. For general information about the DOE NEPA process, contact: Carol Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U. S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585–0119, Phone: 202–586–4600, Voice mail: 800–472–2756, Fax: 202–586–7031.

SUPPLEMENTARY INFORMATION:

Background and Purpose and Need for Agency Action

At its inception in the 1950s, the primary mission of the SRS was to produce special nuclear materials to support the defense, research, and medical programs of the United States. This mission largely ended and production of nuclear materials ceased following the dissolution of the Soviet Union. Before the cessation of production, however, chemical separation of irradiated fuel at SRS had resulted in product streams (that is, special nuclear materials) and waste streams consisting of acidic liquids bearing radioactive fission products and small amounts of transuranic elements. This waste was chemically converted to an alkaline solution and stored as insoluble sludges, salts, and liquid supernate in 51 large underground tanks constructed between 1952 and 1981 at the SRS F-and H-Area Tank Farms. Two tanks, both in the F-Area Tank Farm, were closed in 1997 and no longer store high-level waste. Approximately 129 million liters (34 million gallons) of high-level radioactive waste are now stored in 49 tanks. SRS still operates facilities to stabilize nuclear materials that were in various stages of processing when strategic nuclear materials production ceased; this activity generates additional small amounts of high-level radioactive waste.

DOE proposes to close the tanks and their associated waste handling equipment to protect human health and the environment and to promote safety, in accordance with (1) the Industrial Wastewater Closure Plan for F- and H-Area High-Level Waste Tank Systems, prepared by DOE and approved by the South Carolina Department of Health and Environmental Control (SCDHEC), (2) South Carolina Regulation R.61–82, ''Proper Closeout of Wastewater Treatment Facilities,'' and (3) applicable requirements of DOE Orders, including DOE 5820.2A (Radioactive Waste Management).

Removal, treatment, storage, and disposal of bulk waste from the tanks will be in accordance with previous decisions, and are not within the scope of this environmental impact statement. High-level waste will be removed and treated to separate the high-activity fraction from the low-activity fraction. The high-activity fraction will be transferred to the Defense Waste Processing Facility and mixed into borosilicate glass to immobilize the radioactive constituents. Stainless steel canisters containing the borosilicate glass will be stored in Glass Waste Storage Buildings at the SRS pending a decision on disposal in a geologic repository. The low-activity fraction will be transferred to the Saltstone Facility and mixed with grout to make saltstone, a concrete-like material disposed of onsite in concrete vaults. The environmental impacts of these processes and facilities were evaluated

in environmental impact statements for the Defense Waste Processing Facility (DOE/EIS–0082–S, Record of Decision: 60 FR 18589, April 12, 1995), and Savannah River Site Waste Management (DOE/EIS–0217, Record of Decision: 60 FR 552499, October 30, 1995). DOE is currently evaluating processes and facilities required to replace one component of the high-level waste processing system, the In-Tank Precipitation process, and will conduct separate NEPA review of its environmental impacts.

Closure of the high-level tanks after bulk waste removal is the subject of this environmental impact statement. The primary concerns in the closure process are how to deal with the waste that cannot be technically or economically removed from the bottom of a tank and what to do with the tank itself. The potential environmental impacts of tank closure could vary, depending upon how DOE resolves these issues.

Upon completing closure activities for proximate groups of tanks, environmental restoration actions to remediate groundwater would be considered under the SRS Environmental Restoration Program, which is not within the scope of this EIS.

The EIS Schedule

DOE plans to publish the draft EIS in August 1999 and the final EIS in March 2000. A record of decision would be issued no sooner than 30 days from the Environmental Protection Agency's **Federal Register** publication of the notice of availability of the final EIS.

DOE will not close additional high-level waste tanks before completing the EIS process, but will continue to remove waste from the tanks. The EIS schedule will fully support compliance with existing schedules for additional tank closures. DOE is committed under the SRS Federal Facilities Agreement between DOE, EPA, and SCDHEC to close another high-level waste tank by fiscal year 2003 and to complete closure of 24 additional tanks by 2022. Under the Savannah River High Level Waste System Plan, DOE will close the remaining high-level waste tanks by 2028.

Phased Action

Under each alternative except no action, DOE would close 49 high-level waste tanks at SRS by implementing the Industrial Wastewater Closure Plan for F- and H-Area High-Level Waste Tank Systems in accordance with DOE Orders. Associated with each tank is additional waste handling equipment, such as evaporators, pumps, and transfer lines; a tank and its associated equipment are referred to as a ''tank system.'' Each tank system would be closed in three phases:

- The Evaluation and Cleaning Phase consists of determining closure performance objectives and identifying cleaning and stabilization methods required to meet those performance objectives.
- The Approval Phase consists of DOE obtaining SCDHEC and EPA approval of a DOE tank-systems-specific closure plan module that describes the end state of the tank, the performance modeling results, and closure details. Depending upon the tank-specific performance objectives and the amount and type of waste left in the tank after bulk waste removal, several alternative cleaning methods and stabilization methods could be employed.
- The Stabilization Phase would involve execution of the tank closure in accordance with the approved closure plan module.

Alternatives

Preferred Alternative: DOE's preferred alternative is first to clean the tank, to the extent technically and economically feasible, with spray washing or, if needed to meet performance objectives, oxalic acid cleaning. DOE then would fill the tank with a pumpable material (for example, grout, sand, or saltstone) to immobilize any remaining waste and stabilize the tanks themselves to prevent future collapse.

Clean to Allow Removal of the Tank Alternative: This alternative consists of cleaning the tank only sufficiently to allow safe removal and transferring it to the SRS Radioactive Waste Burial Grounds or a high-level waste repository for disposal. This alternative would eliminate potential migration of contaminants from closed tanks left in place at the SRS tank farms.

No Action Alternative: This alternative consists of bulk waste removal (that is, without further cleaning) and abandonment of the tank. No fill material would be used to immobilize the remaining waste or to stabilize the tank.

Related NEPA Decisions and Reviews

This EIS will use the information and analyses found in several final DOE NEPA reviews that address high-level waste management systems at SRS. These documents are available in these DOE public reading rooms:

DOE Freedom of Information Reading Room, Forrestal Building, Room 1E–190, 1000 Independence Ave., S.W., Washington, D.C. 200585, Phone: 202–586–6020

and

DOE Public Document Room, University of South Carolina, Aiken Campus, University Library, 2nd Floor, 171 University Parkway, Aiken, S.C. 29801, Phone: 803–648–6851

- Final Supplemental Environmental Impact Statement, Defense Waste Processing Facility, DOE/EIS–0082–S, 1994.
- Final Environmental Impact Statement, Savannah River Site Waste Management, DOE/EIS–0217, 1995.
- Environmental Assessment for the Closure of the High-Level Waste Tanks in F- and H-Areas at the Savannah River Site, DOE/EA–1164, 1996.

DOE also will use additional information and analyses, including the Industrial Wastewater Closure Plan for F- and H-Area High-Level Waste Tank Systems, the Closure Modules for Tanks 17 and 20, information from DOE tank closure workshops, and information developed in consultation with the Nuclear Regulatory Commission regarding whether waste left in the high-level waste tanks can be managed as waste incidental to reprocessing plant operations.

Preliminary Identification of EIS Issues

DOE intends to address the following issues when assessing the potential environmental impacts of the alternatives in this EIS. DOE invites comment from Federal agencies, Native American tribes, State and local governments, and the public on these and any other issues that should be addressed in the EIS.

- Potential impacts of the proposed action and alternatives on release of contaminants to groundwater.
- Relationship to land use plans for the SRS.
- Compliance with applicable Federal, State and local requirements and agreements.
- Potential effects on the public, including minority and low-income populations, and SRS workers from exposure to radiological and hazardous materials.
- Potential effects on air, soil, and water quality from normal operations and reasonably foreseeable accidents.
- Potential effects on SRS waste management operations and facilities.
- Pollution prevention, waste minimization, and energy and water use reduction technologies to eliminate or reduce use of energy, water, and hazardous substances and to minimize environmental impacts during closure activities.
- Potential socioeconomic impacts, including potential impacts associated

with the workforce needed for operations during closure activities.

- Potential impacts on cultural and historic resources.
- Potential cumulative environmental impacts of past, present, and reasonably foreseeable future operations at the SRS.
- Potential irreversible and irretrievable commitment of resources.

Issued in Washington, D.C. on December 22, 1998.

David Michaels,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 98–34458 Filed 12–28–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Submission for OMB Review; Comment Request

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

ACTION: Notice and request for comments.

SUMMARY: The Department of Energy (DOE) has submitted the proposed information collection request (ICR) described in this notice 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). The OMB is particularly interested in comments which evaluate: (1) whether the proposed collection of information is necessary to measure the progress and success of the Million Solar Roofs Initiative, (2) the accuracy of DOE's estimate of the burden of the proposed information collection, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) ways to minimize the burden of the collection of information on those who choose to respond.

DOE received one public comment in response to an earlier notice inviting public comment on this proposed collection (63 FR 56922, October 23, 1998), and has replied to the comment in its submission to OMB.

DATES: Comments regarding this collection of information should be received on or before January 28, 1999.

ADDRESSES: Comments should be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: OMB Desk Officer for DOE, Room 10202, New Executive Office Building, 725 17th Street, N.W., Washington DC 20503. A copy of the comments should also be sent to: Kimberly Kendall, Office of Energy Efficiency and Renewable Energy, Department of Energy, Room 6C–016, 1000 Independence Ave., S.W., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: A copy of the ICR, with applicable supporting documentation, may be obtained from: Kimberly Kendall, Office of Energy Efficiency and Renewable Energy, Department of Energy, Room 6C–016, 1000 Independence Ave., S.W., Washington, DC 20585, (202) 586–0927; or e-mail to kim.kendall@hq.doe.gov.

SUPPLEMENTARY INFORMATION: The following proposed collection of information has been sent to OMB for clearance:

Title: U.S. Department of Energy/ Million Solar Roofs Initiative Registry

OMB Control Number: None.

Type of request: New collection.

Expiration date of current OMB clearance: N/A.

Frequency of response: One time.

Respondents: Individuals, solar energy system installers, other solar energy industry representatives federal agencies, state and local governments, and utilities.

Estimated time per respondent: 30 minutes.

Estimated number of respondents: 1,000.

Total annual burden hours: 500 hours

Total annual cost to federal government: $20,000.

Summary/description of need: DOE seeks to collect information from individual homeowners, solar energy system installers, other solar energy industry representatives, utilities, federal agencies, and state and local governments concerning the details of newly installed solar energy systems (eg. system size and technology). The collection of this data is critical to the management of the President's Million Solar Roofs Initiative. Because the Initiative seeks to install one million solar energy systems on American homes and businesses by 2010, the information collected will allow DOE to measure its success in this effort. Many thousands of commitments have been made to date and a mechanism must be in place to account for the activity generated under this Federal initiative.

Issued in Washington, DC on December 23, 1998.

Brian T. Castelli,

Chief of Staff, Office of Energy Efficiency and Renewable Energy, Department of Energy.

[FR Doc. 98–34456 Filed 12–28–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Energy Conservation Program for Consumer Products: Publishing of the Petition for Extension of the 180-Day Period for Revising Manufacturers Representations

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice.

SUMMARY: This notice grants the ''Petitions for Extension,'' dated October 6, 1998, from the Gas Appliance Manufacturers Association (GAMA) on behalf of Aero Environmental Limited, American Water Heater Company, Bock Water Heaters, Bradford-White Corporation, Controlled Energy Corporation (e.l.m. LeBlanc), DEC International, GSW Water Heating Company Ltd., Heat Transfer Products, Inc., Rheem Water Heater Division, A. O. Smith Water Products Company, State Industries, Inc., Therma-Stor Products Group, Vaughn Manufacturing Company, Vulcano Termo-Domesticos S.A., Water Heater Innovations, and Airexcel, Inc., Crispaire Division. GAMA's Petition asks for an extension of the 180-day period for manufacturers' representations. The Energy Policy and Conservation Act, as amended, (EPCA) permits the Secretary of DOE to extend the period for representations by 180 days if good cause is shown.

FOR FURTHER INFORMATION CONTACT: Terry 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, Telephone: (202) 586–1689, E-mail: *terry.logee@ee.doe.gov* or Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585–0121, Telephone: (202) 586–9507.

SUPPLEMENTARY INFORMATION: The Energy Conservation Program for Consumer Products (other than automobiles) was established by the EPCA which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including water heaters. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions, and to form the basis of the Federal Trade Commission's

(FTC) labeling requirements. The water heater test procedure final rule was published on May 11, 1998, at 63 FR 25996. Included in this final rule, was a revised first hour rating for storage-type water heaters, defined in the Code of Federal Regulations at 10 CFR, Part 430, Subpart B, Appendix E, § 1.12.

The following manufacturers have authorized GAMA to petition the Department under Section 323(c)(2) of EPCA, 42 U.S.C. 6293(c)(2). This petition was received at DOE on October 6, 1998. The manufacturers included in the petition are: Aero Environmental Limited, American Water Heater Company, Bock Water Heaters, Bradford-White Corporation, Controlled Energy Corporation (e.l.m. LeBlanc), DEC International, GSW Water Heating Company Ltd., Heat Transfer Products, Inc., Rheem Water Heater Division, A. O. Smith Water Products Company, State Industries, Inc., Therma-Stor Products Group, Vaughn Manufacturing Company, Vulcano Termo-Domesticos S.A., Water Heater Innovations, and Airexcel Inc., Crispaire Division.

Section 323(c)(2) of EPCA, 42 U.S.C. 6293(c)(2), allows manufacturers 180 days to test products according to a new or revised DOE test procedure in order to determine the energy use or energy efficiency for the purposes of making representations in writing, including on a label, or in a broadcast advertisement. On the petition of any manufacturer(s), the 180-day period may be extended by the Secretary up to a maximum of an additional 180 days if the Secretary determines that the initial 180 days would impose undue hardship on the manufacturer(s). The petition must be received by DOE no later than 60 days before the end of the 180-day period or no later than October 8, 1998 in this case.

In the petition, GAMA claims that there are over 500 models of residential water heaters. GAMA also claims that since two or more units for each water heater model must be tested and the revised first hour test procedure will take about five hours to conduct, the revised test procedure presents a very large test burden on the manufacturers.

Based on GAMA's survey of residential water heater manufacturers, each major manufacturer would have to test, on average, at least 190 water heaters at a total cost of about $85,000. This estimate is based on testing at least two units each for each heater model, and each major manufacturer having about 95 water heater models to test. Since the manufacturers have only one or two test cells to dedicate to testing of the water heaters, GAMA claims that, on average, the testing will take about 230 days to complete which is greater than the 180 days required for compliance.

Additionally, GAMA claims that the revised test procedure creates a difficult situation with regard to the manufacturers' obligation to comply with the FTC's *EnergyGuide* labeling requirements for residential water heaters. Some information on the label is directly specified by the FTC while other information is determined by the manufacturer based on the results of the DOE energy efficiency test procedure. The end points of ranges of comparability for estimated annual energy usage for models with similar hot water delivery are directly specified by the FTC. The measure used to group the various water heater models according to similar hot water delivery capability is the first hour rating. Since the revised test procedure could result in a change to a water heater's first hour rating, the FTC appliance label will also have to change. If the extension is granted, GAMA claims that manufacturers could provide the FTC with information based on the revised test procedure in advance of the FTC's May 1st deadline for estimated annual energy usage for residential water heaters. GAMA claims this would minimize confusion for consumers.

After discussion with the staff at the FTC, we have determined that GAMA's claims regarding the FTC's procedures for establishing the end points of the ranges of comparability for estimated annual energy use are correct.

DOE staff also verified GAMA's time and cost estimates for testing water heaters for first hour rating. DOE contacted Intertek Testing Service (ITS), a commercial testing laboratory, to determine if GAMA's time estimate of five hours for measuring each water heater's first hour rating and GAMA's cost estimate of $85,000 for performing tests on 190 water heaters for the revised first hour rating was reasonable. ITS advised us that the cost estimate of approximately $450 per test unit ($85000/190 heaters) and five-hour time estimate for a first hour rating by itself with no other tests being conducted was reasonable. For each water heater tested, in addition to conducting the first hour rating test, the testing lab would have to unpack the water heater from the shipping container, setup (and later remove) the water heater from the test stand, and prepare a report with the test results. Therefore, DOE has concluded that GAMA's data is accurate and that the revised test for first hour rating does constitute an undue burden on the manufacturers.

Since it will take the manufacturers more than 180 days to complete testing of all water heaters, the Department grants GAMA's petition on behalf of the following manufacturers: Aero Environmental Limited, American Water Heater Company, Bock Water Heaters, Bradford-White Corporation, Controlled Energy Corporation (e.l.m. LeBlanc), DEC International, GSW Water Heating Company Ltd., Heat Transfer Products, Inc., Rheem Water Heater Division, A. O. Smith Water Products Company, State Industries, Inc., Therma-Stor Products Group, Vaughn Manufacturing Company, Vulcano Termo-Domesticos S.A., Water Heater Innovations, and Airexcel, Inc., Crispaire Division. This will provide an additional 180 days so that manufacturers can complete the testing for first hour rating. The extension allows the manufacturers named above until June 5, 1999, to comply with representations under the revised test procedure for first hour rating.

Issued in Washington, DC, on December 21, 1998.

Dan W. Reicher,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 98–34457 Filed 12–28–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–40–001]

East Tennessee Natural Gas Company; Notice of Petition to Amend

December 22, 1998.

Take notice that on November 18, 1998, East Tennessee Natural Gas Company (East Tennessee), 1001 Louisiana, Houston, Texas 77002, filed in Docket No. CP98–40–001 an application, pursuant to Sections 7(b) and 7(C) of the Natural Gas Act and Part 157 of the Commission's Regulations seeking to amend the certificate of public convenience and necessity issued on April 1, 1998, in Docket No. CP98–40–000, all as more fully described in the application which is on file with the Commission and open for public inspection.

Among other things, the certificate issued to East Tennessee on April 1, 1998 in Docket No. CP98–40–000 authorized East Tennessee to increase the maximum allowable operating pressure (MAOP) of the 3100 Line. East Tennessee states that after receiving the certificate, its engineering staff determined that certain pipeline segments of the 3100 Line need to be

replaced in order to meet the Department of Transportation's (DOT) strength and safety specifications for the higher MAOP. Accordingly, East Tennessee now seeks authorization to replace certain pipeline segments on the 3100 Line, abandon in place certain of the facilities being replaced, and acquire additional temporary and permanent rights-of-way to effect the replacement.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before January 12, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered in determining the appropriate action to be taken put will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or person to whom the protests are directed. 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.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents issued by the Commission, filed by the applicant, or filed by other intervenors. An intervenor can file for rehearing of any Commission order and can petition for a court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as filing original and 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of such comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents, and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, Commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court. The Commission will consider all comments and concerns equally, whether filed by Commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for East Tennessee to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–34352 Filed 12–28–98; 8:45 am]

BILLING CODE 28–6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project 11597–000, AK]

Ketchikan Public Utilities; Notice Granting Additional Time to File Comments on Ketchikan Public Utilities Proposal to Use the Alternative Procedures to File an Application for the Whitman Lake Hydroelectric Project

December 22, 1998.

Ketchikan Public Utilities (KPU) has asked to use an alternative procedure in filing an application for original license for the proposed Whitman Lake Hydroelectric Project No. 11597.[1]

The Commission issued a notice on December 4, 1998, inviting comments on KPU's request to use the alternative procedure. The notice requested that comments be filed on or before January 4, 1999. However, KPU has scheduled the initial consultation meeting for January 7, 1999. Therefore, the Commission is granting an additional 30 days for interested parties to file with the Commission, any comments on KPU's proposal to use the alternative procedures to file an application for the Whitman Lake Hydroelectric Project.

The comments must be filed by providing an original and 8 copies as required by the Commission's regulation to: Federal Energy Regulatory Commission, Office of the Secretary, Docket—Room 1A, 888 First Street, NE, Washington, DC 20426.

All comment filings must bear the heading ''Comments on the Alternative Procedure,'' and include the project name and number (Whitman Lake Hydroelectric Project, No. 11597).

For further information, call Gaylord Hoisington of the Federal Energy Regulatory Commission at (202) 219–2756, or E-mail Gaylord.Hoisington@FERC.FED.US. Information is also available on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–34355 Filed 12–28–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project 11599–000, AK]

Ketchikan Public Utilities; Notice Granting Additional Time to File Comments on Ketchikan Public Utilities Proposal to Use the Alternative Procedures to File an Application for the Connell Lake Hydroelectric Project

December 22, 1998.

Ketchikan Public Utilities (KPU) has asked to use an alternative procedure in filing an application for original license for the proposed Connell Lake Hydroelectric Project No. 11599.[1]

The Commission issued a notice on December 4, 1998, inviting comments on KPU's request to use the alternative procedure. The notice requested that comments be filed on or before January 4, 1999. However, KPU has scheduled the initial consultation meeting for January 7, 1999. Therefore, the Commission is granting an additional 30 days for interested parties to file with the Commission, any comments on

[1] The 4,500-kilowatt project would be located on Whitman Creek, in Ketchikan Gateway Borough Alaska, partially within the Tongass National Forest.

[1] The 1,700-kilowatt project would be located on Connell Lake, owned by the Ketchikan Pulp Company, on Ward Creek, near the City of Ketchikan within the Tongass National Forest.

KPU's proposal to use the alternative procedures to file an application for the Connell Lake Hydroelectric Project.

The comments must be filed by providing an original and 8 copies as required by the Commission's regulations to: Federal Energy Regulatory Commission, Office of the Secretary, Dockets—Room 1A, 888 First Street, NE, Washington, DC 20426.

All comment filings must bear the heading ''Comments on the Alternative Procedure,'' and include the project name and number (Connell Lake Hydroelectric Project, No. 11599).

For further information, call Gaylord Hoisington of the Federal Energy Regulatory Commission at (202) 219–2756, or E-mail Gaylord.Hoisington@FERC.FED.US. Information is also available on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–34356 Filed 12–28–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–109–000]

Koch Gateway Pipeline Company; Notice of Application

December 22, 1998.

Take notice that on December 10, 1998, Koch Gateway Pipeline Company (Koch Gateway), Post Office Box 1478, Houston, Texas 77521–1478, filed in Docket No. CP99–109–000 an application pursuant to section 7(b) of the Natural Gas Act, for permission and approval to abandon by sale to MidCoast Gas Pipeline, Inc. (MidCoast), a Texas intrastate pipeline company, certain transmission and gathering facilities located in southern Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Koch Gateway requests authorization to abandon, by sale to MidCoast, approximately 130 miles of various size transmission pipeline and metering facilities, as well as certain certificated gathering facilities, located in Bee, Live Oak, Jim Wells, San Patricio, Nueces and Duval Counties, Texas, referred to as Indexes 23, 50 and 85; and, collectively referred to herein as the Bruni System. Koch Gateway states that these facilities are no longer economically justified as a part of its interstate pipeline system. Koch Gateway further states that the facilities are not located near its other productive pipeline assets and that Koch Gateway has no plans to expand its natural gas service in the area served by the assets proposed for abandonment. In addition, Koch Gateway states that the operation and maintenance costs of the Bruni System are relatively high and are not proportionate to the revenue generated by the facilities. Koch Gateway states that abandonment of the facilities will reduce operating and maintenance costs on its system and will result in the transfer of under-utilized facilities to an entity that can more efficiently and profitably employ them in providing economical and reliable natural gas transportation service. It is stated that the Purchase and Sale Agreement provides that Koch Gateway will sell the above facilities to MidCoast for $525,000.

Koch Gateway states that it currently utilizes the facilities proposed for abandonment to provide gathering and firm transportation services to a single customer, Entex, Inc. (Entex), a local distribution company and delivers natural gas to various farm taps and small city-gates on behalf of Entex. It is stated that Entex does not oppose the proposed abandonment and has reached agreement with MidCoast for continued natural gas service. Koch Gateway states that it proposes to provide 30-day written notice to all affected interruptible gathering and transportation customers. It is stated that after the sale of the assets, MidCoast intends to offer interruptible gathering and transmission services at negotiated rates.

Koch Gateway states that it currently provides a no-cost pooling service and shippers who select such service can pool their gas receipts at a theoretical pooling point. It is stated that in this region, the pooling point is designated as the Refugio Pooling Point. Koch Gateway further states that there is currently no transportation fee charged for transporting natural gas through transmission facilities from receipt points to the related pooling point; however, there is a gathering fee charged for receipt volumes moved through gathering facilities. Koch Gateway states that after the sale of the Bruni System, this service will still be available on its system. It is stated that shippers will be able to pool receipt volumes from the northeast terminus of Index 50 to the Refugio Pooling Point. Koch Gateway explains that shippers selecting this service after the sale of the Bruni System will pay a gathering and/or transportation fee to MidCoast and, if they so choose, can still pool to the Refugio Pooling Point for no additional transportation fee on Koch Gateway.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 12, 1999, file with the Federal Energy Regulatory, 888 First street, NE, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Koch Gateway to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–34353 Filed 12–28–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–117–000]

Questar Pipeline Company; Notice of Request Under Blanket Authorization

December 22, 1998.

Take notice that on December 15, 1998, Questar Pipeline Company (Questar, 180 East 100 South, Salt Lake City, Utah 84111, filed a request with

the Commission in Docket No. CP99–117–000, pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to reactivate the Quarles Drilling Company (Quarles) M&R Delivery Point authorized in blanket certificate issued in Docket No. CP82–491–000, all as more fully set forth in the request on file with the Commission and open for public inspection.

Questar proposes to reactivate the Quarles M&R Delivery Point located at the upstream end of Questar's Jurisdictional Lateral No. 55 in Uinta County, Wyoming, at the request of Amoco Production Company (Amoco). Questar states the purpose of reactivating the Quarles M&R Delivery Point would be to provide fuel gas for facilities which would be used in its pressure-maintenance program for existing Amoco wells located in the Millis Ranch area. Questar further states that this can be done by turning on an existing 4-inch valve to provide the requested service an that is anticipates delivery up to an estimated 144 Dth per day of natural gas. Questar continues that since there would be no new construction associated with the proposal and, therefore, there would be ''no effect'' to the existing environment. Questar further continues that there would be no cost associated with the reactivation of the Quarles M&R Delivery Point.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, 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 NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, 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 NGA.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–34354 Filed 12–28–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6211–7]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Best Management Practices for the Bleached Papergrade Kraft and Soda Subcategory and the Papergrade Sulfite Subcategory of the Pulp, Paper, and Paperboard Point Source Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Information Collection Request for Best Management Practices for the Bleached Papergrade Kraft and Soda Subcategory and the Papergrade Sulfite Subcategory of the Pulp, Paper, and Paperboard Point Source Category (EPA ICR No. 1829.01).

DATES: Comments must be submitted on or before January 28, 1999.

FOR FURTHER INFORMATION CONTACT: Contact Sandy Farmer at EPA by phone at (202) 260–2740, by e-mail at farmer.sandy@epa.gov, or download the ICR off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1829.01.

SUPPLEMENTARY INFORMATION: *Title:* Best Management Practices for the Bleached Papergrade Kraft and Soda Subcategory and the Papergrade Sulfite Subcategory of the Pulp, Paper, and Paperboard Point Source Category (EPA ICR No. 1829.01). This is a new collection.

Abstract: The Environmental Protection Agency (EPA) has established Best Management Practices (BMPs) provisions as part of final amendments to 40 CFR part 430, the Pulp, Paper and Paperboard Point Source Category promulgated on April 15, 1998 (see 63 FR 18641–18643). These provisions, promulgated under the authorities of sections 304, 307, 308, 402, and 501 of the Clean Water Act, require that owners or operators of bleached papergrade kraft, soda and sulfite mills implement site-specific BMPs to prevent or otherwise contain leaks and spills of spent pulping liquors, soap and turpentine and to control intentional diversions of these materials. EPA has determined that these BMPs are necessary because the materials controlled by these practices, if spilled or otherwise lost, can interfere with wastewater treatment operations and lead to increased discharges of toxic, nonconventional, and conventional pollutants. For further discussion of the need for BMPs, see section VI.B.7 of the preamble to the amendments to 40 CFR part 430 (see 63 FR 18561–18566). The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 4/15/98 (63 FR 18399); no comments were received.

EPA has structured the regulation to provide maximum flexibility to the regulated community and to minimize administrative burdens on National Pollutant Discharge Elimination System (NPDES) permit and pretreatment control authorities that regulate bleached papergrade kraft and soda and papergrade sulfite mills. Although EPA does not anticipate that mills will be required to submit any confidential business information or trade secrets as part of this ICR, all data claimed as confidential business information will be handled pursuant to 40 CFR part 2 when EPA is the permitting authority and applicable state rules and local ordinances when these entities are the permitting or control authorities.

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.

Burden Statement: The annual burden to prepare, certify, and update the BMP plan and to fulfill on-going BMP requirements is estimated to average approximately 941 hours per respondent. Annual Agency burden to assist state and local governments in the implementation of the BMP requirements is estimated at about 4 hours per respondent.

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 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 previously applicable instructions and requirements; train personnel to be able to respond to the collection of information; search data sources; complete and review the collection of

information and transmit or otherwise disclose the information.

Respondents/Affected Entities: Entities potentially affected by this action are those operations that chemically pulp wood fiber using kraft or soda methods to produce bleached papergrade pulp, paperboard, coarse paper, tissue paper, fine paper, and/or paperboard; those operations that chemically pulp wood fiber using papergrade sulfite methods to produce pulp and/or paper; and State permitting and local pretreatment control authorities.

Estimated Number of Respondents: 130.

Frequency of Response: Initial plus annual and as-needed to respond to leaks or spills and to update records. Initial and annual recurring burden for state permitting and local pretreatment control authorities.

Estimated Total Annual Hour Burden: 122,383 hours.

Estimated Total Annualized Cost Burden: $7,255,000.

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. 1829.01 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OP 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: December 22, 1998.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 98–34416 Filed 12–28–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6212–7]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; 1999 Hazardous Waste Report (Biennial Report)

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: 1999 Hazardous Waste Report; 0976.09; OMB Control Number 2050–0024; expiration date 9/30/99. 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 January 28, 1999.

FOR FURTHER INFORMATION OR A COPY: Contact Sandy Farmer at EPA by phone at (202) 260–2740, by email at farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 0976.09.

SUPPLEMENTARY INFORMATION: *Title:* The 1999 Hazardous Waste Report (Biennial Report); OMB Control Number 2050–0024, expiring 9/30/99. This is a request for extension of a currently approved collection.

Abstract: EPA collects and maintains information about the generation, management, and final disposition of the nation's hazardous waste regulated under the Resource Conservation and Recovery Act (RCRA). EPA obtains this information in large degree through the 1999 Hazardous Waste Report, commonly called the Biennial Report. Every two years, the Hazardous Waste Report is sent to hazardous waste generators and facilities that treat, store, or dispose hazardous waste activities. Data provided is entered into a database by the states and/or EPA Regions. This data is used for planning and regulatory purposes by both the states and EPA. This collection is mandated under the authority of Sections 3002 and 3004 of the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984. Section 3002 requires hazardous waste generators to report to EPA or authorized states, at least every two years, the quantities, nature, and disposition of generated hazardous waste. Under the authority of Section 3004, EPA requires reporting by treatment, storage, and disposal facilities for the wastes they receive. 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 10/13/98 (63 FR 54691). Three comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 12.8 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: Large Quantity Generators and Treatment, Storage, and Disposal Facilities.

Estimated Number of Respondents: 15,430.

Frequency of Response: Biennially.

Estimated Total Annual Hour Burden: 98,777 hours.

Estimated Total Annualized Cost Burden: $3,794,877.

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. 0976.09 and OMB Control No. 2050–0024 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Policy, 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: December 22, 1998.

Joseph Retzer, Director,

Regulatory Information Division.

[FR Doc. 98–34423 Filed 12–28–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6212–6]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Air Pollution Regulations for Outer Continental Shelf Activities: Reporting Recordkeeping, and Testing Requirements

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: Air Pollution Regulations for the Outer Continental Shelf (OCS) Activities: Reporting, Recordkeeping and Testing Requirements, OMB Control Number 2060–0249, ICR number 1601.04, expiration date: February 28, 1999. 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 January 28, 1999.

FOR FURTHER INFORMATION OR A COPY CALL: Contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-Mail at farmer.sandy@epamail.epa.gov or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1601.04.

SUPPLEMENTARY INFORMATION: *Title:* Air Pollution Regulations for the Outer Continental Shelf (OCS) Activities: Reporting, Recordkeeping and Testing Requirements, OMB Control Number 2060–0249, ICR number 1601.04, expiring on February 28, 1999. This is a request for extension of a currently approved collection.

Abstract: Under Section 328 (Air Pollution From Outer Continental Shelf Activities) of the Clean Air Act (CAA) EPA has responsibility for regulating air pollution from OCS sources located offshore of the States along the Arctic, Atlantic and Pacific coasts, and along the eastern Gulf of Mexico coast (off the coast of Florida). The U.S. Department of Interior's Minerals Management Service (MMS) has responsibility for regulating air pollution from sources located in the western Gulf of Mexico. On September 4, 1992 at 57 FR 40792, EPA promulgated regulations to control air pollution from OCS sources. The regulations establish two zones: sources within 25 miles of a State's seaward boundary (25-mile limit) must comply with the same State/local air pollution control requirements as would be applicable if the source were located in the corresponding onshore area (COA), and sources beyond the 25-mile limit must comply with Federal air pollution control regulations. The regulations are codified as part 55 of chapter I of title 40 of the *Code of Federal Regulations* (CFR).

The ICR addresses the information collection burden for industry respondents who are subject to the reporting, recordkeeping, and testing requirements of the OCS air regulations. Industry respondents include owners or operators of existing and new or modified stationary sources. The ICR also addresses the burden to the agencies who are responsible for implementing and enforcing the OCS regulations. The EPA has delegated the authority to implement and enforce the OCS regulations for sources located off the coast of California to four local air pollution control agencies. The EPA implements and enforces the regulations for all other sources under its jurisdiction. All burden estimates are calculated for the 3-year period beginning March 1, 1999 and ending February 28, 2002. 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 July 8, 1998 (63 FR 36894) and no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 375 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: Owner and operators of facilities locating on the OCS (generally for the production of oil and gas) and State and local agencies delegated responsibility to implement and enforce the OCS Air Regulations.

Estimated Number of Respondents: 78.

Frequency of Response: On occasion and annually.

Estimated Total Annual Hour Burden: 44,642 hours.

Estimated Total Annualized Cost Burden: $218,894.

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. 1601.04 and OMB Control No. 2060–0249 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Policy, 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: December 22, 1998.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 98–34424 Filed 12–28–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6212–8]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; National Emission Standards for Hazardous Air Pollutants: Radionuclides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: National Emission Standards for Hazardous Air Pollutants: Radionuclides, OMB Control Number

2060–0191, expiration date 1/31/99. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 28, 1999.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA by phone at (202) 260–2740, by email at farmer.sandy@epamail.epa.gov, or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1100.09.

SUPPLEMENTARY INFORMATION: *Title:* National Emission Standards for Hazardous Air Pollutant: Radionuclides (OMB Control No. 2060–0191; EPA ICR No. 1100.09). Expiring 1/31/99. This is a request for extension of a currently approved collection.

Abstract: On December 15, 1989 pursuant to section 112 of the Clean Air Act as amended in 1977 (42 USC 1857), the Environmental Protection Agency (EPA) promulgated NESHAPs to control radionuclide emissions from several source categories. The regulations were published in 54 FR 51653, and are codified at 40 CFR subparts B, H, K, R, and W, and impose the following radionuclide dose and emission standards:

Subpart B—Underground Uranium Mines—10 mrem/yr
Subpart H—Department of Energy Facilities—10 mrem/yr, 20 pci/m^2-s
Subpart K—Elemental Phosphorous Plants—2 curies/yr
Subpart R—Phosphogypsum Stacks—20 pci/m^2-s

Information collected is used by EPA to ensure that public health continues to be protected from the hazards of airborne radionuclides by compliance with these standards. If the information were not collected, it is unlikely that a violation of the standards would be identified and, thus, there would be no corrective action initiated to bring the facilities back into compliance. Compliance is demonstrated through emission testing and/or dose calculation. All facilities are required to calculate, monitor, and maintain their records for 5 years. In some cases, they also report their results to EPA.

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 08/27/98 (63 FR 45809). No comments were received.

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 526 hours per response. This estimate 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: Department of Energy (DOE) facilities, elemental phosphorus plants, phosphogypsum stacks, underground uranium mines and uranium mill trailings piles

Estimated Number of Respondents: 87.

Frequency of Response: Annually or less than annually.

Estimated Total Annual Hour Burden: 45,748 hours.

Estimated Total Annualized Cost Burden: $1,737,000.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to the following addresses. Please refer to EPA ICR No. 1100.09 and OMB Control No. 2060–0191 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Policy, 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: December 22, 1998.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 98–34425 Filed 12–28–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6212–2]

Office of Environmental Justice Small Grants Program—Application Guidance FY 1999

Introduction

This guidance outlines the purpose, goals, and general procedures for application and award under the Fiscal Year (FY) 1999 Office of Environmental Justice Small Grants Program. For FY 1999, EPA will make available approximately $1,600,000 in grant funds to eligible organizations; $1,000,000 of this amount is available for superfund projects only. Applications must be mailed to your appropriate EPA regional office (listed in Section III) and postmarked no later than Friday, March 5, 1999.

This guidance includes the following:

Translations Available

A Spanish translation of this announcement may be obtained by calling the Office of Environmental Justice at 1–800–962–6215.

Hay traducciones disponibles de este anuncio en espanol. Si usted esta interesado en obtener una traduccion de este anuncio en espanol, por favor llame a La Officina de Justicia Ambiental conocida como ''Office of Environmental Justice,'' linea gratuita (1–800–962–6215).

I. Scope and Purpose of the OEJ Small Grants Program

The purpose of this grant program is to provide financial assistance to eligible community groups (i.e., community-based/grassroots organizations, churches, or other non-profit organizations) and federally recognized tribal governments that are working on or plan to carry out projects to address environmental justice issues. Preference for awards will be given to community-based/grassroots organizations that are working on local solutions to local environmental problems. Funds can be used to develop a new activity or substantially improve the quality of existing programs that have a direct impact on affected communities. All awards will be made

in the form of a grant not to exceed one year.

Background

In its 1992 report, Environmental Equity: Reducing Risk for All Communities, EPA found that minority and low-income populations may experience higher than average exposure to toxic pollutants than the general population. The Office of Environmental Justice (OEJ) was established in 1992 to help these communities identify and assess pollution sources, to implement environmental awareness and training programs for affected residents, and to work with community stakeholders to devise strategies for environmental improvements.

In June of 1993, OEJ was delegated granting authority to solicit, select, supervise, and evaluate environmental justice-related projects, and to disseminate information on the projects' content and effectiveness. Fiscal year (FY) 1994 marked the first year of the OEJ Small Grants Program. The chart below shows how the grant monies have been expended since FY 1994.

Fiscal year	$ Amount	Number of awards
1994	$500,000	71
1995	3,000,000	175
1996	2,800,000	152
1997	2,700,000	139
1998	2,500,000	123
1999	1,600,000	.....

How Does EPA Define Environmental Justice Under the Environmental Justice Small Grants Program?

Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means that no groups of people, including racial, ethnic, or socioeconomic groups, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.

II. Eligible Applicants and Activities

A. Who May Submit Applications and May an Applicant Submit More Than One?

Any affected, non-profit community organization 501c (3) or 501c (4)[1] or federally recognized tribal government may submit an application upon publication of this solicitation. Applicants must be non-profit to receive these federal funds. State recognized tribes or indigenous peoples organizations are able to apply for grant assistance as long as they meet the definition of a non-profit organization. ''Non-profit organization'' means any corporation, trust, association, cooperative, or other organization that (1) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest; (2) is not organized primarily for profit; and (3) uses its net proceeds to maintain, improve, and/or expand its operations. While state and local governments and academic institutions are eligible to receive grants, preference will be given to non-profit, community-based/grassroots organizations and federally recognized tribal governments. Preference may be given to those organizations that have not received previous Environmental Justice grants. Individuals are not eligible to receive grants.

The Environmental Justice Small grants Program is a competitive process. In order not to give preferential treatment to any single potential applicant, the Agency will offer training and conference calls on grant application guidelines. We encourage you to participate so that you can have your questions answered in a public forum. Please call your Regional office to inquire about the scheduled dates of the special training and conference calls.

EPA will consider only one application per applicant for a given project. Applicants may submit more than one application as long as the applications are for separate and distinct projects or activities. Applicants that were previously awarded small grant funds may submit an application for FY 1999. Every application for FY 1999 will be evaluated based on the merit of the proposed project in relation to the other FY 1999 pre-applications. However, Past performance may be considered during the ranking and evaluation process for those applicants who have received previous grants.

B. What Types of Projects Are Eligible for Funding?

In order to be considered for funding, the application must include the following information: (1) how the proposed project addresses issues related to at least two environmental statutes and (2) how the proposed project meets at least two of the program goals.

(1) Multi-Media Statutory Requirement

The OEJ Small Grants Program awards grants under a multi-media granting authority. This means that recipients of these funds must implement projects that address pollution in more than one environmental medium (e.g., air, water). To show evidence of the breadth of the project's scope, the application must identify at least two environmental statutes that the project will address. In most cases, your project will include activities outlined in the following environmental statutes:

a. Clean Water Act, Section 104(b)(3): conduct and promote the coordination of research, investigations, experiments, training, demonstration, surveys, and studies relating to the causes, extent, prevention, reduction, and elimination of water pollution.

b. Safe Drinking Water Act, Section 1442(b)(3): develop, expand, or carry out a program (that may combine training, education, and employment) for occupations relating to the public health aspects of providing safe drinking water.

c. Solid Waste Disposal Act, Section 8001(a): conduct and promote the coordination of research, investigations, experiments, training, demonstrations, surveys, public education programs, and studies relating to solid waste (e.g., health and welfare effects of exposure to materials present in solid waste and methods to eliminate such effects).

d. Clean Air Act, Section 103(b) (3): conduct research, investigations, experiments, demonstrations, surveys, and studies related to the causes, effects (including health and welfare effects), extent, prevention, and control of air pollution.

In some circumstances, your project may be very research-oriented and specific to a particular environmental problem. If this is the case, you may reference the following environmental statutes (either list one of the following in addition to one listed above or list two of the following).

e. Toxic Substances Control Act, Section 10(a): conduct research,

[1] As a result of the Lobbying Disclosure Act of 1995, EPA (and other federal agencies) may not award grants to non-profit, 501(c)(4) organizations that engage in lobbying activities. This restriction applies to any lobbying activities of a 501(c)(4) organization without distinguishing between lobbying funded by federal money and lobbying funded by other sources.

development, and monitoring activities on toxic substances.

f. Federal Insecticide, Fungicide, and Rodenticide Act, Section 20(a): conduct research on pesticides.

g. Comprehensive Environmental Response, Compensation, and Liability Act, Section 311(c): conduct basic research related to the detection, assessment, and evaluation of the risks and human health effects of exposure to hazardous substances.

h. Marine Protection, Research, and Sanctuaries Act, Section 203: conduct research, investigations, experiments, training, demonstrations, surveys, and studies relating to the minimizing or ending of ocean dumping of hazardous materials and the development of alternatives to ocean dumping.

Please note: if your project includes scientific research and data collection, you must be prepared to submit a Quality Assurance Plan (QAP) to your EPA Project Officer prior to the beginning of the research.

(2) Office of Environmental Justice Small Grants Program Goals I

In addition to the multi-statute requirement outlined above, the application must also include a description of how an applicant plans to meet at least two of the three program goals listed below. See Section III ''Application Requirements'' for more details.

1. Identify necessary improvements in communication and coordination among all stakeholders, including existing community-based/grassroots organizations and local, state, tribal, and federal environmental programs. Facilitate communication and information exchange, and create partnerships among stakeholders to address disproportionate, high and adverse environmental exposure (e.g, workshops, awareness conferences, establishment of community stakeholder committees);

2. Build community capacity to identify local environmental justice problems and involve the community in the design and implementation of activities to address these concerns. Enhance critical thinking, problem-solving, and active participation of affected communities. (e.g., train-the-trainer programs).

3. Enhance community understanding of environmental and public health information systems and generate information on pollution in the community. If appropriate, seek technical experts to demonstrate how to access and interpret public environmental data (e.g., Geographic Information Systems (GIS), Toxic Release Inventories (TRI), and other databases).

The issues discussed above may be defined differently among applicants from various geographic regions, including areas outside the continental U.S. (Alaska, American Samoa, Guam, Hawaii, Puerto Rico, and the U.S. Virgin Islands). Each application should define its issues as they relate to the specific project. In your narrative/work plan, include a succinct explanation of how the project may serve as a model in other settings and how it addresses a high-priority environmental justice issue. The degree to which a project addresses a high-priority environmental justice issue will vary and must be defined by applicants according to their local environmental justice concerns.

C. How Much Money May Be Requested, and Are Matching Funds Required?

The ceiling for any one grant is $15,000 for non superfund or $20,000 for superfund projects in federal funds. The Headquarters Office of Environmental Justice will provide each region with approximately $160,000 to issue awards of which $100,000 is available exclusively for superfund projects. Some regions may augment their regional pools with additional funds subject to availability. Please check with your regional contact for the amount of funds that will be available in each region. In order for a project to be funded under the superfund appropriation, it must meet these criteria:

(1) The project must be performed on a site on the National Priority List or on a State superfund priority list or the community is located or impacted by the site.

(2) It must be of a research nature, i.e., survey, research, collecting and analyzing data

(3) It cannot be training, conferences or seminars.

Applicants are not required to provide matching funds.

D. Are There Any Restrictions on the Use of the Federal Funds?

Yes. EPA grant funds can only be used for the purposes set forth in the grant agreement. Among other things, absent specific statutory authority, grant funds from this program cannot be used for matching funds for other federal grants, construction, personal gifts (e.g., t-shirts, buttons, hats), buying furniture, litigation, lobbying, or intervention in federal regulatory or adjudicatory proceedings. In addition, the recipient may not use these federal assistance funds to sue the federal government or any other government entity. Refer to 40 CFR 30.27, entitled ''Allowable Costs'' (see Appendix B).

III. Application Requirements

A. What Is Required for Applications?

In order to be considered for funding under this program, proposals from eligible organizations must have the following:

1. Application for Federal Assistance (SF 424) the official form required for all federal grants that requests basic information about the grantee and the proposed project. The applicant must submit the original application, plus two copies, signed by a person duly authorized by the governing board of the applicant.

Please complete Part 10 of the SF 424 form, ''Catalog of Federal Domestic Assistance Number'' with the following information: 66.604—Environmental Justice Small Grants Program. To receive a copy of Appendix A which is a copy of this form and a completed sample, call our hotline at 1–800–962–6215.

2. The Federal Standard Form (SF 424A) and budget detail, which provides information on your budget. For the purposes of this grants program, complete only the non-shaded areas of SF 424A. Budget figures/projections should support your work plan/narrative. The EPA portion of these grants will not exceed $15,000 for non superfund or $20,000 for superfund projects, therefore your budget should reflect this upper limit on federal funds.

3. Narrative/work plan of the proposal, not to exceed five pages. Applications will not be considered if they exceed five pages. A narrative/work plan describes the applicant's proposed project. The pages of the work plan must be letter size (8½″ x 11″), with normal type size (12 characters per inch), and at least 1″ margins.

The narrative/work plan is one of the most important aspects of your application and (assuming that all other required materials are submitted) will be used as the primary basis for selection. Work plans must be submitted in the format described below:

a. A one page summary that:

- Identifies the environmental justice issue(s) to be addressed by the project;
- Identifies the EJ community/target audience;
- Identifies at least two environmental statutes/Acts addressed by the project; and
- Identifies at least two program goals that the project will meet and how it will meet them.

b. A concise introduction that states the nature of the organization (i.e., how

long it has been in existence, if it is incorporated, if it is a network, etc.), how the organization has been successful in the past, purpose of the project, EJ community/target audience, project completion plans/time frames, and expected results.

c. A concise project description that describes how the applicant is community-based and/or plans to involve the target audience in the project and how the applicant plans to meet at least two of the three program goals outlined in Section IIB: ''Office of Environmental Justice Small Grants Program Goals.'' Additional credit will not be given for projects that fulfill more than two goals.

d. A conclusion discussing how the applicant will evaluate and measure the success of the project, including the anticipated benefits and challenges in implementing the project.

e. An appendix with resumes of up to three key personnel who will be significantly involved in the project.

4. Letter(s) of commitment. If your proposed project includes the significant involvement of other community organizations, your application must include letters of commitment from these organizations. This requirement may not apply to your proposed project—only include if applicable.

Applications that do not include the information listed above in items 1–3 and if applicable, item 4, will not be considered for an award.

Please note: your application to this EPA program may be subject to your state's intergovernmental review process and/or the consultation requirements of Section 204, Demonstration Cities and Metropolitan Development Act. Check with your state's Single Point of Contact to determine your requirements—some states do not require this review. Applicants from American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands should also check with their Single Point of Contact. If you do not know who your Single Point of Contact is, please call your EPA regional contact (Section III) or EPA Headquarters at (202) 260–9266. Federally recognized tribal governments are not required to comply with this procedure.

B. When and Where Must Applications Be Submitted?

The applicant must submit/mail one signed original application with required attachments and one copy to the primary contact at the EPA regional office listed below. The application must be postmarked no later than Friday, March 5, 1999.

Regional Contact Names and Addresses

Region 1—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Primary Contact: Ronnie Harrington, (617) 918–1703, USEPA Region 1 (SAA), 1 Congress Street—Suite 1100, Boston, MA 02114–2023

Secondary Contact: Pat O'Leary, (617) 565–3834

Region 2—New Jersey, New York, Puerto Rico, U.S. Virgin Islands

Primary Contact: Natalie Loney, (212) 637–3639, USEPA Region 2, 290 Broadway, 26th Floor, New York, NY 10007

Secondary: Melva Hayden, (212) 637–5027

Region 3—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia

Primary Contact: Reginald Harris, (215) 814–2988, USEPA Region 3 (3DA00), 841 Chestnut Building, Philadelphia, PA 19107–4431

Secondary: Mary Zielinski, (215) 814–5415,

Region 4—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee

Primary Contact: Gloria Love, (404) 562–9672, USEPA Region 4, 61 Forsyth Street, SW, Atlanta, GA 30303–8960

Secondary: Connie Raines, (404) 562–9671

Region 5—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

Primary Contact: Margaret Millard, (312) 353–1440, USEPA Region 5 (MC T–175), 77 West Jackson Boulevard, Chicago, IL 60604–3507

Secondary: Karla Johnson, (312) 886–5993

Region 6—Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Primary Contact: Shirley Augurson, (214) 665–7401, USEPA Region 6 (6EN), 1445 Ross Avenue, 12th Floor, Dallas, Texas 75202–2733

Secondary Contact: Teresa Cooks, (214) 665–8145

Region 7—Iowa, Kansas, Missouri, Nebraska

Primary Contact: Althea Moses, (913) 551–7649 or 1–800–223–0425, USEPA Region 7, 726 Minnesota Avenue, Kansas City, KS 66101

Secondary Contact: Cecil Bailey, (913) 821–2630

Region 8—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

Primary Contact: Nancy Reish, (303) 312–6040, USEPA Region 8 (8ENF–EJ), 999 18th Street, Suite 500, Denver, CO 80202–2466

Secondary: Marcella Devargas, (303) 312–6161

Region 9—Arizona, California, Hawaii, Nevada, American Samoa, Guam

Primary Contact: Karen Henry, (415) 744–1565, USEPA Region 9 (A–2–2), 75 Hawthorne Street, San Francisco, CA 94105

Secondary: EJ Information Line, (415) 744–1565

Region 10—Alaska, Idaho, Oregon, Washington

Primary Contact: Susan Morales, (206) 553–8580, USEPA Region 10(MD–142), 1200 Sixth Avenue, Seattle, WA 98101

Secondary: Joyce Kelly, (206) 553–4029

For Further Information Contact: Mary Settle at 202–564–2594.

IV. Process for Awarding Grants

A. How Will Applications Be Reviewed?

EPA regional offices will review, evaluate, and select grant recipients. Applications will be screened to ensure that they meet all eligible activities and requirements described in Sections II and III. Applications will also be evaluated by regional review panels based on the criteria outlined in this solicitation. Applications will be disqualified if they do not meet these criteria.

B. How Will the Final Selections Be Made?

After the individual projects are reviewed and ranked, EPA regional officials will compare the best applications and make final selections. Additional factors that EPA will take into account include geographic and socioeconomic balance, diverse nature of the projects, cost, and projects whose benefits can be sustained after the grant is completed. Regional Administrators will select the final grants.

Please note that this is a very competitive grants program. Limited funding is available and many grant applications are expected to be received. Therefore, the Agency cannot fund all applications. If your project is not funded, a listing of other EPA grant programs may be found in the Catalog of Federal Domestic Assistance. This publication is available at local libraries, colleges, or universities.

C. How Will Applicants Be Notified?

After all applications are received, EPA regional offices will mail acknowledgments to applicants in their regions. Once applications have been recommended for funding, the EPA Regions will notify the finalists and request any additional information necessary to complete the award process. The finalists will be required to complete additional government application forms prior to receiving a grant, such as the EPA Form SF–424B (Assurances—Non-Construction Programs), EPA Form 5700–48, and the Certification Regarding Debarment, Suspension, and Other Responsibility Matters. The federal government requires all grantees to certify and assure that they will comply with all applicable federal laws, regulations, and requirements.

The EPA Regional Environmental Justice Coordinators or their designees will notify those applicants whose projects are not selected for funding.

V. Expected Time-Frame for Reviewing and Awarding Grants

December 17, 1998—FY 1999 OEJ Small Grants Program Application Guidance is available and published in the **Federal Register**.

December 17, 1998 to March 5, 1999—Eligible grant recipients develop and complete their applications.

March 5, 1999—Applications must be postmarked by this date and mailed or delivered to the appropriate EPA regional office.

March 8, 1999 to April 16, 1999—EPA regional program officials review and evaluate applications and select grant finalists.

April 19, 1999 to August 6, 1999—Applicants will be contacted by the Region if their application is being considered for funding. Additional information may be required from the finalists, as indicated in Section IV. EPA regional grant offices process grants and make awards.

September 30, 1999—EPA expects to release the national announcement of the FY 1999 Office of Environmental Justice Small Grant Recipients.

VI. Project Period and Final Reports

Activities must be completed and funds spent within the time frame specified in the grant award, usually one year. Project start dates will depend on the grant award date (most projects begin in August or September). The recipient organization is responsible for the successful completion of the project. The recipient's project manager is subject to approval by the EPA project officer but EPA may not direct that any particular person be the project manager.

All recipients must submit final reports for EPA approval within ninety (90) days of the end of the project period. Specific report requirements (e.g., Final Technical Report and Financial Status Report) will be described in the award agreement. EPA will collect, review, and disseminate grantees' final reports to serve as model programs.

For further information about this program, please visit EPA's website at *www.epa.gov/oeca/oej/99grants.html* or call our hotline at 1–800–962–6215.

VII. Fiscal Year 2000 OEJ Small Grants Program

A. How Can I Receive Information on the Fiscal Year 2000 Environmental Justice Grants Program?

If you wish to be placed on the national mailing list to receive information on the FY 2000 Environmental Justice Small Grants Program, you must mail your request along with your name, organization, address, and phone number to: U.S. Environmental Protection Agency, Office of Environmental Justice Small Grants Program (2201A), FY 2000 Grants Mailing List 401 M Street, SW, Washington, DC 20460, 1 (800) 962–6215.

Thank you for your interest in our Small Grants Program and we wish you luck in the application process.

Robert J. Knox,

Associate Director, Office of Environmental Justice.

[FR Doc. 98–34427 Filed 12–28–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6211–8]

Clean Air Act Advisory Committee Meeting

AGENCY: Environmental Protection Agency.

ACTION: Clean Air Act Advisory Committee; notice of meeting.

SUMMARY: The Environmental Protection Agency (EPA) established the Clean Air Act Advisory Committee (CAAAC) on November 19, 1990, to provide the independent advice and counsel to EPA on policy issues associated with implementation of the Clean Air Act of 1990. The Committee advises on economic, environmental, technical scientific, and enforcement policy issues.

DATES: Pursuant to 5 U.S.C. App. 2 section 10(a)(2), notice is hereby given that the Clean Air Act Advisory Committee will hold its next open meeting on Friday, February 5, 1999, from approximately 8:30 a.m. to 3:30 p.m. at the International Trade Center Conference Center in the Ronald Reagan Federal Building, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20004. Seating will be available on a first come, first served basis. The Energy, Clean Air and Climate Change Subcommittee will hold its meeting on Thursday, February 4, 1999, from approximately from 1:00 p.m. to 5:00 p.m. The CAAAC's other three Subcommittees (Linking Transportation, Land Use and Air Quality Concerns Subcommittee, the Permits/NSR/Toxics Integration Subcommittee and the Economic Incentives and Regulatory Innovations Subcommittee) will hold concurrent meetings on February 4 from approximately 5:00 p.m. to 9:00 p.m. All subcommittee meetings will be held at the International Trade Center Conference Center, the same location as the full Committee.

INSPECTION OF COMMITTEE DOCUMENTS: The Committee agenda and any documents prepared for the meeting will be publicly available at the meeting. Thereafter, these documents, together with CAAAC meeting minutes, will be available by contacting the Office of Air and Radiation Docket and requesting information under docket item A–94–34 (CAAAC). The Docket office can be reached by telephoning 202–260–7548; FAX 202–260–4400.

FOR FURTHER INFORMATION CONTACT: Paul Rasmussen, Office of Air and Radiation, US EPA (202) 260–6877, FAX (202) 260–8509 or by mail at US EPA, Office of Air and Radiation (Mail code 6102), 401 M St. S.W., Washington, D.C. 20460. For information on the Subcommittee meetings, please contact the following individuals: (1) Energy, Clean Air and Climate Change—Anna Garcia, 202–564–9492; (2) Permits/NSR/Toxics Integration—Debbie Stackhouse, 919–541–5354; (3) Economic Incentives and Regulatory Innovations—Carey Fitzmaurice, 202–260–7433; and (4) Linking Transportation, Land Use and Air Quality Concerns—Gay MacGregor, 734–668–4438.

Dated: December 21, 1998.

Robert Perciasepe,

Assistant Administrator for Air and Radiation.

[FR Doc. 98–34419 Filed 12–28–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6211–5]

National Advisory Council for Environmental Policy and Technology, Title VI Implementation Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Public Law 92–463), the U.S. Environmental Protection Agency (EPA) gives notification of a two-day meeting of the Title VI Implementation Advisory Committee of the National Advisory Council for Environmental Policy and Technology (NACEPT). The Title VI of the Civil Rights Act of 1964 prohibits recipients of federal financial assistance from discriminating on the basis of race, color, or national origin in their programs or activities.

The Title VI Implementation Advisory Committee will provide advice to the Administrator and Deputy Administrator of EPA on techniques that may be used by EPA funding recipients to operate environmental permitting programs in compliance with Title VI.

This meeting is being held to provide the EPA with perspectives from representatives of state and local governments, industry, the academic community, tribal and indigenous organizations, and grassroots environmental and other non-governmental organizations.

DATES: The two-day public meeting will be held at the Ramada Plaza in Old Town, 901 North Fairfax Street, Alexandria, Virginia. The meeting will take place on Monday, January 11, 1999 from 10:00 am to 8:30 pm, and Tuesday, January 12, 1999 from 9:00 am to 5:00 pm. The public comment session will be held on January 11 from 6:30 pm to 8:30 pm. Seating will be limited and available on a first-come, first-served basis.

Members of the public who wish to make brief oral presentations should contact Lillie Edmonds at 202–260–6041 by January 7, 1999 to reserve a time during the public comment session. The Committee is particularly interested in receiving public comments on the elements of an ideal or optimal Title VI program, especially as it concerns how the program should function in response to Title VI complaints. Individuals or groups making presentations will be limited to a total time of five minutes. Those who have not reserved time in advance may make comments during the public comment session as time allows.

ADDRESSES: Materials or written comments may be sent to Melanie Medina-Ortiz, Designated Federal Officer, U.S. EPA (1601–F), Office of Cooperative Environmental Management, 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Melanie Medina-Ortiz, Designated Federal Officer, U.S. EPA, Office of Cooperative Environmental Management, telephone 202–260–2695.

Dated: December 21, 1998.

Melanie Medina-Ortiz,

Designated Federal Officer, NACEPT Title VI Implementation Advisory Committee.

[FR Doc. 98–34417 Filed 12–28–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6211–6]

Meeting on Setting Ecological Management Objectives

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: This document announces a stakeholders meeting sponsored by the Environmental Protection Agency's (EPA) Risk Assessment Forum (Forum). The Forum intends to develop Agency-wide guidance on setting ecological management goals. This meeting will provide EPA an opportunity to hear and consider issues and information that are important to stakeholders and interested members of the public. The agenda will include opportunities for short stakeholder presentations, as well as structured, informal discussions based on the issues.

DATES: The meeting will be held Tuesday, January 19, 1999 from 9:00 a.m. to 4:30 p.m. Members of the public are invited to attend.

ADDRESSES: The meeting will be held at the Renaissance Hotel, 999 9th Street NW, Washington D.C. 20001. Science Applications International Corporation, an EPA contractor will provide logistical support for the meeting. EPA urges participants to pre-register with Evelyn Hartzell, telephone (513) 569–5868, fax (513) 569-4800 by January 15, 1999, to attend.

PRESENTATIONS: Members of the public who are interested in making a short presentation on a particular issue at the stakeholder meeting are requested to indicate this interest at the time of registration. Because EPA is seeking a variety of opinions, presentations are limited to approximately 5 minutes. The facilitator will ensure that there is sufficient time allocated for a balance of viewpoints to be presented. EPA would appreciate provision of a short summary of the presentation, which should be no more than one page.

FOR FURTHER INFORMATION CONTACT: For further information concerning the meeting on setting ecological management objectives, contact Marilyn Brower, USEPA (Code 8601–D), 401 M Street S.W., Washington D.C. 20460, telephone (202) 564–3363.

SUPPLEMENTARY INFORMATION: The Risk Assessment Forum, in partnership with the Agency's Science Policy Council, is sponsoring this project to develop Agency guidance on setting ecological management objectives by building on previous EPA documents. In 1994, the report Managing Ecological Risks at EPA: Issues and Recommendations for Progress (EPA/600/R–94/183, *http://www.epa.gov/docs/ORD/ecorisk.html*) reviewed the ecological concerns already considered in many EPA program areas. The report recommended included that EPA develop common ecological concerns to be considered in all Agency ecological assessment activities. In 1997, the report Priorities for Ecological Protection: An Initial List and Discussion Document for EPA (EPA/600/S–97/002, *http://www.epa.gov/ORD/WebPubs/priorities/*) was prepared to stimulate Agency-wide discussion on which ecological entities should be considered priorities for protection by all Agency programs, and to propose a process by which decision makers can set specific ecological objectives to guide both assessments and risk management activities. The April 1998 Guidelines for Ecological Risk Assessment (EPA /630/R–95/002F, *http://www.epa.gov/ncea/ecorsk.htm*) focused on technical issues of risk assessment but indicated specific roles for risk management in the process. This meeting will allow stakeholders and interested individuals from the public to discuss examples of processes used to decide what environmental attributes to protect, and suggest criteria that might be useful in deciding what to protect.

Dated: December 22, 1998.

William H. Farland,

Director, National Center for Environmental Assessment.

[FR Doc. 98–34418 Filed 12–28–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6213–1]

Notice of Data Availability of Draft RCRA Waste Minimization PBT Chemical List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Data Availability (NODA); Extension of Comment Period.

SUMMARY: EPA is extending the public comment period on the Notice of Data Availability of the draft RCRA Waste Minimization PBT Chemical list (63 FR 60332, November 9, 1998) to February 16, 1998.

DATES: The comment period is extended until Feburary 16, 1998.

ADDRESSES: To submit comments, the public must send an original and two copies to Docket Number F–98–MMLP–FFFFF, located at the RCRA Docket. The mailing address is: RCRA Information Center (5305G), Office of Solid Waste, U.S. Environmental Protection Agency Headquarters, 401 M Street, SW, Washington, DC 20460. Hand deliveries of comments should be made to the RCRA Information Center at Crystal Gateway 1, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The phone number is (703) 603–9230. Commenters must place Docket Number F–98–MMLP–FFFFF on their comments. Commenters can send their comments to the RCRA Information Center on labeled personal computer diskettes in ASCII (TEXT) format or a word processing format that can be converted to ASCII (TEXT). It is essential to specify on the disk label the word processing software and version/edition as well as the commenter's name. Please use mailing envelopes designed to physically protect the submitted diskettes. To send copies by Internet, address them to: rcra-docket@epamail.epa.gov. All comments sent by Internet must be ASCII files, avoiding the use of special characters and any form of encryption. Comments in electronic format should also be identified by the docket number. Commenters should not submit electronically any confidential business information (CBI). EPA emphasizes that submission of comments electronically is not mandatory, nor will it result in any advantage or disadvantage to any commenter.

FOR FURTHER INFORMATION: For general information or to order paper copies of this **Federal Register** document, contact the RCRA Hotline Monday through Friday between 9:00 a.m. and 6:00 p.m. EST, toll free at (800) 424–9346; or (703) 412–9810 from Government phones or if in the Washington, DC local calling area; or (800) 553–7672 for the hearing impaired. Questions can also be directed to the Waste Minimization Branch (5302W), Office of Solid Waste (OSW), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460, phone (703) 308–8402; or contact E. Newman Smith of the Waste Minimization Branch at (703) 308–8757.

SUPPLEMENTARY INFORMATION: In today's notice, EPA is extending the comment period in its November 9, 1998 NODA (63 FR 60332) which requested comment on a draft list of 53 persistent, bioaccumulative, and toxic (PBT) chemicals (and chemical categories) found in hazardous wastes regulated under the Resource Conservation and Recovery Act (RCRA). The NODA of November 9, 1998 requested comment on the RCRA Waste Minimization PBT Chemical List (also referred to as the RCRA PBT List) and on the methodology used to develop the list. EPA received several requests to extend the comment deadline for various reasons. EPA is extending the comment period to February 16, 1999. Copies of extension requests can be found in the docket for this notice.

Dated: December 15, 1998.

Elizabeth Cotsworth,

Acting Director Office of Solid Waste.

[FR Doc. 98–34426 Filed 12–28–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

December 18, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before January 28, 1999. 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 as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, Room 234, 1919 M St., N.W., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at 202–418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0536.

Title: Rules and Requirements for Telecommunications Relay Services (TRS) Interstate Cost Recovery.

Form Number: FCC Form 431.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents: 5,000.

Estimated Time per Response: 3.11 hours (avg.)

Frequency of Response: On occasion reporting requirements; Third party disclosure.

Total Annual Burden: 15,593 hours.

Total Annual Cost: None.

Needs and Uses: Title IV of the Americans with Disabilities Act, Public Law 101–336, Section 401, 104 Stat. 327, 366–69 (codified at 47 U.S.C. Section 225 requires the Federal Communications Commission to ensure that telecommunications relay services are available to persons with hearing and speech disabilities in the United States. Among other things, the Commission is required by 47 U.S.C. 225(d)(3) to enact and oversee a shared-funding mechanism (TRS Fund) for recovering the costs of providing interstate TRS. The Commissions' regulations concerning the TRS Fund are codified at 47 C.F.R. 64.604(c)(4). Pursuant to these regulations, the National Exchange Carrier Association (NECA) has been appointed

Administrator of the TRS Fund. The Commission's rules require all carriers providing interstate telecommunication services to contribute to the TRS Fund on an annual basis. Contributions are the product of the carrier's gross interstate revenues for the previous year and a contribution factor determined annual by the Commission. The collected contributions are used to compensate TRS providers for the costs of providing interstate TRS service. The Commission releases an order each year approving the contribution factor, payment rate, and TRS Fund Worksheet for the following year. Accordingly, on December 22, 1997, the Commission's Common Carrier Bureau, acting under delegated authority, released an order approving the contribution factor for the April 1998 through March 1999 contribution period and the 1998 TRS Fund Worksheet (FCC Form 431) and also making several revisions to the form. The data in the report will be used to ensure that carriers properly fund interstate TRS. All carriers providing interstate telecommunications service must file this worksheet. Other telecommunications carriers may voluntarily file this worksheet. The requested information is used to administer the TRS Fund. Information is used to calculate a national average to recover the total interstate TRS revenue requirements and to determine the appropriate payment due to the TRS providers participating in the shared-funding plan.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–34386 Filed 12–28–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 98–2591]

North American Numbering Council; Meeting

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On December 22, 1998, the Commission released a public notice announcing the January 7, 1999, conference call meeting and agenda of the North American Numbering Council (NANC). The North American Numbering Council (NANC), has scheduled a meeting to be held by conference call on January 7, 1999, from 1:00 p.m,.until 4:00 p.m. EST. The conference bridge number is 1–800–724–5055, the PIN is ''NANC.'' Due to limited port space, NANC members and Commission staff will have first priority on the call. Members of the public may join the call as remaining port space permits. The intended effect of this action is to make the public aware of the NANC's next meeting and its agenda. This notice of the January 7, 1999, NANC conference call meeting is being published in the **Federal Register** less than 15 calendar days prior to the meeting due to NANC's need to discuss a new, time sensitive issue before the next scheduled meeting. This statement complies with the General Services Administration Management regulations implementing the Federal Advisory Committee Act. *See* 41 CFR § 101–6.1015(b)(2).

FOR FURTHER INFORMATION CONTACT: Jeannie Grimes, Senior Paralegal, assisting the NANC at (202) 418–2313 or via the Internet at jgrimes@fcc.gov. The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, 2000 M Street, NW., Suite 235, Washington, DC 20554. The fax number is: (202) 418–7314. The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This meeting is open to the members of the general public. The FCC will attempt to accommodate as many participants as possible. Participation on the conference call is limited. The public may submit written statements to the NANC, which must be received two business days before the meeting. In addition, oral statements at the meeting by parties or entities not represented on the NANC will be permitted to the extent time permits. Such statements will be limited to five minutes in length by any one party or entity, and requests to make an oral statement must be received two business days before the meeting. Requests to make an oral statement or provide written comments to the NANC should be sent to Jeannie Grimes at the address under **FOR FURTHER INFORMATION CONTACT,** stated above.

Proposed Agenda

1. Discussion regarding the Lockheed Martin Request for Expeditious Review of the Transfer of the Lockheed Martin Communications Industry Services Business, *In the Matter of Request of Lockheed Martin Corporation and Warburg, Pincus & Co., for Review of the Transfer of the Lockheed Martin Communications Industry Services Business from Lockheed Martin Corporation to an Affiliate of Warburg, Pincus & Co.,* filed with the Federal Communications Commission on December 21, 1998.

2. Other Business.

Federal Communications Commission.

Blaise A. Scinto,

Deputy Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 98–34435 Filed 12–28–98; 8:45 am]

BILLING CODE 6712–01–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 January 13, 1999.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Keith E. Beine, Elk Grove Village, Illinois; Robert J. May, Park Ridge, Illinois; Paul L. Troyke, Roselle, Illinois; and Thomas S. Manfre, Burr Ridge, Illinois; all to retain voting shares of First Northwest Bancorp, Inc., Arlington Heights, Illinois, and thereby indirectly acquire First Northwest Bank, Arlington Heights, Illinois.

Board of Governors of the Federal Reserve System, December 23, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–34453 Filed 12–28–98; 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 January 23, 1999.

A. Federal Reserve Bank of New York, (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Cornerstone Bancorp, Inc., Stamford, Connecticut; to become a bank holding company by acquiring 100 percent of the voting shares of Cornerstone Bank, Stamford, Connecticut.

2. Troy Financial Corporation, Troy, New York; to become a bank holding company by acquiring 100 percent of the voting shares of The Troy Savings Bank, Troy, New York.

In connection with this application, Applicant also has applied to acquire The Family Investment Services Co., Inc., and T.S. Real Property, Inc., both of Troy, New York, and thereby engage in certain nonbanking activities, including securities brokerage and riskless principal through The Family Investment Services Co., Inc., Troy, New York, pursuant to §§ 225.28 (b)(7)(i) and (ii) of Regulation Y, and through T.S. Real Property, Inc., in community development activities, pursuant to § 225.28(b)(12)(i) of Regulation Y.

Board of Governors of the Federal Reserve System, December 23, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–34455 Filed 12–28–98; 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, including the companies listed below, 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 January 15, 1999.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Concord EFS, Inc., Memphis, Tennessee; to acquire Electronic Payment Services, Inc., Wilmington, Delaware, and thereby engage in the operation and development of automated teller machines and point-of-sale processing businesses and related activities, pursuant to § 225.28(b)(14) of Regulation Y.

Board of Governors of the Federal Reserve System, December 23, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–34454 Filed 12–28–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, January 4, 1999.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: December 24, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–34541 Filed 12–24–98; 10:59 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Federal Trade Commission (FTC) is soliciting public comments on the proposed extension of Paperwork Reduction Act clearance for information collection requirements contained in its Appliance Labeling Rule (''Rule''), promulgated pursuant to the Energy Policy and Conservation Act of 1975 (''ECPA''). OMB has extended the expiration for clearance by six months, from September 30, 1998 to March 31, 1999. The FTC proposes that OMB extend its approval for the rule an additional three years from the prior expiration date of September 30, 1998.

DATES: Comments must be submitted on or before March 1, 1999.

ADDRESSES: Send written comments to: Secretary, Federal Trade Commission, Room H–159, 600 Pennsylvania Ave., NW, Washington, DC 20580. All comments should be identified as responding to this notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements should be addressed to James Mills, Attorney, Bureau of Consumer Protection, Division of Enforcement, Rm 4616, Federal Trade Commission, 600 Pennsylvania Ave., NW, Washington, DC 20580 (202–326–3035).

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain apprval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. As required by section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for the rule (OMB) Control Number 3084–0069).

The FTC invites comments on: (1) 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) 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; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Description of the collection of information and proposed use: The Rule establishes testing, reporting, recordkeeping, and labeling requirements for manufacturers of major household appliances (refrigerators, freezers, water heaters, clothes washers, dishwashers, window air conditioners, furnaces, central air conditioners, and heat pumps). The requirements relate specifically to the disclosure of information relating to energy consumption and water usage. The Rule's testing and disclosure requirements enable consumers purchasing applicances to compare the energy use or efficiency of competing models. In addition, ECPA and Rule require manufacturers to submit relevant data to the Commission regarding energy or water usage in connection with the products they manufacture. The Commission uses this data to compile the ranges of comparability for covered appliances for publication in the **Federal Register**. These submissions, along with required records for testing data, may also be used for comparison purposes in enforcement actions involving alleged misstatements on labels or in advertisements.

Estimated annual hours burden: Section 324 of EPCA and the Commission's Rule impose burdens for testing (620,713 hours); reporting (1,178 hours); recordkeeping (789 hours); labeling (91,735); and retail catalog disclosures (*de minimis*). The total burden for these activities is 715,000 hours (rounded).

The following estimates of the time needed to comply with the requirements of the Rule are based on census data, Department of Energy figures and estimates, general knowledge of nanufacturing practices, and trade association advice and figures. Because the burden of compliance falls almost entirely on manufacturers and importers (with a de minimis burden relating to retailers), burden estimates are calculated on the basis of the number of domestic manufaturers and/or the number of units shipped domestically in the various product categories.

A Testing

Under the Rule, manufacturers of covered products must test each basic model they produce to determine energy usage (or, in the case of plumbing fixtures, water consumption). The burden imposed by this requirement is determined by the number of basic models produced, the average number of units tested per model, and the number of hours required to conduct the applicable test. The figures for numbers of basic models that staff received from the industry represent all of the basic models in a given product category.

Manufacturers need not subject each basic model to testing annually; they must retest only if the product design changes in such a way as to affect energy consumption. However, staff have been told that manufacturers generally test each model at least once a year. Staff have conservatively assumed that his annual testing means all basic models were either replaced or subject to design changes during the year that necessitated testing under the Rule. The burden estimates in this Notice, which assume annual testing for all models, are accordingly conservative and likely are somewhat overstated to the extent manufacturers are actually carrying out annual tests for reasons unrelated to the Rule. The testing burden for the different categories of products covered by the Rule is estimated as follows:

Category of manufacturer	Number of basic models	Avg. number of units tested per model	Hours per unit tested	Total annual testing burden hours
Refrigerators, Refrigerator-freezers, and Freezers	360	2	4	2,880
Dishwashers	78	2	1	156
Clothes washers	150	2	2	600
Water heaters	650	2	24	31,200
Room air conditioners	520	2	8	8,320
Furnaces	1,900	2	8	30,400
Central A/C	1,095	2	24	52,560
Heat pumps	831	2	72	119,664
Pool heaters	75	2	12	1,800
Fluorescent lamp ballasts	975	4	3	11,700
Lamp products	2,100	12	14	352,800
Plumbing fittings	1,700	2	2	6,800
Plumbing fixtures	22,000	1	.0833	1,833
	.....	.....	.....	620,713

B. Reporting

Reporting burden estimates are based on information from industry representatives. Manufacturers of some products (e.g., appliances, HVAC equipment—furnaces, boilers, central air conditioners, and heat pumps) indicate that, for them, the reporting burden is best measured by the estimated time required to report on each model manufactured, while others (e.g., makers of fluorescent lamp ballasts, lamp products) state that an estimated number of annual burden hours by manufacturer is a more meaningful way to measure. The figures below reflect these different methodologies as well as the varied burden hour estimates provided to staff by manufacturers of the different product categories that use the latter methodology.

Appliances, HVAC Equipment, and Pool Heaters

Staff estimate that the average reporting burden for these manufacturers is approximately two minutes per basic model. Based on this estimate, multiplied by a total of 5,659 basic models of these products, the annual reporting burden for the appliance, HVAC equipment, and pool heater industry is an estimated 188 hours (2 minutes×5,659 models÷60 minutes per hour).

Fluorescent Lamp Ballasts, Lamp Products, and Plumbing Fixtures

The total annual reporting burden for manufacturers of fluorescent lamp ballasts, lamp products, and plumbing fixtures is based on the estimated average annual burden for each category of manufacturers, multiplied by the number of manufacturers in each respective category, as shown below:

Category of manufacturer	Annual burden hours per manufacturer	Number of manufacturers	Total annual reporting burden hours
Fluorescent lamp ballasts	6	20	120
Lamp products	15	50	750
Plumbing fixtures	1	120	120

Total Reporting Burden Hours

The total reporting burden for industries covered by the Rule is 1,178 hours annually (188+120+750+120).

C. Recordkeeping

EPCA and the Commission's Rule require manufacturers to keep records of the test data generated in performing the tests to derive information included on labels and required by the Rule. As in Section B. above, burden is calculated by number of models for appliances, HVAC equipment, and pool heaters, and by number of manufacturers for fluorescent lamp ballasts, lamp products, and plumbing fixtures.

Appliances, HVAC Equipment, and Pool Heaters

The recordkeeping burden for manufacturers of appliances, HVAC equipment, and pool heaters varies directly with the number of tests performed. Staff estimate total recordkeeping burden of approximately 189 hours for these manufacturers, based on an estimated average of one minute per record stored (whether in electronic or paper format), multiplied by 11,318 tests performed annually (1×11,318÷60 minutes per hour).

Fluorescent Lamp Ballasts, Lamp Products, and Plumbing Fixtures

The total annual recordkeeping burden for manufacturers of fluorescent lamp ballasts, lamp products, and plumbing fixtures is based on the estimated average annual burden for each category of manufacturers (derived from industry sources), multiplied by the number of manufacturers in each respective category, as shown below:

Category of manufacturer	Annual burden hours per manufacturer	Number of manufacturers	Total annual recordkeeping burden hours
Fluorescent lamp ballasts	2	20	40
Lamp products	10	50	500
Plumbing fixtures	.5	120	60

Total Recordkeeping Burden Hours

The total recordkeeping burden for industries covered by the Rule is 789 hours annually (189+40+500+60).

D. Labeling

EPCA and the Rule require that manufacturers of covered products provide certain information to consumers, through labels, fact sheets, or permanent markings on the products. The burden imposed by this requirement consists of (1) the time needed to prepare the information to be provided, and (2) the time needed to provide it, in whatever form, with the products. The applicable burden for each category of products is described below:

Appliances, HVAC Equipment, and Pool Heaters

Staff estimate that the time to prepare labels for appliances, HVAC equipment, and pool heaters is no more than four minutes per basic model. Thus, for appliances, HVAC equipment, and pool heaters, the approximate annual drafting burden involved in labeling is 377 hours per year [5,659 (all basic models)×four minutes (drafting time per basic model)÷60 (minutes per hour)].

Industry representatives and trade associations have estimated that it takes between 4 and 8 seconds to affix each label to each product. Based on an average of six seconds per unit, the annual burden for affixing labels to appliances, HVAC equipment, and pool heaters is 74,222 hours [six (seconds)×44,533,465 (the number of total products shipped in 1997) divided by 3,600 (seconds per hour)].

The Rule also requires that HVAC equipment manufacturers disclose energy usage information on a separate fact sheet or in an approved industry-prepared directory of products. Staff have estimated the preparation of these fact sheets requires approximately 30 minutes per basic model. Manufacturers producing at least 95 percent of the affected equipment, however, are members of trade associations that produce approved directories (in

connection with their certification programs independent of the Rule) that satisfy the fact sheet requirement. Thus, the drafting burden for fact sheets for HVAC equipment is approximately 96 hours annually [3,826 (all basic models)×.5 hours×.05 (proportion of equipment for which fact sheets are required)].

The Rule allows manufacturers to prepare a compendium of fact sheets for each retail establishment as long as there is a fact sheet for each basic model sold. Assuming that six HVAC manufacturers (i.e., approximately 5% of HVAC manufacturers), produce fact sheets instead of having required information shown in industry directories, and each spends approximately 16 hours per year distributing the fact sheets to retailers and in response to occasional consumer requests, the total time attributable to this activity would also be approximately 96 hours.

The total annual labeling burden for appliances, HVAC equipment, and pool heaters is 377 hours for preparation plus 74,222 hours for affixing, or 74,599 hours. The total annual fact sheet burden is 96 hours for preparation and 96 hours for distribution, or 192 hours. The total annual burden for labels and fact sheets for the appliance, HVAC, and pool heater industries is, therefore, estimated to be 74,791 hours (74,599+192).

Fluorescent Lamp Ballasts

The statute and the Rule require that labels for fluorescent lamp ballasts contain an ''E'' within a circle. Since manufacturers label these ballasts in the ordinary course of business, the only impact of the Rule is to require manufactures to reformat their labels to include the ''E'' symbol. Thus the burden imposed by the Rule for labeling fluorescent lamp ballasts is de minimis.

Lamp Products

The burden imposed for labeling of lamp products is also de minimis, for similar reasons. The Rule requires certain disclosures on packaging for lamp products. Since manufacturers were already disclosing the substantive information required under the Rule prior to its implementation, the practical effect of the Rule was to require that manufactures redesign packaging materials to ensure they include the disclosures in the manner and form prescribed by the Rule. Because this effort is now complete, there is no ongoing labeling burden imposed by the Rule for lamp products.

Plumbing Fixtures

The statute and the Rule require that manufacturers disclose the water flow rate for plumbing fixtures. This disclosure may be accomplished by attaching a label to the product, through permanent markings imprinted on the product as part of the manufacturing process, or by including the required information on packaging materials for the product. While some methods might impose little or no additional incremental time burden and cost on the manufactures, other methods (such as affixing labels) could. Thus, staff estimate on overall blended average burden associated with this disclosure requirement of one second per unit sold. Staff also estimate that there are approximately 9,000,000 covered fixtures and 52,000,000 fittings sold annually in the country. Therefore, the estimated annual burden to label plumbing fixtures is 16,944 hours [61,000,000 (units)×1 (seconds)÷3,600 seconds per hour)].

Total Burden for Labeling

The total labeling burden for all industries covered by the Rule is 91,735 hours (74,791+16,944) annually.

E. Retail Sales Catalogs Disclosures

The Rule requires that sellers offering covered products through retail sales catalogs (i.e., those publications from which a consumer can actually order merchandise) disclose in the catalog energy (or water) consumption for each covered product. Because this information is supplied by the product manufacturers, the burden on the retailer consists of incorporating the information into the catalog presentation.

Staff estimate that there are approximately 100 sellers who offer covered products through retail catalogs. While the Rule initially imposed a burden on sellers by requiring that they draft disclosures and incorporate them into the layouts of their catalogs, catalog sellers now have substantial experience with the Rule and its requirements. Energy and water consumption information has obvious relevance to consumers, so sellers are likely to disclose much of the required information with or without the Rule. Accordingly, given the small number of catalog sellers, there experience with incorporating energy and water consumption data into their catalogs, and the likelihood that many of the required disclosures would be made in the ordinary course of businesses, staff believe that any burden the Rule imposes on catalog sellers is *de minimis.*

Estimated annual cost burden: $16,479,000, ($13,351,000 in labor costs and $3,128,000 in non-labor costs).

Labor Costs: Staff have derived labor costs by applying appropriate estimated hourly cost figures to the burden hours described above. In calculating the cost figures, staff have estimated that test procedures are conducted by skilled technical personnel at an hourly rate of $20.00, and that recordkeeping and reporting, as well as labeling, marking, and preparation of fact sheets, are, on average, done by clerical personnel at a rate of $10.00 per hours.

On this basis, the total annual also costs for the five difference categories of burden under the Rule, as applied to all the products covered by the Rule, is $13,351,000 (rounded), which is derived as follows:

1. $12,414,260 for testing all products covered by the Rule, based on 620,713 hours [620,713×$20.00 per hour].

2. $11,780 for complying with the reporting requirements of the Rule, based on 1,178 hours [1,178 × $10.00 per hour].

3. $7,890 for complying with the recordkeeping requirements of the Rule, based on 7,890 hours [798 × $10.00 per hour].

4. $917,350 for complying with the labeling, marking, and fact sheet requirements of the Rule, based on 91,735 hours [91,735 × $10.00 per hour].

De minimis for retain catalog disclosures, for the reasons previously noted with respect to burden hours.

Capital or other-non-labor costs: $3,127,500 ($2,500 for reporting requirements and $3,125,000 for labeling requirements), rounded to $3,128,000, determined as follows.

In considering how to estimate the capital or other-labor costs associated with compliance with the Rule, staff have examined the five distinct burdens imposed by EPCA through Rule—testing, reporting, recordkeeping, labeling, and retail catalog disclosures—as they affect the 11 groups of products that the Rule covers. Staff have concluded that there are no current start-up costs associated with the Rule. The Rule has been effective since 1980 for appliances, since 1987 for central air conditioners, heat pumps, boilers, and furnaces, since 1989 for fluorescent lamp ballasts, since 1993 for plumbing and lighting products, and since 1994 for pool heaters. Manufacturers of these products, therefore, have in place the capital equipment necessary—especially equipment to measure energy and/or water usage—to comply with the Rule.

Manufacturers that submit required reports to the Commission directly (rather than through trade associations) incur some nominal costs for paper and postage. Staff estimates that these costs do not exceed $2,500. Manufacturers must also incur the cost of providing labels and fact sheets used in compliance with the Rule. Based on estimates of 44,533,465 units shipped and 109,500 fact sheets prepared,[1] at an average cost of seven cents for each label or fact sheet, the total (rounded) labeling cost is $3,125,500.

Debra A. Valentine,

General Counsel.

[FR Doc. 98–34406 Filed 12–28–98; 8:45 am]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0259]

Submission for OMB Review; Comment Request Entitled Market Research Questionnaire

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of request for an extension to a previously approved OMB Clearance (3090–0259).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement entitled Market Research Questionnaire. The information collection was previously published in the **Federal Register** on October 22, 1998 at 63 CFR 56653 allowing for a 60-day public comment period. No comments were received.

DATES: Comment Due Date: January 28, 1999.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503 and also may be submitted to Marjorie Ashby, General Services Administration (MVP), 1800 F Street NW, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Thomas Bacon, Federal Supply Service on (703) 305–6573.

SUPPLEMENTARY INFORMATION:

A. Purpose

The GSA is requesting the Office of Management and Budget (OMB) to review and approve information collection, 3090–0259 concerning Market Research Questionnaire. The Market Research Questionnaires are used to gather information that is necessary to develop and/or revise Federal specifications and other purchase descriptions.

B. Annual Reporting Burden

Respondents: 25; *annual responses:* 25; *average hours per response:* 2.4; *burden hours:* 60.

Copy of Proposal: A copy of this proposal may be obtained from the GSA Acquisition Policy Division (MVP), Room 4011, GSA Building, 1800 F Street NW, Washington, DC 20405, or by telephoning (20) 501–3822, or by faxing your request to (202) 501–3341.

Dated: December 21, 1998.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 98–34333 Filed 12–28–98; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 99025]

Emerging Infections Sentinel Networks; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1999 funds for a cooperative agreement program for the operation of provider-based Emerging Infections Sentinel Networks (EISN). This program addresses the ''Healthy People 2000'' priority area of Immunization and Infectious Diseases. The purpose of the program is to assist recipients in operating and enhancing established EISNs or in setting up new networks for assessing emerging infections. These networks will assess emerging infectious diseases, including drug-resistant, foodborne and waterborne, and vaccine-preventable or potentially vaccine-preventable diseases.

Sentinel networks linking groups of participating individuals or organizations are helpful in monitoring a variety of infectious disease problems and enhancing communication among participants, and between participants and the public health community. They also can serve as readily accessible mechanisms to address urgent public health infectious disease problems rapidly. Three sentinel networks are currently receiving funds through this cooperative agreement program: Infectious Disease Society of America Emerging Infections Network; Emergency ID Net, a network of academically affiliated emergency departments; and GeoSentinel, a network operated by the International Society for Travel Medicine. Further development of the sentinel network concept will continue to improve understanding of specific public health issues and enhance preparedness to meet new infectious disease threats.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies, that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, State and local governments or their bona fide agents, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $525,000 is available in FY 1999 to fund approximately three awards. It is expected that the average award will be $175,000, ranging from $150,000 to $200,000. It is expected that the awards will begin on or about May 1, 1999, and will be made for a 12-month budget period within a project period of up to five years. The funding estimate may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as

[1] The units shipped total is based on combined actual or estimated industry figures for 1997 across all of the product categories, except for fluorescent lamp ballasts, lamp products, and plumbing fixtures. Staff has determined that, for those product categories, there are little or no costs associated with the labeling requirements. The fact sheet estimation is based on the previously noted assumption that five percent of HVAC manufacturers produce fact sheets on their own. Based on total HVAC units shipped (8,759,907), five percent amounts to 437,995 HVAC units. Because manufacturers generally list more than one unit on a fact sheet, staff have estimated that manufacturers independently preparing them will use one sheet for every four of these 437,995 units. Thus, staff estimate that HVAC manufacturers produce approximately 109,500 fact sheets.

evidenced by required reports and the availability of funds.

Funding Preferences

Although applications for new EISNs are encouraged, funding preference will be given to competing continuation applications over applications for programs not already receiving support under the EISN program. Current awardees have implemented new sentinel networks that require continued support to become fully developed and to realize the benefits of the network activities.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for the activities under Recipient Activities, below, and CDC shall be responsible for conducting activities under CDC Activities, below:

Recipient Activities

1. Continue to develop an emerging infections sentinel network or develop a new sentinel network for assessing emerging infectious diseases. Organize the EISN around a specific group of providers, e.g., emergency department physicians, infectious disease specialists, travel and tropical medicine clinics, etc. EISNs must be sufficiently flexible to be engaged swiftly to address emergent problems in infectious diseases.

2. Analyze, present, and publish the results of projects collaboratively with CDC.

3. In collaboration with CDC:

a. Focus and/or redirect projects as indicated through critical review of data and evaluation of various projects; and

b. Consider and initiate novel methods of surveillance for emerging infectious diseases; develop and modify as necessary methods for management and communication of information within the network; and

c. In order to take full advantage of the network capacity and to facilitate integration of surveillance and health information systems, undertake additional projects in other public health areas (e.g, chronic diseases, injury, etc.), as appropriate.

4. Monitor and evaluate scientific and operational accomplishments of the EISN and progress in achieving the purpose and overall goals of this program.

5. If a proposed project involves research on human participants, ensure appropriate Independent Review Board (IRB) review.

CDC Activities

1. Provide consultation and scientific and technical assistance in developing or establishing the EISN and in selecting and conducting EISN projects.

2. Assist in monitoring and evaluating scientific and operational accomplishments of the EISN and progress in achieving the purpose and overall goals of this program.

3. Participate in analysis, publication, and dissemination of information and data gathered from EISN projects.

4. If during the project period research involving human subjects should be conducted and CDC scientists will be co-investigators in that research, assist in the development of a research protocol for IRB review by all institutions participating in the research project. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important that your narrative follow the criteria in the order presented.

Provide a brief (no more than two pages) abstract of the application. The narrative should be no more than 15 double-spaced pages (excluding abstract, budget, and appendices), printed on one side, with one inch margins and unreduced font on white 8.5″ x 11″ paper. All pages must be clearly numbered, a complete index to the application and its appendices must be included, and the required original and two copies must be submitted unstapled and unbound.

F. Submission and Deadline

Letter of Intent (LOI)

All parties intending to submit an application are requested to inform CDC of their intention to do so at least ten (10) business days prior to the application due date. The LOI is not required and will not be used for accepting or evaluating applications. The sole purpose of the LOI is to assist CDC in timely planning and administration of the evaluation process. The LOI should be a brief notice that includes (1) the name and address of the institution, (2) the name, address, and telephone number of the contact person, and (3) a very brief description (e.g., 2–3 sentences) of the EISN that will be proposed. LOIs should be provided by facsimile, postal mail, or Email to Catherine Spruill, Office of the Director, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, N.E., Mailstop C–12, Atlanta, Georgia 30333. Facsimile: (404) 639–4197. Email address: CAS5@CDC.GOV.

Application

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are in the application kit.

On or before February 15, 1999, submit the application to: Andrea Wooddall, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office Announcement 99025, Centers for Disease Control and Prevention (CDC), Room 300, 255 East Paces Ferry Road, N.E., Mailstop E18, Atlanta, Georgia 30305–2209.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for orderly processing. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Understanding the Objectives of the EISN: (10 Points)

The extent to which the applicant demonstrates a clear understanding of the purpose and objectives of this cooperative agreement program and of the requirements, responsibilities, problems, constraints, and complexities that may be encountered in establishing and operating the EISN.

2. Description of Existing Capacity: (30 Points)

a. For competing continuation applicants, the extent to which the applicant has successfully established and operated an EISN and provides documentation of the accomplishments of the network.

For applicants proposing new networks, the extent to which the applicant: (1) demonstrates the capacity and ability to establish a provider-based EISN, including description of the applicant's qualifications, standing, and relationships to represent a group of providers in a sentinel network, (2) describes the niche that the proposed EISN will fill that is not currently filled

by other networks or systems (EISN or otherwise), (3) comments on the long-term potential of the network to provide important information for public health.

b. The extent to which the applicant describes past experience in conducting: (1) infectious disease surveillance and/or applied research in infectious diseases, particularly public health-related work; (2) surveillance or research related to emerging infectious diseases, including drug-resistant, foodborne and waterborne, and vaccine-preventable or potentially vaccine-preventable diseases.

c. The extent to which the applicant: (1) demonstrates ability to develop and maintain strong cooperative relationships with various public and private, local and regional, medical, public health, academic, and community organizations, (2) provides letters of support from non-applicant participating agencies, institutions, organizations, individuals, consultants, etc., identified in applicant's operational plan, and the extent to which the letters of support clearly indicate the signatory's willingness to participate in the EISN (e.g., as sources of information or members of the network). (The letters of support should be placed in an appendix. Letters of support from CDC scientists should not be included.)

3. Operational Plan: (50 points)

a. For both new and continuation applications, the extent to which the applicant provides a detailed and time-phased plan for establishing and operating the EISN. The extent to which applicant's operational plan clearly describes (1) the organizational and operating structure and procedures for accomplishing all Recipient Activities, (2) agreements currently in place with potential participants in the network, (3) what new agreements with potential participants will be necessary, and the likelihood that these agreements can be implemented promptly, (4) plans to collaborate with CDC in the establishment and operation of the EISN, including planning and development of projects, management and analysis of data, and synthesis and dissemination of findings. The extent to which applicant's plan is consistent with and adequate to accomplish the purpose and objectives of this program.

b. The extent to which the applicant: (1) clearly identifies and describes the EISN participants and sources of information, (2) describes the structure of the EISN ''network'', such as number, location, etc., of sites or surveillance information sources, (3) describes procedures and mechanisms to transfer information between network participants and the network's central data collection point.

c. The extent to which applicant clearly identifies specific diseases or conditions (e.g., notifiable diseases, foodborne and waterborne diseases, drug-resistant infections, or infectious disease syndromes) which will be addressed. The extent to which the applicant's current or proposed activities are appropriate for the participants/sources in the network and address significant emerging syndromes, diseases, conditions, events, etc. For a new network, the extent to which these projects appear feasible and the likelihood they can be successfully conducted.

d. The extent to which the applicant clearly describes how the EISN (or its design for a new EISN) is flexible and able to swiftly address new public health challenges in infectious diseases.

e. The extent to which the applicant describes an appropriate and effective process for providing necessary information to State and local health departments and appropriate others about findings related to notifiable conditions.

f. The extent to which applicant: (1) identifies professional staff who have the knowledge, experience, and authority to carry out recipient activities as evidenced by job descriptions, curricula vitae, organizational charts, etc., (2) clearly describes the respective roles of the personnel in the management and operation of the EISN. (Curricula vitae and organizational charts should be placed in an appendix.)

g. The extent to which the applicant describes support staff services to be provided for the program.

h. If any research involving human subjects is proposed, the degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in any proposed research. This includes:

(1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

(2) The proposed justification when representation is limited or absent.

(3) A statement as to whether the design of the study is adequate to measure differences when warranted.

(4) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

4. Evaluation: (10 Points)

The extent to which the applicant provides a plan for monitoring and evaluating: (1) scientific and operational accomplishments of the EISN and its projects, (2) progress in achieving the purpose and overall goals of this program.

5. Budget: (Not Scored)

The extent to which the proposed budget is reasonable, clearly justified, and consistent with the intended use of the cooperative agreement funds.

6. Human Subjects: (Not Scored)

If any research involving human subjects is proposed, does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects?

_____ Yes _____ No

Comments: _____

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Progress reports (annual), no more than 90 days after the end of the budget period;

2. financial status report, no more than 90 days after the end of the budget period; and

3. final financial status and performance reports, no more than 90 days after the end of the project period.

Send all reports to: Andrea Wooddall, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Room 300, 255 East Paces Ferry Road, N.E., Mailstop E18, Atlanta, GA 30305–2209.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment 1 in the application kit.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–7 Executive Order 12372 Review
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2000
AR–12 Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under the Public Health Service Act Sections 301(a) [42 U.S.C. 241(a)], 317(k)(1) and 317(k)(2), [42 U.S.C. 247b(k)(1)] and [247b(k)(2)], as amended. The Catalog of

Federal Domestic Assistance number is 93.283.

J. Where To Obtain Additional Information

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest (this is Announcement number 99025).

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Andrea Wooddall, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 99025, Centers for Disease Control and Prevention (CDC), Room 300, 255 East Paces Ferry Road, N.E., Mailstop E18, Atlanta, GA 30305–2209, telephone (404) 842–6522. Email address: ayw3@cdc.gov

See also the CDC home page on the Internet: *http://www.cdc.gov*

For program technical assistance, contact Catherine Spruill, Office of the Director, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), Mailstop C–12, 1600 Clifton Road, N.E., Atlanta, Georgia 30333. Phone: (404) 639–2603.

Dated: December 22, 1998.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–34375 Filed 12–28–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee to the Director, Centers for Disease Control and Prevention; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Advisory Committee to the Director, CDC.

Time and Date: 8:30 a.m.–3 p.m., January 22, 1999.

Place: CDC, Auditorium A, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: This committee advises the Director, CDC, on policy issues and broad strategies that will enable CDC, the Nation's prevention agency, to fulfill its mission of promoting health and quality of life by preventing and controlling disease, injury, and disability. The Committee recommends ways to incorporate prevention activities more fully into health care. It also provides guidance to help CDC work more effectively with its various constituents, in both the private and public sectors, to make prevention a practical reality.

Matters to be Discussed: Agenda items will include updates from CDC Director, Jeffrey P. Koplan, M.D., followed by committee discussion on the agency's priorities and counter terrorism, including the public health infrastructure. Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Linda Kay McGowan, Executive Secretary, Advisory Committee to the Director, CDC, 1600 Clifton Road, NE, M/S D–24, Atlanta, Georgia 30333. Telephone 404/639–7080.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: December 21, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–34377 Filed 12–28–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Data Systems as the Scientific Foundation in Support of Newborn Screening Programs Workshop

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Workshop on Data Systems as the Scientific Foundation in Support of Newborn Screening Programs.

Times and Dates: 8:15 a.m.–5:30 p.m., February 24, 1999: 8:15 a.m.–12 p.m., February 25, 1999.

Place: Emory Inn and the D. Abbott Turner Center, 1615 Clifton Road, Atlanta, Georgia 30329–9952. Telephone 404/712–6000, fax 404/712–6025.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 75 people. Registration prior to the meeting is suggested.

Purpose: Newborn screening for metabolic disorders and hemoglobinopathies constitutes the largest national public health genetics program. The meeting will enable participants to review the current status of the collection and use of newborn screening data, and to discuss and give individual input on new strategies for future collection of population-based data to support and enhance newborn screening programs. This meeting will bring together leaders in metabolic disease; laboratory practice; genetics; public health; and other disciplines; and it is anticipated that the products from this workshop will be utilized during future workshops on newborn screening.

Matters To Be Discussed: Review of data systems in support of newborn screening for use in the three core public health functions: assessment, policy development, and assurance/evaluation. Agenda items will include presentations on (1) Data Driven Public Health Genetics Programs; (2) A State's Data Warehouse; and (3) Linkage of Newborn Screening Data into maternal and child health (MCH) Programs; and case studies of newborn screening data systems for well-established and upcoming disorders and group discussions on data sources.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Ellen P. King, Administrative Officer, Division of Birth Defects and Developmental Disabilities, NCEH, CDC, 4770 Buford Highway, NE, m/s F–45, Atlanta, Georgia 30341–3724. Telephone 770/488–7035, fax 770/488–7197. Registration form available by request or at http://www.cdc.gov/genetics/meeting.htm.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: December 21, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–34374 Filed 12–28–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Vaccine Advisory Committee (NVAC), Subcommittee on Future Vaccines, Subcommittee on Immunization Coverage, and Subcommittee on Vaccine Safety; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following Federal advisory committee meetings.

Name: National Vaccine Advisory Committee (NVAC).

Times and Dates: 9 a.m.–2 p.m., January 11, 1999; 8:30 a.m.–4 p.m., January 12, 1999.

Place: Hubert H. Humphrey Building, Room 800, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open to the public, limited only by the space available.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, persons without a government identification card should plan to arrive at the building each day between 8 and 8:30 a.m. or 12:30 and 1 p.m. to be escorted to the meeting. Entrance to the meeting at other times during the day cannot be assured.

Purpose: This committee advises and makes recommendations to the Director of the National Vaccine Program on matters related to the Program responsibilities.

Matters to be Discussed: Agenda items will include updates on the National Vaccine Program Office (NVPO) activities. There will be a report from the Division of Vaccine Injury Compensation. There will be discussions on the National Vaccine Advisory Committee roles and missions; the impact of the Childrens' Health Insurance Plan on immunization coverage; achieving the goal of polio eradication: challenges and opportunities; stockpiling vaccines; bioterrorism—strategies for vaccine readiness; status of a DHHS Vaccine Safety Action Plan; initiatives in global vaccines—new directions; influenza pandemic preparedness; Hepatitis B vaccine. There will be a report from the Assistant Secretary for Health and Surgeon General. There will be reports from the immunization registries workgroup; the Subcommittee on Immunization Coverage; Subcommittee on Future Vaccines; and Subcommittee on Vaccine Safety. There will be a discussion on future agenda items.

Name: Subcommittee on Immunization Coverage.

Time and Date: 2:30 p.m.–5 p.m., January 11, 1999.

Place: Hubert H. Humphrey Building, Room 800, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open to the public, limited only by the space available.

Purpose: This subcommittee will identify and propose solutions that provide a multifaceted and holistic approach to reducing barriers that result in low immunization coverage for children.

Matters to be Discussed: This subcommittee will give an update on the status of the Childrens' Health Insurance Plan; there will be a discussion on adolescent immunization guidelines; the status of the paper on ''Strategies to Sustain Success in Childhood Immunizations'' and plan to promote recommendations stated in paper; an update on guidelines for implementation of new vaccines; an update on guidelines for adult immunizations.

Name: Subcommittee on Future Vaccines.

Time and Date: 2:30 p.m.–5 p.m., January 11, 1999.

Place: Hubert H. Humphrey Building, Room 405, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open to the public, limited only by the space available.

Purpose: The Subcommittee on Future Vaccines will develop policy options and guide national activities which will lead to accelerated development, licensure, and best use of new vaccines in the simplest possible immunization schedules.

Matters to be Discussed: This subcommittee will hold discussions regarding agenda items for a joint NVAC/NVPO/CVI meeting on ''orphan vaccines; vaccines for which development is impeded for a variety of reasons; an update on the issues of indemnification in relation to vaccine clinical trials.

Name: Subcommittee on Vaccine Safety.

Time and Date: 2:30 p.m.–5 p.m., January 11, 1999.

Place: Hubert H. Humphrey Building, Room 425A, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open to the public, limited only by the space available.

Purpose: This subcommittee will review issues relevant to vaccine safety and adverse reactions to vaccines.

Matters to be Discussed: This subcommittee will discuss Hepatitis B and the France experience; there will be further discussion on risk communication. Agenda items are subject to change as priorities dictate.

This notice is being published less than 15 days in advance of the meeting, due to administrative delays.

CONTACT PERSON FOR MORE INFORMATION: Felecia D. Pearson, Committee Management Specialist, NVPO, CDC, 1600 Clifton Road, NE, M/S A11, Atlanta, Georgia 30333. Telephone 404/639–4450.

The director of the Management Analysis and Services Office has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: December 21, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–34376 Filed 12–28–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) and the National Council on Folic Acid; Meeting

Name: Preventing Neural Tube Birth Defects with Folic Acid: Working Together for Healthier Babies.

Times and Dates: 7:30 a.m.–6 p.m., January 28, 1999: 8:30 a.m.–3 p.m., January 29, 1999.

Place: The Doubletree Hotel, Pentagon City—National Airport, 300 Army-Navy Drive, Arlington, Virginia, 22202. Telephone 703/845–1010, fax 703/845–2610.

Status: Open to the public, limited only by the space available.

Purpose: The National Conference is sponsored jointly by the Centers for Disease Control and Prevention (CDC) and the National Council on Folic Acid to provide the following opportunities to:

1. Premiere folic acid prevention plans for all national partners and provide information, tools, and training for these partners to assist in the campaign.

2. Inform state and local partners about plans for the campaign; propose collaborative efforts; and provide training for activities at the state and local level; discuss funding opportunities for state and local campaigns.

Matters To Be Discussed: Agenda items will include presentations on (1) The Science of Prevention with Folic Aid; (2) The Campaign—Plans, Partners, PSAs; (3) New Sources of Funding; (4) Personal Impact of Living with Spina Bifida; (5) Summary of Conference and Charge to Action. A concurrent session with be held on the following topics: (1) Creating a community campaign with the Resource Guide; (2) Partnering: How to mobilize your community and build resources; (3) Health communications: Testing messages and materials, defining audiences, using available materials; (4) Evaluation: Building evaluation in from the beginning, usefulness of various evaluation techniques; (5) Accessing minority audiences (using Hispanics as examples); (6) Working with the media on your campaign, Strategies for using CDC campaign materials; (7) Business partners' potential roles in the campaign; (8) Health care professionals, key to the campaign; (9) Community-based organizations as campaign partners.

Agenda items are subject to change as priorities dictate. Registration is required.

Contact Person for More Information: Linda Mitchell, Birth Defects and Genetic Diseases Branch, Division of Birth Defects and Developmental Disabilities, NCEH, CDC, 4770 Buford Highway, NE, m/s F–45, Atlanta, Georgia 30341–3724. Telephone 770/488-7703, fax 770/488–7197.

The Director, Management Analysis and Services Office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for

both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: December 22, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–34378 Filed 12–28–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Form # HCFA–R–0269]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

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 (DHHS), is publishing the following summary of a proposed collection for public comment. Interested persons are invited to send comments regarding this 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.

We are, however, requesting an emergency review of the information collections referenced below. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, we have submitted to the Office of Management and Budget (OMB) the following requirements for emergency review. We are requesting an emergency review because the collection of this information is needed prior to the expiration of the normal time limits under OMB's regulations at 5 CFR, Part 1320 and is essential to the mission of the Agency. The Agency cannot reasonably comply with the normal clearance procedures because of a statutory deadline imposed by section 4319 of the Balanced Budget Act of 1997. Without this information, HCFA would not be able to properly implement all of the requirements set forth in the statute prior to the statute's sunset provision. Specifically, the statute mandates evaluations of competitive bidding projects, along with evaluation reporting requirements. The statutory requirement includes an evaluation of competitive bidding impacts on access to care, quality of care, and diversity of product selection. The first evaluation project will measure these characteristics before competitive bidding as well as after the competitively bid fees become effective. The baseline and follow-up measurements will be compared. To ensure valid comparisons, marketplace changes that may be attributable to competitive bidding should not affect the baseline measurements. Therefore, the baseline measurements must be completed before the competitive bidding contracts are established in the Spring of 1999. If HCFA were to follow the normal clearance procedures, resulting in a delay in the baseline measurements, it would have difficulty determining whether competitive bidding causes reductions in access, quality, or product selection.

HCFA is requesting OMB review and approval of this collection by January 11, 1999, with a 180-day approval period. Written comments and recommendations will be accepted from the public if received by the individual designated below by January 8, 1999.

During this 180-day period, we will publish a separate **Federal Register** notice announcing the initiation of an extensive 60-day agency review and public comment period on these requirements. We will submit the requirements for OMB review and an extension of this emergency approval.

Type of Information Collection Request: New collection.

Title of Information Collection: Evaluation of Competitive Bidding Demonstration for Durable Medical Equipment (DME) and Prosthetics, Orthotics, and Supplies (POS)—Data Collection Plan for Baseline Beneficiary Surveys, Oxygen Consumer Survey, Medical Equipment and Supplies Consumer Survey and Supporting Statute Section 4319 of the Balanced Budget Act of 1997.

Form No.: HCFA–R–0269.

Use: Section 4319 of the Balanced Budget Act (BBA) mandates HCFA to implement demonstration projects under which competitive acquisition areas are established for contract award purposes for the furnishing of Part B items and services, except for physician's services. The first of these demonstration projects implements competitive bidding of categories of durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS). Under the law, suppliers can receive payments from Medicare for items and services covered by the demonstration only if their bids are competitive in terms of quality and price. Each demonstration project may be conducted in up to three metropolitan areas for a three year period. Authority for the demonstration expires on December 31, 2002. The schedule for the demonstration anticipates about a six month period required between mailing the bidding forms to potential bidders and the start of payments for DMEPOS under the demonstration. HCFA intends to operate the demonstration in two rounds, the first of two years, and the second of one year. HCFA has announced that it intends to operate its first demonstration in Polk County, Florida, which is the Lakeland-Winter Haven Metropolitan Area.

This evaluation is necessary to determine whether access to care, quality of care, and diversity of product selection are affected by the competitive bidding demonstration. Although secondary data will be used wherever possible in the evaluation, primary data from beneficiaries themselves is required in order to gain an understanding of changes in their level of satisfaction and in the quality and selection of the medical equipment.

The purpose of the data collection plan is to describe the baseline data collection procedures and the plan for analyzing the data to be collected.

The baseline beneficiary surveys will take place February to May 1999, prior to the competitive bidding demonstration. We will sample beneficiaries from enrollment files provided by the durable medical equipment regional carrier (DMERC). The sample will be stratified into two groups: beneficiaries who use oxygen and beneficiaries who are non-oxygen users, i.e., users of the other four product categories covered by the demonstration (hospital beds, enteral nutrition, urological supplies, and surgical dressings) but not oxygen. To draw a comparison, we will sample in both the demonstration site (Polk County, Florida) and a comparison site (Brevard County, Florida) that matches Polk County on characteristics such as number of Medicare beneficiaries and DME/POS utilization.

Information collected in the beneficiary survey will be used by the University of Wisconsin-Madison (UW–M), Research Triangle Institute (RTI), and Northwestern University (NU) to evaluate the Competitive Bidding Demonstration for DME and POS.

Results of the evaluation will be presented to HCFA and to Congress, who will use the results to determine whether the demonstration should be extended to other sites.

The research questions to be addressed by the surveys focus on access, quality, and product selection. Our collection process will include fielding a survey for oxygen users and a survey for non-oxygen users before the demonstration begins and again once the new demonstration prices have been put into effect. The same data collection process will be followed in the comparison site (Brevard County). In the analysis of the data, we will also control for socioeconomic factors. This will allow us to separate the effects of the demonstration from beneficiary-or site-specific effects.

In the survey, we will also ask beneficiaries about the types of equipment that they use. This will allow us to determine if certain users are affected while others are not. For example, we will be able to evaluate whether oxygen users experience a greater increase or decrease in access and quality than beneficiaries who receive enteral nutrition.

The information that this survey will provide about access, quality, and product selection will be very important to the future of competitive bidding within the Medicare program. This is the first Medicare demonstration that allows competitive bidding for services and equipment provided to beneficiaries. A negative impact on access, quality, or product selection would have significant implications for the future of competitive bidding within the Medicare program.

Frequency: Two times for each affected beneficiary.

Affected Public: Individuals or Households.

Number of Respondents: 2,560.

Total Annual Responses: 2,560.

Total Annual Hours: 724.4.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, OR E-mail your request, including your address, phone number, and HCFA form number(s) referenced above, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326.

Interested persons are invited to send comments regarding the burden or any other aspect of these collections of information requirements. However, as noted above, comments on these information collection and recordkeeping requirements must be mailed and/or faxed to the designee referenced below, by January 8, 1999:

Health Care Financing Administration, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Room: N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850, Fax Number: (410) 786–0262, Attn: John Burke; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Fax Number: (202) 395–6974 or (202) 395–5167, Attn: Allison Herron Eydt, HCFA Desk Officer.

Dated: December 21, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–34398 Filed 12–28–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(I)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on November 16, 1998, B.I. Chemical, Inc., 2820 N. Normandy Drive, Petersburg, Virginia 23805, made application to the Drug Enforcement Administration to be registered as an importer of phenylacetone (8501), a basic class of controlled substance listed in Schedule II.

The firm plans to import the phenylacetone for the bulk manufacture of amphetamine.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled sustance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 is such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: December 17, 1998.

John H. King,

Deputy Assistance Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 98–34348 Filed 12–28–98; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Bureau of International Labor Affairs; U.S. National Administrative Office National Advisory Committee for the North American Agreement on Labor Cooperation; Notice of Open Meeting

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of Open Meeting January 28, 1999.

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 94–463), the U.S. National Administrative Office (NAO) gives notice of a meeting of the National Advisory Committee for the North American Agreement on Labor Cooperation (NAALC), which was established by the Secretary of Labor.

The Committee was established to provide advice to the U.S. Department of Labor on matters pertaining to the implementation and further elaboration of the NAALC, the labor side accord to the North American Free Trade Agreement (NAFTA). The Committee is authorized under Article 17 of the NAALC.

The Committee consists of 12 independent representatives drawn

from among labor organizations, business and industry, educational institutions, and the general public.

DATES: The Committee will meet on January 28, 1999 from 9:00 a.m. to 4:30 p.m.

ADDRESSES: U.S. Department of Labor, 200 Constitution Avenue NW, Room N–5437–A, Washington, D.C. 20210. The meeting is open to the public on a first-come, first served basis.

FOR FURTHER INFORMATION CONTACT: Irasema Garza, designated Federal Officer, U.S. NAO, U.S. Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW, Room C–4327, Washington, D.C. 20210. Telephone 202–501–6653 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: Please refer to the notice published in the **Federal Register** on December 15, 1994 (59 FR 64713) for supplementary information.

Signed at Washington, DC, on December 23, 1998.

Irasema T. Garza,

Secretary, U.S. National Administrative Office.

[FR Doc. 98–34433 Filed 12–28–98; 8:45 am]

BILLING CODE 4510–28–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Maritime Advisory Committee for Occupational Safety and Health; Change of Date and Location of Committee Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Maritime Advisory Committee for Occupational Safety and Health (MACOSH); Change of Date and Location of Committee Meeting.

SUMMARY: This notice is to advise the public that the date and address of the previously announced MACOSH meeting has been changed. The location of this meeting, which was announced in the **Federal Register** of December 1, 1998 (63 FR 66202) has had to be changed due to the unavailability of the previously announced facility where the meeting was to take place. The meeting will now be held at the Hotel S. Marie, 827 Toulouse Street, New Orleans, Louisiana 70112; Telephone (504) 561–8951. The meeting dates have also been changed (from the originally scheduled January 13 and 14) to January 12 and 13, 1999 due to facility availability. On January 12, the meeting will begin at 9:00 a.m.; on January 13, the meeting will begin at 8:30 a.m. The meeting will adjourn at approximately 5:00 P.M. on both days. The new address for the meeting is a few blocks from the original location.

FOR FURTHER INFORMATION CONTACT: Larry Liberatore, Maritime Facilitator, Office of Maritime Standards; telephone (202) 693–2042.

Signed at Washington, D.C. this 22nd day of December, 1998.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 98–34432 Filed 12–28–98; 8:45 am]

BILLING CODE 4510–26–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–254 and 50–265]

Commonwealth Edison Company and Midamerican Energy Company (Quad Cities Nuclear Power Station, Units 1 and 2); Order Approving Application Regarding Proposed Merger of Midamerican Energy Holdings Company With Calenergy Company

I

MidAmerican Energy Company (MEC) owns a 25-percent interest in Quad Cities Nuclear Power Station, Units 1 and 2. Commonwealth Edison Company (ComEd) owns the remaining 75-percent share of the facilities. MEC and ComEd hold Facility Operating Licenses Nos. DPR–29 and DPR–30 issued by the U. S. Atomic Energy Commission pursuant to Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR Part 50) on December 14, 1972. Under these licenses, only ComEd, acting for itself and as agent and representative of MEC has the authority to operate the Quad Cities Nuclear Power Station, Units 1 and 2. Quad Cities is located in Rock Island County, Illinois.

II

By application accompanied by cover letters dated September 10, 1998, from CalEnergy Company, Inc. (CalEnergy) and MEC, through counsel Roy P. Lessy, Jr., and from ComEd, MEC and CalEnergy informed the Commission of a proposed merger of CalEnergy with MidAmerican Energy Holdings Company (MEHC), the parent of MEC, which would effectively result in CalEnergy becoming the parent corporation and sole owner of MEHC. MEHC would continue to be the parent of MEC. MEC would continue to remain a 25-percent minority owner and possession-only licensee of the Quad Cities Nuclear Power Station, Units 1 and 2, and would remain an ''electric utility'' as defined in 10 CFR 50.2, engaged in the generation, transmission, and distribution of electric energy for wholesale and retail, according to the application. The application was supplemented by letters dated September 16 and November 20, 1998, and attachments thereto, from counsel for the applicants. MEC and CalEnergy requested the Commission's approval of the indirect license transfers to CalEnergy to the extent effected by the proposed corporate merger, pursuant to 10 CFR 50.80. Notice of this request for approval was published in the **Federal Register** on October 27, 1998 (63 FR 57324).

Upon review of the information submitted in the application, including the supplemental information provided by the applicants, and other information before the Commission, the NRC staff has determined that the proposed merger will not affect the qualifications of MEC as a holder of the license, and that the transfer of control of the licenses, to the extent effected by the proposed merger is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission subject to the conditions set forth herein. These findings are supported by a Safety Evaluation dated December 22, 1998.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. §§ 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the Commission approves the application regarding the proposed merger of MEHC with CalEnergy, subject to the following: (1) MEC shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from MEC to its parent or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of MEC's consolidated net utility plant, as recorded on MEC's books of account, and (2) should the merger of CalEnergy and MEHC not be completed by December 31, 1999, this Order shall become null and void, provided, however, on application and for good cause shown, such date may be extended.

This Order is effective upon issuance.

IV

By January 19, 1999, any person whose interest may be affected by this Order may file in accordance with the Commission's rules of practice set forth in subpart M of 10 CFR Part 2, a request for a hearing and petition for leave to intervene with respect to issuance of the Order. Such requests and petitions must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be denied, as provided in 10 CFR 2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.1308(b)(1)–(2).

Requests for a hearing and petitions for leave to intervene should be served upon Michael I. Miller, Esquire, Sidley and Austin, One First National Plaza, Chicago, Illinois 60603, attorney for ComEd; Roy P. Lessy, Jr., Akin, Gump, Straus, Hauer, & Feld, L.L.P., 1333 New Hampshire Avenue, N.W., Suite 400, Washington, DC 20036, attorney for CalEnergy and MEC; the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.1313.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

For further details with respect to this Order, see the application for consent concerning the proposed corporate merger of CalEnergy and MEHC submitted under cover letters dated September 10, 1998, and supplemental information submitted under cover letters dated September 16 and November 20, 1998, and the safety evaluation dated December 22, 1998, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Dixon Public Library, 221 Hennipen Avenue, Dixon, Illinois.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 22nd day of December 1998.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–34438 Filed 12–28–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–245]

Northeast Nuclear Energy Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–21 issued to Northeast Nuclear Energy Company (the licensee) for operation of the Millstone Nuclear Power Station, Unit 1, located in Waterford, Connecticut.

The proposed amendment would change the technical specifications for staffing and training requirements to allow the use of Certified Fuel Handlers to meet plant staffing requirements.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A review of the proposed changes has determined that there is no Unreviewed Safety Question. The proposed change to the Technical Specifications has been evaluated against the standards of 10 CFR 50.92 and has been determined to not involve a significant hazards consideration. The proposed change does not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated.

The purpose of this proposed change is to eliminate the requirements for licensed operators and a licensed operator training program and to replace those with certified fuel handlers and a certified fuel handler training and retraining program. The plant has permanently ceased operation and will be maintained in a defueled condition. The range of accidents for which an operator needs to be trained has significantly diminished. The only credible design basis accident is a Fuel Handling Accident. As such, a training program of the depth and breadth of that required by 10 CFR Part 55 is no longer needed. In lieu of a 10 CFR Part 55 licensed operator training program, an NRC approved certified fuel handler training and retraining program will be implemented. This training program will adequately equip appropriate operations personnel for fuel handling operations, including responses to abnormal events/accidents. In addition, the requirements are being changed to ensure that an individual qualified in radiation protection procedures is onsite during fuel handling operations. Therefore, there will be no increase in the probability of occurrence or in the consequences of events associated with fuel handling activities. The proposed changes do not affect plant equipment or procedures for equipment operation or response to abnormal events/accidents in the defueled condition.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The purpose of this proposed change is to eliminate the requirements for licensed operators and a licensed operator training program and to replace those with certified fuel handlers and a certified fuel handler training and retraining program. The changes ensure that the qualifications of operations personnel are commensurate with the tasks to be performed for normal and/or abnormal conditions that could occur in the defueled condition. In addition, the requirements are being changed to ensure that an individual qualified in radiation protection procedures is onsite during fuel handling operations. These changes do not affect plant equipment or the procedures for operating plant equipment, and therefore, do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The purpose of this proposed change is to eliminate the requirements for licensed operators and a licensed operator training program and to replace those with certified fuel handlers and a certified fuel handler training and retraining program. The changes ensure that the qualifications of operations personnel are commensurate with the tasks to be performed for normal and/or abnormal conditions that could occur in the defueled condition. In addition, the requirements are being changed to ensure that an individual qualified in radiation protection procedures is onsite during fuel handling operations. The assumptions for a fuel handling accident in the Reactor Building are not affected by the proposed changes. Therefore, the proposed changes do not involve a reduction in a margin of safety.

NNECO has concluded that the proposed changes to the Millstone Unit No. 1 Technical Specifications do not involve a significant hazards consideration as defined in 10 CFR 50.92.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By January 28, 1999, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms located at the Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut 06360, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to

Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(I)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated December 4, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms located at the Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut 06360, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Dated at Rockville, Maryland, this 22nd day of December 1998.

For the Nuclear Regulatory Commission.

Louis L. Wheeler,

Senior Project Manager, Non-Power Reactors and Decommissioning Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 98–34439 Filed 12–28–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–413 and 50–414]

Duke Energy Corporation; Catawba Nuclear Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of exemptions from Facility Operating Licenses Nos. NPF–35 and NPF–52, issued to Duke Energy Corporation, *et al.* (the licensee), for operation of the Catawba Nuclear Station, Units 1 and 2 located in York County, South Carolina.

Environmental Assessment

Identification of Proposed Action

The proposed action would exempt Catawba Nuclear Station, Units 1 and 2, from certain requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50, Appendix A, General Design Criterion (GDC) 57, regarding isolation of main steam branch lines penetrating the containment. The proposed action is in response to the licensee's application dated September 2, 1997.

The Need for the Proposed Action

The licensee requested an exemption from GDC 57 for Containment Penetrations M261 and M393 (erroneously stated as M363 in the submittal). GDC 57 imposes isolation requirements on lines that penetrate primary reactor containment and are neither part of the reactor coolant pressure boundary nor connected directly to the containment atmosphere. These are penetrations on main steam branch lines. These lines penetrate the containment and are not part of the reactor coolant pressure boundary or connected directly to the containment atmosphere. Outside of containment, these lines branch into various separate, individual lines before reaching the respective main steam isolation valves. From each of these main steam lines, one branch supplies main steam to the turbine-driven auxiliary feedwater pump (CAPT, using the licensee's abbreviation).

Valves SA–1 and SA–4 are manual gate valves located in the Interior Doghouse immediately downstream of the respective main steam piping. These valves are locked open (with break away locks) and capable of local manual operation only. These valves are required to be open by Technical Specifications to supply steam to the CAPT, which is part of the engineered safety features. To comply literally with GDC 57, the licensee would have to add motor operators to SA–1 and SA–4 such that they become automatic or capable of remote operation.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that there is no significant environmental impact if the exemptions are granted. No changes will be made to the as-built design, and existing applicable procedures at the two units at Catawba Nuclear Station will remain the same.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does did not involve the use of any resources not previously considered in the Final Environmental Impact Statement related to the Catawba Nuclear Station.

Agencies and Persons Contacted

In accordance with its stated policy, on April 1, 1998, the staff consulted with the South Carolina State official, Virgil Autrey, of the Bureau of Land and Waste Management Department of Health and Environmental Control, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed exemptions will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's request for the exemptions dated September 2, 1997, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington DC, and at the local public document room located at the York County Library, 138 East Black Street, Rock Hill, South Carolina.

Dated at Rockville, Maryland, this 22nd day of December 1998.

For the Nuclear Regulatory Commission.

Peter S. Tam,

Senior Project Manager, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–34437 Filed 12–28–98; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Postal Service Board of Governors

Sunshine Act Meeting

TIME AND DATES: 1:00 p.m., Monday, January 4, 1999; 8:30 a.m., Tuesday, January 5, 1999.

PLACE: Washington, D.C., at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, S.W., in the Benjamin Franklin Room.

STATUS: January 4 (Closed); January 5 (Open).

MATTERS TO BE CONSIDERED:

Monday, January 4—1:00 p.m. (Closed)

1. Strategic Planning.

Tuesday, January 5—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, December 7–8, 1998.
2. Remarks of the Postmaster General/ Chief Executive Officer.
3. Consideration of Board Resolution on Capital Funding.
4. Annual Report on Government in the Sunshine Act Compliance.
5. Consideration of the FY 1998 Annual Report.
6. Capital Investment.
   a. Automatic Airline Assignment/ Semiautomatic Scan Where You Band Equipment.
7. Inspector General Report on Procurement Prequalification Process.
8. Election of Chairman and Vice Chairman of the Board of Governors.
9. Tentative Agenda for the February 1–2, 1999, meeting in Ft. Myers, Florida.

CONTACT PERSON FOR MORE INFORMATION:

Thomas J. Koerber, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, S.W., Washington, D.C. 20260–1000. Telephone (202) 268–4800.

Thomas J. Koerber,

Secretary.

[FR Doc. 98–34472 Filed 12–23–98; 3:36 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISION

[Rel. No. IC—23618; International Series Release No. 1175; File No. 812–10772]

Telesystem International Wireless Inc.; Notice of Application

December 22, 1998.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the ''Act'').

SUMMARY OF APPLICATION: Applicant requests an order that would permit it and its controlled companies to engage in certain foreign telecommunications infrastructure projects without being subject to the provisions of the Act.

FILING DATES: The application was filed on September 8, 1997. Applicant has agreed to file an amendment to the application during the notice period, the substance of which is included in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 19, 1999, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 1000 de La Gauchetiere Street West, 16th Floor, Montreal, Quebec, H3B 4W5 Canada.

FOR FURTHER INFORMATION CONTACT: David W. Grim, Senior Counsel, at (202) 942–0571, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch [450 Fifth Street, N.W., Washington, D.C. 20549; (202) 942–8090].

Applicant's Representations

1. Applicant, a Canadian corporation, was formed in 1996 in connection with the corporate reorganization of Telesystem International Wireless Corporation, N.V. (''TIWC''), a Netherlands corporation. TIWC was founded in 1992 to pursue international opportunities in the wireless telecommunications services market. Pursuant to the reorganization of TIWC, which was completed concurrently with applicant's initial public offering in Canada in May 1997, TIWC became a direct and indirect wholly-owned subsidiary of applicant. Applicant's subordinated voting shares are traded on the Montreal and Toronto stock exchanges and, since June 1998, on the NASDAQ National Market.

2. Substantially all of applicant's operations are conducted through its subsidiaries and affiliates, which are principally engaged in the development, acquisition, ownership, and operation of wireless telecommunications networks in both developing and developed markets throughout the world. Applicant's operations currently include cellular operations in Romania, China, India, and Brazil, specialized mobile radio operations in the United Kingdom, France, Germany, Spain, Portugal, and Belgium, and paging operations in Mexico and the Netherlands.

3. Applicant and its subsidiaries have benefited historically from the expertise and experience of applicant's shareholders and their affiliates, particularly Telesystem Ltd. (''Telesystem''), in identifying international wireless Telecommunications opportunities and providing critical support in forming, developing, and implementing their operations. Telesystem is a privately-owned Canadian holding company engaged in the telecommunications business. Wholly-owned subsidiaries of Telesystem currently own common shares of applicant constituting an approximately 18% economic interest and 39% voting interest in the equity of applicant.

4. Applicant requests relief to permit applicant and each entity now or in the future controlled by, or under common control with, applicant (each, including applicant, a ''Covered Entity'') to engage, either directly or indirectly through subsidiaries, in certain foreign telecommunications infrastructure projects without being subject to the provisions of the Act. For purposes of the application, applicant represents that ''foreign telecommunications infrastructure projects'' means

telecommunications facilities, or similar or related facilities or operations.

5. Applicant represents that there are numerous steps that must be pursued by a developer/owner of a foreign telecommunications infrastructure project. Project development involves analyzing tender conditions, identifying license and permitting requirements, and preparing license applications; preparing demand analyses and developing business and marketing strategies and plans; developing financial systems and controls; selecting network equipment manufacturers and suppliers; designing, planning, and constructing networks; selecting and implementing maintenance, billing, and customer management systems; providing ongoing training to management, technical, operational, and customer service personnel; and negotiating interconnection contracts with other telecommunications providers. The management of operating projects involves responsibilities such as employee and customer relations; contract administration; continuing compliance with legal requirements; community and governmental relations; and financial and accounting issues.

6. The physical assets comprising a foreign telecommunications infrastructure project are or will be owned or leased by an entity (a ''foreign telecommunications infrastructure project company'') in which a Covered Entity has or will have a direct or indirect beneficial economic interest. In most cases, the foreign telecommunications infrastructure project company is or will be a special entity set up for the principal purpose of owning or leasing and operating the assets attributable to one or more foreign telecommunications infrastructure projects.

7. In addition, applicant has organized entities for the purpose of providing development, construction, operational or maintenance services to one or more foreign telecommunications infrastructure project companies (''foreign telecommunications infrastructure service companies''). Such entities are distinguishable from foreign telecommunications infrastructure project companies in that the former do not own or lease the assets directly but rather engage in the business of providing services.

8. For purposes of the application, applicant represents that foreign telecommunications infrastructure project companies and foreign telecommunications infrastructure service companies are included within the term ''foreign telecommunications infrastructure company,'' which is any company (a) substantially all of whose operations are conducted outside of the United States; and (b) whose business (which may include the ownership of either capital assets or stock of operating companies) primarily relates to or whose operations consist primarily of the development, acquisition, ownership and operation of, or the provision of management, operational, advisory, or maintenance service relating to, foreign telecommunications infrastructure projects. Applicant, directly or through one or more Covered Entities, participates and will participate in foreign telecommunications infrastructure companies by owning or holding a substantial interest in the company (directly or through intermediate entities) and providing active developmental assistance to the company.

9. For purposes of the application, applicant represents that ''substantial interest'' means any ownership interest that represents at least a 10% economic or voting interest. Applicant further represents that ''active developmental assistance'' means material involvement in the development, construction, or operation, of, or the provision of management, operational, advisory, or maintenance services relating to, foreign telecommunications infrastructure projects. An entity will be deemed to furnish such assistance if it is or has been materially involved in providing such assistance. Thus, if an entity was materially involved in the development of a foreign telecommunications infrastructure company, such entity will be deemed to be providing active developmental assistance to the foreign telecommunications infrastructure company even after such company has moved past the development stage. The requirement of material involvement will not be satisfied, however, by arrangements that are immaterial to the overall development of a foreign telecommunications infrastructure project or overall success of the foreign telecommunications infrastructure company's operations, such as a short-term contract or a non-substantive contract (*e.g.,* a consulting arrangement that is sometimes entered into as part of an executive employee's severance arrangement, pursuant to which the ex-employee is paid but does little in the way of actual consulting).

10. Applicant and the other Covered Entities do not hold their assets as passive or portfolio investments and do not trade their assets as passive or portfolio investments and do not trade their assets for short-term profit. Applicant and the other Covered Entities have never been registered investment companies (or subject to any analogous regulatory scheme in another jurisdiction) and have never been engaged in the business of investing, reinvesting, or trading in securities.

11. Applicant represents that as the operations of it and the other Covered Entities have expanded, it has become increasingly difficult for them to structure their interests in foreign telecommunications infrastructure companies in a manner that avoids the definition of investment company under the Act. Applicant believes that, in the absence of the requested exemptive order, it will become even more difficult for them to do so in the future.

Applicant's Legal Analysis

1. Section 3(a)(1)(C) of the Act defines an ''investment company'' as including any issuer that is engaged in the business of investing, reinvesting, owning, holding, or trading in securities, and owns investment securities having a value exceeding 40% of the value of such issuer's total assets (exclusive of Government securities and cash items). Section 3(a)(2) defines ''investment securities'' to include all securities except, in pertinent part, securities issued by majority-owned subsidiaries of the owner which are not investment companies and which are not excepted from the definition of investment company by section 3(c)(1) or section 3(c)(7). Section 2(a)(24) defines a ''majority-owned subsidiary'' of a person as a company 50% or more of the outstanding voting securities of which are owned by such person, or by a company which, within the meaning of section 2(a)(24), is a majority-owned subsidiary of such person.

2. Applicant states that some foreign governments are committed to retaining control over foreign telecommunications infrastructure projects. Moreover, applicant represents that, under the laws currently in effect in many host countries, there are limitations on the percentage equity interest in host country entities that can be owned by companies such as the Covered Entities that are organized in jurisdictions other than the host country. Applicant states that, as a result, a company desiring to participate in a project will often to choose between becoming a minority project participant with other companies or not participating at all. Because sections 3(a) and 2(a)(24), taken together, impose limits on the percentage of assets of the Covered Entities that may be attributable to securities representing minority interests in other companies, the Act may, in the absence of the requested

relief, prevent these entities from participating in foreign telecommunications infrastructure projects on desirable terms.

3. Section 6(c) provides that the SEC may exempt any person, security, or transaction from any provision of the Act or any rule or regulation under the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant requests an order under section 6(c) to permit applicant and the other Covered Entities to engage, directly or through subsidiaries, in foreign telecommunications infrastructure projects without being subject to the provisions of the Act.

4. Applicant believes that the requested relief is necessary and appropriate in the public interest. Applicant's business does not entail the types of risk to public investors that the Act was designed to eliminate or mitigate. Applicant's assets cannot be characterized as liquid, mobile, and readily negotiable, or as large liquid pools of funds. Applicant represents that its assets, as well as the assets of the other Covered Entities, are not held as passive or portfolio investments and are not traded for short-term profit. In addition, applicant asserts that the requirement that applicant or another Covered Entity provide active developmental assistance to the foreign telecommunications infrastructure projects is inconsistent with the notion that its assets are liquid, mobile, and readily negotiable. Applicant also states that investment companies of the type intended to be regulated under the Act could not engage in the activities that would be covered by the exemptive order because, unlike the Covered Entities, they lack the expertise and resources to provide active developmental assistance to foreign telecommunications infrastructure projects.

5. Applicant believes that the requested relief is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant states that the Act was not intended to regulate the kind of industrial activity in which the Covered Entities engage. Applicant historically has developed as an operating industrial company rather than an investment pool, engaging principally in the telecommunications business. In addition, its proposed participation in foreign telecommunications infrastructure projects through the provision of active developmental assistance is consistent with the type of activities typically associated with an operating industrial company. Finally, applicant does not hold itself out as engaged in the business of investing, reinvesting, or trading in securities or otherwise as an investment pool of the type intended to be regulated by the Act, and the exemptive order would not be available to any Covered Entity that holds itself out as engaged in the business of investing, reinvesting, or trading in securities.

Applicant's Conditions

Applicant agrees that the order granting the requested relief shall be subject to the following conditions:

1. No Covered Entity that proposes to rely on the requested relief will hold itself out as being engaged in the business of investing, reinvesting, or trading in securities.

2. A Covered Entity may rely on the order granting the requested relief only to the extent that the manner in which it is involved in foreign telecommunications infrastructure projects does not differ materially from that described in the application.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–34401 Filed 12–28–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23620; File No. 812–11358]

Western Reserve Life Assurance Co. of Ohio, et al.

December 22, 1998.

AGENCY: Securities and Exchange Commission (the ''Commission'' or ''SEC'').

ACTION: Notice of application for an order under Section 26(b) of the Investment Company Act of 1940 (the ''1940 Act'') approving the proposed substitution of securities.

SUMMARY OF APPLICATION: Applicants request an order approving the substitution of securities issued by certain management investment companies and held by the Account to support individual flexible premium deferred variable annuity contracts (the ''Contracts'') issued by Western Reserve.

APPLICANTS: Western Reserve Life Assurance Co. of Ohio (''Western Reserve'') and WRL Series Annuity Account (the ''Account'').

FILING DATE: The application was filed on October 15, 1998.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, in person or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 18, 1999, and should be accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, Thomas E. Pierpan, Esquire, Western Reserve Life Assurance Co. of Ohio, 570 Carillon Parkway, St. Petersburg, FL 33716–1202.

FOR FURTHER INFORMATION CONTACT: Kevin P. McEnery, Senior Counsel, or Mark C. Amorosi, Branch Chief, Office of Insurance Products (Division of Investment Management) at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch, 450 Fifth St., N.W., Washington, D.C. 20549 (tel (202) 942–8090).

Applicants' Representations

1. Western Reserve, a stock life insurance company, is principally engaged in the business of writing life insurance polices and annuity contracts and is authorized to do business in the District of Columbia and all states except New York. Western Reserve is a wholly-owned subsidiary of First AUSA Life Insurance Company which is a wholly-owned subsidiary of AEGON USA, Inc. AEGON USA, Inc. is a wholly-owned indirect subsidiary of AEGON nv, a Netherlands corporation, which is a publicly traded international insurance group. Western Reserve is the sponsor and depositor of the Account.

2. Western Reserve issues individual flexible premium deferred variable annuity contracts (the ''Contracts'') through the Account. The Account is a separate account and is registered under the 1940 Act as a unit investment trust. Interests in the Account offered through the Contracts have been registered

under the Securities Act of 1933 (''1933 Act''). The Account is comprised of sub-accounts established to receive and invest net purchase payments of the Contracts. Each sub-account invests exclusively in the shares of a specified portfolio of the WRL Series Fund, Inc. (The ''Fund'') and supports the Contracts.

3. Each Contract permits at least 12 transfers of cash value per Contract year among and between the sub-accounts available as investment options without the imposition of a transfer charge. All of the Contracts reserve to Western Reserve the right to further restrict transfer privileges.

4. The Fund is registered under the 1940 Act as an open-end management investment company. The Fund is a series investment company as defined by rule 18f–2 under the 1940 Act and is currently comprised of 18 investment portfolios (the ''Portfolios''). The Fund issues a separate series of shares of stock in connection with each Portfolio and has registered these shares under the 1933 Act. WRL Investment Management, Inc. (''WRL Management''), a direct wholly-owned subsidiary of Western Reserve, is the investment adviser to the Fund.

5. Applicants state that one of the Portfolios of the Fund has not generated substantial Contract owner interest since its inception. The Global Sector Portfolio (the ''Replaced Portfolio'') is relatively small in terms of assets when compared to many other similar investment portfolios of open-end management investment companies available as investment vehicles for variable annuity products. Applicants state that, as a result, the annual expense ratios of the Replaced Portoflio have been higher than the ratios of most similar, but larger, portfolios. Applicants also state that the performance of the Replaced Portfolio since its inception has been unremarkable given overall market performance during the relevant time period.

6. For these reasons, Applicants propose that Western Reserve substitute shares of the Global Portfolio for shares of the Global Sector Portfolio.

7. The Global Portfolio seeks long-term growth of capital in a manner consistent with preservation of capital by primarily investing in common stocks of foreign and domestic issuers. The Global Sector Portfolio seeks growth of capital by following an asset allocation strategy that shifts among a wide range of asset categories and within them, market sectors. The Global Sector Portfolio invests primarily in equity securities of domestic and foreign issuers, including common stocks, preferred stocks, convertible securities and warrants; debt securities of domestic and foreign issuers; real estate investment trusts; equity securities of companies involved in the exploration, mining processing, or dealing or investing in gold; gold bullion; and domestic money market instruments.

8. Applicants represent that the Portfolio proposed as a substitute (the ''Substitute Portfolio'') is substantially larger than the Replaced Portfolio. Applicants also represent that the Substitute Portfolio has lower expense ratio and has outperformed the Replaced Portfolio.

9. Applicants state that, by supplements to the prospectuses for the Contracts of the Account, all owners and prospective owners of the Contracts were notified of Western Reserve's intention to take the necessary actions to substitute shares of the Global Portfolio for shares of the Global Sector Portfolio. The supplements advised owners and prospective owners that they will be unable to allocate net purchase payments to, or transfer cash values to, the sub-account of the Account corresponding to the Replaced Portfolio, after May 1, 1999. The supplements also advised owners and prospective owners that, on the date of the proposed substitution, the Substitute Portfolio will replace the Replaced Portfolio as the underlying investment for such sub-account. The supplements further apprised owners and prospective owners that from the date of the supplements until 30 days after the date of the proposed substitution, owners will be permitted to make one transfer of all the cash value under a Contract invested in such affected sub-account to other available sub-account(s), without that transfer counting as one of the limited number of transfers permitted in a Contract year free of charge. In addition, the supplements informed owners and prospective owners that Western Reserve will not exercise any rights reserved by Western Reserve under any of the Contracts to impose additional restrictions on transfers until at least 30 days after the proposed substitution.

10. Applicants state that at least 60 days before the date of the proposed substitution, affected owners were provided with a prospectus for the Fund, which includes complete current information concerning the Substitute Portfolio.

11. Applicants propose to have Western Reserve redeem shares of the Replaced Portfolio in cash and purchase shares of the Substitute Portfolio. Applicants represent that redemption requests and purchase orders will be placed simultaneously so that Contract values will remain fully invested at all times.

12. Applicants state that the proposed substitution will take place at relative net asset value with no change in the amount of any Contract owner's cash value or death benefit or in the dollar value of his or her investment in the Account. Applicants represent that Contract owners will not incur any fees or charges as a result of the proposed substitution and that their rights and Western Reserve's obligations under the Contracts will not be altered in any way. All expenses incurred in connection with the proposed substitution, including legal, accounting and other fees and expenses, will be paid by Western Reserve. In addition, Applicants represent that the proposed substitution will not impose any tax liability on Contract owners. The proposed substitution will not cause the Contract fees and charges currently paid by existing Contract owners to be greater after the proposed substitution than before the proposed substitution.

13. Within 5 days after the proposed substitution, Applicants represent that any owners who were affected by the substitution will be sent a written notice informing them that the substitution was carried out and that they may make one transfer of all cash value under a Contract invested in the affected sub-account to other sub-account(s) until 30 days after the substitution without that transfer counting as one of the limited number of transfers permitted in a Contract year free of charge. The notice also will reiterate that Western Reserve will not exercise any rights reserved by Western Reserve under any of the Contracts to impose additional restrictions on transfers until at least 30 days after the proposed substitution.

Applicants' Legal Analysis

1. Applicants request that the Commission issue an order pursuant to Section 26(b) of the 1940 Act approving the substitution by Western Reserve of shares of the Global Portfolio for shares of the Global Sector Portfolio. Applicants submit that the proposed substitution meets the standards that the Commission has applied to substitutions that have been approved in the past.

2. Section 26(b) of the 1940 Act provides, in pertinent part, that it ''shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved such substitution.''

Section 26(b) of the 1940 Act also provides that the Commission shall issue an order approving such substitution if the evidence establishes that the substitution is consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act.

3. Applicants assert that the Contracts give Western Reserve the right, subject to Commission approval, to substitute shares of another open-end management investment company for shares of an open-end management investment company held by a subaccount of the relevant Account. Applicants also assert that the prospectuses for the Contracts and the Account contain appropriate disclosure of this right.

4. Applicants contend that the Substitute Portfolio will have lower or equal future expense ratios than the past expense ratios of the Replaced Portfolio. The Substitute Portfolio is substantially larger than the Replaced Portfolio, and the Substitute Portfolio has had more favorable expense ratios over the last two years than the Replaced Portfolio.

5. As of May 1, 1999, the Replaced Portfolio will no longer be available for new investment, and most likely will experience the net redemption of its shares from that date forward. Therefore, Applicants assert it is highly likely that in the near future the Replaced Portfolio's asset base will decrease and, accordingly, the Replaced Portfolio's expense ratio will increase.

6. Applicants state that the Substitute Portfolio has performed favorably over the past two years and since its inception compared to the Replaced Portfolio. Applicants therefore anticipate that after the proposed substitution, the Substitute Portfolio will provide Contract owners with more favorable or comparable overall investment results than would be the case if the proposed substitution does not take place.

7. Applicants represent that the Substitute Portfolio is a suitable and appropriate investment vehicle for Contract owners and that the Substitute Portfolio has substantially identical or similar investment objectives and policies to the Replaced Portfolio.

Conclusion

Applicants submit that, for all the reasons summarized above, the proposed substitution is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–34400 Filed 12–28–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40815; File No. SR–OCC–98–16]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Index Options Escrow Deposits

December 21, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on November 23, 1998, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. 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 proposed rule change would eliminate the reference to List of Marginable OTC Securities (''OTC List'') in OCC Rule 1801 and in OCC's agreement with each of its approved escrow deposit banks.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by OCC.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change would eliminate the reference to the OTC List in OCC Rule 1801.[3] Rule 1801 permits escrow deposits to be made with respect to short positions in put and call stock index options. For short put stock index options, an escrow deposit may only include cash and short-term U.S. Government securities. For short stock index call options, an escrow deposit may consist of any combination of cash, short-term U.S. Government securities, and common stocks listed on a national securities exchange or included in the current OTC List published by the Board of Governors of the Federal Reserve System (''Federal Reserve Board'').[4] This criterion is also incorporated in OCC's agreement with each of its approved escrow deposit banks.

Effective January 1, 1999, the Federal Reserve Board will cease publication of the OTC List and will remove the definition of OTC stock from Regulation T. Broker-dealers instead will be permitted to extend margin credit against all equity securities listed on the Nasdaq Stock Market. In light of the foregoing, OCC is proposing to eliminate the reference to the OTC List contained in Rule 1801 and to allow any common stock listed on the Nasdaq Stock Market to be included in escrow deposits with respect to short positions in index call options.

Upon the approval of the proposed rule change, OCC intends to send a notice to each of its custodian banks to advise them that, notwithstanding the reference to the OTC List in the Amended and Restated On-Line Escrow Deposit Agreement, all common stocks listed on the Nasdaq Stock Market will be permitted to be included in escrow deposits in respect to short index calls.

OCC believes that the proposed rule change is consistent with the purposes and requirement of Section 17A of the Act[5] because it would conform OCC's escrow deposit rules to a change being made by the Federal Reserve Board.

[3] The text of the proposed amendment to OCC Rule 1801 is set forth in OCC's filing, which is available for inspection and copying at the Commission's Public Reference Room and through OCC.

[4] The OTC List is composed of stocks traded over-the-counter (''OTC'') in the United States that qualify as margin securities under Regulation T. Accordingly, broker-dealers are permitted to extend margin credit against such OTC stocks.

[5] 15 U.S.C. 78q–1.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [6] and pursuant to Rule 19b–4(e)(4) [7] thereunder because the proposal effects a change in an existing service of OCC that does not adversely affect the safeguarding of securities of funds in the custody or control of OCC or for which it is responsible and does not significantly affect the respective rights or obligations of the clearing agency or persons using the service. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–98–16 and should be submitted by January 19, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–34357 Filed 12–28–98; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(e)(4).

[8] 17 CFR 200.30–3(a)(12).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–100a]

Implementation of WTO Recommendations Concerning the European Communities' Regime for the Importation, Sale and Distribution of Bananas

AGENCY: Office of the United States Trade Representative.

ACTION: Further request for comment.

SUMMARY: On or before January 21, 1999, the United States Trade Representative (USTR) intends to request authorization from the Dispute Settlement Body (DSB) of the World Trade Organization (WTO) to suspend tariff concessions on certain products of the European Community (EC). The USTR is requesting comments on the possible inclusion of certain pork and certain olives in the request to the DSB.

DATES: Written comments from interested persons are due by noon on Wednesday, January 13, 1999 on the possible imposition of prohibitive (100% ad valorem) duties on certain pork provided for in subheading 0210.19.00 of the Harmonized Tariff System of the United States (HTS) and certain olives provided for in HTS subheading 2005.70.6050.

ADDRESSES: 600 17th Street, NW, Washington, D.C. 20508.

FOR FURTHER INFORMATION CONTACT: Sybia Harrison, Staff Assistant to the Section 301 Committee (202) 395–3419; Joanna McIntosh, Associate General Counsel (202) 395–7305; or Ralph Ives, Deputy Assistant U.S. Trade Representative (202) 395–3320.

SUPPLEMENTARY INFORMATION: On September 25, 1997, the DSB adopted an Appellate Body report and panel report (as modified by the Appellate Body report) recommending that the EC bring its regime for the importation, sale, and distribution of bananas (banana regime) into conformity with the EC's obligations under the General Agreement on Tariffs and Trade 1994 and the General Agreement on Trade in Services (GATS). A WTO-appointed arbitrator subsequently determined that the ''reasonable period of time'' for the EC to fully implement the DSB recommendations and rulings would expire on January 1, 1999.

If the EC fails to bring its banana regime into compliance with its WTO obligations by January 1, 1999, Article 22 of the WTO Dispute Settlement Understanding (DSU) permits the United States on January 21, 1999 to seek authorization from the DSB to suspend the application of concessions or other obligations accruing to the EC under the WTO Agreement. Article 22.6 of the DSU provides that the DSB shall grant the requested authorization not later than thirty days after the expiration of the reasonable period, or by January 31 in this case. If, however, the EC objects to the level of suspension proposed or the application of the principles and procedures specified in Article 22.3 of the DSU in considering the types of concessions or obligations to suspend, the proposed suspension of concessions shall be referred to arbitration. The DSU requires that such arbitration proceedings be completed within sixty days after the expiration of the reasonable period of time, or by March 2 in this case. Following the completion of arbitration proceedings and upon request, the DSB must grant authorization to suspend concessions or other obligations consistent with the arbitrator's decision. The United States may not suspend concessions or other obligations during the course of the arbitration proceedings.

On or before January 21, 1999, the USTR intends to request authorization from the DSB to suspend tariff concessions on certain products of the EC should the EC fail to bring its banana regime into compliance with DSB recommendations within the prescribed reasonable period of time, which expires on January 1, 1999. On October 22, 1998 and November 10, 1998, the USTR published notices [63 FR 56687 and 63 FR 63099] describing and requesting comments and testimony on the United States proposed course of action to exercise its rights under Article 22 of the DSU.

The written comments received in response to the October 22 **Federal Register** notice primarily registered concerns that the EC's proposed changes to its banana regime would not bring the regime into compliance with the DSB's recommendations and rulings within

the reasonable period of time and that the EC's impending failure to bring the banana regime into compliance would undermine the WTO dispute settlement system. The written comments received in response to the November 10 **Federal Register** notice and at the public hearing primarily focused on the extent to which the imposition of 100% ad valorem duties on the specific products listed in the Annex to that notice might have an adverse effect on U.S. consumers, workers, and industries. The USTR also received written comments and testimony requesting the imposition of increased duties on certain products of the EC not included in the Annex to the November 10 **Federal Register** notice.

On December 21, 1998, the USTR announced in a press release the list of products of the EC for which the USTR intends to request authorization from the DSB to impose 100% *ad valorem* duties. [Press Release 98–113, www.ustr.gov.] The USTR also announced that comments would be sought on the possible inclusion of certain pork provided for in HTS subheading 0210.19.00 and certain olives provided for in HTS subheading 2005.70.6050 in the request to the DSB. The list of products announced in the December 21, 1999 press release is subject to revision depending on the comments received in response to this notice and on the results of arbitration, if requested by the EC.

In accordance with the time frames set forth in Article 22 of the DSU for suspending concessions when a WTO member fails to bring its measures into compliance with DSB recommendations, the proposed increased duties would be assessed on the selected products that are entered, or withdrawn from warehouse for consumption, on or after February 1, 1999, unless the EC requests arbitration on the proposed suspension of tariff concessions, in which case the proposed increased duties would be assessed on the selected products that are entered, or withdrawn from warehouse for consumption, on or after March 3, 1999.

The USTR subsequently will announce: (1) the USTR's determination to impose 100% *ad valorem* duties on certain products of the EU and instructions to the U.S. Customs Service to begin assessing the increased duties; (2) the date on which the increased duties will begin to be assessed; and (3) the list of products on which increased duties will be assessed. The increased duties would not be assessed on products of the Netherlands or Denmark.

Written Comments—Requirements for Submissions

The USTR has determined that it may be appropriate to consider including two products in its request to the DSB for authorization to suspend tariff concessions on which the USTR has not previously sought public comment. Therefore, interested persons are invited to comment on: (1) the appropriateness of imposing 100% *ad valorem* duties on meat of swine other than hams, shoulders, bellies (streaky) and cuts thereof, salted, in brine, dried or smoked (HTS subheading 0210.19.00) and olives (not green), sliced in a saline solution, canned, pitted (HTS subheading 2005.70.6050); (2) the levels at which U.S. customs duties should be set for these particular products; and (3) the degree to which increased duties may have an adverse effect upon U.S. consumers of these products. The imposition of increased duties would apply to articles that are classified in HTS subheadings 0210.19.00 and 2005.70.6050. The product descriptions provided above are not intended to delimit in any way the scope of the products that would be subject to increased duties.

Comments must be filed in accordance with the requirements set forth in 15 CFR 2006.8(b) (55 FR 20593) and must be filed by noon on Wednesday, January 13, 1999. Comments must be in English and provided in twenty copies to: Sybia Harrison, Staff Assistant to the Section 301 Committee, Room 416.

Comments will be placed in a file (Docket 301–100a) open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15. Confidential business information submitted in accordance with 15 CFR 2006.15 must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page on each of 20 copies, and must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary shall be placed in the file that is open to public inspection. An appointment to review Docket No. 301–100a may be made by calling Brenda Webb at (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1:00 p.m. to 4:00 p.m., Monday through Friday, and is located in Room 101.

Joanna K. McIntosh,

Chairman, Section 301 Committee.

[FR Doc. 98–34497 Filed 12–28–98; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Controller Pilot Data Link Communications Industry Day

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given of an Industry Day to discuss Controller Pilot Data Link Communications, to be held on January 6, 1999, starting at 8:30 a.m., at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, in the third floor auditorium. This meeting is sponsored by the FAA Office of Communications, Navigation, and Surveillance Systems.

Presentations will include an overview of the CPDLC project and an update on the Free Flight Phase I CPDLC Human Factors Assessment. These presentations will provide the aviation community with current information about the status of the CPDLC Data Link Program. This will be allocated to questions, answers, and general discussion.

Attendance is open to the interested public but limited to space availability. With the approval of the Product Lead for Aeronautical Data Link, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact Mr. James H. Williams, FAA, at (202) 493–4693. Members of the public may present a written statement to the Product Lead at any time.

Exceptional circumstances and the need to provide the user community with the latest agency decisions concerning program funding and schedules necessitate the public notice of meeting is less than 15 days.

Issued in Washington, DC, on December 22, 1998.

Shelly L. Myers,

Director, Communications, Navigation, and Surveillance Systems.

[FR Doc. 98–34351 Filed 12–28–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Bernalillo County, NM

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Amended Notice of Intent to prepare an environmental impact statement (EIS) for improvements to the Interstate 25/Interstate 40 Interchange.

SUMMARY: The FHWA is issuing this notice to advise the public that we have suspended preparation of an environmental impact statement for a proposed transportation improvement project in Albuquerque, Bernalillo County, New Mexico.

FOR FURTHER INFORMATION CONTACT: Gregory D. Rawlings, Environmental Specialist, Federal Highway Administration, 604 W. San Mateo Road., Santa Fe, New Mexico 87505, Telephone: (505) 820–2027.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Federal Registers home page at: *http://www/nara.gov.fedreg* and the Government Printing Offices database at: *http://www.access.gpo.gov/nara*

Background

On September 20, 1996, at FR 49521, the FHWA issued a notice of intent that an environmental impact statement would be prepared for proposed improvements to the Interstate 25/ Interstate 40 (Big I) Interchange in Albuguerque, Bernalillo County, New Mexico. The Draft environmental impact statement (DEIS) was circulated for review and comment on April 27, 1998. The document stated that no significant impact had been identified during document preparation. The document also stated that if no substantive indication of significant impacts were identified during document review by the public and agencies, that a finding of no significant impact (FONSI) would be issued. No significant impacts were identified and the FHWA, in cooperation with the New Mexico State Highway and Transportation Department, issued a FONSI on December 10, 1998.

Comments or questions concerning this action and the EIS should be directed to the FHWA at the address provide above.

(Catalogue of Federal Domestic Assistance Program Assistance Program Number 20.205, Highway Research, Planning and construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities and 23 U.S.C. 315; 49 CFR 1.48 apply to this program.)

Issued on: December 17, 1998.

Gregory D. Rawlings,

Environmental Specialist, Santa Fe, New Mexico.

[FR Doc. 98–34397 Filed 12–28–98; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. RSAC–96–1, Notice No. 14]

Railroad Safety Advisory Committee (''RSAC''); Working Group Activity Update

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Announcement of Railroad Safety Advisory Committee (RSAC) Working Group Activities.

SUMMARY: FRA is updating its announcement of RSAC's working group activities to reflect the current status of working group activities.

FOR FURTHER INFORMATION CONTACT: Vicky McCully, RSAC Coordinator, FRA, 400 7th Street, SW., Washington, DC 20590, (202) 493–6305 or Grady Cothen, Deputy Associate Administrator for Safety Standards Program Development, FRA, 400 7th Street, SW., Stop 25, Washington, DC 20590, (202) 493–6302.

SUPPLEMENTARY INFORMATION: this notice serves to update FRA's last announcement of working group activities and status reports on August 20, 1998 (63 FR 44669). The ninth full Committee meeting was held September 9, 1998. The next meeting of the full Committee is scheduled for January 28, 1999.

Since its first meeting in April of 1996, the RSAC has accepted fifteen tasks. Status for each of the tasks is provided below:

Task 96–1—Revising the Freight Power Brake Regulations. This Task was formally withdrawn from the RSAC on June 24, 1997.

Task 96–2—Reviewing and recommending revisions to the Track Safety Standards (49 CFR Part 213) . This task was accepted April 2, 1996, and a Working Group was established. Consensus was reached on recommended revisions and an NPRM incorporating these recommendations was published in the **Federal Register** on July 3, 1997 (62 FR 36138). The final rule was published in the **Federal Register** on June 22, 1998 (63 FR 33991). The effective date of the rule is September 21, 1998. Contact: Al MacDowell (202) 493–6206.

Task 96–3—Reviewing and recommending revisions to the Radio Standards and Procedures (49 CFR Part 220). This Task was accepted on April 2, 1996, and a Working Group was established. Consensus was reached on recommended revisions and an NPRM incorporating these recommendations published in the **Federal Register** on June 26, 1997 (62 FR 34544). The final rule was published on September 4, 1998 (63 FR 47182) and becomes effective on January 2, 1999. Contact: Gene Cox (202) 493–6319.

Task 96–4—Reviewing the appropriateness of the agency's current policy regarding the applicability of existing and proposed regulations to tourist, excursion, scenic, and historic railroads. This Task was accepted on April 2, 1996, and a Working Group was established. The Working Group is monitoring the steam locomotive regulations task. Contact: Grady Cothen (202) 493–6302.

Task 96–5—Reviewing and recommending revisions to Steam Locomotive Inspection Standards (49 CFR Part 230). This Task was assigned to the Tourist and Historic Working Group on July 24, 1996. Consensus was reached and an NPRM was published on September 25, 1998 (63 FR 51404). Contact: George Scerbo (202) 493–6349.

Task 96–6—Reviewing and recommending revisions to miscellaneous aspects of the regulations addressing Locomotive Engineer Certification (49 CFR Part 240). This Task was accepted on October 31, 1996, and a Working Group was established. Consensus was reached and an NPRM was published on September 22, 1998. Contact: John Conklin (202) 493–6318.

Task 96–7—Developing On-Track Equipment Safety Standards. This task was assigned to the existing Track Standards Working Group on October 31, 1996, and a Task Force was established. The Task Force is finalizing a draft proposed rule. Contact: Al MacDowell (202) 493–6236.

Task 96–8—This Planning Task evaluated the need for action responsive to recommendations contained in a report to Congress entitled, Locomotive Crashworthiness & Working Conditions. This Task was accepted on October 31, 1996. A Planning Group was formed and reviewed the report, grouping issues into categories.

Task 97–1—Developing crashworthiness specifications to promote the integrity of the locomotive cab in accidents resulting from collisions. This Task was accepted on June 24, 1997. A Task Force on engineering issues established by the Working Group on Locomotive

Crashworthiness has been actively reviewing collision history and design options and has commissioned additional research that is being guided toward completion over the next few months. Contact: Sean Mehrvazi (202) 493–6237.

Task 97–2—Evaluating the extent to which environmental, sanitary, and other working conditions in locomotive cabs affect the crew's health and the safe operation of locomotives, proposing standards where appropriate. This Task was accepted June 24, 1997. The Working Group on Cab Working Conditions is meeting to draft a standard for locomotive sanitary conditions. Task forces on noise and temperature have been formed and are actively meeting to identify and address issues. Contact: Brenda Hattery (202) 493–6326.

Task 97–3—Developing event recorder data survivability standards. This Task was accepted on June 24, 1997. An Event Recorder Working Group and Task Force have been established and are actively meeting. Contact: Edward English (202) 493–6321.

Task 97–4 and *Task 97–5*—Defining Positive Train Control (PTC) functionalities, describing available technologies, evaluating costs and benefits of potential systems, and considering implementation opportunities and challenges, including demonstration and deployment.

Task 97–6—Revising various regulations to address the safety implications of processor-based signal and train control technologies, including communications-based operating systems. These three tasks were accepted on September 30, 1997, and assigned to a single Working Group. A Data and Implementation Task Force was formed to address issues such as assessment of costs and benefits and technical readiness. A Standards Task Force was formed to develop PTC standards. The Working Group and task forces are actively meeting. Contact: Grady Cothen (202) 493–6302.

Task 97–7—Determining damages qualifying an event as a reportable train accident. This Task was accepted on September 30, 1997. A working group has been formed to address this task and will conduct their initial meeting in February 1999. Contact: Robert Finkelstein (202) 493–6280.

Please refer to the notice published in the **Federal Register** on March 11, 1996 (61 FR 9740) for more information about the RSAC.

Issued in Washington, DC on December 23, 1998.

George A. Gavalla,

Acting Associate Administrator for Safety.

[FR Doc. 98–34391 Filed 12–28–98; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. RSAC–96–1, Notice No. 15]

Railroad Safety Advisory Committee; Notice of Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Railroad Safety Advisory Committee (''RSAC'') meeting.

SUMMARY: FRA announces the next meeting of the RSAC, a Federal Advisory Committee that develops railroad safety regulations through a consensus process. The meeting will address a wide range of topics, including possible adoption of specific recommendations for regulatory action.

DATES: The meeting of the RSAC is scheduled to commence at 9:30 a.m. and conclude at 4:00 p.m. on Thursday, January 28, 1999.

ADDRESSES: The meeting of the RSAC will be held at The Ronald Reagan Building, The International Trade Center, Polaris Suite, 1300 Pennsylvania Avenue, NW, Washington, DC. The meeting is open to the public on a first-come, first-served basis and is accessible to individuals with disabilities. Sign language interpreters will be available for individuals with hearing impediments.

FOR FURTHER INFORMATION CONTACT: Vicky McCully, RSAC Coordinator, FRA, 400 7th Street, SW., Stop 25, Washington, DC 20590, (202)493–6305 or Grady Cothen, Deputy Associate Administrator for Safety Standards and Program Development, FRA, 400 7th Street, SW., Stop 25, Washington, DC 20590, (202) 493-6302.

SUPPLEMENTARY INFORMATION:. Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), FRA is giving notice of a meeting of the Railroad Safety Advisory Committee (''RSAC''). The meeting is scheduled to begin at 9:30 a.m. and conclude at 4:00 p.m. on Thursday, January 28, 1999. The meeting will be held at The Ronald Reagan Building, The International Trade Center, Polaris Suite, 1300 Pennsylvania Avenue, NW, Washington, DC. All times noted are Eastern Standard Time.

RSAC was established to provide advice and recommendations to the FRA on railroad safety matters. The Committee consists of 48 individual representatives, drawn from among 27 organizations representing various rail industry perspectives, and 2 associate non-voting representatives from the agencies with railroad safety regulatory responsibility in Canada and Mexico. Staff of the National Transportation Safety Board and Federal Transit Administration also participate in an advisory capacity.

During this meeting, the RSAC will receive status reports, containing progress information, from the Locomotive Crashworthiness Working Group, the Locomotive Cab Working Conditions Working Group, and the Event Recorder Working Group. A status report will also be received from the Positive Train Control (PTC) Working Group, tasked with: (1) facilitating understanding of current PTC technologies, definitions, and capabilities; (2) addressing issues regarding the feasibility of implementing fully integrated PTC systems; and (3) facilitating implementation of software based signal and operating systems through consideration of revisions to the Rules, Standards and Instructions to address processor-based technology and communication-based architectures.

Please refer to the notice published in the **Federal Register** on March 11, 1996 (61 FR 9740) for more information about the RSAC.

Issued in Washington, DC on December 23, 1998.

George A. Gavalla,

Acting Associate Administrator for Safety.

[FR Doc. 98–34392 Filed 12–28–98; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Notice No. 98–11]

Safety Advisory: Unauthorized Marking of Compressed Gas Cylinders

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

ACTION: Safety advisory notice concerning unsafe cylinders.

SUMMARY: This is to notify the public that RSPA is investigating the unauthorized marking of high-pressure compressed gas cylinders by Fire Protection Service (FPS), in Canton, Ohio. RSPA has determined that FPS has marked cylinders indicating they

had been retested when they had not been retested.

Failure to properly conduct hydrostatic retests can result in unsafe cylinders being returned to service. Serious personal injury, death, and property damage could result from the rupture of a cylinder. Cylinders that have not been retested in accordance with the Hazardous Materials Regulations (HMR) may not be charged or filled with a hazardous material for transportation in commerce.

FOR FURTHER INFORMATION CONTACT: N. Stewart Skeggs, Hazardous Materials Enforcement Specialist, Central Region, telephone (847) 294–8580, Fax (847) 294–8590, Office of Hazardous Materials Enforcement, Research and Special Programs Administration, Department of Transportation, 2350 East Devon Avenue, Suite 136, Des Plaines, IL 60018.

SUPPLEMENTARY INFORMATION: During an inspection at Fire Protection Service (FPS), 1022 Dueber Avenue, S.W., Canton, Ohio, RSPA determined that FPS had marked an undetermined number of cylinders as having been properly retested in accordance with the HMR without retesting the cylinders as required. RSPA also determined that FPS had marked cylinders as tested in accordance with the HMR without holding a Retester Identification Number (RIN) issued by RSPA as required by the HMR.

Failure to properly conduct hydrostatic retests can result in cylinders that should be condemned being returned to service. Serious personal injury, death, and property damage could result from rupture of a cylinder. Cylinders that have not been retested in accordance with the HMR may not be charged or filled with a hazardous material.

RSPA has determined that FPS had been servicing cylinders without holding a RIN since at least 1993. In addition, the condition of the retest equipment at FPS indicated to the inspectors that FPS had not been capable of hydrostatically retesting cylinders for quite some time. Because FPS failed to keep accurate retest and reinspection records, it is impossible to determine the number of cylinders that FPS has marked without retesting, or has retested without possessing a valid RIN.

Some cylinders serviced by FPS may be marked on their shoulders with the month and year of alleged hydrostatic retest dates (for example, 3–98). Any person who has a cylinder that was last serviced by FPS should not charge or fill the cylinder without first having it inspected and retested by a DOT-authorized retest facility. Filled cylinders (if filled with an atmospheric gas) described in this safety advisory should be vented or otherwise properly and safely evacuated and purged, and taken to a DOT-authorized cylinder retest facility for visual reinspection and retest to determine if they qualify for continued use in accordance with the HMR.

Under no circumstances should a cylinder described in this safety advisory be filled, refilled or used to contain a hazardous material until it has been requalified by a DOT-authorized retest facility. It is further recommended that persons finding or possessing cylinders described in this safety notice contact Mr. Skeggs for further information.

Issued in Washington, DC, on December 22, 1998.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 98–34405 Filed 12–28–98; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 558 (Sub–No. 2)]

Railroad Cost of Capital—1998

AGENCY: Surface Transportation Board.

ACTION: Notice of decision instituting a proceeding to determine the railroads' 1997 cost of capital.

SUMMARY: The Board is instituting a proceeding to determine the railroad industry's cost of capital for 1998. The decision solicits comments on: (1) the railroads' 1998 cost of debt capital; (2) the railroads' 1998 current cost of preferred stock equity capital; (3) the railroads' 1998 cost of common stock equity capital; and (4) the 1998 capital structure mix of the railroad industry on a market value basis.

DATES: Notices of intent to participate are due no later than January 11, 1999. A service list will then be prepared and issued by January 25, 1999. Statements of the railroads are due by March 26, 1999. Statements of other interested persons are due by April 16, 1999. Rebuttal statements by the railroads are due by April 30, 1999.

ADDRESSES: Send an original and 10 copies of statements and a copy of the statement on a 3.5 inch disk in WordPerfect 6.1, and an original and 1 copy of the notice of intent to participate to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1925 K Street, N.W., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Leonard J. Blistein, (202) 565–1529. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, Surface Transportation Board, 1925 K Street, N.W., Room 700, Washington, DC 20423. Telephone: (202) 565–1650. [Assistance for the hearing impaired is available through TDD services (202) 565–1695.] A copy of the decision can also be obtained from the Board's internet site (www.stb.dot.gov).

We preliminarily conclude that the proposed action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 10704(a).

Decided: December 18, 1998.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 98–34444 Filed 12–28–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–402 (Sub-No. 6X)]

Fox Valley & Western Ltd.—Abandonment Exemption—in Waupaca County, WI

On December 10, 1998, Fox Valley & Western Ltd. (FVW), filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903–10905 [1] to abandon a 10.7-mile line of railroad known as the Manawa-Scandinavia Line, extending from milepost 50.3 near Manawa to the end of the line at milepost 61.0 in Scandinavia, in Waupaca County, WI. The line traverses U.S. Postal Service Zip Codes 54949, 54962, and 54977, and includes the station of Scandinavia at milepost 61.0.

The line does not contain federally granted rights-of-way. Any documentation in FVW's possession

[1] In addition to an exemption from 49 U.S.C. 10903, FVW seeks exemption from 49 U.S.C. 10904 (offer of financial assistance procedures) and 49 U.S.C. 10905 (public use conditions). These requests will be addressed in the final decision.

will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by March 30, 1999.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than January 19, 1999. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–402 (Sub-No. 6X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001, and (2) Michael J. Barron, Jr., 6250 N. River Rd., Suite 9000, Rosemont, IL 60018. Replies to the FVW petition are due on or before January 19, 1999.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition.

The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: December 21, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–34446 Filed 12–28–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub-No. 130X)]

Union Pacific Railroad Company—Abandonment Exemption—in Pocahontas, Buena Vista and Clay Counties, IA (Royal Branch)

On December 9, 1998, Union Pacific Railroad Company (UP) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon 25.25 miles of a line of railroad known as the Royal Branch, extending between milepost 477.10 near Laurens to the end of the line at milepost 502.35 near Royal, in Pocahontas, Buena Vista and Clay Counties, IA. The line traverses U.S. Postal Service Zip Codes 50554 (near Laurens) and 51357 (Rossie and Royal) and includes the non-agency rail stations of Rossie at milepost 495.70 and Royal at milepost 501.80.

The line does not contain federally granted rights-of-way. Any documentation in UP's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by March 29, 1999.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than January 19, 1999. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–33 (Sub-No. 130X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001, and (2) Joseph D. Anthofer, Union Pacific Railroad Company, 1416 Dodge Street, Room 830, Omaha, NE 68179–0830. Replies to the UP petition are due on or before January 19, 1999.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: December 21, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–34445 Filed 12–28–98; 8:45 am]

BILLING CODE 4915–00–P

Federal Register

Tuesday
December 29, 1998

Part II

General Accounting Office

Federal Agency Rules Filed Under Congressional Review Act Following General Accounting Office Review of Unfiled Rules; Notice

GENERAL ACCOUNTING OFFICE

Federal Agency Rules Filed Under Congressional Review Act Following General Accounting Office Review of Unfiled Rules

AGENCY: U.S. General Accounting Office.

ACTION: Notice.

SUMMARY: This notice identifies interim and final rules published by Federal agencies in the **Federal Register** that were not received by the General Accounting Office prior to the announced effective dates.

FOR FURTHER INFORMATION CONTACT: James Vickers at (202) 512–8210.

SUPPLEMENTARY INFORMATION: On March 29, 1996, Congress enacted the Small Business Regulatory Enforcement Fairness Act (SBREFA, Pub. L. 104–121). Section 251 of the Subtitle E of SBREFA, entitled ''Congressional Review of Agency Rulemaking,'' established the procedures for the review by Congress of final and interim rules issued by Federal agencies.

Section 801(a)(1)(A) of title 5 of the United States Code provides that before a rule can take effect the Federal agency promulgating the rule must submit a report and other information about the rule to each House of the Congress and to the Comptroller General.

The General Accounting Office (GAO), which is headed by the Comptroller General, has completed a review of final and interim rules which were issued by Federal agencies and which were covered under the Congressional Review Act provisions for the time period of October 1, 1996, to December 31, 1997.

While a ''major'' rule, as defined by the statute, may not take effect until 60 days after receipt by the Congress, most other rules take effect on the date announced by the agency in the **Federal Register** if submitted as described above. The attached list contains the rules (none of which were ''major'') submitted by the agencies following or during our review. It shows when the rules were received by the GAO, the effective date announced in the rule, and the date of publication and the citation to the rule in the **Federal Register**. The rules have an announced effective date prior to the date of submission to the GAO.

Robert P. Murphy,

General Counsel, General Accounting Office.

RULES FILED FOLLOWING GAO REVIEW OF RULES NOT RECEIVED

[For the period 10/1/96–12/31/97]

FR cite	Effective	FR date	GAO rec	Rule title
		DEPARTMENT OF AGRICULTURE		
		Agricultural Research Service		
61 FR 51210	10/1/96	10/1/96	2/20/98	CONDUCT ON BELTSVILLE AGRICULTURAL RESEARCH CENTER PROPERTY, BELTSVILLE, MARYLAND.
61 FR 65301	12/11/96	12/11/96	2/20/98	CONDUCT ON NATIONAL ARBORETUM PROPERTY.
		Animal and Plant Health Inspection Service		
62 FR 23945	6/2/97	5/2/97	2/20/98	GENETICALLY ENGINEERED ORGANISMS AND PRODUCTS; SIMPLIFICATION OF REQUIREMENTS AND PROCEDURES FOR GENETICALLY ENGINEERED ORGANISMS.
62 FR 36976	7/3/97	7/10/97	2/20/98	MEDITERRANEAN FRUIT FLY; ADDITIONS TO THE QUARANTINED AREAS.
		Farm Service Agency		
62 FR 68142	12/31/97	12/31/97	4/22/98	DAIRY INDEMNITY PAYMENT PROGRAM.
		Federal Crop Insurance Corporation		
61 FR 57578	12/9/96	11/7/96	2/25/98	COMMON CROP INSURANCE REGULATIONS; PEAR CROP INSURANCE PROVISIONS.
61 FR 58769	11/19/96	11/19/96	2/20/98	COMMON CROP INSURANCE REGULATIONS; SUGAR BEET CROP INSURANCE PROVISIONS.
61 FR 68542	12/30/96	12/30/96	2/20/98	DRY BEAN CROP INSURANCE REGULATIONS.
61 FR 68998	1/30/97	12/31/96	2/20/98	COMMON CROP INSURANCE REGULATIONS; FLORIDA CITRUS FRUIT CROP INSURANCE PROVISIONS.
62 FR 4115	1/29/97	1/29/97	2/20/98	COMMON CROP INSURANCE REGULATIONS, TEXAS CITRUS TREE CROP INSURANCE PROVISIONS; AND TEXAS CITRUS TREE ENDORSEMENT.
62 FR 5903	3/12/97	2/10/97	2/20/98	GENERAL CROP INSURANCE REGULATIONS; CRANBERRY ENDORSEMENT AND COMMON CROP INSURANCE REGULATIONS; CRANBERRY CROP INSURANCE PROVISIONS.
62 FR 6099	2/11/97	2/11/97	2/20/98	COMMON CROP INSURANCE REGULATIONS, DRY BEAN CROP INSURANCE PROVISIONS; AND DRY BEAN CROP INSURANCE REGULATIONS.
62 FR 6703	3/17/97	2/13/97	2/20/98	COMMON CROP INSURANCE REGULATIONS; ELS COTTON CROP INSURANCE PROVISIONS.
62 FR 7133	3/20/97	2/18/97	2/20/98	COMMON CROP INSURANCE REGULATIONS; COTTON CROP INSURANCE PROVISIONS.
62 FR 12067	3/14/97	3/14/97	2/20/98	GENERAL CROP INSURANCE REGULATIONS; RAISIN ENDORSEMENT AND COMMON CROP INSURANCE REGULATIONS; RAISIN CROP INSURANCE PROVISIONS.

RULES FILED FOLLOWING GAO REVIEW OF RULES NOT RECEIVED—Continued

[For the period 10/1/96–12/31/97]

FR cite	Effective	FR date	GAO rec	Rule title
62 FR 13289	3/20/97	3/20/97	2/20/98	GENERAL CROP INSURANCE REGULATIONS; FORAGE SEEDING CROP INSURANCE REGULATIONS AND COMMON CROP INSURANCE REGULATIONS; FORAGE SEEDING CROP INSURANCE PROVISIONS.
62 FR 14283	4/25/97	3/26/97	2/20/98	GENERAL CROP INSURANCE REGULATIONS; FORAGE PRODUCTION CROP INSURANCE REGULATIONS, AND COMMON CROP INSURANCE REGULATIONS; FORAGE PRODUCTION CROP INSURANCE PROVISIONS.
62 FR 14775	3/28/97	3/28/97	2/20/98	GENERAL CROP INSURANCE REGULATIONS, FRESH MARKET TOMATO MINIMUM VALUE OPTION, AND FRESH MARKET TOMATO (DOLLAR PLAN) ENDORSEMENT; AND COMMON CROP INSURANCE REGULATIONS, FRESH MARKET TOMATO (DOLLAR PLAN) CROP INSURANCE PROVISIONS.
62 FR 14786	3/28/97	3/28/97	2/20/98	PEPPER CROP INSURANCE REGULATIONS; AND COMMON CROP INSURANCE REGULATIONS, FRESH MARKET PEPPER CROP INSURANCE PROVISIONS.
62 FR 14781	3/28/97	3/28/97	2/20/98	GENERAL CROP INSURANCE REGULATIONS, FRESH MARKET SWEET CORN ENDORSEMENT; AND COMMON CROP INSURANCE REGULATIONS, FRESH MARKET SWEET CORN CROP INSURANCE PROVISIONS.
62 FR 20089	6/24/97	4/25/97	2/20/98	WALNUT CROP INSURANCE REGULATIONS; AND COMMON CROP INSURANCE REGULATIONS, WALNUT CROP INSURANCE PROVISIONS.
62 FR 23628	6/2/97	5/1/97	2/20/98	FRESH MARKET TOMATO (GUARANTEED PRODUCTION PLAN) CROP INSURANCE REGULATIONS; COMMON CROP INSURANCE REGULATIONS, GUARANTEED PRODUCTION PLAN OF FRESH MARKET TOMATO CROP INSURANCE PROVISIONS.
62 FR 25107	6/9/97	5/8/97	2/20/98	GENERAL CROP INSURANCE REGULATIONS AND ALMOND ENDORSEMENT; AND COMMON CROP INSURANCE REGULATIONS, ALMOND CROP INSURANCE PROVISIONS.
62 FR 26918	5/16/97	5/16/97	2/20/98	IMPLEMENTATION OF THE BOLL WEEVIL ERADICATION LOAN PROGRAM.
62 FR 28308	6/23/97	5/23/97	2/20/98	GENERAL CROP INSURANCE REGULATIONS, RICE ENDORSEMENT; AND COMMON CROP INSURANCE REGULATIONS, RICE CROP INSURANCE PROVISIONS.
62 FR 28607	6/26/97	5/27/97	2/20/98	GENERAL ADMINISTRATIVE REGULATIONS; COLLECTION AND STORAGE OF SOCIAL SECURITY ACCOUNT NUMBERS AND EMPLOYER IDENTIFICATION NUMBERS.
62 FR 28609	5/27/97	5/27/97	2/20/98	GENERAL CROP INSURANCE REGULATIONS, ONION ENDORSEMENT; AND COMMON CROP INSURANCE REGULATIONS, ONION CROP INSURANCE PROVISIONS.
62 FR 33737	6/23/97	6/23/97	2/20/98	GENERAL CROP INSURANCE REGULATIONS; GRAPE ENDORSEMENT AND COMMON CROP INSURANCE REGULATIONS; GRAPE CROP INSURANCE PROVISIONS.
62 FR 33733	7/23/97	6/23/97	2/20/98	GENERAL CROP INSURANCE REGULATIONS; FRESH PLUM ENDORSEMENT, AND COMMON CROP INSURANCE REGULATIONS; PLUM CROP INSURANCE PROVISIONS.
Food Safety & Inspection Service				
61 FR 58780	1/21/97	11/19/96	2/20/98	USE OF CORN SYRUP, CORN SYRUP SOLIDS, AND GLUCOSE SYRUP AS FLAVORING AGENTS IN MEAT PRODUCTS.
61 FR 65459	12/31/96	12/13/96	2/20/98	FEE INCREASE FOR INSPECTION SERVICES.
61 FR 66198	12/17/97	12/17/96	2/20/98	USE OF THE TERM ''FRESH'' ON THE LABELING OF RAW POULTRY PRODUCTS.
62 FR 27940	7/21/97	5/22/97	2/20/98	USE OF LIQUID NITROGEN FOR CONTACT FREEZING OF MEAT AND MEAT PRODUCTS.
Rural Electrification Administration				
62 FR 7135	3/20/97	2/18/97	2/20/98	TELECOMMUNICATIONS PROGRAM; POSTLOAN ENGINEERING SERVICES CONTRACT.
Secretary of Agriculture				
62 FR 10411	4/7/97	3/7/97	2/20/98	EXPORT SALES REPORTING FOR SUNFLOWERSEED OIL.
62 FR 40924	9/2/97	7/31/97	2/20/98	DEPARTMENT OF AGRICULTURE CIVIL MONETARY PENALTIES ADJUSTMENT.

RULES FILED FOLLOWING GAO REVIEW OF RULES NOT RECEIVED—Continued

[For the period 10/1/96–12/31/97]

FR cite	Effective	FR date	GAO rec	Rule title
				DEPARTMENT OF COMMERCE **National Oceanic and Atmospheric Administration**
61 FR 59029	1/1/97	11/20/96	12/1/97	FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA; ALLOCATIONS OF PACIFIC COD IN THE BERING SEA AND ALEUTIAN ISLANDS AREA.
61 FR 63759	7/1/97	12/2/96	12/1/97	FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA; GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA; ELECTRONIC REPORTING.
61 FR 67962	12/20/96	12/26/96	12/1/97	FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA; INDIVIDUAL FISHING QUOTA PROGRAM; SWEEP-UP ADJUSTMENTS.
62 FR 330	2/2/97	1/3/97	3/11/98	CAPITAL CONSTRUCTION FUND; INTERIM FISHING VESSEL CAPITAL CONSTRUCTION FUND PROCEDURES.
62 FR 16108	4/1/97	4/4/97	3/18/98	NORTH ATLANTIC RIGHT WHALE PROTECTION; EMERGENCY REGULATIONS.
62 FR 16648	4/2/97	4/7/97	11/26/97	ATLANTIC SHARK FISHERIES; QUOTAS, BAG LIMITS, PROHIBITIONS, AND REQUIREMENTS.
62 FR 26749	5/12/97	5/15/97	12/1/97	FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA; CORRECTION.
62 FR 27518	5/15/97	5/20/97	12/12/97	ATLANTIC TUNA FISHERIES; REGULATORY ADJUSTMENTS.
62 FR 38485	7/14/97	7/18/97	12/12/97	ATLANTIC TUNA FISHERIES; REGULATORY ADJUSTMENTS.
62 FR 38939	7/15/97	7/21/97	12/12/97	ATLANTIC TUNA FISHERIES; ATLANTIC BLUEFIN TUNA EFFORT CONTROLS.
62 FR 42416	8/3/97	8/7/97	5/11/98	ATLANTIC TUNA FISHERIES; FISHERY CLOSURE.
62 FR 44422	8/20/97	8/21/97	6/9/98	ATLANTIC HIGHLY MIGRATORY SPECIES FISHERIES; IMPORT RESTRICTIONS.
62 FR 47765	9/14/97	9/11/97	5/1/98	FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC; REEF FISH FISHERY OF THE GULF OF MEXICO; VERMILION SNAPPER SIZE LIMIT.
62 FR 49451	10/22/97	9/22/97	5/7/98	ATLANTIC COAST WEAKFISH FISHERY; CHANGE IN REGULATIONS FOR THE EXCLUSIVE ECONOMIC ZONE.
62 FR 51805	10/30/97	10/3/97	6/16/98	TAKING OF MARINE MAMMALS INCIDENTAL TO COMMERCIAL FISHING OPERATIONS; PACIFIC OFFSHORE CETACEAN TAKE REDUCTION PLAN REGULATIONS.
62 FR 52666	10/5/97	10/9/97	6/9/98	ATLANTIC TUNA FISHERIES; ATLANTIC BLUEFIN TUNA GENERAL CATEGORY.
62 FR 54381	10/17/97	10/20/97	6/17/98	TEMPORARY RULE PROHIBITING ANCHORING BY VESSELS 50 METERS OR GREATER IN LENGTH ON TORTUGAS BANK WITHIN THE FLORIDA KEYS NATIONAL MARINE SANCTUARY.
62 FR 55357	10/21/97	10/24/97	6/9/98	ATLANTIC SWORDFISH FISHERY; ANNUAL QUOTAS.
62 FR 61700	11/27/97	11/19/97	5/1/98	FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC; REEF FISH FISHERY OF THE GULF OF MEXICO; CLOSURE OF THE RECREATIONAL RED SNAPPER COMPONENT.
62 FR 62693	11/25/97	11/25/97	6/17/98	MONTEREY BAY NATIONAL MARINE SANCTUARY.
62 FR 63467	11/27/97	12/1/97	6/16/98	ENDANGERED FISH OR WILDLIFE; SPECIAL PROHIBITIONS; NORTH ATLANTIC RIGHT WHALE PROTECTION.
				DEPARTMENT OF DEFENSE **Secretary of Defense**
61 FR 60562	11/29/96	11/29/96	2/26/98	SCHOOL BOARDS FOR DEPARTMENT OF DEFENSE DOMESTIC DEPENDENT ELEMENTARY AND SECONDARY SCHOOLS.
62 FR 2565	1/17/97	1/17/97	9/3/97	PROVISION OF EARLY INTERVENTION AND SPECIAL EDUCATION SERVICES TO ELIGIBLE DOD DEPENDENTS IN OVERSEAS AREAS.
				DEPARTMENT OF EDUCATION **Department of Education**
61 FR 58926	12/19/96	11/19/96	2/23/98	STUDENT ASSISTANCE GENERAL PROVISIONS, FEDERAL PERKINS LOAN, FEDERAL WORK-STUDY, FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT, FEDERAL FAMILY EDUCATION LOAN, WILLIAM D. FORD FEDERAL DIRECT LOAN, AND FEDERAL PELL GRANT PROGRAMS.
				DEPARTMENT OF ENERGY **Department of Energy**
62 FR 53754	11/17/97	10/16/97	5/7/98	ACQUISITION REGULATION: ACQUISITION STREAMLINING.

RULES FILED FOLLOWING GAO REVIEW OF RULES NOT RECEIVED—Continued

[For the period 10/1/96–12/31/97]

FR cite	Effective	FR date	GAO rec	Rule title
Federal Energy Regulatory Commission				
62 FR 61228	10/1/97	11/17/97	5/21/98	UPDATE OF THE FEDERAL ENERGY REGULATORY COMMISSION'S FEES SCHEDULE FOR ANNUAL CHARGES FOR THE USE OF GOVERNMENT LANDS.
DEPARTMENT OF JUSTICE **Drug Enforcement Administration**				
61 FR 52287	10/7/96	10/7/96	3/2/98	REMOVAL OF EXEMPTION FOR CERTAIN PSEUDOEPHEDRINE PRODUCTS MARKETED UNDER THE FOOD, DRUG, AND COSMETIC ACT (FD&C ACT).
61 FR 56893	11/5/96	11/5/96	3/2/98	SCHEDULES OF CONTROLLED SUBSTANCES: PLACEMENT OF REMIFENTANIL INTO SCHEDULE II.
61 FR 68624		12/30/96	3/2/98	REGISTRATION AND REREGISTRATION APPLICATION FEES.
62 FR 27693	5/21/97	5/21/97	3/2/98	TEMPORARY EXEMPTION FROM CHEMICAL REGISTRATION FOR DISTRIBUTORS OF COMBINATION EPHEDRINE PRODUCTS; EXTENSION OF APPLICATION DEADLINE.
62 FR 29288	5/30/97	5/30/97	3/2/98	SCHEDULES OF CONTROLLED SUBSTANCES: EXEMPT ANABOLIC STEROID PRODUCTS.
62 FR 29289	5/30/97	5/30/97	3/2/98	SCHEDULES OF CONTROLLED SUBSTANCES: EXCLUDED VETERINARY ANABOLIC STEROID IMPLANT PRODUCTS.
Exec. Office for Immigration Review				
62 FR 50999	9/30/97	9/30/97	6/16/98	ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE.
Immigration and Naturalization Service				
61 FR 59824	11/25/96	11/25/96	3/5/98	PERIODS OF LAWFUL TEMPORARY RESIDENT STATUS AND LAWFUL PERMANENT RESIDENT STATUS TO ESTABLISH SEVEN YEARS OF LAWFUL DOMICILE.
61 FR 69019	3/3/97	12/31/96	12/2/97	ADMINISTRATIVE DEPORTATION PROCEDURES FOR ALIENS CONVICTED OF AGGRAVATED FELONIES WHO ARE NOT LAWFUL PERMANENT RESIDENTS.
DEPARTMENT OF LABOR **Occupational Safety and Health Administration**				
61 FR 59831	11/25/96	11/25/96	3/6/98	SAFETY STANDARDS FOR SCAFFOLDS USED IN THE CONSTRUCTION INDUSTRY.
DEPARTMENT OF STATE **Consular Affairs**				
61 FR 53058	10/10/96	10/10/96	4/28/98	BUREAU OF CONSULAR AFFAIRS; VISAS DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED; APPLICATION FOR NONIMMIGRANT VISA—OLYMPIC PROCEDURES.
62 FR 51030	9/30/97	9/30/97	4/20/98	BUREAU OF CONSULAR AFFAIRS; VISAS: PASSPORTS AND VISAS NOT REQUIRED FOR CERTAIN NONIMMIGRANTS.
62 FR 62694	10/1/97	11/25/97	6/4/98	PASSPORT PROCEDURES—AMENDMENT TO RESTRICTION OF PASSPORTS REGULATION.
62 FR 67563	12/19/97	12/29/97	4/20/98	VISAS: PUBLIC CHARGE.
62 FR 67564	9/30/96	12/29/97	4/20/98	VISAS: GROUNDS OF INELIGIBILITY.
Political-Military Affairs				
61 FR 68633	12/30/96	12/30/96	6/4/98	AMENDMENT TO THE INTERNATIONAL TRAFFIC IN ARMS REGULATIONS.
62 FR 37133	6/30/97	7/11/97	6/4/98	AMENDMENT TO THE LIST OF PROSCRIBED DESTINATIONS.
DEPARTMENT OF THE INTERIOR **Bureau of Indian Affairs**				
61 FR 59331	11/22/96	11/22/96	2/26/98	INDIAN FISHING—HOOPA VALLEY INDIAN RESERVATION.
Bureau of Land Management				
61 FR 53860	11/15/96	10/16/96	1/9/98	FEDERAL TIMBER CONTRACT PAYMENT MODIFICATION.

RULES FILED FOLLOWING GAO REVIEW OF RULES NOT RECEIVED—Continued

[For the period 10/1/96–12/31/97]

FR cite	Effective	FR date	GAO rec	Rule title
Indian Arts and Crafts Board				
61 FR 54551	11/20/96	10/21/96	1/13/98	PROTECTION FOR PRODUCTS OF INDIAN ART AND CRAFTSMANSHIP.
Minerals Management Service				
62 FR 27948	8/20/97	5/22/97	12/24/97	SURETY BONDS FOR OUTER CONTINENTAL SHELF LEASES.
Office of Surface Mining Reclamation & Enforcement				
62 FR 23136	4/29/97	4/29/97	2/24/98	TEXAS REGULATORY PROGRAM.
Office of the Secretary				
62 FR 52509	11/7/97	10/8/97	7/6/98	TRANSPORTATION AND UTILITY SYSTEMS IN AND ACROSS, AND ACCESS INTO, CONSERVATION SYSTEM UNITS IN ALASKA.
United States Fish and Wildlife Service				
62 FR 19936	5/27/97	4/24/97	1/22/98	DISPOSITION OF SURPLUS RANGE ANIMALS.
62 FR 24844	7/1/97	5/7/97	1/22/98	1997 MIGRATORY BIRD HUNTING AND CONSERVATION STAMP (FEDERAL DUCK STAMP) CONTEST.
62 FR 30773	6/5/97	6/5/97	1/22/98	ENDANGERED AND THREATENED WILDLIFE AND PLANTS; DESIGNATED PORTS FOR LISTED PLANTS.
62 FR 63036	11/24/97	11/26/97	5/19/98	ENDANGERED AND THREATENED WILDLIFE AND PLANTS; EMERGENCY RULE TO ESTABLISH AN ADDITIONAL MANATEE SANCTUARY IN KINGS BAY, CRYSTAL RIVER, FL.
DEPARTMENT OF THE TREASURY **Bureau of Alcohol, Tobacco and Firearms**				
61 FR 54084	10/17/96	10/17/96	2/23/98	MANUFACTURE OF CIGARETTE PAPERS AND TUBES AND RECODIFICATION OF REGULATIONS COVERING MANUFACTURE OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES (88D001).
Community Development Financial Institutions Fund				
61 FR 59827	11/25/96	11/25/96	2/25/98	BANK ENTERPRISE AWARD PROGRAM.
Internal Revenue Service				
61 FR 65319	12/12/96	12/12/96	11/20/97	METHODS OF SIGNING.
61 FR 68149	12/27/96	12/27/96	11/20/97	TREATMENT OF SHAREHOLDERS OF CERTAIN PASSIVE FOREIGN INVESTMENT COMPANIES.
Office of Thrift Supervision				
61 FR 56118	10/31/96	10/31/96	11/25/97	CIVIL MONETARY PENALTY INFLATION ADJUSTMENT.
U.S. Customs Service				
62 FR 6721	3/17/97	2/13/97	2/20/98	ESTABLISHMENT OF PORT OF ENTRY AT SPIRIT OF ST. LOUIS AIRPORT.
62 FR 37131	11/10/97	7/11/97	2/20/98	CUSTOMS SERVICE FIELD ORGANIZATION; ESTABLISHMENT OF SANFORD PORT OF ENTRY.
62 FR 60164	5/1/98	11/7/97	2/20/98	CUSTOMS SERVICE FIELD ORGANIZATION; ESTABLISHMENT OF SANFORD PORT OF ENTRY.
DEPARTMENT OF TRANSPORTATION **Federal Aviation Administration**				
61 FR 51360	12/5/96	10/2/96	12/18/97	AMENDMENT OF CLASS D AIRSPACE; JACKSONVILLE, CRAIG MUNICIPAL AIRPORT, FL.
61 FR 54020	10/9/96	10/16/96	12/18/97	PROHIBITION AGAINST CERTAIN FLIGHTS WITHIN THE TERRITORY AND AIRSPACE OF IRAQ.
61 FR 53847	1/30/97	10/16/96	12/18/97	ESTABLISHMENT OF CLASS E AIRSPACE; NUIQSUT, AK.
61 FR 55563	12/5/96	10/28/96	12/18/97	ESTABLISHMENT OF CLASS E AIRSPACE; DEXTER, ME.
61 FR 55563	10/10/96	10/28/96	12/18/97	ESTABLISHMENT OF CLASS E AIRSPACE; OXFORD, ME.

RULES FILED FOLLOWING GAO REVIEW OF RULES NOT RECEIVED—Continued

[For the period 10/1/96–12/31/97]

FR cite	Effective	FR date	GAO rec	Rule title
61 FR 57313	12/11/96	11/6/96	12/18/97	AIRWORTHINESS DIRECTIVES; BOEING MODEL 737–100 AND –200 SERIES AIRPLANES, AND MODEL 747–100, –200, –300, AND –SP SERIES AIRPLANES.
61 FR 57323	12/11/96	11/6/96	12/18/97	AIRWORTHINESS DIRECTIVES; BELL HELICOPTER TEXTRON, A DIVISION OF TEXTRON CANADA, LTD. MODEL 206L–1 HELICOPTERS.
61 FR 58782	1/30/97	11/19/96	12/18/97	AMENDMENT TO CLASS D AIRSPACE, KNOB NOSTER, MO.
61 FR 58985	12/18/96	11/20/96	12/18/97	AIRWORTHINESS DIRECTIVES; AIR TRACTOR, INC. AT–300, AT–400, AND AT–500 SERIES AIRPLANES.
61 FR 58987	11/25/96	11/20/96	12/18/97	AIRWORTHINESS DIRECTIVES; FOKKER MODEL F28 MARK 0070 AND 0100 SERIES AIRPLANES.
61 FR 59326	1/17/97	11/22/96	12/18/97	AIRWORTHINESS DIRECTIVES; HOAC AUSTRIA MODEL DV–20 KATANA AIRPLANES.
61 FR 59329	1/30/97	11/22/96	12/18/97	REALIGNMENT OF JET ROUTE J–522.
61 FR 66201	12/27/96	12/17/96	12/18/97	AIRWORTHINESS DIRECTIVES; BOEING MODEL 747 SERIES AIRPLANES.
62 FR 309	3/27/97	1/3/97	12/18/97	AMENDMENT TO CLASS E AIRSPACE, STAUNTON, VA.
62 FR 4137	3/21/97	1/29/97	12/18/97	AIRWORTHINESS DIRECTIVES; GLASFLUGEL MODELS H301 ''LIBELLE'', H301B ''LIBELLE'', STANDARD ''LIBELLE'', STANDARD LIBELLE 201B, CLUB LIBELLE 205, AND KESTREL SAILPLANES.
62 FR 5154	3/27/97	2/4/97	12/18/97	STANDARD INSTRUMENT APPROACH PROCEDURES; MISCELLANEOUS AMENDMENTS.
62 FR 6710	3/27/97	2/13/97	12/18/97	AMENDMENT TO CLASS E AIRSPACE; HUDSON, NY.
62 FR 6861	3/21/97	2/14/97	12/18/97	AIRWORTHINESS DIRECTIVES; BOEING MODEL 737 SERIES AIRPLANES.
62 FR 7924	3/28/97	2/21/97	12/18/97	AIRWORTHINESS DIRECTIVES; FOKKER MODEL F27 MARK 050, 100, 200, 300, 400, 600, AND 700 SERIES AIRPLANES.
62 FR 7930	3/28/97	2/21/97	12/18/97	AIRWORTHINESS DIRECTIVES; McDONNELL DOUGLAS MODEL DC–9–80 SERIES AIRPLANES, MODEL MD–88 AIRPLANES, AND MODEL MD–90 AIRPLANES.
62 FR 7934	3/10/97	2/21/97	12/18/97	AIRWORTHINESS DIRECTIVES; AEROSPATIALE MODEL ATR42–200, –300 AND –320 SERIES AIRPLANES.
62 FR 7932	3/24/97	2/21/97	12/18/97	AIRWORTHINESS DIRECTIVES; ALLIEDSIGNAL INC. GTCP85 SERIES AUXILIARY POWER UNITS.
62 FR 7926	3/27/97	2/21/97	12/18/97	AIRWORTHINESS DIRECTIVES; AIRBUS MODEL A300–600 AND A310 SERIES AIRPLANES EQUIPPED WITH PRE-MODIFICATION 5844D4829 RUDDERS.
62 FR 7928	3/28/97	2/21/97	12/18/97	AIRWORTHINESS DIRECTIVES; DORNIER MODEL 328–100 SERIES AIRPLANES.
62 FR 8617	3/18/97	2/26/97	12/18/97	AIRWORTHINESS DIRECTIVES; ALLIEDSIGNAL AVIONICS, INC. MODEL GNS–XLS AND GNS–XL FLIGHT MANAGEMENT SYSTEMS.
62 FR 9067	3/14/97	2/27/97	12/18/97	AIRWORTHINESS DIRECTIVES; PRATT & WHITNEY CANADA PT6 SERIES TURBOPROP ENGINES.
62 FR 9075	4/4/97	2/28/97	12/18/97	AIRWORTHINESS DIRECTIVES; LOCKHEED MODEL 382 SERIES AIRPLANES.
62 FR 9359	3/18/97	3/3/97	12/18/97	AIRWORTHINESS DIRECTIVES; BOEING MODEL 727 SERIES AIRPLANES.
62 FR 14294	2/22/97	3/26/97	12/18/97	REVISION OF CLASS E AIRSPACE; ARDMORE, OK.
62 FR 16064	4/24/97	4/4/97	12/18/97	AIRWORTHINESS DIRECTIVES; McCAULEY PROPELLER SYSTEMS 1A103/TCM SERIES PROPELLERS.
62 FR 17052	7/17/97	4/9/97	12/18/97	REMOVAL OF CLASS D AIRSPACE, MARSHALL ARMY AIRFIELD, FT. RILEY, KS.
62 FR 26737	7/7/97	5/15/97	12/18/97	AIRWORTHINESS DIRECTIVES; RAYTHEON AIRCRAFT COMPANY MODEL 1900D AIRPLANES (FORMERLY BEECH AIRCRAFT CORPORATION).
62 FR 27943	6/6/97	5/22/97	12/18/97	AIRWORTHINESS DIRECTIVES; BOMBARDIER MODEL CL–415 SERIES AIRPLANES.
62 FR 27941	6/26/97	5/22/97	12/18/97	AIRWORTHINESS DIRECTIVES; McDONNELL DOUGLAS MODEL MD–90–30 AIRPLANES.
62 FR 28996	6/23/97	5/29/97	12/18/97	AIRWORTHINESS DIRECTIVES; PURITAN BENNETT AERO SYSTEMS COMPANY SERIES 174290 CONSTANT FLOW AIRLINE PORTABLE OXYGEN MASKS, PART NUMBERS 174290–14, 174290–24, 174290–34, 174290–44, AND 174290–54.
62 FR 35959	7/14/97	7/3/97	12/18/97	AIRWORTHINESS DIRECTIVES; DIAMOND AIRCRAFT INDUSTRIES, INC. MODEL DA 20–A1 AIRPLANES, SERIAL NUMBERS 10002 THROUGH 10287.
62 FR 37127	8/15/97	7/11/97	12/18/97	AIRWORTHINESS DIRECTIVES; GULFSTREAM AEROSPACE CORPORATION MODEL G–159 (G–I) AIRPLANES.
62 FR 37128	8/4/97	7/11/97	12/18/97	AIRWORTHINESS DIRECTIVES; RAYTHEON AIRCRAFT COMPANY (FORMERLY BEECH AIRCRAFT CORPORATION) MODEL 1900 SERIES AIRPLANES.

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62 FR 38213	9/11/97	7/17/97	12/18/97	REVISION OF CLASS E AIRSPACE; PERRY, OK.
62 FR 38211	9/11/97	7/17/97	12/18/97	REVISION OF CLASS E AIRSPACE; JASPER, TX.
62 FR 38208	9/11/97	7/17/97	12/18/97	ESTABLISHMENT OF CLASS E AIRSPACE; MANILA, AR.
62 FR 38212	9/11/97	7/17/97	12/18/97	REVISION OF CLASS E AIRSPACE; SOCORRO, NM.
62 FR 38447	8/4/97	7/18/97	12/18/97	AIRWORTHINESS DIRECTIVES; McDONNELL DOUGLAS HELICOPTER SYSTEMS MODEL 369D, E, F, FF, 500N, AH–6, AND MH–6 HELICOPTERS.
62 FR 41254	9/5/97	8/1/97	2/19/98	AIRWORTHINESS DIRECTIVES; BOEING MODEL 767 SERIES AIRPLANES.
62 FR 41260	8/18/97	8/1/97	2/19/98	AIRWORTHINESS DIRECTIVES; ROBINSON HELICOPTER COMPANY MODEL R44 HELICOPTERS.
62 FR 41255	9/5/97	8/1/97	2/19/98	AIRWORTHINESS DIRECTIVES; GULFSTREAM AEROSPACE CORPORATION MODEL G–159 (G–I) AIRPLANES.
62 FR 41259	9/5/97	8/1/97	2/19/98	AIRWORTHINESS DIRECTIVES; SAAB MODEL SAAB SF340A AND SAAB 340B SERIES AIRPLANES.
62 FR 42045	8/15/97	8/5/97	3/5/98	AIRWORTHINESS DIRECTIVES; AEROMOT-INDUSTRIA MECANICO METALURGICA Ltda. MODEL AMT–200 POWERED SAILPLANES.
62 FR 42901	9/11/97	8/11/97	2/23/98	AMENDMENT TO CLASS E AIRSPACE; SALYER FARMS, CA.
62 FR 43925	9/22/97	8/18/97	3/5/98	AIRWORTHINESS DIRECTIVES; BRITISH AEROSPACE BAE MODEL ATP AIRPLANES.
62 FR 43926	9/5/97	8/18/97	3/5/98	AIRWORTHINESS DIRECTIVES; AYRES CORPORATION S2R SERIES AIRPLANES.
62 FR 44404	9/24/97	8/21/97	3/5/98	AIRWORTHINESS DIRECTIVES; RAYTHEON AIRCRAFT COMPANY MODEL 1900D AIRPLANES (FORMERLY KNOWN AS BEECH AIRCRAFT CORPORATION MODEL 1900D AIRPLANES).
62 FR 49140	9/19/97	9/19/97	2/23/98	STANDARD INSTRUMENT APPROACH PROCEDURES; MISCELLANEOUS AMENDMENTS.
62 FR 49142	10/9/97	9/19/97	2/23/98	STANDARD INSTRUMENT APPROACH PROCEDURES; MISCELLANEOUS AMENDMENTS.
62 FR 49132	10/6/97	9/19/97	2/26/98	AIRWORTHINESS DIRECTIVES; SIKORSKY AIRCRAFT CORPORATION MODEL S–61A, D, E, L, N, NM, R, AND V HELICOPTERS.
62 FR 49141	10/9/97	9/19/97	2/23/98	STANDARD INSTRUMENT APPROACH PROCEDURES; MISCELLANEOUS AMENDMENTS.
62 FR 49137	10/24/97	9/19/97	2/26/98	AIRWORTHINESS DIRECTIVES; PRATT & WHITNEY JT8D SERIES TURBOFAN ENGINES.
62 FR 52225	10/22/97	10/7/97	3/9/98	AIRWORTHINESS DIRECTIVES; MT-PROPELLER ENTWICKLUNG GmbH MODEL MTV–3–B–C PROPELLERS.
62 FR 52942	10/27/97	10/10/97	3/9/98	AIRWORTHINESS DIRECTIVES; TELEDYNE CONTINENTAL MOTORS E–165, E–185, E–225, O–470 AND IO–470 SERIES RECIPROCATING ENGINES.
62 FR 55154	11/24/97	10/23/97	3/9/98	AIRWORTHINESS DIRECTIVES; EXTRA FLUGZEUGBAU, GmbH. MODEL EA–300/200 AIRPLANES.
62 FR 55730	12/2/97	10/28/97	2/26/98	AIRWORTHINESS DIRECTIVES; McDONNELL DOUGLAS MODEL DC–9 SERIES AIRPLANES AND C–9 (MILITARY) SERIES AIRPLANES.
62 FR 55726	12/2/97	10/28/97	3/9/98	AIRWORTHINESS DIRECTIVES; AIRBUS MODEL A300, A310, AND A300–600 SERIES AIRPLANES.
62 FR 58644	4/23/98	10/30/97	2/23/98	AMENDMENT TO CLASS E AIRSPACE; KEOKUK, IA.
62 FR 59277	12/1/97	11/3/97	2/26/98	AIRWORTHINESS DIRECTIVES; FAIRCHILD AIRCRAFT, INC. SA226 AND SA227 SERIES AIRPLANES.
62 FR 60773	11/18/97	11/13/97	2/26/98	AIRWORTHINESS DIRECTIVES; DASSAULT MODEL MYSTERE-FALCON 50 SERIES AIRPLANES.
62 FR 61908	12/29/97	11/20/97	5/7/98	AIRWORTHINESS DIRECTIVES; RAYTHEON AIRCRAFT COMPANY 90, 100, 200, AND 300 SERIES AIRPLANES (FORMERLY KNOWN AS BEECH AIRCRAFT CORPORATION 90, 100, 200, AND 300 SERIES AIRPLANES).
62 FR 64513	1/2/98	12/8/97	3/9/98	AIRWORTHINESS DIRECTIVES; GENERAL ELECTRIC COMPANY CJ610 SERIES TURBOJET AND CF700 SERIES TURBOFAN ENGINES.
62 FR 65016	1/1/98	12/10/97	3/9/98	IFR ALTITUDES; MISCELLANEOUS AMENDMENTS.
62 FR 65361	11/6/97	12/12/97	3/9/98	IFR ALTITUDES; MISCELLANEOUS AMENDMENTS.
62 FR 65750	12/31/97	12/16/97	5/7/98	AIRWORTHINESS DIRECTIVES; EUROCOPTER DEUTSCHLAND GmbH (ECD) (EUROCOPTER DEUTSCHLAND) MODEL MBB–BK 117 A–1, A–3, A–4, B–1, B–2, AND C–1 HELICOPTERS.
National Highway Traffic Safety Administration				
62 FR 10710	5/1/97	3/10/97	12/18/97	FEDERAL MOTOR VEHICLE SAFETY STANDARDS; LAMPS, REFLECTIVE DEVICES AND ASSOCIATED EQUIPMENT.
62 FR 34397	6/26/97	6/26/97	12/18/97	UNIFORM PROCEDURES FOR THE STATE HIGHWAY SAFETY PROGRAMS.

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Office of the Secretary				
62 FR 67749	1/29/98	12/30/97	4/30/98	AMENDMENT OF DEPARTMENT OF TRANSPORTATION ACQUISITION REGULATIONS.
Research and Special Programs Administration				
61 FR 51236	10/1/96	10/1/96	12/18/97	REVISION OF MISCELLANEOUS HAZARDOUS MATERIALS REGULATIONS; REGULATORY REVIEW; RESPONSES TO PETITIONS FOR RECONSIDERATION.
61 FR 60206	1/1/97	11/27/96	12/18/97	CONTROL OF DRUG USE AND ALCOHOL MISUSE IN NATURAL GAS, LIQUEFIED NATURAL GAS, AND HAZARDOUS LIQUID PIPELINE OPERATIONS ALCOHOL MISUSE PREVENTION PROGRAM.
United States Coast Guard				
61 FR 53321	10/14/97	10/11/96	12/18/97	SPECIAL LOCAL REGULATIONS; BIG RIVER RENDEZVOUS MISSISSIPPI RIVER MILE 483.0–493.0.
62 FR 5155	1/17/97	2/4/97	12/18/97	TEMPORARY DRAWBRIDGE REGULATIONS; MISSISSIPPI RIVER, IOWA AND ILLINOIS.
62 FR 6875	3/17/97	2/14/97	12/18/97	DRAWBRIDGE OPERATION REGULATIONS; STURGEON BAY, WI.
62 FR 7936	3/24/97	2/21/97	12/18/97	SPECIAL LOCAL REGULATIONS; INVITATIONAL ROWING REGATTA, AUGUSTA, GA.
62 FR 45158	9/12/97	8/26/97	4/30/98	SPECIAL LOCAL REGULATIONS; THUNDERBOAT REGATTA.
62 FR 51781	10/3/97	10/3/97	4/30/98	SECURITY ZONE REGULATIONS: NEW LONDON HARBOR, CT.
62 FR 51780	9/9/97	10/3/97	4/30/98	SAFETY ZONE: SAN DIEGO BAY, CA.
DEPT. OF HEALTH & HUMAN SERVICES **Ass't Secretary for Management and Budget**				
62 FR 45963	9/29/97	8/29/97	6/11/98	BLOCK GRANT PROGRAMS: IMPLEMENTATION OF OMB CIRCULAR A–133.
Centers for Disease Control and Prevention				
62 FR 25855	5/12/97	5/12/97	3/13/98	MEDICARE, MEDICAID, AND CLIA PROGRAMS; CLINICAL LABORATORY REQUIREMENTS—EXTENSION OF CERTAIN EFFECTIVE DATES FOR CLINICAL LABORATORY REQUIREMENTS UNDER CLIA.
Health Care Financing Administration				
62 FR 23368	6/30/97	4/30/97	3/13/98	MEDICARE PROGRAM; ESTABLISHMENT OF AN EXPEDITED REVIEW PROCESS FOR MEDICARE BENEFICIARIES ENROLLED IN HEALTH MAINTENANCE ORGANIZATIONS, COMPETITIVE MEDICAL PLANS, AND HEALTH CARE PREPAYMENT PLANS.
62 FR 43931	9/17/97	8/18/97	6/11/98	MEDICARE AND MEDICAID PROGRAMS: EFFECTIVE DATES OF PROVIDER AGREEMENTS AND SUPPLIER APPROVALS.
62 FR 67174	3/23/98	12/23/97	6/11/98	MEDICARE AND MEDICAID; RESIDENT ASSESSMENT IN LONG TERM CARE FACILITIES.
Office of Inspector General				
62 FR 7350	2/21/97	2/19/97	3/17/98	MEDICARE AND STATE HEALTH CARE PROGRAMS: FRAUD AND ABUSE; ISSUANCE OF ADVISORY OPINIONS BY THE OIG.
62 FR 23140	4/29/97	4/29/97	3/17/98	HEALTH CARE PROGRAMS: FRAUD AND ABUSE; REVISED PRO SANCTIONS FOR FAILING TO MEET STATUTORY OBLIGATIONS.
Public Health Service				
61 FR 65477	12/13/96	12/13/96	3/17/98	GRANTS FOR THE CONSTRUCTION OF TEACHING FACILITIES FOR HEALTH PROFESSIONS PERSONNEL.
62 FR 53548	11/14/97	10/15/97	6/11/98	SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION; REQUIREMENTS APPLICABLE TO PROTECTION AND ADVOCACY OF INDIVIDUALS WITH MENTAL ILLNESS; FINAL RULE.
DEPT. OF HOUSING & URBAN DEVEL. **Office of Federal Housing Enterprise Oversight**				
62 FR 68152	12/31/97	12/31/97	6/3/98	CIVIL MONEY PENALTIES.

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		DOD—NAVY		
		Department of the Navy		
62 FR 66826	12/22/97	12/22/97	4/24/98	DEPARTMENT OF THE NAVY ACQUISITION REGULATIONS; SHIPBUILDING CAPABILITY PRESERVATION AGREEMENTS.
		INDEPENDENT AGENCIES		
		Administrative Committee of the Federal Register		
61 FR 68117	1/27/97	12/27/96	12/2/97	PRICES AND AVAILABILITY OF FEDERAL REGISTER PUBLICATIONS; ACCEPTANCE OF DIGITAL SIGNATURES.
		Agency for International Development		
61 FR 65946	12/16/96	12/16/96	3/6/98	DONATION OF DAIRY PRODUCTS TO ASSIST NEEDY PERSONS OVERSEAS (SECTION 416 FOREIGN DONATION PROGRAM).
		Commodity Futures Trading Commission		
62 FR 31708	6/11/97	6/11/97	2/23/98	DISTRIBUTION OF CUSTOMER PROPERTY RELATED TO TRADING ON THE CHICAGO BOARD OF TRADE—LONDON INTERNATIONAL FINANCIAL FUTURES AND OPTIONS EXCHANGE TRADING LINK.
62 FR 61226	12/17/97	11/17/97	4/22/98	CHANGES IN REPORTING LEVELS FOR LARGE TRADER REPORTS.
		Consumer Product Safety Commission		
61 FR 65457	12/13/96	12/13/96	11/24/97	SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE CONSUMER PRODUCT SAFETY COMMISSION.
		Federal Communications Commission		
61 FR 55117	11/25/96	10/24/96	2/27/98	RADIO BROADCASTING SERVICES; NEGAUNEE, MI.
61 FR 55117	11/25/96	10/24/96	2/27/98	RADIO BROADCASTING SERVICES; SAN ANGELO, TEXAS.
61 FR 65478	1/21/97	12/13/96	2/27/98	RADIO BROADCASTING SERVICES; BARRON AND RICE LAKE, WI.
62 FR 653	3/7/97	1/6/97	3/9/98	GEOGRAPHIC PARTITIONING AND SPECTRUM DISAGGREGATION OF COMMERCIAL MOBILE RADIO SERVICES LICENSEES; AND IMPLEMENTATION OF SECTION 257 OF THE COMMUNICATIONS ACT; ELIMINATION OF MARKET ENTRY BARRIERS.
62 FR 6887	3/24/97	2/14/97	2/27/98	RADIO BROADCASTING SERVICES; BOONVILLE, MO.
62 FR 12752	5/19/97	3/18/97	3/9/98	PLAN FOR SHARING THE COSTS OF MICROWAVE RELOCATION.
62 FR 18834	10/17/97	4/17/97	2/25/98	PRIVATE LAND MOBILE RADIO SERVICES.
62 FR 19509	5/22/97	4/22/97	3/5/98	2 GHz FOR USE BY THE MOBILE SATELLITE SERVICE.
62 FR 27507	7/21/97	5/20/97	3/9/98	NARROWBAND PERSONAL COMMUNICATIONS SERVICES.
62 FR 40281	8/27/97	7/28/97	2/25/98	MARITIME AND AVIATION COMMUNICATIONS.
62 FR 41879	9/17/97	8/4/97	5/27/98	EQUIPMENT AUTHORIZATION FOR DIGITAL DEVICES.
62 FR 50256	9/25/97	9/25/97	6/25/98	MINIMUM DISTANCE SEPARATIONS TO MEXICAN BROADCAST STATIONS.
62 FR 52036	12/5/97	10/6/97	4/6/98	AUTOMATIC VEHICLE MONITORING SYSTEMS.
62 FR 55537	11/26/97	10/27/97	5/12/98	RELOCATION OF 18/24 GHz BAND.
62 FR 56118	11/28/97	10/29/97	5/29/98	UNIVERSAL SERVICE.
62 FR 65036	1/9/98	12/10/97	5/29/98	UNIVERSAL SERVICE SUPPORT MECHANISMS.
		Federal Election Commission		
61 FR 58460	1/1/97	11/15/96	2/24/98	ELECTRONIC FILING OF REPORTS BY POLITICAL COMMITTEES.
62 FR 11316	3/12/97	3/12/97	2/24/98	ADJUSTMENTS TO CIVIL MONETARY PENALTY AMOUNTS.
		Federal Emergency Management Agency		
61 FR 51217	10/31/96	10/1/96	3/2/98	NATIONAL FLOOD INSURANCE PROGRAM; AUDIT PROGRAM REVISION.
61 FR 51228	9/29/96	10/1/96	3/2/98	SUSPENSION OF COMMUNITY ELIGIBILITY.
61 FR 51226	8/6/96	10/1/96	3/2/98	LIST OF COMMUNITIES ELIGIBLE FOR THE SALE OF FLOOD INSURANCE.
61 FR 54565	8/14/96	10/21/96	3/2/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
61 FR 54573	10/21/96	10/21/96	3/2/98	FINAL FLOOD ELEVATION DETERMINATIONS.
61 FR 54563	9/4/96	10/21/96	3/2/98	LIST OF COMMUNITIES ELIGIBLE FOR THE SALE OF FLOOD INSURANCE.
61 FR 54567	6/19/95	10/21/96	3/2/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
61 FR 57572	11/6/96	11/6/96	3/2/98	SUSPENSION OF COMMUNITY ELIGIBILITY.
61 FR 59339	10/2/96	11/22/96	3/2/98	LIST OF COMMUNITIES ELIGIBLE FOR THE SALE OF FLOOD INSURANCE.

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61 FR 60041	11/26/96	11/26/96	3/2/98	FINAL FLOOD ELEVATION DETERMINATIONS.
61 FR 60034	11/20/96	11/26/96	3/2/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
61 FR 60037	8/7/96	11/26/96	3/2/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
62 FR 1688	1/17/97	1/13/97	3/2/98	SUSPENSION OF COMMUNITY ELIGIBILITY.
62 FR 1685	11/6/96	1/13/97	3/2/98	LIST OF COMMUNITIES ELIGIBLE FOR THE SALE OF FLOOD INSURANCE.
62 FR 3226	5/21/96	1/22/97	3/2/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
62 FR 3228	1/22/97	1/22/97	3/2/98	FINAL FLOOD ELEVATION DETERMINATIONS.
62 FR 3223	9/11/96	1/22/97	3/2/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
62 FR 4915	2/5/97	2/3/97	3/2/98	SUSPENSION OF COMMUNITY ELIGIBILITY.
62 FR 5534	12/4/96	2/6/97	3/2/98	LIST OF COMMUNITIES ELIGIBLE FOR THE SALE OF FLOOD INSURANCE.
62 FR 6880	6/22/95	2/14/97	3/2/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
62 FR 6883	2/14/97	2/14/97	3/2/98	FINAL FLOOD ELEVATION DETERMINATIONS.
62 FR 6878	10/8/96	2/14/97	3/2/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
62 FR 8176	1/9/97	2/24/97	3/2/98	LIST OF COMMUNITIES ELIGIBLE FOR THE SALE OF FLOOD INSURANCE.
62 FR 9372	3/3/97	3/3/97	3/2/98	SUSPENSION OF COMMUNITY ELIGIBILITY.
62 FR 9690	3/4/97	3/4/97	3/2/98	FINAL FLOOD ELEVATION DETERMINATIONS.
62 FR 13343	2/5/97	3/20/97	3/2/98	LIST OF COMMUNITIES ELIGIBLE FOR THE SALE OF FLOOD INSURANCE.
62 FR 13346	4/29/97	3/20/97	3/2/98	FLOOD MITIGATION ASSISTANCE.
62 FR 16089	4/4/97	4/4/97	3/2/98	FINAL FLOOD ELEVATION DETERMINATIONS.
62 FR 16087	2/7/97	4/4/97	3/2/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
62 FR 16084	4/2/97	4/4/97	3/2/98	SUSPENSION OF COMMUNITY ELIGIBILITY.
62 FR 19505	3/4/97	4/22/97	3/2/98	LIST OF COMMUNITIES ELIGIBLE FOR THE SALE OF FLOOD INSURANCE.
62 FR 23146	4/29/97	4/29/97	3/2/98	FINAL FLOOD ELEVATION DETERMINATIONS.
62 FR 23145	2/26/97	4/29/97	3/2/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
62 FR 23144	3/3/97	4/29/97	3/2/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
62 FR 24343	5/5/97	5/5/97	3/2/98	SUSPENSION OF COMMUNITY ELIGIBILITY.
62 FR 25858	5/12/97	5/12/97	3/2/98	FINAL FLOOD ELEVATION DETERMINATIONS.
62 FR 27503	4/1/97	5/20/97	3/2/98	LIST OF COMMUNITIES ELIGIBLE FOR THE SALE OF FLOOD INSURANCE.
62 FR 30282	2/27/97	6/3/97	3/2/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
62 FR 30284	6/3/97	6/3/97	3/2/98	FINAL FLOOD ELEVATION DETERMINATIONS.
62 FR 30280	11/12/96	6/3/97	3/2/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
62 FR 31520	6/5/97	6/10/97	3/2/98	SUSPENSION OF COMMUNITY ELIGIBILITY.
62 FR 33023	9/11/96	6/18/97	3/2/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
62 FR 33026	1/14/97	6/18/97	3/2/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
62 FR 33569	5/1/97	6/20/97	3/2/98	LIST OF COMMUNITIES ELIGIBLE FOR THE SALE OF FLOOD INSURANCE.
62 FR 37727	2/26/97	7/15/97	3/2/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
62 FR 37729	7/15/97	7/15/97	3/2/98	FINAL FLOOD ELEVATION DETERMINATIONS.
62 FR 39125	1/14/97	7/22/97	3/2/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
62 FR 39123	4/4/97	7/22/97	3/2/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
62 FR 39127	7/22/97	7/22/97	3/2/98	FINAL FLOOD ELEVATION DETERMINATIONS.
62 FR 40945	6/5/97	7/31/97	3/2/98	LIST OF COMMUNITIES ELIGIBLE FOR THE SALE OF FLOOD INSURANCE.
62 FR 43291	8/5/97	8/13/97	3/11/98	SUSPENSION OF COMMUNITY ELIGIBILITY.
62 FR 45575	8/28/97	8/28/97	3/11/98	FINAL FLOOD ELEVATION DETERMINATIONS.
62 FR 45573	5/23/97	8/28/97	3/11/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
62 FR 47955	9/12/97	9/12/97	3/11/98	FINAL FLOOD ELEVATION DETERMINATIONS.
62 FR 47954	5/9/96	9/12/97	3/11/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
62 FR 49445	9/17/97	9/22/97	3/11/98	SUSPENSION OF COMMUNITY ELIGIBILITY.
62 FR 49447	7/2/97	9/22/97	3/11/98	LIST OF COMMUNITIES ELIGIBLE FOR THE SALE OF FLOOD INSURANCE.
62 FR 51785	2/27/97	10/3/97	3/11/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
62 FR 51788	6/20/97	10/3/97	3/11/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
62 FR 51791	10/3/97	10/3/97	3/11/98	FINAL FLOOD ELEVATION DETERMINATIONS.
62 FR 54386	10/16/97	10/20/97	3/11/98	SUSPENSION OF COMMUNITY ELIGIBILITY.
62 FR 54392	10/20/97	10/20/97	3/11/98	FINAL FLOOD ELEVATION DETERMINATIONS.
62 FR 54390	2/1/96	10/20/97	3/11/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
62 FR 54388	6/6/97	10/20/97	3/11/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
62 FR 59290	8/19/97	11/3/97	3/11/98	LIST OF COMMUNITIES ELIGIBLE FOR THE SALE OF FLOOD INSURANCE.
62 FR 60662	11/5/97	11/12/97	3/11/98	SUSPENSION OF COMMUNITY ELIGIBILITY.
62 FR 61247	8/23/96	11/17/97	3/11/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
62 FR 61248	11/17/97	11/17/97	3/11/98	FINAL FLOOD ELEVATION DETERMINATIONS.
62 FR 62267	10/7/97	11/21/97	3/11/98	LIST OF COMMUNITIES ELIGIBLE FOR THE SALE OF FLOOD INSURANCE.

RULES FILED FOLLOWING GAO REVIEW OF RULES NOT RECEIVED—Continued

[For the period 10/1/96–12/31/97]

FR cite	Effective	FR date	GAO rec	Rule title
62 FR 67741	5/23/97	12/30/97	3/11/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
62 FR 67742	12/30/97	12/30/97	3/11/98	FINAL FLOOD ELEVATION DETERMINATIONS.
62 FR 67737	10/20/97	12/30/97	3/11/98	CHANGES IN FLOOD ELEVATION DETERMINATIONS.
Federal Labor Relations Authority				
62 FR 40911	10/1/97	7/31/97	3/10/98	UNFAIR LABOR PRACTICE PROCEEDINGS: MISCELLANEOUS AND GENERAL REQUIREMENTS.
Federal Maritime Commission				
61 FR 64822	12/9/96	12/9/96	2/24/98	INFORMATION FORM AND POST-EFFECTIVE REPORTING REQUIREMENTS FOR AGREEMENTS AMONG OCEAN COMMON CARRIERS SUBJECT TO THE SHIPPING ACT OF 1984.
Federal Reserve System				
62 FR 13294	4/1/97	3/20/97	3/4/98	LOANS TO EXECUTIVE OFFICERS, DIRECTORS, AND PRINCIPAL SHAREHOLDERS OF MEMBER BANKS; LOANS TO HOLDING COMPANIES AND AFFILIATES.
62 FR 55495	11/10/97	10/27/97	6/8/98	SECURITIES CREDIT TRANSACTIONS; LIST OF MARGINABLE OTC STOCKS; LIST OF FOREIGN MARGIN STOCKS.
Federal Trade Commission				
62 FR 5724	7/1/97	2/6/97	3/4/98	CONCERNING TRADE REGULATION RULE ON CARE LABELING OF TEXTILE WEARNG APPAREL AND CERTAIN PIECE GOODS; CONDITIONAL EXEMPTION FROM TERMINOLOGY SECTION OF THE CARE LABELING RULE.
National Aeronautics and Space Administration				
61 FR 52325	11/6/96	10/7/96	3/2/98	REWRITE OF THE NASA FAR SUPPLEMENT (NFS).
61 FR 55765	10/29/96	10/29/96	3/2/98	REWRITE OF THE NASA FAR SUPPLEMENT (NFS).
61 FR 55753	10/29/96	10/29/96	3/2/98	REWRITE OF THE NASA FAR SUPPLEMENT (NFS).
61 FR 64823	12/9/96	12/9/96	3/2/98	ADDITION OF COVERAGE TO NASA FAR SUPPLEMENT (NFS) ON NASA SHARED SAVINGS CLAUSE.
62 FR 3464	1/23/97	1/23/97	3/2/98	REWRITE OF THE NASA FAR SUPPLEMENT (NFS).
62 FR 4466	1/30/97	1/30/97	3/2/98	REWRITE OF THE NASA FAR SUPPLEMENT (NFS).
62 FR 6466	1/1/97	2/12/97	3/5/98	DUTY-FREE ENTRY OF SPACE ARTICLES.
62 FR 11107	3/11/97	3/11/97	3/2/98	NASA FAR SUPPLEMENT; PROTESTS TO THE AGENCY.
62 FR 14016	3/25/97	3/25/97	3/2/98	REWRITE OF THE NASA FAR SUPPLEMENT (NFS).
62 FR 24345	5/16/97	5/5/97	3/2/98	REVISION TO THE NASA FAR SUPPLEMENT TO DELETE CLASS DEVIATION.
62 FR 36227	7/7/97	7/7/97	3/2/98	QUICK-CLOSEOUT PROCEDURES.
62 FR 36704	7/9/97	7/9/97	3/2/98	REWRITE OF THE NASA FAR SUPPLEMENT (NFS).
62 FR 58687	10/30/97	10/30/97	6/11/98	MISCELLANEOUS REVISIONS TO THE NASA FAR SUPPLEMENT.
62 FR 63452	12/1/97	12/1/97	6/16/98	MISCELLANEOUS REVISIONS TO THE NASA GRANT AND COOPERATIVE AGREEMENT HANDBOOK, SECTION A.
National Credit Union Administration				
61 FR 57290	11/6/96	11/6/96	2/18/98	CIVIL MONETARY PENALTY INFLATION ADJUSTMENT.
61 FR 60185	11/27/96	11/27/96	2/18/98	SHARE INSURANCE AND APPENDIX.
62 FR 67549	1/28/98	12/29/97	7/15/98	CENTRAL LIQUIDITY FACILITY.
National Science Foundation				
61 FR 59027	11/20/96	11/20/96	6/22/98	ANTARCTICA; ADJUSTMENT OF CIVIL MONETARY PENALTIES.
Pension Benefit Guaranty Corp.				
61 FR 65476	1/1/97	12/13/96	3/18/98	ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS; VALUATION OF BENEFITS AND ASSETS; EXPECTED RETIREMENT AGE.
Small Business Administration				
62 FR 301	1/3/97	1/3/97	4/16/98	BUSINESS LOANS.
62 FR 11317	3/12/97	3/12/97	4/6/98	SMALL BUSINESS SIZE REGULATIONS; AFFILIATION WITH INVESTMENT COMPANIES.
62 FR 15601	4/2/97	4/2/97	4/6/98	BUSINESS LOAN PROGRAMS.
62 FR 23337	4/30/97	4/30/97	4/6/98	SMALL BUSINESS INVESTMENT COMPANIES.

RULES FILED FOLLOWING GAO REVIEW OF RULES NOT RECEIVED—Continued

[For the period 10/1/96–12/31/97]

FR cite	Effective	FR date	GAO rec	Rule title
62 FR 35337	7/1/97	7/1/97	4/6/98	DISASTER LOAN PROGRAM.
Social Security Administration				
62 FR 42410	9/8/97	8/7/97	3/31/98	DEEMING IN THE SUPPLEMENTAL SECURITY INCOME (SSI) PROGRAM WHEN AN INELIGIBLE SPOUSE OR PARENT IS ABSENT FROM THE HOUSEHOLD DUE SOLELY TO ACTIVE MILITARY SERVICE.
62 FR 49437	9/22/97	9/22/97	3/31/98	SUPPLEMENTARY SECURITY INCOME; OVERPAYMENT RECOVERY BY OFFSET OF FEDERAL INCOME TAX REFUND.
62 FR 64274	1/5/98	12/5/97	3/31/98	FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE; DISCLOSURE OF INFORMATION TO CONSUMER REPORTING AGENCIES AND OVERPAYMENT RECOVERY THROUGH ADMINISTRATIVE OFFSET AGAINST FEDERAL PAYMENTS.

[FR Doc. 98–30295 Filed 12–28–98; 8:45 am]

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Federal Register

Tuesday
December 29, 1998

Part III

General Services Administration

41 CFR Part 101–43

Excess Personal Property Reporting Requirements; Proposed Rule

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–43

[FPMR Amendment H–]

RIN 3090–AG85

Excess Personal Property Reporting Requirements

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation streamlines and simplifies the assignment of the disposal condition codes which Federal agencies use to report their excess personal property for utilization and donation. This amendment will reduce the number of codes from 11 to 5 and more accurately define the condition of the excess personal property. It also eliminates the one word brief definition column from the condition code table. The numeric designations of ''1, 4, and 7'' have been retained from the previous regulation to accommodate agencies' automated property disposal systems and the transition from the prior coding to the current coding convention.

DATES: Comments must be submitted on or before March 1, 1999.

ADDRESSES: Written comments should be sent to: Ms. Sharon Kiser, Regulatory Secretariat (MVR), Office of Governmentwide Policy, General Services Administration, 1800 F Street, NW, Washington, DC 204050.

E-mail comments may be sent to RIN.3090-AG85@gsa.gov.

FOR FURTHER INFORMATION CONTACT: Ms. Martha Caswell, Director, Personal Property Management Policy Division (MTP) 202–501–3828.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule replaces FPMR Amendment H–198, published in the **Federal Register** on July 27, 1998 (63 FR 40048) which has been withdrawn (November 30, 1998) (63 FR 65710). This proposed rule sets forth condition codes which would apply to all reports of excess personal property under FPMR part 101–43. When these codes are incorporated into the Federal Acquisition Regulation they will apply to all contracts awarded prior to and after the effective date of this regulation.

B. Executive Order 12866

The General Services Administration (GSA) has determined that this proposed rule is not a significant rule for the purposes of Executive Order 12866 of September 30, 1993.

C. Regulatory Flexibility Act

This proposed rule is not required to be published in the **Federal Register** for public comment. Therefore, the Regulatory Flexibility Act does not apply.

D. Paperwork Reduction Act

GSA has determined that the Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this proposed rule does not contain any collection requirements which require the approval of the Office of Management and Budget.

E. Small Business Regulatory Enforcement Act

This proposed rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

For the reasons set forth in the preamble, it is proposed that 41 CFR Part 101–43 be amended as follows:

1. The authority citation for part 101–43 continues to read as follows:

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

PART 101–43—UTILIZATION OF PERSONAL PROPERTY

2. Section 101–43.4801 is amended by revising paragraph (d) to read as follows:

§ 101–43.4801 Excess personal property reporting requirements.

* * * * *

(d) The appropriate disposal condition code from the table below shall be assigned to each item record, report, or listing of excess personal property:

Disposal condition code	Expanded definition
1	Property which is in new condition or unused condition and can be used immediately without modifications or repairs.
4	Property which shows some wear, but can be used without significant repair.
7	Property which is unusable in its current condition but can be economically repaired.
X	Property which has value in excess of its basic material content, but repair or rehabilitation is impractical and/or uneconomical.
S	Property which has no value except for its basic material content.

Dated: December 16, 1998.

G. Martin Wagner,

Associate Administrator, Office of Governmentwide Policy.

[FR Doc. 98–34088 Filed 12–28–98; 8:45 am]

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Federal Register

Tuesday,
December 29, 1998

Part IV

Department of Transportation

National Highway Traffic Safety Administration

23 CFR Part 1313

Incentive Grants for Alcohol-Impaired Driving Prevention Programs; Interim Final Rule

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1313

[Docket No. NHTSA–98–4942]

RIN 2127–AH42

Incentive Grants for Alcohol-Impaired Driving Prevention Programs

AGENCY: National Highway Traffic Safety Administration (NHTSA), (DOT).

ACTION: Interim final rule; request for comments.

SUMMARY: This interim final rule amends the regulations that implement the Section 410 program, under which States can receive incentive grants for alcohol-impaired driving prevention programs. The amendments to the regulations reflect changes that were made to the Section 410 program by the Transportation Equity Act for the 21st Century (TA–21).

As a result of this interim final rule, the basic grant program now provides States with two alternative means for qualifying for a basic grant. Under the first alternative, States may qualify for a ''Programmatic Basic Grant'' if they submit materials demonstrating that they meet five out of seven grant criteria. Under the second alternative, States may qualify for a ''Performance Basic Grant'' by submitting data demonstrating that the State has successfully reduced the percentage of alcohol-impaired fatally injured drivers in the State over a three-year period. If States qualify for both a Programmatic and a Performance Basic Grant, they may receive both grants. This rule also provides that States that are eligible for one or both of the basic grants may qualify also for a supplemental grant.

This interim final rule establishes the criteria States must meet and the procedures they must follow to qualify for Section 410 incentive grants, beginning in FY 1999.

DATES: This interim final rule becomes effective on January 28, 1999. Comments on this interim rule are due no later than March 1, 1999.

ADDRESSES: Written comments should refer to the docket number of this notice and be submitted (preferably in two copies) to: Docket Management, PL–401, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. (Docket hours are Monday–Friday from 10 a.m. to 5 p.m., excluding holidays.) The docket is also accepting comments electronically, through the worldwide web, at www.dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Ms. Marlene Markison, Office of State and Community Services, NSC–10, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 telephone (202) 366–2121; or Mr. Otto G. Matheke III, Office of Chief Counsel, NCC–20, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, telephone (202) 366–5253.

SUPPLEMENTARY INFORMATION:

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I. Background

The Section 410 program was created by the Drunk Driving Prevention Act of 1988 and codified in 23 U.S.C. 410. As originally conceived, States could qualify for basic and supplemental grants under the Section 410 program if they met certain criteria. To qualify for a basic grant, States had to provide for an expedited driver's license suspension or revocation system and a self-sustaining drunk driving prevention program. To qualify for a supplemental grant, States had to be eligible for a basic grant and provide for a mandatory blood alcohol testing program, an underage drinking program, an open container and consumption program, or a suspension of registration and return of license plate program.

A number of technical corrections contained in the 1991 Appropriations Act for the Department of Transportation and Related Agencies, enacted on January 12, 1990, led to changes in the basic grant requirements, but did not add any new criteria to the program.

A number of modifications were made to the Section 410 program in 1991 by the enactment of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). In addition to modifying award amounts and procedures, ISTEA changed the criteria that States were required to meet to qualify for basic and supplemental grant funds. To qualify for a basic grant under the amended program, States were required to provide for four out of the following five criteria: an expedited administrative driver's license suspension or revocation system; a per se law at 0.10 BAC (during the first three fiscal years in which a basic grant is received based on this criterion and a per se law at 0.08 BAC in each subsequent fiscal year); a statewide program for stopping motor vehicles; a self-sustaining drunk driving prevention program; and a minimum drinking age prevention program.

States eligible for basic grants could qualify also for supplemental grants if they provided for one or more of the following: a per se law at 0.02 BAC for persons under age 21; an open container and consumption law; a suspension of registration and return of license plate program; a mandatory blood alcohol concentration testing program; a drugged driving prevention program; a per se law at 0.08 BAC (during the first three fiscal years in which a basic grant is received); and a video equipment program.

In 1992, the Section 410 program was modified again. The Department of Transportation and Related Agencies Appropriations Act for FY 1993, which was signed into law on October 6, 1992, essentially repealed the modifications to Section 410 relating to award amounts and procedures that were enacted by ISTEA. The Act also added a sixth basic grant criterion, and provided that to be eligible for a basic grant, a State now must meet five out of six basic grant criteria. The new criterion required States to show that they impose certain mandatory sentences on repeat offenders.

The National Highway System Designation Act of 1995 led to further amendments to the Section 410 program. The criterion for a statewide program for stopping motor vehicles was modified to accommodate States in which roadblocks were unconstitutional. In addition, the per se

law at 0.02 BAC for persons under age 21 requirement was eliminated as supplemental grant criterion , and became instead a basic grant criterion (thereby increasing the total number of basic grant criteria from six to seven). With this change, States could qualify for a basic grant by meeting five out of seven criteria.

On June 9, 1998, The Transportation Equity Act for the 21st Century (TEA–21) was enacted into law (Pub. L. 105–178). Section 2004 of TEA–21 contained a new set of amendments to 23 U.S.C. 410. These amendments modified both the grant amounts to be awarded and the criteria that States must meet to qualify for both basic and supplemental grant funds under the Section 410 program.

The TEA–21 amendments, which take effect in FY 1999, establish two separate basic grants, plus six supplemental grant criteria. The statute provides that the amount of each basic grant shall equal up to 25 percent of the amount apportioned to the qualifying State for fiscal year 1997 under 23 U.S.C. 402, and that up to 10 percent of the amounts available to carry out the Section 410 program shall be available for making Section 410 supplemental grants.

Under the TEA–21 amendments, States can qualify for one of the basic grants (named a ''Programmatic Basic Grant'' in the interim regulation) by demonstrating that the State meets five out of the following seven criteria: an administrative driver's license suspension or revocation system; an underage drinking prevention program; a statewide traffic enforcement program; a graduated driver's licensing system; a program to target drivers with high BAC; a program to reduce drinking and driving among young adults (between the ages of 21 and 34); and a BAC testing program. States can qualify for the other basic grant (named a ''Performance Basic Grant'' in the interim regulation) by demonstrating that the percentage of fatally injured drivers in the State with a blood alcohol concentration (BAC) of 0.10 or more has decreased in each of the three most recent calendar years for which statistics are available and that the percentage of fatally injured drivers with a BAC of 0.10 or more in the State has been lower than the average percentage for all States in each of the same three calendar years.

To qualify for supplemental grant funds under Section 410, as amended by TEA–21, a State must be eligible to receive a Programmatic and/or a Performance Basic Grant, and must provide for one or more of the following six criteria: a video equipment program; a self-sustaining drunk driving prevention program; a program to reduce driving with a suspended driver's license; a passive alcohol sensor program; an effective DWI tracking system; or other innovative programs to reduce traffic safety problems that result from individuals who drive while under the influence of alcohol or controlled substances.

II. Programmatic Basic Grant

Prior to the enactment of TEA–21, the Section 410 basic grant criteria included the following: an expedited administrative driver's licenses suspension or revocation system; a per se law at 0.10 BAC (during the first three fiscal years in which a basic grant is received based on this criterion and a per se law at 0.08 BAC in each subsequent fiscal year); a statewide program for stopping motor vehicles; a self-sustaining drunk driving prevention program; a minimum drinking age prevention program; mandatory sentences for repeat offenders; and a per se law at 0.02 BAC for persons under age 21.

TEA–21 removed some of these criteria from the section 410 program. A per se law at 0.08 BAC became the criterion for a separate incentive grant program, 23 U.S.C. 163, under which States may qualify for a total of $500 million over a six year period, and a per se law at 0.02 BAC for persons under age 21 became (in 1995) became the criterion for a sanction program, 23 U.S.C. 161, under which States will be subject to the withholding of highway construction funds beginning in FU 2000 unless they have enacted and are enforcing such a law. Most of the criteria (or modifications thereof) continue to be features of the Section 410 program.

With the enactment of TEA–21, to qualify for a programmatic basic grant, a State must demonstrate compliance with five out of the following seven grant criteria: an administrative license suspension or revocation system; an underage drinking prevention program; a statewide traffic enforcement program; a graduated driver's licensing system; a program to target drivers with high BAC; a program to reduce drinking and driving among young adults; and a BAC testing program.

Of these criteria, the graduated driver's licensing system, the program that targets drivers with high BAC, and the young adult drinking and driving programs are new to the Section 410 program. Three of the criteria (the administrative license suspension or revocation system, the underage drinking prevention program and the statewide traffic enforcement program) were basic grant criteria prior to the enactment of TEA–21. The BAC testing program represents a modification of a former Section 410 criterion, which encouraged States to provide for mandatory BAC testing of drivers in certain motor vehicle crashes.

A. Administrative License Suspension or Revocation System

Studies show that when States adopt an administrative license suspension or revocation law, they experience an average 6–9 percent reduction in alcohol-related fatalities.

An administrative (or expedited) license suspension or revocation system has been a basic grant criterion under the Section 410 program since the program's inception. TEA–21 continues to include this basic grant criterion in Section 410, but the Act streamlines the elements that States must meet to demonstrate compliance with this criterion. TEA–21 provides that, to qualify for a grant based on this criterion, a State must demonstrate:

> An administrative driver's license suspension or revocation system for individuals who operate motor vehicles while under the influence of alcohol that requires that—
>
> (i) In the case of an individual who, in any 5-year period beginning after the date of enactment of [TEA–21], is determined on the basis of a chemical test to have been operating a motor vehicle while under the influence of alcohol or is determined to have refused to submit to such a test as proposed by a law enforcement officer, the State agency responsible for administering drivers' licenses, upon receipt of the report of the law enforcement officer—
>
> (I) Shall suspend the driver's license of such individual for a period of not less than 90 days if such individual is a first offender in such 5-year period; and
>
> (II) Shall suspend the driver's license of such individual for a period of not less than 1 year, or revoke such license, if such individual is a repeat offender in such 5-year period; and
>
> (ii) The suspension and revocation referred to * * * shall take effect not later than 30 days after the day on which the individual refused to submit to a chemical test or received notice of having been determined to be driving under the influence of alcohol, in accordance with the procedures of the State.

Prior to the enactment of TEA–21, this criterion contained a number of specific procedural requirements, including that the officer serve the driver with a written notice and take possession of the driver's license at the time of the stop, that the notice contain certain information about the administrative procedures under which the State may suspend or revoke the driver's license, that the State provide for due process of

law and that the officer immediately report to the State entity responsible for administering driver's licenses all information relevant to the action taken. These specific requirements, which States in past years argued were overly prescriptive, were removed from this criterion in TEA–21. Accordingly, they have been removed from the regulation as well.

To qualify under this criterion, as amended by TEA–21, a State must provide simply that first offenders will be subject to a 90-day suspension, that repeat offenders will be subject to a one-year suspension or revocation, and that suspensions or revocations will take effect within 30 days after the offender refuses to submit to a chemical test or receives notice of having failed the test.

The interim final rule continues to provide that these suspension and revocation terms must be hard (i.e., that during these terms, *all* driving privileges are suspended or revoked), except that first offenders who submitted to and were determined to have failed a chemical test, may be subject to a 30-day hard suspension, and then may receive restricted driving privileges or a hardship license for the remainder of the 90-day term.

The interim final rule continues to provide that States may demonstrate compliance with this criterion as either ''Law States'' or ''Data States.'' The rule, however, simplifies the information States must submit to demonstrate compliance in subsequent fiscal years.

As provided in the interim rule, a ''Law State'' is a State that has a law, regulation or binding policy directive implementing or interpreting the law or regulation that meets each element of the criterion. A ''Data State'' is a State that has a law, regulation or binding policy directive that provides for an administrative license suspension or revocation system, but it does not meet each element of the criterion. For example, the law may permit restricted licenses during the 90-day or one-year period or the law may not specifically provide that suspensions must take effect within 30 days.

To demonstrate compliance in the first fiscal year a State qualifies for a grant based on this criterion, a Law State need only submit a copy of its conforming law, regulation or binding policy directive. A Data State must submit its law, regulation or binding policy directive, and data demonstrating compliance with any element not specifically provided for in the State's law.

In the past, to demonstrate compliance with this criterion in subsequent fiscal years, both Law States and Data States were required to submit data regarding the number of licenses suspended, the average lengths of suspension, and the average length of time that elapsed until suspensions took effect for both first and repeat offenders.

The agency has decided to streamline this requirement, which should reduce reporting requirements for States considerably. Under the interim final rule, to demonstrate compliance with this criterion in subsequent fiscal years, a Law State need only submit a copy of any changes to the State's law, regulation or binding policy directive. If there have been no changes in the State's law, regulation or binding policy directive since the previous year's submission, the State shall submit instead a certification to that effect.

To demonstrate compliance with this criterion in subsequent fiscal years, Data States must submit the same information as Law States, plus they must provide updated data demonstrating compliance with any element not specifically provided for in the State's law.

Although States are no longer required by the statute and the interim regulation to show that law enforcement officers take possession of driver licenses at the time of the stop, the agency encourages States nonetheless to continue this practice. NHTSA has found that the practice of immediately seizing a driver's license is a powerful deterrent and should be used whenever possible.

B. Underage Drinking Prevention Program

Drinking by drivers under 21 years of age continues to be a significant safety problem, and studies show that when States adopt a minimum drinking age of 21 years, they experience an average 12 percent decrease in alcohol-related fatalities in the affected age group. Many States, however, do not enforce minimum drinking age laws as vigorously as possible.

An underage drinking (or minimum drinking age) prevention program has been a grant criterion under Section 410 since the program's inception, first as a supplemental grant criterion and later as a criterion for a basic grant. TEA–21 continues to include this basic grant criterion in Section 410, but the Act modifies it slightly. TEA–21 provides that, to qualify for a grant based on this criterion, a State must demonstrate:

> An effective system * * * for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages and for preventing persons from making alcoholic beverages available to individuals under age 21. Such system may include the issuance of drivers' licenses to individuals under age 21 that are easily distinguishable in appearance from drivers' licenses issued to individuals age 21 or older and the issuance of drivers' licenses that are tamper resistant.

This criterion is almost identical to the minimum drinking age prevention program criterion contained in Section 410 prior to the enactment of TEA–21, except that TEA–21 added two elements to the criterion. Under TEA–21, the system must not only prevent drivers under the age of 21 from obtaining alcoholic beverages, it must also take steps that prevent persons of any age from making alcoholic beverages available to those who are under 21. In other words, the system must target young drinkers and also providers. In addition, States must demonstrate both that driver's licenses that are issued to individuals under the age of 21 are distinguishable from those issued to individuals over 21 years of age, and that they are tamper resistant.

The interim final rule incorporates these new elements into the implementing regulation, and includes in Appendix A to the regulation a list of security features that States may include on their driver's licenses to make them tamper resistant.

While States are required under this interim final rule to adopt only one of the listed security features, the agency urges States to consider incorporating as many of the security features as possible into their driver's licenses to prevent underage drivers from altering existing licenses or from obtaining or producing counterfeits.

The interim final rule also makes two additional modifications to this criterion. It specifies that public information programs targeted to underage drivers publicize drinking age laws, zero tolerance laws and the penalties associated with a violation of these statutes, and it provides that the overall enforcement strategy developed under this program must be capable of being implemented locally throughout the State. The agency believes these elements are important to ensure the effectiveness of underage drinking prevention programs.

In the past, to demonstrate compliance with this criterion, a State was required to submit a plan (or an updated plan) for conducting an underage drinking prevention program. Under the interim final rule, to demonstrate compliance in the first fiscal year a State receives a grant based on this criterion, the State must submit information demonstrating that a program that meets each programmatic element of this criterion is already in place. This change conforms the

regulation to the practices that States already have been following. As in past years, States must also submit sample driver's licenses. The samples must demonstrate that licenses issued to drivers under the age of 21 are easily distinguishable from licenses issued to older drivers and that they are tamper resistant.

To demonstrate compliance in subsequent fiscal years, States need only submit information documenting any changes to the State's driver's licenses or underage driving prevention program, or a certification stating that there have been no changes since the state's previous year's submission.

The agency notes that the Office of Juvenile Justice and Delinquency Prevention of the U.S. Department of Justice (DOJ) awarded $25 million in grants in FY 1998 to States to encourage the enforcement of minimum drinking age laws. An additional $25 million in grants will be available for this purpose in FY 1999. States that do not already meet each element of the underage drinking prevention program criterion under Section 410 may consider using DOJ grant funds to develop programs that will enable these States to qualify for Section 410 funding.

C. Statewide Traffic Enforcement Program

Highly visible, widely publicized and frequently conducted impaired-driving traffic enforcement programs are very effective at reducing alcohol-related fatalities. NHTSA research strongly supports the use of roadside sobriety checkpoints and other checkpoint programs to reduce impaired driving deaths and injuries. Decreases in alcohol-related crashes have been reported consistently in States where checkpoints are employed. A recent study of a highly publicized Statewide sobriety checkpoint program (''Checkpoint Tennessee'') found a 20 percent reduction in impaired driving-related fatal crashes, when compared to five surrounding States with no intervention during the same period.

In addition, selective traffic enforcement programs, saturation patrols, and special impaired driving patrols, particularly when accompanied by aggressive public information programs and applied in a coordinated Statewide effort, have been found to be very effective tools for reducing alcohol-related fatalities.

A basic grant criterion for Statewide programs for stopping motor vehicles has been a feature of the Section 410 program since 1991. Initially, only roadblock or checkpoint programs were considered acceptable under this criterion, but the criterion was expanded later to permit, in certain cases, other intensive and highly publicized traffic enforcement techniques.

TEA–21 continues to include in Section 410 a basic grant criterion for a Statewide traffic enforcement program, but the Act provides for added flexibility regarding the elements States must meet to comply. TEA–21 provides that, to qualify for a grant based on this criterion, a State must demonstrate:

> A statewide program for stopping motor vehicles on a nondiscriminatory, lawful basis for the purpose of determining whether the operators of such motor vehicles are driving while under the influence of alcohol; or a statewide special traffic enforcement program for impaired driving that emphasizes publicity for the program.

In other words, any State may qualify by having either a Statewide program for stopping motor vehicles or a Statewide special traffic enforcement program (STEP) for impaired driving that emphasizes publicity regarding the program.

The agency has modified this criterion to reflect the changes made by TEA–21. As provided in the interim final rule, whether the State has established a Statewide program for stopping motor vehicles or a STEP, the State program must provide for the following components: motor vehicles must be stopped or STEP's must be conducted on a Statewide basis (in major areas covering at least 50 percent of the State's population); stops must be made or STEP's must be conducted not less than monthly; stops must be made or STEP's must be conducted by both State and local law enforcement agencies; and effective public information efforts must be conducted to inform the public about these enforcement activities.

To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State must submit a plan for its Statewide traffic enforcement program, which meets each element of this criterion. The plan must include guidelines, policies or operation procedures governing the program, and provide approximate dates and locations of programs planned in the coming year. The plan must also include the names of law enforcement agencies expected to participate and describe the public information efforts to be conducted.

To demonstrate compliance in subsequent fiscal years, the State must submit an updated plan, and information documenting that the prior year's plan was implemented effectively including, for example, samples of public information materials used and information that documents the enforcement activities that took place.

D. Graduated Driver's Licensing System

There is growing support nationwide for the adoption of graduated driver's licensing (GDL) systems. A GDL system generally consists of a multi-staged (usually, a three-stage) process for issuing driver's licenses to young people. During the first stage, the applicant generally is issued a learner's permit and may operate a motor vehicle only while under the supervision of an licensed driver over the age of 21. During the second stage, the applicant is issued an intermediate (or restricted) license and may operate a motor vehicle without a supervising adult, but only under certain conditions. Additional restrictions also generally apply during these first two stages. Once drivers meet all of the conditions and restrictions of the first two stages, they can reach the third stage and earn an unrestricted license.

Some of the significant benefits of this system are that young drivers are able to gain valuable driving experience under controlled circumstances, and they must demonstrate responsible driving behavior and proficiency to move through each stage of the system before graduating to the next.

Approximately 20 States have established some form of GDL system in the last five years, and studies indicate that the use of such systems results in improved highway safety. The adoption of GDL systems resulted in a five percent reduction in crashes in California and Maryland, an eight percent reduction in New Zealand, a 16 percent reduction for young male drivers in Oregon, and a 31 percent reduction in Ontario, Canada.

TEA–21 adds a new graduated driver's licensing system basic grant criterion to the Section 410 program. TEA–21 provides that, to qualify for a grant based on this criterion, a State must demonstrate:

> A 3-stage graduated licensing system for young drivers that includes nighttime driving restrictions during the first 2 stages, requires all vehicle occupants to be properly restrained, and makes it unlawful for a person under age 21 to operate a motor vehicle with a blood alcohol concentration of 0.02 percent or greater.

To qualify under this criterion, the agency's implementing regulations require States to have a three-stage program that includes a learner's permit stage (Stage I), an intermediate (or restricted) license stage (Stage II), and a final stage, under which the driver receives an unrestricted license (Stage

III). Stage I must last for at least three months and the combined period of Stages I and II must last for at least one year.

The regulations provide that applicants must be tested for knowledge and vision before they receive a Stage I learner's permit. To move to a Stage II intermediate license, applicants must have met all the conditions of the Stage I learner's permit for a period of at least three months, and they must pass a driving skills test. To receive an unrestricted license under Stage III, applicants must have met all the conditions of the Stage I learner's permit and the Stage II intermediate license for a combined period of at least one year.

The regulations also specify the conditions that must be imposed during Stages I and II. Drivers with Stage I learner's permits and Stage II intermediate licenses must abide by the State's seat belt use laws and zero tolerance laws if they are under the age of 21, and they must remain crash and conviction free. During Stage I, permit holders may not operate a motor vehicle at any time (day or night) unless they are accompanied by a licensed driver who is 21 years of age or older. During Stage II, drivers may not operate a motor vehicle during certain nighttime hours unless they are accompanied by a licensed driver who is at least 21 years of age or covered by a State-approved exception to this restriction. These hours are to be specified by the State, and they must cover some period of time between the hours of 10:00 p.m. abd 6:00 a.m.

Permits and licenses issued at all three stages must be distinguishable from each other. Since drivers, once they reach Stage III, are eligible to receive an unrestricted license, none of the other conditions listed above need to apply during that stage of the system.

The interim regulation provides that the GDL must cover ''young drivers,'' but it does not define this term. Most States that have already adopted GDL systems cover novice teenage drivers, up to a specified age, although one State covers all novice drivers. The agency defers to the States to determine the age of drivers that should be covered by their GDL systems.

To demonstrate compliance in the first fiscal year a State receives a grant based on this criterion, a State must submit a copy of the law, regulation or binding policy directive implementing or interpreting the law or regulation, which provides for each element of the graduated driver's licensing system criterion. To demonstrate compliance in subsequent fiscal years, the State need only submit a copy of any changes to the State's law, regulation or binding policy directive. If there have been no changes in the State's law, regulation or bindng policy directive since the previous year's submission, the State shall submit instead a certification to that effect.

Although not required under the regulation, NHTSA urges States to consider including certain features in their graduated driver's licensing systems, because these features are consistent with the provisions recommended by NHTSA, the National Safety Council and other National organizations in ''Saving Teenage Lives: The Call for Graduated Driver Licensing'' (in press). For example, States should consider requiring that applicants complete a basic skills or ''driver's education'' course, with both classroom instruction and supervised driving practice, before they receive a Stage II intermediate license. In addition, States should consider requiring the following conditions during Stage II: advanced driver training; supervised practice; lower thresholds of accumulated points before sanctions or corrective actions are imposed; limits on the number of non-family passengers under the age of 21 who may accompany the driver in the vehicle; advanced driver testing before receiving an unrestricted license; a requirement that learner's permit holders remain crash and conviction free for six (rather than three) months before moving to the next phase; that intermediate license holders remain crash and conviction free for an additional 12 months before moving to the next phase; and a nighttime driving restriction during the intermediate stage that is in effect during the entire 10:00 p.m. to 6:00 a.m. time period.

E. Drivers With High BAC

NHTSA is keenly aware of the hazards posed by drinking drivers with a blood alcohol concentration (BAC) that significantly exceeds existing legal levels. Research indicates that drivers with a highly elevated BAC not only are at increased risk of causing alcohol-related crashes and fatalities, but also are placing themselves at increased risk of incurring more serious injuries.

According to the Fatality Analysis Reporting System (FARS), 30 percent of persons killed in motor vehicle crashes in 1997 were in crashes involving a driver or non-occupant with a BAC of 0.10 or greater. Drivers with a BAC of 0.15 or greater are estimated to have risks that increase to more than 300 times that of sober drivers. NHTSA estimates that more than half of all drinking drivers involved in fatal crashes have a BAC that exceeds 0.15 percent. Moreover, a high BAC is a strong indicator that the driver is a problem drinker and is at risk of becoming a repeat offender.

To combat the dangers posed by drivers with a high BAC, TEA–21 adds a new basic grant criterion for programs that target these drivers. TEA–21 provides that, to qualify for a grant based on this criterion, a State must demonstrate:

> Programs to target individuals with high blood alcohol concentrations who operate a motor vehicles. Such programs may include implementation of a system of graduated penalties and assessment of individuals convicted of driving under the influence of alcohol.

This interim final rule provides that, to qualify for a grant based on this criterion, a State must have a system for imposing enhanced penalties on those drivers who have been convicted of operating a motor vehicle while under the influence of alcohol and determined to have a high BAC. These enhanced penalties must be either more severe or more numerous than those applicable to persons who have been convicted of operating a motor vehicle while under the influence of alcohol, but were not determined to have a high BAC.

In order to provide States with a high degree of latitude in fashioning appropriate enhanced penalties on these drivers, NHTSA has not specified in the interim rule the particular minimum sanctions that must apply. The enhanced penalties may include longer terms of license suspension, increased fines, additional or extended sentences of confinement, vehicle sanctions, or mandatory assessment and treatment as appropriate.

For the purposes of this criterion, the interim rule provides that the threshold level at which high BAC sanctions must begin to apply may be at any level above the standard BAC level at which sanctions for non-commercial drivers begin to apply, but it must begin at or below 0.20 BAC. For example, if the standard BAC level in a State is 0.08, then the State may begin to impose enhanced sanctions on offenders determined to have a BAC of 0.09 or greater, or the state could choose interest to begin imposing such sanctions on offenders with a BAC of 0.12 and above. If the State does not begin to impose such sanctions until offenders are determined to be at 0.21 BAC or greater, however, the State system will not comply.

The agency is aware of ten States that have such graduated penalty programs. In these States, the enhanced or

additional penalties begin to apply at levels ranging from 0.15 to 0.20 BAC.

To demonstrate compliance in the first fiscal year a State receives a grant based on this criterion, a State must submit a copy of the law, regulation or binding policy directive implementing or interpreting the law or regulation, which provides for each element of the program for drivers with high BAC criterion. The law, regulation or binding policy must specify the penalties that are to be imposed on drivers determined to have a high BAC, and these penalties must be greater than those that apply to other convicted drivers. To demonstrate compliance in subsequent fiscal years, the State need only submit a copy of any changes to the State's law, regulation or binding policy directive. If there have been no changes in the State's law, regulation or binding policy directive since the previous year's submission, the State shall submit instead a certification to that effect.

F. Young Adult Drinking and Driving Programs

Alcohol involvement in crashes reaches its highest rate for those between the ages of 21 and 34. FARS data for 1997 indicates that 45 percent of all drinking drivers in alcohol-related fatal crashes were in this age group. More than 50 percent of those drivers 21 to 34 years of age who were killed in fatal crashes had alcohol in their system—the highest percentage of any age group. Data from a 1996 Roadside Survey show that although the percentage of all drivers with a BAC of 0.05 or above had decreased since 1986 (from 8.4 percent to 7.7 percent), the percentage of those age 21–34 with a BAC of 0.05 or above increased (from 9.9 percent to 11.3 percent). The same tread was true for those with a BAC of 0.10 or above—the percentage of all drivers with a BAC of 0.10 or above decreased (from 3.2 percent to 2.8 percent) while the percentage of those age 21–34 with a BAC of 0.10 or above increased (from 3.3 percent to 3.8 percent). Self-reported survey data indicate that adults age 21–29 are the most likely to drive after drinking. Since the drivers in this age group can drink lawfully, the laws and enforcement strategies that are used to target teenage drivers are not available for them. Therefore, other prevention and enforcement strategies must be identified to target drivers in this age group.

TEA–21 adds a new basic grant criterion to the Section 410 program to encourage the development of young adult drinking and driving programs. TEA–21 provides that, to qualify for a grant based on this criterion, a State must demonstrate:

> Programs to reduce driving while under the influence of alcohol by individuals age 21 through 34. Such programs may include awareness campaigns; traffic safety partnerships with employers, colleges, and the hospitality industry; assessments of first time offenders; and incorporation of treatment into judicial sentencing.

The interim final rule provides that, to qualify under this criterion, States must meet two requirements. First, they must demonstrate that they have in place a public information and awareness campaign aimed at persons between the ages of 21 and 34. Such a program must be conducted on a Statewide basis, and it must be designed to increase awareness among young adults (age 21–34) regarding alcohol-impaired driving laws and the penalties, costs and other consequences of alcohol-impaired driving.

Second, they must demonstrate that they have in place certain partnership activities that seek to promote prevention. The interim regulation identifies four such activities: activities involving the participation of employers; activities involving the participation of colleges or universities; activities involving the participation of the hospitality industry; and activities involving the participation of appropriate State officials that will encourage the assessment and incorporation of treatment as appropriate in judicial sentencing for young adult drivers.

The agency does not expect that States will have all such partnership activities in place during the first year of the Section 410 program. Accordingly, the interim final rule provides States with an opportunity to put these activities into place over time. To qualify in the first fiscal year a State receives a grant based on this criterion, the State must be engaged in one of these four partnership activities, and it must have a plan for expanding into the other areas. To qualify in subsequent fiscal years, the State must be engaged in all four activities.

To demonstrate compliance in the first fiscal year a State receives a grant based on this criterion, the State must submit a description and sample materials documenting the Statewide public information and awareness campaign, a description and sample materials documenting the ongoing partnership activities involving at least one of the four components listed above, and a plan that outlines proposed efforts to conduct activities involving all four of these components. To demonstrate compliance in subsequent fiscal years, the State must submit an updated description of its Statewide public information and awareness campaign and of all ongoing partnership activities, with information documenting that all four components are involved.

G. Testing for BAC

Improving the rate of testing for blood alcohol concentration (BAC) of drivers involved in fatal crashes is a critical component of any alcohol-impaired driving program. Increased BAC testing helps us to understand the problem, identify offenders, and take steps to develop effective solutions to reduce the tragic consequences of impaired driving. According to FARS data, only 43.7 percent of all drivers involved in fatal crashes in 1997 were tested for BAC and the results are known. NHTSA estimates that thousands of drivers each year are impaired by alcohol when involved in a fatal crash, but are not detected or charged because a BAC test was not administered or the results are not available. If more drivers were tested for BAC and the results are made available, estimates of alcohol involvement in fatal crashes would be more accurate, more offenders would be prosecuted and the data collected would facilitate the development of better alcohol-impaired driving countermeasures.

Mandatory BAC testing has been a supplemental grant criterion under Section 410 since the inception of the program. TEA–21 modifies this criterion and makes it, for the first time, a criterion for a basic grant. Under TEA–21, to qualify for a grant based on this criterion, a State must demonstrate:

> An effective system for increasing the rate of testing of the blood alcohol concentrations of motor vehicle drivers involved in fatal accidents and, in fiscal year 2001 and each fiscal year thereafter, a rate of such testing that is equal to or greater than the national average.

Prior to the enactment of TEA–21, States could qualify for a supplemental grant based on this criterion if they demonstrated that they provided for mandatory testing of drivers involved in fatal or serious-injury crashes for the presence of alcohol when there was probable cause to do so. States could demonstrate compliance as either Law States or Data States. Law States were required to submit a law that provided that law enforcement officials were required to order and that offenders were required to submit to a chemical test in all fatal and serious injury crashes where there was probable cause to order the test. Data States were required to submit data showing that substantially all drivers in fatal and

serious injury crashes were in fact tested.

TEA–21 changed this criterion by focusing solely on fatal (and not serious injury) crashes and by shifting the emphasis of this criterion from program design to performance. TEA–21 provides that, to qualify for a grant based on this criterion in FY 1999 and 2000, a State must show an effective system for improving the rate of testing (without specifying the method for doing so). To qualify, beginning in FY 2001, a State must have a testing rate that is above the national average.

The agency believes Congress intended to encourage States to take a variety of steps in the first two fiscal years of this program (in FY's 1999 and 2000) to increase their particular testing rates and, thereby, increase testing rates in the nation as a whole. Then, in FY 2001 and beyond, only those States that exceed the national average will be eligible for a grant based on this criterion.

Accordingly, the agency has decided to provide additional flexibility in the interim final rule by permitting States to qualify for a grant based on this criterion in FY's 1999 and 2000 through various methods.

States may continue to qualify based on a law or data. A State can qualify based on its law, if the law provides that law enforcement officials are required to order and that offenders are required to submit to a chemical test in all fatal crashes. A State can qualify based on data, if the data shows that the State's percentage of BAC testing among drivers involved in fatal motor vehicle crashes is equal to or exceeds the national average, as determined under the most recently available FARS data as of the first day of the fiscal year for which grant funds are being sought.

Alternatively, the interim final rule provides that States may qualify instead by agreeing to conduct a symposium or workshop designed to increase the percentage of BAC testing for drivers involved in fatal motor vehicle crashes. The symposium or workshop must be attended by a broad range of individuals in the State who play a role and can have an impact on the State's percentage of BAC testing, including representatives of law enforcement officials, prosecutors, hospital officials, medical examiners and/or coroners, physicians and judges. States have conducted these types of workshops or symposia, with positive results. The agency believes States that take this step can be effective at increasing their BAC testing percentages.

The information States must submit to demonstrate compliance with this criterion differs, depending on the fiscal year in which the State is applying, whether this is a first or a subsequent-year application, and the method the State is using to qualify. The interim final rule provides a detailed account of the information that must be submitted in each individual case.

For example, to demonstrate compliance in FY 1999 or 2000 based on a law, the State must submit a copy of the law, regulation or binding policy directive implementing or interpreting the law or regulation that provides for each element of this criterion. To demonstrate compliance in FY 1999 or 2000 based on data, the State must submit a statement certifying that the percentage of BAC testing among drivers involved in fatal motor vehicle crashes in the State is equal to or greater than the national average, as determined under the most recently available FARS data as of the first day of the fiscal year for which grant funds are being sought. NHTSA will verify the actual testing percentages.

To demonstrate compliance in FY 1999 or 2000 based on an agreement to conduct a symposium or workshop, the State must describe the symposium or workshop that is planned, and submit a copy of the proposed agenda and a list of the names and affiliations of the individuals who are expected to attend. If the symposium or workshop has already taken place, the State must describe the event and submit the actual agenda and list of attendees.

If a State demonstrated compliance in FY 1999 based on an agreement to conduct a symposium, then to demonstrate compliance in FY 2000 using the same method, the State must submit the report or other documentation that was generated as a result of the symposium or workshop, with the recommendations that were developed, and a plan that outlines how the recommendations will be implemented.

Beginning in FY 2001, to demonstrate compliance for a grant based on this criterion, a State need only submit a statement certifying that the percentage of BAC testing among drivers involved in fatal motor vehicle crashes in the State is equal to or exceeds the national average, as determined under the most recently available FARS data as of the first day of the fiscal year for which grant funds are being sought. NHTSA will verify the actual testing percentages.

III. Performance Grant Criteria

In past years, some have challenged the approach taken by the Section 410 program, under which States qualify for grants if they adopt programs from a prescribed list established by Congress. They argue that States should be provided the opportunity to qualify for grants based on their performance, without regard to the particular programs that the States chose to use to obtain their results.

The new Section 410 program, as amended by TEA–21, addresses this concern by providing for not one, but two, basic grants. States may qualify for funds under a programmatic basic grant if they conduct programs that are outlined in the programmatic basic grant criteria. Alternatively, States may qualify for funds under a performance basic grant simply by demonstrating State performance. (Moreover, States that meet both sets of requirements can qualify to receive both basic grants.)

To qualify for a performance basic grant, a State must demonstrate each of the following:

(A) The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State has decreased in each of the 3 most recent calendar years for which statistics for determining such percentages are available; and

(B) The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State has been lower than the average percentage for all States in each of the [3 most recent] calendar years [for which statistics for determining such percentages are available].

The interim final rule adopts these two conditions, and establishes two methods for calculating the percentages described above.

Each calendar year, NHTSA will calculate the percentage of fatally injured drivers with a BAC of 0.10 percent or greater for each State and the average percentage for all States for each of the three most recent calendar years for which the data are available as of the first day of the fiscal year for which grant funds are being sought, using data contained in the FARs, and NHTSA's method for estimating alcohol involvement (as developed and published by Klein, 1986). The agency then will make the information available through its regional offices.

Any State that meets the two requirements outlined above, based on the percentages calculated by NHTSA, may demonstrate compliance simply by submitting a certification statement. NHTSA will verify the actual percentages.

Alternatively, any State with a percentage of BAC testing among fatally injured drivers of 85 percent or greater in the three most recent calendar years for which FARS data are available as of

the first day of the fiscal year for which grant funds are being sought, as determined by the FARS data, may perform its own calculations. The State would calculate the percentage of fatally injured drivers with a BAC of 0.10 percent or greater in that State for these three calendar years, using only data for drivers with a known BAC.

The State would demonstrate compliance by submitting its calculations and a statement certifying that the State meets the requirements, based on the State's calculation of the percentage of fatally injured drivers with such a BAC in the State and NHTSA's calculation of this percentage in all States. NHTSA will verify the actual percentages submitted using FARS data.

IV. Supplemental Grant Criteria

Prior to the enactment of TEA–21, the Section 410 supplemental grant criteria included the following: an open container and consumption law; a suspension of registration and return of license plate program; a mandatory blood alcohol concentration testing program; a drugged driving prevention program; a per se law at 0.08 BAC (during the first three fiscal years in which a basic grant was received); and a video equipment program.

TEA–21 removed some of these criteria from the Section 410 program. A per se law at 0.08 BAC became the criterion for a separate incentive grant program, 23 U.S.C. 163, under which States may qualify for a total of $500 million over a six-year period. An open container and consumption law became the criterion for a new transfer program, 23 U.S.C. 154, under which States will be subject to a transfer of highway construction funds beginning in FY 2001 unless they have enacted and are enforcing such a law. Some of the supplemental criteria (or modifications thereof) continue to be features of the Section 410 program.

With the enactment of TEA–21, to qualify for a supplemental grant, a State must be eligible for at least one of the two Section 410 basic grants, and it must demonstrate compliance with one or more of the following six supplemental grant criteria: a video equipment program; a self-sustaining drunk driving prevention program; the reduction of driving with a suspended license; a passive alcohol sensor program; an effective DWI tracking system; or other innovative programs.

Of these criteria, the passive alcohol sensor program, an effective DWI tracking system and other innovative programs are new to Section 410. Two of the criteria were features of Section 410 prior to the enactment of TEA–21 (the video equipment program was a supplemental grant criterion and the self-sustaining drunk driving prevention program was a criterion for a basic grant). The reduction of driving with a suspended license criterion represents a modification of a former Section 410 criterion, which encouraged States to provide for the suspension of registration and return of license plates for certain serious offenses.

A. Video Equipment Program

The use of in-vehicle video equipment to record DWI investigations has increased in recent years, and officers who have used the equipment identify many positive results. They indicate, for example, that use of the equipment provides evidence of what happened at the time of the arrest, it convinces many defendants to plead guilty, it helps officers testify in court and it protects officers from false allegations and liability suits. Use of the equipment also helps the persons who have been detained. It helps to ensure that officers follow correct procedures and otherwise protects the suspects' rights.

The majority of law enforcement agencies that use video equipment have written policies governing its use. These policies address what types of arrests should be recorded, who is responsible for maintaining the equipment, evidentiary issues and information about training. A model policy has been developed by the International Association of Chiefs of Police.

A video equipment program has been a supplemental grant criterion under Section 410 since 1991. TEA–21 continues to include this program as a supplemental grant criterion, without change. To qualify for a grant based on this criterion, a State must demonstrate that:

> The State provides for a program to acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol and in prosecuting those persons, and to train personnel in the use of that equipment.

The requirements that States must meet and the information they must submit to demonstrate compliance with this criterion are essentially unchanged. Accordingly, there are not substantive changes to this portion of the agency's implementing regulation.

To demonstrate compliance in the first fiscal year a State receives a grant based on this criterion, as before, the State must submit a plan for the acquisition and use of video equipment in law enforcement vehicles for the enforcement of impaired driving laws, including: a schedule for the areas where the equipment has been and will be installed and used; a plan for training law enforcement personnel, prosecutors and judges in the use of this equipment; and a plan for public information and education programs to enhance the general deterrent effect of the equipment.

To demonstrate compliance in subsequent years, the State must submit information on the use and effectiveness of the equipment and an updated plan for any acquisition and use of additional equipment.

B. Self-Sustaining Drunk Driving Prevention Program

Self-sustaining drunk driving prevention programs ensure that resources are generated while a State is enforcing its impaired driving laws, and then are made available to detect, arrest, prosecute and sanction other DWI offenders and to educate the public about impaired driving. A self-sustaining program provides for fines, reinstatement fees or other charges to be assessed, and for the funds received to be used directly to sustain a comprehensive Statewide drunk driving prevention program. States that have institute such programs have been very effective in reducing alcohol-related crashes and fatalities.

A self-sustaining drunk driving prevention program has been a basic grant criterion under the Section 410 program since the program's inception. TEA–21 continues to include this grant criterion in Section 410, but changes it from a basic to a supplemental criterion and makes some modifications to the elements that States must meet to demonstrate compliance with this criterion. TEA–21 provides that, to qualify for a grant based on this criterion, a State must demonstrate that:

> The State provides for a self-sustaining drunk driving prevention program under which a significant portion of the fines or surcharges collected from individuals apprehended and fined for operating a motor vehicle while under the influence of alcohol are returned to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

Prior to the enactment of TEA–21, States could qualify under this criterion if a significant portion of the fines or surcharges collected from individuals apprehended and fined for operating a motor vehicle while under the influence of alcohol was either returned or an equivalent amount was provided to communities with self-sustaining comprehensive drunk driving prevention programs. TEA–21 amended

this criterion to provide that providing an equivalent amount of funds is no longer sufficient. The actual fines or surcharges collected now must be returned to those communities in order for a State to comply. This statutory change has been incorporated into the implementing regulation.

The agency recognizes that this change may prevent some States, such as those whose Constitution prohibits such a dedicated non-discretionary use of fines and penalties obtained from driving offenders, from qualifying under this criterion. However, NHTSA notes that Congress changed this criterion from a basic to a supplemental grant criterion. Accordingly, a State's inability to comply with this criterion will not inhibit any State's ability to obtain a basic grant.

In previous years, States were required to submit a great deal of information to demonstrate compliance with this criterion. In an effort to streamline the administration of this program, and to reduce the recordkeeping and reporting burdens on the States, the agency has simplified this portion of the regulation. To demonstrate compliance in the first year a State receives a grant based on this criterion, the State now need only submit a copy of the law, regulation or binding policy directive that provides for a self-sustaining drunk driving prevention program and certain Statewide data (or a representative sample).

The law, regulation or binding policy directive must provide for fines or surcharges to be imposed on individuals apprehended for operating a motor vehicle while under the influence of alcohol and for such fines or surcharges collected to be returned to communities with comprehensive drunk driving prevention programs. The interim final rule defines the elements of such a program. The data must show the aggregate amount of fines or surcharges collected, the aggragate amount of revenues returned to communities with comprehensive drunk driving prevention programs under the State's self-sustaining system, and the aggregate cost of the State's comprehensive drunk driving prevention programs.

To demonstrate compliance in subsequent years, States need only submit updated data and either a copy of any changes to the State's law, regulation or binding policy directive or, if there have been no changes to the State's law, regulation or binding policy directive, then a certification statement to that effect.

C. Reduction of Driving With a Suspended License

Driving with a suspended license (DWS) is illegal in all States, yet many drivers with suspended licenses continue to drive. Studies estimate that, in some States, as many as 60–80 percent of drivers with suspended or revoked licenses continue to drive, although it is believed that these drivers tend to operate their vehicles less frequently and more carefully, to avoid detection.

A program for the suspension of the registration and the return of license plates has been a supplemental grant criterion since the inception of the Section 410 program. TEA–21 adopts as a supplemental grant criterion a modification of this program, which encourages the development of a program to reduce driving with a suspended license. TEA–21 provides that, to qualify for a grant based on this criterion, a State must demonstrate that:

> The State enacts and enforces a law to reduce driving with a suspended license. Such law . . . may require a ''zebra'' stripe that is clearly visible on the license plate of any motor vehicle owned and operated by a driver with a suspended license.

Some States, such as Oregon, have enacted ''zebra stripe'' laws (although no such laws are currently in effect). The Oregon ''zebra stripe'' program, which included strong public information and enforcement components, showed a marked reduction in driving with a suspended license. Other laws have been shown to be effective at reducing this problem, as well; in particular, laws that provide for vehicle sanctions. Accordingly, the agency has decided that States can qualify under this criterion if they have in effect any one of a number of vehicle-related sanctions. The sanctions may provide for either: the suspension of the registration and the return of license plates; or the impoundment, immobilization, forfeiture or confiscation of motor vehicles; as well as the use of ''zebra stripes'' or other distinctive markings on license plates.

Prior to TEA–21, to qualify under the criterion for the suspension of the registration and the return of license plates, State laws had to apply to DWS offenders and repeat DWI offenders. Under TEA–21 and the revised regulation, this criterion requires that the vehicle sanctions apply only to the former.

In addition, prior to TEA–21, the vehicle sanction had to be in place during the entire term during which the individual's driver's license was under suspension or revocation. Under TEA–21 and the revised regulation, this criterion does not specify a minimum length of time during which the vehicle sanction must apply. The regulation requires only that the sanction must be in place for some time period, to be specified by the State, during the offender's driver's license suspension or revocation term. Consistent with past practice, and the requirements of similar criteria currently being administered by the agency Under other programs, the sanction must apply to any motor vehicle owned by the individual.

NHTSA recognizes that the suspension of the registration and the return of license plates, as well as the impoundment, immobilization, forfeiture or confiscation of a motor vehicle could have serious adverse consequences on individuals other than the offender. Accordingly, although the agency does not encourage States to create exceptions to their laws, and exceptions certainly are not required to be included for a State to qualify for a grant under this criterion, the interim final rule provides that a State may provide limited exceptions to their vehicle sanctions on an individual basis to avoid undue hardship to any individual who is completely dependent on the motor vehicle for the necessities of life. Such individuals may include any family member of the convicted individual, and any co-owner of the motor vehicle, but not the convicted individual.

Such exceptions may be issued only in accordance with a State law, regulation or binding policy directive establishing the conditions under which motor vehicles or license plates may be released by the State or under Statewide published guidelines and in exceptional circumstances specific to the offender's motor vehicle, and may not result in unrestricted use of the motor vehicle.

To demonstrate compliance in the first fiscal year a State receives a grant based on this criterion, a State must submit a copy of the law, regulation or binding policy directive implementing or interpreting the law or regulation, which provides for each element of the reduction of driving with a suspended license criterion. To demonstrate compliance in subsequent fiscal years, the State need only submit a copy of any changes to the State's law, regulation or binding policy directive. If there have been no changes in the State's law, regulation or binding policy directive since the previous year's submission, the State shall submit instead a certification to that effect.

D. Passive Alcohol Sensors

Passive alcohol sensors are designed to enhance the ability of law enforcement officials to detect alcohol use by a driver. These sensors often are used to enhance the capabilities of officers at sobriety checkpoints or investigative stops. Research reports indicate that passive sensor use increased the detection of BACs of 0.10 or more by 15 percent. An officer's ability to detect alcohol at lower BACs (e.g., between 0.05 and 0.10), where it is more difficult for the officer to detect alcohol, was nearly doubled with the use of passive alcohol sensors, thereby making these procedures more efficient. Passive alcohol detection serves as an extension of the officers' ability to detect alcohol with their senses, thereby enhancing the enforcement of alcohol-related traffic safety laws. The detection of alcohol typically provides sufficient grounds to further investigate whether an alcohol-related traffic law (e.g., driving under the influence) has been violated.

TEA–21 adds a new supplemental grant criterion to the Section 410 program to encourage the use of passive alcohol sensors. TEA–21 provides that, to qualify for a grant based on this criterion, a State must demonstrate that:

> The State provides for a program to acquire passive alcohol sensors to be used by police officers in detecting persons who operate motor vehicles while under the influence of alcohol, and to train police officers in the use of that equipment.

To qualify for an incentive grant based on this new criterion, a State must have a passive alcohol sensor program that calls for the acquisition and use of passive alcohol sensors and provides for training law enforcement personnel in their use.

The information States must submit to demonstrate compliance with this criterion is similar to the information they must submit to demonstrate compliance with the video equipment program. To demonstrate compliance in the first fiscal year a State receives a grant based on this criterion, the State must submit a plan for the acquisition and use of passive alcohol sensors. The plan must include: A schedule for the areas where the equipment has been and will be used; a plan to train law enforcement personnel and to inform prosecutors and judges about the purpose and use of these devices; and a plan for a public information and education program to enhance the general deterrent effect of the equipment. To demonstrate compliance in subsequent fiscal years, the State must submit information on the use and effectiveness of the equipment and an updated plan for any acquisition and use of additional equipment.

E. Effective DWI Tracking System

Each year, more than 1.4 million drivers are arrested for DWI. The development of an effective DWI tracking system in a State can enhance the deterrent effect of sanctions by ensuring that offenders do not fail to complete conditions of sentences, administrative actions, or assessment and treatment due to oversight or insufficient access to records. Effective DWI tracking systems also can assure that offenders subsequently charged with DWI are sanctioned at the time of posting bond and sentencing as repeat, not first, offenders. In addition, effective tracking systems serve to focus resources on those offenders who pose the greatest risk to themselves and others—repeat offenders and problem drinkers with a high BAC.

In 1997, NHTSA completed a comprehensive study and published a three-volume report entitled ''Driving While Intoxicated Tracking Systems.'' The study concludes that an effective DWI tracking system should provide the means to accomplish two ends.

First, the DWI ''critical path'' of each offender should be monitored from arrest through dismissal or sentence completion. Any weakness in the critical path may be perceived by an offender as an inability of ''the system'' to provide adequate punishment and may not deter the offender from repeating the offense. For example, if alcohol treatment was a condition of a sentence, but the offender successfully regained driving privilege without completing treatment, program effectiveness for that individual may be reduced. General deterrence could be reduced as well, due to the perception that sanctions are not enforced.

Second, the DWI tracking system should provide aggregate DWI data on various demographic groups that will allow legislators, policymakers, treatment professionals, and others to evaluate the current DWI environment, countermeasure programs, and laws designed to reduce DWI, or to rehabilitate DWI offenders. At a minimum, annual statistical reports should be available that provide data on arrests, convictions, fines assessed and paid, pleas, sanctions, sentences, and treatment effectiveness by various demographic groups.

TEA–21 adds a new supplemental grant criterion to the Section 410 program for States that develop effective DWI tracking systems. TEA–21 provides that, to qualify for a grant based on this criterion, a State must demonstrate:

> An effective driving while intoxicated (DWI) tracking system. Such a system * * * may include data covering arrests, case prosecutions, court dispositions and sanctions, and provide for the linkage of such data and traffic records systems to appropriate jurisdictions and offices within the State.

To qualify for a grant based on this criterion, a State must demonstrate that it has established a tracking system with the ability to: collect, store, and retrieve data on individual DWI cases, from arrest through all stages, until dismissal or until all applicable sanctions have been completed; link the DWI tracking system to appropriate jurisdictions and offices within the State to provide all appropriate officials with timely and accurate information concerning individuals charged with an alcohol-related driving offense; and provide aggregate data, organized by specific categories, suitable for allowing appropriate State officials to evaluate the DWI environment in the State.

To demonstrate compliance in the first fiscal year a State receives a grant based on this criterion, the State must submit information describing the system, including the means used to collect, store and retrieve data and an explanation of how the system is linked to appropriate jurisdictions and offices within the State. The State must submit also an example of available statistical reports and analyses and a sample data run showing tracking of a DWI arrest, through final disposition. To demonstrate compliance in subsequent fiscal years, the State must submit information demonstrating the use of the system.

F. Other Innovative Programs

NHTSA has long sought ways to encourage the development of innovative programs to address impaired driving and other highway safety issues. The agency has sought also to identify innovative programs that have been demonstrated to be effective, and to publicize these successful programs, so that others can duplicate them in their States or communities. This technique, of encouraging the development and then the duplication of effective, innovative programs, accomplishes several objectives. It encourages experimentation, identifies success, promotes the best use of available resources and helps States and communities avoid having to ''reinvent the wheel.''

Since 1993, NHTSA has published the *Traffic Safety Digest*, which highlights innovative programs in 12 different

areas of traffic safety. The *Digest* is published quarterly.

TEA–21 adds a new supplemental grant criterion to the Section 410 program to encourage the development of innovative programs. TEA–21 provides that, to qualify for a grant based on this criterion, a State must demonstrate:

> Other innovative programs to reduce traffic safety problems resulting from individuals driving while under the influence of alcohol or controlled substances, including programs that seek to achieve such a reduction through legal, judicial, enforcement, educational, technological, or other approaches.

To qualify for an incentive grant based on this new criterion, a State must demonstrate that it has implemented an innovative program designed to reduce alcohol- or drug-impaired driving. To ensure that programs are operational and current, the interim regulation provides that the program must have been implemented within the last two years. It must also have been shown to be effective.

The agency will consider a program to be innovative if it contains one or more substantial components that make the program different from those previously conducted in the State. The program may be an adaptation or combination of approaches that have been used before, but it must include one or more features (that are more than incidental) that make the program unique. For example, innovative programs may demonstrate new ways to reach target populations (such as teenagers or Native Americans) more effectively, involve non-traditional partners in efforts to deter impaired driving (as the CODES project did when it encouraged data sharing between the law enforcement and medical communities), or be based on the passage of a unique law or ordinance that is designed to address alcohol- or drug-impaired driving.

To qualify for a grant based on this criterion, the innovative component(s) of the program must not have been used by the State in this or a previous fiscal year to qualify for a Section 410 grant based on any other criterion. For example, a State that qualifies for a grant based on its use of video or passive sensor equipment could not qualify for a grant under the ''other innovative programs'' criterion based on its use of such equipment, unless the State uses the equipment in a unique and innovative way, and the State's unique or innovative method for using the equipment has been determined to be effective.

In addition, the innovative component(s) of the program may be used only once to qualify for a supplemental Section 410 under the ''other innovative programs'' criterion.

To demonstrate compliance with this criterion, States must submit a description of the program. The information that must be included in the description listed in the interim regulation. The description may be presented in the same format used by States when submitting proposals to NHTSA's *Traffic Safety Digest.* Programs described by a State in its Section 410 application and determined by NHTSA to qualify under the ''other innovative programs'' criterion will enable the State to qualify for supplemental grant funds, and also will be considered for publication in the *Traffic Safety Digest.*

V. Administrative Issues

A. Qualification Requirements

To agency's Section 410 implementing regulation continues to outline, in the qualification requirements section, 23 CFR 1313.4(a), certain procedural steps that must be followed when States wish to apply for a grant under this program.

State applications must be received by the agency no later than August 1 of the fiscal year in which the States are applying for funds. The application must contain certifications stating that: (1) the State has an alcohol-impaired driving prevention program that meets the grant requirements; (2) it will use funds awarded only for the implementation and enforcement of alcohol-impaired driving prevention programs; (3) it will administer the funds in accordance with relevant regulations and OMB Circulars; and (4) the State will maintain its aggregate expenditures from all other sources for its alcohol-impaired driving prevention programs at or above the average level of such expenditures in fiscal years 1996 and 1997. The regulation provides that either State or Federal fiscal year may be used.

Consistent with current procedures being followed in other highway safety grant programs being administered by NHTSA, once a State has been informed that it is eligible for a grant, the State must include documentation in the State's Highway Safety Plan, prepared under Section 402, that indicates how it intends to use the grant funds. The documentation must include a Program Cost Summary (HS Form 217) obligating the Section 410 funds to alcohol-impaired driving prevention programs.

Upon receipt and subsequent approval of a State's application, NHTSA will award grant funds to the State and will authorize the State to incur costs after receipt of an HS Form 217. Vouchers must be submitted to the appropriate NHTSA Regional Administrator and reimbursement will be made to States for authorized expenditures. The funding guidelines applicable to the Section 402 Highway Safety Program will be used to determine reimbursable expenditures under the Section 410 program. As with requests for reimbursement under the Section 402 program, States should indicate on the vouchers what amount of the funds expended are eligible for reimbursement under Section 410.

B. Limitation on Grants

Prior to the enactment of TEA–21, qualifying States were eligible to receive each Section 410 grant for up to five fiscal years. Basic grants were limited to an amount equal to 30 percent of the State's Section 402 apportionment for fiscal year 1992. Each supplemental grant was limited to five percent of the State's fiscal year 1992 Section 402 apportionment. In addition, States were required to match the grant funds they received, so that the Federal share did not exceed 75 percent of the cost of the program adopted under Section 410 in the first fiscal year the State received funds, 50 percent in the second fiscal year the State received funds and 25 percent in the third, fourth and fifth fiscal year.

Under the new Section 410 program, as amended by TEA–21, States are eligible to receive Section 410 grants for up to six fiscal years, beginning in FY 1998. A total of $219.5 million is authorized for the program over a six-year period. Specifically, TEA–21 authorized $34.5 million for FY 1998, $35 million for FY 1999, $36 million for FY 2000, $36 million for FY 2001, $38 million for FY 2002 and $40 million for FY 2003.

TEA–21 created two separate basic grants, which have been designated in this interim final rule as programmatic and performance basic grants. Beginning in FY 1999, a State that qualifies for either a programmatic or a performance basic grant shall receive grant funds in an amount equal to 25 percent of the State's Section 402 apportionment for FY 1997, subject to the availability of funds. However, States are at liberty to apply for both basic grants. A State that qualifies for both basic grants shall receive basic grant funds in an amount equal to 50 percent of the State's FY 1997 Section 402 apportionment, subject to the availability of funds.

Section 410, as amended by TEA–21, limits the funds that will be available each fiscal year for supplemental grants to 10 percent of the funding for the

entire Section 410 program for that fiscal year. TEA–21 does not specify how each State's supplemental grant is to be calculated.

The interim final rule provides that supplemental grants will be calculated by multiplying the number of supplemental grant criteria a State meets by five percent of the State's Section 402 apportionment for FY 1997. The agency believes such a calculation takes into account, in an appropriate way, the size of the State in terms of population and highway mileage (in accordance with the formula used under Section 402) and the accomplishments the State has demonstrated in its alcohol-impaired driving prevention program.

States continue to be required to match the grant funds they receive. Under the matching requirements, the Federal share may not exceed 75 percent of the cost of the program adopted under Section 410 in the first and second fiscal year the State receives funds, 50 percent in the third and fourth fiscal year the State receives funds and 25 percent in the fifth and sixth fiscal year. For those States that received Section 410 grants in FY 1998, that year will be considered the State's first fiscal year for matching purposes.

The agency will continue to accept a ''soft'' match in Section 410's administration. By this, NHTSA means the State's share may be satisfied by the use of either allowable costs incurred by the State or the value of in-kind contributions applicable to the period to which the matching requirement applies. A State could not, however, use any Federal funds, such as its Section 402 funds or DOJ funds (mentioned above), to satisfy the matching requirements. In addition, a State can use each non-Federal expenditure only once for matching purposes.

C. Award Procedures

The release of the full grant amounts under Section 410 shall be subject to the availability of funding for that fiscal year. If there are expected to be insufficient funds to award full grant amounts to all eligible States in any fiscal year, NHTSA may release less than the full grant amounts upon initial approval of the State's application and documentation, and the remainder of the full grant amounts up to the State's proportionate share of available funds, before the end of that fiscal year. Project approval, and the contractual obligation of the Federal government to provide grant funds, shall be limited to the amount of funds released.

The Secretary may transfer any amounts remaining available under 23 U.S.C. Sections 405, 410 and 411 to the amounts made available under any other of these programs to ensure, to the maximum extent possible, that each State receives the maximum incentive funding for which it is eligible.

VI. Interim final rule

These regulations are being published as an interim final rule. Accordingly, the revised regulations in Part 1313 are fully in effect 30 days after the date of the document's publication. No further regulatory action by the agency is necessary to make these regulations effective.

These regulations have been published as an interim final rule because insufficient time was available to provide for prior notice and opportunity for comment. Grants will be available under these revised regulations, beginning in FY 1999. Many of the grant criteria require States to enact legislation in order to comply. States are preparing their legislative agendas now for their 1999 legislative sessions. The States have a need to know what the criteria for grants under this program will be as soon as possible so they can enact conforming legislation.

In the agency's view, the States will not be impeded by the use of an interim final rule. The procedures that States must follow to apply for grants under this program are not altered in any significant way from the procedures they have followed in the past to apply for Section 410 incentive grant funds. Those procedures were established by rulemaking and were subject to notice and the opportunity for comment.

The criteria States must meet to qualify for funds are derived from the Federal statute, and many of them are the same or similar to criteria previously contained in the Section 410 and other grant programs administered by NHTSA. For these reasons, the agency believes that there is good cause to find that providing notice and comment in connection with this rulemaking action is impracticable, unnecessary, and contrary to the public interest.

The agency requests written comments on these new regulations. All comments submitted in response to this document will be considered by the agency. Following the close of the comment period, the agency will publish a document in the **Federal Register** responding to the comments and, if appropriate, will make further amendments to the provisions of Part 1313.

VII. Written Comments

Interested persons are invited to comment on this interim final rule. It is requested, but not required, that two copies be submitted.

All comments must be limited to 15 pages in length. Necessary attachments may be appended to those submissions without regard to the 15-page limit (49 CFR 553.21). This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

Written comments to the public docket must be received by March 1, 1999. To expedite the submission of comments, simultaneous with the publication of this notice, NHTSA will provide copies to all Governors' Representatives for Highway Safety.

All comments received before the close of business on the comment closing date will be considered and will be available for examination in the docket at the above address before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date.

NHTSA will continue to file relevant material in the docket as it becomes available after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

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

Copies of all comments will be placed in the Docket for this interim final rule in the Office of Docket Management, Room PL–401, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

VIII. Rulemaking Analyses and Notices

A. Executive Order 12612 (Federalism)

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

B. Executive Order 12778 (Civil Justice Reform)

This interim final rule will not have any preemptive or retroactive effect. The enabling legislation does not establish a procedure for judicial review of rules

promulgated under its provisions. There is no requirement that individuals submit a petition for reconsideration or other administrative proceedings before they may file suit.

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

The agency has examined the impact of this action and has determined that it is not a significant action within the meaning of Executive Order 12866 or significant within the meaning of the Department of Transportation Regulatory Policies and Procedures.

The action will not have an annual effect on the economy of $100 million or more or adversely affect in a material way a sector of the economy, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities. It will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, and it will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. Nor does it raise novel legal or policy issues.

In addition, the costs associated with this rule are not significant and are expected to be offset by the grant funds received and the resulting highway safety benefits. The adoption of alcohol-impaired driving prevention programs should help to reduce impaired driving, which is a serious and costly problem in the United States. Accordingly, further economic assessment is not necessary.

D. Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), the agency has evaluated the effects of this action on small entities.

Based on the evaluation, we certify that this action will not have a significant impact on a substantial number of small entities. States are the recipients of any funds awarded under the Section 410 program, and they are not considered to be small entities, under the Regulatory Flexibility Act.

E. Paperwork Reduction Act

The requirements in this interim final rule that provide that States retain and report information to the Federal government which demonstrates compliance with the alcohol-impaired driving prevention incentive grant criteria, are considered to be information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR Part 1320.

Accordingly, these requirements have been submitted previously to and approved by OMB, pursuant to the Paperwork Reduction Act (44 U.S.C. 3501, et seq.). These requirements have been approved under OMB No. 2127–0501, through January 31, 2000. This interim final rule reduces for the States previous information collection requirements associated with demonstrating compliance with many of the criteria.

F. National Environmental Policy Act

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

G. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Public Law 104–4) requires agencies to prepare a written assessment of the costs, benefits and other effects of final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. This interim final rule does not meet the definition of a Federal mandate, because the resulting annual expenditures will not exceed the $100 million threshold. In addition, this incentive grant program is completely voluntary and States that choose to apply and qualify will receive incentive grant funds.

List of Subjects in 23 CFR Part 1313

Alcohol and alcoholic beverages, Grant programs-transportation, Highway safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, NHTSA revises Part 1313, chapter III, of Title 23 of the Code of Federal Regulations to read as follows:

PART 1313—INCENTIVE GRANT CRITERIA FOR ALCOHOL-IMPAIRED DRIVING PREVENTION PROGRAMS

Sec.

Authority: 23 U.S.C. 410; delegation of authority at 49 CFR 1.50.

§ 1313.1 Scope.

This part establishes criteria, in accordance with 23 U.S.C. 410, for awarding incentive grants to States that adopt and implement effective programs to reduce traffic safety problems resulting from individuals driving motor vehicles while under the influence of alcohol.

§ 1313.2 Purpose.

The purpose of this part is to encourage States to adopt and implement effective programs to reduce traffic safety problems resulting from individuals driving motor vehicles while under the influence of alcohol. The criteria established are intended to ensure that State alcohol-impaired driving prevention programs for which incentive grants are awarded meet or exceed minimum levels designed to improve the effectiveness of such programs.

§ 1313.3 Definitions.

(a) ''Alcoholic beverage'' means wine containing one-half of one percent or more of alcohol by volume, beer and distilled spirits. Beer includes, but is not limited to, ale, lager, porter, stout, sake, and other similar fermented beverages brewed or produced from malt, wholly or in part, or from any substitute therefor. Distilled spirits include alcohol, ethanol, or spirits or wine in any form, including all dilutions and mixtures thereof from whatever process produced.

(b) ''Blood alcohol concentration'' or ''BAC'' means grams of alcohol per deciliter or 100 milliliters blood or grams of alcohol per 210 liters of breath.

(c) ''Controlled substance'' has the meaning given such term under section 102(6) of the Controlled Substances Act, 21 U.S.C. 802(6).

(d) ''FARS'' means NHTSA's Fatality Analysis Reporting System, previously called the Fatal Accident Reporting System.

(e) ''Motor vehicle'' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads and highways, but does not include a vehicle operated only on a rail line.

(f) ''Operating a motor vehicle while under the influence of alcohol'' means operating a vehicle while the alcohol concentration in the blood or breath, as determined by chemical or other tests, equals or exceeds the level established by the State that would be deemed to be or equivalent to the standard driving while intoxicated offense in the State.

(g) ''Standard driving while intoxicated (DWI) offense'' means the law in the State that makes it a criminal offense to operate a motor vehicle while under the influence of or intoxicated by alcohol, but does not require a measurement of alcoholic content.

§ 1313.4 General requirements.

(a) *Qualification requirements.* To qualify for a grant under 23 U.S.C. 410, a State must, for each fiscal year it seeks to qualify:

(1) Submit an application to the appropriate NHTSA Regional Office that demonstrates that it meets the requirements of § 1313.5 and/or § 1313.6 and, if applicable, § 1313.7, and includes certifications that:

(i) It has an alcohol-impaired driving prevention program that meets the requirements of 23 U.S.C. 410 and 23 CFR Part 1313;

(ii) It will use the funds awarded under 23 U.S.C. 410 only for the implementation and enforcement of alcohol-impaired driving prevention programs;

(iii) It will administer the funds in accordance with 49 CFR Part 18 and OMB Circulars A–102 and A–87; and

(iv) It will maintain its aggregate expenditures from all other sources for its alcohol-impaired driving prevention programs at or above the average level of such expenditures in fiscal years 1996 and 1997 (either State or Federal fiscal year 1996 and 1997 can be used); and

(2) After being informed by NHTSA that it is eligible for a grant, submit to the agency, within 30 days, a Program Cost Summary (HS Form 217) obligating the Section 410 funds to alcohol-impaired driving prevention programs.

(3) Submit a State Highway Safety Plan by September 1 of each year, pursuant to 23 U.S.C. 402 and 23 CFR Part 1200, that documents how the State intends to use the Section 410 grant funds.

(4) Submit an application for grant funds, which must be received by the agency not later than August 1 of the fiscal year for which the State is applying for funds.

(b) *Limitation on grants.* A State may receive grants for up to six fiscal years beginning after September 30, 1997, subject to the following limitations:

(1) After September 30, 1998, the amount of each basic grant in a fiscal year, under § 1313.5 or § 1313.6, shall equal 25 percent of the State's apportionment under 23 U.S.C. 402 for FY 1997, subject to the availability of funds. If a State qualifies for basic grants in a fiscal year under both § 1313.5 and § 1313.6, the total amount of basic grants in the fiscal year shall equal 50 percent of the State's 23 U.S.C. 402 apportionment for FY 1997, subject to the availability of funds.

(2) After September 30, 1998, the amount of a State's supplemental grant in a fiscal year, under § 1313.7, shall be determined by multiplying the number of supplemental grant criteria the State meets by five percent of the State's 23 U.S.C. 402 apportionment for FY 1997, except that the amount shall be subject to the availability of funds. The amount available for supplemental grants for all States in a fiscal year, under § 1313.7, shall not exceed ten percent of the total amount made available under 23 U.S.C. 410 for the fiscal year.

(3) In the first and second fiscal years a State receives a basic or supplemental grant, it shall be reimbursed for up to 75 percent of the cost of its alcohol-impaired driving prevention program adopted pursuant to 23 U.S.C. 410.

(4) In the third and fourth fiscal years a State receives a basic or supplemental grant, it shall be reimbursed for up to 50 percent of the cost of its alcohol-impaired driving prevention program adopted pursuant to 23 U.S.C. 410.

(5) In the fifth and sixth fiscal years a State receives a basic or supplemental grant, it shall be reimbursed for up to 25 percent of the cost of its alcohol-impaired driving prevention program adopted pursuant to 23 U.S.C. 410.

§ 1313.5 Requirements for a programmatic basic grant.

To qualify for a programmatic basic incentive grant of 25 percent of the State's 23 U.S.C. 402 apportionment for FY 1997, a State must adopt and demonstrate compliance with at least five of the following criteria:

(a) Administrative license suspension or revocation system.

(1) *Criterion.* An administrative driver's license suspension or revocation system for individuals who operate motor vehicles while under the influence of alcohol that requires that:

(i) In the case of an individual who, in any five-year period beginning after June 9, 1998, is determined on the basis of a chemical test to have been operating a motor vehicle while under the influence of alcohol or is determined to have refused to submit to such a test as proposed by a law enforcement officer, the State entity responsible for administering driver's licenses, upon receipt of the report of the law enforcement officer, shall:

(A) Suspend all driving privileges for a period of not less than 90 days if the individual refused to submit to a chemical test and is a first offender;

(B) Suspend all driving privileges for a period of not less than 90 days, or not less than 30 days followed immediately by a period of not less than 60 days of a restricted, provisional or conditional license, if the individual was determined on the basis of a chemical test to have been operating a motor vehicle while under the influence of alcohol, and is a first offender. A restricted, provisional or conditional license may be issued only in accordance with a State law, regulation or binding policy directive establishing the conditions under which such a license may be issued, or with statewide published guidelines, and in exceptional circumstances specific to the offender; and

(C) Suspend or revoke all driving privileges for a period of not less than one year if the individual was determined on the basis of a chemical test to have been operating a motor vehicle while under the influence of alcohol or refused to submit to such a test, and is a repeat offender; and

(ii) The suspension or revocation shall take effect not later than 30 days after the day on which the individual refused to submit to a chemical test or received notice of having been determined to be operating a motor vehicle while under the influence of alcohol, in accordance with the procedures of the State.

(2) *Definitions.* (i) ''First offender'' means an individual who a law enforcement officer has probable cause under State law to believe has committed an alcohol-related traffic offense, and who is determined on the basis of a chemical test to have been operating a motor vehicle while under the influence of alcohol or who refused to submit to such a test, once in any five-year period beginning after June 9, 1998.

(ii) ''Repeat offender'' means an individual who a law enforcement officer has probable cause under State law to believe has committed an alcohol-related traffic offense, and who is determined on the basis of a chemical test to have been operating a motor vehicle while under the influence of alcohol or who refused to submit to such a test, more than once in any five-year period beginning after June 9, 1998.

(3) *Demonstrating compliance for Law States.* (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, a Law State shall submit a copy of the law, regulation or binding policy directive implementing or interpreting the law or regulation, which provides for each element of this criterion.

(ii) To demonstrate compliance in subsequent fiscal years, a Law State

shall submit a copy of any changes to the State's law, regulation or binding policy directive or, if there have been no changes, the State shall submit a statement certifying that there have been no changes in the State's laws, regulations or binding policy directives.

(iii) For purposes of this paragraph, ''Law State'' means a State that has a law, regulation or binding policy directive implementing or interpreting an existing law or regulation that provides for each element of this criterion.

(4) *Demonstrating compliance for Data States.* (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, a Data State shall submit a copy of the law, regulation or binding policy directive implementing or interpreting the law or regulation, which provides for an administrative license suspension or revocation system, and data showing that the State substantially complies with each element of this criterion not specifically provided for in the State's law, regulation or binding policy directive.

(ii) To demonstrate compliance in subsequent fiscal years, a Data State shall submit, in addition to the information identified in paragraph (a)(3)(ii) of this section, data showing that the State substantially complies with each element of this criterion not specifically provided for in the State's law, regulation or binding policy directive.

(iii) The State can provide the necessary data based on a representative sample, on the average number of days it took to suspend or revoke a driver's license and on the average lengths of suspension or revocation periods, except that data on the average lengths of suspension or revocation periods must not include license suspension periods that exceed the terms actually prescribed by the State, and must reflect terms only to the extent that they are actually completed.

(iv) For the purpose of this paragraph, ''Data State'' means a State that has a law, regulation or binding policy directive implementing or interpreting an existing law or regulation that provides for an administrative license suspension or revocation system, but the State's laws, regulations or binding policy directives do not specifically provide for each element of this criterion.

(b) Underage Drinking Prevention Program

(1) *Criterion.* An effective underage drinking prevention program designed to prevent persons under the age of 21 from obtaining alcoholic beverages and to prevent persons of any age from making alcoholic beverages available to persons under the age of 21, that provides for:

(i) The issuance of tamper resistant driver's licenses to persons under age 21 that are easily distinguishable in appearance from driver's licenses issued to persons 21 years of age and older;

(ii) Public information programs targeted to underage drivers regarding drinking age laws, zero tolerance laws, and respective penalties;

(iii) A program to educate alcoholic beverage retailers and servers about both on- and off-premise consumption, and the civil, administrative and/or criminal penalties associated with the illegal sale of alcoholic beverages to underage drinkers;

(iv) An overall enforcement strategy directed at the sale and purchase of alcoholic beverages involving persons under the age of 21 that can be implemented locally throughout the State; and

(v) A prevention program that enlists the aid of persons under the age of 21.

(2) *Definitions.* ''Tamper resistant driver's license'' means a driver's license that has one or more of the security features listed in Appendix A.

(3) *Demonstrating compliance.* (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State shall submit a description and sample materials documenting an underage drinking prevention program that covers each element of paragraphs (b)(1) (ii) through (v) of this section. The State shall also submit sample driver's licenses issued to persons both under and over 21 years of age that demonstrate the distinctive appearance of licenses for drivers under age 21 and the tamper resistance of these licenses.

(ii) To demonstrate compliance in subsequent fiscal years, the State shall document any changes to the State's driver's licenses or underage drinking prevention program or, if there have been no changes, a statement certifying that there have been no changes in the State's driver's licenses or its underage drinking prevention program.

(c) Statewide Traffic Enforcement Program

(1) *Criterion.* A Statewide traffic enforcement program that emphasizes publicity and is either:

(i) a program for stopping motor vehicles on a non-discriminatory, lawful basis for the purpose of determining whether or not the operators of such motor vehicles are driving under the influence of alcohol; or

(ii) a special traffic enforcement program to detect impaired drivers operating motor vehicles while under the influence of alcohol.

(2) *Demonstrating compliance.* (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State shall submit a comprehensive plan to conduct a program under which:

(A) Motor vehicles are stopped or special traffic enforcement is conducted on a Statewide basis, in major areas covering at least 50 percent of the State's population;

(B) Stops are made or special traffic enforcement is conducted not less than monthly;

(C) Stops are made or special traffic enforcement is conducted by both State and local (county and city) law enforcement agencies; and

(D) Effective public information efforts are conducted to inform the public about these enforcement programs.

(ii) The plan shall include guidelines, policies or operation procedures governing the Statewide enforcement program and provide approximate dates and locations of programs planned in the upcoming year, and the names of the law enforcement agencies expected to participate. The plan shall describe the public information efforts to be conducted.

(iii) to demonstrate compliance in subsequent fiscal years, the State shall submit an updated plan for conducting a Statewide enforcement program in the following year and information documenting that the prior year's plan was effectively implemented.

(d) Graduated Driver's Licensing System

(1) *Criterion.* A graduated driver's licensing system for young drivers that consists of the following three stages:

(i) Stage I. A learner's permit may be issued after an applicant passes vision and knowledge test, including tests about the rules of the road, signs and signals. The State I learner's permit must be subject to the following conditions:

(A) Stage I learner's permit holders under the age of 21 are prohibited from operating a motor vehicle with a BAC of 0.02 or greater;

(B) Stage I learner's permit holders are prohibited from operating a motor vehicle while any occupant in the vehicle is not properly restrained in accordance with State or local safety belt and child restraint laws;

(C) A licensed driver who is 21 years of age or older must be in any motor vehicle operated by the Stage I learner's permit holder at all times;

(D) Stage I learner's permit holders must remain crash and conviction free; and

(E) The Stage I learner's permit must be distinguishable from Stage II and III driver's licenses;

(ii) Stage II. An intermediate driver's license may be issued after an applicant has successfully complied with the conditions of the Stage I learner's permit for not less than three months and passed a driving skills test. The Stage II intermediate driver's license must be subject to the following conditions:

(A) Stage II intermediate driver's license holders under the age of 21 are prohibited from operating a motor vehicle with a BAC of 0.02 or greater;

(B) Stage II intermediate driver's license holders are prohibited from operating a motor vehicle while any occupant in the vehicle is not properly restrained in accordance with state or local safety belt and child restraint laws;

(C) A licensed driver who is 21 years of age or older must be in any motor vehicle operated by the Stage II intermediate driver's license holder, during some period of time between the hours of 10:00 p.m. and 6:00 a.m.. as specified by the State, unless covered by a State-approved exception;

(D) Stage II intermediate driver's license holders must remain crash and conviction free; and

(E) The Stage II intermediate driver's license must be distinguishable from Stage I learner's permits and Stage III driver's licenses; and

(iii) Stage III. A driver's license may be issued after an applicant has successfully complied with the conditions of the Stage I learner's permit and the Stage II intermediate driver's license for a combined period of not less than one year. The Stage III driver's license must be distinguishable from Stage I learner's permits and Stage II intermediate driver's licenses.

(2) *Definitions.* (i) ''Conviction free'' means that the individual, during the term of the permit or license, has not been charged with and subsequently convicted of any offense under State or local law relating to the use or operating of a motor vehicle.

(ii) ''Crash free'' means that the individual, during the term of the permit or license, has not been determined to be the party at fault in any police reportable motor vehicle crash.

(3) *Demonstrating compliance.* (i) To demonstrate compliance in the fiscal year the State receives a grant based on this criterion, the State shall submit a copy of the law, regulation or binding policy directive implementing or interpreting the law or regulation, which provides for each element of this criterion.

(ii) To demonstrate compliance in subsequent fiscal years, the State shall submit a copy of any changes to the State's law, regulation or binding policy directive or, if there have been no changes, the State shall submit a statement certifying that there have been no changes in the State's laws, regulations or binding policy directives.

(e) Program for Drivers With High BAC

(1) *Criterion.* Programs to target individuals with a high BAC who operate a motor vehicle.

(i) The programs shall establish a system of graduated sanctions for individuals convicted of operating a motor vehicle while under the influence of alcohol, under which enhanced or additional sanctions apply to such individuals if they were determined to have a high BAC.

(ii) The threshold level at which the high BAC sanctions must begin to apply may be any BAC level that is higher than the BAC level established by the State that is deemed to be or equivalent to the standard driving while intoxicated (DWI) offense, and less than or equal to 0.20 BAC.

(2) *Definitions.* ''Enhanced or additional sanctions'' means the imposition of longer terms of license suspension, increased fines, additional or extended sentences of confinement, vehicle sanctions, mandatory assessment and treatment as appropriate, or other consequences that do not apply to individuals who were not determined to have a high BAC.

(3) *Demonstrating compliance.* (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State shall submit a copy of the law, regulation or binding policy directive implementing or interpreting the law or regulation, which provides for each element of this criterion. In addition, the State shall submit the provisions that set forth the sanctions under its standard DWI offense.

(ii) To demonstrate compliance in subsequent fiscal years, the State shall submit a copy of any changes to the State's law, regulation or binding policy directive or, if there have been no changes, the State shall submit a statement certifying that there have been no changes in the State's laws, regulations or binding policy directives.

(f) Young Adult Drinking and Driving Program

(1) *Criterion* A young adult drinking and driving program designed to reduce the incidence of operating a motor vehicle while under the influence of alcohol by individuals between the ages of 21 and 34 that provides for:

(i) A Statewide public information and awareness campaign for young adult drivers regarding alcohol-impaired driving laws, and the legal and economic consequences of alcohol-impaired driving; and

(ii) Activities, implemented at the State and local levels, designed to reduce the incidence of alcohol-impaired driving by drivers between the ages of 21 and 34 that involve:

(A) the participation of employers;

(B) the participation of colleges or universities;

(C) the participation of the hospitality industry; or

(D) the participation of appropriate State officials to encourage the assessments and incorporation of treatment as appropriate into judicial sentencing for drivers between the ages for 21 and 34 who have been convicted for the first time of operating a motor vehicle while under the influence of alcohol.

(2) *Demonstrating compliance.* (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State shall submit:

(A) a description and sample materials documenting the State's Statewide public information and awareness campaign;

(B) a description and sample materials documenting activities designed to reduce the incidence of alcohol-impaired driving by young drivers, which must involve at least one of the four components contained in paragraph (f)(1)(ii) of this section; and

(C) a plan that outlines proposed efforts to involve in these activities all four components contained in paragraph (f)(1)(ii) of this section.

(ii) To demonstrate compliance in subsequent fiscal years, the State shall submit an updated description of its Statewide public information and awareness campaign and of other activities designed to reduce the incidence of alcohol-impaired driving by young adult drivers. The State shall submit information documenting that these activities involve all four components contained in paragraph (f)(1)(ii) of this section.

(g) Testing for BAC

(1) *Criterion.* (i) In FY 1999 and FY 2000, an effective system for increasing the percentage of BAC testing among drivers involved in fatal motor vehicle crashes, under which:

(A) BAC testing law. The State's law provides for mandatory BAC testing for any driver involved in a fatal motor vehicle crash;

(B) BAC testing data. The State's percentage of BAC testing among drivers involved in fatal motor vehicle crashes is equal to or greater than the national average, as determined under the most recently available FARS data as of the first day of the fiscal year for which grant funds are being sought.

(C) BAC testing symposium. The State has plans to conduct, or conducted no more than two years prior to the date of its application, a symposium or workshop designed to increase the percentage of BAC testing for drivers involved in fatal motor vehicle crashes. The symposium or workshop must be attended by law enforcement officials, prosecutors, hospital officials, medical examiners, coroners, physicians, and judges; and must address the medical, ethical, and legal impediments to increasing the percentage of BAC testing among drivers involved in fatal motor vehicle crashes.

(ii) In FY 2001 and each subsequent fiscal year, a percentage of BAC testing among drivers involved in fatal motor vehicle crashes that is equal to or greater than the national average, as determined under the most recently available FARS data as of the first day of the fiscal year for which grant funds are being sought.

(2) *Definitions.* (i) ''Drivers involved in fatal motor vehicle crashes'' includes both drivers who are fatally injured in motor vehicle crashes and drivers who survive a motor vehicle crash in which someone else is killed.

(ii) ''Mandatory BAC testing'' means a law enforcement officer must request each driver involved in a fatal motor vehicle crash to submit to BAC testing.

(3) *Demonstrating compliance in FY 1999 and FY 2000.* (i) To demonstrate compliance based on this criterion in FY 1999 or FY 2000, the State shall submit:

(A) a copy of the law, regulation or binding policy directive implementing or interpreting the law or regulation, which provides for each element of the mandatory BAC testing requirement, as provided in paragraph (g)(1)(i)(A) of this section;

(B) a statement certifying that the percentage of BAC testing among drivers involved in fatal motor vehicle crashes in the State is equal to or greater than the national average, as determined under the most recently available FARS data as of the first day of the fiscal year for which grant funds are being sought; or

(C) a description of the planned or completed symposium or workshop, including a copy of the actual or proposed agenda and a list of the names and affiliations of the individuals who attended or who are expected to be invited to attend, except as provided in paragraph (g)(3)(ii)(C).

(ii) To demonstrate compliance in FY 2000:

(A) If in the first fiscal year the State demonstrated compliance under paragraph (g)(3)(i)(A), the State may submit instead a copy of any changes to the State's law, regulation or binding policy directive or, if there have been no changes, the State shall submit a statement certifying that there have been no changes in the States laws, regulations or binding policy directives.

(B) If in the first fiscal year the State demonstrated compliance under paragraph (g)(3)(i)(B), the State may submit instead a statement certifying that the percentage of BAC testing among drivers involved in fatal motor vehicle crashes in the State continues to be equal to or greater than the national average, as determined under the most recently available FARS data as of the first day of the fiscal year for which grant funds are being sought.

(C) If in the first fiscal year the State demonstrated compliance under paragraph (g)(3)(i)(C), the State shall submit instead a copy of the report or other documentation that was generated as a result of the symposium or workshop, with recommendations designed to increase BAC testing for drivers involved in fatal motor vehicle crashes, and a plan that outlines how the recommendations will be implemented in the State.

(4) *Demonstrating compliance beginning in FY 2001.* To demonstrate compliance for a grant based on this criterion in FY 2001 or any subsequent fiscal year, the State shall submit a statement certifying that the percentage of BAC testing among drivers involved in fatal motor vehicle crashes in the State is equal to or greater than the national average, as determined under the most recently available FARS data as of the first day of the fiscal year for which grant funds are being sought.

§ 1313.6 Requirements for a performance basic grant.

(a) *Criterion.* A State will qualify for a performance basic incentive grant of 25 percent of the State's 23 U.S.C. 402 apportionment for FY 1997 if:

(1) the percentage of fatally injured drivers in the State with a BAC of 0.10 percent or greater has decreased in each of the three most recent calendar years for which statistics for determining such percentages are available as of the first day of the fiscal year for which grant funds are being sought; and

(2) the percentage of fatally injured drivers in the State with a BAC of 0.10 percent or greater has been lower than the average percentage for all States in each of the same three calendar years.

(b) *Calculating percentage.* (1) The percentage of fatally injured drivers with a BAC of 0.10 percent or greater in each State is calculated by NHTSA for each calendar year, using the most recently available data contained in the FARS as of the first day of the fiscal year for which grant funds are being sought and NHTSA's method for estimating alcohol involvement.

(2) The average percentage of fatally injured drivers with a BAC of 0.10 percent or greater for all States is calculated by NHTSA for each calendar year, using the most recently available data contained in the FARS as of the first day of the fiscal year for which grant funds are being sought and NHTSA's method for estimating alcohol involvement.

(3) Any State with a percentage of BAC testing among fatally injured drivers of 85 percent or greater in each of the three most recent calendar years, as determined by the FARS as of the first day of the fiscal year for which grant funds are being sought, may calculate for submission to NHTSA the percentage of fatally injured drivers with a BAC of 0.10 percent or greater in that State for those calendar years, using State data.

(c) *Demonstrating compliance.* (1) To demonstrate compliance with this criterion, a State shall submit a statement certifying that the State meets each element of this criterion, based on the percentages calculated in accordance with paragraphs (b)(1) and (b)(2) of this section.

(2) Alternatively, a State with a percentage of BAC testing among fatally injured drivers of 85 percent or greater, as determined under the FARS as of the first day of the fiscal year for which grant funds are being sought, may demonstrate compliance with this criterion by submitting its calculations developed under paragraph (b)(3) of this section and a statement certifying that the State meets each element of this criterion, based on the percentages calculated in accordance with

paragraphs (b)(2) and (b)(3) of this section.

§ 1313.7 Requirements for a supplemental grant.

To qualify for a supplemental grant under this section, a State must qualify for a programmatic basic grant under § 1313.5, a performance basic grant under § 1313.6, or both, and meet one or more of the following criteria:

(a) Video Equipment Program

(1) *Criterion.* A program:

(i) To acquire video equipment to be installed in law enforcement vehicles and used in detecting persons who operate motor vehicles while under the influence of alcohol or a controlled substance;

(ii) To effectively prosecute those persons; and

(iii) To train personnel in the use of that equipment.

(2) *Demonstrating compliance.* (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State shall submit a plan for the acquisition and use of video equipment in law enforcement vehicles for the enforcement of impaired driving laws, including:

(A) A schedule for the areas where the equipment has been and will be installed and used;

(B) A plan for training law enforcement personnel, prosecutors and judges in the use of this equipment; and

(C) A plan for public information and education programs to enhance the general deterrent effect of the equipment.

(ii) To demonstrate compliance in subsequent fiscal years, the State shall submit information on the use and effectiveness of the equipment and an updated plan for any acquisition and use of additional equipment.

(b) Self-Sustaining Drunk Driving Prevention Program

(1) *Criterion.* A self-sustaining drunk driving prevention program under which a significant portion of the fines or surcharges collected from individuals apprehended and fined for operating a motor vehicle while under the influence of alcohol are returned to communities with comprehensive programs for the prevention of such operations of motor vehicles.

(2) *Definitions.* (i) A ''comprehensive drunk driving prevention program'' means a program that includes, as a minimum, the following components:

(A) Regularly conducted, peak-hour traffic enforcement efforts directed at impaired driving;

(B) Prosecution, adjudication and sanctioning resources are adequate to handle increased levels of arrests for operating a motor vehicle while under the influence of alcohol;

(C) Other programs directed at prevention other than enforcement and adjudication activities, such as school, worksite or community education; server training; or treatment programs; and

(D) A public information program designed to make the public aware of the problem of impaired driving and of the efforts in place to address it.

(ii) ''Fines or surcharges collected'' means fines, penalties, fees or additional assessments collected.

(3) *Demonstrating compliance.* (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, a State shall submit:

(A) A copy of the law, regulation or biding policy directive implementing or interpreting the law or regulation, which provides:

(*1*) For fines or surcharges to be imposed on individuals apprehended for operating a motor vehicle while under the influence of alcohol; and

(*2*) For such fines or surcharges collected to be returned to communities with comprehensive drunk driving prevention programs; and

(B) Statewide data (or a representative sample) showing:

(*1*) The aggregate amount of fines or surcharges collected;

(*2*) The aggregate amount of revenues returned to communities with comprehensive drunk driving prevention programs under the State's self-sustaining system; and

(*3*) The aggregate cost of the State's comprehensive drunk driving prevention programs.

(ii) To demonstrate compliance in subsequent fiscal years, the State shall submit, in addition to the data identified in paragraph (b)(3)(i)(B) of this section, a copy of any changes to the State's law, regulation or binding policy directive or, if there have been no changes, the State shall submit a statement certifying that there have been no changes in the State's laws, regulations or binding policy directives.

(c) Reduction of Driving With a Suspended License

(1) *Criterion.* A law to reduce driving with a suspended driver's license. The law must impose one of the following sanctions on any individual who has been convicted of driving with a driver's license that was suspended or revoked by reason of a conviction for an alcohol-related traffic offense. Such sanctions must include at least one of the following for some period of time during the term of the individual's driver's license suspension or revocation, as specified by the State:

(i) The suspension of the registration of, and the return to such State of the license plates for, any motor vehicle owned by the individual;

(ii) The impoundment, immobilization, forfeiture or confiscation of any motor vehicle owned by the individual; or

(iii) The placement of a distinctive license plate on any motor vehicle owned by the individual.

(2) *Definitions.* ''Suspension and return'' means the temporary debarring of the privilege to operate or maintain a particular registered motor vehicle on the public highways and the confiscation or impoundment of the motor vehicle's license plates.

(3) *Exceptions.* (i) A State may provide limited exceptions to the sanctions listed in paragraphs (c)(1)(i) and (c)(1)(ii) of this section on an individual basis, to avoid undue hardship to any individual who is completely dependent on the motor vehicle for the necessities of life, including any family member of the convicted individual, and any co-owner of the motor vehicle, but not including the offender.

(ii) Such exceptions may be issued only in accordance with a State law, regulation or binding policy directive establishing the conditions under which motor vehicles or license plates may be released by the State or under Statewide published guidelines and in exceptional circumstances specific to the offender's motor vehicle, and may not result in the unrestricted use of the motor vehicle by the individual.

(4) *Demonstrating compliance.* (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State shall submit a copy of the law, regulation or binding policy directive implementing or interpreting the law or regulation, which provides for each element of this criterion.

(ii) To demonstrate compliance in subsequent fiscal years, the State shall submit a copy of any changes to the State's law, regulation or binding policy directive or, if there have been no changes, the State shall submit a statement certifying that there have been

no changes in the State's laws, regulations or binding policy directives.

(d) Passive Alcohol Sensor Program

(1) *Criterion.* A program:

(i) To acquire passive alcohol sensors to be used during enforcement activities to enhance the detection of the presence of alcohol in the breath of drivers; and

(ii) To train law enforcement personnel and inform judges and prosecutors about the purpose and use of the equipment.

(2) *Definitions.* ''Passive alcohol sensor'' means a screening device used to sample the ambient air in the vicinity of the driver's exhaled breath to determine whether or not it contains alcohol.

(3) *Demonstrating compliance.* (i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State shall submit a plan for the acquisition and use of passive alcohol sensors to enhance the enforcement of impaired driving laws, including:

(A) A schedule for the areas where the equipment has been and will be used;

(B) A plan for training law enforcement personnel in the recommended procedures for use of these devices in the field, and for informing prosecutors and judges about the purpose and use of the equipment; and

(C) A plan for public information and education programs to enhance the general deterrent effect of the equipment.

(ii) To demonstrate compliance in subsequent fiscal years, the State shall submit information on the use and effectiveness of the equipment and an updated plan for any acquisition and use of additional equipment.

(e) Effective DWI Tracking System

(1) *Criterion.* An effective driving while intoxicated (DWI) tracking system containing the ability to:

(i) Collect, store, and retrieve data on individual DWI cases from arrest, through case prosecution and court disposition and sanction (including fines assessed and paid), until dismissal or until all applicable sanctions have been completed;

(ii) Link the DWI tracking system to appropriate data and traffic records systems in jurisdictions and offices within the State to provide prosecutors, judges, law enforcement officers, motor vehicle administration personnel, and other officials with timely and accurate information concerning individuals charged with an alcohol-related driving offense; and

(iii) Provide aggregate data, organized by specific categories (geographic locations, demographic groups, sanctions, etc.), suitable for allowing legislators, policymakers, treatment professionals, and other State officials to evaluate the DWI environment in the State.

(2) *Demonstrating compliance.*

(i) To demonstrate compliance in the first fiscal year the State receives a grant based on this criterion, the State shall submit a description of its DWI tracking system, including:

(A) A description of the means used for the collection, storage and retrieval of data;

(B) An explanation of how the system is linked to data and traffic records systems in appropriate jurisdictions and offices within the State;

(C) An example of available statistical reports and analyses; and

(D) A sample data run showing tracking of a DWI arrest through final disposition.

(ii) To demonstrate compliance in subsequent fiscal years, the State shall submit a report or analysis using the DWI tracking system data, demonstrating that the system is still in operation.

(f) Other Innovative Programs

(1) *Criterion.* An innovative program to reduce traffic safety problems resulting from individuals operating motor vehicles while under the influence of alcohol or controlled substances, through legal judicial, enforcement, educational, technological or other approaches. The program must:

(i) Have been implemented within the last two years;

(ii) Contain one or more substantial components that:

(A) Make this program different from programs previously conducted in the State; and

(B) Have not been used by the State to qualify for a grant in a previous fiscal year based on this criterion or in any fiscal year based on any other criterion contained in §§ 1313.5, 1313.6 or 1313.7 of this part; and

(iii) Be shown to have been effective.

(2) *Demonstrating compliance.* To demonstrate compliance for a grant based on this criterion, the State shall submit a description of the innovative program, which includes:

(i) The name of the program;

(ii) The area or jurisdiction where it has been implemented and the population(s) targeted;

(iii) The specific condition or problem the program was intended to address, the goals and objectives of the program and the strategies or means used to achieve those goals;

(iv) The actual results of the program and the means used to measure the results;

(v) All sources of funds that were applied to the problem; and

(vi) The name, address and telephone number of a contact person.

§ 1313.8 Award procedures.

(a) In each Federal fiscal year, grants will be made to eligible States upon submission and approval of the application required by § 1313.4(a) and subject to the limitations in § 1313.4(b). The release of grant funds under this part shall be subject to the availability of funding for that fiscal year. If there are expected to be insufficient funds to award full grant amounts to all eligible States in any fiscal year, NHTSA may release less than the full grant amounts upon initial approval of the State's application and documentation and the remainder of the full grant amounts up to the State's proportionate share of available funds, before the end of that fiscal year. Project approval, and the contractual obligation of the Federal government to provide grant funds, shall be limited to the amount of funds released.

(b) If any amounts authorized for grants under this part for a fiscal year are expected to remain unobligated in that fiscal year, the Administrator may transfer such amounts to the programs authorized under 23 U.S.C. 405 and 23 U.S.C. 411, to ensure to the extent possible that each State receives the maximum incentive funding for which it is eligible.

(c) If any amounts authorized for grants under 23 U.S.C. 405 and 23 U.S.C. 411 are transferred to the grant program under this part in a fiscal year, the Administrator shall distribute the transferred amounts so that each eligible State receives a proportionate share of these amounts, subject to the conditions specified in § 1313.4.

Appendix A to Part 1313—Tamper Resistant Driver's License

A tamper resistant driver's license or permit is a driver's license or permit that has one or more of the following security features:

(1) Ghost image.
(2) Ghost graphic.
(3) Hologram.
(4) Optical variable device.
(5) Microline printing.
(6) State seal or a signature which overlaps the individual's photograph or information.

(7) Security laminate.
(8) Background containing color, pattern, line or design.
(9) Rainbow printing.
(10) Guilloche pattern or design.
(11) Opacity mark.
(12) Out of gamut colors (i.e., pastel print).
(13) Optical variable ultra-high-resolution lines.
(14) Block graphics.
(15) Security fonts and graphics with known hidden flaws.
(16) Card stock, layer with colors.
(17) Micro-graphics.
(18) Retroflective security logos.
(19) Machine readable technologies such as magnetic strips, a 1D bar code or a 2D bar code.

Issued on: December 22, 1998.

Ricardo Martinez,

Administrator, National Highway Traffic Safety Administration.

[FR Doc. 98–34342 Filed 12–24–98; 12:01 pm]

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Tuesday
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Part V

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 36, 44, 49, and 52
Federal Acquisition Regulation; Proposed Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 36, 44, 49, and 52

[FAR Case 97–043]

RIN 9000–AI22

Federal Acquisition Regulation; Cost-Reimbursement Architect-Engineer Contracts

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the Federal Acquisition Regulation (FAR) to provide guidance on the applicability of certain clauses to cost-reimbursement architect-engineer (A–E) contracts.

DATES: Comments should be submitted on or before March 1, 1999 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVR), Attn: Laurie Duarte, 1800 F Street, NW, Room 4035, Washington, DC 20405.

E-mail comments submitted over Internet should be addressed to: farcase.97–043@gsa.gov.

Please cite FAR case 97–043 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Jack O'Neill, Procurement Analyst, at (202) 501–3856. Please cite FAR case 97–043.

SUPPLEMENTARY INFORMATION:

A. Background

This rule proposes to amend the prescriptions for use of the following FAR clauses to include cost-reimbursement A–E contracts:

52.236–24—Work Oversight in Architect-Engineer Contracts

52.236–25—Requirements for Registration of Designers

52.244–4—Subcontractors and Outside Associates and Consultants (Architect-Engineer Services)

52.249–6—Termination (Cost-Reimbursement)

Presently, FAR 36.609 requires use of the clauses at 52.236–24 and 52.236–25 in fixed-price A–E contracts; FAR 44.204 permits use of the clause at 52.244–4 in fixed-price A–E contracts; and FAR 49.503 requires use of the clause at 52.249–6 in cost-reimbursement contracts, except those for A–E services or for research and development with an educational or nonprofit institution on a no-fee basis. The terms of these clauses also are deemed appropriate for cost-reimbursement A–E contracts. Therefore, this rule proposes to expand the applicability of these clauses to such contracts. As a result of this, the FAR matrix at 52.301 is amended to include cost reimbursement A–E contracts and is also being revised and corrected where necessary as a result of this proposed rule. The matrix is provided in looseleaf format only.

This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

This proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule only corrects certain clause prescriptions and this correction will not bring about any increased costs to be borne by the contractor. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610 of the Act. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 97–043), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*) is deemed to apply because the proposed rule contains information collection requirements. The proposed rule requires use of the clause at FAR 52.249–6, Termination (Cost-Reimbursement), in cost-reimbursement contracts for architect-engineer services. The information collection requirements relating to termination clauses are covered by OMB Control No. 9000–0028.

Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: *Respondents:* 2,920; *Responses per respondent:* 1; *Total annual responses:* 2,920; *Preparation hours per response:* 3; *Total response burden hours:* 8,760; and *Total recordkeeping hours:* 2,920.

D. Request for Comments Regarding Paperwork Burden

Members of the public are invited to comment on the recordkeeping and information collection requirements and estimates set forth above. Please send comments to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Mr. Peter N. Weiss, FAR Desk Officer, New Executive Office Building, Room 10102, 725 17th Street, NW., Washington, DC 20503.

Also send a copy of any comments to the FAR Secretariat at the address shown under **ADDRESSES.** Please cite the corresponding OMB Clearance Number in all correspondence related to the estimate.

List of Subjects in 48 CFR Parts 36, 44, 49, and 52

Government procurement.

Dated: December 22, 1998.

Victoria Moss,

Acting Director, Federal Acquisition Policy Division.

Therefore, it is proposed that 48 CFR Parts 36, 44, 49, and 52 be amended as set forth below:

1. The authority citation for 48 CFR Parts 36, 44, 49, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

36.609–3 [Amended]

2. Section 36.609–3 is amended by removing ''fixed-price'' and adding ''all'' in its place.

36.609–4 [Amended]

3. Section 36.609–4 is amended in the introductory paragraph by removing ''fixed-price''.

PART 44—SUBCONTRACTING POLICIES AND PROCEDURES

44.204 [Amended]

4. Section 44.204 is amended in paragraph (b) by removing the words ''fixed-price''.

PART 49—TERMINATION OF CONTRACTS

5. Section 49.503 is amended by revising paragraph (a)(1) to read as follows:

49.503 Termination for convenience of the Government and default.

(a) *Cost-reimbursement contracts*—(1) *General use.* The contracting officer shall insert the clause at 52.249–6, Termination (Cost-Reimbursement), in solicitations and contracts when a cost-reimbursement contract is contemplated, except contracts for research and development with an educational or nonprofit institution on a no-fee basis.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

6. Section 52.236–25 is amended by revising the introductory text of the clause to read as follows:

52.236–25 Requirements for Registration of Designers.

As prescribed in 36.609–4, insert the following clause:

* * * * *

[FR Doc. 98–34367 Filed 12–28–98; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 28 and 52

[FAR Case 98–014]

RIN 9000–AI21

Federal Acquisition Regulation; Increased Payment Protection

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the Federal Acquisition Regulation (FAR) to increase the required penal amount of payment bonds on construction contracts over $6,250,000 and to allow the contracting officer to increase the amount of any payment bond or alternative payment protection to an amount not to exceed the contract price, if the contracting officer decides that a greater amount is appropriate.

DATES: Comments should be submitted on or before March 1, 1999 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVR), Attn: Laurie Duarte 1800 F Street, NW, Room 4035, Washington, DC 20405.

E-mail comments submitted over Internet should be addressed to: farcase.98–014@gsa.gov.

Please cite FAR case 98–014 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Jack O'Neill, Procurement Analyst, at (202) 501–3856. Please cite FAR case 98–014.

SUPPLEMENTARY INFORMATION:

A. Background

This rule proposes to amend the Federal Acquisition Regulation (FAR) to increase the required penal amount of payment bonds from the current maximum of $2.5 million for any contract that exceeds $5 million, to 40 percent of the contract price, if that amount exceeds $2.5 million. This occurs when the contract price exceeds $6,250,000. The contracting officer may also increase the amount of any payment bond or alternative payment protection to an amount not to exceed the contract price, if the contracting officer decides that a greater amount is appropriate. The contracting officer may consider local payment bond practices under state ''Little Miller Acts'' or whether the nature, location, or unique quality of the work might increase the risks of payment defaults.

The proposed rule was initiated at the request of the Administrator of the Office of Federal Procurement Policy, in order to provide more adequate protection for subcontractors and suppliers under Federal construction contracts. Over time, the price of construction has continued to rise but the $2.5 million statutory payment bond amount has remained the same (40 U.S.C. 270a(a)(2)). The proposed rule is based on the statutory authority at 40 U.S.C. 270a(c), which permits the contracting officer to require additional security.

This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993, and is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The proposed changes may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because small business firms will in some cases be required to provide additional payment protection. On the other hand, many small businesses may be the beneficiaries of the increased payment protection. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and is summarized as follows:

We estimate that approximately 4,300 small business firms per year will be required to provide increased payment protection. A majority of these firms use corporate bonds. We do not expect this change to affect these firms ability to do business because these firms already acquire corporate performance bonds at 100 percent of contract value, and the payment and performance bonds are normally priced off contract price. Furthermore, if there are any cost increases, these increases would be passed through to the Government. For that small group of small businesses that utilize alternate payment protections, the impact may be more significant. The beneficiaries of the increased payment protection should include both large and small businesses that are first- and second-tier suppliers and subcontractors to Government prime contractors.

A copy of the IRFA may be obtained from the FAR Secretariat. Comments are invited. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610. Such comments must be submitted separately and should cite 5 U.S.C. 601, *et seq.* (FAR Case 98–014), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping or information collection requirements, or collections of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 28 and 52

Government procurement.

Dated: December 22, 1998.

Victoria Moss,

Acting Director,

Federal Acquisition Policy Division.

Therefore, it is proposed that 48 CFR Parts 28 and 52 be amended as set forth below:

1. The authority citation for 48 CFR Parts 28 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 28—BONDS AND INSURANCE

2. Section 28.102–2 is amended by revising paragraph (b) to read as follows:

28.102–2 Amount required.

* * * * *

(b) *Payment bonds or alternative payment protection.* (1) The penal amount of payment bonds or the amount of alternative payment protection shall be—

(i) 50 percent of the contract price if the contract price is not more than $1 million;

(ii) 40 percent of the contract price if the contract price is more than $1 million but not more than $5 million;

(iii) $2.5 million if the contract price is more than $5 million but not more than $6,250,000;

(iv) 40 percent of the contract price if the contract price is more than $6,250,000; or

(v) An amount greater than the amounts in paragraphs (b)(1)(i) through (b)(1)(iv) of this section, not to exceed the contract price, if the contracting officer decides that a greater amount is appropriate. The contracting officer may consider local payment bond practices under state ''Little Miller Acts'' or whether the nature, location, or unique quality of the work might increase the risks of payment defaults.

(2) The Government may require additional protection if the contract price is increased.

(i) The penal amount of the total protection as revised shall meet the requirement of paragraph (b)(1) of this subsection.

(ii) The Government shall secure the required additional protection by directing the contractor to increase the penal sum of the existing bond or to obtain an additional bond, or to furnish additional alternative payment protection.

* * * * *

3. Section 28.102–3 is amended by revising the section heading; in paragraph (a) by adding a new sentence after the second sentence; and in paragraph (b) by adding a new sentence after the first sentence to read as follows:

28.102–3 Contract clauses.

(a) * * * The contracting officer may insert a dollar amount or percentage of contract price in paragraph (b)(2)(E) of this clause in accordance with FAR 28.102–2(b)(1)(v). * * *

(b) * * * The contracting officer may increase the required percentage in paragraph (b) of this clause in accordance with 28.102–2(b)(1)(v). * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.228–14 [Amended]

4. Section 52.228–14 is amended by revising the date of the clause; and in paragraphs (f) and (g) of the clause by removing ''_____,19____'' and adding ''[DATE]_____'' in each instance.

5. Section 52.228–15 is amended by revising the date of the clause and paragraph (b)(2) to read as follows:

52.228–15 Performance and Payment Bonds—Construction.

* * * * *

Performance and Payment Bonds—Construction (Date)

* * * * *

(b) * * *

(2) *Payment Bonds* (Standard Form 25-A): (i) The penal amount of payment bonds shall be—

(A) 50 percent of the contract price if the contract price is not more than $1 million;

(B) 40 percent of the contract price if the contract price is more than $1 million but not more than $5 million;

(C) $2.5 million if the contract price is more than $5 million but not more than $6,250,000;

(D) 40 percent of the contract price if the contract price is more than $6,250,000; or

(E) $_____, or _____ percent of the contract price. (If this paragraph is filled in, paragraphs (b)(2)(i)(A) through (b)(2)(i)(D) of this clause do not apply.)

(ii) The Government may require additional protection if the contract price is increased.

* * * * *

6. Section 52.228–16 is amended by revising the date of the clause, paragraph (d), and Alternate I to read as follows:

52.228–16 Performance and Payment Bonds Other Than Construction.

* * * * *

Performance and Payment Bonds—Other Than Construction (Date)

* * * * *

(d) The Government may require additional performance and payment bond protection when the contract price is increased. The Government may secure additional protection by directing the Contractor to increase the penal amount of the existing bonds or to obtain additional bonds.

* * * * *

Alternate I (Date). As prescribed in 28.103–4, substitute the following paragraphs (b) and (d) for paragraphs (b) and (d) of the basic clause:

(b) The Contractor shall furnish a performance bond (Standard Form 1418) for the protection of the Government in an amount equal to _____ percent of the contract price.

(d) The Government may require additional performance bond protection when the contract price is increased. The Government may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

[FR Doc. 98–34366 Filed 12–28–98; 8:45 am]

BILLING CODE 6820–EP–P]

Federal Register

Tuesday
December 29, 1998

Part VI

Department of Labor

Office of the Secretary

29 CFR Part 35

Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance From the Department of Labor; Proposed Rule

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 35

RIN 1291–AA21

Nondiscrimination on the Basis of Age in Programs and Activities Receiving Federal Financial Assistance From the Department of Labor

AGENCY: Office of the Secretary, Labor.

ACTION: Proposed rule.

SUMMARY: This proposed rule sets out the Department of Labor (DOL) rules for implementing the Age Discrimination Act of 1975, as amended (the Act). The Act prohibits discrimination on the basis of age in programs and activities receiving Federal financial assistance. The Act, which applies to persons of all ages, permits the use of certain age distinctions and factors other than age that meet the Act's requirements.

Under the Act and the general, government-wide regulations (codified at 45 CFR part 90), all agencies that extend Federal financial assistance are required to issue agency-specific regulations implementing the Act. Programs and activities that receive Federal financial assistance under the Job Training Partnership Act, as amended (JTPA), are already expressly subject to the Act through the JTPA statutory language and the DOL regulations implementing JTPA that are published at 29 CFR part 34. Other DOL recipients have been subject to the Act and government-wide regulations since their effective date in 1979. Accordingly, today's proposed rule does not substantially change DOL recipients' existing duty to refrain from discrimination on the basis of age. This proposal would fulfill the obligation on DOL to issue agency-specific rules under the Act, clarify the responsibilities of DOL recipients under the Act, and describe the DOL investigation, conciliation, and enforcement procedures to ensure compliance.

DATES: Comments on this proposed rule must be received on or before March 1, 1999.

ADDRESSES: Comments on this proposed rule should be sent to Annabelle T. Lockhart, Director, Civil Rights Center, Department of Labor, 200 Constitution Avenue, N.W., Room N–4123, Washington, DC 20210. Brief comments (maximum five pages) may be submitted by facsimile machine (FAX) to 202/219–5658. Receipt of submissions, whether by mail or FAX transmittal, will not be acknowledged; however, the sender may request confirmation that a submission has been received, by telephoning the Civil Rights Center (CRC) at (202) 219–8927 (VOICE) or (202) 219–6118 or (800) 326–2577 (TTY/TDD).

Comments that CRC receives will be available for public inspection at DOL during normal business hours. Appropriate aids, such as readers or print magnifiers, are available on request to persons needing assistance to review the comments. In addition, copies of this proposed rule in the alternate formats of large print and electronic file on computer disk are available on request. To schedule an appointment to review the comments and/or to obtain the proposed rule in an alternate format, contact CRC at the telephone and address listed above.

FOR FURTHER INFORMATION CONTACT: Bud West, Senior Policy Advisor, CRC, (202) 219–8927 (VOICE) or (202) 219–6118 or (800) 326–2577 (TTY/TDD).

SUPPLEMENTARY INFORMATION:

I. Background Information

The Age Discrimination Act of 1975, 42 U.S.C. 6101 *et seq.*, which Congress enacted as part of amendments to the Older Americans Act (Pub. L. 94–135, 89 Stat. 713, 728) prohibits discrimination on the basis of age in programs and activities receiving Federal financial assistance. The Civil Rights Restoration Act of 1987 (Pub. L. 100–259, 102 Stat. 28, 31 (1988)) amended the Act and other civil rights statutes to define ''program or activity'' to mean all of the operations of specified entities, any part of which is extended Federal financial assistance. (See 42 U.S.C. 6107(4).)

The Act applies to discrimination at all age levels. The Act also contains specific exceptions that permit the use of certain age distinctions and factors other than age that meet the Act's requirements.

The Act required the former Department of Health, Education, and Welfare (HEW) to issue general, government-wide regulations setting standards to be followed by all Federal agencies implementing the Act. These government-wide regulations, which were issued on June 12, 1979 (45 CFR part 90; 44 FR 33768) and became effective on July 1, 1979, require each Federal agency providing financial assistance to any program or activity to publish proposed regulations implementing the Act, and to submit final agency regulations to HEW (now the Department of Health and Human Services (HHS), before publication in the **Federal Register**. (See 45 CFR 90.31.)

The Act became effective on the effective date of HEW's final government-wide regulations (i.e., July 1, 1979). DOL has enforced the provisions of the Act since that time. As a practical matter, the absence of DOL-specific age regulations has not had an impact on DOL's legal authority to enforce prohibitions against discrimination on the basis of age in programs or activities receiving Federal financial assistance from DOL. For example, persons alleging age discrimination have not been hampered in their ability to file complaints or in CRC's ability to process these complaints. In addition, most programs and activities that receive Federal financial assistance from DOL receive some part of that funding under the Job Training Partnership Act, as amended (JTPA), 29 U.S.C. 1501 *et seq.* Such programs and activities are therefore ''JTPA recipients'' subject to the broad nondiscrimination and equal opportunity provisions in Section 167 of JTPA, 29 U.S.C. 1577. Among other things, Section 167 of JTPA expressly applies the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 to JTPA recipients. The regulations implementing Section 167 of JTPA are published at 29 CFR part 34 and incorporate the Act's prohibition against discrimination on the basis of age.

II. Overview of Proposed Rule

This proposed rule is designed to fulfill the statutory and regulatory obligations on DOL to issue a regulation implementing the Act that conforms to the government-wide regulations at 45 CFR part 90. The proposed rule would carry out the Act's prohibition of discrimination based on age in programs and activities receiving financial assistance from DOL and would provide appropriate investigative, conciliation, and enforcement procedures. DOL enforcement would be conducted by the Civil Rights Center (CRC) (previously organized as the Directorate of Civil Rights), in the Office of the Assistant Secretary for Administration and Management. CRC enforces all civil rights laws applicable to entities receiving financial assistance from DOL.

As noted above, the primary effect of this proposed rule is to clarify the existing requirements prohibiting age discrimination placed on those DOL recipients that receive no financial assistance under JTPA. The JTPA statutory language and the DOL regulations implementing JTPA at 29 CFR part 34 already expressly subject JTPA recipients to the Act's prohibitions on age discrimination.

The proposed rule is not intended to alter the legal standards found in the Act or the government-wide regulations, which are applicable to recipients of Federal financial assistance from DOL, whether under JTPA or other statutes. The proposed rule closely follows the wording and format of rules issued by other Federal agencies to implement the Act. In particular, DOL modeled much of its proposal on the regulations issued by HEW's successor agencies: HHS, the lead Federal agency coordinating implementation of the Act (45 CFR part 91; 47 FR 57850, Dec. 28, 1982); and the Department of Education (ED) (34 CFR part 110; 58 FR 40194, July 27, 1993). The government-wide and agency-specific rules were subjected to extensive public scrutiny, and the public comments were considered in developing those final rules. Readers may review the HEW, HHS and ED **Federal Register** publications for historical and explanatory material regarding the Act, the government-wide regulations, and the provisions of the agency-specific implementing regulations. The following discussion focuses on the sections of today's proposed rule that differ from the government-wide regulations. As explained below, these differences are meant to clarify provisions, and either mirror other Federal agency-specific regulations implementing the Act or address DOL-unique circumstances.

Subpart A—General

The three sections in Subpart A provide the proposed rule's purpose, application and definitions, and are consistent with the government-wide regulations. A new provision has been added to § 35.2 to indicate that JTPA recipients in compliance with 29 CFR part 34 are considered in compliance with this part. This provision also makes it clear that CRC will use the legal standards in Subpart B of these regulations when evaluating whether a recipient of funds under JTPA has engaged in unlawful discrimination under the Act.

The definitions in § 35.3 are substantively identical to definitions in the government-wide regulations (45 CFR 90.4), HHS agency-specific regulations (45 CFR 91.4), and ED regulations (34 CFR 110.3). To provide greater clarity to both recipients of Federal financial assistance and the general public, the proposed rule also defines the word ''beneficiary,'' based on the existing definition in DOL rules implementing JTPA (29 CFR 34.2).

Subpart B—Standards for Determining Age Discrimination

Subpart B is virtually identical to the corresponding sections of the government-wide regulations at 45 CFR part 90. Some of the provisions have been reordered for greater clarity and coherence.

Section 35.10 follows the government-wide regulations in laying out the general and specific rules prohibiting age discrimination in programs or activities receiving Federal financial assistance from DOL. For clarity purposes, proposed paragraph (c) of § 35.10 would slightly revise language found in the government-wide regulations at 45 CFR 90.12(c). Like the government-wide rule, the proposal states that the list of prohibited forms of age discrimination in § 35.10(b) is not exhaustive and, consequently, does not imply that other forms of age discrimination are permitted.

Sections 35.11 and 35.12 follow the government-wide regulations (see 45 CFR 90.13–.14), in defining the terms ''normal operation'' and ''statutory objective'' and delineating the ''normal operation'' and ''statutory objective'' exceptions to the prohibitions against age discrimination that are specified in the Act, 42 U.S.C. 6103. Section 35.12 sets out the four-prong test, provided in the government-wide regulations (see 45 CFR 90.14), for determining when an action reasonably takes into account ''age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity'' and thus does not violate the Act.

In the proposed rule, provisions concerning affirmative action and special benefits to children and elderly are in Subpart B at §§ 35.15 and 35.16; in the government-wide regulations, the analogous provisions are part of Subpart D (Investigation, Conciliation, and Enforcement Procedures) at 45 CFR 90.49. The HHS agency-specific regulations also moved these provisions to Subpart B (see 45 CFR 19.16–.17), and DOL believes this reordering aids comprehension.

Section 35.17 of the proposed rule provides that age distinctions in DOL regulations are entitled to a presumption of validity. For example, the provision in 20 CFR 628.605(a), which limits participation in the Adult Program funded under JTPA to individuals who are 22 years of age or older, is presumed valid. This presumption of validity is consistent with the ''statutory objective'' exception in the Act. Analogous provisions are in the HHS and ED agency-specific regulations (45 CFR 91.18; 34 CFR part 110.17.)

Subpart C—Duties of DOL Recipients

Subpart C is consistent with the government-wide regulations at 45 CFR part 90. As described below, language differences between this Subpart of the proposed rule and the government-wide regulations are meant to clarify the duties of DOL recipients.

The proposed rule fosters awareness of the Act's provisions, by requiring that recipients provide notice concerning obligations and rights under the Act to other recipients and to beneficiaries (§ 35.21) and that recipients complete a written assurance of compliance (§ 35.23). The notice requirements in § 35.21 are modeled after the HHS provision in 45 CFR 91.32 and the ED provisions in 34 CFR 110.21 and 110.25(b). The § 35.23 requirement for assurances of compliance is similar to the HHS rule at 45 CFR 91.33(a) and the ED rule at 34 CFR 110.23(a). In addition, the regulations implementing the nondiscrimination provisions of JTPA already require JTPA recipients to make an assurance of compliance with the Age Discrimination Act. 29 CFR 34.20.

Section 35.22 lists recordkeeping, reporting, and access to records requirements under the Act. The government-wide regulations already require recipients to maintain records, provide information and afford access to its records to agencies for the purposes of determining whether the recipient is complying with the Act. (See 45 CFR 90.42(a).) The government-wide regulations also mandate that agencies include in their regulations implementing the Act the requirements that recipients provide information and access to records to the extent the agencies find necessary to determine compliance with the Act and regulations. (See 45 CFR 90.45.) In addition, the regulations implementing the nondiscrimination provisions of JTPA already require JTPA recipients to collect data, maintain records, and provide access to such information and records as CRC finds necessary to determine whether the JTPA recipient is complying with the Age Discrimination Act. (See 29 CFR 34.24.) Proposed § 35.22 follows the format of the analogous HHS provision in 45 CFR 91.34.

The proposed rule also furthers the goals of the Act by requiring the recipient to designate at least one employee to be responsible for coordinating its compliance activities under the Act and these regulations. (See 29 CFR 35.24.) The responsibilities assigned to this employee(s) are similar

to those already required under other civil rights regulations enforced by CRC. (See 29 CFR 32.7 (implementing Section 504 of the Rehabilitation Act), and 29 CFR 34.22 (implementing JTPA).) The ED regulations implementing the Act also require designating a responsible employee, 34 CFR 110.25(a). Designating an employee to coordinate compliance helps a recipient to ensure that it will carry out its responsibilities under the Act and these regulations. This rule would not require recipients to designate a separate or additional responsible person to comply with these regulations, but would permit recipients to assign these duties to their existing person or staff who have similar responsibilities under other Federal laws and regulations enforced by CRC. Furthermore, the proposed rule would not require that recipients establish a full-time position responsible solely for ensuring compliance with this part. The duties described in this section could be performed by an individual (or individuals) who are assigned other duties.

Section 35.25 would require the recipient to establish a recipient-level procedure for processing complaints that allege a violation of the Act or these regulations. The ED rules contain a similar provision at 34 CFR 110.25(c). This provision would provide both recipients and complainants the opportunity to resolve disputes at the recipient level. No specific process, however, would be mandated by this regulation. For instance, recipients may adopt the complaint processing procedures contained in the DOL regulations implementing the nondiscrimination provisions of the JTPA. (See 29 CFR part 34.)

Section 35.26 of this proposed rule provides that CRC may require a recipient employing the equivalent of 15 or more employees to complete a written self-evaluation as part of a compliance review or complaint investigation. The government-wide regulations at 45 CFR 90.43 contain the requirement that all recipients with the equivalent of 15 or more full-time employees must complete a written self-evaluation of their compliance under the Act. However, the Office of Management and Budget (OMB) subsequently disapproved of this across-the-board self-evaluation requirement as excessively burdensome and inconsistent with the Federal Reports Act of 1942, the precursor of the Paperwork Reduction Act, as amended (44 U.S.C. 3501 *et seq.*). Correspondingly, HHS and other Federal agencies have rejected imposing self-evaluation requirements on all recipients and instead state in their agency-specific regulations that such evaluations will only be required as part of a compliance review or complaint investigation. (See 34 CFR 110.24; 45 CFR 91.33.) The OMB and HHS determinations to impose self-evaluation requirements only when there is an ongoing compliance review or complaint inspection has been upheld by the courts. *See, e.g., Action Alliance of Senior Citizens of Greater Philadelphia* v. *Sullivan,* 930 F.2d 77 (D.C. Cir.), *cert. denied,* 502 U.S. 938 (1991). Accordingly, the DOL proposal abides by the OMB determination and closely follows the age discrimination regulations of the other Federal agencies.

Subpart D—Investigation, Conciliation, and Enforcement Procedures

In accordance with the government-wide regulations, Subpart D describes procedures for compliance reviews and Federal-level complaint processing, and outlines the role of mediation in resolving complaints. This Subpart closely follows the HHS and ED age regulations, adopting minor stylistic and organizational changes that DOL believes will improve clarity.

Section 35.34 would incorporate the HHS agency-specific regulation published at 45 CFR 91.44(a)(4). This section would provide that settlements during the agency investigation process will not affect the operation of any other enforcement effort by the agency, such as compliance reviews and investigations of other complaints, including those against the same recipient. In addition, § 35.34 clarifies that agreements made during mediation also do not affect other enforcement efforts.

Section 35.37 would provide that the procedures applicable to enforcement of Title VI of the Civil Rights Act of 1964, as amended, published at 29 CFR 31.9 and 31.10 apply to CRC's enforcement of the Act and this part. These procedures have been incorporated into the Department's regulation implementing Section 504 of the Rehabilitation Act of 1973, as amended (29 CFR part 32), and are incorporated here for consistency.

Section 35.38 of the proposed rule describes procedures for disbursal of funds to an alternate recipient if funds are withheld from the original recipient because of violations of these rules. Section 35.38 is not intended to replace established grant-awarding procedures. The requirements listed in § 35.38(b) would be in addition to any requirements contained in other applicable Federal laws or regulations.

III. Regulatory Procedures

Executive Order 12866

This proposed rule is not a ''significant regulatory action'' under Executive Order 12866 because this action will not: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or, tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866. Therefore, no regulatory impact analysis has been prepared.

Unfunded Mandates Reform

Executive Order 12875—This proposed rule, if promulgated in final, will not create an unfunded Federal mandate on any State, local or tribal government.

Unfunded Mandates Reform Act of 1995—This proposed rule, if promulgated in final, will not include any Federal mandate that may result in increased expenditures by State, local and tribal governments, in the aggregate, of $100 million or more, or increased expenditures by the private sector of $100 million or more.

Regulatory Flexibility Act

The proposed rule, if promulgated in final, will clarify existing requirements for entities receiving financial assistance from DOL. The requirements prohibiting age discrimination by recipients of Federal financial assistance that are in the Act and the government-wide regulations have been in effect since 1979. In addition, entities receiving financial assistance from DOL under JTPA, have been expressly informed of their obligations to comply with the Act by both JTPA statutory language and by the DOL regulations implementing JTPA. Because the proposed rule does not substantively change existing obligations on recipients, but merely clarifies such duties, the Department certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Consequently, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

This proposed rule will not impose new information collection requirements subject to the Paperwork Reduction Act.

List of Subjects in 29 CFR Part 35

Administrative practice and procedure, Age discrimination, Children, Civil rights, Elderly, Grant programs—Labor.

Signed at Washington, D.C. this 22nd day of December 1998.

Alexis M. Herman,

Secretary of Labor.

For the reasons set out in the preamble, 29 CFR subtitle A is proposed to be amended by adding a new part 35 to read as follows:

PART 35—NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM THE DEPARTMENT OF LABOR

Subpart A—General

Sec.

Subpart B—Standards for Determining Age Discrimination

Subpart C—Duties of DOL Recipients

Subpart D—Investigation, Conciliation, and Enforcement Procedures

Authority: 42 U.S.C. 6101 *et. seq;* 45 CFR part 90.

Subpart A—General

§ 35.1 What is the purpose of the Department of Labor (DOL) age discrimination regulations?

The purpose of this part is to set out the DOL rules for implementing the Age Discrimination Act of 1975, as amended. The Act prohibits discrimination on the basis of age by recipients of Federal financial assistance and in federally assisted programs and activities, but permits the use of certain age distinctions and factors other than age that meet the requirements of the Act and this part.

§ 35.2 To what programs and activities do these regulations apply?

(a) *Application.* This part applies to any program or activity that receives Federal financial assistance, directly or indirectly, from DOL.

(b) *Compliance with 29 CFR part 34.* Compliance with Section 167 of the Job Training Partnership Act, as amended (JTPA) (29 U.S.C. 1577) and implementing regulations at 29 CFR part 34, shall satisfy the obligation of recipients of Federal financial assistance from DOL under JTPA to comply with this part. CRC will use the legal standards in Subpart B of this part when evaluating whether a JTPA recipient has engaged in unlawful age discrimination.

(c) *Limitation of application.* This part does not apply to:

(1) An age distinction contained in that part of a Federal, State, or local statute or ordinance adopted by an elected, general purpose legislative body that:

(i) Provides persons with any benefits or assistance based on age;

(ii) Establishes criteria for participation in age-related terms; or

(iii) Describes intended beneficiaries or target groups in age-related terms; or

(2) Any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprentice training program, except any program or activity receiving Federal financial assistance under JTPA (29 U.S.C. 1501 *et seq.*).

§ 35.3 What definitions apply to these regulations?

As used in this part:

Act means the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 *et seq.*).

Action means any act, activity, policy, rule, standard, or method of administration, or the use of any policy, rule, standard, or method of administration.

Age means how old a person is, or the number of years from the date of a person's birth.

Age distinction means any action using age or an age-related term.

Age-related term means a word or words that necessarily imply a particular age or range of ages (e.g., ''child,'' ''adults,'' ''older persons,'' but not ''student'').

Applicant for Federal financial assistance means the individual or entity submitting an application, request, or plan required to be approved by a DOL official or recipient as a condition to becoming a recipient or subrecipient.

Beneficiary means the person(s) intended by Congress to receive benefits or services from a recipient of Federal financial assistance from DOL.

CRC means the Civil Rights Center, Office of the Assistant Secretary for Administation and Management, United States Department of Labor.

Department means the United States Department of Labor.

Director means the Director of CRC.

DOL means the United States Department of Labor.

Federal financial assistance means any grant, entitlement, loan, cooperative agreement, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which DOL provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of property, including:

(i) Transfers or leases of property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of property if the Federal share of its fair market value is not returned to the Federal Government.

Recipient means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance from DOL is extended, directly or through another recipient, but excludes the ultimate

beneficiary of the assistance. Recipient includes any subrecipient to which a recipient extends or passes on Federal financial assistance, and any successor, assignee, or transferee of a recipient.

Secretary means the Secretary of Labor, or his or her designee.

State means the individual States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Virgin Islands, American Samoa, Wake Island and the Commonwealth of the Northern Mariana Islands.

Subpart B—Standards for Determining Age Discrimination

§ 35.10 Rules against age discrimination.

The rules stated in this section are subject to the exceptions contained in §§ 35.12 and 35.13.

(a) *General rule.* No person in the United States shall be, on the basis of age, excluded from participation in, denied the benefits of or subjected to discrimination under, any program or activity receiving Federal financial assistance from DOL.

(b) *Specific rules.* A recipient may not, directly or through contractual, licensing, or other arrangements, use age distinctions or take any other actions that have the effect of, on the basis of age:

(1) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under, a program or activity receiving Federal financial assistance from DOL; or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance from DOL.

(c) *Other forms of age discrimination.* The listing of specific forms of age discrimination in paragraph (b) of this section is not exhaustive and does not imply that any other form of age discrimination is permitted.

§ 35.11 Definitions of the terms ''normal operation'' and ''statutory objective.''

As used in this part, the term:

(a) *Normal operation* means the operation of a program or activity without significant changes that would impair the ability of the program or activity to meet its objectives.

(b) *Statutory objective* means any purpose of a program or activity expressly stated in any Federal statute, State statute, or local statute or ordinance adopted by an elected, general purpose legislative body.

§ 35.12 Exceptions to the rules against age discrimination: normal operation or statutory objective of any program or activity.

A recipient is permitted to take an action otherwise prohibited by § 35.10 if the action reasonably takes age into account as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes age into account as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity if:

(a) Age is used as a measure or approximation of one or more other characteristics;

(b) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity;

(c) The other characteristic(s) can reasonably be measured or approximated by the use of age; and

(d) The other characteristic(s) are impractical to measure directly on an individual basis.

§ 35.13 Exceptions to the rules against age discrimination: reasonable factors other than age.

A recipient is permitted to take an action otherwise prohibited by § 35.10, if that action is based on a reasonable factor other than age, even though the action may have a disproportionate effect on persons of different ages. An action is based on a reasonable factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

§ 35.14 Burden of proof.

The recipient has the burden of proving that an age distinction or other action falls within the exceptions outlined in §§ 35.12 and 35.13.

§ 35.15 Affirmative action by a recipient.

Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation on the basis of age in the recipient's program or activity.

§ 35.16 Special benefits for children and the elderly.

If a recipient is operating a program or activity that provides special benefits to the elderly or to children, the use of such age distinctions is presumed to be necessary to the normal operation of the program, notwithstanding the provisions of § 35.12.

§ 35.17 Age distinctions in DOL regulations.

Any age distinction in regulations issued by DOL is presumed to be necessary to the achievement of a statutory objective of the program to which the regulations apply, notwithstanding the provisions of § 35.12.

Subpart C—Duties of DOL Recipients

§ 35.20 General responsibilities.

Each DOL recipient has primary responsibility for ensuring that its programs and activities are in compliance with the Act and this part and for taking appropriate steps to correct any violations of the Act or this part.

§ 35.21 Recipient responsibility to provide notice.

(a) *Notice to other recipients.* Where a recipient of Federal financial assistance from DOL passes on funds to other recipients, that recipient shall notify such other recipients of their obligations under the Act and this part.

(b) *Notice to beneficiaries.* A recipient shall notify its beneficiaries about the provisions of the Act and this part and their applicability to specific programs. The notification must also identify the responsible employee designated under § 35.24 by name or title, address, and telephone number.

§ 35.22 Information requirements.

Each recipient shall:

(a) Keep such records as CRC determines are necessary to ascertain whether the recipient is complying with the Act and this part;

(b) Upon request, provide CRC with such information and reports as the Director determines are necessary to ascertain whether the recipient is complying with the Act and this part; and

(c) Permit reasonable access by CRC to books, records, accounts, reports, other recipient facilities and other sources of information to the extent CRC determines is necessary to ascertain whether the recipient is complying with the Act and this part.

§ 35.23 Assurances required.

A recipient or applicant for Federal financial assistance from DOL shall sign a written assurance, in a form specified by DOL, that the program or activity will be operated in compliance with the Act and this part. In subsequent applications to DOL, an applicant may incorporate this assurance by reference.

§ 35.24 Designation of responsible employee.

Each recipient shall designate at least one employee to coordinate its compliance activities under the Act and this part, including investigation of any complaints that the recipient receives alleging any actions that are prohibited by the Act or this part.

§ 35.25 Complaint procedures.

Each recipient shall adopt and publish complaint procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the Act or this part.

§ 35.26 Recipient assessment of age distinctions.

(a) In order to assess a recipient's compliance with the Act and this part, as part of a compliance review or a complaint investigation conducted under §§ 35.30 or 35.31, or a compliance review, monitoring review or complaint investigation conducted under 29 CFR part 34, CRC may require a recipient employing the equivalent of 15 or more full-time employees to complete a written self-evaluation, in a manner specified by CRC, of any age distinction imposed in its program or activity receiving Federal financial assistance from DOL.

(b) Whenever such an assessment indicates a violation of the Act or this part, the recipient shall take prompt and appropriate corrective action.

Subpart D—Investigation, Conciliation, and Enforcement Procedures

§ 35.30 Compliance reviews.

(a) CRC may conduct such compliance reviews, pre-award reviews, and other similar procedures as permit CRC to investigate and correct violations of the Act and this part, irrespective of whether a complaint has been filed against a recipient. Such reviews may be as comprehensive as necessary to determine whether a violation of the Act or this part has occurred.

(b) Where a review conducted pursuant to paragraph (a) of this section indicates a violation of the Act or this part, CRC will attempt to achieve voluntary compliance. If voluntary compliance cannot be achieved, CRC will begin enforcement proceedings, as described in § 35.36.

§ 35.31 Complaints.

(a) *Who may file.* Any person, whether individually, as a member of a class, or on behalf of others, may file a complaint with CRC alleging discrimination in violation of the Act or these regulations, based on an action occurring on or after July 1, 1979.

(b) *When to file.* A complainant must file a complaint within 180 days from the date the complainant first had knowledge of the alleged act of discrimination. The Director may extend this time limit for good cause shown.

(c) *Complaint procedure.* A complaint is considered to be complete on the date CRC receives all the information necessary to process it, as provided in paragraph (c)(1) of this section. CRC will:

(1) Accept as a complete complaint any written statement that identifies the parties involved and the date the complainant first had knowledge of the alleged violation, describes generally the action or practice complained of, and is signed by the complainant;

(2) Freely permit a complainant to add information to the complaint to meet the requirements of a complete complaint;

(3) Notify the complainant and the recipient of their rights and obligations under the complaint procedure, including the right to have a representative at all stages of the complaint procedure; and

(4) Notify the complainant and the recipient (or their representatives) of their right to contact CRC for information and assistance regarding the complaint resolution process.

(d) *No jurisdiction.* CRC will return to the complainant any complaint outside the jurisdiction of this part, with a statement indicating why there is no jurisdiction.

§ 35.32 Mediation.

(a) *Referral to mediation.* CRC will promptly refer to the Federal Mediation and Conciliation Service or the mediation agency designated by the Secretary of Health and Human Services under 45 CFR part 90, all complaints that:

(1) Fall within the jurisdiction of the Act or this part, unless the age distinction complained of is clearly within an exemption under § 35.2(c); and

(2) Contain all information necessary for further processing, as provided in § 35.31(c)(1).

(b) *Participation in mediation process.* Both the complainant and the recipient shall participate in the mediation process to the extent necessary to reach an agreement or to make an informed judgment that an agreement is not possible. The recipient and the complainant do not need to meet with the mediator at the same time, and a meeting may be conducted by telephone or other means of effective dialogue if a personal meeting between the party and the mediator is impractical.

(c) *When agreement is reached.* If the complainant and the recipient reach an agreement, the mediator shall prepare a written statement of the agreement, have the complainant and recipient sign it, and send a copy of the agreement to CRC.

(d) *Confidentiality.* The mediator shall protect the confidentiality of all information obtained in the course of the mediation process. No mediator may testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process, unless the mediator has obtained prior approval of the head of the mediation agency.

(e) *Maximum time period for mediation.* The mediation shall proceed for a maximum of 60 days after a complaint is filed with CRC. This 60-day period may be extended by the mediator, with the concurrence of the Director, for not more than 30 days, if the mediator determines that agreement is likely to be reached during the extended period. In the absence of such an extension, mediation ends if:

(1) 60 days elapse from the time the complaint is filed; or

(2) Prior to the end of the 60-day period, either

(i) An agreement is reached; or

(ii) The mediator determines that agreement cannot be reached.

(f) *Unresolved complaints.* The mediator shall return unresolved complaints to CRC.

§ 35.33 Investigations.

(a) *Initial investigation.* CRC will investigate complaints that are unresolved after mediation or reopened because the mediation agreement has been violated.

(1) As part of the initial investigation, CRC will use informal fact-finding methods, including joint or separate discussions with the complainant and recipient to establish the facts and, if possible, resolve the complaint to the mutual satisfaction of the parties. CRC may seek the assistance of any involved State, local, or other Federal program agency.

(2) Where agreement between the parties has been reached pursuant to paragraph (a)(1) of this section, the agreement shall be put in writing by DOL, and signed by the parties and an authorized official of DOL.

(b) *Formal findings, conciliation, and hearing.* If CRC cannot resolve the complaint during the early stages of the investigation, CRC will complete the

investigation of the complaint and make formal findings. If the investigation indicates a violation of the Act or this part, CRC will attempt to achieve voluntary compliance. If CRC cannot obtain voluntary compliance, CRC will begin appropriate enforcement action, as provided in § 35.36.

§ 35.34 Effect of agreements on enforcement effort.

An agreement reached pursuant to either § 35.32(c) or § 35.33(a) shall have no affect on the operation of any other enforcement effort of DOL, such as compliance reviews and investigations of other complaints, including those against the recipient.

§ 35.35 Prohibition against intimidation or retaliation.

A recipient may not engage in acts of intimidation or retaliation against any person who:

(a) Attempts to assert a right protected by the Act or this part; or

(b) Cooperates in any mediation, investigation, hearing or other part of CRC's investigation, conciliation, and enforcement process.

§ 35.36 Enforcement.

(a) DOL may enforce the Act and this part through:

(1) Termination of, or refusal to grant or continue, a recipient's Federal financial assistance from DOL under the program or activity in which the recipient has violated the Act or this part. Such enforcement action may be taken only after a recipient has had an opportunity for a hearing on the record before an administrative law judge.

(2) Any other means authorized by law, including, but not limited to:

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligation of the recipient created by the Act or this part; or

(ii) Use of any requirement of, or referral to, any Federal, State, or local government agency that will have the effect of correcting a violation of the Act or this part.

(b) Any termination or refusal under paragraph (a)(1) of this section will be limited to the particular recipient and to the particular program or activity found to be in violation of the Act or this part. A finding with respect to a program or activity that does not receive Federal financial assistance from DOL will not form any part of the basis for termination or refusal.

(c) No action may be taken under paragraph (a) of this section until:

(1) DOL has advised the recipient of its failure to comply with the Act or with this part and has determined that voluntary compliance cannot be obtained; and

(2) Thirty days have elapsed since DOL sent a written report of the circumstances and grounds of the action to the committees of Congress having jurisdiction over the program or activity involved.

(d) *Deferral.* DOL may defer granting new Federal financial assistance to a recipient when proceedings under paragraph (a)(1) of this section are initiated.

(1) New Federal financial assistance from DOL includes all assistance for which DOL requires an application or approval, including renewal or continuation of existing activities, or authorization of new activities, during the deferral period. New Federal financial assistance from DOL does not include increases in funding as a result of changed computation of formula awards or assistance approved prior to the initiation of a hearing under paragraph (a)(1) of this section.

(2) DOL may not defer a grant until the recipient has received notice of an opportunity for a hearing under paragraph (a)(1) of this section. A deferral may not continue for more than 60 days unless a hearing has begun within the 60-day period or the recipient and DOL have mutually agreed to extend the time for beginning the hearing. If the hearing does not result in a finding against the recipient, the deferral may not continue for more than 30 days after the close of the hearing.

§ 35.37 Hearings, decisions, and post-termination proceedings.

The provisions applicable to enforcement procedures under regulations effectuating Title VI of the Civil Rights Act of 1964, as amended, found at 29 CFR 31.9 and 34.10, apply to CRC's enforcement of the Act and this part.

§ 35.38 Procedure for disbursal of funds to an alternate recipient.

(a) If funds are withheld from a recipient under this part, the Secretary may disburse the funds withheld directly to an alternate recipient.

(b) The Secretary will require any alternate recipient to demonstrate:

(1) The ability to comply with the Act and this part; and

(2) The ability to achieve the goals of the Federal statute authorizing the program or activity.

§ 35.39 Remedial action by recipient.

Where CRC finds discrimination on the basis of age in violation of this Act or this part, the recipient shall take any remedial action that CRC deems necessary to overcome the effects of the discrimination. In addition, if a recipient funds or otherwise exercises control over another recipient that has discriminated, both recipients may be required to take remedial action.

§ 35.40 Exhaustion of administrative remedies.

(a) A complainant may file a civil action under the Act following the exhaustion of administrative remedies. Administrative remedies are exhausted if:

(1) One hundred eighty days have elapsed since the complainant filed the complainant with CRC, and CRC has made no finding with regard to the complaint; or

(2) CRC issues any finding in favor of the recipient.

(b) If CRC fails to make a finding within 180 days, or issues a finding in favor of the recipient, CRC will promptly:

(1) So notify the complainant;

(2) Advise the complaint of his or her right to bring a civil action for injunctive relief; and

(3) Inform the complainant that—

(i) The complainant may bring a civil action only in a United States district court for the district in which the recipient is found or transacts business;

(ii) A complainant who prevails in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that the complainant must demand these costs in the complaint filed with the court;

(iii) Before commencing the action, the complainant must give 30 days notice by registered mail to the Secretary, the Secretary of Health and Human Services, the Attorney General of the United States, and the recipient;

(iv) The notice required by paragraph (b)(3)(iii) of this section must state the alleged violation of the Act, the relief requested, the court in which the complainant is bringing the action, and whether or not attorney's fees are demanded in the event that the complainant prevails; and

(v) The complainant may not bring an action if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

[FR Doc. 98–34372 Filed 12–28–98; 8:45 am]

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Federal Register

Tuesday
December 29, 1998

Part VII

Department of Defense
General Services Administration
National Aeronautics and Space Administration
Office of Management and Budget

48 CFR Parts 19 and 52

Reform of Affirmative Action in Federal Procurement; Interim Final Rule and Notice

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 19 and 52

[FAC 97–07 Addendum; FAR Case 97–004B Correction]

RIN 9000–AH59

Federal Acquisition Regulation; Reform of Affirmative Action in Federal Procurement; Corrections

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule; Correcting amendments.

SUMMARY: The Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration have agreed to issue an addendum to correct Federal Acquisition Circular (FAC) 97–07 to make amendments to the Federal Acquisition Regulation (FAR) concerning programs for small disadvantaged business (SDB) concerns. These changes are needed to provide additional time for subcontractors to become certified under rules issued by the Small Business Administration. These amendments allow contractors acting in good faith to accept the self-representation of subcontractors as to their status as small disadvantaged business concerns. It is anticipated that by July 1, 1999, a sufficient number of firms will have been certified and the changes made by this rule rescinded. After that date, solicitations will require contractors to use certified SDBs as subcontractors to take advantage of the SDB Participation Program. No other aspects of FAC 97–07 are being modified.

DATES: *Effective Date:* January 1, 1999.

Applicability Date: The policies, provisions, and clauses of this Addendum apply for all solicitations issued on or after January 1, 1999.

Comment Date: Comments should be submitted to the FAR Secretariat at the address shown below on or before March 1, 1999 to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVR), 1800 F Street, NW, Room 4035, Attn: Ms. Laurie Duarte, Washington, DC 20405.

E-Mail comments submitted over the Internet should be addressed to: farcase.97–004B@gsa.gov

Please cite FAC 97–07 Addendum, FAR case 97–004B, in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT:

Ms. Victoria Moss, Procurement Analyst Federal Acquisition Policy Division, General Services Administration, 1800 F Street, NW, Washington, DC 20405, Telephone: (202) 501–4764

or

Mr. Mike Sipple, Procurement Analyst, Contract Policy and Administration, Director, Defense Procurement, Department of Defense 3060 Defense Pentagon, Washington, DC 20301–3060, Telephone: (703) 695–8567.

For general information, call the FAR Secretariat at (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Background

On July 1, 1998, DoD, GSA, and NASA issued FAC 97–07 to make amendments to the FAR concerning programs for small disadvantaged business concerns. This document revises the rule published at 63 FR 36120, July 1, 1998, to allow contractors acting in good faith to rely upon the self-representations of their subcontractors as to their status as a small disadvantaged business concern.

Urgent and compelling reasons exist to promulgate this rule without prior opportunity for public comment. This action is necessary to amend regulations that will become effective on January 1, 1999, to reflect the current scarcity of certified small disadvantaged business subcontractors.

This regulatory action was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993. This is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

These changes modify the manner in which a firm, acting as a subcontractor, may indicate that it is a small disadvantaged business concern (SDB). On June 30, 1998, the Small Business Administration (SBA) issued rules concerning the certification and eligibility of SDBs. SBA prepared and issued an analysis of that rule's impact on small entities at that time. The acquisition programs designed to assist SDB subcontractors were issued in Federal Acquisition Circular 97–07 at 63 FR 36120, July 1, 1998. At that time, an Initial Regulatory Flexibility Analysis was prepared discussing the impact of the programs. The changes in this Addendum do not affect the impact of the acquisition programs on small entities; they merely revise the manner in which a firm is considered eligible under the programs. Therefore, the Initial Regulatory Flexibility Analysis published with FAC 97–07 is unaffected by these changes and remains valid.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose recordkeeping or information collection requirements, or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 19 and 52

Government procurement.

Dated: December 22, 1998.

Victoria Moss,

Acting Director, Federal Acquisition Policy Division.

FEDERAL ACQUISITION CIRCULAR

FAC 97–07 Addendum

Federal Acquisition Circular (FAC) 97–07 Addendum is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

The policies, provisions, and clauses of this Addendum are effective for all solicitations issued on or after January 1, 1999.

Dated: December 21, 1998.

Carol F. Covey,

Acting Director, Defense Procurement.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration.

Dated: December 22, 1998.

James A. Balinskas,

Acting Associate Administrator for Procurement, National Aeronautics and Space Administration.

Therefore, 48 CFR Parts 19 and 52 are amended as set forth below:

1. The authority citation for 48 CFR Parts 19 and 52 continues to read as follows:

Authority: 41 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 19—SMALL BUSINESS PROGRAMS

2. Section 19.001 is amended by revising the definition of ''Small disadvantaged business concern'' to read as follows:

19.001 Definitions.

* * * * *

Small disadvantaged business concern, as used in this part, means—

(1) For prime contractors (except for 52.212–3(c)(2) and 52.219–1(b)(2) for general statistical purposes and 52.212–3(c)(7)(ii), 52.219–22(b)(2), and 52.219–23(a) for joint ventures under the price evaluation adjustment for small disadvantaged business concerns), an offeror that represents, as part of its offer, that it is a small business under the size standard applicable to the acquisition; and either—

(i) It has received certification as a small disadvantaged business concern consistent with 13 CFR part 124, subpart B; and

(A) No material change in disadvantaged ownership and control has occurred since its certification;

(B) Where the concern is owned by one or more disadvantaged individuals, the net worth of each individual upon whom the certification is based does not exceed $750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(C) It is listed, on the date of its representation, on the register of small disadvantaged business concerns maintained by the Small Business Administration; or

(ii) It has submitted a completed application to the Small Business Administration or a private certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR part 124, subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted. In this case, a contractor must receive certification as an SDB by the SBA prior to contract award.

(2) For subcontractors, an offeror that represents, as part of its offer, that it is a small business under the size standard applicable to the acquisition and that it meets the definition of a small disadvantaged business in 13 CFR 124.1002.

* * * * *

3. Section 19.703 is amended by revising paragraph (b) to read as follows:

19.703 Eligibility requirements for participating in the program.

* * * * *

(b) A contractor acting in good faith may rely on the written representation of its subcontractor regarding the subcontractor's status as a small, small disadvantaged, or a woman-owned small business concern. The contractor, the contracting officer, or any other interested party can challenge a subcontractor's size status representation by filing a protest, in accordance with 13 CFR 121.1601 through 121.1608. Protests challenging a subcontractor's small disadvantaged business representation shall be filed in accordance with 13 CFR 124.1015 through 124.1022.

4. Section 19.1202–4 is amended by adding paragraph (c) to read as follows:

19.1202–4 Procedures.

* * * * *

(c) A contractor acting in good faith may rely on the written representation of its subcontractor regarding the subcontractor's status as a small disadvantaged business concern.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 52.219–8 is amended by revising paragraph (c) of the clause to read as follows:

52.219–8 Utilization of Small, Small Disadvantaged, and Women-Owned Small Business Concerns.

* * * * *

Utilization of Small, Small Disadvantaged, and Women-Owned Small Business Concerns (Jan 1999)

* * * * *

(c) As used in this clause, the term ''small business concern'' shall mean a small business as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto. The term ''small business concern owned and controlled by socially and economically disadvantaged individuals'' shall mean a small business concern that represents, as part of its offer, that it meets the definition of a small disadvantaged business concern in 13 CFR 124.1002.

* * * * *

6. Section 52.219–25 is amended by revising paragraph (a) of the clause to read as follows:

52.219–25 Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting.

* * * * *

Small Disadvantaged Business Participation Program—Disadvantaged Status and Reporting (Jan 1999)

(a) *Disadvantaged status for joint venture partners, team members, and subcontractors.* This clause addresses disadvantaged status for joint venture partners, teaming arrangement members, and subcontractors and is applicable if this contract contains small disadvantaged business (SDB) participation targets. The Contractor shall obtain representations of small disadvantaged status from joint venture partners and teaming arrangement members through use of a provision substantially the same as paragraph (b)(1)(i) of the provision at FAR 52.219–22, Small Disadvantaged Business Status. The Contractor shall confirm that a joint venture partner or team member, representing itself as a small disadvantaged business concern, is included in the SBA's on-line list of SDBs at http://www.sba.gov or by contacting the SBA's Office of Small Disadvantaged Business Certification and Eligibility. The Contractor acting in good faith may rely on a written representation of its subcontractor regarding the subcontractor's status as a small disadvantaged business concern as defined in 13 CFR 124.1002.

* * * * *

[FR Doc. 98–34365 Filed 12–28–98; 8:45 am]

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OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Small Disadvantaged Business Procurement: Reform of Affirmative Action in Federal Procurement

AGENCY: Office of Federal Procurement Policy (OFPP), OMB.

ACTION: Notice of Determination Concerning the Small Disadvantaged Business (SDB) Participation Program.

SUMMARY: The Federal Acquisition Regulation (FAR), 48 CFR Subpart 19.12, contains regulations providing for an SDB Participation Program to be used when evaluating the extent of participation of SDB concerns in performance of contracts in authorized standard industrial classification code (SIC) major groups. The FAR provides further that the Department of Commerce (DOC) will determine the authorized SIC major groups for use in the SDB Participation Program. The DOC, in the attached memorandum, determines that the SIC major groups eligible for the price evaluation adjustment program shall be applicable for the SDB Participation Program. OFPP published on June 30, 1998, the listing of the eligible SIC major groups [63 FR 35714 (1998)] for the price evaluation adjustment program.

EFFECTIVE DATE: January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Linda G. Williams, Deputy Associate Administrator, Office of Federal Procurement Policy, Telephone 202–395–3302. For information on the Commerce determination, contact Jeffrey Mayer, Director of Policy Development, Economics and Statistics Administration, U.S. Department of Commerce, Telephone 202–482–1728.

SUPPLEMENTARY INFORMATION:

Procurement Mechanisms and Factors

FAR Subpart 19.12 provides for an SDB Participation Program that consists of two mechanisms: (1) An evaluation factor or subfactor when evaluating the extent of participation of SDBs in performance of contracts in authorized SIC major groups, and (2) an incentive subcontracting program for SDB concerns in authorized SIC major groups. OFPP gives notice that the attached Memorandum from the DOC determines that the SIC major groups eligible for the price evaluation adjustment program shall be applicable for the SDB Participation Program. (See 63 FR 35714 (June 30, 1998)) for the listing of the eligible SIC major groups.) The SDB Participation Program is authorized for use in solicitations issued on or after January 1, 1999.

Deidre A. Lee,

Administrator.

December 15, 1998.

MEMORANDUM FOR OFFICE OF FEDERAL PROCUREMENT POLICY

From: Jeffrey L. Mayer, Director of Policy Development.

Subject: Department of Commerce Determination on the Small Disadvantaged Business Participation Program.

Pursuant to new Federal Acquisition Regulation (FAR) subpart 19.12, transmitted herein is a Department of Commerce (DOC) determination on the Small Disadvantaged Business Participation Program for use in Federal procurements.

DOC transmitted a Notice of Determination Concerning Price Evaluation Adjustments to the Office of Federal Procurement Policy (OFPP), which was published in the **Federal Register** on June 30, 1998 (see 63 Fed. Reg. 35714 (1998)). The Notice identified the standard industrial classification (SIC) major industry groups in which offers by small disadvantaged businesses (SDBs) on certain federal prime contracts would be eligible for price evaluation adjustments.

In addition, FAR 19.1202–1 and 19.1203 required DOC to identify the SIC major industry groups in which the extent of participation of SDB concerns as subcontractors in performance of federal prime contracts would: (a) make certain offerors on these prime contracts eligible for an evaluation factor or subfactor; and (b) make successful offerors eligible for an incentive subcontracting program.

DOC was asked to identify eligible major industry groups at the subcontract level for use in the Small Disadvantaged Business Participation Program that becomes effective January 1, 1999. To make its determination, DOC considered prime contracting data and published information on SDB participation in subcontracting.

DOC's analysis of prime contracting revealed that in 59 out of 98 major industry groups (and regions, in the case of the construction sector), SDBs win a smaller than expected (given their age and size) share of federal prime contract dollars. Evidence cited in U.S. Department of Justice, ''The Compelling Interest for Affirmative Action in Federal Procurement: A Preliminary Survey'' [see 61 Fed. Reg. 26050 (1996)] provides no indication that SDB subcontractors deal with substantially different financial institutions, private sector customers, and suppliers than do SDB prime contractors in the same industry, i.e., there is no basis for believing that SDB subcontractors face lower barriers to effective competition than those encountered by SDB prime contractors in the same industry. In addition, subcontracting tends to be dominated by informal networks of personal contacts, in which information is exchanged about prospective projects, low-cost suppliers, and credit opportunities. In those industries in which minority entrepreneurs have been excluded from these networks, their ability to participate in federal contracting as subcontractors has likely been diminished compared with their ability to participate as prime contractors. Therefore, SDBs are unlikely to win larger-than-expected shares of federal subcontract awards in the same major industry groups in which SDBs win smaller-than-expected shares of federal prime contract awards.

Based on the reasons explained above which indicate that, in any given major industry group, discrimination affects federal prime contractors and subcontractors similarly, and on the basis of currently available data, DOC determines that the SIC major industry groups eligible for the price evaluation adjustment program (i.e., the prime contractor program) shall be applicable to the small disadvantaged business participation program (i.e., the subcontractors program). (See 63 Fed. Reg. 35714 (1998) for a listing of the eligible SIC major industry groups.)

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